

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 6th June, 2001

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.101

GAZETTEMENT OF MULIRO GARDENS

Dr. Kulundu asked the Minister for Home Affairs, Heritage and Sports why the Government has not gazetted Muliro Gardens and the children's playground in Kakamega Municipality.

The Assistant Minister Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Choge): Mr. Deputy Speaker, Sir, I beg to reply.

The Government gave a Gazette Notice No.1427 dated 9th March, 2001 of its intention to declare Muliro Gardens in Kakamega Municipality a national monument. After expiry of the 30th days notice from the date of gazettelement and there being no objection from any concerned parties to this intention, Muliro Gardens were declared a national monument.

Dr. Kulundu: Mr. Deputy Speaker, Sir, I would like to thank the Assistant Minister for that answer. But it is quite obvious that, that action was taken after I had submitted this Question to the Ministry last year. However, could the Assistant Minister give an undertaking that the Ministry will move fast and put a perimeter fence around this national monument?

Mr. Choge: Mr. Deputy Speaker, Sir, that could be done by the Municipal Council, but we will advise.

Mr. Anyona: Mr. Deputy Speaker, Sir, matters of national monuments are very important matters for the history of the country. Why does this Ministry wait to be prompted? What is the policy of the Ministry in terms of identifying sites, artifacts and other things that qualify as national monuments rather than wait until Questions are raised here, and it is done as if we are doing it begrudgingly?

Mr. Choge: Mr. Deputy Speaker, Sir, we do not wait. We have set aside so many other places as national monuments without Questions being raised in the House.

The hon. Member, also being knowledgeable, can also give his views and we will take them. What is wrong with that?

Mr. Deputy Speaker: Order! Order! The question was: What is the policy on the gazettelement of national monuments and allied artifacts?

Mr. Choge: Mr. Deputy Speaker, Sir, we have set aside so many other areas. When the need arises, we have got officers in the Ministry who are studying various areas to see whether there are some more areas.

Mr. Anyona: Mr. Deputy Speaker, Sir, if he wants suggestions, there are so many places, even including Kitutu Masaba itself. But I am not interested in that. What I am asking is, what is the policy in place? Because, the policy will identify what qualifies. We do not have to particularly come fighting here. We want to know the Government policy and not to be told about officers sitting in the Ministry doing nothing.

Mr. Choge: Mr. Deputy Speaker, Sir, we have sent out so many teams, and the policy is that, if we think, or the local people think an area would be of great importance to the community, we go ahead and set it aside.

Mr. Gitonga: Mr. Deputy Speaker, Sir, is the Assistant Minister in order to say that putting up a perimeter fence is the responsibility of the local authorities when in his answer he stated that this is a national monument? Is it not the responsibility of the Ministry?

Mr. Choge: Mr. Deputy Speaker, Sir, it is a collective responsibility and we share it.

Dr. Kulundu: Mr. Deputy Speaker, Sir, this is a follow-up to Mr. Gitonga's question. In fact, this Question was prompted by the vulgarity of the Municipal Council of Kakamega. They had allotted part of Muliro Gardens to private developers. How then do we expect the same Municipality that had a lot of interest in dishing out Muliro Gardens to people to build a perimeter fence? Could the Ministry consider putting a perimeter fence as a matter of priority to protect the Gardens from grabbers?

Mr. Choge: Mr. Deputy Speaker, Sir, the people using the Gardens are mostly from Kakamega Municipality and not the people from the Ministry, therefore, we share the costs with the local authority.

Dr. Kulundu: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to insinuate that these Gardens will only be used by residents of Kakamega Town when, in fact, his Ministry has declared them a national monument?

Mr. Choge: Mr. Deputy Speaker, Sir, I am sure many people from that area feel very proud to use the area.

Mr. Kombo: On a point of order, Mr. Deputy Speaker, Sir. Is it in order, and are you satisfied that the Assistant Minister should trivialize such an important issue as a national monument?

Mr. Choge: Mr. Deputy Speaker, Sir, we accord the Gardens a lot of importance, and that is why we have taken a lot of trouble to make sure that we gazette them. If you read the Gazette Notice, it is my Ministry which placed it in the registry.

Mr. Deputy Speaker: Next Question!

Question No. 169

CAPACITY OF PENAL INSTITUTIONS

Mr. Kiunjuri asked the Minister for Home Affairs, Heritage and Sports:-

- (a) how many inmates are currently held in the country's prisons; and,
- (b) what the actual capacity of the penal institutions is.

The Minister for Home Affairs, Heritage and Sports (Mr. Ngala): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The total number of inmates held in Kenya's prisons as at November 2000, was 41,740. This figure included both convicted prisoners and remandees who were 28,166 and 13,574 respectively.

As you can see from the figures of prisoners presented, there was fairly a large proportion of the inmates who are un-convicted remandees who are still undergoing various judicial processes in Kenyan courts.

(b) The actual capacity for accommodation in the penal institutions in Kenya is 14,243 inmates, if each inmate occupies the recommended area of 40 square feet.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, you can see this is a question of concern, whereby an area of 40 square feet, which is supposed to be occupied by one person, and considering that now we have 41,790 inmates. That means that the 40 square feet is occupied by three people. That is in itself very inhuman, considering that we have priests there, Mr. Imanyara was also there, and you might be there tomorrow, and you should consider the fate---

Mr. Deputy Speaker: Order! Order! Speak for yourself!

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, this also shows that the budget allocated to the Prisons Department is being stretched three times. This means clothing, medical facilities, food and everything else is stretched three times. Could the Minister explain to this House why in the first place we have to keep all these inmates and especially remandees? Police officers are unable to carry out investigations and are always telling the magistrates that they are still carrying out investigations and that is why they are remanding people.

Could the Minister explain to the House which rehabilitation measure the Government is taking to ensure that these inmates live comfortable lives, since they are also Kenyans? You could borrow a leaf from Mr. Magara who was remanded in a cell with 17 inmates.

Mr. Deputy Speaker: Order! You have asked many questions! Let us hear the Minister's answers.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, could he explain the rehabilitation measures?

Mr. Deputy Speaker: Order! Order!

Mr. Ngala: Mr. Deputy Speaker, Sir, it is true there is congestion in our prisons and one of the procedures that we are using right now to try and avoid further congestion is through the Community Service Order which was debated in this House and passed by this House. We believe that process is going to help us a great deal in making sure that we do not congest the prisons further, because we are aware of the shortage of

space. As far as rehabilitation measures are concerned, what we require is to build and to expand the prisons. This we hope to capture during the coming Budget, because we have proposed certain prison projects which had stalled to be completed. So, we hope we will be able to improve the situation, because once those prisons are complete, then we can move the prisoners and create more room.

Mr. Raila: Mr. Deputy Speaker, Sir, this is not the first time the issue of congestion in our prisons has come up before this House. It has come up several times. In the prisons, there is also rationing because we do not have sufficient provisions to feed the inmates and that is why those who are in remand get half the ration, on the grounds that they are not working.

Mr. Deputy Speaker, Sir, there is another option which the Minister needs to consider. Other than raise public funds to build more prisons, there is an option to release some of those prisoners who are there for no reason at all. And they are very many. Could he consider that option?

Mr. Ngala: Mr. Deputy Speaker, Sir, I agree with the hon. Member. We have those options and when the time is opportune, we have released prisoners, and it has been made public for people to know how many have been released. Recently we released about 11,000 prisoners. So, we are very considerate about this whole issue. Right now, we have 32,000 people working under the Community Service Order. Otherwise, if it were not for that, probably they would also be in the prison.

Mr. Kathangu: Bw. Naibu Spika, ningetaka kujua kutoka kwa Waziri ni tabia gani jela za Kenya zinaweza kurekabisha. Serikali inafanya nini nje ya jela ili tabia hiyo isiendelee katika nchi hii?

Mr. Ngala: Bw. Naibu Spika, nimeshajibu swali hilo. Community Service Order inaweza kuwa funzo kwa wale wanaohusika kwa sababu itakuwa ni jambo la aibu kwa wao kutumikia kifungo chini ya Community Service Order kwenye sehemu wanaoishi. Tukipunguza vitendo vinavyofanya wengi kufungwa kwa siku au miaka michache, tutakuwa tumepunguza msongamano kwenye jela zetu.

Mr. Kathangu: Bw. Naibu Spika, sidhani swali langu limejibiwa. Ningetaka kujua kutoka kwa Waziri ni tabia gani ambayo inaweza kurekebisha katika jela? Pia, Serikali inafanya nini ili hiyo tabia isiendelezwe sana?

Mr. Ngala: Bw. Naibu Spika, tabia kwangu inamaanisha ni kitendo gani kinawapeleka raia ndani ya jela. Tukiangalia katika rekodi zetu za jela, ni vitendo vidogo vidogo vya wizi ambavyo vinawafanya wengi kushikwa na kufungwa kwa muda mfupi mfupi. Hizo ndizo tabia tunazoiona katika jela zetu. Watu wa kufungwa kwa sababu ya mauaji ni wachache lakini watu wa kufungwa kwa sababu ya makosa madogo madogo ni wengi na ni hiyo tabia ambayo tunarekebisha katika jela. Wakiwa huko, wafungwa wanafundishwa jinsi ya kuwa raia wema katika siku zijazo.

Mr. Kiunjuri: Mr. Deputy Speaker, Sir, could the Minister consider having all those convicted on minor offences, and not carrying more than six months, put under the Community Service Order?

Mr. Ngala: Mr. Deputy Speaker, Sir, that is what happens. In fact, the number of convicted criminals, serving terms up to three years and below, constitute a majority of inmates in Kenyan prisons. These are the ones who are committed to serve under the Community Service Order. So, that is already happening.

Question No.075

TERMINAL BENEFITS FOR MR. WAMBUGU

Mr. Kihoro asked the Minister for Finance:-

(a) whether he is aware that Mr. William King'ori Wambugu, Personal No.198010 who was an employee of the Ministry of Health, Embu Provincial General Hospital, retired on 30th June, 1987 and has since not been paid his terminal benefits; and,

(b) how much is owed to him and when he will be paid.

Mr. Deputy Speaker: Anybody here from the Ministry of Finance? We will come back to the Question later.

Next Question, Mr. Otita!

Question No.158

TERMINAL DUES FOR MR. ODERA

Mr. Otita asked the Minister for Finance:-

(a) whether he could inform the House why Mr. Joseph Oude Odera, P/No.85050585, who

retired from the Civil Service in 1996 as an Assistant Chief Grade II, has not been paid his dues to date; and,

(b) when he will be paid.

Mr. Deputy Speaker: Anyone here from the Ministry of Finance? We will come back to the Question later.

Next Question, Mr. Muchiri!

Mr. Muchiri: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to declare personal interest in this matter. I am a sponsor of one of the students expelled at that particular time.

Question No.055

AUTHORISED FEES FOR
BURUBURU GIRLS SCHOOL

Mr. Muchiri asked the Minister for Education:-

(a) whether he is aware that Buruburu Girls Secondary School charged Kshs46,000 for the Form One intake in the year 2000 and that students were sent away for non-payment; and,

(b) what the authorised fee structure is.

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Buruburu Girls Secondary School charged Kshs46,000 in the year 2000.

(b) The authorised fees for the year 2000 was Kshs17,250 plus another Kshs2,000 which is authorised levy, that comes to Kshs19,700.

Mr. Muchiri: Mr. Deputy Speaker, Sir, this Question came up in this House last year but one. The issue of secondary school headteachers increasing school fees behind the Provincial Education Board, the parents and the Ministry of Education has been of great concern to all of us. Due to this practice, thousands of students from poor families have been expelled from schools. I want the Assistant Minister to inform this House on what action he is taking against all the school heads who have contravened the instructions issued by the Ministry.

Mr. Karauri: Mr. Deputy Speaker, Sir, the Ministry has warned all headteachers not to flout the regulations given by the Ministry under the excuse that parents met and increased the fees. In fact, we have told them not to allow parents to discuss the increment of school fees against the Ministry's directive. This happened last year and the headteachers have been warned not to repeat that again.

Mr. Mwenda: Mr. Deputy Speaker, Sir, the Assistant Minister knows very well that it was not just last year alone. Even this year, after the Government gave directives on the fees structure, invariably all national schools in this country have increased school fees three times. Why? Apart from giving warnings, what specific and concrete action is the Ministry taking against these headteachers? They are violating the regulations and instructions with impunity!

Mr. Karauri: Mr. Deputy Speaker, Sir, we are aware that many headteachers have flouted the regulations. These matters are being investigated so that action can be taken on all of them. In fact, action will be taken, which will include removing them as headteachers.

Mr. Nderitu: Mr. Deputy Speaker, Sir, what method did the Ministry use to warn these teachers? Are there letters showing how much money should be charged? Could he produce that letter here to show that he actually wrote to the headmistress of Buruburu Girls Secondary School?

Mr. Karauri: Mr. Deputy Speaker, Sir, we handle this matter through circulars to heads of schools and the Director of Education has issued a very stern warning through a circular. If the hon. Member wants, I can produce it to the House tomorrow because I did not come with a copy.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. Before the end of last year, this matter was raised here in the House. The Ministry was asked to table the fees guidelines that would be followed this year. That was not done. Recently, because of the outcry from the parents, I did demand a Ministerial Statement on all those schools that have complied with the Ministry's guidelines and those that have not complied. I believe that Statement has not been made. Could that Statement be made so that the whole issue is clarified?

Mr. Karauri: Mr. Deputy Speaker, Sir, I could table the fees structure tomorrow. I am not aware of the Statement sought by hon. Anyona. If it is pending, we will definitely issue a statement.

Capt. Ntwiga: Mr. Deputy Speaker, Sir, the Assistant Minister should know that the cartel-like behaviour of the Boards of Governors and headteachers is affecting the children and parents of this country. Could

the Assistant Minister tell us which specific schools he is investigating?

Mr. Karauri: Mr. Deputy Speaker, Sir, we are investigating quite a number of schools where complaints have been raised. In fact, this includes a majority of the national schools like Limuru Girls---

Mr. Deputy Speaker: How many are those schools?

Mr. Karauri: Mr. Deputy Speaker, Sir, they are 36. They are, Limuru Girls, Alliance Boys, Loreto, Alliance---

Mr. Deputy Speaker: Just attach the names of those schools and their respective fees structures and table them!

Mr. Karauri: Mr. Deputy Speaker, Sir, I will do that tomorrow.

Dr. Oburu: On a point of order, Mr. Deputy Speaker, Sir. I think the Assistant Minister is misleading the House. This Question is on Buruburu Girls Secondary School. He has admitted that this school charged Kshs46,000 against the required Kshs19,000. What is he going to investigate and yet the facts are clear? The Ministry's directive was violated! What action is he taking against the headteachers?

Mr. Karauri: Mr. Deputy Speaker, Sir, when we investigated, it was found that Buruburu Girls Secondary had overcharged. The Parents and Teachers Association wrote a letter defending that action and claimed that the action was theirs. We have instructed heads of schools not to use that as an excuse any more. They should not sit in a meeting which deliberates on the increment of school fees above what the Ministry has given.

Mr. Muchiri: Mr. Deputy Speaker, Sir, as you can see, this is a very serious matter. Thousands of students have been sent away from schools because of non-payment of fees.

Could the Assistant Minister order, today, that all students in Kenya, who have been sent home because of these exorbitant charges be re-admitted back in schools tomorrow and the monies they were charged be refunded?

Mr. Karauri: Mr. Deputy Speaker, Sir, we do not mince words about this. Any student who has been charged more than the requirement of the Ministry should go back to school immediately. They are not supposed to pay more!

Mr. Deputy Speaker: Next Question, Mr. Muite!

Question No.304

HARASSMENT OF *MATATU* OPERATORS

Mr. Muite asked the Minister for Information, Transport and Communications:-

(a) whether the Government recognises the *matatu* industry as important for indigenous investors; and,

(b) why the Government shows bias in favour of Kenya Bus Service and permits harassment of *matatu* operators by the police and local authorities.

The Assistant Minister for Information, Transport and Communications (Mr. Lengees): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Government recognises the *matatu* industry as important for indigenous investors.

(b) The Government does not show any bias in favour of Kenya Bus Service. However, it should be acknowledged that the Kenya Bus Service has, to a larger extent, been observing traffic rules but *matatu* operators have continued to violate traffic regulations. This has often resulted in conflicts with local authorities and the traffic police. As such, they interfere with other road users and people's businesses.

Mr. Muite: Mr. Deputy Speaker, Sir, the movement of people from point "a" to "b" is one of the most important agents of growth in any economy. The *matatus* actually transport more people than these buses, thus helping the economy. If this is recognised by this Government, is the Assistant Minister prepared to bring a framework policy paper to this House to promote and protect the *matatu* industry in this country instead of denying that they are being harassed when everybody knows that they have to pay bribes to the traffic police on a regular basis?

Mr. Lengees: Mr. Deputy Speaker, Sir, the Ministry is not prepared to bring here a policy paper at the moment because as per the laws which are currently in place, the *matatus* are given sufficient protection as regards community transportation in this country.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the House will note that the Assistant Minister has not answered hon. Muite's Question. He asked what the Ministry is doing in order to ensure that more investment

is put in the *matatu* industry and that it is secure, among other things. Is the Assistant Minister aware that one of the biggest problems in the *matatu* industry is the question of insurance? In addition, the *matatus* have to go a long way to also insure themselves by regularly paying the police in order to go from point "a" to "b". What policy does this Government have in place to ensure a proper insurance policy for *matatus* and to protect the *matatu* industry from having to insure themselves on a daily basis by bribing the police?

Mr. Lengees: The Ministry is not aware of any bribes being given to the police from point "a" to "b".

Mr. Maitha: Mr. Deputy Speaker, Sir, could the Assistant Minister confirm to this House that the Traffic Act which should apply to all vehicles including the Kenya Bus Services (KBS) is not evenly applied by the traffic police, but is only applied to the *matatu* owners or users? We know that the police usually harass the *matatu* touts and passengers. Sometimes you find that the police are making money in broad daylight by being bribed by the *matatu* touts.

Mr. Lengees: All public service vehicles, including *matatus*, have been allocated certain areas for dropping and picking commuters. This is the case not only in Nairobi, but in all the big towns in Kenya. The local authorities have also allocated parking and picking zones for *matatus*. *Matatu* operators in Kenya have not been following these regulations. I am sure the hon. Member is aware that, apart from the Traffic Act, the transport sector is also governed by Cap.403, the Transport Licensing Act, Cap.404 and the Insurance Motor Vehicles Third Party Risks, Cap.405 of the Laws of Kenya. At the moment, I do not see a big problem in the *matatu* industry as long as people have very clean and able vehicles to transport Kenyans. They should also follow the regulations as stipulated in the Act so that Kenyans can be comfortable when boarding these *matatus*.

Mr. Kajwang: Is the Assistant Minister aware that the KBS has now infiltrated the *matatu* industry by introducing some *matatus* called "shuttles"? Is the KBS competing with the *matatus* in the *matatu* industry so that we may know whether they are no longer operating buses, but *matatus*?

Mr. Lengees: Mr. Deputy Speaker, Sir, I am aware of this. I have seen those small buses. The commuters in Kenya want a comfortable vehicle and not a congested one. These shuttles do not normally carry a lot of commuters like *matatus*.

Mr. Muite: Mr. Deputy Speaker, Sir, when the Minister says that the *matatus* are not being discriminated against, could he tell this House why the KBS are permitted to go through Moi Avenue and the [Mr. Muite] city centre to pick and drop passengers from there and yet *matatus* are confined to the periphery, dropping commuters in places which are far from the city centre like the Railways Station? They are not permitted to go into the centre of the city. Is that not discrimination?

Mr. Lengees: I just want to make it clear to the House that the Government of Kenya is also a partner in the transport sector. The Government wants every Kenyan to enjoy the transport. As we know, the *matatus* are providing a very good service to the people. I am not aware whether the KBS are being allocated some special routes. All I know is that the *matatus* are more in number than the KBS buses. I do not know whether they are allowed to pass through Moi Avenue or not.

Mr. Deputy Speaker: Next Question!

Question No.077

THEFT OF SISENYE WATER PUMP

Mr. Deputy Speaker: Is Mr. Wanjala not here? We will come back to his Question later.
Next Question!

Question No.159

COMPLETION OF KIBAUNI WATER PROJECT

Mr. Deputy Speaker: Is Mr. Katuku also not here? We will come back to his Question later.
Next Question!

Question No.301

ACTION AGAINST BIDCO MANAGEMENT

Mr. Muchiri, on behalf of **Mr. Ndicho**, asked the Minister for Labour:-

(a) whether he is aware that Bidco Oil Refineries Limited of Thika has refused to allow its employees to join a union,

(b) whether he is further aware that employees start working from 5.00 a.m. till 12.00 midnight without over-time or day off and that they are subjected to verbal abuse by the management; and,

(c) what action he will take against the management in view of the above facts.

Mr. Muchiri: Mr. Deputy Speaker, Sir, I do not have a written reply.

Mr. Deputy Speaker: Well, you are not Mr. Ndicho, are you? If Mr. Ndicho gave you proper instructions, he should also have given you a copy of the reply he received.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Bidco Oil Refineries Limited is refusing the employees to join the union.

(b) I am aware that the employees operate in three shifts and not from 5.00 a.m. till midnight. They are also granted two days off-duty. Therefore, the question of over-time does not arise.

Meanwhile, the issue of verbal abuse by the management is being investigated.

(c) In view of the answer in "b" above, part "c" of the Question does not arise.

Mr. Muchiri: Mr. Deputy Speaker, Sir, you have heard the Assistant Minister deny that the management is refusing the employees from joining a trade union. If that is the case, could he table a copy of the certificate of the union they belong to?

Mr. Ethuro: Mr. Deputy Speaker, Sir, I cannot table the copy because the arrangement is that employees of Bidco should be represented by the Kenya Union of Commercial Food and Allied Workers. So far, that union has recruited only 73 employees. That constitutes 20.5 percent of the employees who are unionisable. They are about 355 employees. The requirement is that you need 51 per cent in order for the recognition agreement to be entered between the employer and the employees' trade union.

Mr. Shitanda: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister has said that he is investigating cases where the management is verbally abusing its employees. Is he aware that most employers in this country are abusing their employees, and whenever Ministry officials are assigned to investigate cases of such abuse, these officials are normally bribed by the employers? As a result, most employees who have cases against their employers do not get a favourable response from the Ministry.

Mr. Ethuro: Mr. Deputy Speaker, Sir, I am not aware that the employers in this country abuse employees. I am also not aware of the bribery charges levelled against the labour officers. In any event, most employees are actually members of trade unions and so if there were such malpractices then there is a framework in which they would have raised their problems so that we can solve them.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to say in part "b" of his reply that he is investigating and then when it comes to part "c" of the Question, he says it does not arise? Is the Assistant Minister in order to say he is investigating [**Prof. Anyang'-Nyong'o**] and then reply to part "c" that it does not arise?

Mr. Deputy Speaker: Well, it does not arise because he has no answer to part "b" of the Question.

Prof. Anyang'-Nyong'o: No, but he should have said that what he will do to the management must be dependent on the facts he finds.

Mr. Deputy Speaker: Order! I got his point right and really I cannot put words in his mouth. In any case, his mouth was shut at that particular time.

Prof. Anyang'-Nyong'o: What are the results of the investigations?

Mr. Ethuro: Mr. Deputy Speaker, Sir, let me just answer him. Since he is not the Minister for Labour, he cannot really speak for that Ministry. However, you are right. It does not arise because the actions that the Minister will take against the management--- We are saying we are investigating. So, how can we take action before the investigation is through? It is only after that, that we will know what is the right course of action to take.

Mr. Deputy Speaker: Mr. Kihoro's Question for the second time.

Question No.075

TERMINAL BENEFITS FOR MR. WAMBUGU

Mr. Kihoro: Mr. Kihoro asked the Minister for Finance:-

(a) whether he is aware that Mr. William King'ori Wambugu, Personal No.198010 who was an employee of the Ministry of Health, Embu Provincial General Hospital, retired on 30.6.1987 and has since not been paid his terminal benefits; and

(b) how much is owed to him and when it will be paid.

Mr. Deputy Speaker: Is anybody around from the Ministry of Finance? This Question is deferred to Tuesday, next week.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. I asked this Question nearly six months ago and the Minister is not here to answer the Question although we have two Ministers in that Ministry. This old man has been suffering for 13 years and the Minister disappears at this critical time. What do we do about it? He should be named!

Mr. Deputy Speaker: Mr. Kihoro, I have just told you that I have deferred that Question to Tuesday next week because that is the only thing that I can do. If the Minister was here I would have done something different but he is not here.

(Question deferred)

Mr. Otita's Question for the second time.

Question No.158

TERMINAL DUES FOR MR. ODERA

Mr. Otita asked the Minister for Finance:-

(a) whether he could inform the House why Mr. Joseph Oude Odera, P/No.85050585, who retired from the Civil Service in 1996 as an Assistant Chief Grade II, has not been paid his dues to date; and,

(b) when he will be paid his dues.

Mr. Deputy Speaker: Well, it seems you have suffered the same fate as the previous one since the Minister for Finance is not here.

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. The President, in his wisdom, appointed two Ministers in the Ministry of Finance and Planning. Mr Ndambuki is sitting here and he is from that Ministry. Why can he not have the courtesy to explain why they cannot give an answer?

Mr. Deputy Speaker: But let me ask you: Do you think he hears you better than me?

Dr. Ochuodho: Mr. Deputy Speaker, Sir, but does he not owe it to this country and Parliament.

Mr. Deputy Speaker: Order! Mr. Ndambuki, are you competent to answer this Question?

The Minister for Planning (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I am the Minister for Planning but I will take it up with my colleague and find out what is happening.

Mr. Deputy Speaker: So, Mr. Otita's Question is also deferred to Tuesday, next week.

(Question deferred)

Mr. Wanjala's Question for the second time!

Question No.077

THEFT OF SISENYE WATER PUMP

Mr. Deputy Speaker: Mr. Wanjala is not here and, therefore, the Question is dropped.

(Question dropped)

Mr. Katuku's Question for the second time!

Question No.159

COMPLETION OF KIBAUNI WATER PROJECT

Mr. Deputy Speaker: Mr. Katuku is still not here. The Question is dropped.
(*Question dropped*)

We will move to Questions by Private Notice.

QUESTIONS BY PRIVATE NOTICE

ACQUISITION OF US VISAS

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs and International Co-operation the following Question by Private Notice.

(a) Is the Minister aware that the American Embassy has made it almost impossible for Kenyans to obtain visas to travel to the USA?

(b) Could the Minister ensure that the US Embassy establishes sufficient lines of communication for those who call the Embassy to make appointments for interviews to obtain visas?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Muchilwa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The Minister is aware that Kenyans have been experiencing difficulties in obtaining entry visas from the American Embassy. The difficulties have been partly due to the large number of applicants that the Embassy has to deal with each day and in part also due to telecommunication problems.

(b) The hon. Member of Parliament must be aware that the Embassy has been exploring ways of easing these difficulties. On 3rd May, 2001, the Embassy announced that it has launched a new visa application procedure to ease these difficulties. Under the new system, applicants can now submit their visa applications via e-mail by sending their name, passport number and purpose of visit. The Embassy has assured that applicants will get a response within 24 hours of submitting their application. This information has been widely covered in the media.

I wish to also inform the hon. Member that the Government's efforts to help Kenyans in this regard have a limit. The Government can only appeal to the Embassy on the basis of good diplomatic relations. The United States of America as any other sovereign state, has ultimately the exclusive prerogative to accept visa applications or reject them.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I request your indulgence on this Question today. As hon. Wamalwa said recently, that going to the United States of America these days is like trying to go to heaven when you are a sinner! I do not think that the issue of sovereignty should be used to humiliate citizens of other sovereign nations in this globalised world.

I have three examples. Professor John Joseph Okumu who was Professor of Political Science in the University of Nairobi as early as 1968 and has been a professor in Neville University, University of Chicago, Los Angeles and so on and married to an American, applied for a visa to go and attend the wedding of his son, Wesonga, who is marrying a beautiful Jamaican woman on the 24th of June and was given an appointment on 7th July. My own brother-in-law, Engineer Joel Mudhune, the former Managing Director of Railways, was going to attend the graduation of his son in Alabama University and was given an appointment two weeks after the graduation. Even though the USA has introduced these measures, they must be reasonable. The USA can afford to spend a sputnik to the moon. Why can it not have a consulate in Mombasa, Kisumu and Spring Valley to process visa applications? The sovereign Republic of Kenya---

Mr. Deputy Speaker: Ask your question now!

Prof. Anyang'-Nyong'o: The sovereign Republic of Kenya has a consulate in Los Angeles, an embassy in New York and another one in Washington. Could the USA reciprocate since, in any case, when we go to the US, we are giving them money? My supplementary question is: What reasonable dialogue is this Government carrying out with the USA to ensure that the increased communication in terms of human traffic between Kenya and the US is improved on our side because on their side it takes less than two hours to get a visa to come to Kenya and they can even get it at the airport?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, the Kenya Government realised this problem because there was a hue and cry even in the media. Following that, the Ministry of Foreign Affairs and International Co-operation requested the American Embassy to do something about this particular problem. This was two weeks before they came up with the new system where the e-mail is used to apply. At that time, the American Embassy had only one line for visa applications. To make matters worse, that Embassy is located in the Industria Area where there is oversubscription for telephone services. So, it was virtually impossible to access them, but since then, they have come up with the new system of e-mail. They promised that they would---

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. You have heard the Assistant Minister

repeatedly refer to the e-mail as a facility to access the Embassy, and yet, he himself does not have access to the e-mail. Is he not misleading the House when he knows that majority of Kenyans do not have access to e-mail? He can confirm that.

Mr. Deputy Speaker: Order! Proceed, Mr. Muchilwa! Finish your answer!

Mr. Muchilwa: Mr. Deputy Speaker, Sir, the Embassy was supposed to respond within 24 hours but they found that they could not because they were overwhelmed by the number of requests that they received. So, a week later, the Embassy apologised and said that they were doing their best but they could not come back and reply within 24 hours as they had promised. But we understand that the situation has improved. If we go by what we see in the media, we do not have as many complaints as we used to have. We are still communicating with the Embassy, and they have assured us that they process, on average, 230 visa applications daily.

Mr. Angwenyi: Thank you, Mr. Deputy Speaker, Sir. The new system is worse than the previous one. What they do in the new system is that when you send an e-mail---

Mr. Deputy Speaker: Order! Ask your question!

Mr. Angwenyi: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the new system is worse than the previous one and it frustrates Kenyans who apply for visas to go to the United States of America (USA)? Therefore, could the Assistant Minister undertake to meet the Ambassador of the USA to Kenya and discuss how they can allow visa applications from Kenyans who want to visit the USA, the same way they allow the Europeans who visit the USA?

(Applause)

Mr. Muchilwa: Mr. Deputy Speaker, Sir, first of all, I deny that the new system is worse than the old one. Personally, I have assisted people to send e-mails---

Hon. Members: You have got interest!

Mr. Muchilwa: Mr. Deputy Speaker, Sir, I have no interest.

(Loud consultations)

Mr. Deputy Speaker: Order!

An hon. Member: You have assisted African men or what?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, I have assisted them send e-mails.

Hon. Members: Do you have one?

Mr. Muchilwa: Pardon, Mr. Deputy Speaker, Sir.

(Laughter)

Mr. Deputy Speaker: Order! Order! Mr. Assistant Minister, do not listen to them when they are derailing you. Just answer the question you were asked by Mr. Angwenyi.

Mr. Muchilwa: Thank you, Mr. Deputy Speaker, Sir. I would like to point out that the system has improved and the Kenyan Government is still pressing for better services because we know that difficulties are there. But as I have explained, the USA is a sovereign state and they have a right to accept or refuse any visa application. All we are doing is to apply the existing good diplomatic relations to request them to improve the situation.

Mr. Nyachae: Mr. Deputy Speaker, Sir, is the Assistant Minister aware that the new system, which they claim to be aimed at improving the services, entails that when a Kenyan student applies for a visa, once they reject his application they stamp the passport to ensure that again, he will not be considered for the visa?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, I said that the USA Government has a right to accept or reject a visa application. The Kenya Government cannot direct them on what to do about those Kenyans who want to go to the USA.

Mr. Imanyara: Thank you, Mr. Deputy Speaker, Sir. Apart from the humiliation that Kenyans undergo when they apply for these visas, including waiting at a distance almost half a kilometre from the Embassy, and other rudeness of the staff who interview Kenyans, the problem still remains that if you are going for an appointment for a particular day, for example, graduation ceremony, you are given an appointment that comes way after the ceremony. What is the Kenyan Government doing, apart from invoking sovereignty as an issue, to persuade the Americans that if somebody is going to attend a graduation ceremony for a son or a daughter, he or

she can get the appointment well before that day? We have even cases where visas have been revoked when Kenyans are in the air travelling to the USA. I have a case from Meru, where Mr. Mugambi was going to attend his daughter's graduation and when he arrived at Amsterdam, the Embassy telephoned him and his visa was withdrawn. This is the most degrading punishment that Kenyans have experienced from a superpower. It is not right for the Assistant Minister to tell us that the USA is a sovereign state, when we know that Kenya is also a sovereign nation.

Mr. Deputy Speaker: Order! Mr. Imanyara, ask your question!

Mr. Imanyara: Mr. Deputy Speaker, Sir, what is the Government doing to ensure that visa applications are processed before the date the person is supposed to go to the USA?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, according to the Embassy, if visa applications are made in time, because they must have time to process them--- The Kenya Government is not in a position where, if a person applies for a visa late and he wants to go on a certain date, we can sort of arm-twist the American Government into giving that particular person a visa before he goes.

I would like to say that the person has got to apply in accordance with the rules of the USA and apply in time.

Mr. Gitonga: On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister not misleading this House when he says that the e-mail system is better than the previous one, when I know very well that there is one particular individual from my constituency who has sent two e-mail messages but he has not had any reply from the American Embassy?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, because of the changing system, everybody applied quickly and then they were overwhelmed. Maybe, the e-mails have not reached. If they have reached, they will get a reply. This is because the replies for the e-mails that I sent on behalf of my constituents came after 10 ten days.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, it must be obvious to the Chair that the House takes this matter very seriously. In our good relation with the Government of the USA, I think they must also realise that this is a particular need that Kenya has at the moment, and they must reach out towards our Government to ease the situation. For example, there was a young lady who graduated from Kenyatta University and she wanted to go to the USA on holiday, using her money. This lady had a bank statement and everything. The answer she was given was that she had not shown enough connection with Kenya to ensure her return. This seems to suggest that the attitude on the other side is that Kenyans are trying to emigrate to the USA, but people have genuine reasons for going to the USA. Given this new understanding, could the Assistant Minister now assure this House that he will enter a constructive engagement with the American Embassy here to ease the situation? I would like to say that 230 applications to be processed in a day is not a big matter for the USA Government. Could the Assistant Minister undertake to raise this matter afresh and make sure that Kenyans who apply for visas are not humiliated or subjected to undue delays?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, I fully appreciate the concern of the House on this very important matter. I would like to point out that the Ministry of Foreign Affairs and International Co-operation is continuously negotiating with the American Embassy to help our people go to the USA whenever they want to go there. But as I have said, we can only request the USA to issue visas to many Kenyans but the ultimate decision must be made by the Americans.

Mr. Deputy Speaker: Ask the last question, Prof. Anyang'-Nyong'o.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, the House notes similarly the genuine concern of the Minister on this matter. But could the Assistant Minister assure this House that he is going to take one of the most diplomatic moves that the Ministry for Foreign Affairs and International Co-operation is always taking on these matters; to summon the Ambassador of the United States of America to Harambee House to discuss this matter at the earliest opportunity possible? This is what a sovereign state does on an issue like this. Is the Assistant Minister going to do it or he is not going to do it?

Hon. Members: Are you afraid or not?

Mr. Muchilwa: Mr. Deputy Speaker, Sir, if the hon. Member heard me right, I said that, two weeks before the change in the system of visa issuance, the Ministry of Foreign Affairs and International Co-operation had - although I did not use the word "summon" - discussed the matter. That discussion was done in the Ministry between the Ministry officials and the American Embassy officials and the result of that discussion led to the change of the system and we are still going on with our discussions.

Mr. Deputy Speaker: Next Question, Mr. Anyona!

An hon. Member: We have not exhausted that very important Question!

Mr. Deputy Speaker: Order! Order, hon. Members!

Mr. Anyona: Mr. Deputy Speaker, Sir, before I ask my Question, I would like to make a correction in paragraph (b). It should read "Co-operative Societies Act, 1997"

CLOSURE OF GESONSO FARMERS SOCIETY

Mr. Anyona: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that some members of the Management Committee of Gesonso Farmers Co-operative Society Limited in Nyamira District have closed the society to delivery and collection of cherry and Mbuni Coffee by growers and members of Gesonso F.C.S Limited?

(b) Why has the Co-operative Officer not intervened to solve the problem in accordance with the Co-operative Societies Act, 1997?

(c) When will the Minister take necessary and urgent measures against all those involved in the closure and order immediate opening of the society?

The Minister for Agriculture (Mr. Obure): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of a registered co-operative society by the name of Gesonso Farmers Co-operative Society Limited. However, I am aware of Gesonso Coffee Factory operating under Kemera Farmers Co-operative Society Limited and as such, it cannot have a management of its own.

I am also aware that some members of Gesonso Coffee Factory, who are agitating for the sub-division of Kemera Farmers Co-operative Society Limited into Kemera and Gesonso Farmers Co-operative Societies respectively, have closed the gate to the factory.

(b) The District Co-operative Officer, Nyamira, the Registrar of Co-operative Societies and the Commissioner for Co-operative Development have advised the members agitating for the sub-division to follow the provisions of Section 30 of the Co-operative Societies Act, 1997.

(c) We have advised members to appreciate the huge losses which they are presently incurring by withholding their coffee because they are losing revenue both in terms of loss of their produce and in quality deterioration. We do hope that the situation will be rectified soon so that we can avoid these losses which the members are incurring.

Mr. Anyona: Mr. Deputy Speaker, Sir, it is true that Gesonso is a branch of Kemera Co-operative Society. But in the management committee, each branch elects its own members in the main committee. The problem we are facing here is that the chairman of Kemera Co-operative had contested three times consecutively against the Act and because of that members have become disaffected. That is the first thing.

The second thing is that, members of the committee who come from Gesonso were replaced in an election that was carried out. But the ones who lost the election went behind the back of the members and instigated the closure of the factories. It is not the members who instigated the closure of the factories but those who lost the election.

Mr. Deputy Speaker, Sir, I went there for a church function and I was told the whole story and we pleaded that the factory be opened so that they can deliver their coffee. Actually, that has been done and I am very surprised to hear the Minister say that it has not been done. In order to sort out this mess once and for all, could the Minister order new elections for Kemera Co-operative Society, so that farmers can then have a committee that will look into whether or not the co-operative society should be divided because that is the problem?

Mr. Obure: Mr. Deputy Speaker, Sir, yes, we know that there are problems between members and the management committee. I have, therefore, decided to facilitate a meeting of members so that this important question can be resolved at a meeting of all members.

Mr. Murathe: Mr. Deputy Speaker, Sir, could the Minister confirm or deny that there are some inherent flaws in the Co-operative Societies Act of 1997, which have caused all the chaos in the co-operative sector because the Government has left its primary responsibility of protecting the public good? What measures is he taking to streamline the flaws in the Co-operative Societies Act, 1997, which have allowed the management to mess up the farmers property and money?

Mr. Obure: Mr. Deputy Speaker, Sir, I agree with the hon. Member for Gatanga, Mr. Murathe, that there are serious weaknesses in the current Co-operative Societies Act, 1997. These weaknesses have led to a lot of in-fighting. We have seen a lot of wars within the co-operative movement.

Mr. Deputy Speaker, Sir, this Question was a subject of discussion by all the stakeholders; leaders within the co-operative movement, the co-operative society leaders and even Members of Parliament have discussed this question at length and there is a task force which is currently re-drafting a proposal after which it will be subjected

to the normal scrutiny by all the other stakeholders before it is brought to this House for revision.

Mr. Anyona: Mr. Deputy Speaker, Sir, I want the Minister to be categorical about this thing. Here is coffee rotting in shambas and people are wondering whether this country has a Government or not! This is because the chairman of the society is not the Government! A sum of Kshs3.4 million has been embezzled from that Co-operative Society by this committee headed by this Chairman who is there illegally. Could the Minister tell us when he is going to facilitate this meeting, as he said, so that the matter can be resolved? On which particular day is he going to facilitate the meeting? We want the farmers to know about that date!

Mr. Obure: Mr. Deputy Speaker, Sir, I fully appreciate the gravity of the situation and the fact that farmers are losing money due to the fact that farmers are not delivering their farm produce to the factories and that the crop could be going to waste. I have directed the Registrar of Co-operative Societies to issue the necessary notice for a meeting of members and I hope that will cover the statutory period allowed under the current Act.

Mr. Deputy Speaker: Hon. Members, I am afraid I have to defer the two Questions still pending on the Order Paper until tomorrow afternoon because we have run short of Question time.

RETRENCHMENT OF PANDYA HOSPITAL STAFF

(Mr. Maitha) to ask the Minister for Labour the following Question by Private Notice.

(a) Is the Minister aware that Pandya Memorial Hospital has of late been laying off its staff without following the laid down regulations?

(b) Is he further aware that about 241 employees from the same hospital are about to be laid off?

(a) What urgent measures

has the Minister taken to arrest the situation?

(Question deferred)

NUMBER OF CASES INVESTIGATED BY KACA

(Mr. Sambu) to ask the Attorney-General the following Question by Private Notice.

(a) How many cases had the Kenya Anti-Corruption Authority investigated before its dissolution?

(b) How many of these cases had reached prosecution stage and could the Attorney-General table the list of those charged and the crimes committed?

(c) How many cases have been concluded and how many are pending under investigation?

(Question deferred)

Mr. Deputy Speaker: Next Order!

PERSONAL STATEMENT

ALLEGED NOMINATION TO THE EA LEGISLATIVE ASSEMBLY

Dr. Oburu: On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order to make a Personal Statement about an article which appeared in *the East African* issue of 16th to the 22nd week of April. The paper alleged that I am trying quietly to talk to KANU to persuade them to nominate me to the East African Assembly. Even if I wanted to go to the East African Legislative Assembly, I can go there on my own right as Member of NDP without talking to KANU. It is not true and I want to state categorically that, I do not intend to leave my seat of representing Bond Constituency and I do not wish to be a Member of the East African Legislative Assembly because the people of Bond have confidence in me and until they remove me, I will not go to any other Assembly.

Thank you very much.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.20

ETHNIC CLASHES ALONG GUCHA/

TRANS MARA BORDER

Mr. Nyang'wara: On a point of order, Mr. Deputy Speaker, Sir. I wish to give notice of a Motion of Adjournment under Standing Order No.20(1) and (2) to seek leave of the House to discuss issues concerning the on-going tribal clashes along the Gucha/Trans Mara border where police officers have been involved in shooting and killing innocent people, taking away animals and selling them illegally.

Mr. Deputy Speaker: Order, hon. Members! Mr. Nyang'wara did, in fact, see me and gave me his intention to move this Motion, two hours before the House sat this afternoon. The Chair is sympathetic and it is convinced that the matter is urgent and of national importance. So, if there are more than 15 hon. Members supporting that proposal, I will allow it time.

(Several hon. Members stoop up in their places)

Order! I have counted you and you are more than 15. The Chair, therefore, has decided that time will be given this afternoon from 5.30 p.m. to 6.30 p.m. for the purposes of discussing this Motion.

MOTION

ADOPTION OF SESSIONAL PAPER NO.1 OF 2001

THAT, this House adopts Sessional Paper No.1 of 2001 on the proposed action by the Government of Kenya on the conventions and recommendations adopted by the International Labour Conference during the 34th, 42nd and 18th to 87th Sessions of the International Labour Organisation.

(The Assistant Minister for Labour and Human Resource Development on 5.6.2001)

(Resumption of Debate interrupted on 5.6.2001)

Mr. Muite: Mr. Deputy Speaker, Sir, in supporting the adoption of this Paper on the International Labour Organisation (ILO) recommendations, I would like to comment on two issues.

The first issue that I would like to comment on is that, when we are accepting the recommendations of the ILO proposed action, the Kenya Government should act as to its moral rights. We are talking about ILO and one of the most important issues in labour is the right of workers to associate freely. In this country, the Civil Service as an important institution of workers, has been denied the constitutional right of association for many years. When civil servants are denied the registration of their union, they are unable to articulate issues of concern to them. An individual civil servant is not able to negotiate with the Government about such issues as retrenchment and salary increments. So, civil servants in this country have been treated to the pleasure of the Chief Executive; the President, as and when he wants to give token salary increments, he does so without any negotiations. The only way that workers can negotiate for their terms and conditions of service and issues such as retrenchment is if they have a union, elect their officials and if there is collective bargaining by the elected officials.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Mr. Manyara) took the Chair]*

I would like to ask this Government, as it adopts these recommendations on this convention on the ILO, to accept that time has come for it to stop violating, domestically, the rights of the civil servants in this country. We are aware that some individuals have been benefiting from some of the properties that are owned by the civil servants. There is a building on Tom Mboya Street and a lot of rent is being collected. We do not know where that rent goes to. We cannot allow this Government to adopt recommendations on the ILO, while simultaneously the same Government is violating the rights of the civil servants in this country to associate so that they can bargain with their employer, the Government, for their terms and conditions of service.

Civil servants have been treated very badly in the past in the retrenchment exercise. In fact, there are letters that are written by individuals. I have in my office a very pathetic letter written by a former civil servant on the violations of payments of the retrenchment benefits. If civil servants had their own union, they would have been able to negotiate that package and the payment of their dues on time.

Mr. Temporary Deputy Speaker, Sir, time has come for this Government to truly respect the spirit and the letter of the ILO by registering the civil servants' union, so that it can negotiate for the terms and conditions of service with their employer. The Government should stop any further violation of the civil servants' right of association by registering this union. I can see that the Minister in charge is listening very carefully. He should go and fight that battle in the Cabinet. He should go and tell the Chief Executive and his fellow Cabinet Ministers that the civil servants union must now be registered. The Government must stop misappropriation of the assets of the former civil servants and these assets must now be given back to the Civil Service as a whole.

The second issue that I would like to raise, when we are talking about labour, is that we witnessed a few minutes ago here, a very intense debate on the humiliation that Kenyans are being subjected to when they are looking for visas to travel to the United States of America. I am a victim. I have gone through hell seeking to get a visa for my young daughter and my parents-in-law to go and attend my son's graduation ceremony in the United States of America (USA). This is very frustrating; frustrations galore! If I can be subjected to that and the American Ambassador does not even have the courtesy to respond to my letter, as an hon. Member of Parliament, what about ordinary Kenyans who are trying to get visas? When you go to the British High Commission, the situation is even worse. You will now have to pay. There are some people who have set up the business of going to queue outside the British High Commission offices as agents on behalf of those who are applying for visas. The queue starts forming at 2.00 a.m! This is not an exaggeration! I invite this Government to send its own observers to go and see Kenyans humiliatingly queuing from 2.00 a.m. They sleep there in order to be first in the queue when the offices open at 9.00 a.m. There is something that is not right about this. There is something that is absolutely wrong; to subject the citizens of any country to such humiliation!

Mr. Temporary Deputy Speaker, Sir, the point I want to make is that America, the World Bank, Britain and the Western nations are in the forefront in preaching to us the new gospel about globalisation and opening up the market. They have been telling us that the world has become one village. We are being told that we must open up our markets. We have been preached to about globalisation. We do not refuse this, but I want to tell the Government that, when we are talking about globalisation and free market as concepts, one of the essential components is human resource; labour. What steps is this Government taking to engage the USA, the United Kingdom, Germany and other Western nations that, if we have to globalise in terms of marketing, they too must open up their labour markets. It is through a forum such as the ILO that we have to be heard. I am recommending to this Government that it is not just a question of accepting these recommendations, but a question of bargaining. The Government should tell the USA, Britain, Germany and other Western nations that, if it has to participate in this globalisation and open up its markets, part of that globalisation and opening up of the markets is the opening up of labour market in their own countries.

Let the issue of visas be scrapped altogether, so that young men and women who finish universities here could go and look for jobs in the Western nations. That, to me, is part of the globalisation that will make sense to the Third World. But as it is, they manufacture things and dictate the prices at which we are to buy those things. If we utilise a forum such as the International Labour Organisation (ILO), we need to market that concept of liberalising labour. We must say that our own labour, our own people who would like to seek employment, must have a free hand and go to the Western nations to seek and compete for jobs. Jobs must be one of the concepts of globalisation.

We should not have one-sided globalisation where we cannot even determine the price of our own commodities. When they manufacture motor vehicles, they tell us the prices at which we are going to buy them. But when it comes to coffee or tea which we grow here; and especially coffee, we are the only countries that are told the prices at which we will sell our commodities. We still do not have the control of the marketing. The control of the marketing remains with the consumers in the Western nations yet, for the manufactured goods, the control of the marketing remains in the hands of the developed countries. So, there are all those glaring imbalances. When this Government goes to the ILO, it should not go there as a listener. It should go there with crystallised demands of how labour should be globalised, and how labour markets should be freed and open. We should not only open our markets for the manufactured goods. We should also open the markets for our labour.

So, I would urge this Government, when we are adopting this Paper, to internally respect the rights of the workers. It should demonstrate that by registering the Civil Servants Union. I would ask the forum of the ILO to be utilised to relax those visa issues. The visas should not be just for people who would like to go and visit. They should be for people who would like to travel from Kenya to go and work in any of the developed countries.

That is the agenda, portfolio and the job that this Government should assume. That is its responsibility.

With those few remarks, I beg to support.

Mr. Raila: Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to support this Motion, but with amendments. It is all good and said that Kenya has now ratified what is called the core conventions of the ILO. Those are first, the freedom of association and collective bargaining, which includes Convention No.87, which is on the freedom of association and protection of the rights to organise. Secondly, Convention No.98 is on the rights to organise and collective bargaining.

The second set of conventions are called elimination of forced or compulsory labour. Under that, we have got Convention No.29 on forced labour and Convention No.105 on abolition of forced labour. Thirdly, we have abolition of child labour where we have got Convention No.138 on minimum age and Convention No.182 on immediate action to eliminate the worst forms of child labour. The fourth one is on the elimination of discrimination.

Mr. Temporary Deputy Speaker, Sir, it is one thing to ratify conventions, but quite another to implement the provisions of those conventions. One would want to say that the Government suffers seriously from non-enforcement of conventions to which it is a signatory. One of them is Convention No.87 which provides for freedom of association and protection of the rights to organise. As the previous speaker, Mr. Muite said, the non-registration of the Civil Servants Union falls in that category. If the Government is a signatory to Convention No.87, which gives the workers the freedom of association and protection to the right to organise, why has the Government, for many years, refused to allow the civil servants who are workers, the right to organise themselves in their association? That in itself is a glare disregard of the conventions which the Government is a signatory.

Secondly, there is Recommendation No.90 which provides for equal remuneration. That recommendation provides that there should be equal remuneration for equal jobs. The Government says that it intends to implement that recommendation. Currently, the Government has given the Export Processing Zones (EPZs) exemption from compliance with labour regulations in as far as remuneration is concerned. That flies against the recommendation of that particular Convention. Why should we apply two laws in the same country? Why should we allow the so-called investors who come here to underpay our people in the EPZs and, at the same time, we are already a signatory to an ILO Convention which says that there should be equal remuneration for equal work done? The Government needs to respond positively and remove the discrimination which is facilitating exploitation of our fellow Kenyans in the EPZs.

Mr. Temporary Deputy Speaker, Sir, Convention No.111 is about discrimination in employment and occupation. On page 25, discrimination is defined as follows:- Any distinction, exclusion or preference on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effects of nullifying or impairing equality, opportunity or treatment in employment or occupation. If the Government was to live through that, it would not be condoning the kind of discrimination that most of Kenyans undergo in employment where, merit has ceased to be a criteria for employment. Jobs are no longer advertised in this country. People get employed and promoted because they know Mr. So-and-so! That is the worst form of discrimination. You find Kenyans with ability who have chosen a particular trade or profession and after qualifying, join those professions or organisations, worked their way up the ladder and reach a stage [**Mr. Raila**] where they can no longer be promoted. But other people are extracted from other fields and promoted above them! That is discrimination! There are cases where jobs are advertised and people are short-listed and interviewed. But you find that somebody performs better than the other, but the other one is promoted on the basis of colour. That happened in the case of appointing the Managing Director of the Kenya Commercial Bank (KCB). Available records show that a Mr. Awuondo was number one in the interviews, but racial consideration was used to promote somebody else who was almost retiring from Barclays Bank of Kenya, to become the Chief Executive of the KCB. That itself is discrimination which we should not allow because we are a signatory to the International Labour Organisation (ILO) Convention No.11, which prohibits discrimination in employment and occupation.

Mr. Temporary Deputy Speaker, Sir, Convention No.175 stipulates that protection be provided to part-time workers as is provided to full-time workers. The convention further provides that part-time workers shall have the right to organise and collective bargaining, occupational safety and health, maternity protection, paid leave, among others. On its part, the Government says that the provisions of this convention are more applicable to countries with very low rates of unemployment. Therefore, because of the high rate of unemployment in this country, there is no need for Kenya to ratify this convention.

I beg to disagree with the Government on this aspect. This is where the majority of Kenyans are exploited ruthlessly by employers, particularly those in the manufacturing sector. The law provides that one should be

employed as a casual worker for only six months. Thereafter, he should be absorbed as a permanent employee. This is not happening in Kenya particularly because of the absence of this kind of law. You find that somebody has worked in a company for 15 years, but he is still a casual worker. Such an employee is laid off after every three months and re-engaged a month later, so that he can continue to be permanently a casual worker because he has no right to organise as provided for under Convention No.175. Therefore, I strongly urge the Government to ratify this Convention, so that casual workers can have the right to organise and other rights provided for under this convention. To say that we are not ratifying the convention because we have a higher rate of unemployment, is to say that those people who are unemployed should have less rights than those people who are employed.

Mr. Temporary Deputy Speaker, Sir, Convention No.176 is about safety and health in mines. Again, the Government says that mining in Kenya is not yet a major sector of the economy and that, as such, for the time being, the Government does not need to ratify this Convention. This Convention applies to all mines, and has to do with conditions in the mining industry. We must all accept that there is a certain amount of mining that is going on in the country. Our mineral resources have not been properly surveyed. With the intensification of survey of our mineral resources, mining is bound to be a major source of occupation and employment of our people.

Gold mining activities in some parts of the country have been going on all the time. I know of gold mining activities going on in Bondo, where I originally come from, as well as in Kitere. We now know that there is the titanium mining that is coming up in Kwale District. Mining activities are going on in Turkana and elsewhere. So, as a country, we must be prepared. We cannot say that because mining in this country is currently minimal, we should not ratify this Convention which is aimed at protecting people who are engaged in mining activities. It is inhuman not to ratify this Convention. I would, therefore, urge that the Government ratifies this convention.

Mr. Temporary Deputy Speaker, Sir, the next convention has to do with child labour. Although the Government is already a signatory to this convention, all of us know that very little is being done to protect our children from exploitation. We know some of the sectors of the economy that are more responsible for the abuse of the provisions of this convention. We know that in the commercial agricultural sector, children are employed and exploited in coffee, tea and sisal plantations as well as in the fishing industry.

Our very young girls, aged between 13 and 15 years, roam the streets of the City not very far away from this august House - around the General Post Office - from 7.00 p.m. onwards. It is like a brothel. We know the people who run around with street girls. They pick the girls up and take them somewhere to abuse them sexually. The Government is aware of this practice, because it is carried out in the eyes of police officers, but nothing is being done about it. This is, again, a very clear case of where the Government is looking the other way when the provisions of this important Convention are being violated. None of those people has been arrested. Even if they are arrested, they are taken to a police station where they give *kitu kidogo* and get released immediately. We, therefore, do not want to be just pleased by the mere fact that the Government has ratified certain conventions. We would like to see the Government take action to ensure that the provisions of these conventions are enforced.

Mr. Temporary Deputy Speaker, Sir, liberalisation has been talked about here. It has been said that liberalisation is an ugly animal which we must all learn to live with. However, liberalisation is costing our people jobs. Because we have opened up our markets too wide, you find that they are now flooded. We are now running a supermarket economy. If you go to a supermarket today, you will find it stocked with potatoes and tomatoes from South Africa, eggs from Belgium, milk from New Zealand and cheese from Holland. However, there is no reciprocal liberalisation in those other markets. Our own produce here, such as coffee and tea, are subjected to quotas in those other markets.

We have a situation where virtually every commodity that is produced in third world countries has an international organisation to manage it, and that all those organisations are based in consumer countries. For instance, there is the International Coffee Organisation (ICO), whose headquarters is in London. There are similar organisations for tea, cocoa and other third world produce. Ironically, there is no international organisation for automobiles that is based in a third world country, to determine the prices of automobiles. Only the prices of our commodities are supposed to be determined by the people who are supposed to buy them. So, we now have a situation where a number of our industries have collapsed. Our textile industry has collapsed because of the importation of second-hand clothes from developed countries.

We are now having a situation where our only shoe manufacturing company; Bata Shoe Company, has collapsed because of importation of second-hand shoes and so forth. We are now having a situation where our sugar industry, which is an employer of very many people, is on the verge of collapse because again of dumping of cheap sugar from other countries. As a country with people who require employment something needs to be done. The Government needs to act in a concerted manner where the left hand knows what the right hand is doing, because on the one hand, we are implementing certain policies which are killing our jobs and on the other hand,

we have the Ministry of Labour and Human Resource Development which is supposed to provide jobs. It is no wonder that Labour Day these days is meaningless to people. Labour Day is a meaningless day to Kenyans and the Minister for Labour has nightmares when Labour Day approaches, because he knows on that day he is going to be humiliated by workers. These days, Uhuru Park is empty on Labour Days. It is a sharp contrast to Madaraka Day when the whole of Nyayo Stadium is full because Kenyans know that the Ministry of Labour and Human Resource Development has no teeth to protect them. Kenyan workers know that the Ministry of Labour and Human Resource Development does not have the means with which to protect them and that they know, on that day, they will expect the Minister to make empty meaningless speeches and end up by awarding them a 10 per cent increase when in the course of the whole year, the cost of living has gone up by 150 per cent. A 10 per cent increase is peanuts and Kenyans know how to respond. They respond to the Minister with contempt by walking away on him on Labour Day. This is shameful. It is something that the Government should take seriously and address it by reversing the trend of decline, so that the economy can grow again so that employment can be created.

Mr. Temporary Deputy Speaker, Sir, there was another convention which is supposed to protect the staff who are engaged in Jua Kali. Again, the Government is saying that it has to apply lower standards because of lack of employment. We are saying that Kenyans are human beings like others and they should not be treated as sub-standard human beings because of conditions which have been brought up by factors beyond their control.

With those few remarks, I beg to support the Motion with amendments.

Mr. Kihoro: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to the Motion on the need for this country to come to terms with what is happening to the rest of the world in respect of the usage and employment of labour. I find, in the Sessional Paper No.1 of 2001, that the Government is requesting Parliament to adopt the recommendations of the ILO Conferences that were held in 1951 and 1958; during the 34th and 42nd Conferences of the ILO. That is long before this country became independent. One wonders why we had to wait for such a long time to reflect through all the period of Independence so that the Government can request Parliament to come up with its views on what should happen in respect of the Conferences. The question of ratifying the Convention that this House is being asked to accede to is something that should come basically on an annual basis. We should look at what is happening to the rest of the world, ILO and the UN and be able to keep up with what is happening as opposed to waiting for such a long time before Parliament can be asked to attend to its international duties.

Mr. Temporary Deputy Speaker, Sir, Convention No.100 is on equal remuneration for equal work. At this time and age, especially when we have a Constitution that has been in place since 1963, one wonders why it is now necessary to come up with that Convention on equal work, equal pay. It is important, but I thought this is something that must be institutionalised and should have been institutionalised a long time ago. We should not wait for such long time before we come up with the necessary law even though I know we have, for instance, the Employment Act, Cap.226 and also another Act that accedes to this. Mr. Temporary Deputy Speaker, Sir, it is important to look at one very important Convention that this House is being asked to attend to; that is the Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour. This is a very important Convention because children in this country are engaged in labour especially in plantation labour too early in their lives. According to this Convention, a child is somebody who is below 18 years. You find that in coffee and tea plantations, there are children as young as ten years working there. It is important that the Government implements and enforces this Convention. There is no need for the Government just to legislate laws to prohibit child labour and then fall short in terms of enforcement. It will be of no value. We do accept that there are very many children who are working on these plantations and they should not be working there at all. They should actually be in school. A mistake has happened here---The other day I was listening to one of these new radio stations and they have an advertisement about prohibition of child labour, something that is very important. You find the KBC will not deal with this matter although it has been on air for such a long time. But you find that these new radio stations are sensitising our people on why there should be no child labour. Already, we have got surplus labour in this country and there is no reason why we should be engaging children under the age of ten even on the plantations.

Mr. Temporary Deputy Speaker, Sir, it is also important to point out that there is a culture here of plantation labour and some Kenyans have been working on these plantations for such a long time. They were left there by the colonial regime in this country and they have been working on these plantations from that time through 38 years. Their children also end up working on these plantations too early in their lives when they should not be doing so.

Mr. Temporary Deputy Speaker, Sir, another aspect, which I think is very important in terms of prohibition of child labour is: What is the Government doing to remove or to attend to so many children who are found on our streets and who should not be there? When a Question on that issue was answered this morning, we

were only told that the Government has got the capacity in some place in Thika; that some 3,000 children are staying in a rehabilitated refugee camp in Thika. I know that in this country, we have got very many children of school-going age who have not been going to school, and they are the first victims when it comes to the question of child labour. So, I hope that when the Convention is domesticated, there will be provisions of not only prohibiting child labour, but there will also be a provision in the Domestic Act which will enjoin the Government to provide alternative education. We should be able to provide education to these young people in any institution. Also, we must admit that some parents in this country are no longer capable of looking after these children. You only need to walk on the streets of Nairobi and find how many children are accompanying their families on begging missions. Some of them are three years old, and they can be found just outside the door of this Parliament. If you walk down along Parliament Road and go to the Inter-Continental Hotel, you will find a number of children begging from passersby. A situation where three-year-old children are begging on the streets is child labour. It is important that we not only domesticate the conventions, but we also need to think seriously about how we will be able to enforce the provisions of the Domestic Act in a way that is going to be beneficial to this country; that is, in a way that will bring security to the families in this country who today are in a situation where they cannot be able to do so.

When you also walk on the streets of Nairobi, you will find many glue-sniffing children. You will also find unhealthy children who have now taken up that habit of glue-sniffing. That has become part of their life; too early in their lives when they should not be expected to be able to control themselves. When we domesticate Convention No.182 of the International Labour Organisation, we must make provisions for that. If we look at Article 3 of that Convention, we find that there is prohibition of practices which are similar to slavery. Not only is slavery proscribed by that Article but also, the Article prohibits practices similar to slavery, and that is what why I said that it is happening in the coffee and tea plantations; that, there are practices which are found there and which go back to the colonial period. Those practices need to be eliminated because we need to provide education to young people at the right time. Any child who is not going to school and who is below age 18 is a waste of human resource, and there should be provision against that. Maybe today, we are wasting a genius child who could well provide rescue for this country in due course. So, practices which are similar to slavery - I know that they are also prohibited under the Constitution of Kenya, but nevertheless, it does not mean that, that is not happening. That should be eradicated.

Mr. Temporary Deputy Speaker, Sir, before I finish, there is a certain form of discrimination we experience in terms of retrenchment of workers. In this country, you will find young people have been denied the opportunity of supporting themselves through work. One of the conventions that we are supposed to put into practice is the one on the rights of everybody to pursue his or her material wellbeing. When in this country we have retrenched young people who have been working in the Civil Service--- Maybe, during the last five years, they were under 30 years of age, and today, they are retrenched, you will find that we are denying these young people an opportunity to fulfil themselves and to pursue their material wellbeing. That is something that is also guaranteed in our present Constitution; section 82 of the Constitution which states that everybody should have a right to physical and material wellbeing. But when we retrench them at that age and also propose to adopt the recommendations that have come from the ILO, then, you wonder whether we are not paying just lip service to a very important aspect and commitment that we need to attend to in spite of our continuing legislation.

There is no commitment to facilitate the realisation of employing more of our youngsters. It is important that the Government comes up with a solution to that problem. We have Commissioners to the Commission on Poverty Eradication who earn good salaries but they do fail, indeed, in giving the necessary response to a very important aspect about this country; that young people are increasingly finding it difficult to lead a decent life when they are out of employment, and there is no answer that is being provided. I do commend the Government for coming up with a Sessional Paper at this time on the question of ratification of the ILO recommendations. It is something that should become a more frequent scene in this House and hon. Members will have opportunity to air their views on what should be happening in this country in respect of the international conventions, whether at the UN, ILO and WHO. It is important that what I consider to be a new phenomenon is going to be upheld by the Government for the time they are in power.

I beg to support.

Mrs. Mugo: Thank you, Mr. Temporary Deputy Speaker, Sir, for according me this opportunity to support the Motion before the House. This is a very important Sessional Paper because it deals with the lives of Kenyans. I must commend the Government for bringing the Sessional Paper because it is important, as it has been said, to domesticate the conventions, laws and agreements which have been agreed on by the world governments and organisations. Let me add too, that we would like to see the same spirit from the Government when it comes to implementation. It seems that most of the time, the Government rises to such occasions just to please the people

out there; that, Kenya has ratified the conventions. But the Government has no intention of implementing them because it lacks the political will.

My concern at the moment is the informal sector. It has been recognised in this country that the biggest sector that is employing Kenyans is the informal sector; self-employment. I, alone, did come up with a programme, some time ago, of supporting the informal sector. I even organised some kind of loans, education and capacity building for the informal sector people so that they could be trained in business management. That sector did grow, but the Government lacks a legal framework to protect it. As we speak here, we know there are battles which are being fought on the streets of Nairobi. It is shameful that we saw, just about two days ago, a woman being hauled and her kiosk closed, and a young man also being beaten.

Their crime was only that they were trying to survive. While we commend the Ministry, we would also want to see a legal framework that protects the hawkers, kiosk owners and young men and women who sell items on the streets in an attempt to survive financially. They are not there by choice. They are there because this Government has failed to create wealth and employment opportunities. We are calling for the security of these people when they go about their businesses. When they are whipped by askaris, their kiosks are demolished and women are thrown around, there is no security for their work. The environment is not secure. We cannot understand for whose benefit this Sessional Paper is being brought here, if not for those people.

A lot of our young graduates who should be working elsewhere are involved in the informal sector, trying to survive. I hope that this Sessional Paper will protect even that very needy sector of our economy, where the majority of Kenyans are. The issue of child labour is also of concern. It is said in one of the findings that 25 per cent of all labour in the agricultural sector is carried out by children. It is not meaningful to just bring this Paper to the Floor of the House without telling us how this Government intends to implement it. How will we get those children who are labouring in the coffee and sisal estates from morning till night to stop doing this and go to school? The reason for this is not because the parents want to overwork their children, but because of poverty. We must have programmes that address very seriously economic empowerment for the parents of these children so that the children can have an opportunity to go to school.

The issue of free education for all children has also been expressed here and I want to support this very strongly. The basic education should be given free so that these children can spend their youth going to school in order to become useful citizens in future. There is also a great worry about the street children. They work from morning and all night begging. That is a very hard job when you come to think about it. They do not beg because they do not want to go to school. It is because they have no other way of earning a living. The Government has to address the problem of the street children and the street families. There is also a lot of child prostitution going on. Some of the street families sell their children into prostitution or drug trafficking. It is one thing for the Government to bring a Sessional Paper here for the sake of public relations with the International Labour Organisation, and another to show real commitment to solving the problems of the people.

We are asking for some tangible proof that the Government is doing something for these very poor people in our society. As long as the people are this poor, we can sing this song day in, day out, but there will be child labour because it is the only way these people can survive. How many child ayahs do we have, who are only aged nine or ten years and they are employed to look after other children? We challenge this Government to come up with at least a few sectors dealing with child labour which it will look into and ensure that they are eliminated. This should not just be done by clearing up all the street children and street families from the streets. I do not know where they take them. I have always wondered where these children disappear to when dignitaries come to the country. I would like the PC to tell us where they are taken to because soon after that, they return to the streets.

We need a proper programme where we can rehabilitate street families. If we became just a little less corrupt and spent some money in our society for our people, we can take these street children to a place where their mothers can look after them. Some of the big boys and girls can be trained in different types of vocations so that we can remove them from the streets and turn them into useful citizens. That will even improve the security in the streets. The Government should consider implementing such a programme instead of coming up with a lot of Sessional Papers which will eventually gather dust somewhere in a Government office. When replying to this Motion, I hope the Minister will tell us exactly what mechanism is being established to implement this Sessional Paper and what sectors of child labour will be targeted.

On the issue of discrimination at the work place, I have a lot of workers, old and young, in my constituency who come to me with complaints of the ill treatment they receive while working in an Indian firm. I am mentioning Indians because they are the most notorious. These workers have never been given a letter of appointment for the last 10 or 20 years that they have worked in those firms. When it comes to sacking them, they are just declared redundant because they are casual labourers. There is no casual labour that lasts for 10 or 15 years. This is a way of exploiting these poor people who have no other means of livelihood. I would like to urge

the Ministry of Labour to ensure that there is a limit as to what period is considered valid for casual labour. There should be a provision whereby a worker becomes a permanent employee after working for a certain period of time. The Government has a duty to protect its citizens from some of these notorious employers.

In fact, I have a few cases which I have referred to the Ministry and I hope that something is being done about them. This exploitation has gone on for far too long. We will pass this Motion because we support this Sessional Paper, but we want to see practical steps taken to implement the recommendations. The Kenyan worker who is lucky to find a job, even if he is lowly paid, must have a proper appointment letter which he can refer to for assistance when he is discriminated against. There are several private companies which do not pay their female workers the same salary as their male workers for performing similar duties. That is discrimination based on sex. Female staff do as much work as their male counterparts, if they have the same qualifications. I am calling upon the Ministry of Labour to ensure that, that anomaly is corrected. You will also find a situation where people do the same job and have similar qualifications, but some are given preference or are paid better because of their race. That is discrimination in our own country and it is shameful. If this Government will continue to allow such a practice to continue, it means you are not even proud of who you are.

We really wonder whether we have a Government that is sovereign or we are being dictated to by some other powers that be.

Mr. Temporary Deputy Speaker, Sir, on globalisation, which was talked about here earlier on, we cannot pretend to globalise when only other people are getting benefits but not us. The most important function of a government is to protect its people and not to speak for the others out there. This is like the way the Minister was trying to tell us; that since America is sovereign, they can do what they can. They want to even abuse our citizens when they go to collect visas. I am married to a diplomat who served once as an ambassador of this country and I know the first duty of an ambassador, if you are out there, is to serve your people. The first duty of our Ministry of Foreign Affairs and International Co-operation is that we pay them so that they can speak for us and not for some other government. We should take the first priority and whether we are poor or rich, we are sovereign, and diplomacy means equality and dialogue among nations. Otherwise, we do not need the Ministry of Foreign Affairs and International Co-operation and to pay all this money to our officers if they are not really there to protect us first and foremost.

Globalisation cannot take effect when it is one-sided. Those Western countries want to dump their products in our country. The multinationals are dumping their products here so that our industries cannot work any more, and that most industries that were working are now closed and the workers declared redundant. This is because our Government is not capable to negotiate and they are not even able to subsidise our production while those other governments subsidise their manufacturers, and that is why they are able to come and sell things cheaply here. Look at our sugar industry, and it is gone. What is going to happen to all those workers who were working there? We are bothering ourselves here passing a Sessional Paper which really will not have effect on our citizens. It will have an effect if this Government is committed to seeing implementation; that is, in using our experts when they go to negotiate, and not just to go and say "yes" to whatever the Western countries are saying, but to bring our side of the story; that is, how oppressed we are, because when these goods are dumped here, then our industries close down.

Mr. Temporary Deputy Speaker, Sir, it is now other countries which are complaining on our behalf. We saw in Ottawa in Canada when the big powers met there and some people were picketing them. They did the same in Washington in America because of this globalisation which really oppresses the small producers. We did not even hear the voice of our Government or the Minister for Trade, Tourism and Industry out there, hon. Biwott, presenting our case. We should say: "No, we cannot do it because we have our industries and if you want us, we will come as your equal partners in trade." World Trade Organisation (WTO) seems to have no regard for developing countries. So, when we are ratifying or even domesticating these conventions, we must also point our concerns to WTO and other international organisations that those policies are not fair to our industries, workers and people in general. This is because when we close the few industries we have, because of dumping by multinationals, it means that we just become consumers, and surely we cannot call that globalisation. Even the few traders that we have cannot carry out proper trade in America and other Western countries because you cannot pick up your suitcase and run where the business is going. You need a visa and apply for it three to four months beforehand, or whatever is the period.

Mr. Temporary Deputy Speaker, Sir, what kind of globalisation is this? How blind can this Government be, including our other African governments, if we cannot negotiate? They need us and our raw materials for production. We count! We should not go there as second class citizens of the world. We should go there to negotiate as partners. So, that we all come out with something good for our people. It is a give and take situation.

Mr. Temporary Deputy Speaker, Sir, while I support this Motion, I urge the Minister to tell us what

action they are going to take to make sure that the globalisation will not hurt our industries and workers, and that we also have something to benefit. We are not just becoming a user nation. We are also going to make wealth by being manufacturers. Our agricultural sector, which employs most of the people in this country, has really collapsed. If you look at any sector, be it sugar, tea, milk, name it, they have all collapsed.

Mr. Temporary Deputy Speaker, Sir, we are expecting, when we see the Budget next week, there will be enough money put in that Budget for the agricultural sector. This is because when we say it is the mainstay of our economy and the biggest employer in this country, and in the Budget it gets the smallest budget; is it that the Ministry does not know how to plan, including its finance, or is it just continuous lip service just for the Budget to be seen there? But that is not where our interest is. If we have to feed this nation, because our most important employer is that Ministry, the Budget should match that need. I am challenging the Government because for the last few years, agriculture has been relegated. The Office of the President receives something like almost ten times the budget of agriculture. We are not at war! We do not need to maintain ten State Houses and lodges for this small country. We do not need the Ministers running around the President. When he moves, he does so with the whole Government. We need to use this money to develop agriculture, which is the biggest employer. Nobody is interested in killing the President, if he is very popular. So, we do not need to overprotect him. If he can feed Kenyans, and if we have enough foodstuffs, then we can have less security involved in safeguarding the life of one person. When hundreds of lives are dying everyday because of insecurity, lack of food and medicine and everything, then we have our priorities wrong. We must set a precedent if the people can live happy lives.

So, I hope this House will have the decency of rejecting that Budget if it does not address agriculture, staple food, education, health, shelter and infrastructure.

I beg to support.

Dr. Ochuodho: Thank you, Mr. Temporary Deputy Speaker, Sir. With a heavy heart, I rise to support this Motion, considering the importance of the labour movements in any reform. Obviously, we are aware that you cannot have meaningful reforms without the labour movement playing its role. Going through this document, it strikes me that there are four important aspects that would constitute a strong and useful labour movement. First, it is the freedom of association. I dare say that all these four pillars of a strong labour movement have been violated by this Government. Apart from the freedom of association, there is the aspect of right to collective bargaining. The third one is the independent strong trade unions and, finally, the unions cannot be strong if they cannot have free and fair elections. I would like to dwell on those four pillars of making a vibrant and responsive labour movement that this Government has denied us in the past. I hope that with the domestication of this convention, that for a change, we will allow our trade unions to be independent, to elect the leaders they desire and to be strong. The issue of on-going COTU elections cannot go without being mentioned.

Our current Constitution that offers the right to assembly and association and the right to elect the leaders that we desire is being violated by imposing unpopular leaders on the trade unions. There are many cases that have been brought to this House about irregularities with regard to the on-going elections. I would like to point out that four unions seem to be very notorious in this regard. These unions are the Kenya Railways Workers Union, the Transport and Allied Workers Union, the Sugar and Plantation Workers Union, the Printers and Allied Workers Union, and others that have been mentioned that violate the workers' right---That is denying them the right to elect the leaders they want. It appears that there is a notorious hon. Member of this House who has been holding secret meetings at night with the General Secretaries with a view to rigging these elections. The Member has even gone as far as telling them that---

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): On a point of order, Mr. Temporary Deputy Speaker, Sir. You have heard the hon. Member on the Floor refer to a colleague in this House as notorious. Is he in order to impute improper motives against the Members of the House?

The Temporary Deputy Speaker (Mr. Imanyara): Since he did not name any hon. Member, I just do not want to encourage him.

Dr. Ochuodho: Thank you, Mr. Temporary Deputy Speaker, Sir. The guilty are sometimes afraid but certainly not the hon. Member who raised that point of order. But I think it is a very serious offence when a Member of the House sits with the General Secretaries and tells them to sit somewhere at night, fill in the forms; bring in new officials purported to have been elected, and they will forward the list to the Registrar General, and the next day, the Registrar General says that they have been registered even without allowing the mandatory seven days within which somebody who is aggrieved can appeal. So, I would like to put it to the Minister that until we allow free and fair elections so that workers can elect the leaders they desire, we will not have vibrant labour movements. It does not make sense domesticating these international labour conventions.

My other major concern is how we can talk of free trade unions when we know that the Central Organisation of Trade Unions (COTU) constitution requires that the Secretary General is selected by the President

and not elected. What is required to happen by that constitution, which I am saddened the Ministry did not find fit to bring for amendments even before we ratify these conventions? The requirement of the COTU constitution is that they suggest three names of Secretary Generals and three deputies and then they are forwarded to the Head of State, who selects the Secretary General. Really, in that regard, how can we claim to be allowing the workers to elect the people they want? If I were the Minister for Labour and Human Resource Development, the first labour law I would amend is that requirement that says that the Secretary General of the trade unions is selected by the Head of State. This is the reason why we have KANU Members of Parliament being Secretary Generals because their first loyalty must be to the ruling party and the Head of that ruling party. In that regard, how can we claim to have free trade unions? I think it is important that even as we talk of domesticating these conventions, we critically look at that requirement that three names are sent to the Head of State to select the Secretary General. I know this was a requirement that my kinsman, the late Tom Joseph Mboya put in the labour laws, with a hope that he would end up being a President of this country. But time has proved us wrong, that you may try to do something with the hope that you will be the beneficiary and the same rules that you put might be used against you some days to come. So, I would like to appeal to the Minister to bring these amendments to the House so that it is not a requirement that a Secretary General of COTU is selected by the Head of State, otherwise, they can never have independence.

Mr. Temporary Deputy Speaker, Sir, I must also take issue with the denial of the Government to lift the ban on the Civil Servants Union. I would like to point out that civil servants, like any other workers have got a right of assembly as enshrined in the Constitution, and also in Cap.222 of the Trade Unions Act. They have that right to associate and have their own union. Why does the Government not allow civil servants to have their own union, especially when we talk about retrenchment? Why do we deny them their right to collective bargaining which is one of the four pillars that are expounded in this document? Why are we denying them that right? For two months now, this Government has been saying in this House that the matter of lifting the ban on the Civil Servants Union is before the Cabinet. How long does the Cabinet take to make a decision on lifting the ban on the Civil Servants Union? I do not think that they need a whole year to make that decision. I hope that when the Opposition comes to power next year, or at the end of next year, it will not take us even a month to lift the ban on the Civil Servants Union. This is because I do not think that it is justifiable that the Cabinet should sit on that decision for as long as they have done. I can bet I do not see them lifting the ban even for the remainder of the year. Maybe, they might lift it as we approach the election so that they can get civil servants on to their side. But even that will be a public relations exercise.

So, if the Government is genuine and committed to the spirit of this document, they should without further delay lift the ban on the Civil Servants Union.

Also with regard to the freedom of association, right to assemble and collective bargaining, the denial by the Government to register unions for other workers, especially, the university academic staff, is unfair. We know that there was the University Academic Staff Union (UASU) which stood for the collective bargain of the university academic staff. We also knew about the Medical Practitioners Union. Why are doctors being denied a chance to have a union that can bargain for them, and yet, we talk about free trade unions? How can we have free trade unions when key sectors of the economy are not allowed to congregate and have collective bargaining? Again, I would like to challenge the Minister that if he wants us to believe that they are committed to the spirit of this document, they should lift the ban on the UASU and doctors union. Also by the same token, why do they not allow the Matatu Welfare Association to be registered and the University Students Union? Why are these unions being banned? I believe that if we will talk of free trade unions, we need to allow them to thrive and then we can claim to have free trade unions. So, I would like to call upon the Minister to review whatever laws they are using to deny registration to these unions because the law allows them to be registered. I think they should prevail upon the office of the Registrar General that these unions that are banned are allowed to operate normally.

Mr. Temporary Deputy Speaker, Sir, while we are aware of the denial of registration to certain unions, the Government was very quick to register the rival union to the Kenya National Union of Teachers (KNUT). Why is this so, and yet, the Trade Unions Act that we are talking about says that within a certain parameter, you cannot have another union when there is already a union that covers the interest of that sector? Why is it that this rival union is not only being encouraged but also being promoted by the Government organ, through the Teachers Service Commission (TSC)? Is it that we are trying to weaken the KNUT so that it cannot bargain?

Mr. Temporary Deputy Speaker, Sir, it is as if the Kenya National Union of Teachers (KNUT) and the Civil Servants Union were given sheer number of members. So, it is as if the Government succeeded in weakening the labour movement when they banned the Civil Servants Union which was also large by size. The KNUT was also told to stay away from COTU. But KNUT had very good reasons for staying out of COTU because COTU is not a free trade union. In fact, it ceased to serve the interests of workers long ago and that is why many workers

believe that COTU is as good as dead. It is like, after the on-going elections, we might have a COTU that is even much weaker than the COTU that we have today, given the on-going rigging.

Mr. Temporary Deputy Speaker, Sir, I must also draw the attention of the Minister to the victimisation exercise that is on-going with regard to shop stewardship. We have been told this afternoon that certain companies have denied their workers the right to belong to trade unions. But that is the constitutional right of the workers. Why is the Ministry allowing certain companies to deny the workers their right of membership to certain trade unions? There are many ways through which employers deny the employee the right to belong to unions. One of them is that, if you are vocal or if you are a leader within the union, you are summarily sacked, as happened to members of the bankers union two years ago. The first ones to be victimized were either shopstewards or leaders within those respective unions. The onus is upon the Minister to defend the rights, not only of those unions, but also of their leaders so that they can bargain on behalf of the members that they represent. So, I think victimisation of shopstewards that has happened before and continues to happen must be stopped.

Mr. Temporary Deputy Speaker, Sir, one point that is also repeatedly cited in this document is the issue of minimum wages. Recently, the Ministry proudly announced a paltry minimum wage increment of 6 per cent. That brought the minimum wage to about Kshs3,700 a month for a casual worker. For example, let us take, for the argument's sake, an employee who resides in Kibera and has family; a wife and three children, and we try to compute the minimum amount that he requires for a living wage. Let us assume that he works in the Industrial Area where the majority of them work. The person will have to connect buses when travelling from Kibera to Industrial Area. But for argument's sake, I want to assume that this person uses one straight bus from Kibera to Industrial Area where he works and goes back home in the evening. I have tried to do some computation and *Muongano wa Mageuzi* as a movement did some computations during Labour Day and came to the same conclusion that I came to. They came to the conclusion that if you look at the transport this person requires everyday to go to work for 20 days a month and if you look at the meals this person requires together with his family--- For argument sake, let us assume they take one square meal a day. I know Members of Parliament take two or even three square meals a day. But for this particular person, let us talk of one square meal a day and let us assume that his family consumes only two *debes* of water per day. Let us assume each person takes a bath twice a week. Let us also assume that only two of his three children go to school and then you include school fees. Let us assume for argument's sake only one of his children is in secondary school and one in primary school. If you take into account school fees, the cost of uniforms and books which this Government is supposed to provide, but it has failed to provide--- Even in Uganda it has been normalised because the Government has now offers free primary education, whereas our Government has failed to provide.

For argument's sake, let us assume this person pays school fees for his children in secondary and primary schools and buys uniforms and books for them. Let us assume this person pays rent of Kshs2,000 and this family buys two pieces of clothes for each member twice in a year. Let us assume they spend about Kshs300 to buy *mitumba* clothes from Gikomba because they cannot, under any circumstances to afford proper clothing. So, let us assume they buy *mitumba* clothes. If the Minister does that arithmetic, he will find that at the very minimum, this person needs Kshs10,000 and that is why we are talking of awarding over 100 per cent increment in minimum salary. So, you would find that, the consequence is that the person cannot afford to board a bus; he cannot afford to buy a bicycle to ride from Kibera to the Industrial Area. Therefore, this person has to wake up at 4.00 a.m. walk to work and walk back home after work. This is what this Government has put Kenyans under.

In that regard, I want to put it to the Minister that if they are committed to the spirit of this Sessional Paper, the minimum wage must be meaningfully increased by, at least, 100 per cent to about Kshs10,000 so that Kenyans can have the basic needs to live on.

Mr. Temporary Deputy Speaker, Sir, I was once talking to some of these people from Kibera and they told me that they also have problems on toilets. It is even worse than in Kodiaga Prison where, at least, you have some small containers in the little rooms to use as toilets. In Kibera, there are no such facilities. If you have to help yourself, you wait until when you are coming to town so that you can use the toilets in the City. The situation is very pathetic! Therefore, I think, the Government should increase the minimum wage to a reasonable level.

Mr. Temporary Deputy Speaker, Sir, I want also to turn to the issue of retrenchment. It is like the Government is giving with one hand while talking about poverty eradication and taking away with the other through the retrenchment exercise. How do you talk about poverty eradication and the you retrench people and give them Kshs40,000? I remember a case of a mama who has served as a secretary in the Government for 25 years and she had a small stall in Gikomba. When the fire wiped out stalls in Gikomba, this old mama had just spent Kshs25,000 to buy a new gear to sell and in four days' time it was all up in smoke. It was very sad to see this mama, even after serving the Government so faithfully for 25 years, the only thing she could get was Kshs25,000. Although they were supposed to get Kshs40,000, after loans and advances were deducted, she only had

Kshs25,000 to take home, which she used to buy gear in the hope that she would sell merchandise and make more money. Unfortunately, it went up in smoke. How can this Government expect us to support this convention when it is stealing from those retrenchees and after they have already been victimised by being wrongfully dismissed? But even then, the Government said that these people were supposed to be given Kshs240,000 each. But the Government is only giving them Kshs40,000! Where is the rest of the Kshs200,000 going? Even if you were born to be a looter, can you not get to a stage where you can say: "God, I have had enough." Must you even loot from those who have so little?

Mr. Temporary Deputy Speaker, Sir, I am challenging the Minister for Labour, when he will be responding, to tell this House where Kshs200,000 per retrenchee has gone. If they did not get the money the World Bank has said, the money was provided, then they should tell us who is telling the truth. Is it the World Bank or it is them who have chosen to keep quiet? This is because they have not denied what the World Bank has said. So, even as we retrench these workers, especially the civil servants, there is even more reason to lift the ban on their union so that they can bargain over this retrenchment.

Finally, I must add my voice to what my other colleagues have said. This Government has a tendency of bringing Bills which after being passed are never implemented. They try to impress the international community while they are not committed to those changes. I hope, for one the convention that the Government in its own mind has decided to bring before this House, upon being passed, it will proceed and implement it to the letter.

With those many remarks, I support.

Mr. Kibicho: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity.

If this Sessional Paper is passed and implemented in full, it will make a lot of difference in the lives of our workers. However, even if that is done, it is not going to make any difference unless the Minister for Labour withdraws some of the guidelines and circulars it has issued and particularly on the labour movement which must be controlled.

Mr. Temporary Deputy Speaker, Sir, we have reached at a situation where we should be talking about free markets and say that market forces should determine what you get without any control. When the ILO was drawing up this convention, it was not very familiar with the conditions pertaining to Kenya where the Minister of Labour and Human Resource Development has negotiated with employers for uniform salaries, irrespective of the size and profitability of a company. As a result, most of our people in this country earn a salary that cannot sustain them when they retire. Even when they are working, what they earn is not enough for them to invest for their future. They only spend it on their daily spending.

Mr. Temporary Deputy Speaker, Sir, some of these conditions which are in these conventions are not different from what is in our Constitution. Rightly, the Minister has quoted Section 82 of the Kenya Constitution, which recognises equality of Kenyans irrespective of race, sex, colour, religion or political opinion in whatever they do. It means, therefore, that for Kenyans to enjoy the benefits of this convention, we must go beyond the convention. We have a country where, if you go to the rural areas, you will find that those people who work in tea and coffee estates earn Kshs40 to Kshs50 per day, depending on how many tins a person has picked in a coffee estate. We must not enslave our people in their own country. We should not only be talking about the profit which a company makes, but we must also consider how much of that profit has gone to the people who earned it.

Way back in the 1970s and 1980s, the argument of decontrolling wages came about. The argument during those years was that if a lot of money was released to the economy, it would bring inflation. Is that argument any more valid in a country where some people earn Kshs2.5 million in a month? If that is the same argument that this Minister has, then he must rethink about it. We have a country where some people go to a hotel and spend Kshs5,000 and it is the same country where the Minister for Labour and Human Resource Development has no shame to say that the minimum wage is so much in a day. This country cannot claim to be completely free, when the multinational companies have treated our people to a lot of injustices. We have in this country, certain class of businessmen and industrialists who belong to a certain race. They have specialised in employing our people on casual basis for five or ten years and the Minister is aware of this and no action is taken.

Mr. Temporary Deputy Speaker, Sir, while we support the sentiments and the principles in this Sessional Paper and its implementation, I will urge this Ministry to go beyond that, so that Kenyans can earn a living which can support them. It is not by accident that this country has subjected its people to certain tastes in life and those tastes are not being met by the incomes which come about. This is not because this country is poor, but because people with capital are so selfish and do not consider the plight of those people who help them earn that profit.

Before I sit down, I wish to say that I support what my colleagues have said; that, trade unions in this country must be free. I support the sentiments that the Central Organisation of Trade Unions (COTU) as the umbrella body of all the trade unions in this country should have a free hand on who leads it and this notion that the top echelon must be appointed by the President should come to an end. What is the rationale? The rationale is

that those in political power want to retain power. They are not interested in the plight of their people. They do not want anybody who has got the interest of the people. Should we spend all our resources and time in retaining power at the expense of our people?

With those few remarks, I support the Motion.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I want to contribute to the discussion on this Sessional Paper on the ILO, the action the Government proposes to take regarding the conventions and the recommendations that first were adopted at the International Labour Conference as stated in the Sessional Paper.

Many developing countries, including the Republic of Kenya, are fond of putting their signatures to international conventions, but their records in observing these conventions are absolutely abysmal. If you look at the number of conventions that we are signatories to, including the United Nations Universal Declaration on Human Rights to which we are signatory, they are many, and yet on a daily basis, the Government presides over their violation.

Mr. Temporary Deputy Speaker, Sir, the Government of Kenya was part and parcel of the First Earth Summit held about nine years ago in Rio De Janeiro in Brazil, and yet having been a signatory to the Rio De Janeiro Convention, which committed this Government to observe certain norms of managing the environment; certain ethics of managing the environment in the context of sustainable development; this same Government is busy violating on a daily basis, the convention. The Government is currently preparing to go to the Second Earth Summit next year in Johannesburg with a big book stating how the Government has been observing the Rio De Janeiro Convention, and yet we know from Karura Forest to Burnt Forest, the record exists in the public domain that precisely because this Government is led by plutocrats, it has no intention whatsoever of being faithful to this convention. Therefore, I am not surprised that in this Sessional Paper, page after page, the Government has said: "In view of the foregoing, the Government does not need to ratify this convention". Why? The Government has given the simple reason that being a developing country, having not attained such high standards, we cannot aim high.

This is an abysmal display of inferiority complex on the part of the Government. The most important thing is to establish high standards, so that you can aim at them; so that you can develop and achieve them. But when you have been at the ILO Conference; participated in that conference, raised your hands and taken the convention and then you come here and say that you are too young and too underdeveloped to aim high, this Government is letting the people of Kenya down. The people of Kenya want to aim high. The people of Kenya want to set high standards.

In the 1960s and 1970s, this country was known in Africa as the leading Pan-Africanist nation. It was a country that other African countries looked forward to. It was a country whose name was known from Tierra del Fuego to Norway and yet, these days, when you speak of Kenya, people look at you twice and wonder where you come from. I do not see why the Government cannot adopt in total, the conventions and recommendations recommended by the International Labour Organisation (ILO). It is important because the moment those conventions are agreed to, they usually follow many days, months and years of negotiations, so that, what is found and put before the community of nations at the global level is something that is carefully thought about.

What the Government needs to do is not to say that in view of the foregoing, it does not need to ratify those conventions. What the Government needs to do is to adopt the conventions and bring to this National Assembly, a transition law that says how the Government will adopt those conventions as its grows and develops. But you cannot shut your door today and say: "Because we are too young, we do not need to adopt." You are a sovereign nation! You can adopt the conventions and lawyers like Mr. Julius Sunkuli can advise the same Government and say: "Okay, we are adopting the conventions, but this is how we shall implement them from year to year." But to come to the National Assembly and present us with this Paper which says page after page: "In view of the foregoing, we cannot adopt this convention", it is really making a mockery of the National Assembly. For example, in a country like Kenya where unemployment is high, the provisions of an instrument on part-time work which is either lacking or minimal, do not apply. The Government does not need, therefore, to adopt that recommendation.

Mr. Temporary Deputy Speaker, Sir, when you have a recommendation on part-time work as it is contained in this document, all it is urging the Government is to ensure that we have, first, a good working public health system and secondly, that we have a proper national social security system to which, if part-time workers contribute, the employer himself will not be subjected to too many expenses, if he could have those people. What is lacking in this country are two things. We lack a proper public social security system to which anybody, whenever they earn money, they can contribute to.

Mr. Secondly, we lack a good public health system. If you look at those recommendations, all they are saying is: First, whether somebody is on full-time work or part-time work, he should be paid a livable wage. He

should be given a minimum package which can give him access to a minimum standard of civilised living. No Kenyan in his or her right mind enjoys employing somebody and see them live a slave life. Every Kenyan would like to employ somebody who enjoys a standard of living that makes it possible for this economy to grow. When the economy grows, all of us are happy. That is what is called the greatest happiness of the greatest number. But if many people are suffering slave labour or wages, the economy will not grow.

What the conventions are telling the developing countries is that it is against their own interests to pay below minimum wages. It is against their own interests to pay people who cannot afford access to some form of health. It is against their own interest to pay people money, but they cannot afford to have a decent house to live in. In the final analysis, the whole society will have to pay dearly, when there is an eruption of all kinds of diseases; when people engage in crime because of frustration; when there is a lot of apathy and anomy in society because people are not enjoying the human standards of living. So, the Government should have thought twice, rather than looking at immediate factors and saying: "We are not rich enough to afford that." It could have said: "Fine! We are not rich today, but we must set up a programme of implementing those recommendations stage by stage, as we grow economically."

Mr. Temporary Deputy Speaker, Sir, Kenya as a nation has a comparative advantage in Africa, of having the potential to develop a strong service economy.

As my previous colleagues said, a lot of those recommendations will apply to the service sector. For example, nobody running a restaurant, a cafe or a cyber cafe in this day and time, would like to employ anybody on a full-time basis. It is uneconomical and in any case, the trend in the future, and it has already started in Europe, is that more and more employment is going to be on a part-time contractual basis. You work and be paid for what you have done and go. That is because few employers are going to afford paying all kinds of benefits that workers demand. Those benefits will, in the future, have to be catered for by public services, for example, a properly working public health system, a properly working public transportation system and a properly working social security system. That will be the order of the day in future.

*[The Temporary Deputy Speaker
(Mr. Manyara) left the Chair]*

[Mr. Deputy Speaker took the Chair]

Therefore, Mr. Deputy Speaker, Sir, we should look at the laws like the ones recommended in this Paper, which will emphasise more and more on part-time labour at part-time remuneration. The part-time work, which is different from what we have been used to, must be adopted in the context of changed laws and regulations. I would urge the Government to look very carefully into those recommendations by the ILO. The ILO is looking into the future and it is trying to give the Government a framework to respond to trends of labour, employment and the economies of the future, which will depend more on part-time work. Therefore, it is definitely against the interest of Kenyans to adopt some of the recommendations that the Government is indicating here. It is only accepting a few recommendations from the ILO and almost rejecting the majority of them. Secondly, with regard to recommendations on the recruitment and replacement of seafarers, it deals with seafarers' work in ships and so on. I notice that the Government has rejected almost all of them, under the argument that we do not have a very big shipping industry that relates to Kenya. That is a fallacy. Some of the smallest nations in the world like Panama and Singapore have developed tremendous shipping industries, precisely because from their own perspectives, that is a niche in which they can compete both in terms of technology, and also in terms of providing labour for developing a seafarers industry. You cannot develop---

Mr. Deputy Speaker: Order! Hon. Members, you will recall that earlier in the afternoon, I did allow Mr. Nyang'wara to move a Motion of Adjournment for purposes of discussing a matter of urgent national importance. Prof. Anyang'-Nyong'o, you will have 20 minutes tomorrow to continue with that debate!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy speaker, Sir, I beg to move that the House do adjourn.

The Minister of State, Office of the President (Mr. Sunkuli) Seconded.

Mr. Deputy Speaker: Proceed, Mr. Nyang'wara!

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.20

ETHNIC CLASHES ALONG GUCHA/
TRANS MARA BORDER

Mr. Nyang'wara: Thank you, Mr. Deputy Speaker, Sir, for giving me this chance to move a Motion of Adjournment under Standing Order No.20(2), to seek leave of the House to discuss the on-going tribal clashes

along the Kisii-Maasai border, where the Police Force has been involved in shooting and killing of innocent people, taking away animals and selling them illegally.

Mr. Deputy Speaker, Sir, allow me to give the history of the Gucha/Trans Mara border conflict.

Mr. Deputy Speaker: Order, Mr. Nyang'wara! Hon. Members, in order to enable as many hon. Members as possible to contribute to this Motion, I would like us to depart a bit from one of our rules Governing debate of this kind and allow Mr. Nyang'wara, who is Moving the Motion, and the Government responder ten minutes each, and every other hon. Member speaking five minutes.

(Applause)

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, the Kisii and the Maasai people are very good neighbours. The Kisii people migrated to Lolgorian area in 1920. When the British Government came into the country, it forced the community to move back. The community agreed to move back. However, a Kisii elder filed an objection with the High Court, Nakuru, which is still pending todate. In that petition, the Kisii stated that they were illegally moved from Lolgorian to where they are today. All along, the Kisii community has been co-existing harmoniously with their Maasai neighbours. Earlier generations of the two communities would at times disagree and go to war, but they would talk peace and continue to co-exist again.

Things went on that way until 1961, when fierce clashes between the two communities broke out. There was a fight which resulted in the killing of a Kisii tribesman by the name of Ong'era from South Mugirango. In containing those clashes, the British Government was very impartial. The security forces tried to contain combatants from both sides of the warring parties without success. Finally, the commander of the security detail deployed one half of his men to contain the Maasai while the other half contained the Kisii.

In 1971 and 1972, other fierce clashes between the two communities broke out. The Kisii were led by a Mr. Ombati. In containing those clashes, the Government was neutral. Similarly, the Government acted neutrally in containing clashes between the two communities in 1978. Then came the clashes of 1991 and 1992, which were politically instigated. The Government fought and people were killed. Those clashes ended immediately after the 1992 general elections.

Thereafter, the two communities co-existed peacefully until 1997. In that year, the clashes broke out because some people did not want me to be elected as the Member of Parliament for that area simply because I belonged to the "wrong" political divide. However, because of my popularity, I was elected to this House. So, after the elections, again, the clashes ended. We have been co-existing with the Maasai peacefully since then, until some time this year, when there was a by-election in South Mugirango. During that time, I changed sides. I was initially "fighting" KANU but I am now in the party again.

An hon. Member: Why?!

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, could hon. Members give me a chance to finish moving the Motion so that they can also have time to contribute?

An hon. Member: Go ahead!

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, Ministers could not dare set foot in South Mugirango during that time. However, because I went there myself, they also went there.

(Applause)

Mr. Deputy Speaker, Sir, after the South Mugirango by-election, clashes broke out. On 17th February, 2001, a pastor from my constituency was invited to Maasailand where he was requested to lead some elders to Mr. Nyachae, so that they could invite him to conduct a funds drive in Maasailand. On 18th February, 2001, Maasai elders, including a senior politician from Maasailand, held a meeting and resolved that no Member of Parliament would conduct a funds drive in Trans Mara District without the express authority of that senior politician.

Hon. Members: Toboa!

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, on 19th February, 2001, the same pastor, who belonged to the Church of God, was called to Maasailand and instructed to tell the Kisiis to harvest their maize because there was war. The pastor went ahead and delivered the message. On 23rd February, 2001, some livestock was stolen from the Kisii side of the border. Some people suffered injuries. On 24th February, 2001, houses were burnt on the Trans Mara side of the border. On 26th February, 2001, Kisiis who had been advised by the Maasai to harvest their maize from the Trans Mara side of the border were killed by the Maasais. The police managed to arrest the suspected murderers only for the senior politician from the Maasai community to intervene and secure their

release. That was the major cause of the on-going clashes between the Kisii and the Maasai communities along the Gucha/Trans Mara border.

The Kisiis and the people of Trans Mara have been living peacefully. I request the House to discuss this matter and look for a solution. If it is politics which is being played around, my people are suffering innocently. I do not want to be a President of this country.

Hon. Members: Why?

Mr. Nyang'wara: For now, I do not want to be a President of this country. If somebody is being fought because he wants to be a President of this country, my people who are being killed by the police should be left alone. Currently, we have leased three kilometres of land in Trans Mara and we have paid millions of shillings. It is our land and our cattle should be grazing on that land because it is ours. If you let a shop for five years, it is yours. So, if you lease land in Trans Mara, that is your land. Most Kisiis have bought land within 30 kilometres in Trans Mara.

With those few remarks, I beg to move.

Mr. Deputy Speaker: Time up!

Mr. Obwocha: Mr. Deputy Speaker, Sir, I have only five minutes and I have no intention of repeating what Mr. Nyang'wara has said. These two communities neighbour each other and they have lived together in harmony. But as you know, sometimes when brothers live together, there is a little quarrel here and there, which has been there since the 1920s, as my colleague has said. But nobody can comprehend what is happening in Trans Mara. This clash just started after the South Mugirango by-election because the people of that area in Kisii confess an alternative view to that of politicians in Trans Mara and KANU. Why should we punish people for holding an alternative view? The police are conducting these tribal clashes. We would expect that if they are the morans or young men from both sides, they would be using arrows and other crude weapons. But what is happening on the ground is that the young men who are being attacked from the Kisii side are being shot by policemen. An account that was given by Prof. Anyang'-Nyong'o of schoolboys who are admitted in Tabaka Mission Hospital shot by policemen---Who can explain what is actually happening? We are told that 1,500 people went to invade a police station. Honestly, if 1,500 people invade a police station, first of all, how do you count them? If you know the number, then you would arrest them. Basically, these are people who were in a market and we are being told that they invaded a police station. We need to be told by the Government what is happening. Our view, at the moment, is that the KANU Government is undertaking a pilot project for tribal clashes in preparation for the forthcoming general elections in the year 2002. This is not going to end here.

(Applause)

Mr. Deputy Speaker, Sir, I had even an opportunity to be in Mombasa last week. We were in a hotel called Diani Reef. I went even to Mr. Matiba's hotel which was opened by President Moi on December, 1986, and he now wants to close it.

Hon. Members: Shame! Shame!

Mr. Obwocha: Mr. Deputy Speaker, Sir, if you are in that hotel and you see the effect of those tribal clashes in Likoni, you would regret. This is something that Kenyans should never repeat. I do not know why the Government has not learnt any lesson from 1992 to 1997. They are starting these clashes all over again. Why has this House and the people of Kenya not had access to the Akiwumi Report on Tribal Clashes? It is because the Government has something to hide. The actual root of the problems in Trans Mara is that there are some politicians who have organised these clashes in that end. The basis of that is that Trans Mara is a cosmopolitan constituency. Basically, this politician fears that the Kipsigis and the few Kisiis who live there--- Indeed, the Kisiis are so few that they would not even influence his election. But, somehow, he is paranoid. He thinks that this is going to affect his election in the year 2002.

Hon. Members: Who? Is he here! Name him!

Mr. Obwocha: Mr. Deputy Speaker, Sir, the blood of those people will haunt him. We are asking him to stop killing schoolboys because these are the future leaders of this country. This war should stop and the issue of the Head of State---

Mr. Deputy Speaker: Order! Order!

Mr. Nyachae: Thank you, Mr. Deputy Speaker, Sir. The time is very short, I will be very brief. First, let us not give this House the impression that it is only the Kisii side which is complaining. The Kisii people are concerned about this problem equally like the Maasai. It is a problem that affects the two communities.

(Applause)

I am repeating that the Maasais and the Kisiis are all unhappy with these clashes. For your information, as we are talking now, all this time when the clashes have been going on, the Kisiis have driven along Nyangusu Road all the way to Kilgoris to sell their *mitumbas* and they have driven back. The Maasais also come all the way to Nyangusu or Gucha to sell their livestock, and then they go back. What is happening is organised outside the main road and outside Nyangusu and Kilgoris Markets. Business people from Kisii and Maasai have no problem. Who is causing this problem? Who is instigating these young people? When the Kisiis are burying their dead, the Maasais are also burying theirs. It is not only one side which is losing people, both sides are losing people and they are unhappy about this. The characters who are involved in this clashes should, first, kill themselves and their families. They should not incite other people to kill each other. This is what needs to be known.

Mr. Deputy Speaker, Sir, two weeks ago, we talked about this issue in the form of a Question in this House. The Assistant Minister who answered the Question on behalf of the Minister for Internal Security promised this House that the Minister, Maj. Madoka, was going to tour the area. Nobody has been there because they do not want to go and face their police officers who are doing those things.

Mr. Deputy Speaker, Sir, you also need to know that those people who were shot at, the ones who Prof. Anyang'-Nyong'o talked about; the so-called 1,500 people, never went to any police post. These people were going to weed for their maize, and they were stopped by police officers and shot at. There is nobody who went to any police post. Those police officers know the truth, and they are not the ones who are putting across that reason. It is the Commissioner of Police who is saying that those people went to the police post. The Commissioner of Police - for your information - has never been out to inspect any police post and police station since he was appointed; none in the country. He is the only Commissioner of Police that I have known all these years that I have been in the Public Service, who has been appointed and he only sent his portraits to the police stations in order to be hung there. But he has never visited one police station in order to inspect it.

(Applause)

Therefore, how can he issue a statement at the airport to the effect that 1,500 Kisiis went to the police station? What did they use to count their number? Did they use a computer or a satellite in order to count the people? You have been in the Provincial Administration and in the field and you know very well that if you are attacked even by 100 people, first, it will be very difficult to count their number. Secondly, you will be able to identify, at least, out of the 100, five or ten people whom you will follow up. They just tell us that they were 1,500 and they think that Kenyans are fools who will just accept that number. Even all of you hon. Members in the House now, if 1,500 people came here, and you were told to go and count them within five minutes, you would not be able to count them and they would disappear. You would not have got the correct figure. So, how did they arrive at 1,500?

The Maasais and Kisiis want peace, and I want to correct one impression before I sit down. We have no quarrel over the boundary. We have no quarrel between the Maasais and ourselves over the boundary. We live peacefully, and a Kisii who is invited by a Maasai will go there and live peacefully. He or she will cultivate peacefully. The Maasais work with us peacefully.

Thank you, Mr. Deputy Speaker, Sir.

Mrs. Ngilu: Thank you, Mr. Deputy Speaker, Sir. That is not a Maasai and Kisii issue. That is a national issue. I certainly do believe that the Government is not trying to settle that problem once and for all. That is something that has happened in this country once before, just before the country approaches General Elections. We do remember the sad memories of 1991 and 1997, when there was again such a case between Kalenjins and Kikuyus living within the Rift Valley, and it is now happening again. It happened in 1997, when we saw hundreds of Kikuyus killed in Nyandarua District, and when we went there, we realised the reason was that those people had voted in block for DP. If that is something that should happen to the people - Kisiis or Maasais - because of an individual who they think is a threat to the KANU Government---

I want to share the sentiments expressed by Mr. Nyachae; that for those who are looking for power, let it be man-to-man. But let that not affect women and children living in those areas.

An hon. Member: Woman-to-woman!

Mrs. Ngilu: Mr. Deputy Speaker, Sir, the President of this country has a way of escaping the problems that are being experienced in this country. We have seen that happening in the Coast Province and elsewhere, and we would like to say, once and for all, that the problem of this country has to be settled by the Government. It is the Government that has the Police Force, and should see to it that every Kenyan is provided with security. It is

not the problem of the people on the ground. I personally travelled to Gucha, Kisii and other areas, and at one point in time, near the border of Rongo and Kisii, we were stoned. But we saw the people stoning us so clearly, and I managed to escape to the next police station. I stopped and told the police officers: "Please, police officers, the people are right here! Go now!" I further told them: "I want to accompany you; they are there and we saw them." The police told me: "We know them. What do you want to tell us?" I replied: "You do not know them. I want to show them to you." They said: "We know them, and we know what they are doing."

If that is the response that people can get from police officers, so, who is supposed to protect the lives of Kenyans? In the past, the President of this country has said that he has never encouraged multipartyism. He still has that feeling; that we need not have Opposition parties in this country. He has time and again said that Kenya is not cohesive enough to accept multipartyism. When he says that, he starts that kind of issue, and I do believe that behind every single case where there is war or disagreement between communities, the President himself is made aware before it starts.

(Applause)

We saw it in Mombasa. He does not want to admit it, but he is doing it because of one person. Can President Moi come out today and stop that? It affects the whole nation and the development of that area. Even those who want to come to this country in the name of investors--- As we also approach the General Elections next year, we do believe - we have heard and we believe that it is the truth - that the President would even like to cause war in this country, so that there is a state of emergency. Surely, if he would like his term extended for a third term, he need not kill Kenyans. Let him let all those who currently want to run for the presidential office run for it and prepare themselves. He has said that he is so afraid of civic education simply because the Government thrives in threatening Kenyans. It is afraid of civic education because of that. The Government tells the Opposition that, "you cannot go to such and such a community because this is what they are going to do to you."

Kenyans have lived very cohesively and would not care as to who leads them after President Moi, and we are looking for a period when we are going to have Kenya without Moi, and he needs to know that. He has ruled enough, and he has worked for this country enough, and I think that it is time that President Moi leaves office peacefully. The President keeps on talking about tribalism in this country. Who is more tribal than the President himself?

(Applause)

We would like to ask today---

Mr. Deputy Speaker: Order, Mrs. Ngilu! Yes, Mr. ole Sunkuli.

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Deputy Speaker, Sir---

Hon. Members: Tell us!

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Deputy Speaker, Sir, I hope that the peace with which we have heard others will be granted to me to tell the other side of the story. This is because I know that the Maasai people have lost the propaganda war, but I would eventually like the truth to prevail. This is because today, as I speak, the Kisii people are resident in Trans Mara District. There are about 1,500 voters of Kisii origin in Trans Mara District, residents in Ngararu Location, Kilgoris and Lolgorian, mining gold and doing their farming. Even at the height of the clashes, they have never been touched; never, and they will not be touched.

Mr. Nyang'wara: On a point of order, Mr. Deputy Speaker, Sir.

The Minister of State, Office of the President (Mr. ole Sunkuli): But give me time!

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, is it in order for the Minister to say that the Kisii are residing in Trans Mara District when, in 1997, when I was a KANU candidate, my properties were destroyed because I was in KANU---

Mr. Deputy Speaker: Order! Mr. Nyang'wara, you had the first opportunity to make your point. Now you are disturbing another Member by asking questions instead of raising your point of order. I will not allow it.

The Minister of State, Office of the President (Mr. ole Sunkuli): Mr. Deputy Speaker, Sir, Mr. Nyang'wara owns a building which is used by a Dr. Magita as his hospital. That is the only property he owns in Kilgoris and it is intact. He was there to collect rent last week and nobody disturbed him.

The issue that I wanted to make clear here is that the Kisii Community in Trans Mara District are absolutely safe and that these clashes have been happening at the border between the Maasai and the Kisii communities. I hope that this House knows that each Member is responsible for what happens within his

constituency. There is nothing the Maasai can do to stop the clashes. The clashes are entirely in the hands of the Kisii because they are the ones who come to Kilgoris every morning and go back every evening. There is no single day when my people have invaded the Kisii. There is no reason why I should be blamed just because I am the Member of Parliament for the Maasai people.

There are ten Kisii Members of Parliament and I border five of them. Mr. Nyang'wara comes from a peaceful clan of people called the Abamachoge. The war always begins between the Maasai people and a clan called the Abaochi and Abambaba of the former MP, Mr. Anyieni. These clashes have continued to occur each and every time because the Maasai people are facing the dangers of occupation. When we went there in a delegation with His Excellency the President, Mr. Nyang'wara was there. He told the President: "Your Excellency, Maasailand is empty. Why do you not turn it into a settlement scheme for the Kisii?" That is what he said in open air and that is one of the reasons why this battle occurred. The second purpose of this fight---

Mr. Nyang'wara: On a point of order, Mr. Deputy Speaker, Sir.

(Mr. Nyang'wara banged the Table)

Mr. Deputy Speaker: Mr. Nyang'wara, you must behave with honour and dignity. If you want to bang tables, go and do it elsewhere. It had better be a point of order.

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, is it in order for Mr. Sunkuli to mislead the House that I said that there should be a settlement scheme in Maasailand when I never made such a remark?

Mr. Deputy Speaker: Order, Mr. Nyang'wara! That is not a point of order. Please, do not stand on a supposedly point of order when you do not have one.

The Minister of State, Office of the President (Mr. ole ySunkuli): Mr. Deputy Speaker, Sir, the theory that there is some land which has been leased by the Kisii does not exist because the Maasai people have not entered into any lease agreements with the Kisii. This fight conveniently began after the harvest in February. Today, there were no Kisiis who were going to weed any maize because the fight began in February. The Kisiis did not farm in Maasailand for the duration of the fight. Where were the 1,500 people going to weed? The purpose of this fight is to unite the Kisiis behind their presidential candidate. That is why you can see that today, hon. Nyang'wara has shifted camps again. This fight has nothing to do with the Maasai people at all. I want to assure the House that the purpose of this fight is to unite the Kisiis, and it has nothing to do with us or to unite us against the Kisii presidential candidate. We do not have spare children to be killed and others to survive. We do not just want to be subjected to propaganda---

Mr. Deputy Speaker: Your time is up! Mr. Muite!

Mr. Muite: Mr. Deputy Speaker, Sir, I had occasion recently to visit the area of Trans Mara and Gucha Districts and I saw and talked to the victims. The victims I talked to on the Gucha side, their complaint was not against the Maasai people, but it was against the police. And all of them said that they are being beaten and shot by the police, and when they are being beaten and shot at by the police, they ask them: "*Yule "Mungu" wenu Nyachae yuko wapi aje awaokoe?*" This is what the victims were saying. So, there is no doubt about the matter that these clashes have been instigated politically by the Government. We saw this in 1991/1992 when members of the Kisii community were the first to be butchered and then the Luos, Bukusus and then the actual victims, the members of the Kikuyu community. We saw it in 1997 in Likoni, when members of the Luo and Kikuyu communities were being kicked out of Likoni.

Why does it always happen just before the elections? The Government says it is the Opposition. That is what the President said the other day. It is not true. It is the Government that causes these clashes, and it is reprehensible. It is not right to use human life as a sacrifice. I can see my wife's teacher, Prof. Ongeri, does not want to contribute. Hon. Obure also does not want to contribute. They just go through Kisii saying: "*Mbuya more, mbuya more, mbuya more*" when your people are being killed!

(Laughter)

Mr. Deputy Speaker, Sir, we must not allow this dress rehearsal which is going on in Trans Mara. This is preparation for further clashes. As we approach the elections, we can expect escalation of these clashes even in the urban centres. Let us also, when we are talking about the new constitutional order, address the issue of land ownership and land use. Let us debate that and resolve it. Let us agree on whether an area under the jurisdiction of a particular local authority is going to have the power to enact laws to say that we cannot permit somebody from outside here to buy land here, so that we know where we are.

Mr. Deputy Speaker, Sir, the root cause of some of these clashes that is given as an excuse is the issue of land; that is, people being told that they have no right to own land in Rift Valley because they are not originally from there, or you have no right to own land in Likoni because you are not originally from there. We need to resolve this issue so that we all agree as Kenyans that does a Kenyan have the right to buy, settle or use land in any part of the Republic, or are we going to allow the local authorities to deny Kenyans that right? Let us go to the root cause of these problems which are land ownership and land use. Is it the right of every Kenyan who has got the means to buy land and buy land anywhere? However, right now, let us also arrest this situation before it gets out of hand. We cannot leave this just to the leaders in Trans Mara, Gucha and Kisii Districts.

Mr. Deputy Speaker, Sir, I would recommend to this House very strongly that we set up a Select Committee of people from outside. Let them go to Gucha and Trans Mara and bring a report to this House, so that we can arrest this matter before it gets out of hand. This is because if we allow it to get out of hand, it is going to be used as a political tool for the coming elections, and we do not want that. Let us also be quite bold and empower this Committee. The President is also a Member of this august House. When the President stands up and says that the clashes have been initiated by somebody from Gusiland who wants to become the President, let him give us that evidence. This is because if that is true, we would also like to condemn that particular candidate. But let us not have these statements being issued by the Chief Executive without any basis. When there were other clashes in the country, he said that a police station was attacked in Bahati by people who were transported in a lorry from Murang'a. Let us summon the President to give the evidence of this matter.

The Minister for Public Health (Prof. Ongeru): Mr. Deputy Speaker, Sir, I have realised that some people want to play the gallery. I have lost a relative in the border clashes. I would like to point out that I come from the border and have spent several hours trekking the entire border with the idea of trying to bring harmony. The statements I hear in this august House are very disappointing because it is the wearer of the shoe who knows where it pinches. I would like to inform this House that I have attended meetings held at Geteri. We had a joint meeting between Mr. Sunkuli and myself, and we met the Kisii and Maasai elders. I would further like to point out that I held another meeting at Ramasha with Mr. Sunkuli and the two Provincial Commissioners from both sides, and for a while we got peace. My people told me that they could sleep well because there was an element of peaceful co-existence along the border.

Mr. Deputy Speaker, Sir, I would like to be absolutely clear. In 1992 and 1997, some funny games happened all in the name of wanting to get Prof. Ongeru out of Parliament. Now, I can see a similar game being played again. Those who were innocently pretending in this House that they were the saviour of the Kisiis and Maasais may be behind this game.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir.

The Minister for Public Health (Prof. Ongeru): Mr. Deputy Speaker, Sir, I would like to say that none of these people who make these statements comes from the border. None of them has even spared one minute to visit the border, and yet, they can walk into this House and talk about the border clashes. I would like to make one request. It is my people who are suffering. I had an extensive meeting with them on Saturday, Sunday and Monday and they have one request they would like to make; they want a peaceful co-existence with their Maasai brothers. The only request I would like to make to the Minister of State, Office of the President, is that we have Kisiis who have maize across the border.

Mr. Deputy Speaker, Sir, on Saturday, I witnessed that the Maasai brought cows to graze the maize. I would like to point out that this is the maize on which people have spent a lot of money, and they would like to harvest it. I would like to request the security organs on both the Maasai side and our side to supervise the operation so that these people can harvest their maize. That is the request my people are making. Secondly, my people are making a very candid request. Some of these people who are making noise in this House have never experienced the border clashes, and they should give me time to talk about the issue. This is because I feel incensed in that people want to make political capital out of the murder of other people.

Hon. Members: Tell them! Tell us more!

The Minister for Public Health (Prof. Ongeru): Mr. Deputy Speaker, Sir, these people should give us time to talk about it. I would like to say that my people are very clear. They have no boundary dispute with the Maasai.

Mr. Deputy Speaker, Sir, the Maasais have no boundary problem with the people I represent. When I came back here, some people came from outside the boundary between us and the Maasais to steal cows. Therefore, I am still incensed by those remarks.

Mr. Raila: Mr. Deputy Speaker, Sir, at times of a crisis like this one, leadership is needed and the august House of the Republic of Kenya ought to give that leadership. When things like these happen, tempers run high.

There are a lot of theories and hypotheses that have developed basically to obtain a situation which is abnormal. Several theories have been propounded here and I call them hypotheses. One is revenge for loss of an election in the constituency; another one is a tactic for the coming elections, and the other is a tactic by a candidate to try to win an election or unite the people. These are products of rich and imaginative minds.

Mr. Deputy Speaker, Sir, there is one thing which is surprising; that the by-election which is being referred to was fought, won and lost in a constituency called South Mugirango. That is the only constituency that is not touched by this violence. The people of Bomachoge, Bobasi and Nyaribari Masaba are involved. So, this calls for deeper investigations into the root cause of this issue. We may just be dealing with symptoms rather than the actual cause of these problems. Mr. Muite came closer to what I would call a root cause of this problem. Mr. Nyang'wara said that the Kisiis and the Maasais have lived peacefully from time immemorial. It is the same thing along the border between the Kisiis and the Luos and the Maasais and the Luos.

Mr Deputy Speaker, Sir, in 1997, we had clashes between the Kisiis and the Luos at a place called Ojodololo. The same thing is happening. I went to Kilgoris and I became the victim of violence in 1997. When I went there last year, they actually told me "sorry" and told me that when I went there last year, it was war and that is why they treated me the way they did. What needs to be done here is what we did with Mr. Nyachae and all Members from Kisii and Luoland, when there were clashes the other time. We called a meeting and we tried to reconcile the warring groups.

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, the loss of life of any Kenyan is regrettable and the Government would like to ensure that the security of every Kenyan is safeguarded. Border clashes cannot be referred to as "war". When you talk about war, you do not know what you are referring to. These are border clashes.

Mr. Deputy Speaker, Sir, the causes of the clashes, as has been stated by some Members, go as way back as 1922, when we had these differences. As Mr. Nyang'wara said, these differences have always existed and people have been able to sort them out amicably. But of late, things have changed. There has been an impression that the Government is responsible for this mainly because the police are being accused of taking sides.

Mr. Deputy Speaker, Sir, I will give an incident where the police fired the shots and every single incident where the police fired a shot, it was perfectly justified. This is because even if I was a policeman in a situation like that, I would have fired. On 30th April, 2001, there was a clash between the Masaais and the Kisiis in Osupuko area. One Kisii was shot dead with an arrow. The General Service Unit (GSU) personnel who were within the area tried to disperse the youths, but they were all very violent and they all started shooting bows and arrows at the policemen. The Masaais withdrew---

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir. The Minister is reading out the same report that the police gave him. He has never been there. People are dying even now. The Minister is reading out the report that he has been given by the police.

Mr. Deputy Speaker: Order! Hon. Angwenyi, if we must get the issue, you must argue instead of shouting whatever it is you want to say. But you cannot interrupt the hon. Member on the Floor to challenge the source of his information, when you do not have one that you can read out here as being the correct one.

Proceed, Mr. Minister!

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Deputy Speaker, Sir.

Equally, I was indeed surprised by Mr. Nyachae when he challenged the Commissioner of Police, stating that he has not visited the area and, therefore, he was not competent enough to give the information he gave. Indeed, the Commissioner of Police cannot be everywhere. Equally, Mr. Nyachae knew, even as the Head of the Public Service, that he gave information which he got from his field officers. So the Commissioner of Police is totally justified in giving figures which he has got from his field officers. So, if I may be allowed to continue---

Mr. Nyang'wara: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to mislead the House when---

(Mr. Nyang'wara banged the Bench)

Mr. Deputy Speaker: Stop banging the Bench!

Mr. Nyang'wara: Mr. Deputy Speaker, Sir, the Minister is misleading the House about the facts on the ground. The Officer Commanding Police Division (OCPD) in Trans Mara is misleading the Minister regarding the facts on the ground. Is the Minister in order to mislead the House with the facts he has got from Mr. Kipkeu, who is out to kill the Kisiis?

Mr. Deputy Speaker: Order! Order! Proceed!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, since the police have been accused of taking sides, I was just trying to show that whatever action they have taken, it was justified.

If I may finish narrating this particular incident very briefly, so that we can continue, on 2nd May, 2001, at Koroni area of Kisii Central District---

Mr. Deputy Speaker: Order! Order! Hon. Members, this is a Motion where---

Mr. Nyang'wara: On a point of order, Mr. Deputy Speaker, Sir. He is wrong!

(Mr. Nyang'wara stood up in his place)

Mr. Deputy Speaker: Mr. Nyang'wara!

Mr. Nyang'wara: My people have been killed and you refuse to allow me to speak loudly.

Mr. Deputy Speaker: Order! Mr. Nyang'wara, I now require you to leave this Chamber right away. Please, proceed out! You are a stranger! Serjeant-at-Arms, remove him out!

(Mr. Nyang'wara withdrew from the Chamber)

The Minister of State, Office of the President (Maj. Madoka): Thank you, Mr. Deputy Speaker, Sir. As leaders, we need to exercise restraint over this particular issue---

Mr. Murathe: On a point of order, Mr. Deputy Speaker, Sir. In view of the fact that there is no sufficient time for the Minister to tell this House what the Government is doing to contain the situation, is it possible to ask your indulgence to give us up to 7.00 p.m.?

Mr. Deputy Speaker: Order! When I announced that we were going to have only one hour to discuss this Motion, nobody raised an objection. Now, when there is only five minutes to go, you are requesting me to extend the meeting to another day! What does a day mean in our terms? It means any time after 6.30 p.m. If we have met for three hours, we would only be proceeding to another day, and that requires a special leave of the House. That has not been given.

Proceed, Maj. Madoka!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, as I said, all the incidents where the police had to fire were perfectly justified, and I can prove that in each case, they were justified. I think it is only fair that Members should be honest and realistic. For example, on 19th May, Mr. Nyang'wara who was---

Dr. Ochuodho: On a point of order, Mr. Deputy Speaker, Sir. I was at Tabaka Hospital yesterday with Mr. Omingo. The Minister has denied that it is not the police who are shooting the people. How does he explain---

Mr. Deputy Speaker: Dr. Ochuodho, you are, in fact, arguing with the speaker on the Floor. Your Standing Orders require you to name the Standing Order that the speaker on the Floor is violating. Now, you are supposed to do that, or forever keep your peace! Proceed, Maj. Madoka!

Dr. Ochuodho: How can he explain that?

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, obviously, the hon. Member is not listening. I did not say that the police did not kill. Indeed, I said that they shot and killed, but under the circumstances, I think they were forced.

What I would like to say at the moment is that measures have been taken. The security committees of Gucha and Trans Mara have held numerous meetings with the local people, with a view to ending those hostilities. They held very useful meetings yesterday and I think, at the moment, there seems to be some mutual understanding in that particular area.

Mr. Angwenyi: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order! You know, as I told you before, Mr. Angwenyi and Mr. Sambu, you do not have to shout! There was no point having this debate if you did not want to hear the Government response!

(Mr. Angwenyi stood up in his place)

You must not be on your feet at the same time with the Chair! Proceed, Maj. Madoka!

Mr. Sambu: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Overruled!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir, among the security measures taken is that we have increased the number of security personnel on the ground. We have intensified patrols along the Gucha-Trans Mara border. Indeed, a new---

Mr. Angwenyi: They are killing our people! It is not fair! They are killing our people!

*(Mr. Angwenyi stood up in his place,
but was restrained by Mr. Nyachae)*

Mr. Deputy Speaker: Order, Mr. Angwenyi! Order, hon. Members! We come to this House to argue!

Mr. Ngilu: No! But the Government is killing people!

(Loud consultations)

Mr. Deputy Speaker: Order! Hon. Members, as I explained earlier, this is a Motion where both the Mover and the Responder have only ten minutes. Every other Member has five minutes. If I was to allow all Members who stood on points of orders to raise them, not one single Member would have an opportunity to put across any point. So, the Chair must use its discretion to ensure that among other things, the debate flows. This is a debate and we cannot meet beyond 6.30 p.m. because that is what your regulations say. We really must use the time available judiciously.

Proceed!

The Minister of State, Office of the President (Maj. Madoka): Mr. Deputy Speaker, Sir---

ADJOURNMENT

Mr. Deputy Speaker: Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 7th June, 2001, at 2.30 p.m.

The House rose at 6.30 p.m.