

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 11th July, 2000

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS ORAL ANSWERS TO QUESTIONS

*Question No.186*

TWO ASSISTANT CHIEFS FOR  
MBOGORI SUB-LOCATION

**Mr. Murungi** asked the Minister of State, Office of the President:-

(a) if he is aware that Mbogori Sub-location in Igoji Division, South Imenti, has two Assistant chiefs; and,

(b) if the said sub-location is in Meru Central Division or Meru South Division.

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware of any sub-location by the name Mbogori in Igoji Division.

(b) Arising from my answer to part "a" above, part "b" does not arise.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, I am really surprised by the Minister's answer, because we had this answer last week and the Minister called me and said that the Question should be deferred because he was not happy with the answer and that there was more information that he required, some of which I supplied to him. Could the Minister inform this House whether the same answer which was not satisfactory to him last week is now satisfactory to him this week?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, my answer is satisfactory. The reason why I called out the hon. Member was because I was not quite happy with the information I had. He had talked of a sub-location and I have checked with all the DCs and that sub-location does not exist anywhere.

*(Mr. Wamalwa was applauded as  
he entered the Chamber)*

**Mr. Deputy Speaker:** Order! Order! I am quite sure the hon. Member did not get the answer because for some curious reason; there is applause for hon. Wamalwa! What have you done to deserve that applause?

**Mr. Wamalwa:** Maybe, the Chair knows better.

**Mr. Deputy Speaker:** Maj. Madoka, could you repeat that answer?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, when I spoke to the hon. Member, he told me there was a sub-location called Mbogori in Igoji Division, but I have checked further and there is no such sub-location in our official lists.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, we have been calling for this Minister to resign because he is not doing his job properly. I have been in this sub-location, I have campaigned there and the people there vote for me.

How can the Minister come and say there is no such sub-location? Can I take the Minister to see it?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I would be very happy to go and see it. In Meru Central, Igoji, we have three sub -locations: Igikuyu, Gakiiri and Kwiri. Those are the ones we know of. If there is another one, then certainly I would want to go and see it. That would mean that the District Commissioners are misleading me.

**Mr. Kihoro:** Mr. Deputy Speaker, Sir, in light of this Question, where one sub-location has got two assistant chiefs, could he admit that there is nothing wrong about having them because in this country we even have Ministries that are manned by two ministers?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, it is definitely unusual for a sub-location to have two assistant chiefs.

**Mr. Kiunjuri:** Mr. Deputy Speaker, Sir, if the Minister is not aware of the existence of the two assistant chiefs, then they must be impersonating. Mr. Deputy Speaker, Sir, could the Minister tell us which action he will take to ensure that those assistant chiefs are arrested because they are wearing Government uniform when they are not supposed to?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I am prepared to work closely with the hon. Member [Maj. Madoka] by going further to check on this one. But as I said, the official record is what I have given and we are not aware of the existence of those two assistant chiefs in the sub-location. If there are any impersonating, then I will be willing to pursue it further.

**Mr. Deputy Speaker:** Mr. Murungi, do you have the names of those assistant chiefs?

**Mr. Murungi:** Mr. Deputy Speaker, Sir, I do not have their names right here, but I know that the three sub-locations he read out are in Igoji Location. The sub-location I am talking about is in Karia Location and I have told him the chief there is called Rachi. What has been happening is that, this particular sub-location is on the border between Meru Central and Meru South districts. And the DC Meru Central has posted an assistant chief to this sub-location while the DC Meru South has also posted an assistant chief to the same sub-location. Wananchi are confused because they do not know where they belong. The second part of the Question sought to know whether this sub-location belongs to Meru South District or to Meru Central District. Since the Minister does not seem to be on top of this issue, could he promise to investigate and inform the House whether this sub-location is in Meru Central District or in Meru South District? I think that is the only way forward.

**Maj. Madoka:** Mr. Speaker, Sir, I am prepared to work with the hon. Member because the District Commissioners and the DOs do not know of this sub-location the hon. Member is talking about. That is why I am saying that I am prepared to go and establish it because I have got the official list of the chiefs and the assistant chiefs in each particular area. However, this sub-location that the hon. Member is talking about does not exist in our records.

**Mr. Deputy Speaker:** Fair enough! Maj. Madoka and Mr. Murungi should establish the facts on the ground and if Mr. Murungi is not satisfied he reserves the right to raise the matter again in the House.

Next Question!

*Question No.519*

ATTACK ON HEAD OF RIYADH MOSQUE

**Mr. Badawy** asked the Minister of State, Office of the President:-

- (a) why the OCPD, Lamu Police Station has not apprehended the assailants of the Head of the Riyadh Mosque, Mr. Sharrif Khitamy, who was attacked and injured in the said mosque on 17th March, 2000, despite the fact that the complainant reported and submitted the P3 form to the police;
- (b) if he is aware that the police officers in Lamu have at the same time arrested and charged three sons of the said complainant for allegedly similar offence committed against a member of the community; and,
- (c) if he could explain the continued discriminatory enforcement of the law against the Head of the mosque and his committee.

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) Following a scuffle inside Riyadh Mosque where supporters of Sharrif Khitamy and Sheikh Bahsam fought, a report was made to the police; P3 forms were issued to the complainants from both sides, and Lamu Police Inquiry File No.2/2000 was opened. Police have completed investigations and have forwarded the file to the Attorney-General for legal advise before taking further action.

(b) I am aware that the three sons of Mr. Sharrif Khitamy were arrested and charged with the offence of malicious damage to property for smashing window panes and damaging property on 17th March, 2000 at Sheikh Bahsam's home in Mombasa.

(c) There is no evidence that the law is being applied in a discriminatory manner.

**Mr. Badawy:** Mr. Deputy Speaker, Sir, this is an obvious case of intended cover-up by the police in Lamu where in fact, contrary to what the Minister has told this House that there was a scuffle, there was a disruption of the Friday congregation prayers by Sheikh Bahsam, who is a representative of one tycoon who happens to be the KANU Chairman in Lamu.

Mr. Deputy Speaker, Sir, Sharrif Khitamy was assaulted by followers of Sheikh Bahsam and TSS. He reported the matter and what the Minister has told us now here is intended cover-up because TSS the KANU Chairman, who has a lot of influence on Sheikh Bahsam is trying to manipulate the police so that finally there is no

case against those who have assaulted Sharrif Khitamya.

Could the Minister explain to this House why such a simple criminal case has to be referred to the Attorney-General for advise?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, the reason why it is being referred to the Attorney-General is because there seems to be a dispute as to who are the officials of that particular mosque, and that is what we are trying to establish.

**Mr. Deputy Speaker:** Order, Maj. Madoka! You are being asked a question on a supposedly criminal offence and not over the ownership or the leadership of the mosque. Why is an assault case being referred to the Attorney-General for advise?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, the reason why it is being referred to the Attorney-General is because there were two parties which were claiming to be the legitimate officials of that place, and since there was a scuffle by both parties, we just wanted to know who the rightful owners are so that we can take appropriate action on those who actually disrupted those who were in prayers.

**Mr. Wamae:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Minister in order to say that this matter has been referred to the Attorney General when a person has been injured and got a P3 form which has been signed by the doctor? The police should go and arrest the person who injured the other, take him to court and let him prove his innocence there.

**Maj. Madoka:** Mr. Deputy Speaker, Sir, there were two groups there, and members of both the groups were injured. So, we are just trying to be fair by trying to establish who the rightful officials are. That is why we referred the matter to the Attorney-General for further advise and we will take the appropriate action when we get the proper advise.

**Mr. Kamolleh:** Bw. Naibu Spika, Waziri hatuambii ukweli hapa. Katiba ya Kenya inasema kwamba kuna uhuru wa kuabudu katika dini uipendayo. Na kwa muda mrefu, Sharrif Khitamya ndiye amekuwa Imam wa Msikiti wa Lamu na kote Pwani kila mtu anajua hivyo. Leo, kwa kuwa mtu mmoja ametoa pesa hapa na pale, watu wameanza kuzuiwa kusuali. Inafaa Waziri atuambie ni kwa nini kesi hii imepelekwa kwa Mkuu wa Sheria.

**Mr. Deputy Speaker:** Order, Mr. Kamolleh! Hatutaki hotuba hapa! Swali lako ni lipi?

**Mr. Kamolleh:** Bw. Naibu Spika, ni kwa nini Bw. Shariff Khitamya alipigwa na kesi yake kutopelekwa kortini kule Lamu? Ni kwa nini hiyo kesi inaletwa kwa ofisi ya Mkuu wa Sheria na hali, yeye alikuwa na fomu ya P3 kutoka kwa polisi? Kwani aliuu mtu?

**Maj. Madoka:** Ukweli ni kwamba yeye hakuuu mtu, lakini tuliona ni vyema tupeleke kesi hiyo kwa Mkuu wa Sheria kwa sababu kulikuwa na mabishano kuhusu ni nani mwenye msikiti huo. Tunataka kuthibitisha jambo hilo kisha tuchukue hatua.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, I think the Minister is just confusing the House. The issue of ownership of this mosque does not prevent the police from prosecuting a criminal. We cannot wait until the ownership is decided to prosecute a suspected criminal. Could the Minister make sure that those who committed the crime are prosecuted while he goes ahead to establish the ownership of the mosque? A crime has been committed here. Why is the Minister trying to go around a crime?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, we will certainly prosecute once we establish those who have committed the crime.

**Mr. M.M. Galgalo:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to mislead the House that the police practised justice here when they arrested three people from one of the feuding groups while members of the other feuding group are left to go free without any action being taken against them?

**Mr. Deputy Speaker:** That was a question and so, you are out of order! Mr. Wamalwa!

**Mr. Wamalwa:** Mr. Deputy Speaker, Sir, I thank you very much for recognizing me. Hon. Keriri raised the point which I wanted to raise and it has been answered.

**Dr. Ochuodho:** Mr. Deputy Speaker, Sir, one reason why we have problems in the districts is because police bosses take their orders from the Provincial Administration. Could the Minister tell this House whether this is supposed to happen? If that is the case, why does the Government make District Commissioners the Chairmen of District Security Committees?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I have said in this House time and again that police officers do not take instructions from the District Commissioners.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Minister should not be allowed to get away with this. An offence has been committed and all the House wants to know is why you have not taken action. You are now saying you have referred it to the Attorney-General; what precisely have you referred to the Attorney-General? The Attorney-General has no business delaying the administration of justice!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, this incident happened on 17th March, 2000. We are carrying out investigations and we will get down to the root of the matter.

**Mr. Badawy:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to imply that the duration is still very short when the police in Lamu have apprehended three sons of Mr. Shariff Khitamy and a teacher who was assaulted upon reporting the matter to the police, he was arrested and prosecuted?

**Mr. Deputy Speaker:** Do you want to answer that question or do you want me to say that he is out of order?

**Mr. Badawy:** Mr. Deputy Speaker, Sir, if that is the case, then I will ask a supplementary question. Could the Minister tell us why the police in Lamu have gone ahead to prosecute other people and not the ones who assaulted Mr. Shariff Khitamy? Why is it that time factor is not equitable in each of these cases?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, there are two different issues here. The three people, who were arrested in Mombasa, were being accused for malicious damage of property. That is a straightforward case. The other issue of the mosque is different.

**Mr. Muiruri:** Mr. Deputy Speaker, Sir, you must have noted that the Minister has problems answering Questions in this House because he is totally misled. When people fight in public, they are charged with a fray. It is a question of arresting them and taking them to court. Is the Minister not totally misled when he talks about the assault and ownership? He should have arrested the two groups!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I am prepared to come back on this one at some other time.

**Mr. Badawy:** Mr. Deputy Speaker, Sir, I reiterate that the Minister has been totally misled by his officers. None of these incidents took place in Mombasa. As far as the last incident is concerned, this is a bid to divert the issues from Lamu.

Could the Minister go back and ask his officers to confirm whether the charges against the three sons of Mr. Shariff Khitamy were behind the incident that took place in Lamu or Mombasa? The Minister should get his facts right.

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I am prepared to check on the facts and report back to the House. The information I have is that they were arrested for the incident that happened in Mombasa.

**Mr. Deputy Speaker:** Next Question, Mr. Onyango!

*Question No.232*

DISBURSEMENT OF PRESIDENTIAL  
YOUTH HARAMBEE FUND

**Mr. Onyango** asked the Minister of State, Office of the President:-

- (a) how much money has been given out to youth groups in Nyatike, Karungu and Muhuru Divisions in Nyatike Constituency under the Presidential Youth Harambee Fund; and,
- (b) if he could provide the list of all groups which benefitted under the fund and how much each group got.

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) The money which was given out to the youth groups in Nyatike Division was Kshs750,694.45. Karungu Division received Kshs623,681.70, Muhuru Division received Kshs362,150.80. The grand total was Kshs1,736,526.95. A total of 118 groups benefitted. I beg to table the list of those groups here.

*(Maj. Madoka laid the list on the Table)*

**Mr. Onyango:** Mr. Deputy Speaker, Sir, could the Minister tell this House how much money was contributed by these groups? He has just given the total amount which was given back to them. How much was it per group? From whatever was contributed initially by each of these groups, they received Kshs3,000 less. Could he tell us how much was contributed by each of these groups?

**Maj. Madoka:** I have tabled that list here and maybe I could go through it, but it is a fairly long list.

**Mr. Deputy Speaker:** Order, Mr. Minister! The list you have tabled ought to have been part of the reply which you have given to hon. Onyango!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I thought it had been given. I apologise for that oversight.

**Mr. Ochilo-Ayacko:** Mr. Deputy Speaker, Sir, could the Minister confirm or deny that the youth groups in Nyatike Constituency were given less amounts of money than they donated?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I cannot deny or confirm unless I know how much they had actually

collected and given in.

**Mr. Mwakiringo:** Mr. Deputy Speaker, Sir, the purpose of this fund was to assist the youth to eradicate poverty. In Nyatike, Karungu and Muhuru Divisions, how many of these youth groups are carrying out viable projects for the purposes intended?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I cannot answer that. Maybe the hon. Member from the area can tell us.

**Mr. Deputy Speaker:** Order, Mr. Minister! The hon. Member from that area is under no obligation to answer questions put to you. You have that obligation as a Minister. To be fair to hon. Tom Onyango, that Question is deferred to next week on Tuesday.

**Mr. Kitonga:** On a point of order, Mr. Deputy Speaker, Sir. I think it would be important for the Minister when he comes back to the House to answer the Question - since there is a tendency by [Mr. Kitonga] President Moi to corrupt Kenyans through these Harambees - to give us the lists of the amounts which were contributed by the youth groups and the amount that was given back to them.

**An hon. Member:** Ignore that!

**Mr. Deputy Speaker:** Order, hon. Kitonga! I will not ignore that because obviously, he is giving us something from his own experience! Next Question, Mr. Shitanda!

*(Question deferred)*

*Question No.318*

#### ASSETS/LIABILITIES OF KNAC PENSION FUND

**Mr. Shitanda** asked the Minister for Finance:-

(a) what considered plans he has with regard to the Life Fund and Pension Fund of the collapsed Kenya National Assurance Company in view of the fact that most policies have matured and are now due for payment;

(b) if he could further state the amount of money being paid to the Receiver Manager and from which account, in respect of fees, for managing the affairs of the company.

(c) what the total assets and liabilities of the Life Fund and Pension Fund of the company were when it went under.

**The Minister for Finance** (Mr. Okemo): Mr. Deputy Speaker, Sir, I beg to reply.

(a) The negotiations between the Official Receiver and the potential transferees of the Life Fund and Pension Fund, referred to as Close Life Fund of the collapsed Kenya National Assurance Company (KNAC) are on-going and are at an advanced stage. An announcement will soon be made regarding the dates at which various assurance claims will be paid by the successful transferee of the Close Life Fund.

(b) There is no Receiver Manager in the case of the collapsed KNAC. The Official Receiver was appointed by the High Court to be the provisional liquidator of the collapsed company on 21st November, 1996. The High Court also appointed a special manager to assist the Official Receiver in the technical aspects of the management and transfer of the Close Life Fund of the company in compliance with the provisions of the Insurance Act. The remuneration of the special manager was approved by the High Court and is based on hourly charge-out rates used by the special manager and his team of technical personnel assisting the Official Receiver. Accordingly, there is no fixed amount payable to the special manager. The total fees in respect of the liquidation will be in accordance with the provisions of the Companies Act, Cap.486 Laws of Kenya and the rules made thereunder. This maximum amount shall not exceed Ksh202,896,240 based on the total value of the Close Life Fund amounting to Kshs3,380,304,000. The fees for the management of the liquidation are being paid from the funds of the company as directed by the High Court in its orders sanctioning the liquidation process.

(c) The Company collapsed in June, 1996. For the purposes of the information memorandum for the proposed transfer of the Closed Life Fund, the assets and liabilities were determined; this was done in June, 1997. Therefore, as at the transfer date, the assets and actuarial liabilities were Kshs3,380,304,000 and Kshs3,162,937,000 respectively. This was broken down as follows:-

Ordinary Life Fund

	Kshs
Assets	1,890,018,000

Liabilities	910,044,000
Surplus	979,974,000

Superannuation Pension Fund

	Kshs
Assets	1,490,286,000
Liabilities	2,252,893,000
Deficit	762,607,000

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, arising from the Minister's answer, is he aware that the Kenya National Assurance Company's (KNAC) total assets standing at Kshs3.3 billion against liabilities of Kshs3.1 billion represent a surplus of about Kshs200 million? The KNAC's present status is as a result of the Ministry's inability to separate the general insurance business from the Pension Fund and the Life Fund.

Mr. Deputy Speaker, Sir, by the time the Company went under, the General Insurance Fund was in deficit of Kshs1.3 billion. Could the Minister tell this House why his Ministry did not consider disposing of and moving the Pension Fund and the Life Fund separately to other insurance companies and isolating the General Insurance Fund that had actually brought down the Company?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, that is actually what happened. The General Insurance Fund was separated from the Pension and Life Funds into a Closed Fund. So, that was as a result of separating the two.

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, if that was the case, could the Minister tell this House who bought the Pension Fund and the Life Fund, and for how much?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, actually it is a very sorry long story about the KNAC. At the time the liquidation was ordered, the General Insurance Fund was in serious deficit, as the hon. Member has just rightly said, to the tune of Kshs1.3 billion.

Mr. Deputy Speaker, Sir, however, the Life Fund and the Pension Fund had a surplus of about Kshs200 million as I stated in my figures. So, the Closed Life Fund was put aside with a view to transferring it to another insurance company which could then continue to service the pensions as well as the life policies. That process has been going on for some time.

We advertised for insurance companies to take over the Closed Life Fund and 16 application forms were taken after looking at the memorandum of information. Out of the 16 companies that actually collected the forms for bids, only two companies responded. We have been trying to negotiate delicately with the better of the two companies. In fact, we thought we would have reached financial closure last week, but unfortunately this company has now withdrawn and we have had to go to the second bidder. We have said that if we fail to get any reasonable compromise with the second bidder, then we will have to go back and re-tender. Unfortunately, the bigger companies never tendered and they are the ones that have the capacity to service policies as well as pensions. That is the position as of today.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, you will appreciate that this is a sorry story of events. Why are we paying the official liquidator from the Government Duty Kshs200 million to liquidate this company when the staff and other insurers have not been paid their dues? Could the Minister tell us when payments will be made to, at least, the staff, from the money already collected? He has the money and these people are suffering. He should give us a specific date as to when he will pay them.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, we are merely obeying court orders. The court has ordered that only 60 per cent of pensioners money should be paid. The same court has ordered that no money should be paid to any other claims, whether arising from maturity of policies or any other claims. The court has also ordered that according to the scale, a maximum of Kshs202 million shall be paid. This payment is not to be made to the official receiver, but to the special manager assisting the official receiver. This is a firm of professional actuaries.

**Mr. Sungu:** On a point of order, Mr. Deputy Speaker, Sir. The case of KNAC is, indeed, very sorry because we have cases of individuals whose policies have matured, yet, premiums are still being deducted from their salaries against their will. This is just because the person liquidating this company has failed to do his job. Could the Minister be specific and tell us when he will alleviate the sufferings of these Kenyans by making sure that this matter is concluded as soon as possible?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, as I said, the court's orders are that no claims, either arising from policies or in any other way, should be paid out of the Fund.

**Mr. Shitanda:** Mr. Deputy Speaker, Sir, could the Minister tell us when he will order a public examination and analysis of the former managers and directors of this company? It is evident that this company was brought down by the former managers and directors.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I think that is completely outside the mandate of the Ministry of Finance.

**Mr. Ndwiga:** Mr. Deputy Speaker, Sir, is it not true that the big insurance companies avoided taking the risks of KNAC precisely because all the portfolios were mixed up and this caused confusion? This was done to make sure that no insurance company took over the portfolios and so that there was money left for the liquidators and the other beneficiaries. Precisely, money which belongs to policy holders, is now ending up in the wrong people's pockets. This was done deliberately. Could the Minister confirm or deny that?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I am sure the hon. Member knows the answer. I deny that.

**Mr. Deputy Speaker:** Next Question, Mr. Michuki!

**Mr. Michuki:** Mr. Deputy Speaker, Sir, could you plead with the Minister for Finance to answer my Question because he has not been available since April 1999?

*Question No.365*

NUMBER OF FUNDS ESTABLISHMENT UNDER LAW

**Mr. Michuki** asked the Minister for Finance:-

(a) apart from the Consolidated Fund set up under the Constitution of Kenya, how many other Funds have been established under the law;

(b) if he could provide a list of such Funds and also state their purpose; and,

(c) what the limit of each of these other Funds is.

**The Minister for Finance** (Mr. Okemo): Mr. Deputy Speaker, Sir, I did not hear the last remarks by hon. Michuki, but I think I will go on to answer the Question. I beg to reply.

(a) Apart from the Consolidated Fund set up under the Constitution of Kenya, there are 38 other Funds which have been established under the law by various Ministries.

(b) I have attached the list of the Funds indicating the purposes for which they were established and the available capital in each Fund.

(c) There is no set limit for the capital that can be held against each Fund.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, the list that the Minister has attached to his reply does contain some Funds not set up under the law and some set up administratively. My question is: Does he appreciate that the setting up of so many Funds within a Government service does, in fact, encourage corruption by the people who manage them because they are not controlled in the same way like the normal voted Funds?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, the list that I have attached has 38 Funds. Actually, each one of them was set up for a particular purpose and the purpose for which they were set has been stated therein. They are also subject to audit by the Controller and Auditor-General. So, like any other accounts, they would be subject to audit by the Ministries which established them.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, granted that these Funds are set up for specific purposes, if the Minister would care to know, there is a fund called Skins and Hides Cess Fund which has about Kshs60 million and none of the pastoralists of this country knows about it. This Fund has not been used in any of the development of the hides industry. In fact, it has not assisted although the industry has been collapsing. Can he explain what justifies its continued presence?

**Mr. Okemo:** Mr. Speaker, Sir, as I said, these Funds were all established for a particular purpose. Now, if there is Kshs60 million lying in the Skins and Hides Cess Fund and it is not being utilised, then that money is still available and it has not been misappropriated. All we can do now is to close the account and regularise it so that it does not exist because it serves no purpose.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the country is in a serious shortage of funds and yet here are funds lying idle doing nothing. As far as I can remember, I have never seen any report on any of these accounts. Can the Minister give us the Controller and Auditor-General's report on them?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, in fact, we have audited accounts for all these Funds dating as far back as 1996/97 financial year. So, if the hon. Member would like to have access to those audited accounts, they are available.

**Hon. Members:** On a point of order, Mr. Deputy Speaker, Sir!

**Mr. Deputy Speaker:** Order, all of you. Mr. Minister, you are duty bound to lay those audited accounts here. So, it is not for hon. Members to go and search for them everywhere. Will you give an undertaking that you will lay those accounts on the Table?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I undertake to lay these accounts to the House now.

**Mr. Deputy Speaker:** Order! Hon. Minister, if you look at your Standing Orders, there is an Order under which documents of that nature are laid on the Table. So, you have not laid any documents on the table. Please, do it tomorrow.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The purpose of the procedure you have just stipulated is to ensure that the accounts can go before various Committees of Parliament for scrutiny. Could you ensure that, that is done?

**Mr. Deputy Speaker:** The last question, hon. Michuki!

**Mr. Michuki:** Mr. Deputy Speaker, Sir, as the Minister will confirm, the total amount of funds held by these Funds as at the time of his preparation of the answer is about Kshs5.2 billion. Would he first undertake to have all these Funds closed or else they be used as conduits for public funds being pilfered away?

Secondly, would he explain exactly what has been done with the Hides and Skins Cess Fund which as of now holds about K£3 million? Lastly, for what purpose and where has this money been spent?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I thought that hon. Michuki had had a chance to read through the list because if you look through it, you will find that the Funds have actually been established by the various Ministries. So, all I did was to merely summarise and bring the information to Parliament. I cannot answer for all the Ministries.

**Mr. Gatabaki:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Michuki raised a very disturbing question. That is the issue of Kshs5.2 billion being stolen by the Government. Is he insinuating that the Government of President Moi will steal these amount of funds?

*(Laughter)*

**Mr. Deputy Speaker:** Order, hon. Members! Hon. Gatabaki, you clearly have a great sense of humour, but you will not stand up in the House under the guise of a point of order to harangue the Chair. Now, let this be absolutely the last time you are standing on a point of order when, in fact, you do not have such a thing as a point of order. That goes for those of his ilk who are in the habit of standing on a point of order when, in fact, they want to make a statement or ask a question. So, please, let us understand each other. Stand on a point of order as per Standing Order No.68 and the Chair will accommodate you, otherwise, the Chair will deal with you.

**Mr. Wamae:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Minister to say that he will provide audited accounts to this House without stipulating at what time he will do so?

**Mr. Deputy Speaker:** Order! Hon. Members, you heard me clearly state that the Minister will now lay those documents he purported to lay today, tomorrow at the appropriate time.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, I did ask the Minister a question which he never attempted to answer, instead, he avoided it. I stated that establishing so many Funds within the Government does give a temptation for utilisation of public funds. Can he assure this House that he will abolish most of these Funds and have them set up in the normal voting procedure of this House, instead of establishing Funds which he cannot control on a daily basis because it does actually give room for wrong usage of these funds?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I cannot give this House the assurance that, I will abolish all the Funds whose I have laid on the Table. We will restructure the Funds and those that will be found to be dormant and, therefore, do not serve the purpose for which they were intended, will be closed down.

**Mr. Michuki:** Mr. Deputy Speaker, Sir, could the Minister tell us why, in the case of the Ministry of Foreign Affairs and International Co-operation, he provided money outside the normal Budget to the extent of K£62 million? Why, and for what purpose, did he provide the money outside the normal Budget?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I am not clear as to whether it is the Ministry of Finance that established that Fund. However, I need to check and come back to the House with the facts.

**Mr. Michuki:** On a point of order, Mr. Deputy Speaker, Sir. The quotation in this reply implies that most of those Funds were set up under the Exchequer and Audit Act, which is within the portfolio of the Minister for Finance! He should be the first person to query why a Fund was established outside the law! Why did he allow that as the Minister for Finance?

**Mr. Okemo:** Mr. Deputy Speaker, Sir, it is very difficult for me to query Funds that were created in 1982. But as I have promised the House, we will look into the matter and rectify the anomalies. Where necessary, we will close down the Funds.



REHABILITATION OF MUTHESYA  
WATER PROJECT

**Col. Kiluta** asked the Minister for Water Development:-

(a) whether he is aware that the Muthesya Water Project in Ndithini Division, which was started over ten years ago, was abandoned and all the machines are lying idle in the stores; and,

(b) what action he will take to revive the project.

**The Assistant Minister for Water Development** (Mr. Kofa): Mr. Deputy Speaker, Sir, I beg to reply.

(a) Yes, I am aware that the pumping sets are stored safely awaiting the completion of vital components of the project.

(b) My Ministry has already initiated action to revive this community project by undertaking the following:-

(i) Installing and commissioning pumping sets.

(ii) Completion of the raising main.

(iii) Completion of the 50 cubic-meter storage tank at Ithanga hills.

(iv) Training of the community in management, operation and maintenance.

However, considering that this is a community project, I am appealing to the local community to meet its obligations by contributing cash, materials and labour.

**Col. Kiluta:** Mr. Deputy Speaker, Sir, I really do not know whether the Assistant Minister is up to date with the information that he has provided. I was at home over the weekend and there is no work in progress. When he says that he has initiated the project, could he tell us how much money he has set aside for the project? When will his people move on site?

**Mr. Kofa:** Mr. Deputy Speaker, Sir, the Ministry has allocated Kshs4 million for Machakos District. It is upon the District Development Committee (DDC) to set the pace.

**Col. Kiluta:** Mr. Deputy Speaker, Sir, I asked the Assistant Minister a very specific question! How much money has he set aside for the project? Could he tell us that? If he does not know, he should say so!

**Mr. Kofa:** Mr. Deputy Speaker, Sir, as I said, and still insist, the Ministry has set aside Kshs4 million for the project. Now, it is upon the DDC to sit down and distribute the money according to the priorities.

**Mr. Mwakiringo:** Mr. Deputy Speaker, Sir, first of all, the Assistant Minister has not explained why the project was abandoned over ten years ago. Secondly, how much money has been set aside for the repair of the machines that have been lying idle for the last ten years?

**Mr. Kofa:** Mr. Deputy Speaker, Sir, this was a Japanese/GOK Project which was started in 1978, and continued up to 1991. But because the funds were not sufficient, the project stalled in 1991. It took off again in 1994, this time upon being funded by the RDF. This Fund was suspended in 1995. That is why the project has not resumed to date.

Mr. Deputy Speaker, Sir, I have forgotten the second part of the question!

**Mr. Mwakiringo:** Mr. Deputy Speaker, Sir, how much money has been set aside for the repair of the machines?

**Mr. Kofa:** Mr. Deputy Speaker, Sir, the machines are new and intact. They are not damaged

**Mr. Kikuyu:** Mr. Deputy Speaker, Sir, last year, the Ministry allocated Machakos District Kshs2 million for the same work. This year, it has allocated Kshs4 million. If you add the two figures, they total up to Kshs6 million. In the Assistant Minister's reply, he said that the raising main is not complete and the pumps have not been installed. You can see that this is a way of avoiding to answer the question. The Kshs4 million is not enough for the project in Masinga alone! What is the Ministry doing to make sure that the project in question is rehabilitated totally, without being put together with the rest of the projects in Machakos District?

**Mr. Kofa:** Mr. Deputy Speaker, Sir, as I said, the idea of rehabilitation is out of question. It is incomplete work and the Ministry has sent people there to install the pumps.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order, hon. Galgalo! Proceed!

**Mr. Kofa:** Mr. Deputy Speaker, Sir, as I was saying, the idea of rehabilitation is out of question. The machines are new and intact. So, the Ministry has sent its officers to continue with the work. They will install the pumps, complete the 50 cubic meter tank at a cost of Kshs50,000, construct a water kiosk at a cost of Kshs50,000, extend the pipeline to Muthesya Market at a cost of Kshs25,000, complete the water plaster and pump base at a cost of

Kshs100,000 and construct the Galle River Crossing at a cost of Kshs50,000. The total will come to Kshs275,000. The Ministry encourages the community to contribute. So, the community is expected to contribute Kshs100,000. The remaining Kshs175,000 will be given by the Ministry.

**Col. Kiluta:** At times this Government puts itself into problems. Why should it abandon such an expensive project because of only Kshs250,000 and then start other projects elsewhere, as they are trying to do? Can the Assistant Minister go back and look for Kshs250,000 to complete that project? Can he also give us an undertaking that he is going to look for that money?

**Mr. Kofa:** Mr. Deputy Speaker, Sir, as I had stated earlier, the funding was stopped and the machines are there intact. As I said, we encourage the community to participate in those projects.

**Mr. Deputy Speaker:** Next Question, Mr. Khamasi!

*Question No.517*

OCCUPANTS OF NGARA GOVERNMENT QUARTERS

**Mr. Khamasi** asked the Minister for Roads and Public Works, if he could inform the House the names of Government officers occupying Government quarters in House No.LR.209/6506/1/FC 3 on Matumbatu Road, Upper Hill; and House No.MG.229 - Ngara Government Quarters.

**The Minister for Roads and Public Works** (Mr. W.C. Morogo): Mr. Deputy Speaker, Sir, I beg to reply.

Government House No.LR.209/6506/1/FC 3 on Matumbatu Road, Upper Hill is occupied by Mr. Anthony Sunkuli of the Office of the President. Secondly, House No. MG.229 - Ngara Government Quarters is occupied by Mr. Elijah Langat of the Office of the President.

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, I believe that the new Minister will continue with the good work his predecessor was doing. I have got a letter here from the Ministry of Roads and Public Works which allocated the first house to Mr. Julius Magia and the second house to Mr. Anthony Sunkuli. But the latter declined to take the quarters which were allocated to him. Is the Minister aware that Mr. Anthony Sunkuli, who is a brother to hon. Julius Sunkuli--?

**Hon. Members:** Yeah! Continue!

**Mr. Deputy Speaker:** Order! Order, hon. Members! Can you not ask your question without involving those who are not involved?

**Hon. Members:** No! He must!

**Mr. Deputy Speaker:** Order! Why do you not tell us the name of his mother? Proceed.

*(Laughter)*

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, Mr. Anthony Sunkuli is a DO at Makadara. He actually used force to get into the house, using Maasais and Administration Police---

**Hon. Members:** Shame! Shame!

**Mr. Deputy Speaker:** Order! Order! Hon. Khamasi, you are now peddling rumours---

**Hon. Members:** No, he has got information!

**Mr. Deputy Speaker:** Order! Order! If you have that information and you believe that the house was acquired by the gentleman in question irregularly, you should not wait to come to the House to point it out. We are all concerned about such irregular behaviour. You should have come to tell us what you have done about it and the Minister has not responded.

**Mr. Khamasi:** But, Mr. Deputy Speaker, Sir, I am laying the ground---

**Mr. Deputy Speaker:** Ask your question!

**Mr. Khamasi:** Is the Minister aware that---

**Mr. Deputy Speaker:** Order! You are now asking a supplementary question.

**Mr. Khamasi:** Yes, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Proceed.

**Mr. Khamasi:** That is why you asked me to stand up and ask a supplementary question.

**Mr. Deputy Speaker:** Proceed.

**Mr. Khamasi:** Is the Minister aware that Mr. Anthony Sunkuli used force to go into a house which was not allocated to him?

**Mr. W.C. Morogo:** Mr. Deputy Speaker, Sir, I know there were some forceful evictions by both officers;

one going in and the other one moving out. That matter has been discussed fully and the house has been allocated to Mr. Anthony Sunkuli and the other officer will be given the house which is now occupied by Mr. Langat, who has retired and he will vacate it shortly.

**Dr. Kituyi:** The normal practice in Government is supposed to be that you are allocated a house according to your rank in the Public Service. The DO of Makadara was allocated a house No.MG.229 - Ngara Government Quarters. He forcefully went and occupied a house in Upper Hill. How do you now legitimise Mr. Sunkuli, the DO of Makadara, who should not live in the house allocated to him, but in the one he forcefully occupies? How do you justify that act by a Government officer?

**Hon. Members:** Shame! Shame!

**Mr. W.C. Morogo:** Mr. Deputy Speaker, Sir, as I said, this is an anomaly which my Ministry is taking very seriously. Before the letters of allocation were given, there was confusion. Obviously, we all know what officers try to do when each of them wants to occupy a Government house. But we do not condone such matter. Indeed we will put that to a stop. It might help this House to know also that the issue of allocation is done by a committee under the Office of the President and that, my Ministry deals with houses which belong to the staff of my Ministry. But I am taking up this matter with a view to having those allocations done by my Ministry itself sorted out so that we do not have this question of double allocations.

**Mr. Deputy Speaker:** Order! Order, Mr. Minister! All that is very well. They are merely asking you whether a forceful occupation of a house by a civil servant is justifiable? If so, by what rules?

**Mr. W.C. Morogo:** Mr. Deputy Speaker, Sir, as I said, it is not true that officer was forcefully evicted. It was an issue of double allocation, before one officer or the other had been allocated. That is in writing. Those things happen. So, I am saying that---

**Mr. Deputy Speaker:** Order, Mr. Minister! If they have not been allocated, then there is no allocation.

**Mr. Muchiri:** Thank you, Mr. Deputy Speaker, Sir. Can the Minister promise this House that he is going to revoke the allocation of the house to Mr. Anthony Sunkuli and allocate the house to the deserving officer? If he resists, you should evict him.

**Mr. W.C. Morogo:** Mr. Deputy Speaker, Sir, as I said, this matter has been amicably resolved. I do not intend to revive it again.

**Hon. Members:** No! No!

**Mr. Kamolleh:** Asante sana, Bw. Naibu Spika. Ninavyojua ni kwamba ukipewa nyumba inategema vile wadhifa wako unavyokwenda kwenye Serikali, kama vile vile mshahara wako unavyopanda. Inawezekanaje mtu wa kiwango cha chini aingie kwa nguvu nyumba ambayo si ya kiwango cha mshahara wake wala nini?

**Mr. W.C. Morogo:** Mr. Deputy Speaker, Sir, as I have already told this House, each of those officers were trying to get the house for himself. When the committee sat to re-allocate the house, they allocated it to Mr. Anthony Sunkuli. As I said, this matter has been concluded amicably, so there is no point of reviving it.

**Mr. Shill:** Mr. Deputy Speaker, Sir, is the Minister saying that the house was allocated to which gentleman because he did not complete his sentence? Can he complete his sentence?

**Hon. Members:** No!

**Mrs. Mugo:** Could the Minister accept or deny, that this is the highest order of corruption and misuse of office; that, this house was allocated depending of who is connected to who would he promise this House that, that allocation will be revoked and give the house to the right person? This Minister is very honest. Mr. Sunkuli is a junior officer; it should not be given to so and so.

**Mr. W. Morogo:** Mr. Deputy Speaker, Sir, there is nothing to show that corruption took place in the allocation of the house!

**Mr. Maundu:** Mr. Deputy Speaker, Sir, the actual allocation of a house, particularly for ownership, is preceded by an officer sitting in a house for some legal time. Was this allocation intended to give ownership to somebody who was not entitled to that grade of a housing?

**Mr. W. Morogo:** Mr. Deputy Speaker, Sir, the only intention was to house Government officers.

**Mr. Khamasi:** Mr. Deputy Speaker, Sir, I have a copy of a letter from the Office of the President directing that, Mr. Sunkuli should occupy the house in Ngara Government Quarters and Mr. Julius Magia should occupy the house in Upper Hill. The letter is dated 30th March, 2000. Could the Minister make sure that, that directive is implemented?

**Mr. W. Morogo:** Mr. Deputy Speaker, Sir, I cannot give a directive because as I said, this matter was amicably resolved and I do not intend to re-visit the matter again. In any case, hon. Khamasi is quoting some letters, which he should even table for further verification, if he feels that they will shed more light for the matter.

**Mr. Deputy Speaker:** Order! Order! Hon. Khamasi has not refused to table any documents because nobody

has asked him to do so!

We will now move to Questions by Private Notice.

### QUESTIONS BY PRIVATE NOTICE

#### FOOD SHORTAGE IN GEM

**Mr. Donde:** Mr. Deputy Speaker, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice.

(a) Is the Minister aware that the residents of Gem are experiencing food shortage?

(b) How much famine relief food has been allocated for the constituency for the next three months?

(c) Could the Minister consider selling the relief food at a subsidized rate of Kshs14 per a two-kilogramme tin as people are willing to share the cost?

**The Minister of State, Office of the President (Mr. Nassir):** Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am aware that most parts of the country are experiencing drought stress, hence affecting the availability of food. However, the situation has not been very bad in Gem area.

(b) The food situation in the constituency has not been alarming to warrant allocation of famine relief food.

(c) It is Government policy not to sell famine relief food to people, as it is meant for free distribution to alleviate severe food shortage caused by prolonged drought.

*(Loud Consultations)*

**Mr. Deputy Speaker:** Order!

**Mr. Donde:** Mr. Deputy Speaker, Sir, the Minister is saying the situation in Gem is not alarming to warrant allocation of famine relief food. I am a very responsible citizen of this country and I do not want the television to show people in Gem dying or to show an alarming situation in order for me to ask for assistance. That is why I have come to this House early because already people are having one meal per a day, especially small children. Very soon, if we do not come to their aid, they will start dying, and that is what we are calling an alarming situation.

In any case, I have had a discussion with the Minister about the matter. Could the Minister assure this House that he is going to do something about the situation in South Gem?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I am very much pleased and proud to hear from the hon. Member, who is representing his people in this House, and who is doing a job for his people, not only asking questions, but also ensuring that something is done. That is why I have agreed with him.

**Hon. Members:** Ohooo!

**Mr. Gatabaki:** Mr. Deputy Speaker, Sir, is the Minister aware that 60 per cent of Kenyans face starvation? Is he aware that President Moi and the KANU Government will become part of history?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, this is usually the place where Questions are asked and somebody has to reply to them.

**Dr. Wekesa:** Mr. Deputy Speaker, Sir, could the Minister tell this house what criteria the Government uses to determine which district should get famine relief food?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I would not mind to repeat what I have always said that, the best method to follow is through the District Development Committee (DDC) in the Member's district. When you use the DDC, we get that information. I cannot be in the hon. Member's district, but when the DDC---

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

**Mr. Nassir:** I have not finished, Mr. Deputy Speaker, Sir!

**An hon. Member:** It is not a must for you to finish! Sit down!

**Mr. Nassir:** I cannot sit down! Let me finish!

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

**Mr. Nassir:** Hukupewa hata kura mia moja wewe!

*(Several hon. Members stood up in their places)*

**Mr. Deputy Speaker:** Order! Order! Hon. Nassir, when another hon. Member stands on a point of order and the Speaker authorizes it, the other Member on the Floor sits down!

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. You should appreciate that it is very difficult to

even follow what the hon. Minister has been saying due to from the struggle that he has in reading English because even his answers are not being very focused. But the Chair will remember that, this Minister went to Turkana and said that, there was no food crisis. When the President said there was a crisis, the Minister said "yes, there is a crisis!" It is important to tell us---

**Mr. Deputy Speaker:** What is your point of order!

**Mr. Donde:** Is it in order for hon. Shariff Nassir to tell this House that, that DDCs can set the criterion when DDCs do not set priorities between districts? They only tell us that "our district needs food"! What basis does he have for ranking districts according to different DDCS?

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I am not the type of person who just waits until President Moi speaks and then I speak. I speak my mind. I am not the type of person he thinks I am!

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order, hon. Members! If this Question was not about a very important or sensitive issue, I would let hon. Nassir get away with it. But these hon. Members are asking, in simple language, that, when you decide to give Kakamega more food than Kisumu, how do you reach that decision? That is all they want you to explain to them.

**Mr. Nassir:** Mr. Deputy Speaker, Sir, I would not mind to repeat again. It is the same method! They just sit together and give us information to show on how bad the situation is. I am in the Government and you must give me information.

**Hon. Members:** We have given you information that people are suffering!

**Mr. Nassir:** Me?

**Hon. Members:** Yes, you! But people are dying!

**Mr. Nassir:** I have food! On Saturday, I will go to Kiambu to give food to people.

**Mr. Deputy Speaker:** Next Question!

*(Loud consultations)*

Order! Order! Order! Once you have recognised that there is no satisfaction along that route, do you not think that it is better that---

**Hon. Members:** Let us name him!

**Mr. Deputy Speaker:** No. That will not give you the answer!

**Hon. Members:** But it will help him!

**Mr. Deputy Speaker:** Order! Order! Order, hon. Members! You must learn to live with other peoples inadequacies.

**An hon. Member:** Let us name him so that he can also learn to answer Questions!

**Mr. Deputy Speaker:** Order! Hon. Nassir has told you that, if you want food for you constituency, go and see him. He is even going below the districts level. So, hon. Members, let us make progress. Next Question!

**Mr. Deputy Speaker:** Could we proceed to Mr. Muturi's Question by Private Notice?

**Hon. Members:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Hon. Members, if you want to debate this matter, please, bring a Motion.

**An hon. Member:** This is a very important matter, Mr. Deputy Speaker, Sir.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! Hon. Members, I hope that I am saying this for the last time: If you want to exhaust a subject, bring a Motion. You cannot do so under Question Time. Question Time is only one hour; I have already exceeded it by 20 minutes merely because today we do not have a financial matter to discuss. Otherwise, we would have stopped asking Questions at 3.30 p.m. I also have a constituency.

**Mr. Shill:** On a point of order, Mr. Deputy Speaker, Sir. Sometimes we should be fair on important Questions like this one?.

**Mr. Deputy Speaker:** Hon. Shill, when the Chair is on its feet, what are you supposed to do? I now ask you to retire from this Chamber for the rest of this afternoon's sitting.

*(Mr. Shill withdrew from the Chamber)*

So, hon. Members, bring a Motion, so that we can discuss the famine situation in this country once more, because it is an important issue. However, we cannot exhaust it under Question Time. I understand your anxiety; I have a constituency of people who also need some famine relief food. I would like to participate in discussing this issue, but I cannot do so under Question Time.

**An hon. Member:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Overruled! Let us proceed to Mr. Muturi's Question.

IMPLEMENTATION OF ROADS 2000  
PROGRAMME IN MBEERE

**Mr. Muturi:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that the projects under the Roads 2000 Programme in Mbeere District have stalled?

(b) What is the duration of the Programme in the District and how much money was allocated for the Programme?

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Overruled! We are now on Mr. Muturi's Question by Private Notice.

**Dr. Kituyi:**---(inaudible)

**Mr. Deputy Speaker:** Well; you know what to do. You do not stand on a point of order.

**Dr. Ochuodho:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! You do not stand on a point of order before the Assistant Minister replies to the Question. Please, read the Standing Orders of this House.

Proceed, Mr. Assistant Minister.

**The Assistant Minister for Roads and Public Works** (Eng. Rotich): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that the projects in question have stalled.

(b) The duration for the programme in the district is three years from March, 1998 to March, 2001. The money allocated to the programme so far is Kshs32,794,010.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, I am surprised by the answer to part (a) of this Question. The Assistant Minister said that he is not aware that the projects have stalled whereas the truth on the ground is that the construction of those roads stopped more than two months ago. I am stating this following confirmation by the engineer on the ground today, that the projects have, indeed, stalled. Be that as it may, could the Assistant Minister tell this House how many roads were intended to be covered by the programme for the period between March, 1998 and March, 2001 and why it has not been deemed necessary to grant the contractor all the roads in the District, so as to complete the works within the period expected by the donors?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, the project we are talking about involves two roads-in-one - Road D467 and part of Road C92. The firm that has been given the contract is M/S S.S. Mehta. That was the only road that was planned for rehabilitation in that district during that year indeed thirty kilometres were to be rehabilitated.

**Mr. Maore:** Mr. Deputy Speaker, Sir, all the Members of Parliament from Eastern Province attended the launching ceremony of the Roads 2000 Programme in February, 1998. Could the Assistant Minister state how many of those projects, which were purported to be worth Kshs700 million, the Government has launched to-date? If the projects have not been launched, when are they going to be completed before too much time is wasted with consultants?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, it is true that the project was estimated to cost Kshs700 million. They were affecting the following Districts: Makueni, Machakos, Mbeere, Meru South and Meru Central. Phase I of that project is supposed to be complete by March, 2001. Phase II of that project was supposed to start in April, 2000 and be completed in three years' time.

**Mr. Ndwiga:** Mr. Deputy Speaker, Sir, I do not think the Assistant Minister is talking about things that are happening here on Earth; I think he is talking about things that are happening on Planet Mars. The Road 2000 Network Project in Eastern Province stalled a long time ago.

In fact, the people who were working on the projects have not even been paid their money. Could the Assistant Minister go back and check his facts before he comes back to reply to this Question again?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, I do not think I have any other facts to check. The information that I have is that work in the field has been going on.

**Mr. Ndwigwa:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to insist that work in the field is going on even after we, who are from there, have given him the right position?

**Mr. Deputy Speaker:** Order! Mr. Ndwigwa, merely putting at the end of your argument the words "is he in order" does not make that a point of order.

Proceed, Mr. Assistant Minister.

**Eng. Rotich:** Mr. Deputy Speaker, Sir, if the reply I have given to this Question is being doubted, I undertake to check the facts and report back to the House.

**Mr. Muturi:** Mr. Deputy Speaker, Sir, we have been told that we are fighting poverty in this country. We know that road and other infrastructure are related to economic advancement, and hence road rehabilitation is a step towards poverty reduction. Several hon. Members have told this Assistant Minister that Road 2000 Programme has stalled. Could he consider awarding the contract for the repair of the various roads to various contractors, concurrently, so that we do not have to wait for six years before work can commence?

**Eng. Rotich:** Mr. Deputy Speaker, Sir, that is exactly what has been done. We tendered for those projects, and those who qualified were awarded the contracts.

#### TRANSFER OF KENYA CASHEWNUTS SHARES

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, I beg to ask the Attorney-General the following Question by Private Notice. When will the Attorney-General take legal steps as recommended by the House on December 8th, 1999, and prosecute those who engineered and participated in the fraudulent transfer of the Kenya Cashewnuts Limited shares in 1993?

**The Attorney-General (Mr. Wako):** Mr. Deputy Speaker, Sir, I beg to reply.

The issue of the sale and transfer of the said shares was through an agreement between various parties. The Attorney-General has advised that the parties aggrieved should pursue their civil remedies by instituting appropriate legal proceedings in court, seeking the necessary orders to revoke the transfers. The Attorney-General has no constitutional or legal powers to reverse the alleged fraudulent transfer of the said shares. Only the court can do so on an appropriate application.

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, while the Attorney-General is a person I respect, I would not like him to run away from issues. Kilifi cashewnuts farmers, through Kilifi District Co-operative Union (KDCU), had pre-emptive rights of purchasing shares from the Industrial Development Bank (IDB), the Industrial, Commercial Development Corporation (ICDC), and the National Cereals and Produce Board (NCPB). Those shares were not transferred to KDCU. Instead, they were transferred to other companies. There was direct conspiracy by the former Head of the Executive Secretariat Technical Unit (ESTU), Mr. Lawi Kiplagat and---

**Mr. Deputy Speaker:** Order, Mr. Githiomi! We do not want a story, particularly, if it is the story that appeared in the Public Investments Committee (PIC) Report. Ask your question.

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, having established that a crime was committed by the head of the ESTU and companies associated to Joshua Kulei of State House, could the Attorney-General tell this House when he will implement the PIC Report that was adopted by this House in December, 1999?

**Mr. Wako:** Mr. Deputy Speaker, Sir, the due process of the law must be followed. It is true that Kilifi District Co-operative Union had pre-emptive rights. In fact, the various shareholders decided to transfer those shares to Kilifi District Co-operative Union in the exercise of their pre-emptive rights. It is true that an agreement was reached and signed by all parties. It is also true that the transfer of those shares was duly executed by the shareholders in favour of Kilifi District Co-operative Union.

It is also true that, that transfer duly executed was forwarded to Kilifi District Co-operative Union, but we do not know what happened thereafter between this union and the ultimate purchasers in whom the shares are registered. As you can see, it is really a civil matter; Kilifi District Co-operative Union is the aggrieved party, but they were given the blank form and instead something happened. What should happen now is that they should try to enforce the agreement that was entered into, if they really feel that they are aggrieved. If in the process of the civil case being heard in court, it transpires that the court is of the view that there was something fraudulent, it will in those circumstances ask the Attorney-General to carry out further investigations. That is the way we should proceed.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The Attorney-General of the Republic of Kenya is telling Parliament that there was a case of fraud in this matter and then he says that he has advised people to take civil action. Is that what it should be? If that is the case, then he had better reconsider his position?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I am not saying that there was a case of fraud, but all I am saying is that shares were transferred and whoever is aggrieved by that transfer surely ought to file a civil case in court. It may very well be that in the course of the hearing of the civil case, it becomes a fraud and, therefore, I do come in at that stage.

**Mr. Sambu:** Mr. Deputy Speaker, the Attorney-General is the Chief Legal Advisor of the Kenya Government. One, Runya fraudulently transferred the shares which rightly belonged to Kilifi District Co-operative Union to Kilifi Cashewnuts Limited without--- It is fraudulent because there was no annual general meeting (AGM) of Kilifi District Co-operative Union.

In fact, PIC, of which I was a Member, summoned him here and he did accept that. The HANSARD reflects that there was no authorization by the AGM of the Kilifi District Co-operative Union. Why has the Attorney-General not prosecuted Runya and the other party for fraudulently transferring the shares which rightly belonged to Kilifi District Co-operative Union?

**Mr. Wako:** Mr. Deputy Speaker, Sir, if Runya did not have the capacity to transfer those shares, then Kilifi District Co-operative Union should challenge that transfer.

**Mr. Magara:** Mr. Deputy Speaker, Sir, it is quite pathetic that the Attorney-General, who is the Chief Legal Advisor of this Government cannot differentiate between fraud and an irregularity. He has said that Kilifi District Co-operative Union was given a blank form, which is basically fraud. Why can he not prosecute these people? Is he incapable or is he incapacitated by the powers in State House?

**Mr. Wako:** Mr. Deputy Speaker, Sir, the transfer of the blank cheques duly executed by the sellers was not a fraud, but it is the normal thing that is done on transfer of shares.

**Mr. Badawy:** Bw. Naibu Spika, tungependa kumwomba Mkuu wa Sheria asibabaike katika kujibu Swali na asitubabaishe sisi Wabunge na watu wa Pwani kwa jumla kwa sababu tunaumia sana kwa yaliyotokea kwa mambo ya korosho. Mkuu wa Sheria alikaa mbele ya Kamati ya PIC---

**Mr. Deputy Speaker:** Bw. Badawy, uliza swali lako.

**Mr. Badawy:** Bw. Naibu Spika, tunasema kwamba Mkuu wa Sheria hajafafanua kama dhuluma ilifanyika na kosa la jinai kutendeka kwa wenye mtambo wa korosho na wanachama wa union kutohusishwa katika kubadilishwa kwa hisa? Badala yake, ni mtu mmoja, Bw. Runya na wengine wawili ambao waliuza hisa sote bila ya kushauriana na wanakamati na wanachama wa union. Hiyo ni hatia au sio hatia?

**Mr. Wako:** Mr. Deputy Speaker, Sir, it is so simple. If the people do not have the capacity to buy Kilifi District Co-operative Union, then it should take up the matter and challenge the transfer. It is so simple.

**Mr. Mbela:** Thank you, Mr. Deputy Speaker, Sir. I believe that the Attorney-General is being reluctant to do his job. In reality, this was fraud, criminal and I do not see the reason why he has refused to prosecute these people. Is there somebody he is trying to protect?

(Applause)

**Mr. Wako:** Mr. Deputy Speaker, Sir, the Attorney-General of the Republic of Kenya is not reluctant to prosecute these people, but he is following the laid-down procedures. If, during the hearing of the civil case, the court comes to the opinion that this was fraudulent, I will definitely take it up. I would like to say that I am doing my job and I have already informed the Chairman of the Coast Parliamentary Group on these procedures and I would like to urge him to mobilise the union to pursue the matter in court. Indeed, evidence is there that they are now doing that.

**Mr. Maore:** On a point of order, Mr. Deputy Speaker, Sir. Is the Attorney-General in order to throw away the substance of the Question to other quarters? The Question states: "When will the Attorney-General implement the recommendations of the PIC Report tabled in this House on 8th December, 1999?" It was stating that one as a case of fraud. Is he in order to run away from his responsibility? Let him say whether he will implement the Report or he is fearing Mr. Kulei?

**Mr. Wako:** Mr. Deputy Speaker, Sir, I think the Attorney-General is very clear on this matter. The recommendation said that I should prosecute, and I have outlined the measures and steps that must be taken before I can come in to prosecute.

**Mr. Githiomi:** Mr. Deputy Speaker, Sir, now that the House has known that there is a *prima facie* criminal case, can the Attorney-General undertake to investigate the criminal element and implement the Report?

**Mr. Wako:** Mr. Deputy Speaker, Sir, that is what always happens. In this particular case, I have said that as soon as the courts have determined the issue, it will be followed.



**(Mr. Muchiri)** to ask the Attorney-General:-

(a) Is the Attorney-General aware that residents of Kasarani, Nairobi, are being subjected to harassment by the Provincial Administration on suspicion that they belong to the unregistered Mungiki sect?

(b) Why has Mungiki religious sect not been registered as a religious organization?

**Mr. Deputy Speaker:** The Question by hon. Muchiri has been transferred from the Attorney-General to the Office of the President and it will be answered tomorrow afternoon.

*(Question deferred)*

### POINTS OF ORDER

MINISTERIAL STATEMENT ON  
MR. STEPHEN NG'ANG'A NJUGI

**Mr. O.K. Mwangi:** Mr. Deputy Speaker, Sir, I rise on a point of order in reference to a Ministerial Statement that I requested the Minister in charge of Internal Security, Office of the President to make. On 13th June this year, I requested for a Ministerial Statement in respect of one police officer, Mr. Stephen Ng'ang'a Njugi. I would like to say that I have not had a response from the Minister and I would like him to tell the House when he will make this Ministerial Statement.

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, I will definitely make a Ministerial Statement tomorrow afternoon.

### CRITERIA TO DETERMINE TRANSFER OF TEACHERS

**Mr. Anyona:** Mr. Deputy Speaker, I rise to seek a Ministerial Statement from the Ministry of Education, Science and Technology. Once upon a time in this House, this Ministry was referred to as "the corridors of chaos." It appears that chaos in that Ministry have not been cleared. Recently, we had a confusion over fees guidelines. Now, we have confusion over the question of the transfer of teachers. So, I rise to seek a Ministerial Statement, explaining the criteria to be used in determining transfer of teachers in order to avoid favouritism or victimisation. We also would like to be told the modalities in effecting the transfers. How are you going to do it? Are you going to send teachers where there are no housing for them? What will they do with their children in schools? What will be the time frame of this exercise? We are being told that the Government wants to transfer teachers in August or September. That is the beginning of the new term. Are you not going to change school programmes because teachers are now preparing students for exams? What are you doing to do? We would rather that the transfer of teachers takes effect in the new year.

### DEATHS IN DEL MONTE FARM

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, about three weeks ago, I asked the Minister of State, Office of the President about a man who was mauled by the Del Monte dogs and he subsequently died. The Minister said the Minister who was to answer that Question was away on leave and he was coming back after one week. After that incident, another person was mauled by the same dogs. Last week, six people were killed and put into bags. They were later dumped into one of dams in the Del Monte farm. This incident was being hidden from the eyes of the public. So, eight people have been killed in Del Monte farm in Thika. There is a butchery which has been opened in that farm. Do they sell human flesh in that butchery? Does he want to finish our people?

**Mr. Deputy Speaker:** Order! You have already requested for a Ministerial Statement in the absence of this additional information you are giving. You can use that information to ask the Minister for clarification once he makes the statement. Mr. Minister, when are you making the statement?

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, he did not ask for a Ministerial Statement, but a Question. I asked the Chair to defer the Question, so that I get ample time to answer it. When I came back, he was not present and the Question was dropped.

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, I have never put a Question on this matter, either by Private Notice or otherwise. I requested for a Ministerial Statement.

**Mr. Deputy Speaker:** Order! We shall look into the HANSARD. Bring a copy of the HANSARD tomorrow morning and I will give you another opportunity.

GRAZING IN NATIONAL PARKS AND  
FORESTS BY PASTORALISTS

**Mr. M. Galgalo:** Mr. Deputy Speaker, Sir, we as hon. Members of the Pastoralists Parliamentary Group made a formal request to Government to allow our people neighbouring national parks and forests to graze on the edges because of the prevailing drought. On 1st July, 2000, Kenya Broadcasting Corporation (KBC) announced that the Government had allowed people neighbouring national parks and forests access for grazing. What I am now demanding is a Ministerial Statement regarding the announcement by KBC. Around Kora National Park, the Director of Kenya Wildlife Service (KWS) has inflicted a lot of sufferings to our people.

In fact, he is using helicopters to chase away our animals. Some of them have been eaten by wild animals. Could the Minister of State, Office of the President, give a Ministerial Statement with regard to the order given for pastoralists to graze their animals in those areas?

**Mr. Deputy Speaker:** Order! Have you finished?

**Mr. M. Galgalo:** Yes, Mr. Deputy Speaker, Sir.

**The Minister of State, Office of the President (Maj. Madoka):** Mr. Deputy Speaker, Sir, I will liaise with the hon. Member so that I get the exact question and I will make a necessary Ministerial Statement.

**Mr. Magara:** On a point of order, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** Order! Mr. Magara, I am not aware that you want to raise a matter after Question Time. Proceed, hon. Kituyi.

MOTION OF ADJOURNMENT TO  
DISCUSS CURRENT DROUGHT

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, in light of the severe crisis of food shortage in the country right now and the resultant famine, considering the anxiety of hon. Members of this august House to know the extent of Government capacity to deal with this crisis and a criteria for prioritising areas for distribution and quantities, given the dismal inability of the Minister of State, Office of President, Mr. Nassir, to satisfy the House when answering a related Question earlier this afternoon, I understand under the provision of Standing Order No.18(2) to seek that the House do adjourn to discuss the famine crisis and, particularly how Government is dealing with that crisis. I have complied with the provisions of Standing Order No.18(2) by giving a written notification to the Speaker on this matter.

**Mr. Deputy Speaker:** Order! Hon. Members, under Standing Order No.18(2), the hon. Member is quite in order to do what he is doing. But hon. Members will recall that two weeks ago, hon. Omamo did again raise the same issue and we discussed the Motion of the Adjournment. So, I will have to discuss this with the hon. Member further. I am not required to name that date here and now, I will discuss it with the hon. Member and I will give a ruling on it, tomorrow morning.

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

**Mr. Deputy Speaker:** Order, hon. Magara! The Chair will not be ambushed with points of order. I ought to have been advised in advance that you are intending to raise one.

**Mr. Magara:** Mr. Deputy Speaker, Sir, it is not a new point of order.

**Mr. Deputy Speaker:** Well, there is no time for it. Next Order!

**BILL**

*First Reading*

THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) BILL

*(Order for First Reading read -  
Read the First Time -*

*Ordered to be read the Second Time tomorrow)*

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, I move that in accordance with the Standing Order No.101(a) this House orders that the Statute Law (Miscellaneous Amendments) Bill be referred to the departmental Committee on the Administration of Justice and Legal Affairs.

**Mr. Mbela:** On a point of order, Mr. Deputy Speaker, Sir. That particular Bill has got various subjects affecting many Committees of the House.

Mr. Deputy Speaker, Sir, would I be in order to request that the Committees that have got subjects that are being amended discuss this Bill and then liaise with the Administration of Justice and Legal Affairs Committee, to make sure that a well-considered report is submitted to the House?

**The Attorney-General** (Mr. Wako): Mr. Deputy Speaker, Sir, if that is possible, I have no objection because the Bill touches on more than 40 Statutes, covering many areas which are covered by many Ministries. So, if it is possible within our Standing Orders, I have no objection.

**Mr. Deputy Speaker:** Well, I am sure the House has no objection to the Bill being submitted to the various Committees, if hon. Members of those Committees have got the time within their schedule, to consider and bring back the report within seven days.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. I thought that a Bill is referred to a Departmental Committee by the designated Minister, and in this case, the Attorney-General, and the Committee so named deals with matters of this kind. So really, I think in terms of our procedure, that is absolutely right. If the Committee wants to call officers from other Ministries to give evidence before them and have consultations, that is in order. I do not think that there is anything irregular with the process.

**Mr. Deputy Speaker:** Well, we are talking about the same thing.

*(The Bill was referred to the Departmental Committee on the Administration of Justice and Legal Affairs)*

#### WHEREABOUTS OF MR. OMWENO TENGEYA

**Mr. Magara:** Mr. Deputy Speaker, Sir, a month ago, I raised an issue regarding one Omweno Tengeya who was smuggled out of this country to Kosovo on 6th of June, this year, and up to yesterday, that man has not appeared in any court in this world. Last week, I raised the same issue in Parliament, requesting to know the whereabouts of Mr. Tengeya. The Minister concerned has been promising all along that he will give a Ministerial Statement and up to today, as we are talking, Mr. Tengeya has not appeared in any court in this country. Where is this man?

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, I do apologise to the hon. Member, but I know about the issue of that gentleman involved in the Kosovo affair. However, there are some details which I am waiting for to be able to make the appropriate Ministerial Statement.

**Hon. Members:** When?

**The Minister of State, Office of the President** (Maj. Madoka): Mr. Deputy Speaker, Sir, it will be as soon as I get the extra information.

**Mr. Deputy Speaker:** Next Order!

#### MOTION

##### ADOPTION OF ANTI-CORRUPTION SELECT COMMITTEE REPORT

THAT, this House adopts the Report of the Anti-Corruption Select Committee laid on the Table of the House on Tuesday 9th May, 2000 and further recommends that the Attorney-General introduces a Bill entitled the Anti-Corruption and Economic Crimes Bill, 2000, contained in the Report.

*(Mr. Kombo on 5.7.2000)*

*(Resumption of debate interrupted on 6.7.2000)*

**Mr. Deputy Speaker:** Mr. Ntimama, you were on the Floor, and you now have 25 minutes to go.

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

*(Mr. ole Ntimama stood in his place)*

Mr. Ntimama, it is not your time; it is not yet.

**Mr. Deputy Speaker:** Order!

**Mr. Ndwiga:** Mr. Deputy Speaker, Sir, I rise on a point of order. Since this debate started, the Speaker addressed this House on how it should conduct itself. We do agree that one of the primary responsibilities of the hon. Members is to maintain the dignity of this House. Over the weekend, some hon. Members discussed this Motion outside the House and hurled mud at this House. That is contrary to the acceptable practice of this House, and therefore, I stand under Standing Order No.88 (3) which reads as follows:-

"Any Member may at any time, as a point of order, invite Mr. Speaker to name another Member for grossly disorderly conduct---"

Mr. Deputy Speaker, Sir, I am now inviting you to name hon. Biwott for taking debate outside this House.

*(Applause)*

**Mr. Deputy Speaker:** Order! The first thing that we have to do is to establish that, in fact, hon. Biwott said the words which are attributed to him.

**Mr. Ndwiga:** Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Order, Mr. Ndwiga! If you have made up your mind that, that is the path that we will take, there is no point of raising it again. So, I will now invite hon. Biwott to respond, and certainly, I did not read that in the Press.

*(Messrs Sankori and Wanjala stood in their places)*

Order! Mr. Biwott is on a point of order and, therefore, I order both messrs Sankori and Wanjala out of this House for the rest of the afternoon.

*(Messrs Sankori and Wanjala withdrew from the Chamber)*

**The Minister for Tourism, Trade and Industry** (Mr. Biwott): Mr. Deputy Speaker, Sir, first of all, I would like to say that I did not carry outside the debate of this House.

Indeed, I had a Harambee, and I just read in the newspapers that, but they misquoted me. During the parents' day meeting, I did answer questions from my own constituents as to what will happen to those who are named in the Anti-Corruption Select Committee Report and who are not able to defend themselves. I told them that, that is an unfortunate situation because it is only those who are hon. Members who can defend themselves; that those who cannot respond have no way of defending themselves here. It is also impossible for them to take the Committee to court and, that therefore, in the future, there is need to cater for those who cannot defend themselves in this House.

In this case, I do not see why I would have taken the debate outside the House and, in fact, I am now ready to contribute to the Motion. I did not want to contribute to the Motion outside there, and because I am one of those who were mentioned in the Report, I would have to plead my case in this House today.

*(Applause)*

**Mr. Murungi:** Mr. Deputy Speaker, Sir, we need further clarification from hon. Biwott. Did he or did he not tell the Press that the Report of the Anti-Corruption Select Committee was meant to finish certain individuals within KANU?

**The Minister for Tourism, Trade and Industry** (Mr. Biwott): Mr. Deputy Speaker, Sir, I did clarify to the Press the fact that--

**Mr. Deputy Speaker:** Order! This is certainly not a court, and I will not allow hon. Members to cross-examine each other. But I want to say this: It has been a long-standing practice of this House, as indeed it is in other jurisdictions within the Commonwealth, that when matters are before the House, unless they have arisen out of Motions, at the end of which there is no resolution, they must not be discussed in any form or manner outside this

House. You may rightly say that there is no specific Standing Order covering that particular behaviour in this House, but our Standing Orders say that, if in the absence of any specific Standing Order covering a matter, past practices and conventions, both in this House and in other jurisdictions in the Commonwealth, including the House of Commons, shall be applied.

Let it be repeated now: That, no hon. Member, no matter how elevated he or she is, is permitted to discuss any matter which is before this House outside. I would also say this: For now, since hon. Biwott has denied that, let us leave the matter, and this is the trouble that we have with matters that are discussed out there in the absence of our own HANSARD staff to record verbatim what has been said, but hon. Members will always deny. Now, Speakers in this House, from Mr. Humphrey Slade, Mr. Mati, Prof. Nge'no, Mr. Keino, Mr. Kaparo, and now me---

*(Laughter)*

All those Speakers have ruled on this matter, and I want this House to resolve today that it will respect its own precedents, customs and past practices. So, I will let that matter rest at that, unless an hon. Member has incontrovertible evidence to indicate that hon. Biwott said what he has now denied to have said.

Proceed, hon. ole Ntimama. If you have got further matters to raise, please do so.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Thank you, Mr. Deputy Speaker, Sir. When the House rose last Thursday, I was on my feet discussing this Motion which urges this House to adopt the Report of the Anti-Corruption Select Committee. Due to the limited time, I would like those who have got this Report to refer to page 115 and see what is recorded there as "RVP 43." In this schedule there are names of alleged perpetrators of certain accusations made by the Committee. We have got seven people there who are: Herman Nderi - the Mayor, Ernest Kiarie - Town Clerk, Munywoki - Physical Planner, Indere - Architect, ole Ntimama, Councillor Mutahi, Nyoro Construction and Councillor Getu.

There are institutions alleged to have been interfered with. There is grabbing of land belonging to the Social Hall compound, AMS compound for the aged, Southern Cemetery, 16 staff houses at Milimani, three houses at Oginga Odinga Avenue, school, institutional houses, water works compound, Nairobi Road borehole compound, Memoroni water intake compound, Lang'ata and Nakuru West Health Clinics, Baharini boreholes compound, two plots at North Cemetery Car Park, Anaka Estate intended for school, land between Nakuru-Nandi Highway and Oginga Odinga Avenue, playground in the council housing, Njoro sewerage works compound, parking space at Nakuru West and Top Market, council office and Works Market.

First of all, I want to say very clearly that for all the seven people mentioned in this schedule, including ole Ntimama, it is not shown who grabbed what and which houses were illegally allocated to which person. There are no initials on the name of this ole Ntimama who is mentioned here. It is very suspicious as to whether it is the ole Ntimama standing before you here or another ole Ntimama in Kenya or Tanzania. It is very suspicious that even right from the start, somebody wanted to use my name. It has, indeed, been used by the media as "Minister ole Ntimama" in the "List of Shame."

I have got a lot of respect for myself and I cannot be seen scavenging around sewerages, cemeteries and toilets, grabbing plots. It is true. When the Chairman of this Committee comes to reply, I want to hear who grabbed what. Who was allocated this plot illegally among the seven people mentioned as perpetrators? I would also like him to bring in relevant documents to show that this compound or that plot was grabbed by so and so. I do not own any houses in Milimani at all. I do not go scavenging around in cemeteries, toilets and everywhere else grabbing plots.

**Prof. Anyang'-Nyong'o:** On a point of information, Mr. Deputy Speaker, Sir. Could I graciously inform the hon. Minister that I do, indeed, share your concern and apprehension? I would like to inform you---

**Mr. Deputy Speaker:** Order! Address the Chair.

**Prof. Anyang'-Nyong'o:** I would like to inform the Chair that the Committee is prepared to look at schedule No.43 and dig the facts therein. Indeed, Mr. Minister, you are right. The ole Ntimama referred to on page 115 could easily not be the hon. Minister; it could be somebody else. That information can---

**Mr. Deputy Speaker:** Order! Members of the Committee have had a Mover and a Seconder. There will be other Members of that Committee speaking in support of the Report. Let other hon. Members also contribute without interruption. If the information you want divulged to another hon. Member is in the Report, merely refer him to the pages. Let him read himself.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, the truth of the matter is that it has been carried out in the local Press that hon. ole Ntimama is among the "List of Shame." There are no initials to this name. How would I know that it is not me being referred to? How do I know if it is not my relative? Definitely, the Press was very interested to pick up the name of the Minister in the "List of Shame."

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The name "ole Ntimama" has been mentioned.

The Minister now says that he does not think it is him because it does not bear any initials or anything to show that he is the one. In that situation, the House must resort to some kind of evidence which shows who this ole Ntimama is because you could not just have got the name "ole Ntimama" out of thin air. I would have thought that if it is not in the Report, then maybe it is in the HANSARD. That information should be brought out to establish who it is.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I hope you will protect me. I do not have very much time and I have got a few points to put across. This is a very important issue and all these interjections and interference will not help anybody. I sat here very quietly---

**Mr. Deputy Speaker:** Order! I just want to say that it is incumbent on the Committee to identify the "ole Ntimama" they are talking about. They will do that. They do not have to interrupt you in order to do it.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Thank you, Mr. Deputy Speaker, Sir. When the Chairman comes to reply, and I hope he will get plenty of time to do so, he will tell us definitely who grabbed what in this particular schedule of RVP 43 and who this "ole Ntimama" is. He must have been identified. I have got my ID card and passport which are very different from those of any other "ole Ntimama," including my fingerprints. He will probably have to amplify this and to also give us the documentary evidence to show that I am the one who grabbed that particular plot and house. Looking at this schedule and considering what I have just said, this Report and this particular schedule are generalised.

Mr. Deputy Speaker, Sir, I am innocent and as I said, I do not own any house at all, neither do I own any plot at all. Even during the high-noon of corruption at Nairobi City Hall where there was massive grabbing, fraud and illegal allocation of plots, I was not in the Ministry of Local Government. I was not even on the same wavelength with all those principal officers who have now been arraigned in court for having mismanaged City Hall, and there was no way I would have benefited in anything in Nairobi City Council at that time.

I want to say right from the start, considering what I have said about this particular schedule, that there is no doubt that even the laws of probability will show that even many other people who have been mentioned in this Report could be innocent like me. Definitely, it is better for us to scrutinise this Report because I do not think the Committee investigated it exhaustively. It is very easy for some people to say that these are definitely suspects. What is in the Report could, in one way or the other be bogus. When you implicate and malign people who are not guilty, then I think it is just as criminal as if those accusations were really perpetrated.

I was listening very carefully to the Chairman of the Committee when he was presenting his Report. I had wanted to hear what efforts he had made to summon some of these people who had been adversely mentioned to appear before the Committee. I listened very carefully and I did not hear at all the Committee or even the Chairman himself made an effort by letter, telephone or personal visit to try and convince these people who were adversely mentioned to come before the Committee. They were condemned in their absence. This was condemnation in absentia. The rule of natural justice demand that you cannot pass a verdict of guilt unless you give somebody time to defend himself. These efforts were not made. Definitely, the Chairman of the Committee cannot exonerate himself from the fact that he did not make any efforts to call these people to appear before the Committee. If he did not, then he cannot condemn somebody unless he has been given a chance to defend himself. The Chairman said last time that he was actually identifying the perpetrators. This is no identification, but outright condemnation. I think it is wrong to condemn somebody without giving him a chance to defend himself.

Mr. Deputy Speaker, Sir, I listened and watched the Chairman when he was presenting this Report. When he came to the Goldenberg issue, some prominent lawyers in this House said that there is a way to discuss the case safely and without infringing the *sub judice* rule. I really cannot understand that. Maybe these prominent lawyers who are my friends, and I can see two of them here, will know the demarcation line. But what about a lay man like me? Would I know the demarcation line between discussing things that are *sub judice* and an ordinary discussion that may not be considered as indulging into affairs that are already and wholly under the judicial process? We have been discussing Goldenberg issue for a long time. There is nothing new in this case. Even the Attorney-General stood here and said: "Let us leave Goldenberg issue to the courts". This was in support of what was said here about the statement of the Chief Justice. I would like to put it to you that we should stop any discussion on the Goldenberg case because we would be interfering with another arm of Government. We would be indulging in affairs that are not really our function. We would be interfering with the functions of the Judiciary. This shows very clearly, again, that somebody was being targeted for malignment and discrediting.

**Dr. Ochuodho:** Who is that?

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, somebody was being targeted and it is very unfair.

**Mr. Kihoro:** On a point of order, M. Deputy Speaker, Sir. It is difficult for me to interrupt the Minister because I know his time is running out, but indeed, there was no targeting of anybody. The job is systematic and it was done properly. There was no intention to malign anybody.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, definitely, it will be understood that it might not be one person or two persons, but some people were being targeted. I am not trying to defend anybody because I know that some of my colleagues here are definitely capable of defending themselves, indeed, very strongly.

I also looked at these papers which were laid on the Table by the Chairman of the Committee about the Soya Beans Project scandal. He read out a small paragraph from one of the letters here which he said implicated hon. Biwott in the scandal. I will read it out because the Chairman was so selective and only read out one paragraph of the letter that was sent to Mr. Kilele of the Agriculture Development Corporation (ADC). The paragraph reads:

"It is not expected that there will be any problems with regard to departments, and I shall ask the Minister, hon. Biwott, if he is able to hasten their approval".

What is wrong with this statement? All these correspondences went to the bank, the Ministry of Agriculture and Rural Development, the ADC and to other people who were concerned in trying to implement the Soya Beans Project. What is wrong with somebody approaching a Cabinet Minister to help him hasten the implementation of the project? Is that a crime? Is that something that should be brought to this House?

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. I do not want to interfere with hon. Ntimama, whom I respect very much. But is he in order to mislead this House that asking for assistance from a Minister to hasten the implementation of a project, when in fact, that Minister is not the Minister in charge of that project, is not wrong? Hon. Biwott was then the Minister for Energy and this project was under the Ministry of Commerce and Industry.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I wanted to inform hon. Obwocha that there is collective responsibility in the Front-Bench here and there is no problem at all. I want to continue and say that--

**Dr. Ochuodho:** On a point of order, Mr. Deputy Speaker, Sir. Is my good friend, hon. ole Ntimama, in order to mislead the House that this gentleman was right to consult hon. Biwott without telling us why he was being consulted and not hon. ole Ntimama or any other Minister?

**Mr. Deputy Speaker:** Order! I am not going to allow that kind of interruption because you are going to have an opportunity to make your contributions. So, let hon. ole Ntimama conclude his contribution. When you stand to make yours, you can challenge the authenticity of that letter or you can add onto it, but for the time being, that letter has been tabled. Hon. ole Ntimama is perfectly in order to refer to it.

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I do not, want what I have said to be interpreted to mean that I am condoning corruption. I am not! I am aware that corruption really debilitates and destroys whole economies. I have been involved in articulating the rights of marginalised people and I know corruption proliferates even the violation of human rights. I know and so I am not supporting it. God forbid and far from it! However, you cannot tell me to vote for this particular Motion here when I know that I am innocent. I can vote against corruption but I cannot definitely vote against this thing. To me, it is completely inaccurate. All these things are a catalogue of falsehoods. All these things are a litany of inaccuracies and it is fit for the trash basket.

Mr. Deputy Speaker, Sir, I want to say that definitely I am of the opinion that we want the independence of Parliament. We have all agreed that this House should be independent. Select committees and departmental committees are institutions that will enhance the strength and democracy of this House. If for any moment, these committees are going to be unreliable and suspect, then that is going to be a bleak day for democracy, liberty and freedom for people of this land. I think we must be careful so that whatever is done, it is really done properly and it should be without any bias against anybody or any people. I am for the independence of Parliament and even for the fact that this House should have its own calendar. I would even like to see at the end of the day when we come to remould our Constitution, that this House becomes the most supreme court of this land so that it can have a share like in the American Senate, the House of Lords and all these to be able to adjudicate some of these things that are done in this country.

However, I cannot be party to a thing that pin-points people without any documentary evidence to prove it. Look at the Price Waterhouse Report. It was never discussed here. It was tabled here as an afterthought again to implicate, witch-hunt and all these things. How can I be part of that thing? Let us be sure that we are right and that we do not implicate and witch-hunt people because that is the only way we can succeed. I support all this thing including all the departmental committees and the select committees.

Mr. Deputy Speaker, Sir, again, the last one was the Kiliku Report.

**Mr. Deputy Speaker:** Your time is up. Hon. Murungi!

**The Minister of State, Office of the President** (Mr. ole Ntimama): Mr. Deputy Speaker, Sir, I beg to oppose this Motion.

**Mr. Murungi:** Thank you, Mr. Deputy Speaker, Sir. It is always---

**Mr. Ndicho:** On a point of order, Mr. Deputy Speaker, Sir. I stand to seek guidance from the Chair because there was some communication from you that the people who will be given first preference to speak on this debate are either the Members who have been named or the Committee Members. This is a matter for the whole House and I propose that all Members of Parliament be given equal opportunity because some of us would also like to say something about this. By the way, we know a lot.

**Mr. Deputy Speaker:** What is your point of order?

**Mr. Ndicho:** Mr. Deputy Speaker, Sir, my point of order is that could I ask the Chair to vary that ruling, that this is a matter for the whole House, and that every Member be given equal opportunity?

**Mr. Deputy Speaker:** Order! First of all, the Chair's ruling was not that only those who were Members of the Committee and those that have been named will be given opportunities to speak. The Chair merely stated that it will be only fair that those Members who have been "named" should be given an opportunity to present their own views. That is fair, but you know our customary way of affording an opportunity for Members to contribute is to "catch my eye." Hon. Ndicho, "catch my eye!" Proceed, hon. Murungi!

**Mr. Murungi:** Thank you, Mr. Deputy Speaker, Sir. I was saying that it is always very nice to hear the oratory of hon. ole Ntimama, but as I listened to him this time, I think all I heard was him speak some good English, but surely these reports cannot only be fit for the dustbins and the trash cans. This is the most important report that has come not only to the Eighth Parliament, but to this institution of Parliament as a whole.

*(Applause)*

I think we are having a problem with the debate. There has been so much excitement caused by just a part of the report, that is that bit, a schedule which the Press has called "The List of Shame". So, this has generated passions and it has crowded out the very important aspect of this report.

Mr. Deputy Speaker, Sir, the report contains an excellent analysis about the root causes of corruption, the impact of corruption in our society and its future. We have also spent a lot of time preparing an Anti-Corruption and Economic Crimes Bill which nobody is talking about. So, I would like to spend the few minutes that I have to focus on this excellent Bill that we have prepared. I will not say anything about the list because everybody is talking about it.

Mr. Deputy Speaker, Sir, before I do so, I would like to make a few pertinent observations. The first one is about this whole question of the public psychology of corruption in our society. As we covered the entire eight provinces of Kenya listening to people about corruption, one got the distinct feeling that our people think that corruption is here to stay. They think that it is so entrenched and that there is really nothing we can do about it. One is confronted by deep apathy, scepticism and a psychology of defeat. I do remember a journalist asking us: "There was first the Martin Shikuku Committee in 1970 which was disbanded and it did nothing. We had the Police Anti-Corruption Squad which was disbanded after their offices were burnt down and then we had Haroun Mwaui who was unceremoniously removed from being the director of KACA the other day". So, he went on and asked us: "What do you think you can achieve which other institutions which were before you did not achieve?"

So, we are dealing with a deep psychological problem in our society and as we talk today, we in Parliament are on trial. This Parliament today is on trial. Kenyans are watching us to see whether we are really serious about fighting corruption or whether it is the usual rhetoric. I think we have a duty to fight this apathy and scepticism. We have a duty to restore and create some hope in our society. It is our duty to create some willing mentality on the part of our people.

We should be able to show our people that we can do something about corruption and, in fact, tomorrow will be better than today. If we fail this test, then I really do not think we are worth to be here. So, I think, if for any other reason, that is why we should support this Report. We were not a Committee of angels. We were not a Committee of saints. We have our own human errors and mistakes here and there. But they should not be used to discredit the Report.

Mr. Deputy Speaker, Sir, the second issue that I would like to raise is the concern regarding the way fundamental legal concepts, things like natural justice, have been used to protect certain interests in this debate. I think they say: "Too little knowledge is truly dangerous." The rules of natural justice in law, are the minimum standards or procedures for ensuring fairness in decision-making processes. The rules apply to courts of law, judicial tribunals and other bodies which act in a judicial capacity, which affect the rights and interests of the people. There are two rules of natural justice.

The first rule, and I do not want to go into the latin word, is: "Never condemn any person unheard." That is the first rule of natural justice. Always hear the other side. But note the operative words: "Never condemn a person unheard." Our Committee has not condemned any person. Our Committee has not tried any person. We have not passed judgement on any person. We have not said that Prof. Saitoti, hon. Biwott and hon. ole Ntimama are guilty. All we have said is that our Committee was sent to receive views from the public, and compile a list on alleged



perpetrators of corruption in the country. Those are the names that we got. It is true that we did not have the machinery, neither the time to do exhaustive investigations on this matter. All that the Committee did was merely to do what the House mandated it to do. It was to identify. So, identification can never be condemnation! There must be another forum which will investigate, try and condemn. Ours was not a tribunal; ours was merely a Committee to identify.

*(Applause)*

Mr. Deputy Speaker, Sir, the second rule of natural justice states: "No person shall be a judge in his own course." You have heard a lot of people saying how they are as white as snow! You have heard many people saying how they are clean! All that those people are doing is to be judges in their own courses. They are trying and acquitting themselves!

*(Applause)*

They are in breach of this rule of natural justice. Let an independent tribunal be the one to say: "You are guilty!; you are innocent!" But it should never be yourself!

Mr. Deputy Speaker, Sir, the law is never static. In this country they say: "Where Africans are parties to a course, and the Attorney-General will confirm this; it is in Section 3 of the Judicature Act, customary laws are recognised as part of the law of this land.

Even in customary law, we had our own concepts of natural justice. One such concept of natural justice in our own African customary law is captured in the Kiswahili saying: "Kula na kulipa ndio mtindo wa kisasa."

**The Minister for Public Health** (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. I am very happy with hon. Murungi for saying that! Could he declare his interests on the foreign donors who funded the Committee?

**Mr. Deputy Speaker:** That is not a point of order, Prof. Ongeru!

**Dr. Ochuodho:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, please, protect me from those points of order!

**Mr. Deputy Speaker:** Proceed!

**Mr. Murungi:** Mr. Deputy Speaker, Sir, as the Bible says, there is time for everything. There is time to "eat" and there is time to pay. The time to "eat" has passed. It is over. Now, it is the time to pay! Please, do not complain when the bill comes. Kama umekula, utalipa! If you have not "eaten", then there is nothing for you to pay!

**The Minister for Medical Services** (Dr. Anangwe): On a point of order, Mr. Deputy Speaker, Sir. Prof. Ongeru rose on a point of order and asked the hon. Member to declare his personal interest. We are aware that his own organisation funded a trip to Botswana!

**Mr. Deputy Speaker:** Order! This was a Committee of this House! If any Member has information which he thinks compromised the activities of the Committee, he should complain to the Speaker! That is a matter of administration.

**Dr. Ochuodho:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Murungi said that those who "ate" should be ready to pay! Is Prof. Ongeru in order to challenge hon. Murungi to declare his **[Dr. Ochuodho]** interest while he knows that, he is the person who should declare his interest for "eating" and not paying?

**Mr. Deputy Speaker:** Order! Dr. Ochuodho, that is not a point of order. But more importantly, you cannot stand on a point of order and get that personal! Prof. Ongeru raised the issue of some organisation which you know nothing about! But the Prof. Ongeru you are referring to, is the hon. Member right here! If you have information about him and you want to make him a subject of debate, bring a Motion. Proceed, hon. Murungi!

**Mr. Murungi:** Mr. Deputy Speaker, Sir, I want to get to the Bill!

**The Minister for Public Health** (Prof. Ongeru): On a point of order, Mr. Deputy Speaker, Sir. This is a very serious debate. The Chairman of the Committee himself admitted in this hon. House that, out of Kshs5 million, they had Kshs2 million additional support from donors. It is common knowledge and it is in the Report. It was from the Centre for Governance---

**Mr. Deputy Speaker:** Order! You are engaging in debate! If you want to debate, rise up, catch my eye and make your contribution. But I will not allow you to stand when another Member is on the Floor contributing, and engage him in a debate. I am sorry!

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. It will be unfortunate if a grave matter comes before the House and is brushed aside for some convenience. I know, as a matter of fact and knowledge, that the

Committee was hosted through funds sourced through a Non-Governmental Organisation (NGO) and some foreign organisations, to a seminar at Naro Moru. I also know, as a matter of fact and knowledge, that the Committee had a retreat to Lake Elmentaita Lodge. Equally, it was funded by local NGOs and other foreign organisations. I also know, as a matter of fact and knowledge, that the Committee made a visit to Botswana at expenses---

**Mr. Deputy Speaker:** Order! Order! The Committee's Report is before the House, and if you have information which you think undermines the objectivity and impartiality of that Report, rise up and adduce that information as your argument against the Report. But, hon. Members, you cannot stand on a point of order and start arguing your case on this Report. It is very simple, stand up at an appropriate time and make your contribution and adduce that information, which in your view, undermines the objectivity and impartiality of this Report. That is the only way we are going to proceed.

You may have that information, fair enough, but produce it as part of your argument to demolish the premises upon which this Report is based. Proceed, hon. Murungi.

**Mr. Murungi:** Mr. Deputy Speaker, Sir, there appears to be a strategy to prevent me from making my contribution.

**Ms. Karua:** On a point of information, Mr. Deputy Speaker, Sir. I would like to inform the hon. Member on the Floor that it is not uncommon for activities of this House to be foreign funded. We have had several seminars, including the seminar to disseminate the findings of the Committee that visited Canada.

Mr. Deputy Speaker, Sir, Departmental committees are also funded by Friedrich Ebert Foundation. We have had various seminars, including the one on the Roads Bill and the AIDS forum funded by foreigners. Even the Kenya Government is heavily funded by foreigners!

*(Applause)*

**Mr. Murungi:** Thank you very much. I should really continue.

Mr. Deputy Speaker, Sir, could I request that my time be extended?

**Mr. Deputy Speaker:** Order! Order! Let us hear Mr. Nyenze.

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. I wanted to know whether the Speaker allowed the Committee to solicit funds from outside?

**Mr. Deputy Speaker:** Order!

**Mr. Anyona:** Mr. Deputy Speaker, Sir, a question of declaring interest under our rules was raised. I want to raise it in this context; I know that the Centre for Governance and Development funded in some form or other activities of the Committee. Since the hon. Member on the Floor is an official of that organisation, he should declare his interest?

**Mr. Murungi:** Mr. Deputy Speaker, Sir, allow me to deal frontally with this issue. Let me answer the questions that Members are raising.

I am proud to say that the Anti-Corruption and Economic crimes Bill 2000 which we have in Appendix V, is the latest in the market and it is the best Bill we have in the world today.

**Mr. Mbela:** On a point of order, Mr. Deputy Speaker, Sir. That information about the financier for the Roads Bill Seminar is completely incorrect because the cheque sponsoring that Seminar came from the Ministry of Roads and Public Works.

**Mr. Deputy Speaker:** What is your point of order?

**Mr. Mbela:** The hon. Member is telling untruth.

**Mr. Deputy Speaker:** Order! Order, hon. Mbela! Do not stand on a point of order to argue. **[Mr. Deputy Speaker]**

That is a frivolous point of order. I am not in the habit of warning Members what consequences of their misadventures are going to be.

**Dr. Ochuodho:** That is not---(inaudible)

**Mr. Deputy Speaker:** Dr. Ochuodho, proceed out of this House for the rest of this afternoon sitting.

**Dr. Ochuodho:** ---(Inaudible) Ochuodho! That will not stop me and the truth shall prevail.

**Mr. Deputy Speaker:** Order! You are a stranger! Hon. Serjent-At-Arms, take that Member out!

*(Dr. Ochuodho withdrew from the Chamber)*

**An hon. Member:** Mr. Ndicho, escort him!

**The Minister for Tourism, Trade and Industry** (Mr. Biwott): On a point of order, Mr. Deputy Speaker, Sir. My point of order is in relation to the declaration of interest. I think the matter is so serious that we need to know

whether or not the hon. Member funded through his NGO, the activities or operations of the Parliamentary Select Committee? This Parliament spends money from the Consolidated Fund.

**Mr. Deputy Speaker:** What is your point of order?

**The Minister for Tourism, Trade and Industry** (Mr. Biwott): Is it in order for the hon. Member to refuse to declare his interest on a matter which is crucial, because we need to know the impartiality?

**Mr. Deputy Speaker:** Order! Order, hon. Members! I think we must stop operating on opinions and views. Order, Mr. Kanyauchi! What does the Standing Order on declaration of interest say? It says as follows in S.O.No.75, for those who have got their copies of the Standing Orders: "A Member who wishes to speak on any matter in which he has a personal interest, shall first declare that interest, unless it is obvious".

**Hon. Members:** Yes!

**Mr. Deputy Speaker:** Order! We are not discussing the Centre for Governance and Development; we are discussing a Report from a Committee of the House. Those who have information which will undermine the credibility of hon. Murungi, will adduce that evidence when they contributing to also undermine the Report. But at the moment, hon. Murungi has no interest to declare in this matter *vis-a-vis* the Centre for Governance and Development (CGD).

(Applause)

**Mr. Murungi:** Thank you, Mr. Deputy Speaker, Sir---

**The Vice-President** (Prof. Saitoti): I have been given the Floor---

**Mr. Murungi:** This is a KANU strategy to make sure I do not talk in this House. We cannot allow this to happen. We all have our right to be heard. They are wasting my time and you can see what they are doing here---

**Mr. Deputy Speaker:** Order! Order! Hon. Murungi, as you can see the Clerks-At-Table have been turning the sand-clock sideways, whenever you have been interrupted, so your time is very well preserved.

**Hon. Members:** No!

**The Vice-President** (Prof. Saitoti): Mr. Deputy Speaker, Sir, my point of order is not frivolous. It has been stated and indeed, it was stated by the Chairman, that out of the Kshs5 million, there was an element from outside financier. It is well-known that the finances which finance Select Committees of this House are voted by this Parliament. This is a budgetary procedure and if there was any outside money, it should have been declared as Appropriations-In-Aid. Was that ever done?

**Mr. Deputy Speaker:** Order! Order, hon. Members! We are not examining the accounts of Parliament. If we were, we would ask those questions. At the moment, we are discussing a Report submitted by a Select Committee of this House. Shall we proceed?

**Mr. Murungi:** Thank you, Mr. Deputy Speaker, Sir. This Committee has done an excellent job and we have the best Bill on anti-corruption in the world. We prepared this Bill after having looked at legislations and experiences elsewhere in this world.

**Mr. Deputy Speaker:** Order, hon. Murungi! We do not have a Bill!

**Mr. Murungi:** Mr. Deputy Speaker, Sir, the draft bill is based on legislations from Australia, Hong Kong, Botswana, Nigeria and our own experiences. We consulted top experts on anti-corruption in the world, including Mr. Bertrand de Speville who was the former Solicitor-General of Hong Kong.

Mr. Deputy Speaker, Sir, in preparation of this Bill, we have had support from the World Bank, Transparency International, IMF, USAID, the KACA, the Head of Civil Service and Secretary to the Cabinet, the Attorney-General and Non-Governmental Organisations (NGOs), including CGD.

Mr. Deputy Speaker, Sir, I would like to thank very sincerely, Mrs. Linda Murila, from the Attorney-General's Chambers, who worked day and night with the Committee, to ensure that we produce this excellent Bill. I would like to point out that, the biggest problem we had with the Prevention of **[Mr. Murungi]** Corruption Act, Cap.65, was the narrow definition of corruption that it had. It limited corruption to the giver-receiver context. It also did not deal with corruption in the private sector.

I am happy to say that, under the new draft Bill, we have a comprehensive definition of corruption, which includes, bribery, fraud, embezzlement of public funds and abuse of office, and any person found guilty of these offences is liable to imprisonment for a period not exceeding ten years, and a fine not exceeding five times the amounts or the advantage he got through the bribe. So, if the bribe was Kshs1 million, the fine should be Kshs5 million.

Mr. Deputy Speaker, Sir, I must also point out that we have banned Harambee from all public offices, so that, once this draft Bill becomes law, there will be no receipt books or Harambee cards in any public office. The chiefs, the DOs and everybody else are supposed to provide public service without making Harambee contribution a pre-condition to giving that service.

With those few remarks, I beg to support.

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion.

When we constituted this Committee, we expected it to come out with a better Report than what they came out with. This is because, when I look at this Report, it is more of witch-hunting than doing what they were supposed to do.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order, hon. Mwenje!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, the Committee Members went for specific people, whom they made sure were included in the Report. If it is corruption, there are quite a number of people we know who are corrupt! Some of them are even in this House; some of them are in the Opposition side but, their names do not even appear in this Report! So, we do not even know how they were getting certain names and not others.

**Mr. Wamae:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to say that he knows that there are certain people, even in the Opposition, who are corrupt and were not named? Is it not in order for the Chair to ask him to name them?

**Mr. Deputy Speaker:** Order! Order! Hon. Gumo is, in fact, giving evidence. He had an opportunity to go and name them before the Committee! If he did not do so, he has no opportunity now to name them! So, he is totally out of order to refer to anybody whom he did not have the courage to name before the Committee.

*(Applause)*

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you very much, Mr. Deputy Speaker, Sir. If the hon. Member pressed me so hard, I would name quite a number of them because I do not fear naming them. I can name them!

It is unfortunate that the so-called Committee did not do its homework properly.

**Mr. Deputy Speaker:** Order! Order! Order, hon. Gumo! There is no "so-called Committee." There was a Select Committee of this House! You cannot question its establishment!

**An hon. Member:** Let him withdraw his remarks and apologize!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, the Select Committee of this House, if it was to deal with certain Members, particularly from this House and outside, should have gone back to 1963 rather than going back to 1971.

**Mr. Angwenyi:** On a point of "advice," Mr. Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that if the Committee went back to 1963, and if it named these other people, then he would not be complaining?

*(Laughter)*

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, what I mean is that if we have to name people, we should go back to 1963 and name all of them because there are quite a number of them who were corrupt then, and they made so much money, today, they are the ones who are speaking loudest! They were bigger thieves than the ones mentioned in this Report! It is unfair! We should go back to 1963 and start one by one, until today. Then let us be called to this Committee one by one, to explain where we got our money from.

**Mr. Orengo:** On a point order, Mr. Speaker, Sir. Is it in order for hon. Gumo to exhibit his ignorance when, if you go to the library now and look at the Reports of the Public Accounts Committee and Public Investments Committee, right from 1963, the evidence is there? The difference is that, in those days, they used to steal Ksh10,000 or Kshs20,000. But these days, they steal a billion and still sit here.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! Let us take this debate seriously! Corruption is not a comparison of eras; it is a cancer in society!

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you very much, Mr. Speaker, Sir. It does not matter whether you are corrupt through stealing one shilling or Kshs1 million; it is all corruption. I still feel

that the Committee should have gone back and started from 1963, if we have to name people. Unfortunately, my name appears in that Report and it has appeared here every year, since 1985, about the same, same thing! It looks as if unless some of the Members of that Committee see Mr. Gumo's name there, they are not satisfied. They must go back and find out how to include Mr. Gumo's name in the list. This is because there is nothing else I have done apart from the Mumias issue. Instead of inviting me and, at least, asking me how that thing went on, since that was somebody's company, they never invited me.

Mr. Deputy Speaker, Sir, I was not called to explain the true position before the Committee. The matter in reference was a civil case, which had already been concluded. Instead of the Committee asking me to appear before it to explain the position; because I have many enemies on that Committee, they said to themselves: "Now, how do we fix Mr. Gumo?" Some of the Members of the Committee kept saying that here. Even one of them talked about that here the other day. Why does he not come up with something new and point out the bad things that I did in the subsequent years? Why does he talk about the same thing every time he gets the opportunity?

**Mr. Oloo-Aringo:** On a point of order, Mr. Deputy Speaker, Sir. This is the first time I have heard an hon. Member contribute to debate here and allege that Members of this Committee are his enemies. When this House appoints a Select Committee, we do not select its Members on the basis of their relationship with each other, or with any other person. We select them in the interests of the House as a whole. Could the hon. Member, therefore, withdraw the statement that some Members of this Committee were his sworn enemies and, therefore, went out of their way to assassinate his character?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I am not going to withdraw that statement because what was said here was very clear. You know that one particular hon. Member has been talking about this issue every now and then. Even the other day, the particular hon. Member talked about it.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. One of the main complaints has been that persons who are irregularly accused of having been involved in fraudulent activities have not been given a chance to exonerate themselves from blame. Hon. Gumo has been accused of double-invoicing in acquiring services and getting over Kshs30 million from Mumias Sugar Company Limited. Apart from shelling his enemies, he would strengthen his hand if he proves to this House now that he never stole anything from Mumias Sugar Company Limited.

*(Applause)*

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I never stole anything from Mumias Sugar Company Limited. Hon. Kituyi has his own personal problems with me and Mr. Mwangale.

*(Laughter)*

Since hon. Kituyi came to this House, he has never been satisfied, and has to mention my name and that of Mr. Mwangale. Hon. Kituyi was not a Member of the Committee on Corruption though. What happened at Mumias Sugar Company is that there used to be an arrangement for advance payment. I was paid more money than the amount that was due to me, because I used to account for such advances every time they were paid to me. So, it was just by mistake that I was paid more. I accepted the fact that I was over-paid, and we went to court where the matter was solved. The particular payment was not as fraudulent as Dr. Kituyi has put it.

**Mr. Wamae:** On a point of order, Mr. Deputy Speaker, Sir. When you are paid more money than you deserve and fail to return it, is that not corruption?

**Mr. Deputy Speaker:** Order! Order! I think we have to take hon. Gumo's words, that, the matter was a civil one between his company and Mumias Sugar Company Limited, and that it was taken to court where it was resolved. We will not make progress if hon. Members ask him to tell us the outcome of that case.

Proceed, Mr. Gumo!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, that is the only case by which my enemies can implicate me in corruption, and I do not care. They do not have anything else they can use to pin me down. I am sure that they will keep on raising this same issue until they retire from this House.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Overruled! Proceed, Mr. Gumo.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, we have heard

people talk of Nzoia Sugar Company Limited. That company failed the day the first Managing Director was appointed to head it. He started stealing from the company the day he was appointed Managing Director. However, nobody said anything about him.

**An hon. Member:** Who was he?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, he was a Mr. Mugo, whose wife is here.

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, he was at Nzoia Sugar Company Limited before the company collapsed, but nobody said anything about him. The people of Bungoma District know about these things. This Committee should not pin things like these ones only on certain people. This is something that was done right from the beginning. Some people who were involved in corruption are today shouting the loudest here, and calling other people corrupt; they are even more corrupt than anybody else. We must be clear in our minds. Let us not blame other people when we know that amongst us, there are people who are even worse. If members House go on accusing each other the way we are doing, one of these days, we will have problems; people will fight in this House.

**Mr. Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. I very sincerely apologise for raising this point of order when hon. Gumo is on the Floor. However, is it in order for the hon. Member to mislead this House on a matter that was debated here before? He said that the case in reference was a civil one when it was, indeed, discussed by the Public Investments Committee (PIC) when it was examining the accounts of Mumias Sugar Company Limited for the year ending June, 1991, under "fraudulent payments"? The matter was, in fact, referred to the police. That issue was debated by this House when the PIC tabled its Report for that year.

Is the hon. Member in order to mislead this House that the case in reference was a civil one when we know that it was, indeed, a criminal one?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, the case was neither criminal nor a police one; it was a civil case. It went through court, where we agreed that my company would repay that money to Mumias Sugar Company Limited in monthly instalments. In fact, it was my company and Mumias Sugar Company Limited that were involved in that case; I was not involved personally.

Mr. Deputy Speaker, Sir, I get very upset when some people who have stolen money from big organisations shout here loudly, that other people are corrupt.

**An hon. Member:** Like who?

**The Assistant Minister, Office of the President** (Mr. Gumo): Like yourself!

*(Laughter)*

**Mr. Raila:** On a point of order, Mr. Deputy Speaker, Sir. Hon. Gumo has mentioned the name of somebody who is not a Member of this House and who is, therefore, not able to defend himself. He mentioned the name of a Mr. Mugo. His wife may be here, but the particular person is not here to defend himself. Has the hon. Member got any proof that Mr. Mugo was involved in any fraudulent deals?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, hon. Kituyi is better placed to answer that one.

**Dr. Kituyi:** No!

**The Assistant Minister, Office of the President** (Mr. Gumo): He is from that area, and knows how that company collapsed.

**Dr. Kituyi:** On a point of order, Mr. Deputy Speaker, Sir. I may come from an area that has seen a crisis in the sugar industry; I may have an idea about one or two corrupt deals but the person who has said categorically that Mr. Mugo was involved in some fraudulent deals is hon. Gumo. His onus to substantiate that allegation cannot be transferred to me.

*(Laughter)*

**Mr. Deputy Speaker:** Hon. Gumo, really, I must have been consulting with another hon. Member when you uttered those words.

**The Assistant Minister, Office of the President** (Mr. Gumo): Which words, Mr. Deputy Speaker, Sir?

**Mr. Deputy Speaker:** The words about a Mr. Mugo having stolen from Nzoia Sugar Company.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I said very clearly that Nzoia Sugar Company never took off right from the beginning.

**Mr. Deputy Speaker:** I heard you say that; I am asking about the reference you made to a Mr. Mugo.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, Mr. Mugo was the one who ran down Nzoia Sugar Company. How could he have failed the company without stealing from it?

**Mr. Deputy Speaker:** Did you utter those words, Mr. Gumo?

**The Assistant Minister, Office of the President** (Mr. Gumo): No, I did not, Mr. Deputy Speaker, Sir.

*(Laughter)*

**Mr. Deputy Speaker:** Order! Order! Hon. Gumo, I have two sheets of paper which have been presented to me. They are supposed to have been laid on the Table. I do not know whether they are from the relevant PIC Report or not. I have to look at the specific PIC Report for the year---

**An hon. Member:** The Report year for the year 1998/99.

**Mr. Deputy Speaker:** But this particular one relates to the years 1986/87 and 1990/91. I would like to establish whether, in fact, what is contained on these sheets of paper refers to a report which, in turn, refers to Mr. Gumo. If I find that to be the case, I will come back to this matter tomorrow. I will also look at the record concerning Mr. Gumo's denial that he has mentioned the name of another person who is not in a position to defend himself in this House.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, let me go on.

**Mr. Orengo:** On a point of order, Mr. Deputy Speaker, Sir. The dignity of this House may stand compromised if allegations are made on the Floor of the House and they are not substantiated. I have not spoken in this House for a long time, and this issue is very important. I do not know whether hon. Gumo has understood you to mean that tomorrow, if you read in the HANSARD and find that he uttered those words, he is required to substantiate, because it may be that when he talks about corruption, he reads his name the other way round. So, "Mugo" may become "Gumo".

*(Laughter)*

**An hon. Member:** How did you work that one out?

**Mr. Deputy Speaker:** Order! I think most hon. Members understood my meaning. If, in fact, hon. Gumo uttered those words against one, Mr. Mugo, and he is now denying that he did, I will get him to withdraw and apologise. Secondly, if in fact, the HANSARD confirms what has been given to me now as having been reported by the PIC, hon. Gumo will also have to withdraw and apologise because what is stated in there clearly indicates that the police were investigating a fraudulent deal, but I have to see it in the context of the whole PIC Report, because this could have been typed by hon. Anyang'-Nyong'o in his computer in Seme.

**The Assistant Minister, Office of the President** (Mr. Gumo): Thank you very much, Mr. Deputy Speaker, Sir. I would like to point out that not everybody was invited to appear before the Committee when it was inviting people who are named in the Report. It would have just been fair for the hon. Members to invite the majority of the people who were mentioned by certain people who were invited there, so that they could, at least, defend themselves, because this is something that can finish certain people politically. I am sure that some hon. Members might take it as a joke, but it is not. This Committee was supposed to be fair, but I do not think that it was fair at all. I would like to say that I have never been asked by anybody--- I only heard something when Mumias Sugar Company took my company to court. So, if there was any police investigation, I am not aware of it.

We have other important matters to deliberate on, and with those few remarks, I beg to oppose the Motion.

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I beg to rise to support this Report and make contribution to the debate. Before I continue, I would just like to clarify a few points in terms of the methodology that we used in preparing this Report, because I think there seems to be some misunderstanding by some hon. Members as to what the Committee was doing, and an attempt to equate Press reports with the work of the Committee.

The fourth estate enjoys the freedom of listening, reading and interpreting. When it comes to interpreting to the public what any individual institution or body corporate says, it is the freedom that the fourth estate enjoys that makes them be in a position to educate the public. How they do it cannot be the responsibility of the primary producer of information.

In this regard, the Committee is the primary producer of information, and if I take, for example, the case that hon. ole Ntimama was raising, regarding Folio No. RVP43, which was a memorandum submitted to the Committee in Nakuru; which mentioned a certain Mr. Ntimama; the Committee says quite clearly, in its recommendation that the Kenya Anti-Corruption Authority (KACA) should investigate and take appropriate action with a view to prosecute abuse of office by public servants, enforce nullification of houses and plots allocated; enforce payment at market value for all houses and plots allocated, and recover unpaid duties and rates. But as a preamble to those recommendations, the Committee says quite clearly that what we have done in the summary of this Report is to list these issues as allegations of corruption and not ocular proof, because the Committee neither had the time, the resources nor the mandate from the House to provide ocular proof. The Committee was asked to report on perpetrators of corruption and given the mandate to receive evidence from the public. The Committee further advertised its hearings in the Press so that anybody who had knowledge of corruption or allegation of the same could appear before it. With reference to Appendix II(a) which hon. ole Ntimama was referring to, the Committee says quite clearly:

"In compiling the list, the Committee had no enough time to look into each and every case or to call each and every person before it to answer the alleged cases of corruption."

In which case, hon. Members are right to stand in the House and clarify their position; hon. Members are right to stand in the House and call for more investigation; hon. Members are right to stand before the House and give proof that, indeed, they are innocent. The House itself must, therefore, in the final analysis, make a decision.

Having said that, the Committee was simply responding to its terms of reference and, indeed, I do know that there are certain cases where people appeared before it, made their report and cleared themselves, but it was still duty-bound to report the proceedings to the House. The fact that the Committee has reported those proceeding to the House and further said that it could not come to a conclusion and referred the matter to the KACA in no way makes these Members in this House having been judged by the Committee as corrupt. That is not the intention of the Committee, but its intention is to produce the Report to the House and report as much as possible how it deliberated, and the result of the deliberations.

However, that does not alter the fact that the Committee did state very clearly in the Report what the causes of corruption are in this country. One of the causes of corruption in the country is the fact that from year to year, in the Committees of the House the PIC and PAC Reports are made of cases of corruption, discussed in this House and approved, that the Attorney-General or the KACA should take action and no action is taken. Indeed, when the Committee used the PIC and PAC Reports to report certain cases, it was mainly to draw the attention of the House that because Reports of the House have not been acted upon, people have taken it for granted that corruption is allowed and can go on in this country, even where the House approved certain Reports. That is one of the reasons why the Committee drew the attention of the House to certain key issues in the PIC and PAC Reports, where action should have been required, so that those people who are mentioned in those Reports are either cleared of those activities, or convicted in the courts of law.

Mr. Deputy Speaker, Sir, let me refer the House to page four of the report, on the causes of corruption. You will pardon me if I quote word for word what is written in the report. It says thus:

"Poverty, authoritarian rule, erosion of the accountability in the process of Government, misuse of political power, unsatisfactory Civil Service wages and weak law enforcement institutions aid and abet corruption in society in general, and in the public service in particular. These causes are further being reinforced by a growing national culture that has very high tolerance for and even approval of corruption, provided it is beneficial to the immediate family or kin-group. Lined political loyalties also lead to high tolerance of corrupt practices. Beneficiaries and perpetrators of corruption are hence to be found in all sectors of the society as well as of Government. Irregular laws that favour those in political power, tendering and procurement procedures, a tax regime, giving excessive discretionary and exemption powers to certain officers, the defective monetary fiscal policy and a system of god-fathering, have been the main causes of corruption in the public service. Low wages, high dependency rates due to rapid population increase and unemployment, a general sluggish economic growth for many years have made the ordinary mwananchi amenable to and manipulable by corruption and corrupt activities."

Mr. Deputy Speaker, Sir, if you see some of the actions that the Government has taken recently to address some of these causes of corruption, precisely because there is no proper procedure in taking some of these actions, we are finding that it is going to be very difficult to deal with corruption in this country because we do not carefully identify its causes. For example, last year, I think it was in the month of July, the Government appointed the so-called Dream Team of Technocrats to run the Civil Service. I have no quarrel about getting qualified people, or sourcing good individuals; it does not matter locally or internationally, to run the Civil Service. But I have a quarrel about the procedures followed to do so. It is because of the poor procedures in Government, disrespect for institutions and the law, that corruption has been enhanced in this country.

Mr. Deputy Speaker, Sir, the proper procedure of getting a technocrat team in this country was to bring a Bill



to this House, for us to enact a law that says that from now onwards, this particular procedure is going to be followed in sourcing technocracy in Government. That same law would have stipulated how civil servants are going to be retrenched in Government. But the one-man mentality that has characterised the political sector has now been introduced into the Civil Service, where, although people are lording one person, they are not following procedures laid down by this House, even when retrenching civil servants. These days, we read in the Press on a daily basis that civil servants are being retrenched. This House does not know the procedures being followed. This House has not passed a law to do this. People are crying, but there is no law to resort to. We could easily find, in a couple of years, that we have very high quality top Civil Service, but a very low quality Civil Service. This House, as a representative of this nation, should, indeed, discuss the major procedures being used to turn round the economy. In that particular paragraph, the Committee did identify one of the causes of corruption in this nation as not respecting institutions, and not using proper procedures in doing things in Government.

Mr. Deputy Speaker, Sir, another area that I would like to touch on is privatisation. In this report, we have said - and referred to particular cases, for example, the Milling Corporation of Kenya, Kenya Posts and Telecommunications Corporation and Kenya Railways Corporations - that public assets are being sold to certain individuals at throwaway prices. Indeed, if one of the main aims of privatisation is for the Government to raise revenue to pay debts or pay high wages in the Civil Service, it is necessary that public assets being sold in the process of privatisation are sold at market value, and that they are sold in a process that is transparent and accountable. I used to know, in the 1970s and early 1980s when public land or houses were being sold, that they were advertised in the Kenya Gazette, so that any Kenyan wishing to buy them could know where they are being sold, who is receiving the money, and how much money they are being sold for. We know Kenya Railways Corporation has disposed of a lot of its houses to the public without any advertisement in the Kenya Gazette. We know, for example, that in an attempt to raise revenue to pay Civil Service wages, certain parastatals have also sold land to individuals, who then sell them at astronomical prices to the NSSF, and thereby, the public loses in two ways. First, the Government loses land, and secondly, workers lose their pension fund because NSSF is investing 60 per cent of its investment portfolio in land that it does not intend to use in the next ten years. That is why, today, even in our public universities, we cannot have a proper loan system because the bodies which should be providing these loans--- The "cash cows" of domestic savings in this nation--- For example, the NSSF is misusing its cash by buying assets it does not need at exorbitant prices, thereby misusing hard earned workers pension money.

Mr. Deputy Speaker, Sir, these are some of the issues we are raising in this Report. Therefore, for a Government Minister to stand in this House and to say this report is trash worth going to the trash can, it shows that this Government is trash worth putting it into the trash can.

*(Applause)*

Mr. Deputy Speaker, Sir, I wish to refer this House to page 65 of the Report. It is very important because over and over again, in this House, it has been said that the Committee was discussing corruption only from 1974 onwards. That is a misstatement of the truth. The truth in this Report was that the Committee was required to receive evidence from the public on corruption. It does not matter whether corruption occurred when Chief Lenana was still alive, or during the time of Sir Ferdinand Cavendish Bentinck(?) when he was the Minister for Finance or whoever, but it was to receive evidence from the public on corruption. We have put in our Report, all the evidence received. The only thing which we have said which refers to periodisation of corruption regards transitional justice. I want to make it very clear that in talking about transitional justice, the Committee had to find a logical and historical date that makes sense, in terms of the genesis and evolution of corruption in this country, particularly in the Civil Service. That date was in 1972. This is because in that year, the Government of Mzee Jomo Kenyatta, realising that they could not pay the civil servants the wages that were commensurate with the qualification and performance of the Civil Service, or that was competitive in the market, the Government, rather than take the hard option, opted for the soft option. The soft option was not to restructure the Civil Service and retrench civil servants and leave a lean and keen Civil Service; the soft option was to say the Government would not pay the wages, but allow the civil servants to do business, so that they could subsidize their wages. This is a phenomenon in economics called "straddling." The Government allowed the civil servants, apart from getting their wages working for the Government, to straddle and make money because the money they were making in their offices was not enough.

The phenomenon of straddling is one of the major root causes of corruption in this country and, therefore, in talking about transitional justice, the Committee, in its wisdom, advised this House that if we will begin forgiving those people who have been corrupt; and if they declare and make public what they have acquired, we take the year 1972 because it is a historical year that traces the genesis and evolution of corruption in this country. If you are anybody with a head above your shoulders, you will know that from 1972 downwards, that is when corruption escalated and

destroyed the fundamentals of the economy of this country.

So, Mr. Deputy Speaker, Sir, if you look at page 55, you will realise that under the transitional justice and onwards, the Committee makes a case for it as a reconciliation in this country, in dealing with corruption head-on and also as a way of realising that Kenyans must stay in Kenya, and not go to Madagascar or Fernando Po and face the consequences of having done wrong, things to the people of Kenya; that is if you are prepared to come forth and tell Kenyans: "Yes, I did at one point misappropriate, but now, rather than remaining Saul, I am Paul and I am willing to be forgiven." Then, in the wisdom of this House, we are asking the National Assembly of the Republic of Kenya to think of a transitional law that can deal with such cases, so that we move forward to the future and not be real-chained to the ills of our past.

*(Applause)*

Mr. Deputy Speaker, Sir, on page 69, the Committee discusses another cause of corruption in this country and, indeed, which is one that this nation is unwilling to confront, but the Committee thinks this National Assembly should confront, and as leaders, lead this nation forward, and not make it be enslaved to the inequities of its past. One of the causes of corruption in this nation is Harambee, and I refer this House to page 69 of the Report, where we discussed about it. I would like to quote the Report verbatim:-

"In general, the Harambee spirit, initially meant to supplement Government efforts in development, has been grossly misused and has led to tremendous wastage of funds in unplanned and unsustainable projects. Public amenities such as schools, churches, health centres and cattle dips which have been put up on Harambee basis could have been established in more efficient and cost-effective ways."

Mr. Deputy Speaker, Sir, let me give you an example of what we meant by "more efficient and cost-effective ways." In the Republic of Cote d'Ivoire, they have a development tax, which is, for example, 2 per cent of your salary. If we were to pay 2 per cent of our salary to our development tax, and we have a procedure like was adopted during the discussion for the Kenya Roads Board Bill, where we say that the development tax will be handled by Members of Parliament at constituency level; and a constituency development committee will prioritise every year the development needs of that constituency, we shall be doing better planning for this Republic than this haphazard, backward, machiavellian and mercenary Harambee culture.

*(Laughter)*

The Harambee culture has been a culture whereby those who have put their till in the public purse stand in the pulpit and play Pharisee to the wananchi so that they can get the poor to ask for alms from their pockets, and they leave there, feeling as men of God. That is sin of the highest order, and they will never even see the gates of hell, because hell is not hot enough for such people. Moreover, Harambee has been a source of bribery and extortion, and it is used unfairly for political advantage by both the voters and those who seek for elective positions. Even the religious leaders do not mind the illicit sources of Harambee funds, and tend to glorify huge donations through "kilo claps." I have been appalled, and I am a son of a Canon of the Anglican Church, and you know that, and who is now 85 years old and who brought us up by collecting one cent from the Church faithful, and we are now decent citizens of the Republic of Kenya. If the Church in those days could survive on one cent tithe every Sunday and educate Prof. Anyang'-Nyong'o up to the National Assembly of Kenya, why is the Church now looking for money from Lucifer?

*(Applause)*

In the Bible, it is said that Jesus can come at any time. Now, I live in Kisumu Rural, and Jesus can come any time and land in Muhoroni to visit hon. Dr. Omamo and begin chewing sugar-cane, and while Jesus is doing that, all the Bishops will be somewhere looking for Harambee money, and we shall have nobody to lead us to Heaven during that time.

*(Laughter)*

That is a very serious matter and concerns the affairs of this world in as much as it concerns the affairs of the world to come.

**The Minister for Public Health** (Prof. Onger): On a point of order, Mr. Deputy Speaker, Sir. I would hate to interrupt the son of a canon, but is he in order to bring blasphemy in this House on a matter that involves deity and spiritualism?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, it is said in the Bible that, "forgive them for they know not what they are talking about."

Harambee funds are rarely accounted for, and they are not tax-deductible, and the sources of such funds are difficult to determine. The Provincial Administration has developed the bad habit of forcing people to contribute to Harambees even when it knows that they are too poor to contribute; it is like squeezing water out of a stone. I watched a very unfortunate thing, where I was one day in a chief's camp, and the chief did not know that I was there. I was waiting to see the chief, and an old woman like that woman who took her 10 cents to Church that Jesus was talking about, just wanted a death certificate from the chief; as you know, AIDS is killing people every day in this Republic. I heard the chief asking the mama, who must be over 70 years old: "Okay, you want a death certificate, but where is the money for my pen?" That is how low we have gone in the culture of corruption. I am not just saying that we should discuss Goldenberg, "stevenberg" and other "bergs;" we should also discuss the culture of corruption in our nation. The Report is very important and all those things are detailed there. Let us not dwell in the periphery of the Report, where we feel that our ego and personality have been hurt, when we know that these things have been in the past PIC and PAC Reports, and we never raised our voices then. Now that we have a Report that is trying to deal with corruption once and for all in this nation, and I am sure it is the way forward, we are now trying to bring selfishness to subvert public duty. As we enter this Parliament, there are those words inscribed on the entrance door:-

"For the welfare of society and the just Government of men."

The welfare of society of the Kenyan society is imperilled by corruption, and this Parliament, in its wisdom, chose this Committee which worked tirelessly to produce a Report to show the way forward. I am appealing to this House, once and for all, on this: For the sake of the Kenyan nation, let us put behind selfish motives and look at the Report as a whole, and try as leaders to lead. But to lead is very difficult, and it quite often means taking very unpopular stands for which you can lose. You know that Jesus came to this world to lead, and for those three intent years, he tried to teach this world, and they put him in a cross and released the thief, Barnabas, but since then to this very day, 2,000 years later, we go to Church every Sunday without being asked to go, and we kneel down and say: "The Lamb of God that knows everything, come and save us."

I am asking the other side of the House to emulate Jesus and to know that this nation needs to be saved, and that some of the causes of corruption are mentioned in the Report, analyzed and very good recommendations have been made. Let us look at those recommendations, particularly, the Anti-Corruption and Economic Crimes Bill.

In 1994 I was the Chairman of the Public Investments Committee (PIC). If you look at the Fourth and Fifth Reports of PIC, it is there that for the first time, we talked about an Economics Crime Bill. When we did it then, it sounded like an outlandish affair. Now that it has been reported in this Committee and a Bill actually drafted and brought to this Parliament, let the National Assembly of the Republic of Kenya, in July 2000, rise from its ashes like the owl of Minerva and give the people of Africa and Kenya good leadership. That is what I am asking for.

Finally, I would like to mention the following: On page 260 of this Report there is a very tragic litany of sins; what I call professional corruption. I do believe that a good number of hon. Members of this House are professionals. They are either university teachers, accountants, land surveyors or lawyers. We are of one profession or another and every profession has its ethics. I dare say that almost all professions in this country have lost their ethics and have started to worship the goddess of corruption. On pages 260-261, there is a litany of the names of lawyers, in particular, who were overpaid by the National Social Security Fund to the extent that in the end, the Fund lost a total of Kshs252,370,000 by paying these lawyers fees that were way above what is allowed by the Advocates Act.

**Hon. Members:** Name them!

**Prof. Anyang'-Nyong'o:** They are listed in the Report. They are Kilonzo and Company Advocates; S. Mauncho Advocates, M.M. Ombogo Advocates, *et cetera*. That is enough. We do not need to mention them because they are in the Report.

**The Assistant Minister for Information, Transport and Communications** (Mr. Keah): On a point of order, Mr. Deputy Speaker, Sir. Were these lawyers, accountants, *et cetera*, whom he is mentioning ever called to defend themselves?

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, this question has been asked and we have answered it. The Report says quite clearly that due to the resources and time given, we could not call everybody, but we had to report to the House what was brought before us. It is for the House to decide. Secondly, they will have the time to say what they have to say. I have to say mine. I do believe that what I am saying is the truth.

I beg to support.

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir, for giving me a chance

to contribute to this very important Report. From the outset, I would like to seek your protection so that not so many points of order are raised. First, I would say that this Report was not exhaustive, and that is my opinion. Further investigations should have been done. Some of the issues raised, like Goldenberg, should be left to the courts because this issue has been appearing in PAC and PIC Reports time and again. I think the courts are best placed to come up with judgement on this matter. Those people who were adversely mentioned should have been given a chance to come and explain and defend themselves, but we have seen that this never happened. The damage is already done. Hon. Members' names have been adversely mentioned, and the damage is great. The Report says that most of these are allegations. They need to be further investigated, but the damage is already done.

The time span from 1972 to 1999, when all these issues of corruption were tackled, leaves a big question mark. As hon. Gumo said earlier, it would have been fair if we went back to when we attained Independence, or when Kenya became a nation, so that it does not appear to be discriminative to some people. All I see in this Report is about succession 2000, and it is competition between parties. This Report is intended to be used to oust KANU from power, which, in my opinion, is very unfortunate but--

*(Loud consultations)*

**Mr. Deputy Speaker:** Order!

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. The Bible says that when Jesus was walking in Palestine, the Pharisees, the people who thought they were holier than other people, brought a woman there. They told Jesus that: "This woman is a harlot. We have caught her in the act of adultery." Jesus said that whoever is without sin should be the first to stone her. None of the Pharisees and the Sadducees could take a stone to throw at the woman. What does this mean? That each of us is guilty of one crime or another. However, we should look ahead. This means that if we were to look for those crimes of corruption, it would be very likely that most of the hon. Members have done one or two things wrong at some time.

Kenya is a country that has a lot of potential to grow. It can be a very prosperous country if we admit that in the past some crimes may have been committed, but we should look ahead. Looking backwards will take us back in history and will cause conflict and ill feelings towards certain individuals. The way forward is to set a date; for example, we can say that from 2000, whoever commits any economic crime will be judged according to the laws of the land. That would be a better position than picking on those crimes committed in the seventies and leaving those committed from 1963. That has raised a lot of question marks. With all due respect, we cannot say that the hon. Members from the KANU side are the ones who are more corrupt. We are all Kenyans.

We are all brothers and sisters, and there are also corrupt people in the Opposition side of the House. To face it, we should set a date from when we can scrutinise ourselves and see what corruption has taken place. For example, we should say that from the year 2000, anybody found guilty of corruption would be judged according to the laws of the land. I feel that, that would be the best spirit. In this Report, I have seen a lot of selective condemnation. Those who were there immediately after Independence have committed crimes. But why should we pick on the time when--

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Minister to keep on misleading the House that the Committee picked on the Moi era? On page 187, it is stated that this Report analyzed corrupt deals which took place in the years 1974/75 to 1978/79, during the late Mzee Kenyatta's era, and the years 1989/90 to 1995/96, during Moi's era. Please, read the Report.

**Mr. Deputy Speaker:** Order! Hon. Members, you cannot argue about the occurrences of 1972; Proceed.

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. We normally look at the list because it is explicit and raises a lot of questions. These are my suggestions and I believe in them. I can only accept this Report and support it if we started looking at corruption since 1963. Most of the events that have been highlighted in this Report are those that have been committed during Moi's era. Why are we fearing to go back to 1963? This is because we want to cover up some people.

**Mr. Kihoro:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to insist that the last nine days of 1963 are not covered in the Report? We had Independence for only 12 days in 1963 and there was no corruption.

**Mr. Deputy Speaker:** Order! Hon. Kihoro, you are just engaging in a semantic quibble.

**The Minister for Environment** (Mr. Nyenze): Mr. Deputy Speaker, Sir, in fact, in 1963, some of us were still existing, but I am sorry to say that it may be unfortunate that some people were not around and they are only reading history.

I have seen from this Report that the people who are adversely mentioned are those hon. Members who are strong in KANU. That is why, through the small screen, I can see a lot of politics in the Report. These people include

the Vice-President, hon. Biwott, Prof. Ongeru and hon. Ntimama. The reason behind this is to weaken KANU. That is why I am saying that I will oppose this Report because I can see a lot of politics in it.

Mr. Deputy Speaker, Sir, the issue of the Goldenberg has been going on in court and it has been appearing in Public Investments and Public Accounts Committees Reports. Surely, why should we bring it here? These hon. Members have not been given time to appear before this Committee and defend themselves. For example, this letter which was written about the Soya Beans Project, why should you select one paragraph and read it out to the House to implicate a Minister? This letter was written by the British and it could not be tabled before the House.

*(Loud consultations)*

Mr. Deputy Speaker, Sir, could you, please, protect me? I can see hon. Ngilu arguing with "Prof. Anyang'-Nyong'o" about the Social Democratic Party (SDP). I do not want to be dragged into the SDP's matters.

**Mr. Ngilu:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member on the Floor to talk about me arguing with Prof. Anyang'-Nyong'o? He can see that I am not sitting anywhere near Prof. Anyang'-Nyong'o. Has he no eyes to see? The hon. Member sitting next to me is hon. Anyona and not Prof. Anyang'-Nyong'o.

**The Minister for Environment** (Mr. Nyenze): Mr. Deputy Speaker, Sir, I am sorry. You know, they nearly look alike.

*(Laughter)*

Sorry, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! As everybody in this House knows, hon. Charity Ngilu and hon. Prof. Anyang'-Nyong'o are the best of friends.

*(Applause)*

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir, but for your information, the friendship was up to yesterday. Today, they are not friends. However, that is not the issue now. What I am trying to say here is that--

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Ojode:** What do you have to say, Prof. Anyang'-Nyong'o?

*(Laughter)*

**Prof. Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, is it in order for hon. Nyenze, the Minister for Environment, if he does not have anything to say in terms of the Report, to divert his own attention and not that of the House to issues peripheral to his rather confused mind?

*(Laughter)*

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. I was only scared when I saw people throwing their hands in the air but it has been corrected. So, there is no problem.

What I wanted to say is this: This report about the Soya Beans Project, the people who have been quoted here are British. What influence did hon. Biwott have on these people? So, you cannot do so unless you are saying the British Ministers were corrupt and the letter is not signed as well. So, we need something that is authentic and convincing, but not just a piece of paper that can be duplicated for that purpose.

Mr. Deputy Speaker, Sir, I would think, and that is my belief, that it was very wrong for the Parliamentary Select Committee to use funds from other sources when they were not authorised by the House. The reason for me saying this is because any money that this country gets has to come through the Budget, and then it is sanctioned here in Parliament. However, for this money that they got, I can see a lot of outside influence because they were never authorised to use money which was not voted for by Parliament. If it was reflected like we have done in the Budget, that would be a different matter. However, as far as I am concerned, where the funding came from, there must have been strings attached to that, and the House never sanctioned that. So, we will not just sit and watch people's names being tarnished. Today, as I have said, there are so many crimes and the Bible says--- I am very happy because Prof. Anyang'-Nyong'o quoted the Bible. I did not know he was a Christian, but it was very good.

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Nyenze, in fear

or in the whims of hon. Biwott, to continue "murdering" my name in this House? All that he is doing by reading those letters which have been read before, is to satisfy hon. Biwott because he is their "Prime Minister."

**Mr. Deputy Speaker:** Order! The hon. Member has every right to contribute and to refer to documents that have actually been laid on the Table. That is his perfect right. So, proceed!

**The Minister for Environment** (Mr. Nyenze): Thank you, Mr. Deputy Speaker, Sir. You know, when we have an impartial Speaker, the debates become very lively.

I was saying something good about the Report because hon. Prof. Anyang'-Nyong'o quoted the Bible correctly, but I did not know he was a Christian. He said: "The Bible says---

**Mr. Deputy Speaker:** Your time is up.

#### ADJOURNMENT

**Mr. Deputy Speaker:** Order! Hon. Members, it is now time for the interruption of business. The House, therefore, stands adjourned until tomorrow, Wednesday 12th July, at 9.00 a.m.

The House rose at 6.30 p.m.