

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 22nd November, 2000

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.684

DISMISSAL OF CONSTABLE MUTHUNGU

Mr. Speaker: Mr. Muihia not in?
Next Question!

Question No.686

NAMES/STATIONS OF OCPDS COUNTRYWIDE

Mr. Speaker: Eng. Toro also not in?
Next Question!

Question No.681

DEATH OF MR. NYANGANI

Mr. Speaker: Mr. Sungu's Question is deferred to next week.

(Question deferred)

Question No.263

DISMISSAL OF MR. MASHAKA

Mr. Speaker: Mr. Maitha not in?
Next Question!

Question No.388

ELECTRIFICATION OF MARIMANTI TOWN

Capt. Ntwiga, on behalf of **Mr. Mwenda**, asked the Minister for Renewable Energy:-
(a) when the Ministry will supply electricity to Marimanti Town, the headquarters of Tharaka District; and,

(b) how much money has been set aside for the purpose.

Mr. Speaker: Anybody from the Ministry of Energy?
Next Question!

Question No.591

REHABILITATION OF
NORTH SAKWA WATER PROJECT

Mr. Speaker: Dr. Oburu not in?
Next Question!

Question No.654

ALLOCATION OF NYAKI/
GIAKI/KIBURINE LAND

Mr. Speaker: Mr. Mwiraria not in?
Next Question!

Question No.569

REPAIR OF ELMENTEITA-KIPTAGWANY ROAD

Mr. Speaker: Mr. Kihara also not in?
Next Question!

Question No.701

COMPLETION/STAFFING OF
HEALTH CENTRES IN KILOME

Mr. Speaker: Mr. Ndilinge is not in? This is amazing! And to set a good example, I will dismiss all those Questions by hon. Members who were not present, with a further direction that the Speaker will not accept to be asked by any Member to put back that Question. The only one I am going to call for the second time is the one where the Minister was absent.

Question No.684

DISMISSAL OF CONSTABLE MUTHUNGU

(Question dropped)

Question No.686

NAMES/STATIONS OF OCPDS COUNTRYWIDE

(Question dropped)

Question No.263

DISMISSAL OF MR. MASHAKA

(Question dropped)

Question No.591

REHABILITATION OF NORTH SAKWA
WATER PROJECT

(Question dropped)

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*(Question dropped)**Question No.569*

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(a) when the Ministry will supply electricity to Marimanti Town, the headquarters of Tharaka District; and,

(b) how much money has been set aside for the purpose.

Mr. Speaker: Where is the Minister for Energy? I think the Minister for Renewable Energy must also get a little tongue lashing from me, in the same way that I have punished hon. Members who are absent.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The Minister for Renewable Energy died.

Mr. Speaker: Order, Mr. Angwenyi! Question deferred!

*(Question deferred)***QUESTIONS BY PRIVATE NOTICE**

PAYMENT OF DUES TO
RETRENCHES IN MIGORI

Mr. Ochilo-Ayacko: Mr. 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 retrenchees from Migori District have neither been paid their dues nor trained as required, three months after being retrenched?

(b) Could the Minister give the names and breakdown of the ages of those retrenched?

The Minister of State, Office of the President (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to reply.

(a) A total of 25,783 civil servants were set to exit the Civil Service under Phase I of the on-going Civil Service Retrenchment Programme on 1st October, 2000. According to the procedure for payment of final dues, all retirees were required to complete and return accounting forms necessary for computation of the correct amounts of final dues to be paid to them. There has been a delay on the part of retirees in completing and returning these forms. As at the end of October 2000, only a total of 8,734 forms had been received. These were processed and funds totalling Kshs8.017 million were released to respective paying agents.

Mr. Speaker, Sir, the other reason that delayed the actual payments and the training of retirees as from 25th September, 2000 was that the National Labour Party went to court against the retrenchment programme and the court placed a temporary injunction on the retrenchment programme on 29th September, 2000. The Government, therefore, stopped implementation of the retrenchment exercise, including training of retirees until the court resolved the matter.

Now that the court has lifted the injunction, the Government has resumed the retrenchment exercise, including processing of payment of benefits.

(b) As far as this part is concerned, which requires me to give the breakdown of the names of those retrenched from Migori, I have got a long list here, and I will request for your permission to lay it on the Table instead of reading all the names.

(Mr. ole Ntimama laid the document on the Table)

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, the retrenchment exercise was looked into, and this House concluded that it was unjust. It is evident that the retrenched persons from Migori have not received their monies. The Minister has said that some Kshs7 million has been released to pay agents. Could the Minister confirm that the said Kshs7 million has been released to the respective retrenchees?

Mr. ole Ntimama: Mr. Speaker, Sir, I can confirm that the Kshs7 million has been released to the departments and Ministries who were supposed to pay direct to the retrenchees from their own departments and Ministries.

Mr. Keriri: Mr. Speaker, Sir, is the Minister aware that in the retrenchment exercise, those Government employees who were working for the youth polytechnics, including those who were co-ordinating training at the district headquarters, have been sent home without a single penny, including those who have worked for between 25 years to 30 years? If he is aware, is that fair?

Mr. ole Ntimama: Mr. Speaker, Sir, I am not aware that anybody has been sent off without any benefits at all. But if the hon. Member is serious about this issue, we would like to get a proper statement, and I assure him that we will take action.

Mr. Anyona: Mr. Speaker, Sir, the criteria governing retrenchment is still not clear. We have cases of young widows with children of between five to ten years, and people who have just been promoted, being retrenched. There is a process of appeal in this retrenchment. Now what happens to people who have appealed? Are they considered retrenched or are they given some grace period during which the appeal is considered and how many are involved?

Mr. ole Ntimama: Mr. Speaker, Sir, as far as the Government is concerned, we think we have followed the proper procedure and criteria in retrenching civil servants. There is one thing that I would like to tell the hon. Member; that in this retrenchment exercise, certain departments and functions have to be abolished. For example, the department of bee-keeping in the Ministry of Agriculture. It has to be abolished and privatised. Another example is the Artificial Insemination Department, which could no longer be retained by the Government as a function. It had to be transferred to some private businessmen to be able to manage it. These functions are supposed to have been abolished. If anybody was employed in these functions, he would also have to be retrenched, whether he is 19 years, 21 years, 25 years or 50 years.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. There is an appeal process involved where people are given an opportunity to appeal. This is a very democratic thing, but what is the fate of those people doing the appeal and how many are involved?

Mr. ole Ntimama: Mr. Speaker, Sir, we have got a process of appeal, and the institution that is mandated by law to receive appeals is the Public Service Commission. Every Permanent Secretary and head of department knows that all those retrenchees have a right of appealing through their own Ministry. Definitely, the Public Service Commission will sit down and consider each case individually.

Dr. Kituyi: Mr. Speaker, Sir, about a year ago, some of the best teachers in high schools and even primary schools in this country were recruited to become special inspectors or AEOs or other senior officers in the Ministry of Education. They were given the option to quit the Teachers Service Commission and join the Public Service. As the best teachers, they joined the Public Service, and now they have been among the first casualties of retrenchment in the Ministry of Education. Why can the Minister not consider giving those teachers the option of returning to the Teachers Service Commission, instead of being treated as irrelevant Ministry civil servants?

Mr. ole Ntimama: Mr. Speaker, Sir, in the first place, I would like not to touch on anything to do with the Teachers Service Commission, because it is not in the docket of the Directorate of Personnel Management. But I would like to tell the hon. Member that this retrenchment is done entirely by departments and ministries, and those people have a right to appeal to the Public Service Commission through their own ministry.

Normally, we get a copy, and in many cases we intervene if we think that somebody has been unfairly treated.

Mr. Wamae: Mr. Speaker, Sir, could the Minister assure the House that this is going to be the last list of retrenchees to be tabled here? Could he also declare that the civil servants who have not been retrenched can go on to do their work without the fear of being retrenched?

Mr. ole Ntimama: Mr. Speaker, Sir, this is an on-going exercise until we have 'rightsized' the Civil Service.

We must work towards having a lean, efficient and a well- remunerated Civil Service. We are not there yet, hence I cannot guarantee that we are going to stop the retrenchment exercise. Those who have been retrenched can go and start their businesses without fear.

Mr. Ojode: Mr. Speaker, Sir, a Motion was passed in this House to stop the retrenchment exercise. We would like to know whether Parliament is supreme or it is the Minister's office. Could he tell this House how many people have so far appealed against their retrenchment, and how many of them have already been taken back?

Mr. ole Ntimama: Mr. Speaker, Sir, with due respect, the Motion that was passed in this House required the Government to come up with a Sessional Paper to lay down the retrenchment modalities. I argued here rather hurriedly that a Sessional Paper is normally brought in to inform Parliament on what strategic developments the Government is taking on certain projects. I pointed out that a lot of water has passed under the bridge in many respects. First of all, retrenchment was discussed here by the two former Finance Ministers. The hon. Members had an opportunity to discuss everything about retrenchment then. This thing has been on-going for the last ten years. We discussed it in Mbagathi and at the School of Monetary Studies. We are still discussing whether a Sessional Paper will be of any use in this aspect right now.

Mr. Ochilo-Ayacko: Mr. Speaker, Sir, the Minister has been misleading the House. This House did resolve that the retrenchment exercise be stopped until a Sessional Paper is brought to this House. What is the Government policy regarding private employers who decide arbitrarily to retrench their staff, when the Government cannot protect its ex-employees?

Mr. ole Ntimama: Mr. Speaker, Sir, I am afraid that we cannot extend our control to the private sector.

ATTACK ON MEMBERS AT MAGARA'S FUNERAL

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

(a) What action has the Government taken against the attackers of hon. Chris Obure, hon. George Anyona and hon. Prof. Sam Ogeri on 3rd November, 2000 and why did the District Security Committee fail to provide security at the late hon. Enock Magara's funeral?

(b) What was the value of the property stolen and damaged at the home of the late hon. Magara?

(c) What action will the Government take against those involved?

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

(a) Eight suspects have been arrested and charged in the Chief Magistrate's Court in Kisumu in connection with the violence which erupted during the burial of the late hon. Magara's funeral.

(b) There have never been reports of stolen or damaged property.

(c) Action has already been taken as stated in (a) above.

Mr. Muchiri: Mr. Speaker, Sir, could the Minister explain to the House why there were no uniformed police officers in sight on that day, bearing in mind that Cabinet Ministers, hon. Members of Parliament, and over 5,000 members of the public were present?

Maj. Madoka: Mr. Speaker, Sir, we expect funerals to be very peaceful. We felt that since some leaders had been making irresponsible statements, we could antagonise people by sending uniformed officers there. We did send plain- clothes policemen to monitor the situation. We had uniformed policemen stationed at a distance ready to deal with any problems.

Mr. Muchiri: Mr. Speaker, Sir, incidents of Ministers and other Members of Parliament being assaulted have become prevalent in this country. Recently, hon. Ndiicho was attacked outside Parliament, the other day, Minister Nassir was attacked outside Parliament.

Could the Minister tell this House what action he is going to take to ensure that Members of Parliament, including the Speaker, are protected?

(Laughter)

Mr. Speaker: Order, hon. Members! May I inform hon. Muchiri and the entire House that the Chair is perfectly protected and has never been under any threat of any nature!

Maj. Madoka: Mr. Speaker, Sir, I would like to appeal to all leaders to be responsible in their statements and stop issuing threats to others. I also appeal to every citizen of this country to keep peace wherever they are.

Mr. Wamae: Mr. Speaker, Sir, I was at that funeral and security was completely lacking. The Minister knew that there was tension. He should have provided sufficient security to ensure that something like this did not happen. Somebody could have died easily in that funeral! Is the Minister satisfied with the action he took? Will the

Government provide security in future when we have dignitaries attending such occasions?

Maj. Madoka: Mr. Speaker, Sir, we are satisfied that the action we took was perfectly justified.

Mr. Ndicho: Mr. Speaker, Sir, I did not want to refer to the situation where I was attacked outside Parliament several months ago. But some of the people who attacked me were glaringly shown on television and in the newspapers. One of them is Councillor Rono from Kericho. In view of that, why has the Government not arrested Councillor Rono and charged him with attempted murder? If it was not for God who protected me, I would have died a long time ago!

Maj. Madoka: That is a different question.

Mr. Ndicho: Mr. Speaker, Sir, he cannot say that this is a different question. It is about security of not only leaders and Members of Parliament, but Kenyans, in general. I have cited a situation where I was attacked by a person who was "glaringly" seen. Why has the Government not arrested him?

Mr. Speaker: Order! Mr. Ndicho, we were dealing with security at Magara's funeral, about 400 kilometres from Nairobi. That is not a situation the Minister can reasonably anticipate as a supplementary question. Put your own Question and I will approve it. Next Question, Mr. O.K. Mwangi?

NON-PAYMENT OF SALARIES
TO MARAGWA COUNCIL WORKERS

Mr. O.K. Mwangi: Thank you, Mr. Speaker, Sir. I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that Maragwa County Council workers have not been paid salaries for the last eleven (11) months and that they had downed their tools as at 30th October, 2000?

(b) What action has the Minister taken to ensure the payment of salaries and that workers resume their duties?

The Assistant Minister for Local Government (Mr. Kiangoi): Mr. Speaker, Sir, I beg to reply.

(a) Yes, I am aware that Maragwa County Council workers have not been paid salaries for the last eleven (11) months and that they had downed their tools as at 30th October, 2000. But they have since resumed work.

(b) The council and the workers have reached an agreement on how the outstanding salary arrears will be cleared. On that basis, the workers called off the strike and returned to work on 6th November 2000.

Mr. O.K. Mwangi: Mr. Speaker, Sir, this is a very serious Question, in view of the crises that we have in local authorities all over the country. Is the Assistant Minister aware that the council has failed to pay the workers due to gross mismanagement and embezzlement of funds by the Town Clerk who has been using Council finances like his personal property? Is he further aware that the councillors have paid themselves allowances beyond the year 2002? What is the Assistant Minister doing to make sure that the finances of the Council are utilised properly and the workers are paid?

Mr. Kiangoi: I am not aware of the alleged offences by the Town Clerk, but I am aware that, that particular Local Authority has a poor revenue base. They have a capacity of collecting only Kshs28 million annually while their expenditure is about Kshs38 million. We have advised them to find ways of cutting costs, including retrenchment which will allow them enough funds to pay the workers efficiently. Secondly, I am not aware of the allegation against the councillors.

Mr. Maitha: Mr. Speaker, Sir, could the Assistant Minister tell this House how many councils have not paid their workers, for how long and why?

Mr. Kiangoi: Mr. Speaker, Sir, I only get informed of the councils which have not paid their workers when that is brought to my attention. So far, this is the one that has been brought to my attention.

Mr. Kariuki: Thank you very much, Mr. Speaker, Sir. In view of the fact that there are very many urban and town councils that are unable to make their ends meet, could the Assistant Minister consider phasing out some of them and leave only the viable ones that are able to sustain themselves?

Mr. Kiangoi: Mr. Speaker, Sir, there are no urban councils in this country. Secondly, councils are created because residents petition the Minister, who forms an inquiry team, which I am chairman of and after that, they are created. But if any Member is of the view that a particular council is not required by the residents, they can also petition the Minister who will constitute the commission again and the necessary action will be taken.

Mr. Ndilinge: Thank you, Mr. Speaker, Sir. Is the Assistant Minister aware that the reason why he is giving unsatisfactory answers to this House is because the officers who give him the facts in relation to the Questions are the same officers who mismanage council funds?

Mr. Kiangoi: Mr. Speaker, Sir, I look at the answers that I get very critically and if there is an unsatisfactory answer, I always ask for more information. It is not true that I will always be misled.

Mr. Ndilinge: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead the

House when councillors and workers of Makueni County Council have not been paid salary arrears for the last eight months?

Mr. Speaker: Order! Order, Mr. Ndilinge! You are hijacking this Question!

Eng. Toro: Thank you, Mr. Speaker, Sir. The Assistant Minister has said that the county council has a poor revenue base of Kshs28 million, but that is not true. The reason why we have a poor revenue base is because the Clerk to the Council is the most corrupt Clerk in all the county councils. He was chased from Kiambu County Council. He was rejected in Ruiru and Nyeri and then found his way to Maragwa. The name of this Town Clerk is P.M.G. Kamau. He was even removed from the payroll of the Ministry of Local Government. This is why embezzlement of council revenue is going on. Unless that person is removed, the county council will never have any revenue. What is the Assistant Minister going to do to remove this Clerk from the council so that it can survive?

Mr. Kiangoi: Mr. Speaker, Sir, I am not aware that the Clerk is corrupt. But if the hon. Member has evidence, he can pass it on to the Kenya Anti-Corruption Authority (KACA).

Eng. Toro: On a point of order, Mr. Speaker, Sir. Is it in order for the Minister to say that the Clerk is not corrupt when he was removed from Kiambu County Council for the same reasons?

Mr. Speaker: Order! Order! I am being a little tolerant here, giving the latitude to Members to raise queries on behalf of their constituencies. But corruption is a criminal offence and only a court of competent jurisdiction can make a finding of fact that a person is indeed guilty of corruption. It is really assuming too much for Members to take that as a fact.

Mr. O.K. Mwangi: Thank you, Mr. Speaker, Sir. Can the Assistant Minister confirm to this House that the reason why the Maragwa County Council revenue base is poor is because of the protection accorded to the Clerk to the Council by the Minister and by the officer in charge of finances at the Ministry Headquarters? It is an open secret that the Clerk to the Council is the chairman of a fund-raising committee for the officer in the headquarters in charge of finance. That officer has directed the chairman of that committee to collect funds from 72 county councils in this country. There is documentary evidence to that effect. That is why this Clerk cannot be touched by the Headquarters. The Chairman is always in the company of the Minister for Local Government and, therefore, they will embezzle Council funds at will. What is the Assistant Minister doing to rectify the financial situation of this Council? Will he allow the Clerk and the chairman to continue embezzling the funds?

Mr. Kiangoi: Mr. Speaker, Sir, particulars on the allegation regarding the said Ministry official are lacking. I am sure, however, that we do not have a standing committee for collection of funds through fund raising or in whatever other way.

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

Mr. Speaker: Order! Hon. Members, could you let the Assistant Minister finish his explanation?

Mr. Kiangoi: Thank you, Mr. Speaker, Sir. Regarding the Minister, I would like to say that he does not protect any officer in any local authority in the course of executing their duties.

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. You said that it is only a court of competent jurisdiction that can determine whether one is corrupt or not. But the person being referred to was the Clerk to Kiambu County Council. He was involved in so many corrupt deals that the Government had to sack him. He resurfaced only recently and was posted to Maragwa County Council, which the hon. Member is now talking about. Mr. Ng'eno made him the chairman of the committee for his children's education Harambees.

Mr. Speaker: Order! Order, Mr. Ndicho!

Mr. Ndicho: This is a very serious matter, Mr. Speaker, Sir.

Mr. Speaker: Order! It is even worse when you breach the Standing Orders with impunity. You see, I stated the constitutional position. That is the provision contained in the Constitution of the Republic of Kenya as it stands now. So, there is nothing you can do about it. If you want anybody to be adjudged guilty by you, for example, amend the Constitution to say that once a Member from the Floor of this House says that so-and-so is guilty of corruption, he is so found guilty. But, for the time being, the law says that you should not find anybody guilty of any offence; go to court and prove your case. The case may very well be what you said, but give Mr. Kihara the last chance.

Mr. O.K. Mwangi: Mr. Speaker, Sir, if left in the situation it is now, this council will collapse. The Assistant Minister should confirm if he cannot exercise control, so that revenue collected by the county council can be used for the purposes it is intended, he can as well declare that council bankrupt. Otherwise, could he promise this House that he will act and investigate the council's financial position? That council has embezzled its funds and grabbed every plot available, so that it cannot meet its financial requirements. Could he tell us the actions he intends to take to strengthen the Council's revenue collection?

Mr. Kiangoi: Mr. Speaker, Sir, as I said earlier, we have advised the council to retrench its staff, so that the council can have a lighter burden to shoulder. The issue of the Minister declaring the council bankrupt, with due respect, that can only be done by a court of law.

Mr. P.K. Mwangi: On a point of order, Mr. Speaker, Sir. The Assistant Minister said that they have advised

the council to retrench its staff when those people have not been paid for 11 months. Could they be paid for the 11 months they have served before they are retrenched? I am the Member of Parliament for that area. As such, I have interest in what happens there. What we are stating here is something you should listen to, because even a stranger can see it. We are telling you that the Clerk to Maragwa County Council is corrupt. Only last week, he returned to the council the Kshs100,000 which he had collected fraudulently after selling a council plot.

Mr. Speaker: Very well!

(Applause)

Order! Order! Hon. Members, I allowed the hon. Member to say his piece of mind although he did so in a totally out-of-order fashion. He was talking as if he was asking a supplementary question. Since you have heard him, I will not allow you to assist him in breaching the Standing Orders. Mr. Assistant Minister, since you have seen that hon. Members are angry about this issue, I am sure that you need to look more into it to establish whether you have, indeed, got the right information.

Mr. Gitonga: On a point of order, Mr. Speaker, Sir. I have more information regarding the said officer!

Mr. Speaker: It is too late now! We are not going to try anybody in this House. Mr. Gitonga, please, write a confidential letter to the Minister and give him all the facts you have about this matter; it will help him!

NOTICE OF MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

CONSUMPTION OF KILLER *KUMI KUMI* DRINK

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. I stand to revisit a matter I raised here yesterday; you requested me to remind you about it today.

Mr. Speaker: Very well, but do you still have the support? Circumstances could have changed between yesterday and now.

Dr. Kituyi: Yes, I have it, Mr. Speaker, Sir.

(Several hon. Members stood up in their places)

Mr. Speaker: Could you count the standing hon. Members to see whether they are not less than 15?

Hon. Members: But we are more than 15!

Mr. Speaker: Order! Order, hon. Members! Since this is only a question of renewal, it does not need my making a finding of fact. I did that yesterday, and I was satisfied. Since the hon. Member still has the requisite support, I will allocate time for the matter today at 5.30 p.m.; it will be discussed for one hour. So, Dr. Kituyi, you will be called upon to move your Motion at 5.30 p.m. I think the House does remember what it is that the hon. Member is making the application for. It is the issue of the killer illicit liquor known as "*kumi kumi*". So, hon. Members, you must understand this, so that you do not ask: "What is it that the Speaker is allowing to be discussed at 5.30 p.m.?"

POINT OF ORDER

CONTROL OF EA BREWERIES LTD.

BY GUINNESS PLC

Mr. Wamae: On a point of order, Mr. Speaker, Sir. I rise again to ask the Minister for Finance, as I did 10 days ago, to make a Ministerial Statement regarding Guinness PLC's taking over control of East African Breweries Limited. We would like to know whether the Ministry has allowed Guinness PLC to take control of this local company and thus create a monopoly, and under what conditions this has been allowed to take place.

Mr. Speaker: Is the Minister for Finance here? I cannot see him.

Mr. Wamae: Mr. Speaker, Sir, the Minister for Finance is not here. He and his Assistant Ministers have absented themselves from the House.

Mr. Speaker: Very well; there is very little I can do about this. Maj. Madoka, you had a Ministerial Statement to make yesterday. Are you prepared to make it now?

The Minister of State, Office of the President (Maj. Madoka): Yes, I am, Mr. Speaker, Sir.

Mr. Speaker: Proceed!

MINISTERIAL STATEMENT

HARASSMENT OF HON. KIRWA
BY GOVERNMENT SECURITY AGENTS

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I wish to make a Ministerial Statement on the allegation of harassment by hon. Kirwa during his endeavour to meet his constituents.

The hon. Member gave a chronology of events to justify his allegations of frustrations by Government security agents. In this connection, may I begin by reiterating the Government's position, that, public rallies by Members of Parliament, or any other persons, should be conducted in accordance with the provisions of the law. The police have no reason whatsoever to interfere with a properly convened meeting. Nevertheless, the police have a duty to ensure that law and order prevail. This is a duty that Members of Parliament have often challenged the Government in general, and the police in particular, to perform. It is worth noting that every time lawlessness is reported in any public gathering, Members of Parliament are in the forefront in asking, and rightly so, where the police were at that time.

Mr. Speaker, Sir, hon. Kirwa has a right to meet his constituents, or any other group of people, as many times as he wishes, as long as he gives notice of his intended meeting to the police as required by law. The police, on the other hand, have a responsibility to ensure that these meetings are peaceful. In so doing, they may be forced to call off meetings in the interest of peace and tranquillity. These are facts that hon. Kirwa should be able to appreciate. Whereas there is no evidence that the police and the Provincial Administration are frustrating hon. Kirwa in his endeavours to meet his constituents, it may appear that some individual groups may be interfering with his meetings.

Mr. Speaker: By the way, I just want to ask the hon. Member to seek clarification from the Minister. It is neither time for debate, nor Question Time.

Mr. Kirwa: Mr. Speaker, Sir, there are a number of anomalies arising from the Minister's Statement, and I think it is better, for the sake of record, for them to be cleared. One, there is no single meeting that I have convened illegally. According to the Inter-Party Parliamentary Group rules, all Harambee meetings are among the excluded meetings. Two, it is not the responsibility of an hon. Member to tell the police when he or she is going to be in his or her house. Riot police came to my house when I was meeting my constituents. Three, the police came to three of those meetings and dispersed the people and there was no single individual opposed to us convening a meeting and organising a Harambee. The tear gas that was thrown at us was totally unprovoked and so many live ammunitions were shot in the air and we managed to collect a sample of them. The Chair could imagine a situation where a police officer comes to the Chamber and throws seven tear gas canisters at the Chair and shoots more than 20 live ammunitions in the air, when you are conducting your own business in this particular House.

Finally, I am making these allegations not because I lack support on the ground, but I have been restraining my supporters from overrunning the police. As I am talking to you, the District Commissioner has telephoned seven of the guests that I have invited to Kipkeikei Secondary School for a fundraising asking them not to come because of security threat. I am saying that because the police and the Kenya Police Reservists have been used and, incidentally, on Wednesday, before that Friday, the police shot at our car. Some of the police reservists were in company of the so-called "goodwill delegation" to the President and they were given those specific instructions to ensure that none of my meetings takes off. I am saying that because if I died on Friday, I would not be here to tell the story. So, I would rather the Minister takes this issue very seriously because it is a matter of life and death and the Chair should not protect the Minister. I request the Chair to ensure that the Minister does give a satisfactory answer to the House.

Mr. Speaker: Order, Mr. Kirwa! Why do you bring your woes unto the Chair? How have I done that?

Mr. Kirwa: Mr. Speaker, Sir, the laws that we passed in this House as Acts of Parliament are not supposed to be flouted by the police. The Minister comes to this House and gives a misleading answer and he expects us to say "yes" to that!

An hon. Member: It is a matter of life and death!

(Applause)

Mr. Speaker: Order, hon. Members! Mr. Minister, would you like to respond? I would like hon. Members to keep the Chair out of all that.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, it is the responsibility of the Government to protect every citizen of this country.

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

Mr. Speaker: Order! The last one from Dr. Kituyi. It is neither Question Time nor debate time.

Dr. Kituyi: Mr. Speaker, Sir, having been at Kaplamai Health Centre, and seen a situation where police officers using a DO's vehicle tore the canvas to be used for a Harambee meeting, and the police came in the morning

chasing away people from the meeting, I would like to inform the House that police officers in uniform met me on the way and told me that there was no security guarantee at Kaplamai Health Centre. When I come here and listen to the Minister--- Many times, I look at this Minister and I think that he is a very reasonable man; he thinks like President Moi. Maj. Madoka, how can you say that with a straight face; that the police are doing their job, when they go to a Harambee meeting and shoot to disperse a meeting when it is their money which is being brought? That is why I said that you think like President Moi.

Mr. Speaker: Mr. Minister, would you like to respond to that?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I am maintaining a straight face and I am not answering that.

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

Mr. Speaker: Order! I will give the very last chance to Mr. Kirwa.

Mr. Kirwa: Mr. Speaker, Sir, could the Minister guarantee that the functions that I am going to hold in my Constituency - and all of them are according to the laws - are not going to be interfered with by the police and the Provincial Administration? I would rather say that, if they are capable of organising the boys, they should organise them, but not the police. Can he guarantee that the police are not going to be used to fight my constituents?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will give the undertaking that the police will carry out their responsibilities and the hon. Members, if they are holding any public rally, need to notify the police as required by the IPPG rules.

Hon. Members: No! No!

Mr. Speaker: Order, all of you! You see, it is even more serious when you cannot allow the Chair to do its own job!

Mr. Kirwa: Mr. Speaker, Sir, I am taking this issue very seriously and I hope the Minister is going to be serious this time. I am specific about the Harambee meeting that I will hold on Friday because the DC has telephoned seven of my guests not to come on security grounds I know they are planning to bring in police officers. Let me inform this House, probably, for the last time: "Over my dead body shall I see my constituents being raped by the police officers." The Minister should realise that I will hold him responsible should anything happen to me or my constituents and they know that. There is one person who has been perpetrating that - that is the President. Why is the Minister protecting that? Can he specifically assure this House that there is going to be no chaos perpetrated by the police on Friday at Kipkeiki Secondary School?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, many times we in Nairobi would not know the actual situation on the ground and it is the officers on the ground who know---

Hon. Members: No! No!

Mr. Speaker: Order, hon. Members! Some of you think that this is a lot of fun; this is not fun. Mr. Kirwa is raising very serious issues and I do not like somebody downplaying it. This may be the last time I am talking about this issue, and hon. Members must give that the seriousness it deserves. It is not a competition as to who makes the greatest allegations. I would like the Minister, at least, to assure Mr. Kirwa of his security.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I have said it is the Government's responsibility to protect every citizen. Hon. Kirwa is entitled to that protection which we, as a Government, guarantee.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir. The Minister in charge of Internal Security and Provincial Administration confirmed last week that he would give a statement today about a similar incident that happened in my constituency a week ago.

Mr. Speaker, Sir, I have got the identity card of the person who was beaten by the police in an election of a coffee co-operative society? He had paid these people---

Mr. Speaker: Order! Mr. Minister, do you have a statement? Did you promise him a statement? I was not here.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I cannot quite remember whether I was here or whether any of my assistants took that information. I cannot remember him requesting for a statement from me. I will certainly look at the HANSARD and give an appropriate statement.

Mr. Angwenyi: Mr. Speaker, Sir, he is the man who said---

Mr. Speaker: Order! Mr. Angwenyi, if you want the protection of this House, give it the dignity it deserves.

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

Mr. Speaker: Overruled! If you cannot let the House continue, we will make sure that we continue without you!

Next Order!

*First Readings*THE KENYA NATIONAL COMMISSION
ON HUMAN RIGHTS BILL

*(Order for First Reading read
- Read the First Time - Ordered to
be read the Second Time tomorrow)*

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order 101A, the Kenya National Commission on Human Rights Bill be referred to the Departmental Committee on Administration of Justice and Legal Affairs.

THE CONSTITUTION OF KENYA
(AMENDMENT) BILL

*(Order for First Reading read
- Read the First Time - Ordered to be
read the Second Time tomorrow)*

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order 101A, the Constitution of Kenya (Amendment) Bill be referred to the Departmental Committee on Administration of Justice and Legal Affairs.

Mr. Oloo-Aringo: On a point of order, Mr. Speaker, Sir. Is the Attorney-General in order to move that a Constitutional Bill be referred to a Departmental Committee when it is clear that it is exempted from being referred to a Departmental Committee?

Mr. Speaker: I think you are right. Mr. Attorney-General, what do you have to say?

The Attorney-General (Mr. Wako): I stand corrected.

Mr. Speaker: So, the record will stand corrected as well.

THE CRIMINAL LAW (AMENDMENT) BILL

*(Order for First Reading read
- Read the First Time - Ordered to be read
the Second Time tomorrow)*

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I beg to move that in accordance with Standing Order 101A, the Criminal Law (Amendment) Bill be referred to the Departmental Committee on Administration of Justice and Legal Affairs.

THE INDUSTRIAL PROPERTY BILL

*(Order for First Reading read
- Read the First time - Ordered to be
read the Second Time tomorrow)*

Mr. Michuki: Mr. Speaker, Sir, I beg to move that in accordance with Standing Order 101A, the Industrial Property Bill be referred to the Departmental Committee on finance, Planning and Trade.

Second Reading

THE PARLIAMENTARY SERVICE BILL

(The Attorney-General on 15.11.2000)

(Resumption of debate interrupted on 16.11.2000)

Mr. Speaker: Is hon. Raila not here? He is taken to have completed his speech. I now call upon the Mover to respond.

Mr. Mwenje: Mr. Speaker, Sir--

Mr. Speaker: Order! Mr. Mwenje, when you stand up in a disorderly fashion, I will not "see" you. You had better stand up quietly and in a dignified and honourable fashion, then I will "see" you. Now I can "see" Mr. Mwenje!

Mr. Mwenje: Thank you, Mr. Speaker, Sir. I am glad that you can now "see" me.

As regards the Parliamentary Service Bill, there are a number of issues that make a lot of difference when we consider this Bill to make this Parliament autonomous, authoritative, responsible and respected. Those of us who were in this House before will witness and say that there was one time when KANU was more powerful than Parliament. It is this anomaly that has actually caused Parliamentarians and, indeed, Kenyans to bring a Bill that will enable this House to be powerful and to make binding decisions that will serve Kenyans in the right manner. If you go to the National Archives, you will find a lot of Private Members' Motions which have been passed in this House and they have never been implemented to date. There is no point having a House here which is trying to pass Motions that will never be implemented.

Taking a number of cases of that nature, I recall that in 1997, this House passed a Motion calling for settlement of all the squatters in a particular constituency like mine in Embakasi. At the end of the day, the Motion was kept in the archives and in our library and nothing happened. Today, leaders, including the President, had to go to Korogocho to look at ways of settling those people in Korogocho. This should have been done a long time ago. Now it has to depend on a Presidential order for such a thing to be done. Who is powerful in this country? Is this Parliament powerful by any standards? I almost agree that this House is toothless. It has been rendered so useless that whatever we pass here is of no consequence to the people of Kenya. We have to pass the Parliamentary Service Bill so that whatever is passed in this House can now be implemented, respected, honoured and Kenyans will feel that there is a Parliament that is actually working. It is for that reason that we have to give authority to this House and those that we appoint to ensure that those things are implemented.

I agree with hon. Oloo-Aringo when he said that, at one time or another, a Member of Parliament of this House had to go and kneel down before a chairman of the KANU Disciplinary Committee because otherwise he would have been kicked out of the party and thrown out of this House. Some of them had to even cry and plead in all manners to make sure they were not thrown out of this House because at that time of the single party system, KANU as a party was more powerful than this House. I am glad that we are in this era and we can now see this House being empowered so that we can see to it that whatever is passed in this House is actually implemented, done and respected.

When I was in school, I was taught that democracy is the Government of the people, by the people, and for the people. I do not know whether that is the situation today because it appears that democracy, which is supposed to be by the people and for the people is now applied selectively in some areas. This can only be restored by this House. We must now move a step further to make sure that this is restored in this House. The only way to do it is to have a Parliamentary Service Commission which is working and which ensures that all that is passed in this House is actually implemented. You will regret one day when you read in history that several Motions were passed in this House when you were in the Chair, but they did not have any effect to Kenyans. When you retire and go to the library, you will be surprised to read that whatever Motion was passed when you were in the Chair turned out to be useless; it has never been implemented and, therefore, we wasted people's money and time sitting in this House. It is a pathetic situation when you go out there and tell people that you will bring a Motion to this House. In fact, I would like to appeal to my colleagues that we should never bring a Private Member's Motion in this House, but we should always seek leave to bring a Bill to this House, so that it can be effective. When you bring a Private Member's Motion to this House, whether it is passed or not, there is no difference. I hope that, that situation will be rectified.

Mr. Speaker, Sir, sometimes I am surprised that this House has to be funded by the Treasury, and yet it is supposed to be superior than any particular Ministry. Why should this be so? That the same body which authorises the Treasury to spend money is the same body which seeks money from the Treasury. This is a very big anomaly. Those of us who are bankers by profession know that, that is not the right way. This institution is supposed to be the highest in this country and it should draw funds directly from the Consolidated Fund. I sit here and vote on behalf of 600,000 citizens of Embakasi Constituency, which is the largest constituency in this country. So, it must also be the constituency that contributes most money to the Exchequer, more than any other constituency in this country and, yet we have to go and ask the Treasury to give us money. It is high time that this institution was funded directly from the Consolidated Fund, so that we can arrange what we want to do.

Our Departmental Committees cannot operate properly. The other day when the Departmental Committee on Defence and Foreign Relations, wanted to visit some places, we found that the amount of money in the account of this

Committee was not enough to enable us visit all the places we wanted to visit. Where else would you go to ask for that money, if Parliament cannot have money to operate on? Parliament should be given the first priority. That is why it should draw money directly from the Consolidated Fund so that we can operate effectively, otherwise, we will continue to stay here and complain that we have no money. If you cannot operate in your house, how do you expect even the children and the wife to operate? Who else will have the money, if you say that you do not have it? These anomalies need to be looked into. I would like to say that it has taken too long to look into this matter to ensure that these "things" are put in place.

Today, at Korogocho, the President said that the IPPG is the one that took away some powers from the chiefs, and that is why the illicit brew is being taken. I did not have the opportunity to reply to him, and I had no quarrel with that particular statement. But the IPPG was very important. The IPPG achieved a lot of things for this country, particularly just before elections.

Mr. Speaker: Order! What has that got to do with the Parliamentary Service Commission?

Mr. Mwenje: Mr. Speaker, Sir, the IPPG was an organ of this House which actually went a step further, except that the recommendation which was also adopted by this House, for example, the question of giving equal airtime in the public mouthpiece - the KBC and others - was never implemented when it came to the actual elections. The recommendation that was made by hon. Members of this House, that they could hold meetings without applying for a licence, has never been implemented. You can hear hon. Kirwa complaining about the police for disrupting his meetings. Then what is the purpose of passing laws here which are never implemented? Why did we have to do all this? Why do we have to go through all this pain? It means that even the Committees which we are forming here are useless. If whatever they recommend will never be respected, then this House will continue being toothless. That is why we need the Parliamentary Service Commission. Once this Bill is passed, we hope that the Government will honour and know that it is formed from this House, and it is not *vice versa*. How do we start by thinking that the Government is superior to Parliament? Is it just because they do not want this House to be superior, or is it because it consists of the Opposition? Is it because there are some dissidents in KANU? This House must be respected. There is no point for me to continue campaigning to come to this House only to be useless. If I knew that, I would never have campaigned to be elected by my people to come to this House. It is much easier to tell them that even the House, they are electing me to, will not help them because we have some "sharks" who do not want to see what is passed in Parliament go through. There are some hon. Members of Parliament who have sworn that this House will not be powerful or useful to this country. I would like to say that members of the public rely and believe in us; that what we tell them is the true position, although sometimes it is not. I would like to say that even a chief is more powerful than an hon. Member of this House. If you walk around, you will see that a DC, DO or a police officer is more powerful than an hon. Member of this House. When I tell members of the public that this is the law and then somebody else stands up and says that this is not the situation, who is who?

Mr. Speaker, Sir, one day we went to Narok and I know somebody who was trying to tell the residents of the district what a certain law was all about because they did not know. When an hon. Member of Parliament tries to tell his people the true position, a DC comes and refutes those facts. These anomalies have got to be rectified. There are 200 elected Members in this country. The moment we fail to adhere to our rules or the moment we lose sight of what we are supposed to do here, just because the Executive thinks that it is more powerful than Parliament, then the situation in this country can be chaotic.

That is why hon. Kirwa continues to complain. The rules passed by this House continue to be broken by the Executive. It is time we showed the Executive that it has got to respect this House. Otherwise, it should keep off this House completely. Members of the Executive are part and parcel of this House. They did not become Ministers before they were elected to this House. Why do they think that being Ministers is more important than being Members of Parliament? Their basic grassroot loyalty should be to this House, and not to their ministerial duties. Unfortunately, the situation is the other way round. Ministers think that it is more important to be a Minister than to be a Member of Parliament. First of all, they have to be a Members of this House. It is time they told the other officers under them to respect this House. That is the only way we can move forward as a country. Therefore, I wish to appeal that all the resolutions that were agreed upon during the IPPG and endorsed by this House, be respected while we await to complete the whole process of the constitutional review. We have got to respect what was achieved by that Committee. I have a lot of respect for the Committee. But, unfortunately, the resolutions are not respected.

Mr. Speaker, Sir, sometimes I wonder why things become so difficult. I must again refer to the Executive. The other day, we visited Tanzania as members of the Defence and Foreign Relations Committee and we had lunch with the President of Tanzania. We queued to be served food! We all enjoyed sharing the same food---

Mr. Speaker: Mr. Mwenje, what clause of the Bill deals with that?

Mr. Mwenje: Mr. Speaker, Sir, I will show you when I get a copy of the Bill!

Mr. Speaker: Order! I am the one in charge by the way! Let us use the rule of relevance. What clause of the Bill is related to having lunch in Arusha?

Mr. Mwenje: I am talking about the implementation. I am coming back to the Bill. If it was not for your intervention, I would have come to that!

What I am saying, in general terms, is that this Bill, when passed, will seek to empower, regularise and make sure that this House works for the benefit of our people. That is why I am saying that some hindrance came from the Executive. I am trying to give what is called an olive branch to the Executive, including the President---

Mr. Speaker: Order, hon. Members! In fact, as the Chairman of the Commission, and I think as Members of Parliament, we are interested to see the Bill itself. Please, help the House to improve on what is already brought here. Look at the clauses. Tell us about the provisions there. Tell us what you like and what you hate. It helps us. I am encouraging hon. Members to address only the Bill. It helps because first, the Members will understand the Bill themselves. Therefore, they will understand the operations of their own Parliamentary Service Commission. Secondly, the hon. Members who helped in drafting the Bill can be told what the shortcomings are, and how the Bill can be improved. So, I am not saying that you should not go a little out of it. But, please, every Member should help us. This is your own Bill. So, read it and tell us which clause needs to be improved, and what you think is a good idea in the Bill. You should tell us what you think is not a very good idea. I encourage hon. Members to address the Bill. It helps us to apply the Bill. Proceed, hon. Mwenje!

Mr. Mwenje: Mr. Speaker, Sir, I will be specific when we come to the Committee Stage. What I am saying now, and that has been the practice in this House for the many years I have been here, is that you must explain here and there. Then specifically, discuss the Bill at the Committee Stage. I am prepared for that.

Meanwhile, what I am saying - and I agree with our sentiments - is that we should help to rectify the areas that should improve the Bill for the betterment of our people. That is why I am saying that there is no point in having a Committee which, when it recommends a few things, they are never implemented. The Commission, which will be chaired by the Speaker, must put a lot of things, which are completely out of order, in order. We do not want to expose all the things that we believe are out of order here. We all know them. Some of them occur in the day-to-day operations. Some of them affect our own Catering Section. We believe the Bill will also incorporate the question of informing the public on what we do here. But while we wait to come to that, we must also compare our Parliament with what we see when we travel outside the country. That is why I was saying that, when I visited Tanzania, and saw that we were able to interact with the Head of State of that country, I imagined that, if that was so here, it would be easy to pass over a few issues without bringing Questions to this House. It is for that reason we are saying that, instead of doing that, it is easier to empower this House to operate properly and effectively. Members will feel that they now own their House. They will have that sense of belonging to this House. They can bring their own issues and issues of their constituents.

Mr. Speaker, Sir, we face a lot of problems when we go to campaign. I am glad you know it because at one time, you used to conduct campaigns. We promise heaven to our people, when we cannot even get the earth itself. When you come to this House, you find impossible things. You find that it is not the way you told your people. That does not apply to me only. It applies to hon. Ndambuki, hon. Kalweo and even Dr. Anangwe! If we were honest, we would tell you that sometimes; that is why one Member said that he will only appear here technically! Sometimes, it makes sense because even when you sit here, and you are not making anything for your people, you are not helping them. The only organ of this House that will make things work is the Parliamentary Service Commission. The Commission should meet more often. It should not just wait until we have a crisis. Some Committees here only meet when there is a crisis. But it is important that the schedule of our Committees is known. Sometimes, the attendance itself makes a lot of difference. You go to many Committees and find that there is no quorum. We must also appeal to those who are Members of the Commission to attend. There is no point in holding Committee meetings if there will be no quorum. Those Committees will not be effective. What I feel bad about this House, and I am talking from the bottom of my heart, is that, we are in the House with all the hope. But at the end of the day, you come out hopeless. That is why more than half of Members of this House never come back! That is the truth. Even in the current House, I can predict that three quarters of the Members will not come back, unless we change and have an effective Parliamentary Service Commission. They will hardly come back. What will they say they were doing, when they achieved nothing? What will they say they were doing when, every Wednesday, we discuss two Motions? At the end of the day, they are kept in the National Archives and libraries and left there. Nothing is done. The Ministries which are supposed to advise the Motions that are passed by the House do not do it. They only do it when it is in their favour or when they want.

For example, I know that the Ministry of Local Government, when we talked and increased the councillors allowances, that was implemented because some people really wanted that. But when we talk of other Motions, they are never effected. The chapter ends in this House. Who is supposed to advise the Ministries that they are supposed to implement the Motions? I do not know up to now! I do not know whether it is the Attorney-General or this House! There is that big anomaly where, when a Motion is passed by this House, there is no particular Ministry or person who follows up to see whether it is implemented or not. I stand to be corrected either by the Chair or the Leader of

Government Business. Who is supposed to follow up and make sure that the Motions are implemented? That is never done.

Mr. Speaker, Sir, that is why I am saying that there is no point for us to bring Motions to this House. I would like to appeal to all Members of this House to seek leave so that on Wednesdays we will be bringing Bills to this House because the Government will only understand that language of Bills, like the one we have here today. But when we come to all other issues, we waste a lot of our own time and public money, which, otherwise, could be used to do something else.

Mr. Speaker, Sir, when you become the Chairman of the Parliamentary Service Commission and when this Commission becomes effective, I hope that---

Mr. Speaker: Order! By the way, Mr. Mwenje, the Parliamentary Service Commission is already in place and it meets regularly, and I am already the Chairman!

Mr. Mwenje: Mr. Speaker, Sir, I am aware that you are the Chairman of the Parliamentary Service Commission, but we are being unfair to this Commission because as far as I am concerned---

The Attorney-General (Mr. Wako): On a point of information, Mr. Speaker, Sir. As the Chair has rightly said, the Commission is in place, it meets regularly and the Speaker is already the Chairman. I want to add that he is an Executive Chairman.

Mr. Mwenje: Mr. Speaker, Sir, executive chairman or not, we have not felt this Commission yet. We have not felt it and there is no rectification in this Parliament and you know the areas I am talking about. I do not want to mention the areas because everybody knows them.

Mr. Ngure: On a point of order, Mr. Speaker, Sir. As much as I would not like to interrupt my friend, hon. Mwenje, he knows very well that his party leader is a Commissioner in the Parliamentary Service Commission and if he says that his party leader is ineffective, let him state that here!

Mr. Mwenje: Mr. Speaker, Sir, I do not want to be pushed around by hon. Ngure just because we are friends. No, no! I never referred to my party leader as being ineffective! I said here that, if anybody is inefficient, no matter who he is, I am saying that this Commission is not---

Mr. Speaker: Order! Order, Mr. Mwenje! Address the Chair!

Mr. Mwenje: Sorry, Mr. Speaker, Sir. I have been provoked by hon. Ngure. All I am saying is that, the Parliamentary Service Commission is in place. I know that it is in place and I know that it has offices across Harambee Avenue, but it has not been felt! It needs to be felt because we can only feel it when it starts rectifying a number of things in this House. It is this same Commission which should follow up certain issues. Why is it that when the House passes Motions here, they are not implemented? If it was effective, by now I would have seen a number of Motions implemented. None of the Motions have been implemented! For the short time they have been in office, why is it that this Commission has not played any of its functions?

Mr. Speaker: Order! Order! Mr. Mwenje, I advise you to read the Bill. I very kindly advise you to read the Bill!

Mr. Mwenje: Mr. Speaker, Sir, I have read this Bill and I feel it is important.

Mr. Speaker: Order! Order! It is my duty to point out when you become irrelevant. I advise you kindly to read the Bill so that you know what provisions there are in the Bill so that you can effectively contribute to it. I think you are becoming a bit irrelevant! Nevertheless, your time is up!

Mr. Kibicho: Mr. Speaker, Sir, when the Parliamentary Service Commission is fully operational, one will expect it to look into the welfare of Members and the staff. It should also look at the Budget and work on research undertakings. This Commission, in its appropriate time, should ask for money so that it develops this Parliament as an effective institution in governing this country.

Mr. Speaker, Sir, as we speak here today, you will notice that most of the hon. Members' contributions are not well researched because hon. Members are hard pressed. One comes to Parliament and he goes to his constituency and he has no support staff. We do realise that this country does not have enough money, but at an appropriate time, we would expect that the Parliamentary Service Commission goes beyond its current mandate.

The Parliamentary Service Commission cannot be very helpful as an institution of good governance, until and unless the Constitution of this country is changed. Until this Parliament gets the power to become truly the people's representative, then it cannot achieve the mandate of being an effective institution in good governance.

What I have in mind is that a time will come when the Constitution of Kenya will be changed so that all the Constitutional offices are vetted through this House. When the Constitution of this country will be harmonised with this Act at the appropriate time when amendments are made, then Kenyans will feel that they are governed through proper representation. Mr. Speaker, Sir, even after this Bill is passed, the office of the Controller and Auditor-General will still remain an office in the Executive. Moreover, even after this Bill has been passed, we will still not be able to implement our own Motions. This is because this Act, by itself, does not give us that power. All we are saying is this: This is a starting point; we have to go beyond and develop ourselves so that we can truly be an instrument which will

make sure that this country is properly governed.

Mr. Speaker, Sir, I am very unhappy that the Parliamentary Service Commission Bill came about before the Constitution is changed. This is because Kenyans' expectations will be illusionary. A person who has not read the Bill well and who does not know what the Bill is going to achieve, is expecting the Parliamentary independence, to be absolute with the enactment of this Bill. This is not correct because Parliament is one arm of the Government among the three arms of the Government, the Executive, the Judiciary and the Legislature, which is supposed to be supreme. But in the present constitutional arrangement in this country, whether we pass this Act or not, Parliament shall not be supreme in the sense known by the Commonwealth system of governance. It means, therefore, that constitutional changes in Kenya are of paramount importance, so that when a Kenyan talks of an independent Parliament, he expects that Parliament to perform beyond his own imagination.

Mr. Speaker, Sir, we notice that with this Bill, we may achieve financial independence. We may achieve some degree of control over the staff. Since we have this independence in finance, we will ask the Commission when it sits to consider hiring more staff to support the Parliamentarians.

Mr. Speaker, Sir, it is imperative that Member's offices be completed, so that we can be effective Parliamentarians. I know I am supposed to stop talking after 30 minutes.

With those few words, I support the Bill.

Mr. Kajembe: Thank you, Mr. Speaker, Sir. I rise to support the Bill. This Bill will be very useful towards the independence of this House. It is true that in the past, there was no independence for this Parliament but, with Motions and Bills which were initiated by Members of Parliament, we have reached somewhere. I would liken the period when there was no independence of the House, to the time we achieved internal Independence. I would say internal Independence is there. Time has come now for the Attorney-General to bring Bills which will give total independence to this House. I am saying this because, whatever is being discussed in the House--- There are Motions which have been brought by Members of Parliament. The Attorney General himself should bring a very comprehensive Bill which will give us our total independence.

Mr. Speaker, Sir, when we talk of the independence of this House, some of the Kenyans are not happy. This is because most of them today know that Members of Parliament are getting big allowances and everything is going nicely for them. So, let us not only talk of our independence but let us say that Kenya has achieved her independence. Let us work on modalities to ensure that the economy of this country is in the hands of Kenyans. Poverty is a problem today in this country. Many seminars have been organised to address poverty and up to now, people at the grassroots level do not know how the leadership and the Government will get the poverty problem sorted out.

Mr. Speaker, Sir, the laying off of civil servants is another big problem. If you compare the employed and the unemployed people in this country, you will find that the latter are very many. So, what I am saying is that this country, and when I talk of this country I talk of this House, something must be done to ensure that all sectors of employment in this country be it in the Civil Service or private sector, should be brought to this House and discussed, to make sure whatever salaries these workers are being paid, at least, are substantial.

Mr. Speaker, Sir, for the workers in Nairobi and Mombasa today, you will find the lowest salary is Kshs2,300.

Mr. Speaker: Mr. Kajembe, what clause in the Bill addresses that? You have to be relevant! How do workers in Nairobi and Mombasa come in?

Mr. Kajembe: Mr. Speaker, Sir, I am just giving an example because this Bill is meant to strengthen the institution of Parliament. So, I am contributing and supporting the Bill.

Mr. Speaker: Order! For the benefit of all Members, there is a rule in your Standing Orders that says: "A Member contributing to a Bill or Motion must be relevant". Now, the rationale for the rule of relevance is to force Members to read Bills and to look into the Motions that come before the House, so that they can effectively address the issues that improve on the Bills that come before the House. So, I intend, although I am going to be very generous in allowing Members to digress, but I insist that Members may digress but always having a view on the relevant Bill.

Mr. Kajembe, you may digress a little to Mombasa, occasionally to Kisumu, but all the time, be on the Bill.

Proceed!

Mr. Kajembe: Mr. Speaker, Sir, that was just an example. It is true that we Parliamentarians want to strengthen the institution of Parliament and even the Parliamentary Service Commission. Let us strengthen this institution but we should also go further to strengthen the other areas of the economy in the country. This is what I am saying. It has been a tendency that every time you get a Member of Parliament bringing a Motion the Attorney-General will react to those Motions. So, what I am saying is that rather than discussing bits of Motions to strengthen the institution of Parliament, the Attorney-General should bring a comprehensive Bill to give full independence to this House. This is what I am saying.

Mr. Speaker, Sir, time has now come for this Parliament to achieve its total independence. It is from this that this Parliament will be able to make its own timetable; right from day one, when Members of Parliament have been

elected. Today, you will see that we talk of independence. I take whatever we have achieved in our Parliamentary independence as internal independence. We will get full independence the day Parliament will decide on its own affairs. So, the Eighth Parliament has done a lot and among those things we have achieved is that, there is more independence even for the workers of the House. This is because the Parliamentary Service Commission is going to work out terms and conditions of service of the workers of this Parliament.

Mr. Speaker, Sir, we are very proud now that we are no longer under the Executive. So, that provision under which Parliament was placed under the Executive should be deleted.

With these few remarks, I support the Bill.

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

First of all, I wish to express my sincere appreciation to all those Members who have contributed to this Motion. Indeed, all of them have been very supportive of this Bill. It is no wonder that they have been supportive and this is because, as Members of Parliament, they know that they can only discharge their duties effectively, if we have a National Assembly that is operating efficiently according to the rules that we have. This Bill is there to ensure that, that happens.

Mr. Speaker, Sir, let me just touch on some of the points that were mentioned. Hon. Mwenje mentioned the issue of Motions being passed here, but not being implemented. This very Bill that we are discussing, and which we are likely to pass today at the Second Reading, is really as a result of the Motions that were passed in this National Assembly in 1993 and 1998 unanimously by both sides of the House; that we must have a Parliamentary Service Commission (PSC). Therefore, this Bill is an example of a Motion that has been passed in this National Assembly by both sides of the House. Because of that Motion, we had a Constitutional (Amendment) Bill which was passed in this House and now we have this Bill.

Mr. Speaker, Sir, arising from a Motion passed by both sides of the House, we have seen, on today's Order Paper, the Constitution of Kenya (Amendment) Bill. So, it is not true to say that Motions, particularly those passed unanimously by both sides of the House have been totally ignored by the Government. You may recall that in 1997, when this nation was facing a lot of difficulties, this House rose to the occasion and formed the IPPG. The IPPG members sat together and discussed the problems that were facing the country. They discussed, in particular, the amendments that were to be made to the Constitution and to the Acts of Parliament and agreed on them and then brought to this House a Motion to adopt those recommendations. They also invited the Attorney-General to bring into this House constitutional and legislative amendments to incorporate those recommendations. That happened by way of Statute Law (Miscellaneous Amendments) Bill of 1997. So, it may not be exactly correct to say that Motions passed in this Parliament have been ignored.

Mr. Speaker, Sir, on many occasions, the Government has been ahead of the anticipated Motions in this House. Only today, during the First Reading, we had the Kenya National Commission on Human Rights Bill. If you look at the pending Motions in this House, there is one such Motion by an hon. Member of Parliament, who seeks permission to bring that Bill to the House. Either he knew or little did he know that, in fact, the Government was way ahead of him in that regard and we had already carried out consultation with the stakeholders and NGOs which are operating in the human rights field. Together, we had already drafted that Bill which was approved by the Cabinet and was before this House. So, in that instance, we can see a very good example where the Government is way ahead of some of the Motions that are coming to this House.

Mr. Speaker, Sir, I can even mention another Bill which has already been published. That is the Domestic Violence (Family Protection) Bill, which another hon. Member is seeking permission to bring to this House. Either he knew or little did he know, that in fact the Government, through the Attorney-General, had appointed a task force to look into the laws relating to women. That task force had come up with an extensive draft called the Domestic Violence Family Protection Bill. That Bill has already been published. So, again, in that instance, the Government is way ahead of hon. Members who want to be given leave to introduce a Bill in this House.

Mr. Speaker, Sir, only last week, a Member of Parliament wanted to be given leave to bring a Bill to this House to consolidate all the electoral laws. As we showed in this National Assembly, by the history of the draft Bill and what is happening already, the Government even in that regard was ahead. This is because the Electoral Commission of Kenya had already started consultations with Parliamentary political parties on the issue of consolidating and updating all the election laws in this country. All I want to say is that the Motions passed in this August Assembly, of course, by law, are mere recommendations to the Government. Some of them may involve finances and, therefore, the Government cannot act on them until they are properly budgeted for in the normal financial provisions. But in those situations where we are agreed on the law to be brought, the Government has always brought the Bill to the House. In most cases, the Government has been a step ahead of the hon. Members who want to bring those Bills to the House.

Mr. Speaker, Sir, hon. Kibicho made very valid comments on the Parliamentary Service Commission Bill and, of course, it will depend on the allocation of funds. I think you will agree that only heavyweights and the Minister

for Finance are on that PSC. Therefore, that particular issue will be considered very favourably. In fact, the Bill itself places responsibility on the PSC to bring up its own budget and to say what they want in their budget. That budget comes to the House for approval and only goes to the Minister for Finance for notification. Thereafter, the Minister for Finance must, of course, take into account what has been passed by this House as the budget for the PSC.

Mr. Speaker, Sir, I would like to say that before we come to the stage where the Minister for Finance notes the budget of the PSC, as approved by Parliament, there must be, of course, intensive consultation throughout; between the PSC and the Government. I am glad that, on the Government side, at least, the representation on the PSC is at a high level. This, to me, will focus on the issues of the proper allocation of funding to the activities and efficient operation of this National Assembly.

Mr. Speaker, Sir, hon. Kajembe pleaded with the Attorney-General to bring a comprehensive Bill to this House to ensure total independence of this National Assembly. I want to take on that idea that was mentioned by Messrs. Orengo Kibaki, amongst others. And also the idea which hon. Raila was just beginning to mention, before he was cut short. The Legislature is a constitutional organ and, therefore, its complete independence cannot be achieved through a mere legislation. It has to be a matter for the Constitution itself to provide. Therefore, many comments were made on how to strengthen the institution of the National Assembly. Those many suggestions have to be taken up during the process of constitutional review. Some anomalies that we have under our Constitution and which must be tackled during the process of constitutional review exist because our Constitution is cross-breed between what we call a Parliamentary Constitution like the one which exists in the United Kingdom and one where there is complete separation of powers like the one we have in the United States of America. Hon. Orengo, quoted the theory that there must be a complete separation of power between the Executive, the Legislature and the Judiciary, and that these three organs must cross-check on each other to maintain a balance of power, so that no one organ can have excessive power which will then lead to abuse of power. That is why in America today, you cannot be both a Member of Congress, the Senate or the House of Representatives, and at the same time be a Cabinet Minister. This is because you are elected to be a legislator. That is your job. If you are put under the Judiciary, that is your job. If you are in the Executive, again, that is your job.

That is why, again, it is possible to have fixed terms of five years each with the time for election almost known in advance; that it will fall on such-and-such a day. Even the time for the inauguration of the President is also known in advance; that following the elections, the President will be inaugurated on such a day. The times have been fixed by the Constitution and they cannot be interfered with. There is complete separation of power with all the organ cross-checking on each other. For example, the Congress has to approve some of the appointments made by the Executive. The court has to see whether, in fact, even those Acts of the Congress that have been passed are consistent with the Constitution of the land. If they are inconsistent, even if Parliament has passed those Acts, they will be declared *ultra vires* to the Constitution. So, we have that system on one hand.

On the other hand, we have the parliamentary democracy like in the United Kingdom (UK) where there is no clear delineation, particularly between the Executive and the Legislature. The Executive is supposed to arise out of the Legislature. The President, in our case, must be a Member of Parliament and the Prime Minister in the UK must be a Member of Parliament. There is no clear delineation between the Executive and Parliament. Our Constitution is a combination of these two and that is what has created anomalies and some of the points that were raised by Members in support of this Bill. These anomalies must be gone into today.

Mr. Speaker, Sir, I am glad that we are now speaking on the eve of the Constitution of Kenya Review Commission. Under the Constitution of Kenya Review Commission Act which was enacted in this House, that Commission has a wide mandate and functions to review completely the provisions of our Constitution. I do not have the Act here but one of the factors that they must look into pursuant to that Act is the separation of powers between the Executive, the Legislature and the Judiciary and to see how that can be maintained in the new Kenya and come up with appropriate recommendations on that particular issue. That particular function is one of the very first functions the Constitution of Kenya Review Commission must look into, so as to remove some of the anomalies that we may have under the current Constitution.

Mr. Speaker, Sir, another function of the Commission is to look into the operations of the Legislature and how it can be made more independent, efficient and how it can operate and play out its role in a multiparty democratic system that we have in Kenya. That is another function that the Constitution of Kenya Review Commission has to go into according to the law that was passed here. Another function is to look at the Judiciary with the aim of making it more independent and have more resources at its disposal and to ensure appointments to the Judiciary are good in order to enable the Judiciary to carry out its role properly under the Constitution.

Another issue that they have to look into according to the Act is to look at the Executive and its restructuring and how it can also be made answerable properly before the Legislature and the Judiciary. There are many other functions. They will look into, of course, the role of the Local Government restructuring, the issue of land system, the issue of human rights and how they can be better promoted in our country. They will also look into the economic

policies and so on. The Constitution of Kenya Review Commission Act passed by this National Assembly has given this Commission a very wide mandate. It has told the Commission that it is not for Members to give us ideas on how this is to be achieved but the people of Kenya. The Act states clearly that the Commission will not draft what they think is a modern Constitution for Kenya and then take it to the people to seek their comments. That will not be a people-driven approach. The people will endorse that draft.

Mr. Speaker: Now, you have digressed enough!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I am saying that a lot of the contribution that was made from the Floor by Members was focused on how to make Parliament, as one of the institutions of Government, operate properly under the Constitution. Therefore, you have to touch on the Constitution. Let me repeat that it will be a wrong approach for modern constitutions to be drafted and then to be sent to the people to seek their ideas. The proper approach is to go to the people and educate them on the basics of the Constitution. Let them come up with the ideas. You will be surprised at the expert ideas the people themselves will have, even on the role of Parliament, the Executive and the Judiciary. That is why that Act says that this Commission, as a matter of law, must visit each and every constituency in the country to get people's ideas. Only after they have received the ideas do they reflect them in their recommendations, not their ideas, but the ideas of the people as far as the new Constitution of Kenya is concerned.

Mr. Speaker, Sir, I am very pleased that His Excellency the President appointed Prof. Yash Ghai, who is a Kenyan citizen, who has done us proud internationally. He is one of the top world renowned international experts on constitutional law. Even if you have to name the top five or ten constitutional lawyers in the world, I will be hovering somewhere but Prof. Ghai definitely will be in that particular group. He has been a professor at Oxford University, Warwick University, London University, Harvard University, Yale University, the National University of Australia and Hong Kong University. In fact, he has been a professor at literally all the top universities of the world. He has written many books, articles and journals focused on the issue of the constitution; the very issues that we want Kenyans to speak about. When they are submitting their views to that man, Kenyans will know that they are submitting their views to one of the top constitutional law experts in the world who is not a foreign but a Kenyan.

Time has now come for us in this country to give due recognition to Kenyans who have done well at the international level. In other countries, the nationals of those countries, who have done well at the international level, are given total support in their countries, not just by the Government, but by the people themselves. Sometimes one tends to feel that we have never given the requisite support to internationally-recognised people, but rather tried to chop them down to our level.

Mr. Raila: On a point of information, Mr. Speaker, Sir. Prof. Ghai arrived in the country just yesterday from Papua New Guinea where he was advising the Government of that country on constitutional matters. Recently, he was in Sri Lanka where he was also advising the Government of that country on how to deal with the Tamil Tiger rebels.

The professor has also written a recent book on ethnic conflicts in ten different countries, covering Ethiopia and Spain's Basque problem, as well as on the devolution of constitutional matters in Great Britain's Scotland and Wales. Therefore, I would like to concur with the Attorney-General that Prof. Ghai is an internationally-recognised expert on constitutional matters, and that he is eminently qualified to head this country's constitutional review team.

Mr. Speaker: Both of you should note that, that subject is now closed; it is irrelevant to the Bill being debated!

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, to sum up, and in response to hon. Members' contributions on issues touching on the Constitution, really, we have to support such a person. We have to give him the benefit---

Mr. Speaker: Mr. Attorney-General, I have closed that subject.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, the enactment of the Parliamentary Service Commission (PSC) Bill is a major contributory factor in ensuring that, even before the re-writing of our Constitution, the National Assembly does its job in a very effective manner.

Mr. Speaker, Sir, while contributing to this Bill, several hon. Members touched on the issue of facilities. In fact, come hon. Members said that the National Assembly must have access to information, internet services and new facilities. I know that, under your able and effective chairmanship, the PSC has already embarked on the process of ensuring that the National Assembly does have new facilities. A certain hon. Member said that we also need to have facilities where we can exercise, go to sauna, among other activities. I am aware that the National Assembly's buildings and space across the road will have such facilities.

I would like to take this opportunity to congratulate *Bunge* Football Club for its contribution to some hon. Members good health so that they now come here to contribute to debate effectively, with healthy minds and bodies. With the establishment of a health club, I hope that more hon. Members will utilise the facility. I would like to appeal to the PSC to ensure that, particularly the health facilities, are expanded. As they are now, they cannot adequately cater for the more than 200 hon. Members of this House.

Some hon. Members talked about the need to expand library services, having secretaries and research assistants. If you watch Cable News Network (CNN), you will see the example of a Member of the House of Representatives, or a Senator, in the United States of America (USA), talking with authority on any given subject, as if he is an expert. Such a Member may not be any better than hon. Omamo, or any hon. Member here, in terms of experience and everything else, but he speaks authoritatively, because he has a secretary and research assistants, who brief him well in advance and provide him with the necessary information. So, when he speaks, he does so authoritatively. That is what we would like hon. Members of this House to be; we would not like them to say anything that comes into their minds. We sometimes tend to think that hon. Members just speak, because they have been asked questions and feel that they must answer. We need Members of

Parliament who speak because they have access to information, are experienced and know what they are talking about, so that it can be said: "Members of the Kenyan Parliament speak like people with authority". We should not just talk in a very loose manner, as sometimes happens in this particular august Assembly. For instance, the Chair has, from time to time, reminded hon. Members to stick to the Bill, but they have kept on digressing. With the kind of support being sought, hon. Members will be keeping to the point and making very positive contributions.

Mr. Speaker, Sir, there are many things I would have liked to talk about, but let me stop there and, once again, thank Members of Parliament for having made positive contributions to this debate. Once again, I would like to thank the Members of the PSC, who have worked tirelessly in co-operation with the legal drafters from my Office in having this Bill come into being. I thank the hon. Members who moved the two Motions that brought the PSC into being. I also thank hon. Members of both sides of the House, who ensured that Motions seeking to strengthen the Legislature were passed unanimously. On the issue of strengthening the Legislature, we are all united. By "all united" I mean elected and nominated Members of Parliament as well as the *ex-officio* Members of Parliament. In this regard, I think I am also speaking on your behalf, Mr. Speaker, Sir.

With those few remarks, I beg to move.

(Question put and agreed to)

(The Bill was read a Second Time and Committed to a Committee of the Whole House Tomorrow)

Second Reading

THE PUBLIC SERVICE (CODE OF
CONDUCT AND ETHICS) BILL

The Minister of State, Office of the President (Mr. ole Ntimama): Mr. Speaker, Sir, I beg to move that The Public Service (Code of Conduct and Ethics) Bill be now read the Second Time.

Mr. Speaker, Sir, the objective of this Bill is, in a sense, to create a very efficient, transparent, accountable, non-partisan, neutral and independent Public Service. The very serious objective of this Bill is to build in a group of people who are supposed to work in Government Departments, Ministries, Parliament and in the Cabinet, a culture of honesty, independence and neutrality.

[Mr. Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, indeed, we will create a culture of democracy and mould a public servant who will, definitely, completely be able to protect the values and fundamentals of the Public Service and also protect the rights of wananchi. This public servant will not violate human rights of other people and will be more careful to the needs of the people and not those of himself, herself or his or her family.

Mr. Temporary Deputy Speaker, Sir, we have had a problem in the past - or probably we still have that problem today - where our public servants, and civil servants in particular, have been blamed by members of the public, the leadership of this country and hon. Members of being not qualified enough to serve as the servants of the public. They have been blamed for being corrupt and wanting in their duties. We want to get away from that, and this Bill, when it is enacted into law, we hope, will have completely revolutionised the Public Service as it were and re-orientated it to that of helping the members of public and the Government. You know very well that we have just emerged from a one-party system, and we are now in a plural society. Therefore, the public servant in this case must

necessarily be neutral and independent, not only in his or her work, but also in his or her thinking, when performing duties at home and everywhere, so that we have a Public Service that will, definitely, go to serve the Government of the day and the party that has won, in order not to adulterate our Public Service and for it to be said that it is clean and professional.

It is important to mention here that if we want to have a Public Service that is responsive to the needs of the people and the country, then, they must be a respected group of people. You know that we are now in the process - and we have moved very fast to try to get to that level, and as I said the other day on the Floor of this House, of establishing a leaner, more efficient and well remunerated Civil Service. If we need to have a public service with ethics; that is, those that will apply to an independent and neutral Civil Service, then, we must pay them well, and, their conditions of service must be properly improved. Otherwise, you give a human being a temptation of doing other things like stretching his or her hand too long to pinch and grab, because he or she is hungry, not well paid and housed properly--- That will, indeed, be the responsibility of the Government and other bodies, to try and remunerate the public servants well and giving them very good conditions of service.

It is important to mention here that the Public Service is the backbone of the stability of any Government. As soon as the Public Service becomes shaky, untrustworthy and unreliable, these things will impact negatively on the efficiency of the Government itself. As soon as the public servant is suspected of being corrupt, it will impact totally negatively on the Government that he or she is supposed to serve. That is why the Public Service - and I want to repeat again that it must be independent - must be able to serve the Government of the day, because if the Public Service is firm, definitely, the Government will always be strong. Take an example of the French Revolution which took place in the latter part of 18th Century. The whole country was plunged into total chaos, and it is the Public Service that held the French Republic - or the French people - until the next Government was put into place. If there was no Public Service which was good, reliable, honest, neutral and independent, the whole of the French Republic would have been in chaos and it would have been difficult to pick the pieces. Probably, we would never have been able to pick the pieces ourselves.

So, again, it is an example to emulate and, definitely, the public service is at the core of any government. That is why we must remove the bad and corrupt elements in our Public Service by using this code of ethics to control and discipline those who will not follow what the majority of the people would like to see happening. For example, our Public Service and the Civil Service is modelled with that of the British. You know that Government's keep changing in Great Britain - today it is the Labour Government and tomorrow it will be Conservative Government in power. There was a time when the Government was liberal, but the Public Service always remained solid, independent and impartial, and the next Government coming in always finds a very solid core of people who follow the regulations and, indeed, who are able to run the Government. That is why even during the time when politics changed in Britain, indeed, it was easy to run the Government.

This is why even when politics change, the Civil Service always remains firm. That is what we want this country to be for the next 100 or 200 years. This is why we are now in the process of trying to mould the Constitution that we think will serve this country for many years to come. In the case of the American Government, when a new president is elected there is normally a big wave of people who come in to support the new administration. Those are normally policy-makers who are appointed to head departments in order to amplify the policy of the new president, but the core of the public service remains the same. Although we do not know who will be the next president of the United States of America, definitely their government policy will basically be the same. There will be very little change because that core of the public service is still there, assisted by a myriad of democratic institutions which help to build up the whole government system, as it is.

It is important to say that we approve this Bill and enact it into law. In the history of this country, this Bill and the one on Economic Crimes will be a landmark in the development of this country. If we are really serious, then we hope that this Bill will become an Act of Parliament and the Economic Crimes Bill will assist the nation to mould and create a public service that has a culture of transparency, credibility and any other adjective that you think is right for a good and reliable Civil Service. It would be better for hon. Members to read the Bill properly because it has got lots of implications. It is important that this Bill is debated properly, with open minds and with a view to enacting it into an Act of Parliament which will serve us for many years to come.

The Bill defines a public officer as a servant of each and every public body. A public body is any department, service or undertaking of the Government, the Cabinet, the National Assembly, local authority, corporations, any committees which are supposed to serve the public body and also members of the co-operative society. It covers every little bit of the public sector.

Section III of the Bill establishes the functions of the Public Service and the Code of Conduct Ethics Committee. It establishes the functions of the Committee. As you will see in the Bill, it will be a very important Committee. The chairman will be a judge of the Court of Appeal. The other members are supposed to be men and women of high integrity. The secretary will also be a man who has served in the Public Service and a person of very high integrity. It will be specifically charged with the responsibility of adhering to this Code. For example, it shall

inquire, investigate and report alleged breaches of the provisions of the Public Service Code.

As hon. Members continue to look at the Bill, they will see that in Section 5(2) the Committee is also empowered to delegate any of its functions to any person or authority. This is very clear because if the Committee, for example, wanted to investigate Mr. "X" it can delegate, appoint or contract a group of people who are more versed and qualified to carry on with the investigation.

Part III of the Bill goes to discuss the declaration of income, assets and liabilities. This is the more sensitive part of the Bill. As I said a few minutes ago, all public officers will be required to declare their income, assets and liabilities. It is imperative. Although it is given that it is confidential, failure to submit the declaration of income, assets and liabilities will lead to a breach of the Act. This is a very important one and I think we should all succumb to it.

There is a relief also that, in your first declaration, you will not be required to say where or how the income has been obtained. Maybe, in the second, third and fourth year, if the income starts to shoot up and the graph goes up, then you will have to tell the Committee chaired by the judge of the Court of Appeal where you got the extra income and how. That relief should be able to help hon. Members because the Committee and the form does not require you, in the first place, to say where you got your income from.

Mr. Temporary Deputy Speaker, Sir, I said the initial declaration will not require one to explain how the assets and liabilities were acquired. It is a big relief, and this will encourage you to fill in the forms without any fear. Section 8 of the Bill requires, as I have said, secrecy; that you will be protected. It will only be the Committee and other authorised officers who will be allowed to look and examine your form, but failure to submit the form will be a breach of the Act.

When we go to Part IV of the Bill, which covers Sections 10, 11, 12, 13, 14, 15 and so forth, it talks of prohibited conduct. What is prohibited conduct? This is soliciting or acceptance of gifts and benefits for the discharge of official duty; putting oneself in a position where one's personal interest conflicts with public duty. Political neutrality is the basic and fundamental requirement. We have got people, and that is natural in a country like this, where public servants tend to shift all around to follow a political body or organisation that probably is nearest home, or a political organisation that majority of members have the same cultural and ethnic background. In future, a public servant of this country will have to show and project an image of political neutrality.

The other prohibited conduct is, indeed, misuse of Government property for personal use. This can include vehicles---

Mr. Mbela: On a point of order, Mr. Temporary Deputy Speaker, Sir. Has this Bill been committed to the relevant Departmental Committee or has it been exempted?

The Temporary Deputy Speaker (Mr. Poghiso): Mr. Mbela, are you asking a question?

The Minister of State, Office of the President (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, the urgency of this Bill has prompted us to bring it today. In any case, as far as I know, a Minister is probably not altogether obligated to pass a Bill like this one through the Departmental Committee. I know that hon. Members of the Departmental Committee could raise their points here on the Floor of the House, which they are allowed. I know that there was a little bit of commotion and misunderstanding, but there was no way we were going to delay the presentation of this Bill to Parliament because of the timing---

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. Following the point of order that has been raised by my friend, hon. Mbela, and what the Minister has said, it is not a question of what the Minister thinks is right. It is within our Standing Orders that when a Bill is immediately published, it must be read the First Time and be referred to the relevant Departmental Committee before it is brought here for debate. We are now breaking our rules. Will the Chair allow this?

The Temporary Deputy Speaker (Mr. Poghiso): I would seek guidance here, but let me see if this would satisfy those who have raised the points of order. Standing Order No.101A. (1) says:

"A Bill having been read a First Time shall upon a Motion by the designated Minister stand committed to the relevant Departmental Committee without question put.

(2) Where the designated Minister does not move a Motion of committal under paragraph (1), a Member of the relevant Committee may move that the Bill be so committed, and Mr. Speaker shall put the question thereon forthwith."

The questions you are asking are whether any of those procedures were followed. In this case, neither the Minister nor a Member of the relevant Committee raised the matter. In that case, the Minister was going ahead, because that is exactly what he felt was the procedure.

Mr. Mbela: Mr. Temporary Deputy Speaker, Sir, I am a Member of a Departmental Committee and this Bill has got very serious implications on the future of hon. Members of this House. I think it is irregular to try and rush it before it is properly scrutinised in the relevant Departmental Committee.

Mr. Temporary Deputy Speaker (Mr. Poghiso): Are you moving now? This is now Second Reading. Actually, that should have been done in the First Reading.

Mr. Kajwang: Mr. Temporary Deputy Speaker, Sir, if I could give the House some information, I think

when the Bill was read for the First Time, it was supposed to be sent to our Departmental Committee on Administration of Justice and Legal Affairs, but it was sent to the Departmental Committee on Administration, National Security and Local Authorities to be specific. But we could be borne out by the record in the HANSARD, whether it was referred to the Departmental Committee or not. If it was not referred to the Departmental Committee, then it should.

The Temporary Deputy Speaker (Mr. Poghio): I think Mr. Mbela has raised a very important question and all of you have raised it. The issue is that we do not know whether this Bill went to the Departmental Committee or not. At this juncture, we cannot say that it now goes to the Departmental Committee, when we should have done it. It may have gone to the Departmental Committee. Let us find out whether it went to a particular Departmental Committee. If Mr. Kajwang's Committee did not receive it, then it went to another Departmental Committee. I do not think that we should put the blame on the Minister at all. He is simply presenting it for Second Reading and that is his right. So, let us find out what really happened and we will give you a response.

Mr. Murathe: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the communication from the Chair, on whether what we are doing is procedural, are we not in order to request that the debate in the Second Reading be suspended until that has been established? Secondly, if we must proceed, probably the Minister should tell this House the urgency, deadline or the time frame that requires that this Bill must be rushed through the House.

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

[Mr. Speaker resumed the Chair]

Mr. Speaker: Could I ask you to help the Chair, hon. Murathe? Did anybody make an application to refer the Bill to the Committee?

Mr. Murathe: Mr. Speaker, Sir, according to what has been said, it happened! But it was referred to the wrong Committee!

Mr. Speaker: Which wrong Committee?

Mr. Murathe: The Committee on Administration, National Security and Local Authorities. It should have gone to the Committee on Administration of Justice and Legal Affairs.

Mr. Speaker: Who made the application?

Mr. Kajwang: Mr. Speaker, Sir, we have been meeting the Attorney-General in our Committee of Administration of Justice and Legal Affairs. He has told us many times that the Bill should have come to our Committee. But every time, we have been reminded that it was sent to the Committee on Administration, National Security and Local Authorities. If you look at the Bill which is being moved, the Minister is defined here as the Attorney-General!

Mr. Speaker: Order! I think that is irrelevant, really! If you look at the definition of a Minister in the Standing Orders, it includes the President, the Vice-President and all the other Ministers, including the Attorney-General. That does not matter. That is peripheral. What is important for this purpose is the following:

(a) Was there an application for the Bill to be referred to the relevant Committee? If there was none, and the Bill was not referred at all, it is proper for it to proceed, notwithstanding the fact that, the Committee has not had it.

(b) It must be understood that, if it was referred to a Committee, and the Committee has not made the report within the stipulated time, which is seven days after referral, the Minister is at liberty, and he is right to proceed with the Bill, the Committee's report absence, notwithstanding. I think the rationale is simple. Ministers' Bills cannot be held by the inactivity of the relevant Committee. I understand the procedure is as follows: When a Bill is read the first time, if the Minister so decides, he will say: "May it be referred to the relevant Committee". The order is made in those lines. In the meantime, as we check as to whether or not an application for it to be sent there or, if it has, whether a report has been sent anywhere within seven days since referral, have already lapsed, he will move the Bill. It will not be passed today. In fact, according to my earlier direction, this House will adjourn in another ten minutes. Hopefully, Mr. ole Ntimama will not have finished. We will establish the proper course and communicate to the House. In the meantime, proceed!

Mr. Mbela: On a point of order, Mr. Speaker, Sir. I do not know whether I will be in order to plead with the Chair that this Bill has got very serious implications for not only the Members, but their wives and children. It is extremely vital that it should not be rushed. Our Committee is available---

Mr. Speaker: Order, Mr. Mbela! You see, hon. Members always use the word "rush". All of you have been in possession of the Order Paper for the last two weeks, indicating that this Bill was coming. In fact, for three weeks, this Bill has been on the Order Paper, indicating that it will come to the House. In fact, it was before the House. It was to be taken at any stage. Therefore, if the matter was ever referred to any Committee, Members of that Committee must have been prepared for it. Above all, Members of this House have a duty to prepare for Bills that are likely to

come to this House. There is no excuse that Members have not prepared for the Bill. It is not rushing the Bill. Three weeks are, in my view, a considerable time. In any event, we will not pass this Bill today. In fact, I believe that by the time we adjourn this House, Mr. ole Ntimama will not even have finished moving the Bill. He will still have a lot to say before the Bill is seconded. I do not think the Bill is being rushed. It is properly before the House. If you say this one is being rushed, the next Bill is on anti-corruption. Both of them have been on the Order Paper for the last three weeks, waiting for Members to study them and prepare for the debate. We must proceed. Proceed, Mr. Minister!

Mr. Kajwang: On a point of order, Mr. Speaker, Sir. You are making a ruling on a matter of fact. The fact is whether it was moved to go to a Committee or not, whether a Member of the Committee applied that it should be sent to the Committee or not. Those are matters that can be borne out by the HANSARD.

Mr. Speaker: Order, Mr. Kajwang. I think the only reason in the world why you have a Speaker is to make adjudications and arbitration where there is a dispute. Now, there is a dispute between you and the Minister. It is my duty and responsibility to make those adjudications. I have done that to the best of my own understanding. I have said that in the best interest of the House, the Minister will continue for the next five minutes, and then we will not sit until tomorrow afternoon. By tomorrow afternoon, we will have found out all the true facts. Nobody will be harmed. You will not be harmed. Mr. Ntimama will not be harmed. We will revisit that issue tomorrow. I am not putting the question. In fact, the matter has not even been proposed.

So, proceed, Mr. Ntimama!

Mr. Anyona: On a point of order, Mr. Speaker, Sir. Ever since we started this new process, there has always been confusion. I would like to appeal to the Chair to look at the Standing Orders closely, so that where there may be some ambiguity, you can clarify. I know you have made many rulings on this, but if you look at Standing Order No.101A (1), it says:

"A Bill having been read a First Time shall upon a Motion by the designated Minister stand committed to the relevant Departmental Committee without question put".

Then paragraph (2) gives the same right to a Member. It is not very clear, from what has happened in the past, whether, indeed, a Bill, which has not been exempted, must necessarily be committed to a Committee. If so, the Minister is under mandatory obligation to do so. Sometimes they do not. That is why this confusion has arisen. We may want to have a look at that Standing Order again.

Mr. Speaker: Maybe, I can put two things in the right perspective. I invite you again to read Standing Order No.101A (1) which says:

"A Bill having been read a First Time shall upon a Motion by the designated Minister stand committed to the relevant Departmental Committee without question put".

The simple meaning, in very simple English, is as follows: If the Minister does not make an application for it to be committed, it is not committed. That is why there is provision (2). If the Minister does not make the application, a Member of that Committee can make an application. Then, I will put the question. If it is carried, the Bill goes to the relevant Departmental Committee. If it is lost, it does not. So, that is the simple interpretation.

Now, I understand that the following are the facts:

The Bill was read a First Time on 26th July, 2000. On the same day, the Bill was referred to the relevant Departmental Committee. So, the facts are there. You can now count how many months have since passed between that time and now. Now, having been read a First Time, it was referred on the same day to the Departmental Committee. Those are the facts. The facts are also that, up to now, there is no Report of the Departmental Committee. If you look at the relevant Standing Order, the Committee is ordered to bring a Report back to the House within seven days. Now, seven days from the 26th of July--- I do not know which ones are Saturdays and Sundays, but certainly, seven days cannot be today, from the 26th of July. A long time must have passed So, I think we are on very firm legal grounds.

Proceed, Mr. Ntimama!

The Minister of State, Office of the President (Mr. ole Ntimama): Thank you, Mr Speaker, Sir. When I was the Minister for Transport and Communications, we brought here the Kenya Communications Bill. Even then, the Departmental Committee took two months to submit its report. There was so much urgency in---

Mr. Speaker: Mr. ole Ntimama, I have finished with that issue. Can you address your matter?

The Minister of State, Office of the President (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir, for the adjudication.

I was saying that this Bill will be a landmark in this country and I hope hon. Members will contribute on it, so that we can have an Act of Parliament that will serve this country for many years to come by creating and moulding a Public Service with a culture of independence, neutrality, non-partisan and so forth.

Mr. Speaker, Sir, when I go back to the Bill itself, Section 14 talks about accountability and misuse of Government property. This is an area where our Public Service have been defaulting. They have been misusing public property for their own personal use. If this Bill will control the misuse of public property by certain public servants, then it would have helped and saved this country billions and billions of shillings which can be diverted to many other

uses for the benefit of this country.

Mr. Speaker, Sir, Section 15 talks about confidentiality and misuse of official information. This Bill, along with other Acts, like the Kenya Anti-Corruption Authority Act and the Public Service Code of Regulations will make it possible for public servants to keep secrets of the Public Service. We have that weakness today. A lot of secrets and rumours are floating all around; people are twisting the Government intentions and so forth.

Mr. Speaker, Sir, Section 16(B) and (C) states that:-

"Any conduct prejudicial to the general interest of the State, including the use of the official position to obtain property, land and business premises for such officers or spouse, child, relative or friends--
_."

Mr. Speaker: I think, Mr. ole Ntimama, you will have to stop there now and then you will continue tomorrow.

The Minister of State, Office of the President (Mr. ole Ntimama): Thank you very much, Mr. Speaker, Sir.

Mr. Speaker: Very well. As I promised early this afternoon, I will call on Dr. Kituyi to move a Motion for Adjournment. The rules are basically simple; it will be for one hour. Every Member speaking will have a maximum of ten minutes except Dr. Kituyi who will move the Motion for 15 minutes and the Minister, who will respond on behalf of the Government, will also have 15 minutes.

[Mr. Speaker left the Chair]

*(The Temporary Deputy Speaker
(Mr. Poghiso) took the Chair)*

MOTION FOR THE ADJOURNMENT UNDER STANDING ORDER NO.20

CONSUMPTION OF KILLER *KUMU KUMI* DRINK

Dr. Kituyi: Thank you, Mr. Temporary Deputy Speaker, Sir. I beg to move:-
THAT, this House do now adjourn.

Mr. Temporary Deputy Speaker, Sir, I want to thank you for appreciating the significance of the events of the past one week; and according this House an opportunity to commiserate with the victims and families of the victims, the bereaved families of victims of the *kumi kumi* and also to accord Members of the august House an opportunity to express their concern about this national crisis.

Mr. Temporary Deputy Speaker, Sir, my initial and fundamental concern is very simple; that is, to extend condolences to the victims; the bereaved families of the victims and to accord hon. Members of this House an opportunity to reflect on a national problem. It has been a bit of concern to me and I am sure to, at least, half of the Members of this House. If you look at the number of people who have died or lost their sight because of the consumption of adulterated spirits in the slums around Nairobi, you will find that Kenya has lost more people than Uganda has lost from Ebola. Over the past one week, we have had a crisis of the proportion of the Palestinian Crisis over three weeks called Intifada. But if you look at the attitude we have taken about the matter, you would think that seven people had died through a road accident.

It is worrisome because of a number of reasons. If this crisis had been the lacing of whisky at Muthaiga Club with an illicit poison and seven members of Muthaiga Club had died, we would have been behaving like there was a national crisis. But because the victims of *kumi kumi*, have been the under-class, we are not touched. They are not like us. We have looked the other way; we have made cynical remarks and sometimes, they can make sense. But after that, we have looked the other way. Our only concern and interest has basically been to do Harambee to raise money for the funerals. There are statistics! I will come to that in a moment. But I want to raise a number of fundamental points.

First, before I do that, I wish to congratulate the staff and management of the Kenyatta National Hospital for the brilliant work they have done since this crisis struck. I have had occasion to visit that hospital twice since the problem started. If you go there, apart from the general improvement of tidiness and quality of service that the Kenyatta National Hospital is offering, you will see the level of dedication and commitment shown by the professional staff of that hospital. At one level in that hospital, at the Casualty Ward at the entrance on the Ground Floor, a ward has been set aside because of the limits of capacity in the Intensive Care Unit (ICU) and High Dependence Unit (HDU). A Casualty Ward has been converted into a temporary ICU Ward. Several Kenyans who are unable to breathe on their own are lumped together in five to six beds because the Hospital does not have respirators. Young nurses are standing there with the rhythm of their own lungs breathing on behalf of these semi-conscious and unconscious Kenyans. One sends there doing it for hours until she is about to drop down with exhaustion. she then steps aside and another one stands there. I salute the heroism of those nurses.

Mr. Temporary Deputy Speaker, Sir, I want to also thank the private hospitals around Nairobi which responded to this emergency. The Nairobi Hospital has an ICU facility with a capacity of eight patients. It admitted six patients in its ICU at no cost to the persons being admitted or their relatives.

(Applause)

That is a major contribution and a phenomenon so rare in private businesses in this country, that it is exemplary. I thank the other hospitals which eventually responded, although they took three days before they started responding unlike Nairobi and Kenyatta hospitals. We have known of strange behaviour. We know of persons who were admitted at Kenyatta Hospital. They were admitted and they stayed in for two days. They saw their neighbours die. They were lucky to get up and recover, but they went back to drink *kumi kumi*. One of them boasted during drinking that if it did not kill him in the first round it could not kill him in the second round, but he died that night.

Mr. Temporary Deputy Speaker, Sir, what is it telling us? Is it telling us that Kenyans are irrational or that there is something desperately going wrong at a certain level of our society which we are not relating with? There is no person in this country who will deliberately - unless they are on a suicide mission - go and consume something they know is about to kill them. However, there is a level of desperation in our society which is going beyond the comprehension of the ruling class. These are victims, but what are they victims of? They are victims of many different things. One, the proliferation of poor quality adulterated drinks should be separated from the aspiration to drink affordable alcohol. It is very easy for us to condemn people for drinking cheap alcohol which we call illegal alcohol, when the issue to deal with is access to adulterated alcohol. What we should deal with is how can we make it possible for persons who often are victims of frustration because of being the under class?

As I said this morning, these are persons who are driven under because they lost their land in ethnic clashes or persons who are victims of liberalisation, globalisation, unemployment and under-employment. The conditions under which they struggle to make a livelihood to make sense when they have dropped out of the formal economy, drives them into drinking what they can afford. That is not a crime. The political challenge for us as leaders is: How can we make sure that what they can afford does not directly kill them? That is the big challenge.

Mr. Temporary Deputy Speaker, Sir, I think we abdicate responsibility as leaders when the first thing we try to do is to rush to accuse others. This morning, the President of Kenya visited one of the slums where this happened in Korogocho. I thank him for going there and expressing sympathy to these people, but he repeated something he said late last week. He said it is Parliament which through IPPG took power away from chiefs, which is responsible for people drinking this thing. That was cheap politics. Cheap, first because it is seeking to point accusing fingers without seeking to find solutions and secondly because it is falsifying the law of the land. I do not know but, may be, the relevant people have not informed the President of this country. There is no person who has died from *kumi kumi* which was mixed with *busaa*. People have died of *kumi kumi* which is an imitation of *chang'aa*. IPPG had nothing to do with *chang'aa* Prohibition Act. Somebody must tell the President that Cap 70, the *chang'aa* Prohibition Act is different from the Traditional Liquor Act, Cap 121. Now, what happened with IPPG is that, we said chiefs have no business harassing people drinking *busaa*, *mnazi*, and *njohi muratina*, but that did not say that people may now drink *chang'aa*, particularly adulterated *chang'aa*. It has absolutely nothing to do with that.

Mr. Temporary Deputy Speaker, Sir, what I think we should be looking into the following: Can we find a mechanism through which alcohol at affordable prices can be made available and accessible to the poor consumers in this country? I have suggested that one of the ways forward on that front is not to do what you would like to do. You are not legalising what you drink, but you are understanding the reality of those consumers of cheap alcohol. Many years of pretending to abolish the brewing of *chang'aa* has not led to a society without *chang'aa*. It has just made it possible for uncouth and unethical businessmen to continue lacing low quality *chang'aa* with poisonous substances like methanol because it increases bitterness and you can add water and, therefore, you can get much more money for a limited quantity of *chang'aa*. The challenge for us is: Can we legalise and reduce the centres for the consumption of *chang'aa* where Government inspectors can inspect the quality of alcohol being provided?

Mr. Temporary Deputy Speaker, Sir, the banning of *busaa* clubs has led to a situation where *busaa* is now sold in homesteads. If you saw what happened yesterday in Kangemi when those valiant ladies broke into *busaa* dens, they found rats in the bottom of jerricans containing *busaa*. If that *busaa* was being sold in *busaa* clubs like was being done before with regulation of age, time and quality, there would be no *busaa* with rats at the bottom of jerricans being consumed by Kenyans.

Mr. Temporary Deputy Speaker, Sir, similarly, since you cannot stop Kenyans from drinking *chang'aa*, you have two options. One option is to legalise and register centres where people can have *chang'aa* and then, have Government health inspectors who can regulate the quality, the drinking time and the age of consumers. The alternative is to establish a Government distillery which purchases all *chang'aa* produced by the vendors, controls quality, packages it whether in plastic packages like what is happening with Safaricane or in plastic bottles and avail it on the market at a low price with low Government tax. That way, you are guaranteed that those you cannot stop from

drinking cheap alcohol, do it without dying. You have been arguing that extra-marital sex is wrong, but you know those who cannot restrain their appetites have access to a condom, so that they do not die because of that extra-marital relationship. Why can you not apply the same logic to the consumers of low-priced alcohol?

Mr. Temporary Deputy Speaker, Sir, I think at the core of this problem, is that of economic governance. Too many Kenyans are being left behind. The politics of liberalisation maybe good economics, but is bad politics. Too many of our people are being left in the lurch. You are not going to resolve the problem of dehumanised livelihoods, unless you bring in new hope into the livelihoods of those persons who are in the under class. You are not going to make sense as a ruling class or political class, unless you make sense to the victims of economic liberalisation. Too many young men whose families have sold most of their possessions to get them through an education, are doing six, seven or ten years since finishing school without the prospects of the first job. They drink to drown their frustrations.

You cannot pretend a way our collective historical responsibility to address why do those people have to drink in order to justify their lives and escape suicidal temptations. In the long-term, the challenges of this millennium are going to be: Can we produce a political class that is sufficiently sensitive to the crisis of the under class - the political class that has presided over an economic system that produces that under class, in such a way that hope can return to the people?

I have said it before that the biggest challenge to democracy is an economic challenge. Most people will support a political system if they have the dream that next Christmas they will have better food on their table than the last Christmas. More than 60 per cent of population of this country will confess that for five years in a row, the kind of food on their Christmas table has been declining until some of them do not have a table for Christmas. It is a threat to our attempts to create stability. It is a threat to our pretensions to be relevant to this country. It is a threat to the idea of law and order. We have the challenge. We have the capacity if we can rise above our pettiness, not only to commiserate with victims, to shed crocodile tears, to masquerade as the good ones making the right political statement, but to actually put our heads together and define what kind of governance will be relevant to stop the meaningless loss of lives.

Mr. Temporary Deputy Speaker, Sir, for every life that is recorded as lost through hospitals, there is at least one other which is lost because it has no access to hospitals. Some of those people live in the kind of shacks where they may have died on Tuesday last week. But until the stench overpowers the neighbouring shacks and it is different from the stench in the neighbourhood, their neighbours will not know that they are dead. So, they will never be part of the statistics of how many people this *kumi kumi* brew has killed.

Finally, Mr. Temporary Deputy Speaker, Sir, however, much we protect and celebrate the virtue of making wealth, how does this society justify that the criminals who have been retailing and wholesaling *kumi kumi* brew or the people with tanks have been supplying alcohol laced with methanol are arrested and later freed? They are arrested and freed again because they can bribe their way out and continue being the merchants of death. How can we justify such occurrences in our country? That is the question we have to address.

The Assistant Minister for Education, Science and Technology (Mr. Awori): Thank you, Mr. Temporary Deputy Speaker, Sir, for allowing me to make a few remarks on this very important subject. First of all, I definitely want to thank hon. Dr. Kituyi for bringing this Motion to this august House. It is very sad to see so many of our young and productive people numbering 140 or 150 people have gone. This is not a time to complain; it is now question of looking at the reasons behind it. What has caused it.

Mr. Wamae: On a point of order, Mr. Temporary Deputy Speaker, Sir. I do not want to interrupt my good friend, but this is a very important Motion and many hon. Members would like to speak. Would it be in order for me to propose that we reduce the time for hon. Members to speak, from ten minutes to five minutes?

(Applause)

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, I may speak for less than ten minutes. The way I look at it, there are two things which are mainly responsible for this.

The Temporary Deputy Speaker (Mr. Poghio): Order! Let me begin by saying that the Chair had made a ruling that ten minutes will be for every Member who would wish to speak after the Mover. At that time, everyone was in agreement. I would like to hear what other hon. Members have to say. If it is necessary to do that, hon. Members have to be in agreement.

Mr. N. Nyagah: I beg to second the proposal.

(Question, that the time allocated to each speaker be reduced from ten to five minutes, put and agreed to)

The Assistant Minister for Education, Science and Technology (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, I think I will speak for less than five minutes.

Let us look at the root cause. There are many causes. But to me, I think there are two major ones. One is greed; prevailing in a section of our population and poverty. The greedy people are taking advantage of the fact that there is a great deal of poverty which, indeed, the main speaker stated that it is causing frustration. When people are frustrated, they want to forget their frustration by drinking this kind of brew. I do not think the solution is to legalise killer drinks. We should instead see how we can deal with poverty. This has been banded around a great deal in this august House. We have seen a lot of money being spent on discussing how we can reduce poverty. This is where we can deal with this problem. The amount of money that is being spent on seminars in the name of finding out ways of reducing poverty, should be used properly.

Mr. Temporary Deputy Speaker, Sir, this morning, there was a heated argument about land, and there are various areas where there is still under-utilisation of land. We should find out ways of utilising that land properly in order to produce food and cash crops. This is what we should be concerned with. There are various areas where there is land, but because there is no access to water, that land cannot be properly utilised. Even before Independence, there was talk about how we could utilise the waters of Lake Victoria to make more land productive. Again, only this morning, we were talking of multinationals sneaking into the country and taking control of our companies where wananchi have got shares. We have to look into these issues critically. This morning, there was an hon. Member who talked of empowerment through land. We should look at the issue of land tenure in this country.

Mr. Temporary Deputy Speaker, Sir, if we talk of legalising killer drinks, we are only dealing with the situation right now---

The Temporary Deputy Speaker (Mr. Poghio): Your time is up!

(Question proposed)

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, 60 per cent of those people who died of this illicit brew come from my constituency. I would like to take this opportunity to send my condolences to the bereaved families, and also inform hon. Members that, tomorrow, at 10.00 a.m. we will have a meeting at Mukuru kwa Njenga to talk to the people who live in those slums and explain to them the dangers inherent in taking illicit brews. I would like to invite all of you to come there. Please, come with some little money, so that we can do an impromptu Harambee to assist them in making funeral arrangements of over 70 people who died in this particular village. I hope most of you will come. For those of you who do not know the direction, it is along Mombasa Road, after City Cabanas Restaurant. I would like to support those who have suggested that we legalise local brews. As long as wananchi continue brewing and consuming them secretly, they will continue dying. There a brewery for this stuff situated in a specific place, then we have the distributors, the wholesalers and those who sell directly to the consumers. We do not know at what stage this methanol was added into this brew. We also know that police officers are very keen at tracing *chang'aa* dens. So, who has been supplying this illegal brew, but cannot be arrested? We know who these people are. I do not even mind saying it here, if it does not hurt anybody.

In Umoja Estate, a police vehicle - I would like the Minister of State, Office of the President to hear this - which is used by the OCPD of the area, is the main supplier of this brew in that estate. I even had to tell the Commissioner of Police about this matter today, because that is the truth. They are now looking for who supplies what, and yet it is the area Officer Commanding Police Division (OCPD) who does that..

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

Mr. Mwenje: Sit down! My people are dying, and you just rise on points of order. We have to say that truth, because we are talking about the lives of our people. We are now talking about people who are dead. Some hon. Members here are taking this matter lightly as if we are joking when I will have to burry more than 70 of my voters. I have to say who is doing all this.

I would ask that we allow those who prepare those brews to ensure that they are clean, and that public health technicians inspect those breweries to ensure that they conform to health standards. There are areas where this is being done, and this should be streamlined. Even if we try to stop the brewing of such brews, they will continue to be prepared and taken secretly. So, it is not good to try stopping their brewing completely. The best thing is to try and assist, so that there can be established centres where people can drink safely. Not everybody should be allowed to make those brews. Unfortunately, the Government has allowed some well-known people to make those brews. Who supplies the methanol that is killing our people in this country. Only one person is licensed to supply that substance in this country.

Hon. Members: Who is he?

Mr. Mwenje: The Minister of State, Office of the President, knows who that person is; he can tell us.

Hon. Members: No, tell us yourself!

Mr. Mwenje: It is one of the Permanent Secretaries (PSs) in the Office of the President. Why are those in the Government not saying anything about this? We know why methanol has not been supplied freely. Why is the Government not telling us why the substance ended up being used for the preparation of that deadly liquor?

Hon. Members: Kwani unaogopa nani? Mention the name of the PS who is licensed to supply methanol! Mention him once and for all!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, hon. Members! The hon. Member has only five minutes to contribute to this debate. Please, do not take his time.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I would like the Minister of State, Office of the President, to check whether methanol in this country is supplied by the PS in charge of Internal Security or not; I am sure that the Minister knows this.

The Assistant Minister, Office of the President (Mr. Haji): On a point of order, Mr. Temporary Deputy Speaker.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister will have his chance to contribute to this Motion; he should not take my time!

The Temporary Deputy Speaker (Mr. Poghismo): What is your point of order, Mr. Haji?

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, hon. Mwenje has made a very serious allegation. Could he substantiate that allegation or withdraw it?

Hon. Members: No way!

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order! Mr. Mwenje, even though you have only five minutes, you are the one who invited the problem. So, could you substantiate the allegation or withdraw it?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I said that I heard that the PS is the sole person licensed to supply methanol in this country. I have challenged the Minister responsible to check his records and see whether it is true; I did not confirm whether it is true or not.

The Temporary Deputy Speaker (Mr. Poghismo): Your time is up, Mr. Mwenje. Could you proceed, Mr. Haji?

The Assistant Minister of State, Office of the President (Mr. Haji): Bw. Naibu Spika wa Muda, ukitaka kumsifu mtu, utamwambia: "Wewe ni mtu mzuri sana". There are no better Swahili words for praising somebody than "wewe ni mtu mzuri sana". Lakini, ukitaka kumtukana mtu, unaweza kumwambia: "Wewe ni mtu mpumbavu, mjinga, mshenzi, mwendawazimu, baradhuli, na mhaini". Mambo yanayoendelea hapa, ni sawa na hayo matusi. Kusema kwamba pombe haramu ihalalishwe ama pombe halali iuzwe kwa bei ya chini, ni sawa na kusema kwamba tunataka taifa la walevi. Ninasema hivi kwa sababu pombe ikiwa rahisi, watu watakunywa pombe kwa wingi. Kitu cho chote kikiwa kingi kupita kiasi, huwaua watu. Kwa hivyo, mimi nimesimama hapa kusema kwamba yatakuwa makosa makubwa kwetu sisi kama viongozi kujiingiza katika siasa duni kwa lengo la kuwafurahisha watu wetu, huku maisha yao ya baadaye yakizidi kuzoroteka. Jana, Swala hili lilipowasilishwa hapa, mimi sikutukana mtu.

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the---

The Temporary Deputy Speaker (Mr. Poghismo): Bw. Mwenje, ukitaka, unaweza kuzungumza kwa Kiswahili.

Mr. Mwenje: Bw. Naibu Spika wa Muda, nitazungumza kwa Kiingereza kwa sababu hiyo ndiyo lugha ninayofahamu zaidi.

Is it in order for hon. Haji, who failed to stop the brewing of illicit brews when he was the Provincial Commissioner (PC), Nairobi, to continue using unparliamentary language over this crisis?

The Assistant Minister, Office of the President (Mr. Haji): Bw. Naibu Spika wa Muda, mimi sikumtusi mhe. Mwenje. Kwa hivyo, mhe. Mwenje, tafadhali, aache kunitukana. Anipatie nafasi ili nichangie Hoja hii kwa sababu tumempatia nafasi pia.

Bw. Naibu Spika wa Muda, juzi, wakati maafa ya pombe haramu yalipotokea Mukuru kwa Njenga, mtu mmoja alisema kwamba yeye akipata Kshs50, huenda kunywa pombe ya kiasi cha Kshs25 na kupelekea watoto wake Kshs25. Kama wewe mtu mmoja unakula Kshs25, na huwabakishii watoto wako pesa zozote, je ukipata pombe ya thumuni si utamaliza hiyo Kshs50 yote ambayo unapata kila siku?

Mimi sitakubali mambo haramu kuhalalishwa. Mimi ni Muislamu na sitaki kulisikia jambo kama hilo! Kwa hivyo, ninatoka ndani ya Bunge hili.

(Mr. Haji withdrew from the Chamber)

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisiso): Order, hon. Members! We must be in agreement as hon. Members - that since we have the opportunity to consider the gravity of that matter, we should not come down and start using abusive language, unsubstantiated claims and things like that. We know the rules of the House, and we are still playing with the rules. Therefore, I would like to ask each hon. Member to utilise his or her five minutes to contribute to the Motion.

Dr. Kituyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. I wish to draw the attention of the Chair to the following fact. I did emphasize that I had no malice in moving this Motion, and I think you should restrain any hon. Member who imputes improper motive on my intention in moving this Motion. Secondly, the fundamental principle of this House is that we are supposed to be all inclusive in terms of religious faith. It is against the spirit and principle of this House for one to say that, as a Muslim, this is illegal and you cannot accept it and then you walk out. What the hon. Assistant Minister did is against the respect of this House.

The Temporary Deputy Speaker (Mr. Poghisiso): Order! There will be five minutes for each hon. Member. Yes, Mr. Michuki!

Mr. Michuki: Thank you, Mr. Temporary Deputy Speaker, Sir.

On 1st of July, 1998, a Motion which I brought to this House, was debated in whereby I sought and obtained a nod from this House that the harmful drinks that were killing our people should be banned. For those who want to know what we said, and for those who want to know how history repeats itself, they should go and get the HANSARD of that day and read it and they will see the replica of what we said then in what has happened during the last few days in this country.

I am very disappointed that the Press has continued to comment on this matter without revisiting and pointing out that the Government had been warned by this House to take action because our people would die. I think that is an omission that is inexcusable. At that time, I stated in this House, and I would like to quote from the HANSARD:-

"--- because of our moral degeneration, leaving it to the normal administrative machinery will not do due to the corruption and political patronage."

That is what I said on the 1st of July, 1998, and this is exactly what has happened; that political patronage and corruption have yet caused another tragedy and catastrophe in this country. At that time, personally, I was able to collect 120 names of people who had died after consuming that drink. If all the hon. Members had put their efforts into that, we, probably, would at that time have been speaking about 1,000 people. We are actually cheating ourselves. These are not normal drinks. This is poison called Methanol which until 1992, was being controlled by the Department of Customs just like we control explosives that are sold to the quarry miners by licensing and ensuring that only particular persons have access to them. That is exactly the way methanol was being controlled. How this thing went out of order is a matter that obviously is of regret and which will count against the Government in its own assessment of what should be done where there are problems.

If you look at this HANSARD and see what the Minister for Health at that time and people in Government Ministerial positions said, you will be surprised. Indeed, you would accept what has happened is because there was nobody who was going to take any action even arising from that warning that we gave in this House. Hon. Kalweo was the Minister at that time. I have no time to quote him. You will be able to look at the proceedings yourselves.

Hon. Keah said that I brought that Motion because I distribute Tusker beer. So, I still distribute Tusker beer and people are still dying. This is a tragedy. I commiserate with hon. Mwenje and all those people who have died in his area. I am afraid I do not expect any action from the Government. We might as well watch people die.

Thank you, Mr. Temporary Deputy Speaker, Sir.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, ninashukuru kwa kupata nafasi hii. Kila kiongozi katika Kenya hii ambaye anatoa amri ya kuwa tembo hii iondolewe ili nyingine iletwe si kiongozi lakini ni "killer". Utaona kwamba wale watu ambao wanataka watoto wao wasome---

Mr. Mwakiringo: Jambo la nidhamu Bw. Naibu Spika wa Muda. Tunataka tueleze maana ya "killer" kwa Kiswahili. Hakuna jambo kama hilo kwa Kiswahili.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, mhe. Mbunge huyo anatabia ya kuzungumza hivyo. Utawaona wale watu ambao wanataka watoto wao wasome hawawezi kukubaliana na jambo la kuleta tembo nyingine. Tuna umaskini katika Kenya na ukosefu wa kazi. Watoto wengi hawaendi shule kwa sababu baba zao ni walevi na hawapeleki pesa nyumbani. Mambo haya tunayajua. Wakati Rais Moi alipochukuwa uongozi kulikuwa na vilabu vya pombe kila mahali katika Kenya.

Wakati huo wale wenye akili waliwapeleka watoto wao kusoma wakati watu wengine walienda vilabuni kulewa tu na kupoteza pesa. Kwa hivyo, hata mimi ninasikitika sana kuona kwamba badala ya watu kuishukuru Serikali hii wanaisifu Kenyatta Hospital kwa huduma zake za dharura kwa wangonjwa baada ya kunyawa *kumi kumi*. Kwani hospitali hiyo ni ya nani? Si ni ya Serikali mnayoichukia. Mtu yeyote mwenye akili na ambaye anafahamu haki zake hawezi kutafuta njia ya kuleta tembo katika nchi hii.

Kuna makarani ambao ni lazima wanywe tembo jioni. Tukifanya Harambee ya kujenga shule, watu wengi hawatoi pesa kwa sababu wanaweka pesa kando ili wakalewe. Watu wengine wana taabu. Hakuna Mbunge ambaye hapati taabu ya kulipa karo ya shule. Utapata watu kama 100 wakienda kwa Wabunge kuomba karo za shule. Leo hakuna kazi na wale walio nayo tunawaomba pesa zao tukastarehe usiku.

Bw. Naibu Spika wa Muda, hili ni jambo la laana kutoka kwa Mungu. Ningependa kusema kwamba Mungu hakubali watu wa Kenya wanywe tembo vile ilivyokuwa zamani, kama vile Wabunge wengine wanavyosema. Kwa hivyo, ningependa kupinga Hoja hii kwa dhati. Ningependa kusema kwamba jambo zuri hata kama linatoka kwa upande wa Upinzani, sisi tunaliunga mkono. Hiyo ndiyo sababu ninasema kwamba tunaunga mkono watu ambao wako na akili na hawataki mambo kama hayo.

Bw. Naibu Spika wa Muda, kwa hayo machache, ningependa kupinga Hoja hii.

Mr. Kajwang: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. First of all, to also mourn with the bereaved ones.

I would like to say something about these kind of brews. One time, Mr. Stalin, who was then a dictator in Russia ordered that there would be no more production of Vodka in that country. Within one month, the crime rate went up, the production of vodka went down and the country was generally gloomy. When he realised this, he asked what had gone wrong, and he was told that it was because he had banned production of Vodka. When he heard that, he said: "If that was so, then brew it." They are still brewing it up-to-now. I would like to say that although communism has collapsed in Russia that country is richer than us.

Mr. Temporary Deputy Speaker, Sir, my friend, who has just moved this Motion was my roommate at Makerere University. I would like to inform this House that there was a brewery in that university which produced *waragi* which is, otherwise, called *chang'aa* in Kenya. I would like to say that there was a police station next to that brewery in Makerere University. We, as students, we could go there, buy some *waragi*, drink with the policemen, the army men and our lecturers and we still passed our examinations, and I am now an hon. Member of this hon. House. So, nobody can tell me that if *chang'aa* brewing is legalised in this country, this will be a country of drunkards. I would like to point out that Ugandans are not drunkards. In Tanzania, there is a drink called *konyagi*. This brew is taken at Dar-es-Salaam University. Of course, there is a distilled brand, which is sold in our big hotels here. Recently, the Minister for Finance reduced duty on it because our country is a member of COMESA. I would like to say that we import *konyagi* and *waragi* and sell it in this country and, yet, we ban our *chang'aa* just because it bears that name.

(Applause)

I would like to inform this House that no country ever criminalises its traditional brew without fatal consequences like the ones we have had. I would like to point out that nobody has died in Tanzania and Uganda. Why have they not died and, yet, they drink *waragi*, both crude and the one which is purified and sold here? My friend knows that we used to drink crude *waragi* after mixing it with juice. It used to be called "pipes" and our girlfriends were happy. So, we should not cheat ourselves. This country needs something for the poor to drink. We cannot come here and become hypocrites.

Of course, I know that some of you are Christians or Muslims, but we do not need any religious fundamentalism in this country. What we need is a clean drink for everybody and the only way to get it is to let people brew and drink it. I would like to say that they will brew safe drink. Nobody benefits from killing so many people.

So, I do not think there was any madman who just wanted to kill people. I am sure that those people wanted to make quick money by making the drink stronger, but unfortunately it killed so many people. Because it is illegal, you drink it quickly and you meet your death afterwards. In Uganda, we drank in bars and at the University Campus with lecturers. It is a respectable drink. We used to drink *waragi* in Apollo Hotel, which is nowadays called "Sheraton Hotel".

So, do not joke around with this country! Our people can make more money! *chang'aa* is a very big industry in this country. It will continue to be brewed underground if you outlaw it and it will kill more people. We will mourn more. So, we should not joke around.

Thank you.

The Temporary Deputy Speaker (Mr. Poghiso): Order, hon. Members. It is now time for the Government Responder to respond.

Mr. Munyao: On a point of order, Mr. Temporary Deputy Speaker, Sir. I am beseeching the Chair that, because of the interest that this Motion has already generated, and the importance attached to it; and on account of Kenyans who have died, that we extend the discussion up to 7.00 p.m. Over 130 people have died!

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! What Standing Order are you quoting?

Mr. Munyao: I am quoting Standing Order No.17!

The Temporary Deputy Speaker (Mr. Poghisio): Order! This Motion comes under [**The Temporary Deputy Speaker**]

Standing Order No.20. It has been moved with good understanding, as stipulated by the Chair, that it will go on for one hour. That hour will come to an end at 6.30 p.m. So, I will call upon the Minister to respond.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I will give a bit of my time to the Minister for Medical Services, Dr. Anangwe!

The Minister for Medical Services (Dr. Anangwe): Thank you, Mr. Temporary Deputy Speaker, Sir. Let me begin by saying that, it is very regrettable that, that particular episode occurred and subsequently many Kenyans lost their lives. That should have been avoided.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Those rules are supposed to serve our interests. We have said that we would like to continue with the debate. I think you should give us time to debate the tragedy which has occurred in this country.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Angwenyi!

Proceed, Dr. Anangwe!

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, it is very regrettable that, that particular episode occurred and many Kenyans lost their lives. But on the other hand, may I also say that those who managed to reach the hospital, particularly the Kenyatta National Hospital (KNH), were attended to very effectively. Many were able to be discharged. We were able to save lives. Some came to the hospital a bit too late. It was too late to save them. So, they ended up dying. Some died before they could even reach the hospital. So, I would like to refute the assertion that the Government did nothing. Indeed, those who were able to reach our hospital were attended to and their lives saved. May I also say that, as part of the Government's concern about public interest, the KNH was instructed to waive the charges that may have arisen as a result of that particular tragedy.

Dr. Ochuodho: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Minister has said that the Government did a lot. Out of the nearly 500 people who were admitted to the KNH, 56 people died. Does he think that was due to negligence on the part of the Government? Why did the 56 people die?

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, as I said, many of them were critically ill and too late to be saved. But we saved those whom we were able to save. They would have died if they had not come to the hospital.

Mr. Temporary Deputy Speaker, Sir, in recognition of the difficulties some of the victims may have had in meeting the expenses after being receiving treatment at Kenyatta National Hospital, the hospital was instructed to waive the medical charges. Indeed, victims who were patients at Kenyatta National Hospital, will not be charged. They have been treated and they will not be charged, at least, in that particular respect. This is to underscore the point that, indeed, the Government did respond very positively to the extent of helping those who were able to reach the hospitals and be attended to.

(Several Members stood up in their places)

The Temporary Deputy Speaker (Mr. Poghisio): Order hon. Members! While you are standing and saying "Point of order", the Minister is talking and nobody is following anything! Where is the order going to be? I would like the Minister to finish! The Minister concerned will stand up to respond. He just donated part of his time, but he will come back and respond.

I am not going to allow any more points of order. If they do not mean much to you, let the other person be heard.

An hon. Member: On a point of clarification, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): There is no such point of clarification! Order!

The Minister for Medical Services (Dr. Anangwe): What was required to be done at the material moment was done and the contribution the Government ought to have made was, indeed, made. That notwithstanding, let us not say that drinking of *chang'aa* is just a Nairobi problem. *chang'aa* drinking is rampant all over the country. Where it comes from it is an issue that has been addressed by both leaders and even members of the families that have been affected by this particular issue. If we are going to address it adequately, it is very imperative that we have a national

approach instead of segmenting the approaches so that we have only piecemeal solutions. Many assertions have been made in terms of linking this drinking to the levels of income. Of course that is debatable.

What I would like to say is that, applies across the board. Even those who have the money; the well-to-do, including hon. Members also take this drink. It is very imperative that if we are going to approach this particular problem, let us have a societal solution. It is pointless to blame the Government because the Government can only respond where a law has been provided. To the extent that the law has not been provided such as the repealing of the law by the IPPG on this particular regulation, it, of course, hampers what the Government can do.

Mr. Temporary Deputy Speaker, Sir, I beg to support.

Mr. Waithaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member who has just been on the Floor was out of order.

The Temporary Deputy Speaker (Mr. Poghismo): Order! He is not there any more! He has finished!

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for---

The Temporary Deputy Speaker (Mr. Poghismo): Order! Order, Mr. Mwenje! You are taking away more time of the House. The Minister has only five Minutes and he is responding on behalf of Government! Let him do so!

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

The Temporary Deputy Speaker (Mr. Poghismo): Overruled!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I would like to thank all hon. Members for their contribution. Indeed, the deaths of all those people at Mukuru Kwa Njenga slums and all the other places are most unfortunate and it is a loss to all Kenyans. *chang'aa* has been drunk over the years. *Chang'aa* has not necessarily killed people. The problem we had this particular time is that this *chang'aa* was laced with some chemicals. I think what we should be considering is what should be done. If this *chang'aa* was not mixed with some chemicals, then it would have not caused so many deaths. Indeed, I agree with the Members that we consider ways of ensuring these chemicals are properly controlled because at the moment, what has happened is that these chemicals have been sold without being subjected to any proper control.

Mr. Waithaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to mislead this House by talking about *chang'aa*? We are talking about three factories in Naivasha which are actually mixing chemicals and calling it *chang'aa*. We are talking about brewing. In brewing, we have by-products of brewing. Is it in order for them to call a mixture of chemicals with water a drink? This is not *chang'aa*!

The Temporary Deputy Speaker (Mr. Poghismo): Order, now!

Proceed, Minister!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, what I was saying is: I just referred specifically to the *chang'aa* which led to those incidents. Indeed, we have agreed that even some of the factories which have been manufacturing some of the wines have mixed some of their drinks with these chemicals and that is why I am saying we need to have proper control on the distribution and the sale of the chemicals. That is the point I am making: That we need to take that specific step. The Kenya Revenue Authority has been mandated and they need to take special control to ensure that these---

Mr. Kamau: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Minister to show the concern of the Government when, indeed, the brews in Central Province are sold with the authority of the provincial administration. I have a letter written by the Provincial Commissioner, Central Province, allowing these brews? I want to table this letter because it really gives the authority to anybody to sell the brews in Central Province.

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, I know the document he is waving. It is true that, that document was issued by the PC, Central Province. That particular circular referred to specific products which had been certified by the Kenya Bureau of Standards. He only did what was right in allowing the products to be sold.

(Mr. Kamau laid the document on the Table)

The Temporary Deputy Speaker (Mr. Poghismo): Order!

Continue, Mr. Minister!

Mr. Kathangu: Jambo la nidhamu, Bw. Naibu Spika wa Muda. Hawa ndio wanaua wananchi na hawataki kukubali.

The Temporary Deputy Speaker (Mr. Poghismo): Order!

Continue, Mr. Minister!

The Minister of State, Office of the President (Maj. Madoka): Mr. Temporary Deputy Speaker, Sir, all we are trying to say or to do jointly as leaders is to try and find a way of ensuring that some of these drinks are properly produced, to avoid the sale of these chemicals, by making sure that they are properly controlled. This is what the Government is going to do.

An hon. Member: What have you been doing?

The Minister of State, Office of the President (Maj. Madoka); Well, I will not respond to such an irresponsible statement! All I would like to say is: When we talk of the IPPG regulations, they are not different. I know exactly what I am talking about. The IPPG regulations recommendations.

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

The Minister of State, office of the President (Maj. Madoka): Mr. Michuki, not unless you are given permission. I was talking about the amendments to reconsider. Some of these amendments were made by the IPPG. Some of the recommendations should be able to help us to control the sale of---

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

The Minister of State, Office of the President (Maj. Madoka): You had better sit down since you have not been given permission by the Chair. So, do not waste my time.

Leaving IPPG recommendations apart, for example, in the past, we used to have inspectors who used to go and inspect any premises which they felt might be selling some illicit brews. However, IPPG recommendations state that an inspector must get a court order to be able to do the search. It is there in the book and so, you had better go and read it.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio) Order! Hon. Members, it is now time for the interruption of business. The House is, therefore, adjourned until tomorrow, Thursday, 23rd November, at 2.30 p.m.

The House rose at 6.30 p.m.