

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 23rd November, 1995

The House met at 2.30 p.m.

[Mr. Deputy Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No. 893

SHOOT-TO-KILL ORDER

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

- (a) if he could confirm whether or not shoot-to-kill order is lawful in Kenya in respect of the apprehension or punishment of suspect by police;
- (b) if he is further aware that the police are not using minimum force in the arrest or pursuit of persons suspected of committing crimes; and
- (c) whether he is satisfied that killings of suspects is justified even when a suspect is not accused of committing capital offenses.

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to reply:-

(a) That, there are no shoot-to-kill orders. However, the use of firearms by the police is governed by Section 28 of the Kenya Police Act, Cap 84 of the Laws of Kenya and Section 16 (1) of the Preservation of Public Security Act, Cap 57 of the Laws of Kenya.

- (b) Police use minimum force in the arrest and pursuit of persons suspected of committing crime; and
- (c) No.

Mr. Orenge: Mr. Deputy Speaker, Sir, if the answer given by the Minister is correct, would he explain to this House why there is a large incidence of persons being killed by the police, even when the offenses for which they are being apprehended or being sought are misdemeanours or petty offenses? Could he explain to the House why such incidents occur?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not know which particular incidence the hon. Member is referring to.

Mr. Orenge: Mr. Deputy Speaker, Sir, for example three weeks ago, hon. Karan brought a Question here, in which an old man of 70 years of age was killed by the police when the police were on a patrol and on a *chang'aa* raid. Can he tell the House why an old man of 71 years would be killed for merely a petty offence? Are there any rules of the game which are recognized by the Police, to the effect that, if it is a petty offence they do not really need to use firearms?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, each police officer ought to be conversant with the law, that he should try to use as much reasonable force as possible to apprehend a culprit. If, in any incidence, the police do exceed in the circumstances of the case, that particular requirement, if they do use force more than is necessary for a particular occasion, I think, that, that particular incident should be treated in isolation and it is not a matter of policy at all. The policy is to the contrary.

Mr. Mak'Onyango: Mr. Deputy Speaker, Sir. Now, the very existence of this Question on the Floor of this House, is itself proof that we have had cases or instances in which police have used excessive force. Could the Minister undertake that, if maybe the police have hitherto not done things in accordance with the established law, he should out of the concern expressed here, undertake to direct or to get the police to confine themselves within the provisions of the law when dealing with suspected offenders?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, it is the instructions we give to the police, and I will continue giving those instructions, that only reasonable force should be used in the apprehension of their criminals. The

hon. Members, will appreciate that, occasionally, a lot of force is necessary to arrest some type of suspects and sometimes it might require the shooting. But, there are no---

Mr. Mak'Onyango: On a point of order, Mr. Deputy Speaker, Sir. Now, the Minister has said in his statement, that, in a lot of cases, the use [Mr. Mak'Onyango] of excessive force is necessary to arrest certain culprits. Could he tell the House what these particular cases are?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I did not say excessive force. I said sometimes a lot of force is necessary to apprehend some type of criminals. I did not say it is in a lot of cases. I said in some cases.

Mr. Mathenge: Mr. Deputy Speaker, Sir, the Minister seems to dodge the Question. Can he please tell us how many police officers or constables have been taken to court for using excessive force and shooting-to-kill wananchi? Have you got any case of a policeman who has been taken to court for having shot innocent Africans and killed them?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I do not have the facts that have been requested by my hon. friend. But, I do remember when I used to be a magistrate, I tried some police officers who misused the firearms.

Question No. 836

ELEVATION OF TOWNSHIP

Mr. Njeru asked the Minister for Local Government, since Wanguru Township is growing rapidly in terms of population and economic activities if he could consider elevating the Township to an Urban Council?

Mr. Deputy Speaker: Anyone from the Ministry of Labour? Nobody. We pass that Question for a moment, we will come back to it later.

Question No. 980

ALLOCATION OF PUBLIC LAND

Mr. Deputy Speaker: Mr. Anyang'-Nyong'o, is not here? We pass the Question for the moment. We will come back to it later.

Question No. 952

PAYMENT OF RETIREMENT BENEFITS

Mr. Rai asked the Minister for Finance when Mr. Mbarak Mohammed, P/No.032778, a former employee of the Ministry of Lands and Settlement, will be paid his retirement benefits.

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

Mr. Mbarak Mohammed, who retired from the Civil Service with effect from September, 23rd 1993, has already been paid his retirement benefits, by the cheque No. TR012171, of August 24th 1995. The Cheque was despatched on August 25th 1995.

Mr. Rai: Mr. Deputy Speaker, Sir, arising from the answer by the Minister, while I do appreciate actually the concern taken by the Ministry, my Question has been taken by events because the payment has been done. But, could the Minister tell this House why there was all this inordinate delay, since, Mr. Mbarak was retired in 1993 up to now?

Mr. Koech: Mr. Deputy Speaker, Sir, it is true that Mr. Mohammed was retired in 1993, but, the application was received by the Pension Department at the end of January, 1995.

Dr. Lwali-Oyondi: It is true that Ministers have been paid pensioners and other claims from the Government after a Question has been asked. Could the Assistant Minister make sure that all pensioners who are eligible to payment, up and until now from whatever year are paid so that we do not need to ask Questions before they are paid?

Mr. Koech: No, Mr. Deputy Speaker, Sir, it is not true that pensioners are paid when Questions are asked in Parliament.

Mr. Deputy Speaker: Question No. 868 by Mr Mwangi Gichuki!

Question No. 868

REHABILITATION OF WATER PROJECT

Mr. Deputy Speaker: Is Mr. Mwangi Gichuki not here? We will leave his Question until the end. Let us move on to Question No. 974, Mr. Lawrence Sifuna!

Question No. 974

PAYMENT OF NSSF DUES

Mr. Deputy Speaker: Is Mr. Sifuna also not here? We will leave this Question for the moment. We will come back to it later. Question No. 993, Mrs. Agnes Ndetei!

Question No. 993

CONSTRUCTION OF ROAD BUMPS

Mrs. Ndetei asked the Minister for Public Works and Housing:-

(a) whether he is aware that many lives have been, and still continue to be lost, at Machinery

[**Mrs. Ndetei**]

Market in Kibwezi Division, due to road accidents on the main Nairobi-Mombasa Road; and

(b) whether he could consider constructing road bumps along this section of the road.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Deputy Speaker, Sir, I beg to reply:-

(a) I am aware that some fatal accidents have taken place at Machinery Market, Kibwezi Division on the main Nairobi-Mombasa Road.

(b) Nairobi-Mombasa Road is an international trunk road and it falls under the International Highway Convention of which the Government of Kenya is a signatory. The International Highway Convention does not allow member countries to construct bumps on highways. However, other measures will be taken to alleviate the problem and this will include the replacement of all relevant road signs.

Mrs. Ndetei: Mr. Deputy Speaker, Sir, this answer contradict another answer which I was given earlier on in 1991 by hon. Mibei, when he was the Minister for Public Works and Housing at that time and he committed the Government to authorise the construction of bumps on that area. However, it looks like that answer was based on wrong premises, if the Government is a signatory to the International Highway Convention. Can the Government consider constructing rubble strips or are they also prohibited from putting up rubble strips? I know in areas like Mariakani, which is also along the Highway, they have constructed rubble strips. Machinery Market and Mariakani Market are both built along the Nairobi-Mombasa Road. Can we settle for rubble strips?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, we do not have that idea at the moment but since the road has being contracted to Messrs H.Z. & Company Limited, we have instructed that all vandalised road signs between Sultan Hamud and Mito a Ndei be replaced. So, this will help.

Mr. Deputy Speaker: Hon. Member for Mathira!

An hon. Member: Matu Wamae!

Mr. Deputy Speaker: Matu Wamae, right.

Mr. Wamae: Mr. Deputy Speaker, Sir, sometimes you forget me!

Mr. Deputy Speaker: I do not forget you, I know you are Member for Mathira.

(Laughter)

Mr. Wamae: Yes, that is correct. Mr. Deputy Speaker, Sir, the hon. Assistant Minister has said that the contract has been given to Messrs H. Z. & Company Limited. Is he aware that the same contractor was given Makutano-Sagana-Nyeri Road and nothing has been done since they were given that contract?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I don't have that information off-head.

Mr. Deputy Speaker: Mrs. Ndetei, last one!

Mrs. Ndetei: Mr. Deputy Speaker, Sir, you realise that the Assistant Minister has refused to answer my

Question---

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

Mr. Deputy Speaker: It cannot be a serious one because it is an after thought. You stood up to ask a question, I gave the hon. Gracious Lady a chance and now you tell me that yours is a point of order.

Mr. Maore: Point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: I have given the chance to hon. Ndetei.

Mrs. Ndetei: Mr. Deputy Speaker, Sir, the Assistant Minister has refused to answer my Question. I have asked him whether they can settle for rubble strips because those are not bumps, these are just little strips on the road and they will definitely control the speed of the traffic on that road, because even car and bus drivers are dying. It is not only the Machinery Market, residents who are dying.

An hon. Member: Even Ministers!

Mrs. Ndetei: In fact I think one Minister and Member of Parliament were involved in an accident on the same spot. Can we settle for rubble strips? I am not asking for lost road signs. Nothing is lost there. I am asking for the control of the speed of traffic through rubble strips. Very specific!

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, the Ministry is going to consider that. But we have given instructions that all precautions be taken so that no accident will occur on this particular area. Those will include the suggestions the hon. Member is giving and as I said earlier this will include Sultan Hamud and Machinery Market.

Mr. Maore: Thank you Mr. Deputy Speaker, Sir. The Assistant Minister did state about the Government being a signatory to the International Highway Convention. The highway does not have only to be Mombasa Road. Between Maua and Makutano on Nyeri-Nairobi Road, a distance of about 180 kilometres, there are 58 bumps on the main highway. Can the Assistant Minister state whether that section of the road is part of what he would call a highway and if it is---

Mr. Deputy Speaker: Between where and where?

Mr. Maore: Maua.

Mr. Deputy Speaker: That is not relevant to this Question.

Mr. Maore: Mr. Deputy Speaker, Sir, it is about a general policy about bumps on the highways.

Mr. Deputy Speaker: No, please! That is not a proper supplementary question. Question No. 465, Mr. Owino Achola!

Question No. 465

PROVISION OF ROAD GRADERS

Mr. Deputy Speaker: Is Mr. Achola not here! We will leave his Question for the moment and come back to it later. Let us go to Question No.503 by Mr. Anyona!

Question No. 503

PRIVATIZATION OF PARASTATAL

Mr. Anyona asked the Minister for Commerce and Industry:-

(a) whether he is aware of, and satisfied with the manner and process of the privatisation of Kenya Wine Agencies Limited (KWAL) through the purported creation of Kenya Liquor Distributors Limited (KLD) as a joint venture between Wine Agencies Limited (WAL) and International Distillers Kenya Limited (IDK);

(b) what the full details are of the terms and conditions of purported agreement between IDK and KWAL for the sale and distribution of wines and spirits in the Kenyan domestic market; and

(c) what the fate of the employees of KWAL is and its distributors, in the process of purported privatisation of this successful state corporation.

The Assistant Minister for Commerce (Mr. Osogo): Mr. Deputy Speaker, Sir, I beg, the indulgence of the House that this Question be brought any day next week, the reason being that there is important information which I have requested for and which I have not received up to now.

(Loud consultation)

Mr. Deputy Speaker: Order! Continue Mr. Osogo!

The Assistant Minister for Commerce (Mr. Osogo): Mr. Deputy Speaker, Sir, there is important information which I have requested and I have not received it up to now.

(Loud consultation)

Mr. Deputy Speaker: Order! Order!

An hon. Member: We cannot hear the Assistant Minister.

Mr. Deputy Speaker: Because the hon. Members on my left side are consulting loudly, that is why you cannot hear the Assistant Minister. Please consult in lower tones.

The Assistant Minister for Commerce (Mr. Osogo): Mr. Deputy Speaker, Sir, I am craving for the indulgence of the House, with your permission, so that I answer this Question next week. The reason being that, there is some information I have requested for, but I have not received it as yet.

Mr. Deputy Speaker: Mr. Anyona, you are agreeable with that?

Mr. Anyona: Yes, Mr. Deputy Speaker, Sir. The hon. Assistant Minister, approached me yesterday, and I think, in view of the importance of the Question, I would accede to his request.

Mr. Deputy Speaker: Good! Question to be put on the Order Paper at the earliest convenience next week.

(Question deferred)

Mr. Deputy Speaker: Question No. 815, Dr. Lwali-Oyondi!

Question No. 815

SUB-DIVISION OF PLOT

Dr. Lwali-Oyondi asked the Minister for Co-operative Development:-

- (a) whether he is aware that the piece of land in Nakuru Municipality, Block 15/178, belonging to the Nakuru Transport Co-operative Society Limited (NATCO), has been subdivided into 90 plots which are being transferred to a Mr. John Mwangi without the consent of 132 members of the aforesaid Co-operative Society; and
- (b) if the answer to "a" above is in the affirmative, what

steps he is taking to revoke this order.

Mr. Deputy Speaker: Order! Order! It has just come to my knowledge that neither the Minister nor the Assistant Minister, will be available this afternoon. The Ministry has contacted the Clerk, to request this Question to be deferred to next week.

(Question deferred)

Mr. Deputy Speaker: Question No. 072, Mr. Henry Ruhii!

Question No. 072

LAW AGAINST RAPE

Mr. Ruhii asked the Attorney-General when he will initiate amendment law against rape to provide stiffer deterrent sentences.

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

The law as it is currently provides for appropriate sentence in cases of rape and attempted rape. Section 140 of the Penal Code provides for up to imprisonment for life in cases of rape. Section 141 also provides for imprisonment for life in cases of attempted rape. The stiffer punishment is capital punishment. The Attorney-General is not prepared to recommend to the Government to amend the law to provide for capital punishment in rape cases. The Attorney-General, however, appeals to the Judiciary to impose appropriate

sentences to those found guilty of rape reflecting the seriousness and the gravity of the offence.

Mr. Ruhiu: Mr. Deputy Speaker, Sir, I think it is high time that this country protected women and children against excessive sexual abuse against them. I have, for instance, a litany of cases where men of 55 years and over have been raping school girls and women and going scot-free. For instance, there was one case in Homa Bay where a man of 65 years defiled a nine year old school girl and infected this school girl with venereal disease. He was fined Kshs.5,700 and was left to go and defile more girls below ten years.

Mr. Deputy Speaker: What is your question?

Mr. Ruhiu: My question, Deputy Speaker, Sir, is: Can the Attorney-General tell me why courts in this country are so lenient with rapists who range from clergymen to hon. Members of Parliament to businessmen and teachers?

Mr. Wako: Mr. Deputy Speaker, the concern of the hon. Member of the Parliament is also my concern and that is why I have made a very strong appeal to the Judiciary to impose stiffer penalties as the sentence here goes up to life imprisonment. The examples, he has just given are not cases of rape but are cases of defilement and possibly incest and so on because a nine-year-old is under 14 years.

The appropriate amendments will be brought to this House under the Penal Codes to make cases of defilement and cases of child prostitution practised in Kenya and so on. All those matters that hon. Members expressed, particularly during the Second Reading of the Children's Bill have hardly not been taken of in the Children's Bill. We are taking all those concerns, matters and so on, in their appropriate place which is a Penal Code and very soon this House will be debating the amendments to the Penal Codes.

Mrs. Ndeti: Mr. Deputy Speaker, Sir, while appreciating the Question asked by the hon. Ruhiu, it is difficulty for a person to assess the pain that a person goes through until an immediate family member has been involved. This is an issue of rape. I think the Attorney-General should look into this matter very seriously because the Judges have been left to make their own judgement according to the will of the day. As the hon. Ruhiu says men have been left to go back and rape more women, girls and defile more minors. This is the time of AIDS and we cannot be lenient with rapists, because there are many rapists moving around and we do not know their health status. Can we have the Attorney-General with immediate effect table a Bill in this Parliament because all these hon. Members; their wives, daughters or sisters could be affected at any time and somebody made to commit suicide because of being raped or is murdered while being raped. Could the Attorney-General enact a Bill here instituting that rapists been jailed for life or even be castrated or hanged by the courts?

(Applause)

Mr. Wako: Mr. Deputy Speaker, Sir, the issues raised---

Mr. Shikuku: On a point of order, Sir.

Mr. Deputy Speaker: Mr. Shikuku, what is this burning point of order?

Mr. Shikuku: Mr. Deputy Speaker, Sir, my point of order is: Can an hon. Member use this House to advocate for castration of men without having a law passed? Can she be allowed to use this House to advocate injuries to hon. Members and other people?

Mr. Deputy Speaker: Order! Order! The hon. Member was only expressing her opinion that the penalty for rape should include castration if the House will agree.

Mr. Wako: Mr. Deputy Speaker, Sir, I said earlier, I can only strongly urge the Judiciary to mete out appropriate sentences. I think that message is sinking because even in today's newspapers, either *the Standard* or *the Nation* somebody has been imprisoned for 20 years for rape. So, I think the message has begun to sink.

On the issue of AIDS and so on, the whole issue of AIDS and how it affects public issues, the criminality of AIDS and so on, are issues which, of course, a Task Force is considering with and it will come under the amendments. I am pleased to inform the House that next week on Wednesday there will be a Workshop on this very issue organised by the United Nations Development Programme. We shall therefore be able to move and take care of the concerns. There are genuine concerns, which I appreciate, of this House.

Mr. Icharia: Mr. Deputy Speaker, Sir, if I heard the Attorney-General right, I think he said that he has appealed to the court to impose stiffer sentences in cases of rape. Has he done that before or he is doing so now because he has been asked this Question? If he did so before how did he do it?

Mr. Wako: Mr. Deputy Speaker, Sir, the answer is "yes" and it was prior to the asking of this Question by two years

Mr. Deputy Speaker: Question No.836 for the second time, Bishop Njeru.

Question No.836

ELEVATION OF TOWNSHIP

Mr. Bishop Njeru asked the Minister for Local Government that since Wanguru Township is growing rapidly, in terms of population and economic activities, if he could consider elevating the Township to an Urban Council.

The Assistant Minister for Local Government (Mr. Walji): Mr. Deputy Speaker, Sir, I apologise for coming late and beg to reply.

My Ministry has not received any recommendation from the Kirinyaga County Council for upgrading Wanguru Town. Should my Ministry receive such a request, together with the recommendation of the DDC, the same will be put into consideration together with similar requests from other councils.

Bishop Njeru: Mr. Deputy Speaker, Sir, Wanguru Town is one of the biggest town now in Kirinyaga and when I ask this Question, I had the idea that the Ministry of Local Government should upgrade now many towns that are big in size Wanguru being one of them. I would like to ask the Assistant Minister to give me a written answer so that I can follow what he is talking about. Could you direct him now to give me a written answer so that I can follow what he is talking about?

Mr. Walji: Mr. Deputy Speaker, Sir, I would like the hon. Member to know that it is not my duty to provide him with the written answers, but the written answers are sent to Parliament and the Clerk of the National Assembly is supposed to put them into their pigeon holes.

Bishop Njeru: Mr. Deputy Speaker, Sir, would the Assistant Minister tell us now who is responsible for giving the written answer so that I may have it now? And I demand it now.

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

Mr. Deputy Speaker: What is your problem, Mr. Gatabaki?

Mr. Gatabaki: Mr. Deputy Speaker, Sir, I want to ask a supplementary question. In view of the fact that there are many towns particularly in the Rift Valley which are very small, indeed, which have been elevated to the urban council status whereas many others in Central Kenya which are very big have not been given the urban council status, what are the specific qualifications required for a town to be upgraded to an urban status?

Mr. Walji: Mr. Deputy Speaker, Sir, the proper qualifications for a town to be upgraded to an urban council are as follows:-

(1) first of all that the local leaders must make a request for the same;

(2) then the Minister will appoint a Commission of Inquiry to listen to the views of local leaders and Parliamentarians. After that, the Commission comes to talk to the local leaders to see whether it can stand on its own as far as financial requirements are concerned.

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

Bishop Njeru: Mr. Deputy Speaker, Sir, I thank hon. Gatabaki for following up my Question, but the question I am now asking is: Can the Assistant Minister now provide a written to us so that we can follow the recommendations so that now we can apply for these status according to his recommendations?

Mr. Deputy Speaker: Order! I thought Bishop Njeru was here yesterday when I explained to the House what the correct position regarding the supply of written answers to the hon. Members who have asked Questions in advance. Without prejudice to that I would wish to appeal to the Ministries, to continue with the courtesy and send in written answers to the Clerk's Department easily enough.

The information I have is that the Clerks have not received any answer to pass on to hon. Members. Beyond that this is an honourable Question, that is how you wanted to ask it and all we can guarantee you is that you will get the opportunity to get an oral answer here.

Mr. Mwaura: On a point of order, Mr. Deputy Speaker, Sir. Hon. Gatabaki's supplementary question was very specific. He asked for qualifications not for the procedure. The Assistant Minister's answer is giving the procedure but not the qualifications.

Mr. Deputy Speaker: Good! Mr. Walji, do you have anything to say on that?

Mr. Walji: Mr. Deputy Speaker, Sir, procedure is part of the qualifications and I have very clearly said that the proposed Council must show that it can sustain itself financially, that is the main qualification for any town to be upgraded to an urban council.

For information, hon. Bishop Njeru came to see me and told me that he did not have a written answer. I went to him very respectfully and showed him the written answer and the procedure. If he has not been given the

written answer, I will definitely supply him with that answer.

Mr. Anyona: On a point of order, Mr. Deputy Speaker, Sir. I am just wondering whether there is no contradiction in terms of this question. I thought that the order in the local authorities is that you move from an urban council to a town council. Here we are asking to move from a town council to an urban council. I do not quite understand what the question is all about. Does it really make sense?

Mr. Walji: Mr. Deputy Speaker, Sir, this particular town comes under Kirinyaga County Council and the request must come from Kirinyaga County Council through the DDC to our Ministry and then we will appoint a Commission of inquiry to see whether this Council can sustain itself financially.

Mr. Deputy Speaker: Next Question! Prof. Anyang' Nyong'o's Question for the second time.

Pro. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I apologise for coming late. Could I ask Question No. 980?

Question No. 980

ALLOCATION OF PUBLIC LAND

Prof. Anyang'-Nyong'o asked the Minister for Lands and Settlement:-

- (a) if he could explain to this House what steps the Government is taking to prevent the on-going unjustified allocation of public land to certain individuals in Maseno Township; and,
- (b) what steps the Government is taking to ensure that Maseno Girls' Boarding School has sufficient land to provide for playing ground for the pupils, agriculture, classrooms, workshops, dormitories and staff housing

The Assistant Minister for Lands and Settlement (Mr. Kaino): Mr. Deputy Speaker, Sir, I beg to reply.

(a) There is no unjustified allocation of public land to certain individuals in Maseno Township. The allocation of public land is carried out under the provisions of Government Land Act Cap.280 which has not been amended by this House to provide otherwise.

(b) Persons and institutions who need land for development or expansion should apply for the same for consideration. If Maseno Girls' Primary Boarding School requires land for expansion, it should apply for it like any other organisation.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, arising from the reply given by the Assistant Minister which I consider as a normal bureaucratic reply--- When hon. Members raise questions like this in the House, it is a result of sincere public concern after the public has approached us with concrete evidence on what is going on. I would like to ask the Assistant Minister a supplementary question. The supplementary question is as follows: How much land has been allocated to the Maseno Girls' Primary Boarding School where it is currently situated and how much land has the Government allocated to this school for future expansion? The school has applied several times through the DDC to the Commissioner of Lands to be given land for expansion since five years ago and I have copies of this communication in the office.

Can the Assistant Minister explain to us how much land the school has and how much land has been allocated to it after doing exactly what the Assistant Minister has said institutions should do?

Mr. Kaino: Mr. Deputy Speaker, Sir, I am not aware of the acreage of land which Maseno Girls' Boarding School has neither do I know exactly when or how many times they have applied. But there is some land in Maseno which has always been advertised and, in fact, the last one was advertised on 8th September, 1995 as Kenya Gazette Notice No. 385309. To any logical person, an institution is very important than an individual.

I would think that if hon. Prof. Anyang'-Nyong'o was very much interested in the Maseno Girls' Boarding Primary School, he would have made his approach to the DDC which is a big and important organ in every district. Once the DDC have decided that this amount of land should be given to the Girls' school, this land could not have been advertised, but instead could have been given to the School and only the remaining piece of land would have been advertised.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I am pleased about part of the Assistant Minister's reply which says that land near schools should be considered for schools' future expansion. I think that is very correct because what has happened in Maseno has happened on an even more gross scale in Kitale where land next to the Kitale Academy has been grabbed by the Managing Director of the Kenya Seed Company leaving that school no scope for future expansion. Would the Assistant Minister consider making a statement of policy on this matter that land adjacent to any school, should be considered first and foremost for the future of schools before allocations

to individuals are entered into?

Mr. Kaino: Mr. Deputy Speaker, Sir, I agree with the Chairman of Ford (K) on what he has said, but it is also important to note that it is not only schools which require land. If any institution needs land and it has about 1,000 acres, why should we still give more land to that institution even if it adjacent to it? If the school has enough land, why should we give it more land? It has to go to others, either individuals or organisations.

Mr. Raila: Mr. Deputy Speaker, Sir, I am pleased with the Assistant Minister when he says that allocation is carried out under the provisions of the Government Land Act, Cap 280. Could he tell this House which section of that Act Gives the President powers to directly allocate public land to individuals?

Mr. Kaino: Mr. Speaker, Sir, this is a different question. I think we should not only condemn the Ministry by saying that it is dishing out land. We have got a lot of accusations which are not actually justified. We are advertising this land and if any hon. Member, either on the Opposition or the Government side, wishes to have land he should apply for it like any other person and he will be considered for it along with other people.

Prof. Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I am really disturbed because I give the Assistant Minister points but he does not take them. Maseno Girls School has applied through the District Development Committee (DDC) to the Commissioner of Lands for this land to be allocated to it for five years running. I myself have written to the Commissioner of Lands about the issue. I do not want to embarrass the Government side but I do know that land next to the school has been allocated to one of these people on the Government side.

I also know that Maseno Club has been allocated to one of the hon. Members on the Government side. And yet the Assistant Minister sits here with bright eyes and tells us that we should apply for land which is already allocated. Can the Assistant Minister tell me whether if I produce letters which the school has written to the Commissioner of Lands, my letter on the same issue and the minutes of the DDC, the Ministry will allocate that land to Maseno Girls School?

Mr. Kaino: Mr. Deputy Speaker, Sir, as I stated earlier an institution is more important than an individual. If an individual was allocated that piece of land could be this was done because the Government was satisfied that the land the school has is enough for it. If that land is not sufficient let the hon. Member bring the school's application, which has been recommended by the DDC, to the Ministry. We also want to know how much land this school has.

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

Mr. Deputy Speaker: Disallowed. Mr. Gichuki's Question.

Question No. 868

REHABILITATION OF WATER PROJECT

Mr. Deputy Speaker: Mr. Gichuki is still not here? His Question is dropped.

(Question dropped)

Question No. 974

PAYMENT OF NSSF DUES

Mr. Deputy Speaker: Mr. Sifuna is also not here. His Question is also dropped.

(Question dropped)

Mr. Deputy Speaker: Let us have Mr. Achola's Question for the second time.

Mr. Achola: Mr. Deputy Speaker, Sir, first of all, I must apologise for coming late.

Question No. 465

PROVISION OF ROAD GRADERS

Mr. Achola asked the Minister for Public Works and Housing:-

(a) whether he is aware that Migori District has not had a working grader since the beginning

of 1994/95 financial year; and

(b) when the district can expect to have a working grader.

The Assistant Minister for Public Works and Housing (Mr. Mwamzandi): Mr. Deputy Speaker, Sir, I beg to reply.

(a) I am not aware that Migori District had no working grader from the beginning of the 1994/95 Financial Year. But I am aware that the grader broke down in December, 1994. However, it has since been repaired and is in use.

(b) The District already has a working grader.

Mr. Achola: Mr. Deputy Speaker, Sir, as usual this Assistant Minister has not been properly briefed by his officers. The truth of the matter is that the grader in question was not working for 11 months. I would like to know what happened to the funds that were voted for grading roads in Migori District.

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, we had two graders in that area. One was GK 803K and the other one was GK 589J. Grader GK 803K was in a working condition, as I said earlier, till December, 1994 when it broke down. The other grader is up to now not repairable because it requires spare parts which are not locally available. But the other grader was repaired and has utilised the money for fuel which was voted for the District.

Mr. Achola: Mr. Deputy Speaker, Sir, seriously the Assistant Minister is not saying the truth. He is referring to the grader which is in Homa Bay, which is a different District. The grader he is claiming has been working is not stationed in Migori. I come from Migori and I know that for 11 months we did not have a working grader and no roads were graded. So, what happened to the funds that were allocated for that purpose? In any case, what happened to the staff who were supposed to have been working in that District? Were they paid for doing nothing or what was position?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, members of staff who were not working with the graders were utilised in other duties of the Ministry. As for the fuel which was allocated for the District, it was utilised when the grader was in working order.

Mr. Achola: On a point of order, Mr. Deputy Speaker, Sir. I do not know whom the House is supposed to believe! I come from that area and I am telling the Assistant Minister that for 11 months no grader was working in Migori District, but he is insisting that there was one working. Whom do we believe now? I come from the ground and know that no grader was working. Could he tell the House the truth about what the situation was?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, the hon. Member will have to believe me because he does not control the use of the fuel; it is my Ministry that controls its use. If the fuel was in his House he could complain with authority.

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. Part one of the Question talks about 1994/95 Financial Year. In his reply the Assistant Minister denies what is alleged in this part but he acknowledges that there was no grader in December, 1994. Is he in order to confuse the facts of the Question with his own scheming to refuse to acknowledge the facts?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, it is the hon. Member who is confused because we had two graders and not one---

Mr. Michuki: On a point of order, Mr. Deputy Speaker, Sir. The Assistant Minister says that he is not aware of the facts in the first part of the Question. He then says that in December, 1994 the tractor broke down. Is December, 1994 not part of the 1994/95 Financial Year?

Mr. Mwamzandi: Mr. Deputy Speaker, Sir, I gave the House the actual position. If anybody is does his own calculation he will agree with me that we did not have a grader at that time, but it was repaired and is now in use.

Mr. Mutahi: On a point of order, Mr. Deputy Speaker, Sir. I rise to seek your guidance. I thought it was the procedure that if a Question is skipped it is called again for the second time! We have just received information from Mr. Gichuki that we ask his Question on his behalf.

Mr. Deputy Speaker: Order! Order! I called Mr. Mwangi Gichuki's Question for the second time, nobody responded and I said the Question is dropped. That was a long time ago. Next Question; Question No.1 by Private Notice.

QUESTIONS BY PRIVATE NOTICE

CLOSURE OF RESETTLEMENT OFFICE

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

(a) Is the Minister aware that the Western Province Co-ordination Committee Office for resettlement of the victims of ethnic clashes in Bungoma and Mt. Elgon districts has been closed and the office equipment and Land Rover KAB 995 sold?

(b) Why has this been allowed when the resettlement process is far from complete?

The Assistant Minister, Office of the President (Mr. Sunkuli): Mr. Deputy Speaker, Sir, I beg to give the following reply.

(a) No, I am not aware.

(b) Arising from my reply to (a), part (b), therefore, does not arise.

Mr. Munyasia: Mr. Deputy Speaker, Sir, I am surprised that this Assistant Minister is not aware of what is happening in his own office. On 30 October, 1995, the resettlement co-ordinator who was sitting in that office closed down the office and sold the computer, the printer and the Land Rover he was using. I have even given here the number of the land rover. Could the Assistant Minister go back and investigate and then bring a proper reply to this House next week? I know for sure that the office has been closed down.

Mr. Sunkuli: Mr. Deputy Speaker, Sir, what has happened is that the United Nations Development Programme (UNDP) has pulled out of that area, but the programme is continuing and the following organisations have taken charge of that caretaker programme: Action Aid, Oxfam, Catholic Diocese and CPK-CRWRC and the NCKK. So, it has not closed down.

Mr. Busolo: Mr. Deputy Speaker, Sir, arising from the answer given by the Assistant Minister, I would like him to tell us how much money the UNDP had spent on this programme before it ended its mission. This was no mission really, because what we know is that no people have been settled. It is important for the Assistant Minister to know that KANU was soundly trounced in Bungoma in 1992 on account of what the people of Bungoma call *yosianju*, meaning, "it torches houses". It is very important for the Assistant Minister to realise that this is a very serious issue. We have over 3,000 families still living in camps. I am aware of an old man who has a farm of 400 acres in Kapsokwony with three children at the university. He cannot raise school fees for these children despite having that much property. So, could the Assistant Minister tell us how much money had been spent on this non-mission?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, whereas I do not agree that those are the reasons why KANU lost in Bungoma, I want to say that there was a problem with the Government negotiations with the UNDP. Although I do not have the facts about the amounts that the UNDP spent in mobilising themselves to go to that area, I do know, as a matter of fact, that the UNDP did not eventually fulfil their part of the agreement.

Dr. Kituyi: Mr. Deputy Speaker, Sir, when any international agency comes into a bilateral programme with the Government of Kenya, the rational assumption is that the Government of Kenya is interested in executing the programme to which the UN agency is giving assistance.

Our assumption should be that the Government of Kenya was interested in the resettlement of clash victims and that is why it entered into this partnership with the UNDP. If that assumption of a rational government can hold ground, can the Assistant Minister explain to this House why the Kenya Government, aware that it had not completed resettlement of clash victims, stopped any public funded activity to that end as soon as the UNDP withdrew?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, while I am not quite aware of the specific agencies that the hon. Member is referring to, I thought that the hon. Member had heard me say that certain public agencies are, in fact, continuing to help in the resettlement of these victims. These are, in my own narrow perception, probably, public institutions. The agencies which are working for the resettlement of the victims include; Action Aid, Oxfam, Catholic Diocese, CPK and NCKK. So, we have not stopped any initiative by anybody who is interested in the resettlement of clash victims.

Mr. Kamuyu: Mr. Deputy Speaker, Sir, according to the records which are, obviously, well maintained by the Western Province Co-ordination Committee, can the Assistant Minister tell us how many Kenyans were settled in Bungoma and Mt. Elgon districts before the closure of this office, and how many are still unsettled?

Mr. Sunkuli: Mr. Deputy Speaker, Sir, I am afraid I do not have those facts right now.

Mr. Deputy Speaker: Next Question, Question No.2 by Private Notice, Prof. Rashid Mzee.

(Prof. Mzee) to ask the Minister for Education:-

(a) Is the Minister aware that a large number of university students are not yet registered for the new academic year for failure to raise the required fees?

(b) Since parents earning less than Kshs300,000 a year may not be able to pay the university fees, can the Minister consider raising the ceiling of earnings of parents from Kshs150,000 to Kshs300,000 a year, to enable more needy students to qualify for the university loan?

Mr. Deputy Speaker: Prof. Mzee is not here, so the Question is dropped.

(Question dropped)

Mr. Deputy Speaker: Next Question. Question No.3 by Private Notice, Dr. Omolo Opere.

DISCONTINUATION OF FERRY SERVICES

Dr. Opere: Mr. Deputy Speaker, Sir, I beg to ask the Minister for Transport and Communications the following

Question by Private Notice:-

(a) Is the Minister aware that the ferry to Mfangano Island, the only public service of this kind in the area, has been discontinued?

(b) If the answer to "a" above is in the affirmative, could the Minister consider reinstating the service?

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

(a) I am aware that the ferry to Mfangano Island, MV Homa, has not been in operation due to a mechanical problem.

(b) The service will be reinstated in two months' time, immediately the repairs are completed. The engineers are working on it at the moment.

Dr. Opere: Mr. Deputy Speaker, Sir, while I appreciate that reply, I would like to ask the Assistant Minister to institute some interim arrangements for the people of Mfangano Island because they have no other way of travelling to the mainland. You know they are landlocked in the sea.

Mr. Deputy Speaker, Sir, could the Assistant Minister consider some interim arrangements, pending the repair of the ferry?

Mr. Morogo: Mr. Deputy Speaker, Sir, the only other vessel which could be used to stand-by while we repair this other one is also not in good serviceable condition and we are trying to up-date that one so that we can take it there to assist the wananchi to cross over to the mainland.

Prof. Muga: Mr. Deputy Speaker, Sir, what the Assistant Minister says is very sad. Here are a people who are part of Kenya, but who are secluded from the rest. Can the Assistant Minister tell us what his Ministry's plan is to ensure that they are not caught unawares, and that a part of Kenya is not, as it were, cut off from the rest of the country? What specific steps will they take to ensure that that does not recur?

Mr. Morogo: Mr. Deputy Speaker, Sir, we will do everything possible to make sure that this does not happen again. It is not true that we are not considering members of the public in that area. It is just unfortunate that the two vessels broke down at the same time. Otherwise, in the past, the two vessels have been functioning and if one failed, the other one was there to assist the people. We will always make sure that such a situation does not recur.

Mr. Achola: Thank you, Mr. Deputy Speaker, Sir. Is the Assistant Minister satisfied that his spares holding policy, generally, is sufficient? This is not the first time we are hearing of spares not being available in many parts of the country, especially, in this Ministry. So, could he tell the House whether he thinks that the Ministry's spares holding policy is satisfactory.

Mr. Morogo: Mr. Deputy Speaker, Sir, one can never be satisfied because conditions always vary. We always order for these spares and get some on time while we do not get others on time. So, it is not a question of being satisfied but a question of my Ministry being mindful of the people and doing its best to provide the services.

COMMUNICATION FROM THE CHAIR

MISREPORTING BY THE KENYA TIMES

Mr. Deputy Speaker: Hon. Members, my attention has been drawn to a report in today's edition of the *Kenya Times Newspaper* page 4 with a heading, "*Wako Tables Customs and VAT Bills*". These Bills are in fact due to be read the first time today. For the information of the members of the Press, the said Bills were published on Friday, 10th November, 1995 and are due for First Reading today in accordance with the provision of Standing Order No. 101. The Bills were published under the authority of the Minister for Finance. I, therefore, call upon the Editors of the *Kenya Times Newspapers* to correct this erroneous report.

May I also take this opportunity once again to remind the representatives of the media accredited to cover Parliamentary proceedings of the need to be absolutely thorough in their reporting. This obviously calls for understanding of Parliamentary procedures and practice and for clear effort on their part not to exaggerate happenings here. Thank you.

BILLS

First Readings

THE CUSTOMS AND EXCISE (AMENDMENT) BILL

THE VALUE ADDED TAX (AMENDMENT) BILL

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

Ordered to be read the Second Time tomorrow)

MOTION

ADOPTION OF SESSIONAL PAPER NO. 1 OF 1995

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Deputy Speaker, Sir, I beg to move the following Motion:- THAT, this House adopts Sessional Paper No. 1 of 1995 on

[The Minister for Labour and Manpower Development]

International Labour Organization; proposed actions by the Republic of Kenya on the Conventions and Recommendations adopted by the International Conference at the 65th to 80th Sessions (1993) laid on the Table of the House on 5th July, 1995.

Mr. Deputy Speaker, Sir, Kenya became a member of the International Labour Organization (ILO) in 1964 and by so doing we were agreeing to be bound by the very noble ideals for which the Organization stands and more so in the area of promotion of social justice for the benefit of mankind through the ratification of various International Labour Conventions and Recommendations. Sessional Paper No.1 of 1995 contains the various instruments as adopted by the International Labour Conference held at the 65th to 80th Sessions (1993).

Under the constitution of the International Labour Organization, it is important that each state brings the Conventions and the Recommendations to the highest authority of that country, thus the Sessional Paper to be debated today or being moved today. The appropriate authority in Kenya, of course, is the National Assembly.

I would also like to point out that the Conventions and Recommendations of the International Labour Organization are not binding to any country until individual states ratifies or adopts them.

[Mr. Deputy Speaker left the Chair]

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

Mr. Temporary Deputy Speaker, Sir, it is also important that all this information discussed at the ILO is brought or reported to individual states periodically. There is, however, obligation on the member states to submit

reports at certain intervals to the Director-General of International Labour Office on the measures each country may have taken whether it has just adopted or ratified them. Submission of these Recommendations to the National Assembly is one of the things or fundamental obligations by each member country but it has to bring and inform the members. For example, here, our main aim is to update the National Assembly of the main instruments adopted at international level up to this time. The decision to ratify or not to ratify is a free choice of each country. Our legal obligation, therefore, is to Table for the authority to note what the ILO has been debating in connection with various Recommendations and---

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

Is the Minister not misleading the House by telling us that we are only supposed to note whereas the Motion is talking of adoption? Which is which? We are not supposed to note but to either adopt or reject the Recommendations of the Sessional Paper.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Temporary Deputy Speaker, Sir, I said that earlier on. All I am saying is that we have to bring whatever has been discussed as Conventions or Recommendations to the House and it is up to the House to adopt or ratify them.

A close study of all the instruments contained in the Sessional Paper No.1 of 1995, clearly reveals that these labour standards are drafted in such a manner that countries at different stages are supposed to be flexible and adopted to the country at various stages in the best way they can fit within the existing laws of that particular country.

Mr. Temporary Deputy Speaker, Sir, to adopt some of these conventions and recommendations, as hon. Members may have read the Sessional Paper, we are not saying that these conventions and recommendations are to be ignored. All we are saying is that those recommendations contained here cannot be ratified at the moment as they may be interfering with the existing laws of the country. To make some of them function properly, would necessitate changing or amending some of our laws.

I will quote a few examples from the conventions. For example, Convention 153, that is on transport, it stipulates that:-

"An individual should only do only four hours continuous driving, and in the 24 hours working, he has to have a continuous rest of 10 hours."

Mr. Temporary Deputy Speaker, Sir, obviously, if we adopted such convention here, at the moment, it will not function and there will be no machinery---

Mr. Mak'Onyango: On point of order, Mr Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): The Minister is moving the Motion, I would want him to move uninterrupted. If you want to follow it and contribute to it later. What is your point of order?

Mr. Mak'Onyango: On a point of order, Mr Temporary Deputy Speaker, Sir. Is the Minister not misleading the House, because he seems to be suggesting that the convention he is referring to limits the driving to four hours, when the convention here says "continuous." Otherwise, I think, for general driving, they are talking of nine hours?

The Temporary Deputy Speaker (Mr. Wetangula): That is an argument and not a point of order.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr Temporary Deputy Speaker, Sir, in fact, he should check the HANSARD, I said "continuous driving for four hours." Obviously, it would mean that my friend and neighbour, hon. Mak'Onyango, would need to have an extra driver, to drive him from here to his Alego home because he will not be allowed to drive himself alone continuously from here to Alego, which takes him slightly over four hours. Mr Temporary Deputy Speaker, Sir, there are quite a number of conventions, which are very closely related to what we are already practicing here. However, looking at Convention 156, for example, just below the convention calls upon the Government to provide measures compatible with international conditions to enable workers with such responsibilities to exercise their right to free choice of employment. We have a lot of countries with plenty of employment for her people. For us in a developing country, our main objective is to create employment, to eliminate unemployment and, if we say that anybody is allowed to choose anything he wants to do, when in reality what he is choosing from does not exist, then, it is pointless for anybody to be asked to ratify that sort of convention at the moment. However, when we have enough employment in the country, and enough to choose from, there is no reason why we cannot adopt such conventions.

Mr Temporary Deputy Speaker, Sir, there is another one concerning the operational of safety and health in the docks for the dock workers. Again, looking at the last paragraph, the sort of decisions that this recommendation 160 is giving or what we have got to do, we cannot afford or manage to fulfil that sort of situation under our present circumstances.

Mr Temporary Deputy Speaker, Sir, we have another recommendation, that is, I am just picking up a few that, I think, might be of interest, to us. They are all, of course, of interest as far as humanity is concerned, but I am just picking up a few, like that one concerning employment policy. Obviously, we cannot quarrel that we have no employment policy here. We have discussed a number of Sessional Papers, unemployment policies, a sessional Paper was Tabled here and debated from the Ministry of Agriculture, Livestock Development and Marketing. Another one came from the Ministry of Planning and National Development. So, at the moment, we are doing what we think is close to the recommendations of the ILO, in certain areas, but sitting for the time being within our system of the laws of the land.

Kenya should also note, and should not lose sight of what is currently happening in the international scene in the form of plan, linking of trade by some developed countries and several other international trade secretariats with the observance of ratified ILO standards, the so-called "social clause". This is the clause that Kenya should fight against because Kenya being basically an agricultural country, if we accept this kind of thing, which means that any pending or non-observance of some of these recommendations would mean that the developed countries will boycott the trade with the country, and, of course, we do not have much to offer, as far as foreign exchange is concerned. We have tea, coffee and tourism as the major areas. If we cannot export our tea and coffee, and if we tourists boycott this country, then, it means economically, and, otherwise, even socially, the country will not exist, and for that reason, Kenya and Kenyans should not succumb to this sort of regulation being imposed on them.

In view of the above, countries such as Kenya should not prematurely indulge into ratifications of the ILO Labour Standards before carefully studying all the implications that will accompany all such ratifications. So far, Kenya has already ratified 46 conventions and this is a very high number bearing in mind that we only joined the ILO in 1964.

We have many countries which joined the International Labour Organisation (ILO) when it was started and they have not ratified even a third of these conventions. Taking United States of America (USA), for example, has only ratified nine conventions. Having been known for slave trade many years back, for a 100 or so years back, up to today, USA as a whole has not ratified the abolition of slave trade. It is only the State of Philadelphia which ratified that convention in 1994, although slave trade was abolished many years ago in USA. The point I am trying to make is that we do not have to ratify everything that is being recommended by ILO in order to practise human rights in this country.

A place like Britain, I think has only ratified 32 conventions. Since quite a number of hon. Members may want to know what we have ratified, and realise that quite a number of them have been raised here, but in a slightly different form, and that is why we are shelving that kind of format. But we have already ratified quite a number that are useful to this country, for example, Employment Act of 1919, Minimum Age in Industry of 1919, Rights of Association in Agriculture in 1921, Workmen Compensation in Agriculture of 1921, Weekly Rest in Industry of 1921, Minimum Age Trimmers and Stokers of 1921, Medical Examination for Young Persons Workers of 1925, Minimum Wage Fixing Machinery of 1926, which is very well known and we are practising this, Marking of Wage Transport by Vessels of 1929, Forced Labour of 1930, Protection Against Accidents Dockers of 1932, Underground Work of 1935, Recruiting of Indigenous Workers of 1936, Minimum Age C Revised of 1936, Minimum Age Industry Revised of 1937, Penal Sections Indigenous Workers Statistics of Wages and Hours of Work of 1938, Contracts of Employment of Indigenous Workers of 1939, Labour Inspection of 1947, Contracts of Employment of Indigenous Workers of 1947, Employment Service of 1948, Night Work for Women Revised of 1948, Labour Clauses Public Contract of 1949, Rights to Organise and Collective Bargaining of 1949 and so on. There are very many.

There are a number of employers and unions negotiating their own minimum wages and their own terms and conditions of service, although you will still find some of that here, but we already had these conventions. So, what I want to relay to my hon. colleagues is that they should not assume that what is here is being thrown out completely. We want to adopt what is here.

We will eventually ratify what we think is good for this country, and we will also ratify what is convenient so that it does not contradict the existing laws of the country.

I know that hon. Members are going to raise two issues. One,---

An hon. Member: Hon. Members are going to raise many issues.

The Minister for Labour and Manpower Development (Mr. Masinde): Okay, they may. One is on civil servants, and another one is UASU. I would like to inform the hon. Members that these two issues are in court in Geneva, and I can give you the court case numbers. We have Civil Service Case No. 1713 of 1989, and the other one for UASU is 1809 of 1995. It may be necessary that we do not discuss as it might prejudice the hearings of these two cases. We have appeared before this court in a number of occasions, and the proceedings

are still going on. So, I thought I better draw that to your attention.

I feel I have explained most of what I wanted to highlight, but finally, I would like to repeat that the submissions of Sessional Paper No. 1 of 1995 to this Parliament is aimed at constituting indispensable facts of implementing ILO labour standards. It is imperative this information has to be given to the House whether debated or just laid on the Table, but it is imperative that the House must know.

With those few remarks, I beg to move that Sessional Paper No. 1 of 1995 be adopted by this House.

The Temporary Deputy Speaker (Mr. Wetangula): Who is seconding you? Can you do that Mr. Attorney-General?

The Attorney-General (Mr. Wako): Mr. Temporary Speaker, Sir, I beg to second this important Motion.

This Motion is about conventions and recommendations adopted by the International Labour Conference, of ILO. ILO is an extremely important specialised agency of the United Nations (UN). In fact, one can term it as the mother and the father of all the specialised agencies of the United Nations Organisation, because it was first created in 1919, as an autonomous partner of the League of Nations, and when the League of Nations was dissolved, it then amended its Constitution to continue, instead of existing in limbo, and when the United Nations was founded, it became the very first international organisation to be brought into the United Nations Organisation as specialised agency. Mr. Temporary Speaker, Sir, it does promote social justice, and in the declaration of Philadelphia, which is embodied in its Constitution the objectives of the ILO is to promote the rights of all human beings who should without discrimination of any kind, have the right to pursue both their material well-being in conditions of economic security and equal opportunities.

Mr. Temporary Deputy Speaker, Sir, the declaration also affirms the responsibility of the ILO to examine and consider all international economic and financial measures in the light of that that fundamental objective. These objectives are achieved by the International Labour Convention drawn up within the frame work of the organization hence this book which contains the various international labour conventions and recommendations. So far, in its existence, over 180 conventions and recommendations have emanated from the ILO touching on various subjects related to labour; whether it is forced labour, labour as regards the indigenous and tribal populations, recruitment of women, employment policy, the aims and standards of social policy and safety at the places of work. It touches on numerous of such issues.

As the first agency of the UN, one can say that, ILO was in fact the first international agency, affiliated to UN to be involved in a very active way in human rights issues. Of course, the rights which it was involved in, were rights which are connected to the rights of association and to labour rights. Therefore, it has developed a very important expertise in that particular area. It has a system of launching complaints, having commissions of enquiry, appointing committees of experts to examine particular issues which touch on labour, be they conditions, or the welfare of the workers. It has a system a judicial system of actually hearing disputes. A member State, for example, can lodge as it were a complaint or a case against another member State if it feels that, that member State is violating an international convention or recommendation to which it has ratified. It will be heard in a normal way by the international legal experts and that issue will be determined. I think that is what the Minister for Labour and Manpower Development who moved this Motion referred to when he said that those two issues are already before the competent authorities of the ILO.

The ILO is one of the few institutions in the UN which allow for active participation on the three arms involved in labour issues. The three arms being the Government, the employer and the employee. All of them do participate actively in the various organs and committees of the ILO. Therefore the conventions and recommendations which emanate from that body are recommendations worth of serious study. Of course, it is an obligation on the member States to ensure that conventions and recommendations are brought before the competent authorities of the State and hence, the action that has been taken today by the Ministry of Labour and Manpower Development, to lay this Sessional Paper before the National Assembly which contains various conventions and recommendations that were adopted by the International Labour Conference during the 65th - 80th Sessions upto 1993. This covers conventions 152 to recommendations 181. I do congratulate the Minister for bringing and laying before this House these various recommendations and conventions so that this House does get to know what actually goes on in the various meetings which are held in Geneva. There are usually meetings which go on for many months as the hon. Denis-Akumu will testify when he rises to speak. He used to live in Geneva during August and September of every year. That is why we used to meet in Geneva at these various meetings. Of course, Minister for Labour and Manpower Development and his staff together with the employers through Tom Owuor all go there, lodge there to discuss and we therefore have these international conventions. So, this House is entitled to know the convention and the recommendations that have emanated from that eminent body of ILO. I will not really go to each and every convention here. I think every Member will speak on that

convention which he is interested in. What I can draw the attention of this august House to is the general difficulties that one has in the area of really assessing economic and social rights. A few of these conventions and recommendations do touch on the freedom of association. But most of them do touch on the area of economic and social rights and the safety workers. In this area of economic, social and health rights, there are, of course, certain difficulties. These are some of the difficulties that have been recognized even at the international level. The realisation of these rights as it were, does involve resources, both technical and financial plus also a capable and well-trained manpower. That is why, there is always an underlying notion that economic and social rights can only be progressively realized.

Mr. Temporary Deputy Speaker, Sir, I can quote Article 2, of the International Covenant on Economic, Social and Cultural Rights; because rights enshrined inside there are further elaborated in some of the conventions recommendations which are in this book. Article 2, is the one which underlies all other rights enshrined in that convention. It says:-

"State parties undertake to take steps individually and through international assistance and co-operation; especially economic and technical, to the maximum of its available resources with a view to achieving progressively the full realisation of the rights recognized in the present covenant."

I can also quote another convention dealing with this area of economic, social rights and cultural rights. That is the UN Convention on the Rights of the Child. That convention is replete with this phrase. For example, Article 4, at the very beginning of that convention says:-

"With regard to economic and social rights, State parties undertake such measures to the maximum extent of their available resources as were needed within the frame work of international co-operation."

So, when we are talking about economic, social and cultural rights, we are talking about "progressively" realizing those rights, we are talking about using to the "maximum" and in the most cost-efficient way the available resources which will make the realisation of those rights possible.

Mr. Temporary Deputy Speaker, that is why, for example, in the deal of children's Bill which is before this House, I do not want to go into the depth of this because we are in the Second Reading of it, but just to illustrate the point I am making, which is also the National Convention, that is why in that Bill, the United Nations Convention on the Right of the Child is to be implemented through three ways; one of them is the Bill before Parliament. And another one, and this one touches on many comments that were made in this House, touching on many rights, what about the rights to health, what about the right to education, what about the right to the upbringing of the child, and so on. All those matters that were the concern of this House, are to be dealt with in appropriate amendments to 19 different statues, ranging from the Penal Code to the Employment Act, the Age of the Majority Act and so on. After we have done that, there is still an area of policies and measures that must be undertaken, and hence putting together of a Council which will now go into the measures and policies that will be taken to ensure the developments of a child. So, it is through these three different instruments that that Convention will be implemented.

What I am trying to say here is that, a Convention which touches on economic and social issues may not be a Convention like one which may touch on social and political rights where it is just easy to say, okay, this is it, there it is, you put anything in legislation and there at home. Economic and social convention require very many ways of implementing that convention into domestic legislation. That is why sometimes comments are misplaced when we are trying to achieve that objective. Therefore, The Childrens Bill is in its limited way, quite proper, well drafted and so on. In fact, the only difficulty, one may have with the Children's Bill---

The Temporary Deputy Speaker (Mr. Wetangula): Are you debating the children's Bill?

The Attorney-General (Mr. Wako): As I said earlier, all I am doing is that The Children's Bill and others are like economic and social things. But what I want, we are dealing here with International Conventions and Recommendations which touch on economic, social and cultural matters. I am trying to explain to this House some of the difficulties that, if involved, in trying to implement these Conventions which touch on economic, social and cultural matters, trying to implement them domestically within the national states. I am just quoting one or two examples here and there, to illustrate the point. The only problem, of course, that I have, with The Children's Bill, is the problem that has been brought by the Muslim Members of Parliament, and we are looking into that.

Mr. Temporary Deputy Speaker, Sir, that again poses another problem when we are dealing with this particular Bill, that people do have religious feelings and so on, which have to be recognised and looked into. So, when one is dealing with the International Conventions, that is what it is. For example, the other International Conventions that this House has had to effect, is Narcotic Drugs and Psychotropic Substances Control Act. That

also illustrates some of the difficulties of translating the International Convention in this whole area into domestic legislation. Some of the wording may not be familiar and, therefore, few may be odd, but the Bill is perfectly alright, it may be misunderstood at the lower levels of the Judiciary and so on, but I am happy now, the court has given the authoritative interpretation on those matters, which actually was already there in the light of the decision which had been made by the Court of Appeal earlier on in 1970s and so on. So, these are some the difficulties that one encounters in translating International Conventions in economic and social matters into domestic legislation.

Apart from that, Mr. Temporary Deputy Speaker, Sir, the other difficulty is the practical one, are the resources available, is manpower available, is the technical expertise available and so on. And, as I said earlier, is something that has to be recognised and, therefore, these issues must be progressively realised. What is incumbent upon the Member states is to ensure that it does act in good faith, in ensuring the progressive realisation of those rights. Even developed countries, such as Europe and so on also find difficulties to ratify and implement some of the conventions and recommendations that we have, that touch on economic and social issues, and therefore, that also may emanate from International Labour Organisation. I know that hon. Dennis Akumu is good on this matter, maybe when he is contributing, he can tell us how many, for example, International Conventions and Recommendations has the United States of America ratified. I know we have ratified about 46, I think it is about 46, we have ratified. I would like him when he is making his contribution to tell us how many has the United States of America ratified.

Mr. Temporary Deputy Speaker, Sir, only last week, Tonny Blair of the Labour Party was addressing the confederation of the British industry, and he did touch on the issue of the Social Charter of the European Union. And he made it very clear that each and every recommendation of enabling legislation have to be looked at in the light of the interest of the Great Britain, and in particular, in the light of the interests of promoting industry in Great Britain, and hence the exports from Great Britain and so on. Therefore, all these things must be looked in the light of the interests of the country, must be looked in the light of what other available resources and so on. That is why I do congratulate the Minister for laying all these International Conventions and Recommendations. I would like to believe, Mr. Minister, that this is but a first step that each and every of these Conventions and Recommendations, must from time to time be looked into, and where we can ratify, we must ratify them and so on.

But even in the absence of ratification, I do know, as a fact, that each member state where they have ratified particularly, must submit periodic reports to the ILO, in fact they said to the Director General of ILO, periodic reports on the measures that they have taken to give effect to this convention. One sees that type of Clause in every International Convention, whether it is civil and political, economic, social and cultural, that a member state who has ratified that convention, must periodically report to the authority establishing that convention periodically on the measures taken to give effect to those conventions, and some of them even go further, must also outline the factors and difficulties, that member state is facing in implementing those conventions. So that if those factors and difficulties being faced are those which in the economic, social, technical area the, international community, in all these economic and social conventions, is obligated, it is urged to assist, particularly the developing countries, in overcoming those factors and difficulties.

Mr. Temporary Deputy Speaker, Sir, with those few remarks I beg to second.

(Question proposed)

Mr. Akumu: Mr. Temporary Deputy Speaker, I am surprised about the two previous Speakers, because they are people that I know have labour background, trained correctly, one in Holland; the Attorney-General has worked with his on a number of International Conventions, and I know for certain, that if he did not want this coat he is wearing now. he would have been pressing for these conventions here to be ratified by the Kenyan Government. What they are actually saying, he is quite clever, they are telling us that all these standards of ILO are too high for us, that we should reject them, like Kenya Government has done. That is what they are telling us.

Mr. Temporary Deputy Speaker, Sir, it is quite clear what they are saying. They have said, for example, on convention on equal opportunity for men and women this year of Beijing. They have said "the standards set by this convention can only be aspired to by Developed Countries. The requirements are such that the Government and the employers cannot afford. In the light of the serious and unemployment situation we are facing, we should be more concerned about creating jobs and reduce unemployment instead of protecting those who are employed. For this reason, it is not intended to ratify equal employment opportunity for women with responsibilities." That is what we are asking you to ratify. You are asking us to reject!

Mr. Temporary Deputy Speaker, Sir, already there are a number of employers providing this in this

country. There are already some of them covered by the convention and my friend there, Mr. Minister knows that. And I am shocked to hear the Minister say these things. It would have been different if had said "this will be considered later. This is in the pipeline, we are going to amend the Act as the Attorney-General said. This one we will accept." Imagine the whole book is a rejection! This is happening at a time when my friend hon. Kalonzo is working very hard to laundry our name that we are complying with international conventions and that we are a good Government. At this time we are here saying that he will not ratify a single convention. But let say first that the International Labour Organisation (ILO) delegation from Kenya is normally tripartite. We have two Government voters, we have one trade unionist, workers' representative and we have one employer. When we obtained Independence, because ILO adopted a strong anti-colonial resolution, it is a known fact that Mzee Kenyatta's letter applying for membership is beautifully framed at one of the basements there you read, thanking the ILO, promising to comply with all the conventions.

Kenya is a member of the governing body and it has been a member of governing body for all these years; some time all three of them, the trade union, Government and even employer. Members of the governing body are supposed to be the people who really enforce the conventions when they have been adopted by the plenary session. They used to be 155 during my time and I understand they are more and they were adopted. And then a small body called the governing body where the Kenya Government has been sitting, enforces the conventions. They enforce it elsewhere but when it comes to Kenya, the Minister sneaks it here telling us to --- I know what you want Mr. Minister. You want to go to Geneva before the Board and say "The supreme body in Kenya has examined this and it has agreed with us that the standards are too high for us." You know that you have done this before for us. He has done this for us. The ILO has noticed that just last year when we were adopting the Finance Bill and we were all saying okay, "Finance Bill, Finance Bill", he had sneaked in the Trade Disputes Act and amended the redundancy. Only when the a dispute arose between the trade union and we were supporting trade union, then we got a letter---

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to say that it was "sneaked in" when it was fully discussed in this House, debated probably in his presence and he said nothing about it?

Mr. Akumu: Mr. Temporary Deputy Speaker, Sir, I will not answer that one. Now, he has admitted that he "sneaked" it in. But let me go further. The thing is very clever sugar coated so that this Parliament accepts and adopts and helps the Government to reject all the conventions so that the Government delegation will say "we did not do it ourselves, we are a democratic Government, it was adopted in a Parliament where there is a strong Opposition." I think this is grossly unfair and it is wrong to say that we should discuss the issue of civil servants that is in court in Geneva. He knows why he was in Geneva. It is because you had promised Geneva, and I have minutes, that definitely you are going to go back with a civil servants union. The Minister did his best and the union was restored for three days. The union was restored for three days and then the union was deregistered again, so the ILO is shocked and agrees with us. But do not deny us the right to discuss the fact that you are denying this. What are the implications? I challenge the Minister when he will be replying today or on Tuesday or whatever day to say which country in Africa does not allow civil servants to have a union. I challenge him to say which one including military governments. And he is saying here that "Our public sector does not at the moment enjoy free collective bargaining as stipulated in the convention; the extent to which the convention should apply to armed forces and the police." That one we have no quarrel with.

He goes on to say:- "Therefore, the Government does not intend to ratify convention 98", the pillar of the Philadelphia Declaration. The pillar of Philadelphia Declaration is convention 87 on freedom of association and convention 98 on collective bargaining. And we are here as a Parliament and are going to say that we have approved that the Kenya Government cannot ratify; it cannot approve the formation of civil servants union or university union. We have been told that because we are trying to be black- listed, actually they should be white-listed in Geneva, we should not discuss it. We are going to say that if you do not allow civil servants and university staff to have a union like it happens in other African countries, you should be white-listed. That is what we want to say.

The Assistant Minister for Commerce and Industry (Mr. Osogo): On a point of order, Mr. Temporary Speaker, Sir. It will greatly help some of us on this side of the House if the shadow Minister for Labour could point out which page he is reading convention number 98 because I do not see it myself.

Mr. Akumu: Hon. Osogo, I know you are surprised like I am. Read page 2 concerning ---

The Temporary Deputy Speaker (Mr. Wetangula): Order! Mr. Akumu. Address the Chair!

Mr. Akumu: Mr. Temporary Deputy Speaker, Sir, the Convention---

The Temporary Deputy Speaker (Mr. Wetangula): I agree with hon. Osogo that this being a technical

debate, it is good if you can point out which page and paragraph you are dealing with.

Mr. Akumu: I will comply, Mr. Temporary Deputy Speaker. It is on page 2 on the first three paragraphs. In fact 4 paragraphs.

The Assistant Minister for Labour and Manpower Development: (Mr. Ali): Convention no. 154.

Mr. Akumu: They say Convention number 154 but the actual Convention is 98 of Philadelphia Declaration. The Minister has talked here about social contract; that we should not accept. I am shocked that he is saying we do not accept because America has not ratified the anti-slavery convention. Are we comparing ourselves with America on injustice? If America kills blacks are we also going to do the same? If America is racist are we also going to be racist? I am surprised. It is true that America has only ratified nine conventions out of these 500. But the American standard is much higher. We did a research when the University was told that "You cannot have a Union because it is not in America" and yet we found out that practically in every state some universities had their own unions that were doing their own business in different States.

Some of the American standards are much higher than ours. That is not the point but it is, are we going to oppose a convention, a social contract or a social standard? The Attorney-General was wrong quoting Tony Blair because I know the Labour Party and I have the TUC. The TUC and the Labour Party are committed to the social contract of Britain. It is the Conservatives that are opposing it today. Are we saying that we are so desperate for this so called capital that we are prepared to offer slave labour where workers have no right to collective bargaining, where workers have no right, all of it because we want the capitalists to come and make profits and then leave the country like what we are trying to do at the EPZ? I have some experience in Liberia. I know that they never left anything there; The so-called EPZs. No, it will be wrong. The thing that remains in a country, and you know it, is the money the people earn, it is the social benefit they get and the fringe-benefit. When *The East African Standard* is now being sold, the millions that those people had accumulated, those benefits is what we have remained with in Kenya. If you had not signed a social contract therefore the man can pack and leave. Then our people would have never had those millions. And I am surprised that in a country which is dependent on expatriate capital even indigenous capital, should not be protecting, it should not be looking for strong social contracts to ensure that large parts of money and benefits remain here. I am surprised about our Minister for Labour and the thing which hurts me very much is that our Minister know the correct thing. He knows and if he did not know it could have been different. He is an experienced and educated in the correct country and he worked in the Ministry of Labour. He knows the correct thing. That is what hurts me. If it was out of sheer ignorance it could be different because the man knows and therefore the man still wants to mislead the House to adopt this. The best he can do for us is to withdraw this and there is a normal thing he can do. He knows we have discussed this. He should take this to a tripartite committee, a committee where the trade union, Government, chair and the employers can sit down and then say " We have examined this; this we can do now; this we can put in the pipeline; this can be delayed". I have talked to trade unions. I am lucky that this came in July and since July I have talked to the trade unions who are waiting for the Minister to call them. He wants to use the Parliament to say the "Supreme organ of dialogue of Kenya has approved our rejection that these are too high for us". I think the Minister needs your rebuking for trying to use Parliament to rubber stamp what has not gone through the proper channels. The proper channel is tripartite.

We also have a body in this country; you know the Minister for Labour has a lot of powers and he could if he likes, also take this to the Labour Advisory Board and in here there are other independent people like some professors and some professional people who would sit there and examine what they think is in the interests of Kenya and so on. He does not want the tripartite meeting, he does take it to the Labour Advisory Board and he quietly brings it to Parliament for adoption and then goes on to Geneva and says "Do not bring me to court here because the supreme organ of my country has said that these standards are not--"

The Assistant Minister for Labour and Manpower Development (Mr. Ali): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House by saying that proper legislation machinery has not been followed when the Ministry of Labour; the worker's representative and the FKE, the employers representatives were all present in this conference of Geneva?

The Temporary Deputy Speaker (Mr. Wetangula): That is the counter argument and not a point of order.

Mr. Akumu: Mr. Speaker Sir, that is not a counter argument. The workers delegates were there and they voted for convention.

The Temporary Deputy Speaker (Mr. Wetangula): Order! I have ruled that is not a point of order.

Mr. Akumu: Let me just say this. That, we are talking about a national machinery.

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member having drawn

our attention to Convention 154, page 2, you will find the last paragraph says:-

" In law and practice, we do fully comply with the provision of convention except in public service, police and armed forces. The Government, therefore, does not intend to ratify this convention for the time being."

Mr. Temporary Deputy Speaker, the hon. Member has been making a case that this document here is actually intended- The Minister has not been very straightforward with us. I was listening to him. He has not been telling us what they intend to do if this hon. Minister and the trade unions and the FKE agreed in the ILO that there should be freedom of association. Is it not criminal for the Minister to try and bring this to take advantage of some of our ignorance to get it adopted.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Shikuku, are you sure that was a point of order or you wanted to sneak in your argument?

Mr. Akumu: Mr. Temporary Deputy Speaker, whatever it was, it was very valid. What I am surprised about is that I do not know what the Kenya Government is going to say at the ILO. Are they going to say that "we have consulted our workers". Is he going to say that "We have consulted our workers and employers in the tripartite or separately and then went to the Parliament?" I think in all fairness, I want to appeal to the Minister that the best thing would be to withdraw this Motion and then take it before ---

The Temporary Deputy Speaker (Mr. Wetangula): You have already said this hon. Akumu. It is not the first time you are saying it.

Mr. Akumu: Well, for example, there is right in social security. They have written Convention 157.

" Now, the benefits, serving which, subject to diverse conditions, social physique... such as sickness, parternity, invalidity, old age, death or bread winner, including rehabilitation benefits linked to other contingencies. In particular, it provides that each member State shall guarantee the provision of its validity, old age and survivors cash benefits, pension, in respect of employment, injury and then under legislation".

Which are very relevant; very, very relevant under social security. But, the Kenya Government says, our social security is still underdeveloped and you know what they are doing with NSSF money.

Mr. Temporary Deputy Speaker, you know what they are doing with NSSF money, yet they say our social security is still underdeveloped, to the extent that there are a number who benefited this check by Convention, that are not yet covered.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Akumu, you will not help the HANSARD recorders, if you do not speak in the microphone.

Mr. Akumu: I am glad, Mr. Temporary Deputy Speaker, people learn until they die; even old ones learn.

Mr. Temporary Deputy Speaker, they are saying, that, the administration and enforcement of the system outlined in the Convention would pose major difficulties. It is, therefore, not intended to ratify the Convention for the time being. You know what the social security, it is serious for us in this House. I am told they are not refusing, so he may be changing his mind. But, what I see, we are being asked, that they do not want to ratify now, they do not want to give the Benefit Act covered here. I was one of the people in 1965, under the Chairmanship of Ngalla Mwendwa, when we introduced NSSF, and the items listed here were the basic things that we needed members to be provided with. You know what NSSF money is doing. Instead of helping members it will be so sad if this House - regardless of which side you are - were to go and say, that they are not ratifying this.

An hon. Member: This is for Kanyingi; to protect Kanyingi.

Mr. Akumu: Now, on occupational health, it is very interesting. They even agree on page 5. They say:-

"That, presently, our directory for occupational health and safety services does not have the capacity and resources needed to fully meet the requirements of the instrument. For this reason, the Kenya Government does not intend to adopt the Recommendation 160, on occupational health".

Mr. Temporary Deputy Speaker, I think, your profession, one of the second oldest, you would think twice.

It is so serious, that I never thought. I agree that there was a case for argument about the length of driving and rest. But, the ILO provides that proper type people can sit and say this is how far we can go at the moment. But, on occupational health! At the same way, when the machines are being dumped in Africa. Machines are being dumped in Africa, I know that we had a Proper-tight Occupational Committee it was doing---. Why do you not ratify this? Why do you want to protect the employers? Why do you not ratify the Convention? All the workers

and recommendation 163, page 6. The recommendation is supplemented to its corresponding Convention 158, on collective bargaining.

"Since we do not have any form of free collective bargaining in the public sector - They even accept, they do not have free collective bargaining in the public sector. In this free Republic, the most democratic according to hon. Kilonzo, they do not have free collective bargaining in the public sector.

- the Government does not intend to adopt this recommendation for the time being".

Mr. Temporary Deputy Speaker, Sir, please, if the House has any influence---. Then concerning vocational, rehabilitation and employment of disabled persons, page 7, in Convention 159. It is very dear because the disabled people, the countries that have even have quarters, they are a special thing. But, my country is saying "No".

"That, the two instruments have been studied very carefully, and although there is nothing in our Law and Practice that is in conflict with the provision of the above Convention, or recommendation once it is yet. The Government does not intend to ratify or adopt any of the two instruments until full implications of the two instruments have been studied in great detail."

Do you want us to adopt that? Do you agree? Instead of telling us that, it is in the pipeline, it is being drafted, it is being studied by a tripartite Committee and so on. Concerning termination of employment, without notice, and this is intended to protect the workers. The standards and the instruments sets, this is what the Minister wants us to adopt, Page 8:-

"Through elaborate provisions and procedures, are too high for a developing country like Kenya, and are not in total conformity with our national laws and practices. For instance, the procedure for termination set out in the instrument is in direct conflict with our current national policies with regard to redundancy"

You remember what was unique last year.

"In view of the foregoing, the Government does not intend, for the time being, to ratify the recommendation".

So, Parliament is going to tell us that the employer can come and terminate jobs--- right, I have never known a free for all in all my life. And I think I will live long and I have worked hard in the trade union for over 40 years.

I have never known any country, even the dictators in regimes, you will not protect your people against termination, arbitrary termination of employment. I am shocked.

Mr. Temporary Deputy Speaker, as you can see, if we were to accept this, I will give you page 12 to read, concerning safety in the use of asbestos. I do not know whether we have an expert on occupational health or a doctor here. If we did have a doctor, the use of asbestos is now condemned by World Health Organization. So that, if you have to use them there are special arrangements that are made.

"The above instruments aim at providing protection of workers against the various risks that emanate from the use of asbestos. It provides for strict measures for preventing serious health hazards resulting from occupational exposure to asbestos. The text also envisages the prohibition of the use of crocidile(?) a type of asbestos which is considered particularly dangerous and also all types of asbestos"

What does our Government say?

"On the whole, and in view of the fact that there is no specific law on the safety in the use of asbestos, the Government does not intend to ratify this Convention for the time being".

Mr. Temporary Deputy Speaker, Sir, as a jurist yourself, I want to appeal to your conscience because I think there is something wrong. When I read this I didn't believe myself. There are others which one could talk about. I do not agree that Kenya is not seafarer country, we should begin to build our own. If Ghana and other countries have, we should have also. I am talking about page 13 of the Sessional Paper No.1.

"I am, therefore, refusing to rectify Convention 162, covering the sea-farers and their voluntary organisation".

That is when ships and boats call in. They take our people and throw them over-board because there is no proper protection. Therefore, I feel very strongly that even though we are still as small as a nucleus, but we should begin to build up a protection for our people on this.

Mr. Temporary Deputy Speaker, Sir, there is also a protection against unemployment.

The Temporary Deputy Speaker (Mr. Wetangula): Which page?

Mr Akumu: Mr. Temporary Deputy Speaker, Sir, that is page 16.

"The general objective of this Convention is to ensure that, rectifying country shall take appropriate steps to co-ordinate its system of protection against un employment and its employment policy. To this end, we shall seek to ensure that this system of protection against unemployment and in

particular the method providing employment benefit, contribute to the promotion of full productive and freely chosen employment".

What does my country say?

"After taking into account the various provision of convention and in particular the requirement for providing an employment benefit and taking into account the present stage of social and economic development of the country and in particular the high growing level of employment and under-employment in the country, and the limited financial resources needed to meet the contingency to be covered, the Government does not intend to rectify this convention"

The Minister for Labour and Manpower Development (Mr. Masinde): For the time being!

Mr. Akumu: Mr. Temporary Deputy Speaker, Sir, this is indefinitely.

(Laughter)

Mr. Temporary Deputy Speaker, Sir, night work which is on page 17 - Convention 171. I signed an agreement about this in 1959 in the Port, so, that people had three shifts. I know that this is covered already. Imagine, 30 years later, the Government is saying no. I fought the Colonial Government and got it under Ian Package.

Maternity protecting works.

An hon. Member: Maternity!

(Laughter)

Mr. Akumu:"The compensation for workers in the form of working time or pay or similar [Mr. Akumu] benefits, shall be recognised under that Convention."

Mr. Temporary Deputy Speaker, Sir, but our Government, in view of the above, are saying.

"It should be noted that Section 28 (1) of the Employment Act, still prohibits night work for women, between hours of 6.30 p.m. and 6.30 a.m."

In any industrial undertaking, women work at night and I have checked that. Again Article Six of Convention, gives leeway to workers to lay claims that may not be suitable for night work. If we rectify the Convention, the present shift system in the country would have to be seriously affected. Adjust them, Mr. Minister.

Mr. Temporary Deputy Speaker, Sir, the word should be adjusted under society dynamic, it adjusts itself.

"In view of the above the Government does not intend to rectify this Convention".

An hon. Member: We know the above!

(Laughter)

Mr. Akumu: Mr. Temporary Deputy Speaker, Sir, certain amendments are also needed in the present employment cadre before rectification can be deemed visible. When he is replying ask him at least something like, "we have been good members of governing body, we have been reinforcing this, we could not rectify this, but we have to rectify this, we have done this". Ask the Minister to reply to that.

Protection of workers, if their employers go bankrupt. This in some cases are very deliberate. Some employers are not genuinely bankrupt. I do not accept a case where Elliotts Company claims that it has become bankrupt and when the parent Company Unga Limited, is making billions of shillings. Thousands of workers have been left in the streets. The most serious thing is that some of them are parastatals, KICOMI, East African Fine Spinners and many others. This Convention is intended to protect them and if the workers of the *East African Standard* newspaper, were not smart, to take their own lawyer and organise themselves, they would have been in trouble. They would not have been able to get their money.

The protection of workers claim by guaranteed institutions would require that payment of such claims against their employer, arising out of their employment, shall be guaranteed through guarantee institutions, that is, when payment can be made by employer because of insolvent. This is so important. It is important for an investor, when he comes that the first thing he does is to ensure that when he is packing up, he will ensure that he has paid his employees. That should be part of the agreement and I am glad that at least our people in the *East African Standard* newspaper got their dues.

In Kenya today, none of our laws provide for guarantee institutions. We should make payments to workers when payment cannot be made by the employer because of insolvency as required under part three of the

Convention.

"In view of the above, the Government does not intend to rectify this Convention for the time being".

As a result, there are thousands of workers today in the streets and we know that employers go and change their company's names and begin a new company and he says the company which became bankrupt was not his. It is sad the way we are trying to help foreigners.

Mr. Temporary Deputy Speaker, Sir, I could continue almost indefinitely on this as I feel that the Minister, and of course even more shocking the Attorney-General, because I know he knows, decided to bring this and ask Parliament to adopt this Motion. In fact, some of my friends innocently, thought it is going to be a great thing adopting and improvement of conditions of workers, until they read and saw that everything is a negation.

Mr. Temporary Deputy Speaker, Sir, once again, I want really to plead with the Minister, and the Government, that if they do want to live according to the spirit that the Attorney-General has invoked here, of the famous Philadelphia Declaration, then they should take this, discuss it outside, reach an agreement with the workers and employers. As it is today, it is not cleaning the name of Kenya, if anything at all, I think this is doing damage to our friend, hon. Kalonzo, who has been trying to say that we are good people, we comply with conventions, we are not for exploitation of workers, we are for good social contract, we do everything according to conventions, we are liberal. In fact, we do collective bargaining.

Mr. Temporary Deputy Speaker, Sir, with those few remarks, I beg to oppose.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, while I would not claim to be an expert in labour matters like the hon. Member who has just sat down, I would claim to be a trade unionist in my own capacity. I was one of the leaders of the Railway African Union (RAU) in the early 1950s and also I headed the Kenya National Union of Teachers at its birth in Nyanza Province. So, I have got some knowledge of trade unionism.

The problem with this Sessional Paper we are debating now is that hon. Members, particularly hon. Member who has just contributed who is an expert in labour's matters, has not read from pages 25 onwards. It is the biggest part of the Sessional Paper. In those pages, details of the Convention, article by article, are given. What the Government has done is to summarise after seeing the implications of the articles concerned and give its own version that for the time being it is not possible for the Kenya Government to adopt Conventions such and such. In all those articles, one by one from page 25, if we agree with what the hon. Member for Nyakach has said, we are going to put the cart before the horse. I am told that the Labour Advisory Council looked at the Conventions. The Council comprises of workers' representatives, employers' representatives and the Government.

The tripartite kind of get together, if we can say so. I am told that they did meet and I have no doubt what I have been told as the Assistant Minister of the Government that they met and looked at them. What they saw is in case---

Mr. Akumu: On a point of order, Mr. Temporary Deputy Speaker, Sir. I have no intention of interrupting the hon. Member, but even the Assistant Minister agrees that the Labour Advisory Board and the Tripartite did not meet. I can bring witnesses that the Trade Union and the employers did not meet with the Government.

The Temporary Deputy Speaker (Mr. Wetangula): That is not a point of order!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, it is a point of argument and my hon. Colleague, the Minister will answer that one for himself when he comes here to respond but that is the information that I have been given from the Ministry.

Let us look at the Articles as shown, for example, at page 53, as regards Recommendation 163 on similar convention number. On page 53 7(ii) the Convention concerns promotion of collective bargaining. 7(ii) says,

"For this purpose, public and private employers should at the request of the Workers' Organisations make available such information on the economic and social situations of the negotiating unit and the undertaking as a whole."

What I am trying to get at is that we know, in this House, that our public servants have no collective bargaining. You cannot ratify this Convention unless you put in order the bargaining opportunities of the public servants. So, you should do one thing first before you come to this. That is why I said that we are trying to put the cart before the horse which is very unnatural. Many of those Articles have got similar provisions and that is why the recommendations of the Government says that the Government is not adopting conventions. We are not rejecting, we are only saying that the Government is not accepting the recommendation for the time being. I am told that there is no time limit in ratifying these conventions. For the time being, that is this time we are analyzing this Sessional Paper, there are certain things that must be put into place before we ratify because if we ratify, we have actually made international law by itself and we can be challenged is International Court for failing

to comply with the Conventions which we have ratified. There are several things that should be done before we ratify this Convention. I expected the hon. Member for Nyakach to do was to recommended probably that the debate on this Sessional Paper be adjourned but not to be withdrawn. Let this Parliament appoint a Committee to look at the Articles from page 25 onwards, so that the Committee can come up with proper recommendations of what the Government should do in order to ratify them. If the Government has to put certain laws in place, let the Government bring that law in place so that the Convention then can be ratified. You cannot ratify, in fact, I am told that America itself, the biggest democracy in the world, has not been able to ratify some of these conventions, particularly the Convention of the Law of the Sea simply because certain Statutes in their own country have not been put into place so that when the Convention is ratified, it falls in place and binds the member country, for example, Kenya is a member of International Labour Organisation (ILO).

Mr. Raila: On a point of order, Mr. Temporary Deputy Speaker, Sir. I think the hon. Member is misleading this House by trying to get this House to accept that two wrongs make a right. The Government has denied the workers the right to form an organisation, and therefore, he is saying that the Government is now right in not ratifying the Convention. I think he is misleading the House.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I have not said what the hon. Member for Langata is saying. I have said, and he should listen, in fact, if he has got the Sessional Paper, he should open the pages I have been giving examples to.

We will be misleading ourselves, if we are reading the recommendations alone without reading the conventions themselves, article by article, which the Government read and decided that in its own judgement and in the present position of the Government either the personnel are not available to undertake what Convention is recommending or the law in this country is not in place, so as to assist--

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is in order for the Assistant Minister really to mislead this House that the law is not in place when he knows, or ought to know, that the freedom of association is there in the Constitution and nothing, for example, further requires to be done for the Civil Servants' Union to be registered other than for the Government to register it. There is nothing else remaining to be done. Is he in order to continue misleading this House?

The Assistant Minister for Commerce and Industry (Mr. Osogo): I am not misleading the House at all.

Much as I agree with what hon. Muite is saying that there is nothing to stop the Civil Servants Union to be registered, but the fact is that it has not been registered yet.

An hon. Member: Why?

The Assistant Minister for Commerce and Industry (Mr. Osogo): The Government has not seen it fit to register it. So, let that be registered first before we ratify the Convention concerning it. That is what I am saying and it cannot be the other way round, unless we want to put our cart before the horse.

An hon. Member: We do not have a horse!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir--

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

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! Hon. Osogo is putting forward his views, you may agree with him or you may not. You will be given an opportunity to put forward your own views as well. I do not think I am going to encourage any arguments across the Floor in the guise of points of order. I am not allowing it hon. Raila. You are just trying to advance a counter argument.

Carry on hon. Osogo!.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, there are some recommendations which the Convention says should be implemented progressively. The Minister should accept that a leeway has been given by the ILO that they should be implemented progressively and such recommendations should also come out in this Sessional Paper that the Government is prepared to implement such recommendations progressively. I have in mind Convention 174 on page 19 and on page 20, second paragraph from top, it says:

"A member ratifying this Convention may exclude from the application of the Convention installations or branches of economic activity for which equivalent protection is provided. The Convention further provides that where special problem of substantial nature arise so that it is not immediately possible to implement all the preventative measures provided in the Convention, a member may draw up plans for progressive implementation."

With regard to that recommendation, for example, the Minister should accept that the Government accepts the Convention and is prepared to implement it progressively. That is the type of recommendation that I was

requesting that the House, if it has appointed a small Committee to look into its detail because the Articles on page 25 will come up with such recommendation because implementing progressively does not close the door. Those that could possibly be implemented should be implemented.

Mr. Temporary Deputy Speaker, Sir, in Convention 172 page 13, second paragraph, from the top they are talking about the safety of the use of asbestos, which my friend has been talking about. We know how dangerous asbestos are and, indeed, the Government says:

"Kenya does not have specific laws which prescribe the technical measures of asbestos hazards prevention and of adequate work practice and special rule".

If Kenya does not have those rules at this time, you cannot ratify that Convention, but the law should be passed.

Mr. Raila: On a point of order, Mr. Temporary Deputy Speaker, Sir. I really do not intend to interrupt the Assistant Minister, but is he in order to mislead the House when he know that Kenya Bureau of Standards (KBS) has written a standard on asbestos use? Is he in order?

An hon. Member: Oh yes!

The Temporary Deputy Speaker (Mr. Wetangula): That is a point of information.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, that is laughable because he was a director in the Kenya Bureau of Standards, but KBS by itself is not a law. Here the Government is saying that Kenya does not have a law and it is that law that I am saying let it come in place and then we ratify the Convention. Otherwise, we are still putting the cart before the horse. My friend seems to be taking me wrongly, but what I am saying is: I am begging that the hon. Members read what I am talking about and they will see that the Government did not want to bluff this Parliament. The Government was genuinely aware that the articles concerned convey or contain certain things that are not yet in place, but they can be put in place as, indeed, hon. Muite asked what has stopped Civil Servants Union to be registered. Well, it is not registered yet. So, it would be foolhardy for this House to pass the Convention when the Government has not registered the Civil Servants Union. What we are saying is simple: Let the Government register the Civil Servants Union then comply with the Convention as it stands. I know my hon. friend---

Mr. Muite: On a point of information, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Osogo, do you need it?

The Assistant Minister for Commerce and Industry (Mr. Osogo): Yes, Mr. Temporary Deputy Speaker, Sir, I need it.

Mr. Muite: Mr. Temporary Deputy Speaker, Sir, my point of information is to remind the Assistant Minister that if this Treaty is ratified without exempting the Articles that they are exempting, we will place an additional obligation on the Kenya Government to register any Trade Union that requires to be registered. So, they should not use this as an excuse for not ratifying. If they want to register tomorrow, they can register, let us ratify it in its entirety so that this Government can be obliged to respect the fundamental rights of the workers.

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I am saying no to that information.

The Temporary Deputy Speaker (Mr. Wetangula): But you have already received!

The Assistant Minister for Commerce and Industry (Mr. Osogo): I received it and I am rejecting it because this Government does not work the way hon. Muite thinks. We work systematically as a Government and we are not going to pass an international Convention, commit ourselves to it and say we are now going to sweep our house after committing ourselves to international Conventions. First, let us sweep our house and commit ourselves to international Conventions after that. The only way to help us out would be to appoint a committee to look into this and hon. Members should read the Articles I am referring to. I can bet that my hon. friends have not read those Articles because then they would agree with the recommendations being made. I have read them and I see some of you do not even have the books with them to refer to.

Mr. Shikuku: We have read them!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, my colleagues on the opposite side are not helping us. Hon. Akumu, interestingly avoided mentioning something about Convention No.169 on page 16 which concerns indigenous and tribal peoples.

An hon. Member: You are right!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, he avoided it, but it is the only one Convention which the Government has not committed itself to in one way or the other. It does not say like it says in others that:

"We do not intend to ratify it."

It does not say that. Neither does it say that it is ratifying it. So, if hon. Akumu had read this part, he would

have seen it and that one should be read in conjunction with what is contained on page 179. Convention 169 also concerns indigenous and tribal people in an independent country. If one reads that whole page and the next five pages in conjunction with Convention 179, he will see that the Government has missed out something there because the Government is supposed to tell us that either we ratify it or we do not ratify it, but here it is not telling us anything. So, there is a serious omission there and maybe the Minister will be in a position to tell us why he is silent over that particular one. Those are the type of things we are concerned with.

Mr. Temporary Deputy Speaker, Sir, in Article 170 on page 10 the Government is saying very clearly that we do not have the machinery to collect the statistics although we have got the Department of Statistics---

(Mr. Mulusya murmured something while seated)

The hon. Member for Kangundo seems to be borrowing the Paper from the hon. Member for Changamwe and he is shouting because he has not read what I am talking about!

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

The Temporary Deputy Speaker (Mr. Wetangula): Order, Mr. Mulusya! You cannot provoke a situation and then benefit from it!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I am only urging that we look at this very important Sessional Paper with sober minds. It concerns the workers of this country and all of us are workers. So, rather than say that the Government is not doing this and that I would pray that this---

Mr. Shikuku: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Hon. Member referred us to page 10. I guess that he is contributing to Article 170. If so, which paragraph is he referring to?

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I am on the second last paragraph on that page, which states:-

"Although the Government, through the Central Bureau of Statistics and the Ministry of Labour and Manpower Development, has an elaborate machinery to collect nearly all the statistical data as stipulated in this instrument the required manpower and resources to publish the same are not always available".

This is what I was referring to. So, the Government is admitting that it has the set-up in place for collecting data, but it does not have the finances to do the publication as required by this Article. The concerned Article has details of what is required to be published very often so as to make available the required statistics. So, the Government is only pleading the truth which all of us know. We do not have enough finances to do that and you cannot ratify the convention unless finances are available. I agree with the concern the hon. Members are expressing. However, there is no need of expressing it either from this side or that side of the House. There is no need of this side using its numerical majority to approve this Paper if we can do something about it. We can put certain laws in place before the Paper is brought back later for ratification. So, let us not have the type of emotions the hon. Member for Nyando had when he was speaking.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Osogo, he is not an hon. Member for Nyando but for Nyakach!

The Assistant Minister for Commerce and Industry (Mr. Osogo): Yes, thank you, Mr. Temporary Deputy Speaker, Sir, for reminding me that he is the hon. Member for Nyakach. I seem to be in love with Nyando. But the hon. Member for Nyakach is a great friend of mine.

We are all concerned but will be more helpful to the workers of this country if we moved towards assisting them. But we cannot assist them by passing this Paper as it is when the Government is saying that while it is able to do certain things it is hampered in doing certain other things. Let us scrutinise the Articles as they are given and see in which way we can assist the Government.

The only plea I have for both sides of the House is that rather than force the passage of this Paper or try to "kill" it, which the Opposition cannot do because of our numbers on this side, I would appeal to the sobriety---

Mr. Muite: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to anticipate the way that voting or a division would go? Is he in order to anticipate that there will not be any reasonable hon. Members from that side of the House who may vote with this side of the House? Why is he relying on the numbers and saying that we are unlikely to succeeding in the voting? Is he saying that people on that side are voting machines?

The Assistant Minister for Commerce and Industry (Mr. Osogo): Mr. Temporary Deputy Speaker, Sir, I can teach the hon. Member for Kikuyu a bit of the procedure of this House and tell him that when the whip

is applied on this side we will defeat them. It is just a matter of applying the whip. Probably he does not know what the whip does when it is applied.

However, I am only pleading and not asking for the whip to be applied. I am only saying that good sense should prevail over debate on a Paper as important as this one. There should be no hurry on it. Indeed, I went to the Minister for Labour and Manpower Development and asked him whether there was a time limit, as it is the case in some of the United Nations instruments, for ratification of this instrument by countries, but he told me there was no time limit.

With those remarks, I support the Motion and beg for sobriety of this House so that we can see how best we can get this Paper out of the way.

Thank you, Sir.

Mr. Kiliku: Ahsante sana, Bw. Naibu Spika wa Muda. Wakati Waziri alikupokuwa akiwasilisha Hoja hii alifikiria kwamba hatukuwa tumeyasoma makala haya. Serikali hii imekuwa ikisema kule nje, kupitia kwa mhe Musyoka, kwamba inaheshimu sheria zinazowalinda wafanyakazi na binadamu kwa jumla, lakini siku za mwizi ni arobaini. Kupitia kwa Hoja hii Serikali itagunduliwa na ulimwengu mzima kwamba haishughulikii matakwa ya wafanyakazi na wananchi wengine. Si Upinzani ulioiandika Hoja hii lakini ni Serikali iliyoiandika na kupinga mapendekezo yote kuhusu masilahi ya wafanyakazi katika nchi hii. Inafaa habari hii iwafikie wafanyakazi popote walipo ili wajue kwamba hii si Serikali yao.

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni haki kwa mhe Kiliku kusema kwamba hii si Serikali ya wafanyakazi? Serikali imekitayarisha kitabu hiki ili kuwa mwongozo wa watu watatu---

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Ali, what is your point of order?

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Mhe Kiliku analipotisha Bunge hili na nchi hii kwa jumla!

Mr. Kiliku: Bw. Naibu Spika wa Muda, Waswahili wanasema; asiyekubali nusu ya shari hafai kupewa shairi kamili. Basi, nitamsamehe.

Nitaanza na Convention 152, yaani, vile ilipitishwa kule. Nitazungumza kuhusu wanafanyakazi wa kilindini, yaani, port workers. Meli yoyote ikija na mizigo hatari, ni lazima wafanyakazi wajulishwe. Kabla hawajaenda katika hiyo meli, lazima kuwe na watu spesheli wa kusindikisha hiyo meli, kuileta na pia kupakuwa hiyo meli ili mambo yote yawe sawa sawa. Halmashauri ya Bandari, yaani, KPA, ichukue nafasi hiyo kueleza ni wafanyakazi fulani watakuwa na vifaa maalum vya kukaribia mizigo iliyo hatari. Maisha ya watu wa kilindini imekuwa mafupi kwa sababu wamekuwa wakiletewa meli ambazo zimebeba mizigo hatari, nao hawajui, wala hawana habari. Serikali hii ilipewa pendekezo nzuri kama hilo, wakasema hawakubali, na hawataki. Mahali wafanyakazi wa kilindini wako, wanangojea Serikali hii iawaokoe, hasa, wale wanaofanya kazi katika Container Terminal, pahali ambapo container inakuja na vitu. Hujui ni nini iko ndani, kumbe ni bidhaa zenye sumu. Wakifungua, wanaanza kupatwa na maradhi. Hili lilikuwa pendekezo tu, wala si Serikali hii ingetekeleza pendekezo hilo, bali KPA. Halmashauri ya Bandari inahitaji kuangalia ya kwamba, kabla ya meli zozote kupakuliwa pale, ni lazima wafanyakazi wajulishwe imebeba nini, na wafanyakazi spesheli wafanye kazi hiyo. Haya ni badhi ya mapendekezo yanayotolewa hapa, na Serikali inakataa.

Ukurasa wa kwanza, Convention 153 inazungumza juu ya wale madereva. Madereva wanahitaji kupata nafasi ya kupumzika. Kila wakiendesha gari, ni lazima kuwe na madereva wengine wa kuwapumzisha. Katika kila masaa 24 kwa siku, wanahitaji kupumzika masaa 10. Hivi sasa ninapozungumza, ukienda katika makampuni yote ya "transport", hasa kwa yale ambayo yanasafirisha bidhaa kwenda Sudan au Uganda, dereva huwa ni mmoja tu kupeleka gari Zaire au Uganda kutoka bandari ya Mombasa. Hivi sasa, ile kampuni inayoitwa Wheels Africa ambayo imetoka Afrika Kusini imesema dereva atakuwa akienda peke yake, bila hata turnboy. Waziri anaweza kuchunguza kama jambo hili si la kweli. Dereva ni mmoja tu, bila turnboy, na inambidi aendeshe ile lori kutoka Mombasa mpaka Zaire au Uganda, na kuirudisha bandarini Mombasa, akiwa peke yake. Dereva kama huyu atapumzika lini? Tungeomba Serikali ipendekeze ya kwamba kuwe na madereva wa kutosha.

Dereva akiendesha gari kutoka Mombasa mpaka Mtito Andei, dereva mwingine achukue gari hilo na kulifikisha Nairobi. Yule mwingine atakuwa amepumzika, naye aendeshe gari hilo kutoka Nairobi, afikishe Kisumu. Yule mwingine akishapumzika, achukue gari hilo, afikishe Kampala. Lakini dereva akiwa mmoja, bila turnboy, atapumzika lini? Hii ndiyo sababu tumekuwa na ajali nyingi sana.

Katika barabara ya Nairobi-Mombasa, kumekuwa na ajali kila wakati kwa sababu dereva anaendesha gari mpaka hawezi kuona kwa sababu ya usingizi. Anaambiwa kwamba asipofanya hiyo kazi, atafukuzwa. Kwa hivyo, anaona ni afadhali aokoe maisha yake ya kazi kwa kukubali. Serikali ingesema kwamba inakubali mapendekezo hayo, lakini kila gari ambayo inaendeshwa kwa zaidi ya masaa 24 ni lazima iwe na madereva

wawili. Hivyo, watu wengi watapata kazi. Kweli, hilo ni jambo gumu kwa Serikali hii? Tunaambiwa ni Serikali ya watu. Serikali ya watu wakati gani, na imekataa mambo ya watu? Si Serikali itaandika yule dereva; yule muajiri wa dereva ataambiwa aajiri madereva wakutosha wa kuendesha magari yake, ili watu wetu wapate kazi. Kwa nini Serikali hii inaona ni vigumu kusema hivyo? Hakuna ugumu wowote, ni kukataa tu kwa sababu ni mazoea kukataa.

Bw. Naibu Spika wa Muda, sasa ninaenda ukurasa wa pili: Promotion of Collective Bargaining. Nina karatasi moja hapa. Kwa ruhusa yako, nitaisoma. "Union of Kenya Civil Servants". Hivi ndivyo KANU ilikuwa ikisema:

Restoration of Trade Union Rights for Civil Servants. In the 1992 Election Manifesto of the ruling Party, KANU declares that KANU will ensure that the rights of workers as set out in the Constitution and all other laws of Kenya are most strictly safeguarded. KANU will continue to involve trade union representatives at all policy-making levels. KANU supports the revival of the Civil Servants Union.

Hivyo ndivyo KANU iliandika. Mpaka leo, hii itafanywa lini? Tarehe 1, mei, 1992, katika sherehe ya siku ya wafanya kazi, Rais wa chama cha KANU alisema: "...announce the lifting of the ban on the civil servants union. The lifting of the ban on the union was to allow the workers' body to represent civil servants in trade disputes". Tarehe sita, wakaunda kamati iliyoongozwa na Justice S. Cocker kuhusu "collective bargaining of civil servants". Tarehe 13, Oktoba, 1993, kulikuwa na Hoja katika Bunge. Hawakupinga, waliipitisha. Tarehe 28, Aprili, 1994, kamati ya Justice Cocker ilitoa Ripoti kwa Prof. Mbithi. Sasa, kila wakati wamekuwa wakisema Civil Servants Union itaandikishwa. Mfanyakazi wa Serikali ni kama mfanya mwingine yeyote. Katika Sheria zetu, ukisoma hii sheria ya Employment Act, hakuna tofauti kati ya mfanyakazi wa Serikali na mfanyakazi wa kampuni; mfanyakazi ni mfanyakazi. Kwa sababu ya kutokuwa na union na kunyimwa haki yao ya kujitetea, hawa wafanyakazi wa Serikali wananyanyaswa na wananyamaza tu. Kwanza, nyumba za wafanyakazi wa Serikali zinachukuliwa na wanafukuzwa lakini hawasemi. Mtu anaogopa kusema kwa sababu akisema mtu fulani amechukuwa nyumba yangu na ni mtu mkubwa, atafutwa kazi. Hawa wafanyakazi wa Serikali wanafanya kazi masaa mengi sana lakini hawapati malipo ya ziada. Nitaanza na wanafanyakazi wa hapa Bunge. Wafanyakazi wa Bunge wanafanya kazi mpaka usiku na hakuna malipo ya ziada wanayolipwa, wala chochote. Ni Wafanyakazi wa Serikali, kwa hivyo, hawawezi kulalamika. Itakuwaje? Wafanyakazi wa Serikali wamekuwa wakifutwa ovyo ovyo. Wanaambiwa: "You explain why disciplinary action cannot be taken against you". Wewe unaandikiwa barua na yule mkubwa wako, umweleze ni kwa sababu gani huwezi kufukuzwa kazi. Utamueleza na yeye ameshaamua utafukuzwa? "Explain why disciplinary action cannot be taken against you": Ni mkubwa wako anayekwambia hiyo, na yeye ameshaamua kwamba utafutwa kazi au utahamishwa kutoka pahali pako pa kazi. Kama wangukuwa na chama cha wafanyakazi wangesema jambo hili lipitie hapo.

Bw. Naibu Spika wa Muda, sitaki kurudia yale yamesemwa kwa sababu si vizuri kuzungumza yale yamesemwa.

Ukurasa wa saba unasoma, "rehabilitation and employment of disabled persons". Tulichanga pesa katika nchi hii tukaambiwa kwamba ni za watu ambao hawajiwezi. Tulichanga pesa, zikachukuliwa na tukaambiwa kwamba pesa hizo ni za kuwasaidia waliolemaa. Yaani kuwasaidia wasiojiweza ili waweze kujiweza kikazi na kila kitu. Wafundishwe kompyuta au wapatiwe elimu nyingine. Tuliambiwa hivyo tulipochanga hizo pesa lakini Serikali hii imesema hapa kwamba haiwezi kukubali mapendekezo ya rehabilitation ya wasiojiweza na walichukua pesa zetu! Hizo pesa zitafanya kazi gani?

An hon. Member: Jana walipeleka ripoti ya hizo pesa kwa Rais.

Mr. Kiliku: Ikiwa walichukua pesa za wananchi wakaweka kwa fixed account na huku wanasema kuwa they cannot ratify the Recommendations of the International Labour Organization, hizo pesa zitaenda wapi? Ingekuwa hizo pesa zinatumiwa kusomesha wale wasiojiweza kujifunza kompyuta. Kwa mfano, kule Changamwe tuna Portriz Primary School for disabled children. Waleta hizo pesa ili wale watoto tuwafunze Kompyuta ili watakapotoka pale wajue mambo ya kompyuta na hapo wanaweza kufanya kazi ofisini.

Lakini ikiwa mjadala huu utapitishwa hapa hizo pesa kweli zitapatikana tena? Yaani Waziri anatuletea karatasi hapa ili tukubali ulanguzi? Bunge hili likubali ulanguzi uendeleo? Haiwezekani! Ningemwomba Waziri tafadhali arudishe huu mjadala huu kwanza ujadiliwe vizuri na wafanyakazi kupitia kwa viongozi wao. Pia Serikali na matajari waangalie na kuona ni nini kinaweza kupendekezwa ili waleta katika Bunge hili sio kuletewa kila kitu ambacho wamekikataa.

Katika ukurasa huo wa saba kuna jambo la kuwaachisha kazi wafanyakazi. Kufukuzwa kwa wafanyakazi katika nchi hii limekuwa jambo la kawaida. Labour officers wamekuwa na uwezo zaidi hata kulika Waziri mwenyewe. Mimi nina kesi nyingi za namna hii. Hata zingine zinahusu Wahindi. Mtu anafukuzwa kazi na yule

mfanyakazi akienda kupiga ripoti kwa afisi za wafanyakazi barua inaandikwa na Labour officer na yule mfanyakazi anapatiwa ili kupelekea mwaajiri wake. Kabla hajafika kupeleka ile barua, yule labour officer anampigia simu yule mwaajiri na kumwaambia kuwa ametuma barua lakini wataonana saa nyingine. Barua ya Serikali ambayo ina Kirauni ya Serikali Mhindi ambiwe aje ofisini na akatae kwenda! Barua ambayo imeandikwa na Serikali na imetiwa sahihi na mfanyakazi wa Serikali halafu mtu anakosa kwenda kuangalia ni shida gani anaitwa kutatua. Ndiyo unaona watu wetu wanafukuzwa kazi kila siku. Ndiyo sababu unaona kwamba kesi nyingi hazifaulu kwa sababu Wizara hii ya Wafanyakazi imekuwa sio Wizara ya Wafanyakazi mbali imekuwa Wizara ya matajiri peke yao. Tungependa Wizara hii iwaangalie wafanyakazi na matajiri. Iwe katikati. Yule mwenye haki apewe haki yake. Kama ni mwaajiri mwenye haki apewe haki yake. Kama ni mfanyakazi mwenye haki apewe haki yake lakini sio kuwa upande mmoja wa mtajiri ndiyo unaangalia tu. Hizi Harambee zimeharibu haya maneno. Hii maneno ya Harambee ndiyo imefanya viongozi wote wahongwe. Harambee hizi ndizo zimetuharibia mwongozo wa Serikali wa nchi hii kwa sababu ikiwa ni Waziri wa Wizara ya wafanyakazi kwa mfano, anapiga simu kwa Bw. Patel na kwa vile Bw. Patel anajua kwamba amefukuza watu kutoka kazini anamwambia Bw. Waziri, "Nimesikia kwa matangazo kwamba kule Busia una Harambee kubwa, unaweza kuniruhusu nikaja?". Unajua ni binadamu---

The Minister for Labour and Manpower Development (Mr. Masinde): On a point of information, Mr. Temporary Deputy Speake, Sir.

The Temporary Deputy Speaker (Mr. Wetangula): Do you want information?

Mr. Kiliku: Let him give me that information.

The Minister for Labour and Manpower Development (Mr. Masinde): Mr. Temporary Deputy Speaker, Sir, thank you very much for the hon. Member for allowing me to give him information. I want to assure him, the House and the nation that the Ministry of Labour and Manpower Development handles cases very, very impartially and if not quite often it helps the workers more than the employers.

Mr. Kiliku: Bw. Naibu Spika wa Muda, nitaendelea kuongea. Nimesema ujidhariri kabla ya hatari. Ile Harambee itakuharibia kazi.

Sitaki kurudia yale yamesemwa lakini nitasema kidogo kuhusu asbestors kwa sababu tuna kiwanda cha asbestos hapa nchini, upande wa Kisauni kule Mombasa kama Waziri hana habari. Serikali hapa ilikuwa imeulizwa kitu kidogo tu. Ilikuwa imeulizwa kuangalia kama kuna uwezekano wa mabaki haya ya asbestos - tunaambiwa kuwa inaleta ugonjwa wa kenza. Hapa nchini Kenya watu wengi wanaugua kutokana na Kenza na wengi wa watu hawa wanatoka Mombasa. Ninafikiria magonjwa haya yanatokana na hizi asbestors. Wameulizwa hapa wawe na sheria ya kulinda wafanyakazi na hiyo sheria ni sisi tutaipitisha hapa. Hakuna pesa zozote watatumia. Nikuleta sheria na kupitisha. Ile asbestors mtu akitumia hajui atutumia namna gani. Tumeambiwa mambo ya asbestors na microwave na lazima tukubali. Kwa vile hilo jambo limezungumziwa sitaki kuendelea kulizungumzia kwa sababu kuna mambo mengine ya kuzungumzia.

Tutaangalia ukurasa wa 16 - Convention 168 - Promotion and Protection against unemployment.

Hivi karibuni wale vijana ambao wanatafuta kazi katika nchi hii idadi yao itakuwa ni kubwa sana kuliko wanaofanya kazi. Inafaa muangalie mtawalisia namna gani wale watu. Mimi ninaunga mkono mambo ya mitambo ya kompyuta lakini vile kompyuta zimekuja katika nchi hii zitachukua kazi nyingi. Kuna kompyuta kila pahali. Nilikuwa ninafikiria kwamba kompyuta zinapatikana katika yale makampuni makubwa lakini sasa nimeona kuwa kuna kompyuta kila pahali. Kwa vile Serikali imekubali kazi zote zichukuliwe na kompyuta wafanyakazi watafanya nini? Hata siku hizi ukimuuliza mtu afanye hesabu ya 2 + 2 ni lazima atatumia kompyuta kupata jawabu. Hawezi kusema n nne ni mpaka atumie kompyuta. Lazima kuwe na Government policy ya kuonyesha na sehemu gani zinafaa kuwa na kompyuta ili kusiwe kwamba kompyuta zimechukuwa kila kitu. Maanake uchumi wetu hauturuhusu tuwe na watu wengi ambao hawafanyi kazi. Hapa si Japan wala Marekani. Sisi tuko Kenya. Lakini ikiwa kila kitu ni kompyuta na kila pahali ni kompyuta, watu wetu watafanya kazi namna gani?

Bw. Naibu Spika wa Muda, Convention 169, hapa Serikali imekubali na ninafikiri kuna sababu, kuhusu indigenous and tribal people, yaani wazalendo na wale watu wa makabila. Kuna watu katika nchi hii ambao tungependa Serikali iwaangalie, wapelekewe elimu na waelezwe uchumi wetu, sio ule wa zamani wa kuwa na ng'ombe mia na mamia, uchumi wetu uko kwa elimu. Kwanza, mkatoe elimu ndio watu waende wakashiriki katika uchumi.

Bw. Naibu Spika wa Muda, nilipokuwa Mwenyekiti wa Kamati ya kuchunguza vita vya kikabila nchini Kenya, nilikwenda kule Ndoinet Forest, kwenye Wadorobo, nilienda kuwasalimia Wadorobo huko. Nilipokwenda Udoroboni huko, nilikuta elimu yao ya juu ni ya nasari. Nilipokwenda huko, nilikaribishwa kwenye ile nasari na mwalimu wao alikuwa ni mama mmoja mwenye jicho moja. Nilikaribishwa kule,

nikaimbiwa na watoto pale, nikaenda nikanywa maziwa, maana wako na maziwa mengi sana. Wako na maziwa mengi sana na wanaweka maziwa vizuri, wanaweka makaa yale maziwa, lakini mimi nilikunywa. Wadorobo hawa waliniambia kuwa hawajaona kwa macho yao hata ofisa mmoja wa Serikali wa elimu akienda huko, lakini elimu yao ya juu ni ya nasari. Sasa watu kama hawa, na labda pale kuna marubani, watu wenye ujuzi kwenye Wadorobo wale, ni kwa nini Serikali hii miaka hii yote haiwezi kukubali wale watu wapelekewe elimu na waelezwe maana ya elimu, sio kukaa kwa msitu tu? Tena waliniambia hawawezi kutoka kwa msitu huo kwa sababu wakienda mahali kama Molo, watakufa, pale ni baridi sana. Sasa niliona watu wamebaki nyuma lakini Serikali haijaenda kuwaeleza hawa watu kuwa elimu ndio kitu cha maana na angalau Serikali iwe na mapendekezo mazuri kuhusu wale watu ili wasomeshe watoto wao kusudi wale watoto waje kushiriki katika uchumi na Wakenya wengine. Na hii tuliambiwa hapa indigenous and tribal people, waangaliwe vizuri ili wawe na nafasi. Ukienda nchi zingine kusema kuna mahali katika Kenya, elimu yao ya juu ni ya nasari, utaambiwa hawa Upinzani unatuharibia sifa yetu nje, sisi tumesoma namna hii, imekuwaje? Na ni kweli! Wale Wadorobo wapelekewe maofisa wa elimu wakawaeleza namna gani na waambiwe uchumi wao sasa si wa kulisha ama kufuga ng'ombe pekee, lakini kuna uchumi mwingine wa kisasa ambao unahitaji watu wenye elimu. Pia hicho ni kitu ambacho Serikali hii inaweza kufanya.

Bw. Naibu Spika wa Muda, Convention 171, ukurasa 17, night workers, yaani wafanyakazi wa usiku. Hapa ndipo kuna utumwa. Kitabu hiki kimeeleza kwamba mfanyakazi wa usiku awe akiangaliwa masaa yake ya kufanya kazi ili awe na nafasi ya kurudi nyumbani "for family social responsibilities". Hii ndiyo imetajwa hapa na hakuna haja ya kueleza "in the family, what are social family responsibilities", hiyo mnaelewa na hatuwezi kueleza zaidi hata kufafanua kwa sababu kila mtu hapa ni mzima.

Wafanyakazi hawa hasa mabawabu, rafiki yangu mmoja hapa anasema anazaa mchana, lakini nampuuza. Mabawabu wengi, mtu anaandikwa mwaka nenda mwaka rudi, anaanza kazi saa 12 jioni mpaka saa 12 asubuhi na Waziri wa WafanyaKazi na Uajiri yuko hapa ananiangalia. Sheria zetu zinasema hivi; mfanyakazi katika Kenya atakuwa akifanya kazi kwa masaa manane kwa siku, lakini mabawabu hawa wanafanya kazi kwa masaa 12. Hii kazi ya ubawabu ilikuwa ya wale wazee ambao labda wamemaliza mambo huko dunia sana lakini---

Mr. Shikuku: On a point of information, Mr Temporary Deputy Speaker, Sir. Ninamshukuru mhe. Mbunge amenipa nafasi kumjulisha ni kweli walikuwa wazee, "kwa sababu walikuwa wamesharudisha vyombo vyao stoo."

(Laughter)

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Jambo la nidhamu, Bw. Naibu Spika wa Muda. Ni lazima mhe. Shikuku afafanue "hivyo vyombo ni vya aina gani" na ilikuwa ni wapi na siku gani?

The Temporary Deputy Speaker (Mr. Wetangula): Order! Order! I can see that you want to delve and digenerate into obscenity, I will not allow that!

Mr. Kiliku: Bw. Naibu Spika wa Muda, hivi siku hizi kwa sababu ya ukosefu wa kazi, sasa sio wale wazee wanafanya kazi ya ubawabu pekee yao, lakini hata vijana wa kidato cha nne ambao ndio wengi. Pia, kuna wale wengine ambao wana shahada za digrii, hivi sasa ni mabawabu. Zamani kazi hii ilikuwa ni ya wazee lakini sasa imekuwa ya kila mtu. Je, yule kijana wa miaka 22, 30, anafanya kazi usiku wote miaka nenda mwaka rudi, na mpaka leo anaendelea. Serikali hii haiwezi kumpatia nafasi naye awe na haki yake ya kuwa na "social family responsibility", yaani kutekeleza mambo ya familia vizuri?

Bw. Naibu Spika wa Muda, Serikali iseme kwa sababu ya masaa 12, bawabu atakuwa akifikisha wakati fulani na mwingine naye anakuja, kama vile maofisa wa polisi wanavyofanya katika kituo cha polisi maana katika kituo cha polisi, kama wanaanza saa 12, wakimaliza saa tano hivi, kuna maofisa wa polisi ambao wanakuja kushika zamu mpaka asubuhi, yaani wafanye kazi kwa zamu.

Ni kwa nini masilahi ya hawa walenzi hayaangaliwi, ili akifika saa tano, mmoja ashike doria na yule mwingine afanye jambo lingine ili wote wawili wajenge taifa? Katika ukurasa wa 19 Convention nambari 173 inahusu ulinzi wa madai ya wafanyakazi ikiwa anayewaajiri alifilisika mwaka wa 1992. Hapa, watu wengi wameteswa na makampuni. Kwa mfano, Kenya Lyons Maid na Ramisi Sugar Mills yalikuwa ya tajiri mmoja mkubwa kwa jina Madhvani. Madhvani alifanya njama na creditors wake, kama vile mabenki na wale waliokuwa wakikopa pesa kutoka kwake, ili wakatae kulipa madeni na badaye akaambiwa kwa sababu makampuni yake yameshindwa kulipa madeni, lazima awasimamisha kazi wafanya kazi wake. Naye Waziri wa WafanyiKazi, bila kuchunguza mambo ya Kenya Lyons na Ramisi Sugar Mills kule Kwale, akapitisha hoja kuwa watu wafutwe kazi. Mimi mwenyewe nikaleta Hoja katika Bunge hili, lakini Waziri akasema kwamba Madhvani

alifilisika.

Lakini miezi sita baadaye maafisa wa Serikali hii ya KANU walitembelea Jinja huko Uganda. Walionyeshwa pahali ambapo Madhvani alipeleka pesa, na kuanzisha kampuni kubwa ya kutengeneza vyuma, na hali katika vitabu vya uhasibu hapa Kenya, vilikuwa vikionyesha kwamba amefilisika. Ilikuwaje alikwenda Jinja, Uganda na Serikali hii ikamtambua na kwenda kumtembelea huko, mahali ambapo alikuwa amefungua makampuni makubwa ya kutengeneza vyuma, na hali hapa Kenya tulikuwa tumeambiwa amefilisika? Ndipo tukafikia uamuzi kwamba Serikali hii ilifanya mpango na yeye. Kulikuwa na mpango kupitia kwa Waziri huyu ili Madhvani afilisike. Sijui kama Waziri alikula kitu kidogo au la, lakini Serikali ikapanga atoroke na kwenda kufanya biashara Uganda. Hali hii inaonyesha kwamba mfanyakazi anayefanya kazi hapa hana ulinzi wowote. Anaweza kufutwa kazi wakati wowote. Wale wafanyakazi wa Kenya Lyons Maid mpaka sasa, hawajalipwa pesa zao. Labda watalipwa kesho. Waziri alikubali hapa kwamba Madhvani anatakiwa kulipa milioni tano.

Ningemwomba Waziri alete Mswada katika Bunge hili, ili kufanya marekebisho kwa Kifungu cha 226, Sheria za Kenya, ili ikiwa kampuni inafilisika vyombo vyake viuzwe vyote, ili mfanya kazi alipwe akiwa wa kwanza, kabla ya mabanki au wadeni wengine kulipwa. Hii ni kwa sababu tukisema benki ilipwe kwanza, wenye kampuni wanafanya njama na benki na pesa zinapotea. Lazima tufanye marekebisho kwa kifungu hiki. Ikiwa kampuni imefilisika, ingefaa vyombo vyao vyote viuzwe ili mfanya kazi alipwe kwanza, kisha wale wadeni wengine wafuate baadaye.

Tangu mwaka wa 1995, kila Siku ya Wafanyakazi, Serikali husema kwamba italeta marekebisho kwa sheria fulani za wafanyakazi katika Bunge hili. Lakini mpaka sasa, Waziri hajaleta rekebisho hata moja na hali hilo ni jambo moja ambalo wafanyakazi walipendekeza kufanyiwa marekebisho. Lakini Waziri haleti Mswada hapa Bungeni. Waziri anatuambia kwamba wako wengi hapa Bungeni na eti sisi tutashindwa. Hilo ni jambo moja baya sana kwa mtu kama Waziri kusema; eti wako wengi na hata sisi tukikataa tutashindwa. Kusema hivyo ni vibaya katika nchi hii badala ya kuleta Mswada wa kufanya marekebisho kwa manufaa ya raia wa nchi hii. Badala ya kufanya hivyo, mnasema mko wengi. Haya matisho ya wingi yataisha siku moja, na siku hiyo itafika.

Katika ukurasa wa 20, kuna mambo kuhusu kazi ya mabaharia. Mambo hayo yanawahusu wale watu ambao wanasafiri na kufanya kazi katika meli. Kenya sasa ina kampuni yake ya meli, ingawa haijanunua hata meli moja. Kampuni hiyo huitwa Kenya National Shipping Line. Hawajanunua hata meli moja lakini wana hiyo kampuni. Tarehe 11 Machi, 1985, mabaharia 11 waliingia katika meli moja ya Ugiriki. Na walipokuwa wakisafiri, kapteni moja Mgiriki akagundua kuna Wakenya na Watanzania walioingia ndani kisiri.

Badala ya kuwarudisha ama kuwapeleka karibu na ufuo, aliwatupa wale mabaharia wote kwa mapapa baharini. Watu wote 11 wakatumbukizwa baharini. Tulipeleka kesi yao kwa Mkuu wa Sheria, tukaambiwa hivi na vile na mwishowe yule kapteni akaachiliwa huru. **The Temporary Deputy Speaker** (Mr. Wetangula): Si alishtakiwa kule Ugiriki, Bw. Kiliku? Yule kapteni alishtakiwa katika Ugiriki.

Mr. Kiliku: Ahsante sana, Bw. Naibu Spika wa Muda, kwa kunipatia habari hiyo. Alishtakiwa lakini hatukuambiwa alichukuliwa hatua gani.

An hon. Member: Siyo huyo; huyo ni mwingine.

Mr. Kiliku: Alikuwa kapteni wa Kigiriki.

An hon. Member: Huyo alikuwa mwingine!

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Jambo la nidhamu au kufahamisha, Bw. Naibu Spika wa Muda.

Mr. Temporary Deputy Speaker (Mr. Wetangula): Ni nidhamu au ni jambo la kufahamisha?

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Ni yote mawili, nidhamu na jambo la kufahamisha!

The Temporary Deputy Speaker (Mr. Wetangula): You cannot have both, Mr. Ali. What do you want? A point of order or information?

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Information!

The Temporary Deputy Speaker (Mr. Wetangula): Do you want a point of information, Mr. Kiliku?

Mr. Kiliku: Ndiyo.

The Assistant Minister for Labour and Manpower Development (Mr. Ali): Bw. Naibu Spika wa Muda, mapedekezo haya, hayahusu mambo yanayosemwa na mhe. Kiliku. Mapedekezo haya ni mambo ya starehe kama michezo ya kuogelea na mambo mengineyo ambayo nchi yetu haijafikia kwa sababu nchi yetu ni hanga. Tunaweza kweli kuingiza michezo na watu huko baharini?

An hon. Member: On a point of order. Why is he concerned if he does not even know the ship.

Mr. Kiliku: Bw. Naibu Spika wa Muda, nazungumza mambo ya mabaharia, na anatuambia nchi ni changa.

The Temporary Deputy Speaker (Mr. Wetangula): Mr. Kiliku, you accepted the information and you must do with it.

Mr. Kiliku: Hapa wanasema nchi ni changa wakati ambapo kuna seamen ambao wanaangalia mabaharia. Si hao ni watu wa Serikali na bado anasema nchi ni changa? Lazima kuwe na sheria inayowatunza hawa mabaharia hili wakienda, wasitumbukizwe baharini. Kama kuna shida yoyote, warudishwe, ama Serikali irudishiwe ili iwachukulie hatua. Hatuwezi kukubali kamwe watu watupwe baharini, ati kwa sababu nchi ni changa. Hayo ni makosa makubwa. Sheria inasema kwamba kabla ya mabaharia kuingia ndani ya meli, lazima ichunguzwe ikiwa ni safi, ili mabaharia wafanye kazi kwa mazingara ya usafi. Nafikiri huyu Waziri Mdogo hajasoma sheria hiyo.

Yafaa baharia akienda kufanya kazi, awe anafanya kazi katika meli ambayo ni safi. Pia ingefaa, baharia akiwa katika nchi za nje, familia yake itunzwe. Yafaa maslahi yake yaangaliwe kulingana na za sheria ya kimataifa. Ikiwa amefanya safari moja ya meli ya miezi sita kwa mfano, kutoka Kusini hadi Kaskasini, kabla hajarudi, akija kupumzika, kwa miezi sita, alipwe mshahara kwa sababu amekuwa baharini kwa siku hizi zote. Sasa nchi changa inaingilia wapi hapo?

Recommendation 177, concerns safety in the use of chemicals at work. Sijui ni kwa nini Waziri hakupendelea pendekezo hili, kwa sababu katika makampuni mengi--- Waziri anafahamu kwamba wakati mmoja wafanyakazi wa Shell Chemicals huko Mombasa waliathirika kutokana na kemikali walizo kuwa wakitumia kazini na walipokwenda kwa daktari, wakaambiwa hawawezi kuzaa tena. Nikaleta Swali hapa na Waziri akakubali kwamba ni kweli. Mimi namshukuru Katibu wa Kudumu Katika Wazira ya Leba na Mafunzo kwa Wafanyakazi. Alikwenda kuchunguza na matokeo ya uchunguzi wake yakathibitisha kwamba ni kweli na wale wanaume, baada ya kufanya mwaka moja, walikwenda kwa daktari na wakaambiwa wao si wanaume tena.

Mimi naishukuru kwa sababu Wizara ilifanya kazi wakati ule. Walichunguza na wakapendeleza lakini wenye ile kampuni wakageuza jina lake kutoka Shell Chemicals hadi jina lingine. Lakini, uchunguzi ulionyesha kwamba, mambo haya yalirekebisha na ikawa mfanyakazi akifanya kazi sasa, hakuna mabaya kama yaliyo tendeka wakati ule. Lakini, wale watu, waliathirika. Juu ya hayo ingefaa Waziri ayatembelee makampuni mengi, hasa makampuni ya kutengeneza nguo.

Wafanyakazi huvuta fumbi la pamba na baada ya miaka mitano, utapata watu wengi wanaugua ugonjwa wa kifua kikuu au T.B. Wale watu wanaougua ugonjwa wa T.B. ni wengi katika nchi hii na wengi wao ni wafanyakazi katika viwanda vya nguo kwa sababu ya vumbi la pamba.

Mapendekezo ya Wizara ya Leba na Mafunzo kwa Wafanyakazi inasema, baada ya kila saa tano mtu akifanya kazi, yafaa apewe maziwa ya kunywa na pia awe na nguo za kumkinga. Hakuna chochote kinachofanyika, hakuna kitu cha kumkinga mfanyakazi na maziwa hakuna. Sasa, ugonjwa wa T.B ndio unaopatikana kwa wingi huko. Ukienda kwenye makampuni ya kutengeneza vyuma kama vile Brollo, KUSCO, Steel Africa, Corrugated Sheets Limited, Steel Rolling Mills, utakuta kwamba wafanyakazi wengi katika makampuni hayo wamekatwa mikono yao. Ukitaka kuwaona wafanyakazi waliokatwa mikono, tembelea makampuni ya kutengeneza vyuma.

Utakuta nao wafanyakazi wengi pale katika Kenya, ndio wale wamekatika mikono. Bw. Naibu Spika wa Muda, ni ile mashini, kuna mashini moja ya kutengeneza mabati, ukipatikana kidogo kwa nukta ya dakika, ushamaliska. Nimgemuomba Waziri, awe na kamati maalumu ya kuchunguza usalama wa mfanyakazi katika kazi yake. Hiyo sio ati Serikali itatoa kitu, ama tuambiwe kwa sababu ya uchumi ambao umesorotezwa kwa siku mengi, basi, hatuwezi kufikia hayo. Hiyo ni amri ya Waziri kusema, tafadhali, tunataka hii ifanyike, na sheria inasema namna iyo.

Bw. Naibu Spika wa Muda, itakuwaje, mtu akifanya kazi kwa muda wa miaka 55, hata wengine wafikishwa wanakufa, kwa sababu hiyo. Kwa sababu ya shida za kimazingira za wafanyakazi. Hata kila pahali, na nitamwomba Waziri huyu awe akitembelea wafanyakazi katika kazi zao aangalie. Namsifu, ingawa hayuko, marehemu, Mheshimiwa aliyekuwa Waziri wa Mambo ya Kigeni, kwanza wakati alipokufa, alikuwa Waziri wa Wafanyakazi, Dkt. Ouko. Nilimwambia siku moja hapa, kuna kampuni moja kule ya kutengeneza nguo na nyingine ya kudondoa majani ya chai, lakini wafanyakazi wanateseka sana. Akaniambia tutakwenda huko, alipofika, akaniambia leo tutakwenda kule, lakini usiseme kwa hiyo kampuni. Tukaenda huko na Waziri, hakuchukuwa bendera. Hawakujua kama huyu ni Waziri, Wahindi, masikini, wakaanza kumtupia maneno, sijui nani umekuwa huku, wananjua mimi ni Kiliku, mko na nani, na sikuwaeleza kwanza. Akaona vile wafanyakazi wanafanya, wanadondoa kahawa, hawajifungi pua, vile wanateseka, basi, Waziri akamwita yule Mhindi, na tukawaita wafanyakazi wote, tukamwambia huyu ni Waziri wa Wafanyakazi, hebu zungumzeni matatizo yenu. Sababu niliona kama wanaogopa tajiri, mimi nilizungumza kwanza, na wao wakazungumza, papo hapo, haikumaliza wiki, kila kitu kikawa kimefanyika, na kampuni zote za eneo la viwanda ya Changamwe, kwa sababu alijua sifa za Waziri vile alitembelea kule, basi, na wote wakatekeleza jambo hilo. Basi, Waziri huyu ni Nairobi

tu ofisini, na Busia, haendi, hana habari, hajui chochote.

The Minister for Labour and Manpower Development (Mr. Masinde): Jambo la fahamisho. Asante, Bw. Naibu Spika wa Muda. Inaonekana Mbunge hasomi magazeti sana, kwa maana tulipokuwa likizoni, yaani Bunge lilikuwa mapumzikoni, mwezi mzima wa Septemba, Masinde alikuwa anatembea kwa ofisi zake zote na matawi yote akitembelea wale ambao ni matajiri, na kuzungumza na wananchi wafanyakazi. Huko Mombasa, nilitembelea kiwanda cha nguo, Eldoret nikatembelea kiwanda cha nguo.

(Applause)

Mr. Kiliku: Bw. Naibu Spika wa Muda, sikatai, lakini unasikia Waziri ametembelea matajiri, alitembelea ofisini, na Mawaziri. Mimi ningemwomba achukuwe Mbunge wa eneo fulani ambayo iko na taabu, waende na asiweke bendera, ajionee mwenyewe kuna taabu gani zinazowakumba wafanyakazi.

Kwa hayo machache, napinga vikali sana Hoja hii isipitishwe, maanake kuipitisha, ni kumaliza wafanyakazi wa nchi hii.

Mr. Shikuku: Asante sana, Bw. Naibu Spika wa Muda. Mhe. Waziri wa Leba, ningependa kumkumbusha ya kwamba, yeye, mimi na sisi wote hapa, tunawaakilisha binadamu na ukisoma ripoti hii na mapendekezo yake ambayo yanataka Bunge hili liunge mkono, ni hatari sana. Ni "hatari" na baba yake anaitwa "danger", ni "hatari bin danger". Hii ni kwa sababu, ukweli ni kwamba yeye, waajiri na wale wafanyakazi walikuwa wakihudhuria mikutano hii ambapo mikataba hii ilikubaliwa. Sasa yeye anarudi hapa na kuandika ya kwamba yeye hataki hii na hii kwa vile hii haiwezekani na yeye alikuwa kule na alikubali. Tena alipotoka hapa, alienda ng'ambo akitumia "first class ticket", ile ya kukaa mbele. Na kule hakuenda kukaa Majengo, alienda kukaa katika hoteli zile kubwa kubwa. Ni nani alilipa gharama hiyo? Ni mwananchi wa nchi hii na mfanyakazi. Kumbembe alienda kule kumtafutia mfanyakazi maafa. Ningependa kukubaliana na Mhe. Osogo kwamba hii kazi ni yetu sote kuona kwamba tunaweza kutungeneza sheria ambazo zitamlinda mfanyakazi. Na iwe ni kazi yetu sote. Kwa hivyo, ningependa kumshauri mhe. Waziri wa Leba aangalie hiki kitabu chetu cha Standing Orders na asome Standing Order 151(D), na ataona kwamba Wizara yake ina Kamati ya Bunge hili ambayo inaweza kumsaidia. Kutokana na haya, tunataka kuleta uzuri kwa watu wetu na kwa hivyo ni wajibu wangu, wajibu wake na wajibu wa sisi wote kufanya hivyo. Ukiangalia Standing Order No. 151(d), inasema "Committee of Housing, Labour and Employment". Hii Kamati ya Bunge yafaa ianze kufanya kazi na majina ya Wabunge watakuwa katika kamati hiyo yaandikwe kwenye Notice Board na pia yachapishwe magazetini ili tukae chini na kuangalia jambo hili. Hiyo ndiyo njia moja ya kuweza kusaidia. Lakini kulijadili hapa jambo hili na baadaye tupige kura haitasaidia. Hii haiwezi saidia. Wajibu wetu ni kusaidia wale waliotuchagua.

The Temporary Deputy Speaker (Mr. Wetangula): Hon. Shikuku, this Committee you are proposing that Members should put up their names, actually exists and it is in place only that it does not sit.

Mr. Shikuku: Asante Bw. Naibu Spika wa Muda. Hata mimi mwenyewe sijui kama iko kwa sababu haijawahi kukaa miaka nenda-miaka rudi.

The Temporary Deputy Speaker (Mr. Wetangula): As a matter of fact, Mr. Shikuku, all these General purposes Committees were constituted at the beginning of Parliament in 1993 and they exist for the life-time of the Parliament and they are in place.

Mr. Shikuku: Bw. Naibu Spika wa Muda, kama ziko ukweli, ni kwamba---

Mr. Akumu: On a point of information, Mr. Temporary Deputy Speaker, Sir. I do not know who I am informing but I just want to say---

The Temporary Deputy Speaker (Mr. Wetangula): You cannot inform the Chair!

Mr. Akumu: I know the Chair knows everything and you cannot be informed. So I know that three times I have written a letter that the Labour Housing and Employment Committee should meet and three times I have been told by the Clerk that he does not have the staff room, so we cannot meet. I do not know who wants that information.

Mr. Shikuku: Bw. Naibu wa Spika wa Muda, asante sana. Hizi Committee zinaweza kufanya kazi na ni nyingi sana. Sio hii ya leba pekee yake ambayo umekubali na kutueleza iliundwa Bunge ilipoanza. Hakuna moja ambayo inafanya kazi. Hawajawai kuitwa. Makosa yako pande mbili. Kosa la kwanza pengine ni la Wabunge na namshukuru Mhe. Akumu kwa kuandika mara tatu kuuliza Committee hii ya Labour na Housing ikutane na ameambiwa haiwezekani kwa sababu hakuna

nafasi. Lakini Committee nyingine zote kulingana na Kanuni ya 151 hazijakaa na ziko. Na ni wajibu wa Waziri na Clerk wa Bunge na sisi kuona kwamba

Kamati hizi zinafanya kazi kwa sababu zimeteuliwa. Na tunataka wiki ijayo majina yote yaandikwe ili pia mimi nijue niko katika Kamati gani.

The Temporary Deputy Speaker (Mr. Wetangula): They were announced on the Floor of this House, Shikuku!

Mr. Shikuku: Ni kweli lakini sasa sijui kwa sababu nimesahau na wengi pia wamesahau hata Bw. Waziri mwenyewe amesahau. Kazi ni nyingi na ni lazima tukumbushane. Hata wewe hivi karibuni utakwenda kanisani siku ya Krismasi utakumbushwa Yesu alizaliwa katika zizi la ng'ombe. Ni lazima binadamu akumbushwe. Kwa hivyo, hili ni jambo muhimu. Ni jambo ambalo mimi mwenyewe nitakapoanza kwenda clause by clause, pengine Waziri wa Leba atalia machozi, kama ana machozi lakini kama hana hiyo ni shauri lake. Lakini kama ana machozo atalia kwa sababu nimefanya home work ya kutosha. Yeye atalia kwa vile nitakavyoeleza huzuni ya watu. Na yafaa anisikilize kwa makini. Kwa hivyo nikikuleta katika ukurasa wa kwanza, kuhusu "Occupational safety and health in the dock" jambo hilo limegusiwa kidogo na wenzangu. Lakini nataka kumpatia mawaidha Waziri kuhusu dock workers. Kuna wakati mwingine ambapo dock workers hukataa kupakua bidhaa fulani kwa sababu wamepata habari kwamba hizo bidhaa zina sumu. Hata juzi maziwa yailikuwa na radio active. Kitu cha ajabu ni kwamba wafanyakazi wetu walipakua na baadaye ikagunduliwa kwamba ni hatari. Bw. Waziri hata hakuja katika Bunge kutuambia ni nini au atafanya nini kujaribu kuondoa--- Na hapo ilipogunduliwa tena, ishallah mungu si Athumani hali ugali, Mbunge mmoja upande wa Serikali ambaye ni daktari na pia ni Waziri Msaidizi akasema hayo maziwa ni hatari. Wakafanya na ikagunduliwa kabisa ni hatari. Iithibitishwa wazi kwamba maziwa hayo ni hatari. Je wale waliowapakua walitendewa nini? Bw. Waziri amefanya mpango gani ili kuona wamekwenda kukaguliwa naa wanaweza kutibiwa namna gani? Hajafanya lolote. Kazi yake ni kukaa pale tu wakati kumetokea mgomo anachofanya ni kutoa taarifa kusema " It is an illegal strike".

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Wetangula): Order, hon. Members! The House stands adjourned until Tuesday, 28th November at 2.30 p.m.

The House rose at 6.30 p.m.