

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 12th October, 1995

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

## PRAYERS

## ORAL ANSWERS TO QUESTIONS

*Question No. 734*

### SHOOTING OF MR. NYANDIGA

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

- (a) whether he is aware that Mr. Ben Oganga Nyandiga was shot and wounded on 24.3.95 by police from Kericho who were chasing robbers at Kamagambo, Kabuoro Sub-location of Rongo Division;
- (b) whether he is further aware that Mr. Nyandiga's leg has been amputated and is still undergoing treatment at Kisii District Hospital; and
- (c) if the answers to (a) and (b) above are in the affirmative, whether he could consider compensating him for the loss of his leg and subsequent disability.

**The Assistant Minister, Office of the President** (Mr. Awori): Mr. Speaker Sir, I beg to reply.

- (a) Yes, I am aware that Mr. Oganga Nyandiga was shot and wounded when he and other robbers were being pursued by the police.
- (b) Yes, I am aware.
- (c) Since the matter is under police investigation, the question of his compensation does not arise at this stage.

**Mr. Aluoch:** Mr. Speaker, Sir, this is a very interesting answer. The victim of this shooting was not one of the robbers. The police from Kericho were pursuing robbers in a car. When they arrived near Rongo they found a vehicle which was loaded with concrete. It belonged to Jiwa Shamji; it had broken down and was being guarded by the police. Now, when the robbers saw these policemen they abandoned their car and ran into the bush. In the process, there were two boys who were moving from one home to another and they were shot. The police did not arrest Mr. Nyandiga. It was after I had put this Question that the police went to the hospital and tried to arrest Mr. Nyandiga - they had not arrested him at the time of the chase and shooting. Why are the police now trying to implicate this man in the crime when the actual robbers were not caught?

**Mr. Awori:** Mr. Speaker, Sir, the information I have states that this gentleman was one of the robbers who were being pursued by the police from Kericho. As the hon. Questioner rightly states, there was a vehicle involved, it overturned and when the police were informed and they went to the scene, all the people who were around the scene ran away. They were warned but they would not listen. So, the police opened fire and this man was injured.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, could the Assistant Minister explain to the House how a young under-age boy, who does not know how to drive, would be involved in a car robbery? He did not even have a driving licence and did not know anything about this car! He and his friends were coming from a dance at night and they happened to be on the spot. The police have not caught the robbers but they are trying to find a way out of the mishap!

**Mr. Awori:** Mr. Speaker, Sir, at no time in my answer did I state that the person who was shot was driving.

**Mr. Raila Odinga:** On a point of order, Mr. Speaker, Sir. The Assistant Minister has not really answered hon. Aluoch's second question. It is that the police shot this fellow and wounded him but did not arrest him. Why did they go to arrest him months later? Why was he not arrested on the spot, if he was one of the people whom the police were chasing?

**Mr. Awori:** Mr. Speaker, Sir, my hon. friend is mistaken. This man was arrested and taken to Kisii Police

Station.

**Mr. Achieng-Oneko:** Mr. Speaker, Sir, from the reply of the Assistant Minister it appears that he is not fully and correctly informed. Why do we not give him more time to go back and get more information and also consider the fate of this man who was only shot accidentally?

**Mr. Awori:** Mr. Speaker, Sir, there is really no need for me to go back for more information. I can give a more detailed answer now. On 24.3.95 at about 1.00 pm. at Katengatii in Kericho, Mr. Alex Mwendo was robbed of his vehicle, registration No. KAC 602E, Toyota Corolla by a three-man gang at gunpoint. Kericho police were alerted and they gave chase to the fleeing robbers. At 3.30 am. they came to Kamagambo where a vehicle had just lost control and plunged into Misendi stream. Three men emerged from the vehicle and started fleeing. The police ordered them to stop but they defied the order. The police gave chase and opened fire whereupon one of the members of the gang, Mr. Ben Oganga Nyandiga, was shot on his left leg. He was arrested and taken to Kisii District Hospital under police guard. He was later charged on 7.8.95 with robbery with violence. On 8.8.95 he appeared for mention of the case.

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

**Mr. Speaker:** Is it still on that?

**Mr. Aluoch:** Yes, Sir.

**Mr. Speaker:** What is it?

**Mr. Aluoch:** Mr. Speaker, Sir, is the Assistant Minister in order to give the House fabricated misinformation? The police did not arrest Mr. Nyandiga on the material date, which was in March! They arrested him several months later. How come that this man was only taken to court on 7.8.95?

**Mr. Speaker:** That is not a point of order!

Mr. Mutahi's Question.

*Question No. 490*

CUT-OFF POINTS FOR VARSITY ENTRANCE

**Mr. Mutahi** asked the Minister for Education the cut-off points for entry to the university during the year 1993/94.

**The Assistant Minister for Education (Mr. Komora):** Mr. Speaker, Sir, I beg to reply.

The cut-off points for university entry during the year 1993/94 was 74 points for male applicants and 73 for female applicants.

**Mr. Mutahi:** Mr. Speaker, I have raised this Question because I have got a very long list of students who had obtained 74 and 73 points and they were denied entry into the universities. I would like to know from the Assistant Minister, what he is doing for those students who even failed to go for interviews in other institutions waiting to join the Kenyan universities, but in the end were denied that chance? They waited until the last minute just to be informed that they were not among those who were joining the universities. What is he preparing to do for those students because they did not do other interviews?

**Mr. Komora:** Mr. Speaker, Sir, I would like the hon. Member to present that list to the Ministry of Education for discussion and consideration.

**Mr. Mutahi:** Mr. Speaker, Sir, I would also like the Assistant Minister to tell this House whether there is anything that can be done because there were so many students who were waiting in vain to join the local universities until the last minute without knowing what the cut-off points were going to be only to lose the chance of applying to other institutions abroad and locally. What method of advertisement are you going to use in future so that students after sitting for their Form Four examinations can know at the end of the day the cut-off points and prepare early enough for other things instead of waiting for two years just to be told that they did not score the required points?

**Mr. Komora:** Mr. Speaker, Sir, fortunately, once a person is qualified to enter university, he can continue applying for admission any year and anywhere. However, for the last few years, the hon. Members are aware of the fact that there was a congestion arising from the departure from the previous system of education to the 8-4-4 programme. Once that is over, information will be coming out faster.

**Mr. Speaker:** Last question, Mr. Muite!

**Mr. Muite:** Mr. Speaker, Sir, could the hon. Assistant Minister tell this House whether the cut-off points applied uniformly to all Kenyans irrespective of their ethnic background, religion or were some Kenyan students admitted to the universities because of the quota system because of where they came from when others who had better points were denied admission?

**Mr. Komora:** Mr. Speaker, Sir, when determining the cut-off points, we do not apply it in relation to who is concerned.

*Question No. 704*  
PAYMENT OF NSSF DUES

**Mr. Leshore** asked the Minister for Labour and Manpower Development what steps he is taking to release withdrawal benefits of Mr. Parmentu Lengau, NSSF No. 543-385-612, for the years 1978, 1980, 1984, 1986, 1988 and 1991.

**The Assistant Minister for Labour and Manpower Development (Mr. Ali):** Mr. Speaker, Sir, I beg to reply.

Mr. Parmentu Lengau was paid his benefits for 1987 in January, 1992. In March, 1992, his former employer forwarded Mr. Lengau's benefits for the period 1978 to 1991. Unfortunately, to-date, seven letters have been sent to Mr. Lengau's known address, P.O. Box 48, Isiolo, but none of the seven letters have been replied to. Mr. Lengau is advised, therefore, to avail himself at the NSSF Meru office so that the balance of his benefits can be processed.

**Mr. Leshore:** Mr. Speaker, Sir, this is a case which deserves a lot of sympathy because since Mr. Lengau retired from the Civil Service, he has been having a lot of problems. Right now, he is an ailing person; he is partly paralysed and for the last five or six years he has not been to Isiolo. I would like the Assistant Minister to be kind enough to process his benefits without demanding his finger prints because he cannot travel a long distance.

**Mr. Ali:** Mr. Speaker, Sir, the hon. Member should understand the case bearing in mind the position that he has explained that Mr. Lengau is paralysed. Our letters simply demand left-hand finger prints. So, the hon. Member could assist by taking the form maybe to the nearest police station and get his left hand finger prints.

**Mr. Fallana:** On a point of order, Mr. Speaker, Sir. Could the Ministry consider decentralising NSSF functions to the district level? As it is now, hon. Members spend a lot of time at the NSSF offices trying to chase dues for the beneficiaries as compared to a situation whereby these functions were decentralised and the services were given at the district level. That would save people a lot of time spent on travelling to this place and thus have more time to concentrate on other things. So, could the Ministry consider decentralising these services to every district headquarters immediately?

**An. hon. Member:** Very good!

**Mr. Ali:** Mr. Speaker, Sir, just as I had said earlier, the situation as at hand Mr. Lengau was supposed to go to Meru district NSSF office. We have decentralised all the services now at the district level. Unfortunately, hon. Members find it comfortable to come to hon. Ali to chase their benefits.

**Mr. Shidiye:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is misleading the House. He is telling the House that the services of NSSF have been already decentralised. I know Mr. Lengau comes from Samburu district---

**An. hon. Member:** And he has got to go to Meru!

**Mr. Shidiye:** So, the Assistant Minister is really misleading the House in that sense. He should take the money to Samburu.

**Mr. Speaker:** Mr. Ali, is Samburu in Meru?

*(Laughter)*

**Mr. Ali:** Mr. Speaker, Sir, we have not managed to decentralise throughout the country, but we are in the process of doing that.

**Mr. Speaker:** Very well! Next Question Mrs. Ngilu.

*Question No. 576*

OVERCHARGING OF TRADERS

**Mrs. Ngilu** asked the Minister for Local Government:

(a) if he is aware that Kitui Municipal Council is overcharging small scale traders at Kitui Municipal Market, and as a result driving them out of business; and

(b) what the Ministry's guidelines on such charges are.

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

(a) Some traders have sued the Kitui Municipal Council on the same matter, through the Hawkers Association vide case No. SPM CC No. 65 of 1995 which is due for hearing on 19th October, 1995.

(b) Discussion on the matter is not possible since it is *sub judice*

**Mrs. Ngilu:** Mr. Speaker, Sir, I agree there is a case, but as we all know, this is the third time this Question has come up here. We wanted to know the names and the areas where the specific traders who have actually taken the Municipal Council to court as they may not even be from Kitui and I do not think that we have Hawkers Association in Kitui. Is it registered anyway?

**Mr. Speaker:** Mrs. Ngilu, your question is also general; it does not refer to any particular trader and he is saying "some traders" have sued the Kitui Municipal Council

**Mrs. Ngilu:** Mr. Speaker, Sir, I said Kitui Municipal Council which is very specific.

**Mr. Speaker:** But the case is in court. We know the rules. If a matter is in court, then we leave it.

**Mrs. Ngilu:** Mr. Speaker, Sir, I agree. But what I am asking are the specific names of those who have actually taken the Municipal Council to court.

**Mr. Speaker:** Do you have the names, Mr. Ntimama?

**Mr. Ntimama:** Mr. Speaker, Sir, I can only add that it is an association, and it is registered and all those concerned come from Kitui Municipal Council.

**Mr. Mutahi:** On a point of order, Mr. Speaker, Sir. I remember last time I think last week on Thursday, you asked an Assistant Minister who was supposed to answer a Question when he mentioned a case being in court to mention the case number. If he had mentioned the case number, then that Question would not have been answered. Now, can the hon. Minister give us, as you previously required, the case number?

**Mr. Speaker:** He has already done that. Next Question.

**Mrs. Ndetei:** Can he give the case number?

**Mr. Speaker:** Order, Mrs. Ndetei! Order! the matter is *sub judice*. No hon. Member is allowed to change the rules to fit the conveniences of any particular hon. Member. These rules are general and they are supposed to apply generally to all hon. Members equally. If a matter is *sub judice* it is a *sub judice*.

**Mrs. Ngilu:** On a point of order, Mr. Speaker, Sir---

**Mr. Speaker:** Mrs Ngilu, if you really feel particular about this and you think what hon. Member is saying is *sub judice* is not *sub judice*, please bring your alternative documents. What is itching hon. Members?

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Speaker, Sir. We agree with you that when the matter is in court, we should not discuss it, but we are demanding to get sufficient details to satisfy ourselves that the matter is in court and he is refusing to give those details.

**Mr. Speaker:** Order! Hon. Minister has mentioned a case number.

**An hon. Member:** Which one?

**Mr. Speaker:** No.65 of 1995.

**Mr. Orengo:** On a point of order, Mr. Speaker, Sir. The problem is that sufficient details have not been given. I know that you are aware that a case number is not sufficient because the names of parties is important.

**Mr. Speaker:** Had he not given the names of the parties?

**Mr. Orengo:** No, he has not given the names of the parties.

**Mr. Speaker:** Mr. ole Ntimama, did you give the names of the parties?

**Mr. Orengo:** Who is the plaintiff and who is the defendant?

**Mr. Speaker:** Order, then let us hear from him?

**The Minister for local Government** (Mr. Ntimama): Mr. Speaker, Sir, even with your guidance, I do not know what to do. I have just said it very clearly that the case involves the Hawkers' Association. Definitely, the Hawkers' Association has its chairman and secretary. The case is between the Association verses the Municipal Council of Kitui. I have given the number of the case and that is the furthest we can go in probing the records of the court.

**Mr. Speaker:** Very well! Next Question. Order, I accept the hon. Members to respect the ruling of the Chair! That is very important.

*Question No.719*

IMPROVEMENT OF LAMU BEACH

**Mr. Orengo** asked the Minister for local Government:-

(a) whether the Government plans to improve the Lamu Town beach front by pargeting the

promenade and adorning it with ornamental balustrades fitted with lights to make it attractive and also to improve its drainage and sewage system; and,

(b) If so, when the plans would be implemented.

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

(a) Out of the 2.5 kilometres, 115 metres of the Lamu Beach front has been promenade at the cost of Kshs.420,000.00.

(b) The Ministry is in the process of carrying out a feasibility study in Lamu on the sanitation of the above projects. When the study is completed, work will commence when donor/GOK funds have been identified.

**Mr. Orengo:** Mr. Speaker, Sir, it is really a great shame to talk about Lamu town because this is one of the oldest towns in the country which was in contact with the rest of the world in the very early centuries, even before the slave trade. Can the Minister explain to this House why such an important tourist town has only about 5 per cent of its major promenade tarmacked in a state where one can expect of a town like this?

**Mr. Ntimama:** Mr. Speaker, Sir, I can tell the hon. Member that we are really progressing and we hope to do more on that part of the world. But, there are many other towns in this country just as important as Lamu which probably have got to be considered later as we are considering Lamu.

**Mr. Mwiraria:** Mr. Speaker, Sir, I will direct my attention to the question of improving drainage and sewage system in Lamu. Lamu uses long drops pit latrines mainly, and depend to a large extent on underground-well water. Could the Minister give urgency to the question of sewerage and provision of clean water to Lamu town?

**Mr. Ntimama:** Mr. Speaker, Sir, I want just to make a general answer that the Government has got priority in many towns in this country to develop sewerage system. It is a very expensive process which normally the Treasury has to look for funds specifically for certain towns and we are progressing slowly and probably Lamu town would be one of those towns which would be considered in the next phase for provision of a sewerage facility.

**Mr. Orengo:** Mr. Speaker, Sir, Lamu has no roads; there are just tiny little alleys and the only road there as it were, promenades in front of the beach. It is only the D.C's vehicle which moves along that promenade. Is it not a very raw deal for Lamu that the Government can only spend Shs.420,000.00 to improve the beach fronts considering it is having a KANU Member to represent the area? Can you explain and tell Lamu people that you are going to do something better for them?

**Mr. Ntimama:** Mr. Speaker, Sir, I have made the point that we are really doing something about improving not only the promenade on the road, but the sewerage system. I am not responsible for the money in the Treasury, but regardless of what we have now, we are going to make improvements and I hope the hon. Member is going to be satisfied. He is lucky because he has got wider roads in Kisumu.

*Question No.672*

COST OF ANTI-RABIES DRUGS

**Mr. Mak'Onyango** asked the Minister for Health:-

(a) whether he is aware that the cost of an anti-rabies injection is beyond the reach of an ordinary Kenyan;

(b) if he is further aware that the drug is hard to come-by in the hospitals, Kenyatta National Hospital included; and

(c) what steps he is taking to ensure the availability of the drug at an affordable price to the ordinary Kenyan.

**The Assistant Minister for Health** (Mr. Mutiso): Mr. Speaker, Sir, I beg to reply:-

(a) It is true that anti-rabies vaccine is quite expensive. Current tender price is Kshs.780.50 per 1 ml vial.

(b) The vaccine is currently available at National Public Health Laboratory Services. The vaccine is issued on official request from needy hospitals. Currently, the stock balance is 3,013 vials.

(c) My Ministry will continue to provide this vaccine in all Government hospitals on request based on financial resources available. However, we shall encourage the control of rabies through vaccination of pet dogs and destruction of stray ones. This is the best and economical approach made by those countries which are rabies-free.

**Mr. Mak'Onyango:** Mr. Speaker, Sir, if the Assistant Minister wants this House to believe what he is saying, how come that as recently as the month of July, I personally took a patient who had been bitten by a dog to Kenyatta National Hospital and there was no anti-rabies vaccine there? Is the Assistant Minister telling this House the truth?

**Mr. Mutiso:** Mr. Speaker, Sir, certainly, I am telling this House the truth because according to the records as I have said, this vaccine is there on request and if the hon. Member took a patient to Kenyatta National Hospital and

was not treated, then, if I can get the details, time and when this particular patient was taken there, I can follow-up the matter.

**Dr. Lwali-Oyondi:** Mr. Speaker, Sir, first of all, the Assistant Minister has just told us that he has got only 313 vials---

**An hon. Member:** No, it is 3,013 vials.

**Dr. Lwali-Oyondi:** Oh, sorry, Mr. Speaker, Sir. infact, 3,013 vials are just for about 600 people, because one has to get about five doses of one ml. vial at least for five days.

Could the Assistant Minister, having got those vials which expire any time, make sure that they are in hospitals like his own districts of Machakos, Makueni, Kitui and Mwingi, where there is a lot of rabies and also in Western parts of Kenya? There are very many people now dying of rabies both in Western and Eastern parts of Kenya because the Veterinary Department is no longer carrying out compulsory vaccination of rabies.

**Mr. Mutiso:** Mr. Speaker, Sir, as I said, this vaccine is provided on request and I want to take this opportunity to appeal to the hospitals which have the facility to store this particular vaccine, to apply to the National Public Health Laboratory Services, so that they can get the vaccine and they will keep it to treat the people. There is no point for this vaccine staying at the National Public Health Laboratory Services and the hospitals go without it and they do not ask for it.

**Mrs. Ngilu:** Mr. Speaker, Sir, the Assistant Minister is saying that he is going to appeal. The question of appealing should not be coming from the Assistant Minister. Instead, he should be assuring us that this vaccine will be in the hospitals. Is it in order for him to say that he is going to appeal? Surely, an Assistant Minister! Appeal to who?

*(Laughter)*

**Mr. Mutiso:** Mr. Speaker, Sir, what I am saying is that, I am informing the hospitals which have a shortage of this vaccine to now apply for it so that they can keep it in their own medical stores.

**Dr. Wako:** Mr. Speaker, Sir, I just wanted to ask the Assistant Minister, what has happened, because under normal condition every Public Health Office in the District is supposed to keep a few vials of this vaccine because this is always an emergency case whereby if the people have to request for it, if you are talking of Turkana, Marsabit or Moyale Districts, then how long will it take before the request is processed and it gets to those places? So, why can't we have some in the districts available?

**Mr. Fallana:** Yes, it should not even be a on request. *Utaitisha dawa hii saa ngapi na watu wanakufa?*

**Mr. Mutiso:** Mr. Speaker, Sir, it is exactly as I said, that this vaccine is given on request and unless a particular hospital has requested for it---

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

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

**Mr. Fallana:** Mr. Speaker, Sir, the hon. Assistant Minister is evading the question put to him by a very qualified personnel here hon. Dr. Wako, a medical doctor. The question is, if I may repeat for his sake: There used to be these vials at every public health office in the districts. When we talk of providing this vaccine on request, are you not considering the distances and the time? With the poor communication system that we have, it would take someone from Marsbit bitten by a rabid dog time to get this vaccine. Why do you insist on asking them to request for this vaccine? What has happened to these vials which used to be at every district public health office? *Imeenda wapi?* You just answer that!

*(Applause)*

**Mr. Mutiso:** Mr. Speaker, Sir, I think the hon. Member misunderstood me. I am not saying the person who is bitten by a rabid dog is the one to make the request. I am saying that every hospital, when asking for other supplies of drugs, should include this particular vaccine so that they can store it in their own hospitals.

**Mr. Mak'Onyango:** On a point of order Mr. Speaker, Sir.

**Mr. Speaker:** Next Question, Mr. Mumba! Order Mr. Mak'Onyango! Time out for that.

*Question No. 634*

SETTLEMENT OF SQUATTERS

**Mr. Mumba** asked the Minister for Lands and Settlement:-

- (a) whether he can explain what he has done with the results of *The Squatter Registration Exercise* which was carried out in Coast Province by his Ministry in early 1994; and
- (b) whether the Government will stop issuing letters of allotment on Government land and Trust Land in Coast Province until all the registered squatters in Coast Province are resettled.

**The Minister for Lands and Settlement** (Gen. Mulinge): Mr. Speaker, Sir, I beg to reply:-

(a) The results of squatter registration exercise which was carried out last year in Coast Province are being used to identify and demarcate suitable land for settlement by genuine squatters.

(b) The Government cannot stop issuing letters of allotment on Government land and Trust land because this is part of the process of resettlement of squatters. The Government, however, will ensure that land identified for settlement of squatters is not interfered with. The resettlement programme is being co-ordinated and supervised by the Provincial Administration at the Coast Province in liaison with my field officers. I would, therefore, like to request the hon. Member through the District Development Committee, to assist as much as possible to ensure the success of this programme.

**Mr. Mumba:** Mr. Speaker, Sir, the question of land at the Coast is very sensitive and this is a very serious Question. What I would like the Minister to tell this House is: Why can he not stop the allotment of land to the non-squatters until all the squatters who are registered at the Coast have been settled? Why can he not do that? We believe that the Ministry is serious about re-settlement of squatters. Why cannot he stop the allotment of land that has been identified until all the squatters have been resettled? Why?

**An hon. Member:** And all these squatters are KANU!

**Mr. Mumba:** Yes, they are KANU!

**Gen. Mulinge:** Mr. Speaker, Sir, I have said that the Government cannot stop issuing letters of allotment because if we stop doing that, then we will not be able to settle anybody, and that is the work we are doing today to settle landless squatters in that particular area.

**Mrs. Ndetei:** On a point of order, Mr. Speaker, Sir. Is the Minister in order to say that the process of land allocation cannot stop when we know that his own very Ministry has overlooked settling squatters who have been identified and they are living in groups in certain areas since they have been evicted from the areas where they used to live? If it cannot be stopped, why can the Government not settle those squatters first, like those people who were evicted from Thessalia in Kericho and other areas, and even in his own Constituency? Why can he not settle those people first if he cannot stop?

**Gen. Mulinge:** Mr. Speaker, Sir, I think what the hon. Member stated is quite different from the answer I have given. We are talking of squatters in Coast Province and not in my own district, not even in your district.

**Mr. Shikuku:** On a point of order, Mr. Speaker, Sir. Did you realise that the hon. Minister was addressing the Gracious Lady; "not in your district, not in my district"? Is he supposed to do that?

**Mr. Speaker:** No he should have been addressing the Chair.

**Mr. Shikuku:** Thank you, Sir.

**Mr. Mcharo:** Mr. Speaker, Sir, we are very much aware that there are letters of allotment for people who are not squatters in Coast Province to acquire land in the Coast Province for speculative purposes. Could the Minister stop this practice of issuing letters of allotment to people for speculative purposes until all the genuine squatters in Coast Province have been settled?

**Gen. Mulinge:** Mr. Speaker, Sir, the reply I have given here caters for all districts in Coast Province and the Ministry has so far identified a good number of genuine squatters. If we stop the allocation today, then I wonder how we are going to settle these landless squatters because that is what we are doing at the moment. As soon as the genuine squatters are identified, then we allocate them land. If we do not allocate them land, then we will not be doing our work.

**Mr. D.D. Mbela:** Mr. Speaker, Sir, this issue is in relation to squatters who are in large numbers in the Coast Province and exercises have been carried out to identify these squatters. Having identified these squatters and the possible places to settle them, the Ministry has again continued to allocate non-squatters the same areas that have been identified for squatters. As a result, the squatters are increasing instead of decreasing and their problem not being solved. This problem is likely to become explosive and the Coast Members of Parliament have warned about this possibility several times. Can the Minister really and genuinely tell the Coast people whether this exercise will be completed in relation to the already identified squatters in Coast Province before they become a source of trouble?

**Gen. Mulinge:** Mr. Speaker, Sir, it is true that the exercise will be completed, but, along with the genuine squatters, we are also settling some other people because it is not only the squatters who are landless. There are also some other people outside the Coast Province who are landless. They are also being---

**Mr. Michuki:** On a point of order, Mr. Speaker, Sir. I am seeking your guidance because this is a very

serious issue of land. Could the Chair allow the Minister to explain to this House and to us what the definition of a squatter is, who a genuine squatter is and who is not, because a squatter is a squatter is a squatter!

**Mr. Speaker:** Well, you have told him!

*(Laughter)*

Mr. Minister, you have just been told who a squatter is! Mr. Mumba, please, ask the last supplementary question.

**Mr. Mumba:** Mr. Speaker, Sir, when the exercise was carried out last year, we believed that the exercise was being carried out for the benefit of the Coast people who are squatters. Why should somebody from outside the Coast Province qualify more to be settled in Coast before the genuine man from the Coast Province has been settled? Why should somebody from outside be settled there before the Coast man has been settled? How does that one qualify more than the Coast man?

**Gen. Mulinge:** Mr. Speaker, Sir, there are people who do not belong to Coast Province but who are squatters in some of those areas. These people have got the same right as the Coast people to be settled in Government land.

**Mr. Speaker:** Next Question, Mr. Maore.

*Question No.730*

MANAGEMENT OF MULIKA LODGE

**Mr. Maore** asked the Minister for Tourism and Wildlife:-

- (a) why African Tours and Hotels Limited has not managed Meru Mulika Lodge profitably; and,
- (b) if he can take urgent measures to overhaul the current management of the lodge, pay wages and salaries for workers and rehabilitate the entire Meru National Park.

**The Minister for Tourism and Wildlife** (Mr. Ngala): Mr. Speaker, Sir, I beg to be given more time to bring an appropriate reply to this august House.

**Mr. Speaker:** What is your reaction, Mr. Maore?

**Mr. Maore:** Mr. Speaker, Sir, I would like to be given a specific date when the appropriate answer will be given. Secondly, I would like the Minister to withdraw the answer he had earlier provided.

**Mr. Speaker:** Mr. Minister, when do you think you can provide the answer?

**The Minister for Tourism and Wildlife** (Mr. Ngala): Next Thursday.

**Mr. Speaker:** Very well. The question is deferred to next week.

*(Question deferred)*

Next Question, Mr. Michuki.

*Question No.185*

POLICY ON YOUTH POLYTECHNICS

**Mr. Michuki** asked the Minister for Research, Technical Training and Technology:-

- (a) if he is aware that at this stage of the country's industrial development, and particularly in the *Jua Kali* sector, it is imperative that there should be in place a clearly spelt-out policy on the future of the youth polytechnics; and,
- (b) when he intends to table a Paper on such policy before this House for debate and approval of the same.

**The Assistant Minister for Research, Technical Training and Technology** (Mr. Kagwima): Mr. Speaker, Sir, I beg to give the following reply.

Yes, I am fully aware and I agree with the views of the hon. Member that at this stage in time of our development, we need concrete proposals on what to do with the management of *Jua Kali*, among others. My Ministry has already drafted proposals on the management, operations and future policy of the youth polytechnics. Such proposals also include rehabilitation of youth polytechnics and the improvement of the scheme of service of the staff in those polytechnics and related institutions. We have also introduced certain courses that will go in line with the 8-4-4 system of education. Such courses are Artisan Courses so that people from such institutions can bring better knowledge in the *Jua Kali* sector.

**Mr. Michuki:** Mr. Speaker, Sir, I am grateful to the Assistant Minister for understanding this problem



because, as you remember, I had brought another Question on the terms of service of the staff of youth polytechnics all over the country. Could the Assistant Minister confirm to this House, and to the nation as a whole, that he has reviewed his previous policy and that he is now prepared to meet the salaries of staff at these institutions given the importance of training, and sending these people to *Jua Kali* industries which, in fact, has become a policy of the Government as repeated the day before yesterday by the President?

**Mr. Kagwima:** Mr. Speaker, Sir, we will do that. A Cabinet Paper has been prepared and forwarded for discussion and thereafter will be brought to this House for discussion.

**Mr. Gitau:** Mr. Speaker, Sir, the Government indicates that it is taking *Jua Kali* sector very seriously but, unfortunately, some of the established village polytechnics produce graduates who are not provided with employment. They have also been promised that they will be loaned money to start their own small businesses. Is the Assistant Minister aware that young people are now refusing to join village polytechnics on the ground that they will not end up getting employment or money from Government to establish small *Jua Kali* businesses? Further---

**Mr. Speaker:** Would you like to respond, the hon. Assistant Minister?

**Mr. Kagwima:** Mr. Speaker, Sir, what the hon. Member has said is not true or probably he does not understand why village polytechnics were established. One, the intention of creating youth polytechnics and using them to train our youth was to provide self -employment. The Government and my Ministry have been working round the clock to try and assist those trained graduates so that they can establish their own businesses and some of the banks, including Kenya Commercial Bank and others, are looking for ways of making available small-scale loans to such people so that they can establish their own businesses.

**Mr. Michuki:** Mr. Speaker, Sir, in the written reply which has been handed over to me, the Assistant Minister refers to the formulation of terms of service of the staff of the youth polytechnics. Would the Assistant Minister clarify as to whether the terms of service that he is about to formulate will be adopted by the Ministry or whether they will be pushed to the parents who have their children in these polytechnics as implied in my earlier Question before I brought this other Question?

**Mr. Kagwima:** I have already said that a Cabinet Paper has been prepared and forwarded and will be brought to this House for discussion. At that time of discussion, if the hon. Member will not be satisfied, then he can move an amendment or so. For now, I would not want to anticipate what is likely to come.

*Question No. 279*

INFLUX OF HIGH-TECH MACHINES

**Mr. Nthenge** asked the Minister for Research, Technical Training and Technology, what the policy of the Ministry is towards the influx of high-tech machines which have flooded the country and are a major cause of unemployment of late.

**The Assistant Minister for Research, Technical Training and Technology (Mr. Kagwima):** Mr. Speaker, Sir, I beg to give the following reply.

I wish to inform the hon. Member that at this stage of our development, we require high-tech machines and high-tech technology to improve or hasten the growth of our economy so that we create more employment rather than create unemployment.

**Mr. Nthenge:** Mr. Speaker, Sir, I will take an example of traffic lights. By installing those traffic lights, how many constables do you think are rendered jobless?

**Mr. Kagwima:** Mr. Speaker, Sir, I hope my hon. friend will agree with me that those traffic lights will monitor movement of traffic more accurately than a human being who is likely to get tired and give up. We require constables to maintain security along the boundaries.

**Mrs. Ngilu:** Mr. Speaker, Sir, contrary to what the Assistant Minister has said, by bringing in all these machines into the country, surely, we are replacing the people who should be working. Therefore, in a country where we have so many people who are looking for jobs flooding the country with high-tech machines means that we are replacing them and having only a few to man the machines. Incidentally, it is only the urbanized youth and people that can get jobs. What is going to happen to the rural youths and others who are the majority?

**Mr. Kagwima:** Mr. Speaker, Sir, what we are experiencing in the country is very expensive cost of production for whatever item we want to make and very expensive cost of service. What we should be praying for is to reduce those costs so that we can export our produced items and service rather than wanting to provide employment and stop the economy from growing.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, while I do not appreciate the view that machines are unnecessary, given the fact that this country spends a third of its budget on education, I would want to ask the Assistant Minister if

there is any process of standardization of equipment that is brought into the country so that we do not end up with junk computer staff and things like that, what mechanism is going to be put in place so that we do not lose a lot of money in the process of bringing in equipment that is not useful to the country?

**Mr. Kagwima:** Mr. Speaker, Sir, my Ministry is aware of what the hon. Member believes and it is a very important and valid point. One, we as a Ministry have organized to standardize even the training itself for those that are going to use the computers and other high-tech machines; and secondly, we are also harmonising standardization of the high-tech machines that are going to be imported into this country.

### QUESTION BY PRIVATE NOTICE

#### PRISONERS ON DEATH ROW

**Mr. Murungi:** Mr. Speaker, Sir, I beg to ask the Minister for Home Affairs and National Heritage the following Question by Private Notice.

(a) Is the Minister aware that the lives of the 55 condemned prisoners who are awaiting their death at Kamiti Maximum Prison are in grave danger as they are being fed with rotten vegetables and other food, which is unfit for human consumption and that some of the condemned prisoners have been awaiting their death everyday for the last 12 years, during which they have suffered psychological torture and mental anguish?

(b) Is the Minister aware that six condemned prisoners have recently been set free?

(c) In view of "a" and "b" above, could the Minister recommend to H.E. the President that all the condemned prisoners at Kamiti Maximum Prison be pardoned?

**The Assistant Minister for Home Affairs and National Heritage (Dr. Momanyi):** Mr. Speaker, Sir, I beg to reply.

(a) The condemned prisoners at Kamiti Maximum Prison are being fed on wholesome food as other prisoners and their lives are not therefore in danger.

(b) Six condemned prisoners have not been set free. However, eight condemned prisoners have had their death sentences commuted to life imprisonment during the year.

(c) No, I would not recommend to H.E. the President that all condemned prisoners at Kamiti Maximum Prison be pardoned. Such recommendation could only be given by the Advisory Committee on Prerogative of Mercy depending on the merit of each case.

**Mr. Murungi:** Mr. Speaker, Sir, the Assistant Minister has just now misled the House. I have got a letter here written by 55 condemned prisoners now waiting for their deaths at the Kamiti Maximum Prison. I want to read only two sentences of the letter.

"First, we would like to inform you that originally we had been 61 prisoners on the death row but six were set free because their families managed to see the President.

The following are the names of the prisoners who have been released; Peter Adhiambo, Peter Shakuru, Peter Maruba, Madam Matumbi, John Lugozi and Daniel Maudi. The letter continues that "since all these people were released because their influential families managed to see the President, we wonder what our fate is going to be, we who do not have influential families to see the President." The second sentence reads,

"We would also like to inform you that on the side of diet, in fact, we are getting very bad food; rotten vegetables and our complaints are met with violence. We were even surprised to hear one day the Minister for Home Affairs, Mr. Lotodo, tell Parliament that we are served with fish and canned food whereas, this is not the case. There are prisoners who have been here for five to 12 years since conviction and upto now are waiting to be hanged---".

Mr. Speaker, Sir, I would like to lay this letter on the Table.

*(Mr. Murungi laid the letter on the Table)*

**An hon. Member:** Is it signed?

**Mr. Murungi:** The letter cannot be signed because if it is signed, those people will be hanged instantly.

**Mr. Biwott:** On a point of order, Mr. Speaker, Sir. I think we are tired of documents that are not signed. If they are not signed, they should be expunged from the deliberations of this House.

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

**Mr. Speaker:** Order! Order, as late as yesterday afternoon, I ruled that any piece of paper that is not executed or signed by the maker cannot be admissible in this House.

**Mr. Murungi:** It is signed, "Yours faithfully, we the 55 condemned prisoners on death roll". I think I have read the Standing Orders and there is no rule that says that a letter must be signed before---

*(Applause)*

**Mr. Speaker:** Order! Order, Mr. Murungi. In fact, by the very definition of a letter, it means a written paper authenticated by the maker. I have made that ruling and I will not accept that any paper from wherever source will be Tabled here and be made an authority of some sort; that I will not accept.

*(Mr. Orengo stood up in his place)*

Mr. Orengo, there is no point of standing, I will not revise that one. Can we deal with the Question?

**Mr. Muite:** Mr. Speaker, Sir, could the Minister kindly take the issue of these prisoners and all prisoners generally a little bit more seriously? I spent the whole of this morning at Kamiti Prison seeing various clients. I can say that we are dehumanising these people because of the diet. They are extremely poorly fed; inadequate food, ugali which is half-cooked, half-cooked githeri and in very inadequate quantities.

Could the Minister give an assurance to this House that the self respect of these people who we are trying to rehabilitate is going to be respected by being accorded a better diet?

**Dr. Momanyi:** Mr. Speaker, Sir, may I assure hon. Muite and the House that the Ministry is looking into every aspect of improving the prisoners' condition. Recently, we released a number of blankets, mattresses and pillows to various prisons and the question of food is also seriously being looked into.

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, since this matter has been raised several times by Members of this House who have had first experience with police detention cells, torture chambers in Nyayo House and the prisons in this country, and since the Attorney-General himself assured this nation that he was setting up various task forces, one which was to deal with the criminal justice system, can we know from him whether any data has been collected from prisons, police cells and torture chambers, that would eliminate these hazards and these inhuman conditions in our nation?

**Mr. Speaker:** Prof. Anyang' Nyong'o, did you know who was answering the Question?

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, I do understand that there is collective responsibility in this Cabinet.

**Mr. Speaker:** Order! If you want to direct that question to the Attorney-General, put it but you can also direct it to the Assistant Minister, he can answer. Would you like to answer?

**Prof. Anyang'-Nyong'o:** Mr. Speaker, Sir, since the Cabinet must be reminded of collective responsibility, could the Minister concerned answer the question I have just put to the Cabinet?

**Dr. Momanyi:** Mr. Speaker, Sir, that is a different Question.

**Mr. Speaker:** Last question on that, Mr. Raila.

**Mr. Raila:** Mr. Speaker, Sir, I can talk from personal experience that what is stated in that letter is correct. I have lived with people on the death rolls at Kamiti Prison and the treatment they claimed to be receiving is actually true. Death sentence is no sentence because the victim does not live to correct himself. Can the Government, in fact, consider repealing the death sentence altogether, since we now know that there are even Ministers in this House who can shoot and kill people like Dr. Ouko without any signatures?

*(Applause)*

**Dr. Momanyi:** Mr. Speaker, Sir, I think the Question was not directed to me, but may I also ask, which Ministers kill people?

**Mr. Murungi:** Mr. Speaker, Sir, I am aware of some places in England where being held on a death roll for a long period was considered to be torture, inhuman and cruel treatment and, as a result of that torture, the prisoners who were held for such long periods were ordered to be released. Could the Minister consult the Attorney-General and be advised that prisoners who have been waiting for their deaths for five to twelve years and have suffered enough should be released under those English precedents?

**Dr. Momanyi:** Mr. Speaker, Sir, that question should be directed to the Attorney General and if he is asking my Ministry to consult with the Attorney-General, the hon. Member is as capable as we are to consult with the

Attorney-General.

**Mr. Speaker:** Next Order!

### POINTS OF ORDER

#### OUT OF ORDER TO ANTICIPATE DEBATE ON A MOTION

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

Thank you, Mr. Speaker, Sir, for giving me this opportunity on behalf of the current Public Account Committee to react to the comments made in this House yesterday by the Assistant Minister for Finance, the hon. Keah.

First and foremost, once a document has been laid on the Table of this House it becomes the property of the House and the general public and the Press have a right of access to it and they have a right and they are free to comment on it within the latitude allowed by our Standing Orders and the general laws of libel.

Secondly, Standing Order No.70 (ii) does not allow any hon. Member of this House, including an Assistant Minister, to anticipate debates upon a future Motion occasioned by the laying of such a document on the Table of this House. Accordingly, the Assistant Minister, hon. Keah, was completely out of order to use the Floor of this House to respond to the Press on the matter of Kshs14.7 billion contained in the current report of the Controller and Auditor-General on the accounts of the Government of Kenya because he was anticipating debate upon a Motion and secondly, he was usurping the role of an Accounting Officer who would appear before the Public Accounts Committee and render account.

Finally, I wish to assure this House that when the Public Accounts Committee comes to deliberate upon the current report of the Controller and Auditor-General, it will totally ignore the Assistant Minister's gratuitous comments as irrelevant *obita dictum*. Thank you.

**Mr. Biwott:** Mr. Speaker, Sir, I rise on a point of order to raise one fundamental question.

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

**Mr. Speaker:** Order, Mr. Obwocha! You are out of order. Order! Order all of you! There cannot be two hon. Members on points of order. You have to wait until the hon. Member who is on a point of order finishes. If there is anything that will cause you to rise on a point of order, you can do so.

Hon. Orengo should be named

**Mr. Biwott:** My point of order is fundamental. It is written at the top of that door these words "For the Welfare of Society and the Just Government of Men" because it assumes that everything that is said here or done here is done with integrity by the hon. Members. Yesterday, documents were laid here which were not signed and authenticated by hon. Orengo, the Member for Ugenya; one of which was discovered and was expunged the other two which were Tabled by hon. Raila Odinga have now turned to be unsigned. They were not signed. I have just looked at them. My request is to seek the indulgence and guidance and to request that those other two documents which were not signed be expunged.

Secondly, Mr. Speaker, Sir we would also seek your guidance because time has come when people must either be people of integrity or not and; I think time has come to deal with people like hon. Orengo who is notorious for peddling false documents in this House and who do not care for justice, I think he should be named.

*(Several Members stood up in their places)*

### COMMUNICATION FROM THE CHAIR

#### UNAUTHENTICATED DOCUMENTS INADMISSIBLE IN THE HOUSE

**Mr. Speaker:** Order! Order! First of all, I must say whatever hon. Members will say in this House, if you look at your Standing Orders, you have to use a civil language. It should not be a language that is, by its nature, provocative and insulting.

Just to comment on what hon. Biwott is saying; first of all, I saw a report this morning in the *Daily Nation*, for example, which said "Kaparo rules on Orengo's documents" and among the things the report said is that I had said that an affidavit and a letter emanating from a solicitor in London were validly laid on the Table.

First of all, for the very, very first time, the issue of a document from a Solicitor was raised in this House in the afternoon of yesterday by hon. Raila Odinga. I remember, in the morning session when the hon. Orengo was

Tabling documents he did not, to the best of my knowledge, and the HANSARD is witness to this, refer to any document from any solicitor.

**Mr. Orengo:** I did! I did!

**Mr. Speaker:** Order Mr. Orengo! If you become disorderly like that---

**Mr. Orengo:** But Mr. Speaker, Sir---

**Mr. Speaker:** Mr. Orengo! You know that it is out of order to interject when the Speaker is addressing the House! According to the HANSARD, this is what hon. Raila said:

"No, Mr. Speaker, Sir. I want to seek clarification on your ruling and this is with regard to the documents that were Tabled by hon. Orengo here this morning. There was a letter which you now say was not signed but there were two other documents; one which is signed; one is a letter written by a lawyer in London to His Excellency the President, and an affidavit which has details of the killers of late Robert Ouko."

My response, according to the HANSARD, and I read again what I said, was as follows:-

"Order! Order! Raila. If you listened to me carefully, I only referred to papers that were not signed. I did not refer to anything else and I do not think we should entertain any further argument on that point."

I do not think that I specifically made any findings on what hon. Raila Odinga was complaining about. I have had occasion to revisit and look at the so-called affidavit and the letters. First of all, there is no affidavit that was laid on this Table. The document which has been quoted extensively as an affidavit by the Press, as a matter of fact, is not an affidavit within the meaning of affidavit. It is in fact a draft; what would be a draft, a written statement of defence and that is what it says on its face. It says, "written statement of defence." That too has certain initials but not signed and it is a photocopy. The letter again is a photocopy and it has certain initials and name, but it does not have a signature. Absolutely no affidavit was tabled in this House and secondly, that the two documents signed were not executed and they were photocopies and the authenticity of it, therefore, is unsure. So, as I said in the ruling of yesterday, any document that is not executed is inadmissible and that applies to all unsigned papers that were Tabled here.

*(Applause)*

**Mrs. Ndetei:** Mr Speaker, Sir, I am on a procedural point order. Mr Speaker, with all due respect to what hon. Biwott has said, this is a very important matter to the Government of this country. The kind of issues he is raising now, are issues that should be raised by the Leader of Government Business or his deputy. Hon. Biwott is an ordinary Back Bencher in KANU. What role is he playing now, because the matter was an issue of this House? It has nothing to do with the person of hon. Biwott. Secondly, I said that he is a Back-Bencher in KANU. Why should he be addressing the House from the Front Bench when the Cabinet Ministers are there? It has nothing personal to do with hon. Biwott!

*(Applause)*

**Mr. Speaker:** Well, I suppose I can finish that matter. Any hon. Member has a right to rise on a point of order on any issue. As to the address by Members on the Floor of this House, I think, we have a guidance that the front seats to my right, are reserved to Government Ministers and, therefore, that is what is there in the Standing Orders.

*(Applause)*

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

**Mr. Speaker:** Order! Can you sit down!

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Mr. Speaker, Sir, my point of order---

**Mr. Orengo:** Hon. Mwai could also have--- (inaudible)

**Mr. Speaker:** I have given the Vice-President the Floor. Hon. Orengo, what kind of behaviour is this? Imputing improper motive forbidden

**The Vice-President and Minister for Planning and National Development** (Prof. Saitoti): Mr Speaker, Sir, my point of order is not exactly on what you have just ruled. In actual fact, we accept what you have ruled. But there is a very fundamental issue here, and I believe that this hon. House needs to address to. I believe that all of us

are hon. Members, and there is indeed a Standing Order that forbids any hon. Member from imputing improper motive to any other hon. Member in this House.

Mr Speaker, Sir, I seek your guidance on this matter, mainly, if an hon. Member knowingly lays down here pieces of paper which are not authentic to mislead this House and the general public of the country, therefore, maligning the names of the hon. Members in this House, should it not be in order for such an hon. Member to be asked by this House to withdraw and apologise? If he does not do that, it is possible for anybody to go and tell somebody to write any chit, making all kinds of wild allegations for the purpose of maligning that hon. Member.

There is the dignity of this House, Mr Speaker, which we must uphold. We are looked upon by the wananchi of this country and we cannot behave as though we are in a market place.

**Mr. Speaker:** I will hear you hon. Orengo, then hon. Shikuku. Then I will close that chapter.

**Mr. Orengo:** First of all, before I come to what is said from the Chair, which I think, I am bound to comply with but, the two documents which have been referred to, the first document is a court document filed in the High Court of Justice, Queen's Bench Division. It named the parties in that case. The parties are:- His Excellency, President Daniel arap Moi, plaintiff and the defendants are *Times Newspapers Limited* (London), I.N. Glow, Glover James and Miles Bretten. There are three defendants. The address of the solicitors are given, the case number and you remember that hon. Ntimama has given information to this House, but he did not tell us the parties. But this document tells us who the parties are.

**Hon. Members:** On a point of order!

**Mr Speaker:** Order! Order! Sit down! Order, Mr Orengo! One thing you have to do, if you were out there to state that as a matter of fact, the paper that you are referring to as an affidavit, is an affidavit, then, say so. If you are saying that it is executive, say so. What I would not allow you to do---. Sit down! What I would not allow you, Mr Orengo, to do or any other Member for that matter, is to use the pretence of a point of order to read the contents of a paper that has been ruled out.

**Mr. Orengo:** I am proving the authenticity. This is what I am proving.

**Mr. Speaker:** Order! Order! Order, all of you. Order hon. Members! You can see what it comes to when hon. Members do not want to follow the rules of this House. What we are going to do ultimately, if I allow this to continue and I ruled on 12th July 1995, that I would not allow hon. Members to misuse this Floor of this House to malign others.

If, again, I am going to allow hon. Members to disregard totally the rules and dignity of this House, it ceases to be a House.

**Mr. Orengo:** On a point of order, Mr. Speaker.

**Mr. Speaker:** Order! Mr Orengo, you are ordered to leave this House. There is no order until he leaves. If the hon. Member does not want to leave, the Chair, obviously, has power to use all necessary force to ensure the eviction of a Member who has been expelled. The consequences of such action, if it has to be resorted to, is that the Member would stand expelled for the balance of the Session. It is a very grievous thing, I would not like to use it. I would urge the hon. Member just to withdraw for the balance of the day basically for interjecting all the time, persistently from yesterday when the Chair is on the feet. That is a punishment you have received.

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

**Mr. Speaker:** Order! Order! There cannot be a point of order until he leaves. I had promised the last one to hon. Shikuku. Order! Order Raila! It beats reason why some hon. Members feel they are more important than others.

*(Mr Orengo withdrew from the Chamber)*

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

**Mr. Speaker:** Order! Order! You are now disorderly and you must withdraw for the balance of the day.

*(Mr. Raila withdrew from the Chamber)*

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

**Mr. Speaker:** Order, Mr. Murungi!

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

**Mr. Speaker:** Order, Mr. Ojode! It does not matter how many Members will be expelled for disorderly conduct.

*(Mr. Mak'Onyango stood up in his place)*

**Mr. Speaker:** Order, Mr. Mak'Onyango! You are disorderly and I order you to leave the Chamber!

*(Mr. Mak'Onyango withdrew from the Chamber)*

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

**Mr. Speaker:** Order! I have given the Floor to hon. Shikuku.

**Mr. Shikuku:** Mr. Speaker, Sir, I was trying to raise a point of order which I think is very, very valid, taking into account the rulings in the past. We must all abide by the rules of this House. If you look at Standing Order No. 172, the hon. Biwott ought to have known this because it clearly states, "All seats in the Front Bench of the Chamber shall be reserved for the exclusive use of the Ministers". And I have seen in the past practice, one cannot, as a Back-Bencher, come and sit on the Front Benches unless he is consulting, and, above all, to speak from the Front Benches. We used to have the Speaker ordering the Back-Benchers to go to their places. So, that violation of the Standing Order took place and hon. Biwott should be informed.

Secondly, Mr. Speaker, Sir, when an hon.MP says, "the documents are false; they are chits of papers", like the hon. Vice-President and Minister for Planning and National Development, and we have a court proceeding here, was he in order, or should we, later on, come to revisit the thing in view of the fact that hon. Orengo had already referred to a court proceeding which the hon Vice-President dares to call "chits of paper"?

*(Applause)*

**Mr. Speaker:** Order! Order! Order! hon. Members I think it is best that matters that are important to the practice and dignity of this House are given the seriousness they deserve. As to what the hon. Members are saying, whether a document is a document or is not a document, and why documents must be executed, I will give a very comprehensive ruling next week, for the benefit of future debates in this House.

Dr. Wako, you were on your feet when the Chair was on its feet, you must now leave the Chamber. There cannot be order until he leaves.

*(Dr. Wako withdrew from the Chamber)*

**Mr. Obure:** On a point of order!

**Mr. Speaker:** Mr. Obure, we have finished that issue until I give a ruling next week. Sorry, we cannot have this thing the whole afternoon.

**Mr. Obure:** Mr. Speaker, Sir, I rise on a point of order in connection with the insecurity, the recklessness, and the divisiveness that arose in the three constituencies, that is Bobasi, Bomachoge and South Mugirango, to demand a Ministerial Statement from the Minister of State in the office of the President.

Mr. Speaker, Sir, while being very grateful to the Government and the President for giving the people of Bomachoge, Bobasi and South Mugirango a district, the happiness that was achieved was short-lived. The people of the three constituencies have suffered the anguish of mind, frustration by the endless night and day waiting for the naming and the location of the headquarters of the new unnamed district. The untold suffering by people---

**Mr. Speaker:** Order! Order! You are, in fact, not making a point of order, you are reading. If you have no idea of what you are talking about, you better sit down, Mr. Obure.

**Mr. Obure:** On a point of order, Mr. Speaker---

**Mr. Speaker:** Mr. Obure, you are not making a point of order, you are, in fact, reading a document contrary to Standing Orders. Next Order!

**Mr. Obure:** Mr. Speaker, Sir, I have not stated my point of order yet. Let me, please, finish stating my point of order.

**Mr. Speaker:** You will not.

**Mr. Obure:** Mr. Speaker, Sir, I am sorry to reverse you to---

**Mr. Speaker:** I hope you are not reversing, because, I will not take it.

**Mr. Obure:** I have to, Mr. Speaker, Sir.

**Mr. Speaker:** If you have to, I refuse, you will sit down.

**Mr. Obure:** On a point of order---

**Mr. Speaker:** Mr. Obure, you must now leave the Chamber. If I give you a chance or any---- Mr. Obure, will you now leave so that we can continue with the debate without you. Will you leave the Chamber?

*(Mr. Obure withdrew from the Chamber)*

**Mr. Speaker:** Next Order.

## BILLS

### *First Readings*

THE EXCHANGE CONTROL (REPEAL) BILL  
THE CENTRAL BANK OF KENYA (AMENDMENT) BILL  
THE CO-OPERATIVE COLLEGE OF KENYA BILL

*(Orders for the First Readings read -  
Read the First Time - Ordered to be read  
the Second Time tomorrow)*

### *Second Reading*

THE CHILDREN BILL

*(The Minister for Home Affairs and  
National Heritage on 20.7.95)*

*(Resumption of Debate interrupted on 20.7.95)*

**Mr. Speaker:** Dr. Otieno-Kopiyo was on the Floor.

**Dr. Otieno-Kopiyo:** Mr. Speaker, Sir, I was on the Floor. As I was saying, before I was procedurally interrupted on the 20th of July 1995, this Bill betrays the very objects which are actually stated in its Memorandum of Objects and Reasons. But, more importantly, I was also saying that, those charged with responsibility of giving the Government advice, for example, the Attorney General, must have vision and courage to do just that, and should not resort to situations where, because of particular circumstances, they are unable to advise the Government either because they are afraid, or too pressurised by different forces within the area they operate to do something useful for the country.

Mr. Speaker, Sir, the Attorney General told us that, one of the main objects, and it is written in Memorandum of Objects and Reason that this Bill will promote the well-being of children. It does not seek to explain "how".

(b) That the Bill, if it is implemented, will implement the provisions of the United Nations Convention of the Rights of the Child, 1989. Again, it does not state "how". To promote the welfare of the family; very good, but again it is silent on how that important objective is going to be achieved, particularly if you look at the Bill in detail.

Mr. Speaker, Sir, there are many inadequacies in this Bill. But I will confine myself to three areas. The first one is that the Government is being dishonest about this Bill. The Attorney-General established a Task-Force to review the laws relating to children.

The Task-Force Committee completed its task and brought the report to the Attorney-General. This report has not been made public, but I have had a chance to have a look at it and it is very, very comprehensive in the recommendations that it gives, that if these recommendations and guidelines were used in the drafting and drawing up of this Bill, then we would say that some of the objects stated herein would be achievable. But they have been completely ignored, which now proves the point the Opposition has been making all along, that these Task-Forces are actually an opportunity for the Government to buy time, when they do not want to act on a particular situation and to rectify particular inadequacies. So, if they spent money from the Government and from the donors on the Task-Force, why were the views expressed in the report ignored in the drafting of the Bill? That would have been an important yardstick for measuring the genuineness of the Government, in implementing recommendations made by those Task-Forces. There have been numerous Task-Forces. We are saying that those task-forces are a waste of time and this Bill having been the first one supposedly emanating from the Task-Forces, should have contained the recommendations from the Task-Force. That is a major failure of the Bill.

The second failure of the Bill is that while it pretends to implement the provisions of the United Nations Convention on the Rights of the Child, 1989, it actually ignores the object stated in the United Nations Convention on



the Rights of the Child, 1989. It would suffice to say that the Kenya Government was one of the first signatories to this Convention that actually enabled the UN to ratify it. That means that we are being taken for a ride. What were the objects of the United Nations (UN) when it drew the Convention on the Rights of the Child? I will read a preamble to the booklet that has been issued by the UN on this matter:

"Together the declaration and the plan of action of the World Summit for Children and the Convention on the Rights of the Child, constitutes an ambitious but feasible agenda for well-being of the children to be achieved by the year 2,000. In committing themselves to pursue these goals, the leaders of the world have agreed to be guided by the principle of a first call for children, a principle that the essential needs of the children should be given high priority in the allocation of resources in bad times, as well as in good times, at national, international and as well as family level."

Mr. Speaker, Sir, those great ideals are not going to be achieved within the armpits of this Bill if it is adopted. Again, that is a major failing. So, may we ask: What is new in this Bill? One, it is a Bill and so that is new. The only other news thing really, is that the Bill, for the first time, introduces the possibility of foreigners to adopt Kenyan children or to buy them. There have been examples of other laws that are in place elsewhere in the Commonwealth. We, acting as part of the family of the international community, must enact laws that are in keeping in total with other members of the international community. Why then did the Attorney-General bring an inadequately drafted Bill to Parliament? We have had occasions to discuss this. There is no feasible reason, other than to explain that because of the economic implications in this Bill, a lot of objects that were set out to be achieved have not been included.

The third primary reason for bringing the Bill to Parliament, and it is stated in the Memorandum of Objects and Reasons, is the fact that the Bill is seeking to harmonise all the laws relating to children. Previously, there were a plethora of Acts that dealt with children. Those Acts which were devoted to the children in their totality, for example, the Adoption Act, the Borstal Institutions Act, the Children and Young Persons Act, the Education Act, the Guardianship of Infants Act, the Kenya Boy Scout's Act, the Girl Guide's Act and the Legitimacy Act. While the following are Acts which devote substantial portions to children's matters; the Asian Widows and Orphans Act, the Births and Death Registration Act, the Employment Act, and Law of Succession Act, Matrimonial Causes Act and the general Penal Code. While it is not possible, nor probably desirable, to bring all these Acts into a single law, it is, indeed, possible, and I think necessary, to incorporate most of these Acts into a new law to consider the basic child laws or such Statutes and integrate them in a rationalised form in a new body of child law.

This Bill has not done that, and the reason for it is not forthcoming. Therefore, I consider that the Attorney-General should have been more honourable to withdraw the entire Bill and take it back for re-drafting, so that, at least, it achieves one principle of justice to harmonise the various Statutes that deal with child law. It would be a honourable thing to do. It would be important because what has been stated here is actually a lie. We do not have the major provisions of the Convention on the rights of the child within the Bill as stated. If the Attorney-General's intention is to bring other Bills or to amend other aspects of the law that affect the child, then why bring this new Bill? Why does he not make miscellaneous amendments and then we go on? But to create hope, and to make the international community believe that Kenya is in compliance with their commitments to the convention on the rights of the child, as stated in the UN Declaration, is to tell the international community a lie.

Mr. Speaker, Sir, it is important for us to revisit Kenya's commitment at that time when we signed the UN Declaration. Part 17 of this document says:

"This task requires a continued and concerted effort by all nations through national action and international co-operation to implement".

It says that our commitment, the well being of children requires political action at the highest level. We are determined to take that action if the A-G of the time made the President of this nation sign that document and commit Kenya to this important and ambitious process. Why then are we not courageous enough to implement those provisions in the convention that we were first an eager and important contributor?

Mr. Speaker, Sir, other countries have brought Children's Bills subsequent to the enactment or the ratification on the Convention of the Rights of the Child. The argument can be made that Kenya cannot compare itself to countries like Britain or Australia but we certainly can compare ourselves with Namibia or Uganda. One of the shortcomings of this Bill is that it does not talk about the rights of the child. It sees the child as a perpetual trouble maker and that mechanisms must be found to punish where necessary. This Bill is about control. We were saying before that democracy is not about control; democracy is about freedom. We want to see a Bill in place that provides the child with the right to grow up with parents, the duty of the parent, and the guardian to maintain the child. The Government must have the necessary means and put in place mechanisms that provide parents with the ability to maintain their children. This Bill does not talk about that. Kenya is faced embarrassingly with an acute street child problem. What is the Government planning to do about that? Why is that not covered adequately in the current Bill? Or are we going to

come back to Parliament in a year or two and say to this nation that we want now to bring in other provisions to cater for that? This Bill defies really the main considerations that were supposed to be the mainstay of the Bill. What are those? The main issues that have been omitted or not adequately covered are the following:

First is education. Basic education is a prerequisite of any human development especially for young children. Article 28 of the Convention on the Rights of the Child that the Bill refers to states that "The child has a right to education and it is the State's duty to ensure that primary education is free and compulsory to encourage different forms of secondary education accessible to every child and to make higher education available to all on the basis of capacity. School discipline shall be consistent with the child's right and dignity. The State shall engage in international co-operation to implement these rights."

That is missing in the document. Furthermore, education shall aim at developing the child's personality, talents and mental and physical abilities to the fullest extent. Education shall prepare the child for an active adult life in a free society and foster respect for the child's parents, his or her own cultural identity, language and values for the cultural background and values of others. That is part of the convention that the Bill states in its Memorandum of Objects and Reasons that it will seek to implement. It is not adequately covered in the Bill. For this reason, making education free and compulsory by law, the Government of Kenya will not only be contributing to the implementation of the Convention on the Rights of the Child but also ensuring the development of its future citizen personality, talent, mental and physical capabilities. These are important and weighty issues that the Bill cannot afford at this point in time in our development to ignore because we are talking about 56 per cent of the Kenyan population. Those are people below the age of 18 described as "functional children". If we are talking about half of the total Kenyan population and we are not providing for mechanisms and means or ways by which they should develop into future citizens and we keep telling them in political platforms that they are our future leaders, then we are giving them false promises. The law then must also, for instance, protect children from being sent away from school because they cannot afford to pay school fees and levies. Education should then be considered as a basic human right in this respect. Parents who for one reason or another fail to take their children to school should also be prosecuted because they would be denying that child a means to the future. That is not in the Bill. The legislation should also reduce the high number of children dropping out of school especially at primary school level. It is also likely that through this method, child labour and the street children problem will be reduced by some percentage.

Mr. Speaker, Sir, my contention, therefore, is that the provision of free and compulsory primary education is therefore a fulfilment of the development rights of a child.

What is the second issue that has been ignored here? In summary, the main provision of Article 24 of the United Nations Convention on the Rights of the Child talks about the child's right to the highest standards of health and medical care. This Bill in its Memorandum of Objects and Reasons explains that they seek to implement the convention. That is my reason for dwelling on that because if that is our main reason then we cannot understand how that reason would be omitted almost entirely from the provisions of the Bill and therefore for that reason particularly given the importance of health and health services, I will quote extensively from Article 24 of the UN Convention on the Rights of the Child. "

"State parties shall recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. State parties shall pursue full the implementation of this right and in particular shall take appropriate measures:-

(a) To diminish infant and child mortality.

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care to combat disease and malnutrition including within the framework of primary health care through *inter alia* the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water taking into consideration the dangers and risks of environmental pollution;

(c) To ensure appropriate pre-natal and post-natal health care for mothers.

(d) To ensure that all segments of society in particular parents and children are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast feeding.

(e) To develop preventive health care, guidance for parents and family planning education and services. State parties shall take all effective and appropriate measures with a view to abolishing traditional practices, prejudicial to the health of children".

Article 24 says:-

"State parties should undertake to promote and encourage international co-operation with a view to

achieving things progressively, the full realization of the right recognized in the present Article. In this regard, particular account shall be taken of the needs of developing countries."

Mr. Speaker Sir, in Kenya, for instance, there are many children dying of vaccine preventable diseases such as measles, tuberculosis, diphtheria, paralytic polio. If there was a law ensuring that these children were vaccinated at the right time and proper maintenance of strong health systems to sustain and increase immunization levels was maintained, several lives of children would be saved. Sick children would also be protected from irresponsible parent who do not bother to take these children to hospital when they are sick.

Mr. Speaker Sir, you have seen in some situation certain sects and religions that actually prevent parents or deny parents the right to take their children for medical care. That is not provided for in the Bill and that is important because Kenya, at Independence, pledged itself to eradicate ignorance, disease and poverty. And that is actually within the provisions of the KANU Manifesto as promulgated in 1963. If we are drawing up a Bill in 1995, calling it "The Children's Bill" we should include provisions that make it illegal for parents not to take their children for medical treatment.

Under the circumstances, Mr. Speaker Sir, it is also necessary to have a provision making medical care available for all children especially in difficult circumstances beyond the remand homes.

The other point, Mr. Speaker Sir, that I would like to touch on is a question of social security, again as provided for in the Convention. Article 26 of the Convention states that:

"State parties shall recognize for every child the right to benefit from social security including social insurance and shall take the necessary measures to achieve the full realization of this right in accordance with the national law and the benefit should, where appropriate, be granted taking into account the resources and the circumstances of the child and the person having responsibility for the maintenance of the child as well as any other concentration relevant to an application for benefit made on or by on behalf of the child. This law should minimize the suffering of many children who may have lost their parents or at the subject of divorce or broken homes."

Mr. Speaker Sir, the National Social Security Fund (NSSF) here which is some form of social security is limited in its operation because right now it has been turned into a body for churning out corrupt funding for projects of dubious economic liability. What we are saying is that if you are able to save some of this money you will be able to expand the scope and coverage of social security, particularly to look into the possibility of the richer portion of society, providing for the less privileged portion of the society, with a special target on children in special or difficult circumstances. But we have now turned our Social Security Fund into something else.

If you want a multi-billion shilling building, then you go to NSSF, you get pension money and you build it. And you value the project costs three or four times, then you can make a few billions in a few weeks. This is what is being done. I am not of that kind of moral quality to engage myself. I do not want billions to live, so I will not try Mr. Minister, I am afraid. I would proceed as a Member of Parliament representing my people on a salary of Kshs5,310 per month.

Mr. Speaker Sir, the other issue that is not covered in this Bill which is important and it is incidentally covered in the Bill that has been brought before the Ugandan Parliament. The key areas in the Ugandan Children's Bill, 1994; is that the right of the child to grow up with the parent is paramount, the duty of the parent-guardian to maintain a child is provided for within the Bill, parental responsibility, the right of the child to refuse harmful practices, the right to basic education, the right to an opinion in matters affecting the child's well-being. These are covered in the Ugandan Bill, but they are missing in our Bill and yet we claim to be one of the most organised of the African societies.

I will now proceed to tabulate some shortcomings of the Bill in respect to enhancing the standard of living for children. In summary, the main provision of Article 27 of the Convention states that:

"Every child has a right to a standard of living adequate for his or her physical, mental, spiritual, moral and social development. Parents have the primary responsibility to ensure that the child has adequate standard of living. The State's duty is to ensure that this responsibility can be fulfilled, to ensure that that responsibility can be fulfilled by the parents."

In other words, a social economic environment that is adequate and sufficient should be provided for the parent in order to enable them to economically sustain the kind of standard of living required for children. So, it is important to repeat that the State's duty is to ensure that this responsibility can be fulfilled and the State's responsibility can include material assistance to parents and their children. This legislation can curb street children, reduce child and maternal mortality and ensure an all round development of the child.

Mr. Speaker Sir, the other area that has not been covered and is part of the requirement in the Convention which is the basis for the Bill is the right to administration of juvenile justice. I will tell you what they are doing in Australia. They have brought legislation on juvenile justice Act for 1992 and it says this:

"This Act reflects the principles that children who commit offenses must be held accountable and be encouraged to accept responsibility for their offending behaviour. However, they should be given also the opportunity to develop in responsible beneficial and socially acceptable way. This includes the recognition of the importance of a child's family and the law should be enacted in such a manner that recognizes the offender is indeed a child."

Now, the Bill particularly when it refers to juvenile justice, omits important provisions that would make justice towards children more humane and more encouraging towards the future development. In summary, Article 40 of the Convention states that:

"A child in conflict with the law has the right to treatment which promotes the child's sense of dignity and worth, takes the child's age into account and aims at his or her re-integration into normal society. The child is entitled to basic guarantees as well as legal or other assistance for his or her defence. Judicial proceedings and institutional placement shall be avoided wherever possible."

*[Mr. Speaker left the Chair]*

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

This Bill puts heavy emphasis on custodial discipline. This is colonial and it is unacceptable and should not be the object of the Bill which we are seeking to bring into play in 1995. Some of the guarantees which we could put into play, for example, that the child should be assumed innocent until proved guilty according to the law. The way children are treated in our prisons, I had an opportunity to be in prison last year is deplorable. Children are exposed to circumstances that promote immorality among them in Athi River Prison and in Industrial Area, sodomy between children and adult is commonplace.

Mr. Temporary Deputy Speaker, Sir, if we intend to rehabilitate such children and return them as useful members of our society, then this is no way to treat them. We are actually "manufacturing criminals" in the process of pretending to rehabilitate them. This practice should come to an end, and the Assistant Minister from that Ministry was here, but I think that my contribution is too loaded for him, so he has taken off, and he is no longer taking notes. This is again the tragedy of the Government, that they can bring an important Bill dealing with 56 per cent of our population, and then the people responsible for such do not even attend to the debate. They do not know head or tail of what is happening. I told you before that this Government is being run like a second-hand clothes market, like a *mitumba* operation. There is no planning and there is no programming, so, people do not take their responsibility seriously.

Mr. Temporary Deputy Speaker, Sir, in the armpit of juvenile justice, one of the important provisions that is excluded, that the child will not be compelled to give testimony, or to confess guilt, to examine or to have examined adverse witnesses, and to obtain the participation and examination to witnesses, on his or her behalf, under condition of equality and so on. I feel that Article 40 in the Convention should be included in this Bill entirely. Because it is good provision, it provides for the possibility of developing a responsible and honesty society, morally upright society, and if we care, like we state everyday, for children, then the Attorney-General should not have found difficulties in implementing such an important provision and Bill.

Mr. Temporary Deputy Speaker, Sir, further, it is the right against child labour. Article 32 of the Convention, states the following; the international community has recognised the need to stop and reverse the increasing marginalisation of the least developed countries, including most countries of Sub-Saharan Africa. It states that, "the state parties recognise the right of the child to be protected from economic exploitation, and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development". I do not see why there is difficult in including this very important portion of law into the current Bill. It states further, "state parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present Article. To this end and having regard to the relevant provisions of other international instruments, state parties, shall in particular provide for a minimum age or minimum ages for admission to employment".

Mr. Temporary Deputy Speaker, Sir, in our country we have children who are aged between six to seven years, working as maids for people, this should be made illegal, so that we give children in our society the opportunity to develop to a level where they could make such important decisions, like taking responsibility for employment and to provide for appropriate regulation of hours and conditions of employment. I am being told unofficially by the Labour Minister that these are there. But there is one thing for them to be put in some legislation, and my case, all afternoon has been, that all these laws which relate or affect children should be harmonised within the Bill, so that you do not

have to refer to all these laws, 16 or so different Acts, to be able to come to understand the different aspect of law as interpreted by different Acts. For your purpose, if it is provided for minimum age, is this being implemented? Therefore, I should ignore the Labour Minister, because I think he is a nice man, but he does not understand what is involved in. Again, the Article asks for the provision for appropriate penalty or other sanctions, to ensure the effective enforcement of this present Article. I do not understand why the Attorney-General, who must have read this Convention himself, did not include such an important provision in the current Bill. Because it amounts to intellectual dishonesty, to declare in a document that our main objective in this Bill is, among the objects of the Bill as set out in clause 3 thereof are; to implement the provisions of the United Nations Convention on the Rights of the Child 1989. What does clause 3 of the Bill say? It states the objects of the Act.

To prove my contention, that this Bill, the way it has been brought before the House, amounts to intellectual dishonesty. The objects of this Act are to promote the well-being of children by assisting individual families and communities to overcome social problems with which they are confronted.

But, Mr. Temporary Deputy Speaker, Sir, when you make a detailed reading through this document, it does not come true, how an important function, like assisting individual families and communities to overcome social problems in which they are confronted, Kenyans are confronted with enormous social economic problems, and this Government is insensitive to that. But I was hoping that the Attorney-General, who was until he became the Attorney-General, a very well acclaimed internationally recognised lawyer, cannot understand that he is dealing with people who may not be very sensitive to the well-being of others, but when he creates a law, he should, at least try, to achieve the objects that the Act aims to achieve. Two, to implement the provisions of the UN Convention on the Rights of the Child. Where is it going to do so, if the major provisions of the United Nations (UN) Articles are left out?

We embarrassed our President by rushing him to become one of the first 20 signatories to that Convention! Indeed, Kenya's signature enabled the Convention to be ratified - 20 signatures were needed for that. Having done that, we walk back and rush to Parliament a Bill that excludes most of the provisions of that Convention! Part C of the Clause states:-

"To promote the welfare of the family; to reduce the incidence of disruption of family relationships and to mitigate the effects of such disruption where it occurs".

How does the Bill seek to implement this?

Mr. Temporary Deputy Speaker, Sir, again, it is a good intention that is meant for political purposes: to assuage our desire to have a better society. We are demanding a better society because our children are human beings and these are their rights. Further, part B of Clause 3 says:-

"To assist parents in the discharge of their parental responsibilities, and to assist in the establishment and promotion of services and facilities within the community designed to advance the well-being of children and to co-ordinate the use of such services and facilities."

The Bill is silent on how this will be achieved.

So, I was saying that in Kenya, there are too many under age children who are working in coffee plantations, factories, as domestic servants and cutting sugar-cane in Nyanza Province and so on. Furthermore, the law has been silent about the children working in the agricultural sector or those doing domestic work, where their ages range between six and 17 years, the majority being those aged between six and 14 years. This is a critical period in the development of a child. So, instead of the children cutting sugar-cane and so on, they should be in primary schools. The law should provide for that. It is, therefore, important that we have a provision in place within this Bill to address child labour. The existence of child labour anywhere at any time not only affects and offends every natural human sensibility but also directly contravenes the UN Convention on the rights of the child.

Mr. Temporary Deputy Speaker, Sir, I will now turn to the right to protection from abuse and neglect. Article 19 of the Convention is very specific about the question of abuse and neglect of the child. Again, I shall refer to the Convention for the benefit of the House.

"State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse while in the care of parents, legal guardians or other person who has the care of the child."

That is what Article 19 of the Convention says. Part Two of this Article says:-

"Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child as well as for other forms of prevention or for identification, reporting, referral, investigation, treatment and follow up of instances of child maltreatment described heretofore and as appropriate for judicial involvement."

That is not covered in the Bill and I would have wished that it was brought in. Instances of this in our own situation

include child battering, displacement of children, refugee children, children with their mothers in prison and street children. I feel that provisions should be made in the current Bill to address these problems. We have a situation where an arrested mother goes to prison with her child. So, that child is punished even though the child has offended nobody. The child is exposed to conditions that are not conducive to its future development. That is an issue that we cannot ignore.

Again, I will turn to the right against sexual exploitation, which is an important right of the child, and which should be included in the Bill. Cases of sexual abuse and exploitation of the child are reported daily in our Press. We obviously require very stringent measures to protect the defenceless child from this kind of abuse. Article 34 of the Convention on the Rights of the child States that:-

"State parties shall undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, state parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:-

- (a) the inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) the exploitative use of children in prostitution or other unlawful sexual practices;
- (c) the exploitative use of children in pornographic performances and materials."

I feel that specific legislation on this problem will curb sexual abuse of children.

The other important concern that we must express in the process, and why I was saying that with all these omissions this Bill is inadequate, is the right to protection from drug abuse. Our children are now exposed to drug abuse everywhere in the streets, schools and other like places. This problem is addressed in Article 33 of the UN Convention. It states that:-

"State parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties and to prevent the use of children in the illicit production and trafficking of such substances."

It is not uncommon to see street children sniting glue openly in the streets of Nairobi and nobody bothers to take any action to control the increase of drug abuse by children. These children are sniffing a drug openly during the day in the streets and nobody bothers with that. It is as if at that level Government does not exist for these children. That is an important point that the Minister should consider when he takes this Bill back for redrafting. My intention is that by the time I finish with the Ministry, they will feel courageous morally and sensitive enough to take this whole Bill back to the drawing board and bring to Kenyans something that we deserve. That is my secret mission that I have now revealed to you. We must find a mechanism for enforcing laws against drug abuse.

Article 39 of the Convention on the rehabilitative care says the following:-

"State party shall take all appropriate measures to promote physical and psychological recovery and social integration of child victims of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflict"

That includes what happened in Somalia and in some parts of Kenya in Rift Valley and Narok. Such children should be protected by law that should be incorporated within this Bill.

Mr. Temporary Deputy Speaker, Sir, children whose teachers parents will have to leave Narok pretty soon should be protected within the provisions of this Bill. Such recovery or re-integration should take place in an environment which guarantees self-respect and the dignity of the child and that is very important.

We have cases everywhere where Kenyans make public statements regarding important issues including what they intend to do to help children. But you know, instead of making all these inflammatory statements about this or the other, one of the important inclusions in this Bill could have been to place certain responsibilities including provision for levying of certain tax by the local authorities to help them in the maintenance of centres that can cater for children who do not have adequate care.

Mr. Temporary Deputy Speaker, Sir, we have said before that this Government has run out of ideas. We are not saying that as a means of hurling abuse or causing any contradiction, but if they do not have money for such purpose, why do they not levy a certain tax on all sodas that are sold in this country or on beer or cigarettes? That money would then be utilised to cater for specific needs of society. We should give that money to the Minister for Local Government, but not the current one, which he can utilise within the local authorities to build facilities than can be used by children who are not catered for by our economy. I have not objected against the Minister because he is a very nice man. When you talk to him he smiles, then when you hear what he says in Narok on a platform, you wonder whether you have two different characters!

*(Laughter)*

Mr. Temporary Deputy Speaker, Sir, fortunately, I have a big heart and I love the Minister for Local Government. I just hope that he could reciprocate my gesture by desisting from making such inflammatory statements against teachers, who only have gone to Narok to help the Maasai whose literacy level is not very high, but that is not my subject today.

Mr. Temporary Deputy Speaker, Sir, the right of the girl child--- No, I was dealing with the rehabilitative care before I was diverted by my friend, hon. ole Ntimama.

**The Minister for Local Government** (Mr. Ntimama): (Inaudible)

**Dr. Otieno-Kopiyo:** I am very prepared, Mr. ole Ntimama, and you can see the level of confidence that I am exhibiting. Of course, I have read this over two months. Such recovery or re-integration shall take place in an environment which offers health, self-respect and dignity of the child. What we are saying and we have been saying this for a long time is that our institutions, particularly those which seek to keep children who are under certain form of punishment are inadequately equipped to deal with such and this environment is not conducive particularly for keeping children. This should be addressed within the Bill. The Bill cannot pretend that it is a Bill dealing with children and ignore even something so basic like that.

I was moving on to the rights of the girl child. We are now lucky that we have my friend, the hon. Minister for Culture and Social Services, Mrs. Mwendwa, who was a previous girl child who has now become a Minister. I am proud of that. The only thing is that we should take her away from the Ministry of Culture and Social Services and take her to the Ministry of Local Government and *vice versa*, and that will make more sense. She will preside over something more important and particularly when we are considering giving money to that Ministry to cater for children. She should be the one in charge of that.

**The Minister for Culture and Social Services** (Mrs. Mwendwa): You should give the children to me.

**Mr. Nthenge:** That is all right!

**Dr. Otieno-Kopiyo:** That is a consideration that is very important, Mrs. Mwendwa.

**The Temporary Deputy Speaker** (Mr. Ndotto): Dr. Otieno-Kopiyo, address the Chair!

**Dr. Otieno-Kopiyo:** Yes, you are right, Mr. Temporary Deputy Speaker, Sir. I was addressing the Chair, it is only that I was looking at her and I do not know whether the Chair should be jealous about that. Thank you, Mr. Temporary Deputy Speaker, Sir, I will proceed by addressing you.

As you may be aware, girls are devalued in the African traditional societies. Their start as children within the family is often insecure. Their health and survival is at risk and their education prospects are continually curtailed by countless disadvantages against their right to childhood. For example, in some societies, girl child suffers early marriages, early child-bearing and forced circumcisions. Girls aged between 15 and 19 years---

**Mr. Nthenge:** Unnecessary interference!

**Dr. Otieno-Kopiyo:** Girls aged between 15 and 19 years are twice likely to die in child-birth than young women between 20 and 24 years of age. Those under 15 years old are five times as likely to die in the process of child-birth. In addition, as regards education which is the foundation of advancement in employment and other social areas or benefits, the girl child has no access to education at all because often she drops out of school at primary education level. A legislation protecting the girl child specifically from all these disadvantages needs to be incorporated in the current Bill.

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

*[The Temporary Deputy Speaker  
(Dr. Ombaka) took the Chair]*

We should not have forced circumcision of girls; we should make it illegal for anybody to marry off a young girl below adult age and we should make it compulsory that certain girls within a certain age are not allowed to carry full pregnancy to fruition.

Mr. Temporary Deputy Speaker, Sir, those are the key areas that I found missing in the Bill. My main last objection to this Bill is something that I had referred to earlier on.

The laws are scattered still everywhere. The main areas of these references are Cap.141 - The Children and Young Persons Act; Cap. 143 - the Adoption Act; Cap. 144 - the Guardianship Act and now the UN Convention on the Rights of the Child, which is still outside this Bill and, therefore, should be considered as some further authority that if we need to refer to we need to go to another document.

The Bill mainly portrays the child as an offender against society in need of discipline. The child is not a member of our society in this Bill. The child is somebody who needs discipline and needs to be punished. Discipline within the Kenyan context is a form of punishment because, as the Judge told us the other day, if you go to prison in Kenya, you have a death sentence on your head because you are likely to die from neglect, bad and rotten food, congested facilities for living, lack of basic facilities like clothes to wear *etcetera*.

Secondly, the Bill omits all those areas that I have mentioned. But it has even omitted something more important also, and that is the child's right to shelter. I can see the reasoning within the Government why they are unable to deal with the provisions of Convention on the Rights of the Child. The Convention provides very comprehensive mechanisms that, if they were to be brought into place, we would be improving the general economic welfare of Kenyans. Therefore, our children would be living under better economic conditions, but this Government lacks the political will. As I told you before in the preamble of the declaration that we so eagerly signed, the well-being of children requires political actions at the highest level. If we have spent so many billions of shillings everywhere in different respects, why do we not give a little bit to the development of our future society, to prosperity to the future generations? This is the key question. The Government must come clean on these issues because, when we are talking about the children's Bill, we are talking about the entire future of this nation. This UN document that we signed says further, "Economic conditions will continue to influence greatly the fate of the children especially in the developing nations. For the sake of the future of all children, it is urgently necessary to ensure or reactivate sustained economic growth and development in all countries, and also to continue to give urgent attention to early load and durable solutions to the external debt problems facing developing debtor countries." So, at the core of this argument is that, if you want to address the issues that affect children, then you go to address the question of sustainable economic growth so that you create an environment that will enable children to grow-up in a manner that would ensure future for our nation.

Mr. Temporary Deputy Speaker, Sir, there is plenty to talk about this, but I wanted to draw the attention of the House to Article 4 of UN Convention - Rights of the Child. State parties undertake all appropriate, legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic and social rights, state parties undertake such measures to the maximum extent of their available resources and where needed within the framework of international co-operation. There is no evidence when looking at this Bill that any attempt, whatsoever, has been made to try even slightly to incorporate the key component of the Convention. Mr. Temporary Deputy Speaker, Sir, if we want to be able to run a Government and the country, where the future of our children would be secured, then many of provisions of this Convention must be incorporated.

Mr. Temporary Deputy Speaker, Sir, I was going to say, it is a pity that the Attorney-General has gone out. I was going to observe that the greatest foul of this Government which is recognisable when you look at the Bill like this, is that those charged with responsibility of providing intellectual guidance and leadership and are paid for that purpose have abdicated their responsibility, and now instead taking orders from those who know much less. The Attorney-General, in this case, is not advising the Government. He is being advised on matters of law by people who know almost nothing about it. He must take courage; be a man of vision and bring to this House Bills that will show the future guarantees a stable civil society. In this respect, if the Attorney-General continues to exercise his duties the way he is doing, he is going to cause a civil war in this nation.

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

**The Minister for Local Government** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I will have very brief comments on this Bill. I think the most important thing on this Bill is to consider our way of life. We need to go back and consider our roots, culture and traditions, because our culture and tradition as Africans have been totally degraded. We have borrowed, copied and aped everything that is western to the effect that we have lost the real parental love for our children.

*[Mr. Temporary Deputy Speaker  
(Dr. Ombaka) left the Chair]*

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

It is a pity and not unless we start really considering our roots and our culture, our society will continue to be thoroughly broken and we will lose control of even the people we love most; that is the children.

Mr. Temporary Deputy Speaker, Sir, accordingly, the African culture before the whiteman came to this country and before we adopted all these things, poverty would never actually make a parent, a mother especially, to part with her child; not even disease, every time, a mother will cling to her child. These traditions have gone in the



name of civilisation, modernity and development; and as a result we have lost our culture.

Mr. Temporary Deputy Speaker, Sir, I am not at any moment at all suggesting that we should go back to stone-age period. But, I am saying that we should integrate our culture with what is good from the western world; education is good, science is good, technology is good, but we must not lose our culture to the extent of totally breaking the African society. This is why we have got the problem of the children because every group of people in this country, every ethnic group or tribe had a way of managing their society. They had norms; they were democratic; and they had a way of looking after their children. They had rules and regulations governing the ways the children and women behaved in society. When the whiteman came, everything became primitive and that must be discarded.

The black man was called primitive and the cow that he had was primitive too, the goat was primitive and even the hen. In fact, the culture was also primitive and the language was primitive too. So, we drifted absolutely to unknown and adopted the Whitemen's culture. I would say even the churches followed suit because of the Whitemen's interpretation. Our customs, culture and tradition were primitive and we were told to adopt something that was so foreign. In fact, the Bible will tell you where we are based. The Hebrews, really, Jesus did not tell them that their dressing was primitive when he came to this earth. He did not tell them their saddles were primitive. Most of the traditions of the Hebrews were adopted by the church. But some of the churches, when they came here first, told some of the elders that it was a sin to wear shoes. It was only a White man who had a right of wearing shoes and so the people adopted what they call a 'Karombo'. 'A Karombo 1930', I remember it very well, when the late Jomo Kenyatta was fighting some of these ills. It is true.

So, when we come to the children, Mr. Temporary Deputy Speaker, Sir, I do not want to take too long like my hon. friend here. He had done a lot of research and he has given us something that you really considered, but I will say when this Bill becomes law, we should consider the way that the society will be responsible to the children. When we have orphans, children who have lost their parents for one reason or another, I think society, the clan, the sub-clan and everybody, including the local people, and local authorities in their areas, should be responsible and look after these children and that is what we did even in the olden days. It is the society, I believe, that would do more to protect and look after the children more than even the Government institutions. But the clan is broken; the society is in pieces. We have a tragedy in this country. I do not know whether this is because people are educated and I do not know what kind of education will tell you to drop your child in the streets. I do not know what modality of civilisation will compel you to do that. I know, definitely, that the urban problem is there, but even before urbanisation, we had already lost our culture. People were not looking after their children.

Mr. Temporary Deputy Speaker, Sir, I think this is a problem and we should normally encourage families to be more responsible because once you have a child it does not matter how you have had that child. You have got some natural responsibilities to look after that child. You could definitely be assisted but it is very wrong, immoral and beastly to throw that child in the streets. This is why some of the people in this country today, and the NGOs, are running a very lucrative trade by collecting children, housing them somehow, applying for donor funds and some of them have made lucrative business. In fact, I have heard of people who use the little money that they get from donor funding and NGOs to feed these children. Only a very small proportion of those funds are used to feed those children and they take all the rest of the money to promote their businesses and build big mansions in this country.

I am saying, Mr. Temporary Deputy Speaker, Sir, that people should be encouraged, forced and, if necessary, be punished if they do not look after their children. Again, you know, normally, I am a very vulnerable fellow, especially with my friends from the media. I do not want to be accused of being tribal, but there are certain communities which have completely abandoned their children in a big way. Some are still looking after their children. It is not poverty, it is the way of life.

Mr. Temporary Deputy Speaker, Sir, I have a problem again in Narok and thank God, He is helping us and many other problems are disappearing and they are flopping. But we have people who have occasionally put children in a *Matatu* and dropped them in Narok Town.

**An hon. Member:** Is it true?

**The Minister for Local Government** (Mr. ole Ntimama): Yes, truly, Mr. Temporary Deputy Speaker, Sir. They just collect children from somewhere and in the morning you find little children walking around the streets of Narok and you ask yourself: "What do I do with these children"? But, again, I do not want to be accused of being tribalistic. Some Maasais are poor and I can talk about the Maasais because I know them--

**Dr. Otieno-Kopiyo:** On a point of information, Mr. Temporary Deputy Speaker, Sir.

**The Minister for Local Government** (Mr. ole Ntimama): We gave you a lot of time, Dr. Otieno-Kopiyo; you better not interject.

**The Temporary Deputy Speaker** (Mr. Wetangula): He wants to give you some information.

**The Minister for Local Government** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I do not want his information. No, no He talked about circumcision. You are not qualified to talk about circumcision either

of women or men because you have no experience.

(Laughter)

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir.

**Mr. Temporary Deputy Speaker** (Mr. Wetangula): I hope you are not going to dwell on the remarks which hon. ole Ntimama has made.

**Dr. Otieno-Kopiyo:** No, no, Mr. Temporary Deputy Speaker, Sir. It is on a very serious issue. In Luo-Nyanza, to be circumcised is taboo. Therefore, I do not know anything about circumcision, that is true. But, I thought the Minister should use this opportunity to reject this Bill and incorporate that part which will punish somebody who carries children and drops them in Narok.

**The Minister for Local Government** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I am glad you accept the fact that Luos have no experience in circumcision, so you should not argue with me.

(Laughter)

Anyway, it is a pity because I have experience of people putting little children in a *Matatu* and dropping them somewhere like Narok. What do we do to such people? So, this Bill should include certain Clauses and Sections which will punish people who do not take responsibility for the children that they have begotten. Everybody is careless these days and these people who are running children's homes want children who are supposed to be destitute and street children so that they can go and make money; money which sometimes is not used to feed these children or to clothe them.

Mr. Temporary Deputy Speaker, Sir, we must go back to our cultures because the African culture did not allow anyone to dump children in the streets and in the trenches. Your own society would normally punish you if you did not look after your child properly.

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Ntimama, what you are proposing is, in fact, in the Bill, so I do not know whether you are supporting it or you are proposing that it should be included.

**The Minister for Local Government** (Mr. ole Ntimama): Mr. Temporary Deputy Speaker, Sir, I will definitely support the Bill. There is no doubt about me supporting the Bill. I am definitely 100 per cent in support of this Bill, but I am only saying that we should make some amendments, even if it is at a later date, where we give society more responsibility. It looks like we do not have society at all in some of these areas. "Society" can mean anything, even a group of people. How do you have these children following the culture of their own people? "Culture" is a basis for human development. If people have no culture, then they are not human beings. They are in the grade of animals. *Waswahili husema mtu asiye na mila ni mtumwa*. The person would naturally not be a human being. I am saying this emphatically because I have seen a situation where society is going to break and we will not have a people, we will not have a nation. When we start talking of tribalism, clannism and culture, some people may not understand what we have in mind. You know, I support people who maintain their culture.

The other day when hon. Raila lost his father, I saw him clean shaven. I like that because I think he was following his culture. It was called *terabura*? or whatever the thing may be. We also shave our people clean shaven when you lose a relative. We shave clean to take away all those misfortunes. The women do it but the men do not shave.

**An hon. Member:** It is not called *terabura*. It is *tero buru*!

**The Minister for Local Government** (Mr. ole Ntimama): Oh, *tero buru*? Whatever that means. I think this is part of a culture that is strong enough. What we have now in children from other families is that the language has disappeared and *sheng* has taken over. The best adventures that children from other societies can engage in are smoking, sniffing drugs and dancing throughout the night. Those are their adventures because people are cultureless, colourless and when people have reached that stage, it is a pity. When we talk about tribes, people think we are being tribalistic. It is important to have that tribe, clan and even sub-clan. We could even form a stronger nation if, in fact, we identified our own cultural, ethnic differences, respected them but also, at the same time, built one big pillar which we can call the Kenya nation. However, everybody condemns tribes and even clans, stating that we should not have them. How do you unify a people who are broken up into pieces and who have no culture, foundation nor respect for their parents? I know of children who say; "when will my father die so that I inherit his property?" There was no African tribal culture that ever allowed a child to say that. He would be cursed and he would be dead the next day.

Mr. Temporary Deputy Speaker, Sir, I am stressing this point. I have not even gone to every little Clause of this Bill. However, I am stressing the point about the culture and the tradition of the people. A vacuum has been created and this vacuum is dangerous. The other day, I was told that I am supporting moranism. Really, I did not

support moranism. Some people were in power in my own area. The British were a problem. Our children did not go to school, not because they did not want to, but they did not have access to educational facilities. There were no schools built and, therefore, there was no encouragement. We were, in fact, put under siege by the British, we were closed districts and we were not allowed to go out. The infrastructure was not developed and the public health utilities were not there. It was not until we were independent that slowly, we started seeing some assistance and a few boarding schools being built here and there. What were we going to do with these children? If we did not help them follow their culture, they would be sniffing drugs and joining criminal gangs. That would be a disaster, not only for their area but for this country.

So, Mr. Temporary Deputy Speaker, Sir, I am particularly concerned. I am sure that some of the senior people like my hon. friend on the opposite side will understand that I am not against education. I want people to be educated. I want technology to be introduced, but I do not want us to throw away our culture altogether and become a colourless, cultureless people. The *Mhindi* still holds his culture. He still wears his cultural dress and you can identify him. We have no identity as Africans. Some of our Maasai girls are trying to wear their own traditional dresses and there are some people who ask them: Are you people still following the *shenzi* tradition? I do not know what that "*shenzi*" tradition is because the dresses are long enough and we say; "*ni nguo iliyo na adabu, si ile ambayo imeinuliwa mpaka hata unaweza kuona pahali popote pa mtoto*". So, I think it is time we got together one day as a group, for the sake of our children and of the future of these communities. I do not want to call it a select committee because I would be talking of something else. There should be such a group of people which can go back and start talking about culture because some societies have totally disappeared and they will continue to disappear. If that continues to happen, this nation will, probably, have problems about unity because culture is also a unifying factor.

I do not know whether we could devise a system of things to be followed as an African culture. The other day, and I have a lot of respect for Mrs. Mwendwa, the mothers who were going to Beijing could not even decide on what would be the national dress for Kenya. Some said it should be a big head-gear and others decided on a concocted type of scarf that would extent downwards. All this is because we have lost our tradition. We probably would have improved on the Gikuyu *Muthuru* and, perhaps, shaped it well a little bit and also improved on the top. I do not know what the Luo used to wear and I never met them during those old days. We could probably adopt the Masai way of life, as I was suggesting, since ours is still on. We could modify the Masai dress a little bit but not make it short because we do not want minis. It is too early especially for old women.

So, I want to end by saying that I support this Bill but I think in future we need to brace ourselves if we really want to look after our children so that we can strengthen the family value. Even single mothers have a responsibility to look after their children. They need to strengthen the families so that they do not have children running away from home all over a sudden, getting pregnant in the middle of night not knowing even the men who made them pregnant because our African traditions did not allow those things. But in the name of modernity, in the name of maendeleo and the society that has been enslaved by the power of money, we do not care what our children do and we even send some of them to the streets so that they can get money.

With those very few remarks, I beg to support.

**Mr. Ndicho:** Thank you, very much Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to say a few words concerning our children in this country.

First and foremost, I want to say that the Attorney-General almost tried when he brought this Bill about our children but, if you go through this Bill, you can only come to the conclusion that much of the work here is academic. The Bill is not providing any practical ways and means of solving the many problems that afflict our children in this country. Suffice it for me to say that there are so many organizations in this country which have been registered as Non-Government organizations (NGOs) to help children but at the end of the day, you do not see exactly what they are doing. There are some which are trying like, for example, Children Welfare Society of Kenya. I really thank them because recently they have opened a branch in Thika. I can say that they are trying to get into the rural areas. I am sure that even my friend, the hon. Minister, will agree with me that some of these NGOs and organizations dealing with children are concentrated within the City or in the urban areas. It is only now that they are trying to penetrate into the rural areas and I am sure that even in Narok the Minister will bear me witness that he has never seen some of these organizations coming to cater for Maasai children who are not going to school. It is high time that even these organization started becoming practical.

The many problems that are facing our children today can be solved by this Government. The Government of the Republic of Kenya has got no clear-cut policy or what you call "integrated programme on children". When we talk about this policy, it should not cover all the children of everybody in Kenya. It should cover the children from the less fortunate families. It is about that child who is in the street, who is called "urchin" or "street child". My children, the Ministers', the Speaker's children and those of the well-to-do people in this country are not catered for in this Bill. This Bill was meant to cater for those children who are fatherless, motherless or those children who have got parents but

they have decided to dump them in Narok Town by boarding a *matatu* and abandoning them there. These are the children I hope and trust that the Attorney-General was thinking about. These organizations such as United Nations Children's Educational Fund (UNICEF), Save the Child Society and so on are trying to come out with a programme to help the needy children but what about the Government of the Republic of Kenya? Other than coming up with this Bill which is academic, what practical part has it played to help the children? I think and this is my proposal and it should have been put in the Bill, that the Government should think of constructing a kind of a complex. I am sure there are many areas and tracts of land which the Government can possess and put up complexes and structures where all the street children in this country from Mombasa, Nairobi, Kisumu, Thika, Nyeri and so on can be accommodated. They are not very many children in the streets. I am sure, and I stand to be corrected, that they do not exceed 1.5 or 2 million. I am sure that the Government can have such facilities where all these children can be collected from the streets and put in that kind of an institution and inducted into various professions whereby after the children mature they can become self-reliant.

I quite support the Government's effort in the *Jua Kali* sector. It is only through the *Jua Kali* sector that the children who never got formal education can get informal profession so that they can learn how to make jikos, wheelbarrows, to become masons, carpenters and *Jua Kali* mechanics who are even better than those who are trained in these colleges that we have. I think it is the responsibility of the Government to come up with a clear-cut policy and lay it on the Table and say, "This is a five-year-programme plan for the street children and those from less fortunate families". Now, the children in this country are left at the mercy of anybody who wants to start an organization for children and try to make money. Many people in this country know that if you start an organization and give it a name to do with children from the streets and go to Europe or the Scandinavian country or America and go with beautiful letterheads, you are going to be given money. This is exactly what is happening with various groups which are starting these organizations, 70 per cent of them which I think are bogus. They are meant to exploit the ordinary Kenyan.

I have got an issue in my Constituency in Ruiru. There is one Mzungu called Mr. Dick West. This man has started a programme he calls "*Children of Faith Homes*". This Mzungu is going round the Constituency, Ruiru and Kiambu areas to the children who have been left without parents; needy children. He is keeping them in falling wooden structures which were constructed about 30 or 40 years ago. I am sure that some of you have seen the advertisement of that Mzungu in the *Daily Nation*. *The Daily Nation* has donated some space where he has been placed holding a child and asking for donations from Kenyans. We do not know how much money this *Mzungu* receives from Kenyans and from the international community. He is operating alone at the *Children of Faith Homes*. I went there recently and asked the people there what happens when these children grow up as they do not even go to school. He has been operating there now for about eight years. He just collects money and says that it is for feeding the children and does not take them to school.

So, recently, there was a very serious case of a girl he collected from the streets. I am very bitter as I speak about this Mzungu called Dick West. After the girl attained 17 years of age, the man had the audacity of sleeping with the girl and impregnating her. You can see how the Government has left our children to wolves from Europe.

**The Temporary Deputy Speaker** (Mr. Wetangula): Hon. Ndicho, you are disclosing a criminal offence which you have a duty to report to the police.

**Mr. Ndicho:** I am coming to that. You are going to hear great things here this afternoon. After the girl became pregnant, of course, she gave birth to a half-cast child. The bitterness of the matter is that the Mzungu organised the disappearance of this child from Pumwani Maternity Hospital. After that the girl went back to *Ruiru Children of Faith Homes* and when the girl insisted on asking the Mzungu the whereabouts of her child, the Mzungu went to Ruiru police station. Before that, the Mzungu did not want this girl to go back to that institution. So, he went to Ruiru hired a single room, bought one bed, a cupboard, a sofa-set and some sufurias for this girl to be staying there. When the girl insisted, like any other mother, on knowing the whereabouts of her baby, the Mzungu went to Ruiru Police Station. This is a case which is very serious in my constituency ---

**The Temporary Deputy Speaker** (Mr. Wetangula): Is it in court?

**Mr. Ndicho:** No, it is not in court. Listen, Mr. Temporary Deputy Speaker, Sir, it is a very serious thing. Dick West went to Ruiru Police Station and reported that some of his property had been stolen and he was suspecting someone. The police went with the Mzungu to this girl's room and when the police saw these things---

**The Assistant Minister, Office of the President** (Mr. Awori): On a point of order, Mr Temporary Deputy Speaker, Sir. Is it really in order for my friend, the hon. Member from Juja, to deviate from contributing towards this Bill and going into matters that he should be reporting to the police? That is a serious matter.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, why is the Assistant Minister, Office of the President, becoming jittery when he should be in the fore-front to protect this kind of children? I am bringing the matter across, just be patient. The police arrested the girl and accused her of stealing Mr. Dick West's property and she was taken

to court and committed to serve at Lang'ata Women's Prison for one year, which she has now finished. She is now at Ruiru. This is an issue we have raised with the DC, Thika and the DO and people of Ruiru. The girl says she has now served one year term and now that she has finished the term, she wants to get back her child from Mr. Dick West. This is just an example I am giving this Government to tell them that they are leaving our children to hyenas. This Mr. Dick West does not even reside at Ruiru, he stays at Kajiado.

**Dr. Otieno-Kopiyo:** On a point of order, Mr. Temporary Deputy Speaker, Sir. While I really appreciate the circumstances being explained by my friend, I think, he would be serving the people better if he took this matter to court because the people of Juja will gain nothing from what he is doing now.

Much obliged. Do I understand that I should not expose this kind of abuse to children? Why is this Bill published? It is because it aims at protecting children! If the Government is serious about the protection of children, I am sure this *Mzungu* could not have gone that far.

**The Temporary Deputy Speaker (Mr. Wetangula):** Carry on, I have given you very gratuitous advice.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, I have taken your advice. I am just exposing it in Parliament that we are taking action! Do not think that a Member of Parliament can just let such a matter go like that. This *Mzungu* stays in Kajiado. Let him not think that we cannot get him there. So, I am only saying that this Government should be serious about the welfare of our children. There is no point of having street children here, giving them bread and soda during Kenyatta Day, Moi Day, Jamhuri and Christmas day. It is pointless. These are the same children whom you call children today in 1995. In the year 2000, he will be a young man who is uneducated, who has gone through any culture, who has not been inducted into any civil thinking. It is ourselves who create what we call "thugs" and "crooks!" it is not out of their own making. It is not that anybody wants to be a crook or a thief or a thug to be shot by police like antelopes here in Nairobi. It is not their wish. But if the Government is serious, it will come up with practical solutions to arrest this situation. This is all I am saying. That the Government has got a duty to come with a solution to help the children.

A lot of people are grabbing a lot of Government land. Why can the Government not take about 1,000 acres somewhere and take all the street children in this country there? It should build a complex, as I was saying, and take all these children there, both boys and girls. Let the girls know how to make good cakes, clothes, pullovers and other useful things. By so doing, we make them better citizens of this country. Otherwise, it becomes a vicious cycle. Every year, there are some children who pour into the streets. These children, once they become adults when they are in the streets, young women and men, they fall in love and they start producing more children. These children will not be taken to Juja, they will still grow here in the streets! So, at the end of the day, you will find that there is another tribe which is not known in this country and even their language is not known. That is what hon. Ntimama was calling *Sheng*. When they start their families here in the streets, they are not speaking Kikuyu, Dholuo, Kikalenjin nor Kidigo. They will be speaking other languages of their own making. Those people, at one time, will come here and communication between them and ourselves will be difficult because they are speaking a language which we do not understand. When they will bring trouble into this country, it will be difficult to contain.

**The Temporary Deputy Speaker (Mr. Wetangula):** Do you know that since you started, apart from saying that the Bill is academic, you have not said anything about it? I am referring you to the rules of relevance.

**Mr. Ndicho:** I am very happy that this Bill is talking about children. It seems that these issues are not touching the Chair. This Bill is about the plight of our children; how to make our children better citizens!

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, hon. Ndicho. You know very well that you are contributing towards the legislation of a law and the rules of relevance would require you to go to the specifics in the Bill and point out what you want, what you agree with and what you do not agree with.

Hon. Ndicho, that *mzungu* you are talking about, has committed an offence under Section 166 of the Penal Code.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, the Bill does not say anything on how we are going to help the children in the streets. If you want me to go into the details of the Bill, first and foremost, it is talking about children associating with adult offenders. But you find that when the Attorney-General is not thinking about that, 32 years after we got Independence, and you ask yourself, why was this Government allowing children to associate with the offenders in the jails and courts? We commend you for waking up now, that multi-partism has come and we thank God that multi-partism came because if it had not come, then, it seems we could not have got this Bill.

So, I quite support those areas where the Bill is trying to come up with a solution because, when you let children associate with the adult offenders, these are the adults, who are helping and teaching the children there how to commit big crime. So, there are some sections in this Bill, of course, which I support quite strongly.

All I am saying is that, if you go through it as I have done it has not shown what we should do after removing the children from adult offenders and all these other things. What should we do with these children?

Mr. Temporary Deputy Speaker, Sir, it also talks about the arrest of the children. There is no way that a child

will commit an offence under the eyes of a police officer and fail to be arrested. But if you read that clause about the arrest of the children, I thought that the Attorney-General would say that the Kenya Police should arrest the street children with some civility because, if you see how these children are arrested, is like bags of potatoes being thrown into Mahindras and taken to Makadara, Kibera and I just pity them. So, I thought that the Attorney-General would come and say, okay, when you are arresting these children, handle them with care because they are citizens of this country.

I am sure some organizations which have tried to rehabilitate the children--- I was watching a programme last night in the television of street children who have been rehabilitated and they are now good citizens of this country. It was from a certain Christian organization. I am also supporting the sections which call for the removal of the words "conviction and sentencing a child." A child cannot be convicted or sentenced. So, there are those areas in this Bill which are important and which we should pass as a law.

Mr Temporary Deputy Speaker, Sir, there is also the restriction of punishment. There is no point of giving corporal punishment to a child and you know when you are whipping a child who is not yours, there is no mercy at all and given the kind of policemen and prison warders we have in this country, when they are told to whip these children, frogging or whatever it is, they have no mercy at all. So, I support what the Attorney-General is saying we restrict that kind of punishment to the children.

Mr Temporary Deputy Speaker, Sir, when we talk about remand homes, they were good from the idea of people who thought about them. But you find today some of these remand homes and the Attorney-General is saying that the approved remand homes should be improved not only to cater for these children but also to offer courses that will help them. But you find that the people managing these remand homes, have been affected by the "bug of corruption." They are misappropriating and embezzling money injected there by the Government to help those remand homes. These approved schools, I was saying that the people who are managing them now are misappropriating Government funds. You find the money that they have been given to buy food, they buy less food, they buy food which is not offering a balanced diet and, as such, when you go to those approved remand homes, you find children suffering from *kwashiorkor* and other diseases.

**The Assistant Minister for Finance** (Mr. Keah): On a point of order. The hon. Ndicho has made a very serious allegation that the headmasters in the remand homes are misappropriating funds of those schools. Can he be called upon to substantiate?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, there are no headmasters in approved schools, I did not even talk about headmasters. I thought it is the managers who are managing these homes. Whatever it is, what do you conclude, when you go to a remand home and you find children in tattered clothes, is this the way the Government intended them to be clothed? What would you conclude when you go to a remand home and you find children who are emaciated?

**The Assistant Minister for Finance** (Mr. Keah): Mr. Temporary Deputy speaker, hon. Ndicho is not substantiating his allegations. I would like him to substantiate the fact that those managers are misappropriating funds. It is a very, very serious accusation indeed of people who cannot defend themselves in this House, and I would ask him to substantiate.

**The Temporary Deputy speaker** (Mr. Wetangula): Hon. Ndicho, can you comply?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, I am drawing here a scenario of conclusions. If I come to your house and find that your child has got no clothes, he is emaciated, I would conclude that you do not feed him. The money you are supposed to give the child you misappropriate it.

**The Temporary Deputy Speaker** (Mr. Wetangula): Order! You shall not use the Chair to justify your allegations. Can you substantiate?

**Mr. Ndicho:** So, Mr. Temporary Deputy Speaker, can I use Dr. Kituyi? If I go to Dr. Kituyi's house and find that his children are emaciated, they have no clothes, I would say that, the money he receives from Parliament, he misappropriates; he does not feed his children. It is a matter of concluding. So, this is what I am saying.

Even the state of affairs in these remand homes, you find that the tiles are coming down, there is no maintenance of buildings. If you go to where these children sleep, they have got tattered blankets, bed-sheets and no mattresses. Some even sleep on the floors. What do you conclude? Where does the money go? Or the Parliament gives you money, Minister for Finance, and you yourselves misappropriate the money, you do not take it to these remand homes? If you want us to conclude that, we are going to conclude that. So, I am saying that, if then they are not misappropriating, then the Government is not giving these approved homes enough money to run them. If you want me to adopt that line of argument. So, all I am saying is that, the Government should come up with a programme to help children in this country. This Bill should come up with better ways of helping our children. It is only talking about the homes, courts, about sentencing, about conviction, but why are these children being convicted? Why are they being sentenced? Why are we talking about courts? I quite agree, in every society, there are the offenders, the

evil-doers, the criminals. I quite agree with that, I am not saying that, this should be phased out. But, what I am saying is that, what can the Government do to help the current situation in this country. It is what we would appreciate, we in this Parliament. You find even there are cases where children have been sodomised by their seniors, even teachers.

This week I was reading in the newspapers about a headmaster who called a pupil of 15 years, and told the girl to go to his house and make tea for him. When the girl went to the headmaster's house, he told her to go to the bedroom to get a cup which he used the previous night. Then the headmaster followed the girl there, and do you know what happened? The headmaster raped the girl.

**The Temporary Deputy Speaker** (Mr. Wetangula): Are you now talking about the Kakamega case?

**Mr. Ndicho:** It is the case, Mr. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Wetangula): The 14 days for filling an appeal are not over.

**Mr. Ndicho:** The case is in court, Mr. Temporary Deputy Speaker, Sir. It is very serious. I apologise, Mr. Temporary Deputy Speaker, Sir, but before another case happens and the culprit taken to court and then prohibited from talking about it here, why does the Government not become quite stringent on these cases? We should not wait for cases to go to court, then come to Parliament and say; "No, it is *sub judice* and you cannot talk about it". These kind of cases should not be entertained. I think we should adopt the kind of Muslim laws, whereby if you commit such kind of heinous offence, you are beheaded. I think there will be some bewilderment, but I think this is the only way of dealing with the issue. If one headmaster is beheaded, there will be no other headmaster who will commit a similar offence, because he knows that he will be beheaded. I think the Attorney-General should have got such a clause here, that if a headmaster rapes a girl from his school, he should be beheaded.

If one headmaster is beheaded and it is reported in the newspapers and television, no other person will repeat that kind of thing. So, all I am saying is that we are quite appreciative to the Government.

**An hon. Member:** Why headmasters alone and not hon. Members?

**Mr. Ndicho:** Probably, one of these days, you are going to hear that hon. Keah has raped a girl from his constituency. As a Member of Parliament, he should be beheaded.

(Laughter)

**The Assistant Minister for Finance** (Mr. Keah): On a point of order, Mr. Speaker, Sir.

**The Temporary Deputy Speaker** (Mr. Wetangula): What is it, Mr. Keah?

**The Assistant Minister for Finance** (Mr. Keah): Is the hon. Member not imputing improper motives by connecting my name with rape in my constituency? I would like him to withdraw that and apologise to me because he is imputing improper motives on me.

**The Temporary Deputy Speaker** (Mr. Wetangula): Can you withdraw and apologise to the House and not to hon. Keah?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, protect me also from hon. Keah, because he says why only a headmaster; even a Member of Parliament can rape?

**The Temporary Deputy Speaker** (Mr. Wetangula): Can you comply with the order, that you have imputed improper motives on hon. Keah by citing him in a case of not only rape, but being beheaded, by withdrawing and apologising to the House?

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, with all due respect to the Chair, I apologise to the House.

**The Temporary Deputy Speaker** (Mr. Wetangula): You withdraw and apologise to the House.

**Mr. Ndicho:** I withdraw and apologise, but a Member of Parliament can also rape. Not necessarily---

**The Assistant Minister for Finance** (Mr. Keah): No, no, no! We cannot do that. We are too dignified to commit a crime like this. We cannot.

**Mr. Ndicho:** Mr. Temporary Deputy Speaker, Sir, does it mean that Members of Parliament are super-human beings?

**The Assistant Minister for Finance** (Mr. Keah): Why are you running after me? Can I possibly rape a girl?

**Mr. Ndicho:** Possibly. Why are you making a lot of noise? I do not want to talk about you, and then the Chair start ordering me to apologise. But we are all human beings. What a human being from one class of society can do, another one from another class can do the same. Of course, I apologise to hon. Keah. I did not mean you. It is only that you talked to me directly. I wanted to say that anybody else not necessarily teacher, who does such a thing should be punished severely. By doing this, we are going to protect our children. We do not hear of some of the things that happen in this country happen in European countries.

So, Mr. Temporary Deputy Speaker, I want to give some chance to other Members to contribute. I call upon the Government to come up with practical solutions to the problems which are afflicting our children. We are doing nothing about them. The Government is not doing anything about this. Talking about courts and punishments is not enough. Kenyans and ourselves included will be satisfied when we shall see practical steps being taken by the Government to protect the children in the streets, homes and even from schools. That is the only time. There is no more bitterness which a parent can undergo than when he hears that his daughter whom he has named after his mother, has been raped by a teacher. There is no worse anguish that you can undergo than that. So, I think it is this Parliament which should enact a law that would deal very firmly with that kind of offence. What we are doing is only something to satisfy the ego or the status quo, that somebody has been convicted and jailed for ten years because after ten years, he will come out and continue with his job. So, it is upon the Government to help us in these cases.

Before concluding, I feel that this Bill should be amended in such a way that it offers practical steps of helping the children. The way the Bill is, Mr. Temporary Deputy Speaker, Sir, is that it is not conclusive because it is not offering solutions to our problems.

With those few remarks, I beg to oppose. Thank you.

**Dr. Kituyi:** Thank you very much Mr. Temporary Deputy Speaker, Sir, for giving me a chance to contribute. I seek your protection that if there are girls running after hon. Obwocha it should not interrupt my contribution.

**The Temporary Deputy Speaker (Mr. Wetangula):** Hon. Obwocha shall you hear hon. Kituyi in silence? He is protesting.

**Dr. Kituyi:** Mr. Temporary Deputy Speaker, Sir, I consider this Bill a very important piece of legislation and I consider the matter of protection for children and juveniles an even more important matter for public concern and legislation in this country.

My contribution is going to be structured in this form.

First, I will globally mention what should be our concerns as legislators, if we wanted to approximate the express objectives of this Bill.

Secondly, I will assess to what extent this Bill, as drafted, reflects the spirit and word Rights of the UN Convention on the Child 1989 to which Kenya was one of the first twenty signatories in the world.

Thirdly, I will suggest specific areas of weakness and strength in the Bill as presented before the House.

Firstly, Mr. Temporary Deputy Speaker, Sir, in the Memorandum of Objects and Reasons, the Attorney-General says;

"This Bill aims to promote the well being of children to implement the provisions of the United Nations Convention on the Rights of the Child, to promote the welfare of the family, to assist parents in the discharge of their parental responsibilities and to establish and promote and to assist in the promotion of services and facilities within the community designed to advance the well being of children".

Our point of departure in seeking to accomplish these goals- to assist the family, reinforce the family in the interest of the child is to ask ourselves as a nation what currently are the critical areas of concern in terms of policy in which the child is much vulnerable. There are a number of traditional crises but as we speak today, I believe that the single most painful challenge to leaders about the child in Kenya is the growing and mushrooming crisis of AIDS orphans. How does it operate?

#### QUORUM.

**Mr. Obwocha:** On a point of order, Mr. Deputy Temporary Speaker Sir. There is no quorum in the House.

**The Temporary Deputy Speaker (Mr. Wetangula):** Yes, there is no quorum. Ring the Division Bell.

*(The Division Bell was rung).*

#### ADJOURNMENT

**The Temporary Deputy Speaker (Mr. Wetangula):** Order, Hon. Members. Order, Dr. Momanyi. Hon. Members, due to the lack of quorum, and given that we are almost getting to the end of time, the House stands adjourned until Tuesday, 17th October 1995, at 2.30 p.m.

The House rose at 6.27 p.m.