

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Tuesday, 18th July, 2000

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### ORAL ANSWERS TO QUESTIONS

*Question No.439*

#### ARREST OF MR. BOSCO MUTUKU MUTUA

**Mr. Achola** asked the Minister of State, Office of the President why Mr. Bosco Mutuku Mutua has not been arrested and charged with the murder of Mr. Brian Obong'o Opondo on 19th August, 1999, despite the matter having been reported at the Industrial Area Police Station under reference PP/2316 on 19th August, 1999.

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

Mr. Bosco Mutuku Mutua, a suspect in respect of the murder of Mr. Brian Obong'o Opondo disappeared immediately after the crime was reported. He is still at large and has not been traced to date, although a warrant for his arrest was issued at the High Court in Nairobi on 14th February, 2000.

**Mr. Achola:** Mr. Deputy Speaker, Sir, it is almost a year since this crime was committed. This man is a murderer, but not a suspect. He is not a suspect because he committed this murder in broad daylight. This man is in his father's garage in Eldoret. What steps has the Minister taken to ensure that the man is arrested? Issuing a warrant of arrest means nothing! You should tell us what you have done!

**Maj. Madoka:** Mr. Deputy Speaker, Sir, if it is true that he is in his father's garage in Eldoret, we will make sure that he is arrested, but we were not sure of where he was.

**Mr. Otita:** Mr. Deputy Speaker, Sir, such incidents occur frequently in this country. Somebody is murdered and it takes so many months before the suspect is arrested. We are proud of our Police Force as being the best in Africa. What action is the Minister taking to ensure that perpetrators of such crimes are apprehended quickly?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, each case is always dealt with on its own merit. However, as I have said, if the hon. Member knows where the suspect is in this case, we will get our policemen to act. Even in developed countries, it even takes years to arrest a suspect.

**Mr. Achola:** Mr. Deputy Speaker, Sir, I would like to put it to the Minister that this man has not been arrested because the police officer in charge of Industrial Area Police Station has been bribed in order to shield Mr. Bosco Mutuku Mutua from being arrested. What is the Minister going to do about that?

**Maj. Madoka:** Mr. Deputy Speaker, Sir, I do not know whether he has been bribed but now that I have got the necessary information, we will take immediate action.

**Mr. Deputy Speaker:** Next Question, Dr. Murungaru!

*Question No.357*

GATE COLLECTIONS FROM MT. KENYA  
NATIONAL PARK

Dr. Murungaru is not here? We will come back to that Question later.

*Question No.177*

REHABILITATION OF MBOONI POLICE QUARTERS

**Bw. Kalulu** aliuliza Waziri, Afisi Ya Rais:-

- (a) kama anafahamu kuwa nyumba ambazo Polisi wa Utawala wanaishi katika Mbooni Police Post zilijengwa zamani sana, na kwamba hazijarekebishwa tangu zijengwe; na,  
 (b) na ana mipango gani ya kurekebisha nyumba hizo kwa haraka.

**The Minister of State, Office of the President** (Maj. Madoka): Bw. Naibu Spika, naomba kujibu.

(a) Ninafahamu.

(b) Urekebishaji wa nyumba hizo utafanywa wakati tutakapopata pesa.

**Mr. Kalulu:** Bw. Naibu Spika, ninafikiria Waziri anategemea jibu ambalo anapata kimakosa kutoka kwa watu wengine. Je, Waziri anafahamu kwamba mvua ikinyesha itambidi mtu atumie mwavuli akiwa ndani ya nyumba zile? Pia, Waziri anafahamu kwamba nyumba zile zilijengwa mwaka wa 1954? Utapata kwamba kuna askari kama 50 ambao wanaishi katika nyumba hizo. Je, Waziri ana mpango gani wa kujaribu kuwaondolea panya wale askari kutoka kwa nyumba hizo?

**Maj. Madoka:** Bw. Naibu Spika, ni kweli sijafika hapo na kitu ambacho ninaelewa ni kwamba nyumba hizo ni za zamani sana na zinahitaji urekebishaji. Mwaka huu tumetenga pesa za kurekebisha nyumba hizo.

**Mr. Kamolleh:** Bw. Naibu Spika, sisi sote ni binadamu, tukiwa polisi au Wabunge. Ni haki kwa Waziri kusema tungoje mpaka tutakapopata pesa na hali watu wanaumia? Mhe. Kalulu amesema kwamba panya wanaishi ndani ya nyumba hizo. Hawa panya watawaletea watu hawa ugonjwa. Ni lazima Waziri afanye bidii ili askari hawa watoke katika nyumba duni kama hizo.

**Maj. Madoka:** Bw. Naibu Spika, sikusema tutangojea, nimesema kwamba mwaka huu tutahakikisha kwamba tuna pesa za kurekebisha nyumba hizo. Jambo la panya linaweza kuangaliwa mara moja.

**Mr. Ndilinge:** Bw. Naibu Spika, je, Waziri ana habari kwamba wengi wa askari tawala wanaishi katika nyumba moja na bibi zao?

**Maj. Madoka:** Bw. Naibu Spika, ninaelewa kwamba katika kila sehemu ya Kenya, tuna taabu ya nyumba za polisi na tunafanya bidii ili tuweze kurekebisha jambo hili. Yale aliyoyasema ni ya kweli na tunayaelewa.

**Mr. Kalulu:** Bw. Naibu Spika, Waziri anaweza kulihakikishia Bunge hili ni wakati gani atawaokoa askari hawa?

**Maj. Madoka:** Bw. Naibu Spika, siwezi kusema kama ni leo au kesho lakini tutarekebisha jambo hilo kwa kipindi cha miezi miwili au mitatu ijayo.

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

*Question No.232*

DISBURSEMENT OF PRESIDENTIAL  
YOUTH HARAMBEE FUND

**Mr. Deputy Speaker:** Mr. Onyango is not there? We will come back to that Question later. Next Question, Mr. Obwocha!

*Question No.487*

STATUS OF NBK'S DEBT RECOVERY PROGRAMME

**Mr. Deputy Speaker:** Mr. Obwocha is not here? We will come back to that Question later. Next Question, Mr. Mwenda?

*Question No.302*

PAYMENT OF COMPENSATION  
TO THARAKA LAND OWNERS

**Mr. Deputy Speaker:** Mr. Mwenda is not here? We will come back to that Question later. Next Question, Mr. Weyrah!

*Question No.359*

EVICION OF MR. DUALLE BUTHUI

**Mr. Weyrah** asked the Minister for Local Government:-

(a) whether he is aware that Mr. Dualle Buthui, a retired Administration Policeman, has been evicted from his plot at Daadab with his nine children by the United Nations High Commission for Refugees (UNHCR) and that he is now a squatter at Daadab; and,

(b) what immediate action he is taking to have the plot returned to the said owner.

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

(a) I am not aware.

(b) Given the above answer, the Question does not arise.

**Mr. Weyrah:** Mr. Deputy Speaker, Sir, does it mean that he is not aware that I have asked a Question?

**Mr. Hashim:** Mr. Deputy Speaker, Sir, during the last Session, the hon. Member had asked the same Question. The information I have with regard to this plot is that Mr. Dualle Buthui is the rightful owner of plot No.78, measuring 1,000 square metres each.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, I have got a document here which is an agreement between the UNHRC and Mr. Dualle. It says:

"We hereby agree with

Mr. Dualle, the owner of plot No.78 of Dadaab in Garissa District. The plot is leased to the UNHCR for Kshs20,000."

The UNHRC confirmed that it had entered an agreement with Mr. Dualle but it has failed to pay the money. However, the Assistant Minister is telling us that he is not aware. I think he does not have the right answer and he should go back and come to this House with the right answer to this House.

**Mr. Hashim:** Mr. Deputy Speaker, Sir, I think the hon. Member did not hear me properly. I said that Mr. Dualle is the rightful owner of the plot. So, if there are any trespasses by the UNHCR, the hon. Member should raise this matter with the Ministry of Home Affairs, Heritage and Sports.

**Mr. Ndilinge:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Assistant Minister to derail the House when in his first reply he said he was not aware? Now that---

**Mr. Deputy Speaker:** Order, hon. Ndilinge! You are arguing and so, you are out of order!

**Mr. Weyrah:** Mr. Deputy Speaker, Sir, it is true that this Question came up during the last Session of Parliament and it is coming up for the second time. Mr. Dualle was allocated this plot in November, 1976. He is a retired civil servant.

In 1992, the UNHCR hired the plot. They had entered into an agreement with Mr. Dualle that it would pay Kshs20,000 per month. However, it failed to pay the Kshs20,000 per month and also refused to vacate the plot. The UNHCR has been in that plot since 1992. Mr. Dualle is homeless today at Dadaab. The UNHCR has made him to be a refugee in that place. I would like the Assistant Minister to tell us what action we should take against the UNHCR since it is protected by the laws of diplomatic immunity. The Assistant Minister should give us directions on this matter!

**Mr. Hashim:** Mr. Deputy Speaker, Sir, the Ministry of Local Government is not in charge of the operations of the United Nations. As I earlier replied, the Ministry is fully aware that Mr. Dualle is the rightful owner. I would advise the hon. Member to raise this issue with the Ministry of Home Affairs, Heritage and Sports.

**Mr. Deputy Speaker:** Order! Order! Why did you then come to answer it? You should have transferred that Question to the right Ministry.

**Mr. Hashim:** Mr. Deputy Speaker, Sir, I wanted to make the matter clear, that the Ministry is aware---

**Mr. Deputy Speaker:** Order! You should not tell us that the Question should have been directed to another Ministry. You should have done that when the Question was sent to you. So, I will now direct that this Question be sent to the Ministry of Home Affairs, Heritage and Sports. Is that okay, Mr. Weyrah?

**Mr. Weyrah:** Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** I was also surprised that he was answering it.

*(Question deferred)*

**Mr. Deputy Speaker:** Dr. Murungaru's Question for the second time!

*Question No.357*GATE COLLECTIONS FROM  
MT. KENYA NATIONAL PARK

**Mr. Deputy Speaker:** Dr. Murungaru still not in? The Question is dropped!

*(Question dropped)*

**Mr. Deputy Speaker:** Mr. Onyango's Question for the second time!

*Question No.232*DISBURSEMENT OF PRESIDENTIAL  
YOUTH HARAMBEE FUND

Mr. Onyango also not in? The Question is dropped!

*(Question dropped)*

Mr. Obwocha's Question for the second time!

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I apologise for coming late.

*Question No.487*

## STATUS OF NBK'S DEBT RECOVERY PROGRAMME

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

(a) in view of the fact that a provision for bad and doubtful debts of Kshs15.4 billion was made in the 1999 audited accounts of the National Bank of Kenya, why the bank found it necessary to make a further separate provision under Note Five accounts for Kshs500 million as losses;

(b) what these losses are; and,

(c) what the current recovery programme of the bank is.

**The Assistant Minister for Finance and Planning** (Mr. Marrimoi): Mr. Deputy Speaker, Sir, I beg that this Question be deferred because the answer is not ready.

**Mr. Deputy Speaker:** Indeed, I was contacted by the Minister for Finance, who indicated that this Question was a little more complicated than it originally appeared. He had requested that I defer this Question to next week to enable him give this House a comprehensive reply. Therefore, I think to be fair to the Ministry and the House, I agreed to defer it to Tuesday next week.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, while I do not want to dispute the ruling from the Chair, I have already been given the same written reply that I was given last week. I was shocked!

**Mr. Deputy Speaker:** I was equally shocked and that is why I agreed that in fact, the Ministry was not ready to answer this Question satisfactorily. So, we want to hear the truth. After all, the Treasury is a shareholder in this bank. They should, therefore, come with a comprehensive reply that can satisfy this House.

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, so that the House can be satisfied, when the Minister comes to reply, he should note the part related to Note Five. In fact, the whole amount is Kshs1 billion and I have only queried the Kshs500 million. He should bring a comprehensive answer relating to the whole sum of Kshs1 billion.

**Mr. Achola:** Mr. Deputy Speaker, Sir, are you confirming that hon. Marrimoi cannot answer any Question raised to his Ministry?

**Mr. Deputy Speaker:** Order! Hon. Marrimoi can, of course, answer the Question, but he says that he needs more time to find additional information to give a satisfactory reply.

*(Question deferred)*

**Mr. Deputy Speaker:** Mr. Mwenda's Question for the second time!

*Question No.302*  
PAYMENT OF COMPENSATION  
TO THARAKA LAND OWNERS

**Mr. Deputy Speaker:** Mr. Mwenda still not in? The Question is dropped!

*(Question dropped)*

**COMMUNICATION FROM THE CHAIR**

MEMBER TO ASK QUESTION BY PRIVATE NOTICE  
ON BEHALF OF HIS HOSPITALISED COLLEAGUE

**Mr. Deputy Speaker:** Hon. Members, let me say something about Question No.1 by Private Notice: As you can see it is a Question by Private Notice and it has been asked by hon. Leshore, who is not here to ask it himself. Now, the rationale behind us insisting that hon. Members, who ask Questions by Private Notice, be here themselves, is because, if you consider your Question important enough to be answered by private notice, you should be present to ask it. In the case of hon. Leshore, I must confess I was in a bit of a dilemma. When I thought about it in my mind, I thought I should say no, but when I thought with my heart, I thought I should say yes, and my heart prevailed. Hon. Leshore is unavoidably absent from the House due to circumstances that we are already very familiar with. I felt that since the Question he has asked is on a current issue; that of drought and what is happening to his own people who elected him to this House, to be fair to him, I should allow this Question. It is only on that basis that I agreed that another hon. Member - which is not in line with our practice - should be authorised to ask the Question on his behalf. I accordingly agreed that hon. Shidiye should do so on his behalf.

**QUESTIONS BY PRIVATE NOTICE**  
PAYMENT OF COMPENSATION TO  
SAMBURU/POKOT PASTORALISTS

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, on behalf of Mr. Leshore, Sir, I beg to ask the Minister of State, Office of the President the following Question by Private Notice:-

- (a) Is the Minister aware that Samburu and Pokot pastoralists in Laikipia District lost a lot of livestock as a result of activities by the security forces during the prevailing famine and drought?
- (b) What urgent measures is the Minister taking to compensate for the lost livestock?

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

- (a) I am not aware that Samburu and Pokot pastoralists in Laikipia District lost many animals as a result of activities by the security forces during the prevailing famine and drought.
- (b) The Government has not received reports of losses of livestock from any persons, and therefore, the issue of compensation does not arise.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, I know my colleague hon. Leshore is in great pain on a wheelchair. But nonetheless, when he compares his problem to that of his people he finds that he must ask a Question on their behalf. Nonetheless, voters require value for their votes and while in London he has asked this Question because he knows there is a prevailing drought in his constituency and as a result, Samburu and Pokots have moved with livestock to Laikipia District and Mt. Kenya region.

Mr. Deputy Speaker, Sir, while they are moving to Mt. Kenya in search of pasture, most times they are forced out of those areas by security forces. The lives of Kenyans are very important. Could the Assistant Minister assure this House that Samburus and Pokots who have been allowed pasture into ranches and other places to graze freely? I know he is a Rendille and he is also affected.

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, the problems as enumerated by the hon. Member are quite true. But the pastoralists should talk to the ranchers so that they are allowed to graze in the ranches.

**Mr. Murathe:** Mr. Deputy Speaker, Sir, the Assistant Minister said that he is not aware that livestock are getting lost in Samburu. I do not know the last time the Assistant Minister travelled to his home area. He comes from that area and these deaths are being reported in the newspapers every day. What is the Government doing to alleviate the suffering of the Samburu and Pokot herdsmen?

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, I know that some livestock have been lost. But this is not due to the

security forces.

**Mr. Mbitiru:** Mr. Deputy Speaker, Sir, I am very surprised, by the answers given by these Ministers which depict them as police officers. Every time they are asked questions touching on security and the people in Laikipia District, especially this case where many animals have been lost during movement and interference by security forces, they revert to the PC and the DCs who are only interested in their personal interests. Is the Assistant Minister telling this House that he is not aware that the Samburu invaded ranches in Laikipia and then moved to Mt. Kenya where their animals died and one of them hanged himself as a result of this deaths?

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, I agree that there is drought, but we are not aware of such incidents.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, the Meru people on Mt. Kenya slopes allowed the pastoralists to take their cattle to the mountain. Unfortunately, some of those herdsmen have broken all our water pipes in the forest. Could the Government take action to restore the water? It is true that all of us are hungry and suffering. We appreciate the plight of the pastoralists, but they should also appreciate our plight by not destroying our water resources. Could the Government take up this matter and ensure that water, particularly for Ontiriri Location which has been destroyed is restored?

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, the Government will take the matter seriously and do its best to control the situation.

**Mr. Muchiri:** Mr. Deputy Speaker, Sir, the Question as asked by the hon. Member indicates that security forces are stealing livestock in Laikipia West belonging to the Samburu. The Assistant Minister has said that he is not aware of any such incident. This matter is quite serious because hon. Leshore is in hospital in London and I wonder how he is aware of this matter whereas the Government is not aware of it. Now that the Assistant Minister has been informed that the security forces around that area are feeding on the livestock of the Samburus what action is he going to take to probably prosecute the people who are stealing those cattle?

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, we will investigate the matter and take appropriate action.

**Mr. Poghiso:** Mr. Deputy Speaker, Sir, I know the Assistant Minister knows the real situation at heart, it is only unfortunate that he is reading an answer given to him from the office. Could the Assistant Minister begin the process of assessing the losses of the livestock and compensate those people of their losses? To a pastoralist, those are losses in millions of shillings.

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, there is no provision for compensation, so that question does not arise.

**Mr. Shidiye:** Mr. Deputy Speaker, Sir, many Kenyans particularly in pastoral areas have lost their livestock. Most of the families have been impoverished as a result of cattle rustling and the drought. Coupled with that, harassment by the security forces has become a major factor in this country. Whereas they are supposed to protect the cattle owners they act to the contrary. The Assistant Minister knows that soldiers release their energies by stealing those animals instead of allowing them to go to green pastures. Mr. Leshore is in London and the problem has been aggravated. When the Samburu and Pokot lose their livestock they cannot be replaced. You cannot compare it, for example, to losing crops to drought, because the following year there could be a better yield.

Could the Assistant Minister allow an investigation team to go there, establish the facts and compensate the Samburu and Pokots? Otherwise, those people will be impoverished, and very soon will carry their arms and start raiding us here.

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, as far as I know, hon. Leshore is in London. He is my cousin; I have just been there to visit him. The question of compensation does not arise. So, I cannot not give any assurance to that effect.

**Mr. Shidiye:** On a point of order, Mr. Deputy Speaker, Sir. Notwithstanding that hon. Leshore is a cousin to the Assistant Minister, if those livestock are lost and hon. Leshore knows that his people have lost those livestock--- This Assistant Minister is misleading this House. We know that some livestock have been lost. Is the Assistant Minister in order to mislead this House? Could he give us better facts than the ones he has given us? Even I, am in pain, but the people of Samburu are in much more "pain".

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, we appreciate the loss of animals. The matter is very serious, but there is no provision for paying compensation for such lost animals.

**Mr. Gitonga:** Mr. Deputy Speaker, Sir, the hon. Questioner asked that the Pokots and Samburus should be compensated because the loss that they incurred was as a result of the activities of security forces in that area. Therefore, those people should be compensated since that loss did not occur on its own. The loss occurred as a result of the activities of the security forces.

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, the loss of the livestock was not as a result of activities by security forces; it was as a result of drought. So, there is no compensation for that loss.

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

**Mr. Deputy Speaker:** Let that be the last one.

**Mr. Mbitiru:** Mr. Deputy Speaker, Sir, it took no lesser person than the Speaker of the National Assembly to intervene in this matter when the security forces were forcing the livestock out of ranches in Laikipia District. Now, the Assistant Minister here - that is why I am saying that he is acting like policemen - is denying that the loss was as a result of the activities of the policemen; this is a fact as known the world over.

**Mr. Deputy Speaker:** What is your point of order, Mr. Mbitiru? Or, alternatively, what is your question?

**Mr. Mbitiru:** Mr. Deputy Speaker, Sir, my point of order is: Is the Assistant Minister in order to, completely, misrepresent the statements that exist?

**Mr. Deputy Speaker:** That is not a point of order, Mr. Mbitiru. Ignore it, Mr. Assistant Minister.

**Mr. Muturi:** On a point of order, Mr. Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House by saying that there is no provision for paying compensation for the losses that were incurred by the pastoralists when it is, indeed, very clear that the laws of this land provide for compensation, be it for injuries suffered or loss of property?

**Mr. Kochalle:** Mr. Deputy Speaker, Sir, there is no provision for paying compensation for loss of animals.

**Mr. Deputy Speaker:** Very well; let us proceed to Dr. Ali's Question.

#### MEASURES TO RETURN STOLEN LIVESTOCK

**Dr. Ali:** Mr. Deputy Speaker, Sir, I beg to ask the Minister for Foreign Affairs and International Co-operation the following Question by Private Notice.

(a) Is the Minister aware that 5,900 livestock in Wajir North have been stolen by Ethiopians?

(b) What action has the Minister taken to facilitate the return of the livestock to their owners?

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

(a) I am aware that 5,900 livestock were stolen by raiders from Ethiopia. On 8th June, 2000, heavily armed raiders from Ethiopia attacked Ajuran herdsmen in Dinko-Diko Ardhi Villages in Gurar Division of Wajir District, North Eastern Province. The raiders shot at the herdsmen indiscriminately, resulting in the injury of two people and the death of two others. They rounded up about 5,000 head of cattle and 900 camels, which were driven across the common border into Ethiopia.

(b) Following the attack, the Ministry sent a protest note to the Embassy of the Federal Republic of Ethiopia in Nairobi and appealed for the return of all Kenyan stolen animals. The Ministry further requested the Government of Ethiopia to give assurances, in the interests of good neighbourliness, that such incidents of incursions by armed raiders into Kenya's territory would not be repeated. In addition, on 16th June, 2000, I summoned the Ambassador of Ethiopia to come to the Ministry, over the matter, and such other incidents. He assured me that all livestock that were stolen from Kenya would be returned.

The Wajir District local administration officials have held a number of meetings with their counterparts in Ethiopia, with a view to ensuring that the livestock are returned to their rightful owners. The Ethiopian officials have since confirmed that the attack took place on Kenya's territory and promised to facilitate the return of the animals. So far, some 160 livestock have been returned. The meetings between the officials are still going on.

**Dr. Ali:** Mr. Deputy Speaker, Sir, we have not received any livestock to-date. We were promised the return of the 160 livestock the Minister has talked about, but we have not received them. Also, recently, another attack took place and 200 more livestock was taken away. So, are we going to just sit and wait for people to attack us everyday. What proper action is the Government taking to ensure that those people do not repeat those attacks?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I presume that the Department responsible for maintenance of security in that area has beefed up security. I am surprised that the hon. Member has said that the 160 livestock have not been received by the owners. I know that, despite some arguments, animals had been offered by the Ethiopian authorities for collection. I think the important thing is that the neighbouring Government has admitted responsibility, that it was its people who had attacked Kenyans on Kenya territory, and that it was willing to do everything to return the stolen animals. I do also know that all along the border, these incidents have been very common as a result of the current drought. Grazers from all over the northern region are moving to the limits of our territory. My own constituency came under an attack and, indeed, as I stand here, the District Security Committee (DSC) there is assembling deep into Ethiopia, at the administrative headquarters, to recover the animals. I think the important thing for now is that we have told the Ethiopian Government that they are responsible for this, they have to stop the bad behaviour of their people, and above all, they have to return our stolen animals.

**Mrs. Mugo:** Mr. Deputy Speaker, Sir, we know that there has been a lot of insecurity in that area, with communities suffering a great deal; women being raped; and children being killed. You will agree with me that 5,900 head of cattle is a very large number to be driven away. Does this mean that our security forces are not able to contain security within this country's borders and ensure that our citizens are safe such that we depend on negotiations for the return of those livestock? In the first place, how did those livestock get out of this country?

**Dr. Godona:** Mr. Deputy Speaker, Sir, in all cases, the point of attack happened to be within two to 15 kilometres from the Kenya-Ethiopia border. Firstly, when those people decide to steal livestock from the Kenyan side, they tend to strike at odd hours; they are also sophisticated. Those who are aware of what has been happening in the Horn of Africa over the years must understand the complexity of the problem of the livestock rustling that we have dealing with. I believe that this country's security forces are committed to their work, and that local security officials in that area are determined to stamp this problem out. I believe that, more than responding to those acts by use of force, we should supplement the use of force for the defence of our people with better understanding between the two administrations of the two countries. This is the only way across eastern and north eastern Africa in which we can, ultimately, bring the menace that has been caused by the proliferation of the so-called "small", but very sophisticated weapons. Some of the people who were injured in my constituency have now been found to have had shrapnel of grenades - some of the weapons being used by raiders.

**Mr. Nderitu:** Mr. Deputy Speaker, Sir, the Minister has said that the rebels from Ethiopia use sophisticated weapons. Do we not have those kind of sophisticated weapons in this country to repulse that kind of invasion which is affecting our people? Otherwise, can we not block our border using those weapons?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I said that this is a very complex matter. From all those frontier areas, we are talking of the same communities spread across these borders at many points, or different clans or the same clans. As we are speaking here, there are many Kenyan graziers who are grazing across the border with licence of that country, because you had better precipitation on that side. So, we must see these problems in the context of the general understanding and harmony between the two countries.

**Mr. Keriri:** Mr. Deputy Speaker, Sir, we appreciate the complexity of this matter. The Minister has told us that the Ethiopian Government has accepted the responsibility for this attack and carrying of 6,000 herds of cattle. Has the Minister examined the possibility of the Ethiopian Government compensating us for these cattle, if they are not returned?

**Dr. Godana:** Mr. Deputy Speaker, Sir, we are keeping all options open. I said that this is a very complex situation. I happen to have the longest chunk of the Ethiopian border on my constituency. Obviously, no Government is willing to admit responsibility to the point of paying compensation for the behaviour of its citizens who act as criminals. From time to time, we also receive complaints or accusations from the other side that our own people have gone across do to this kind of menace. I think the important thing is that once the Government has accepted that its citizens were responsible for this kind of mess, then we hold it accountable for the return of the animals. There have been examples of such incidents in the past where the Ethiopian Government - in fact, where the accusation was against us - has moved to the communities concerned to recover the actual animals or equivalent numbers. Obviously, as an hon. Member from the pastoralist community, I do know that some of these figures tend to be exaggerated. In fact, sometimes the complaints are that when pastoralists lose animals, they will cite the highest figure. Once these negotiations between local leaders from the communities involved get together, they always find an amicable settlement on the right numbers and modality of returning the animals.

**Mr. Wamae:** Mr. Deputy Speaker, Sir, although the Minister admits that the people on both sides are the same, we are interested with the lives of Kenyans. If Kenyans have to lose over 6,000 animals, how will they survive? What is the Government doing to make sure that the tribesmen in Wajir District and other places have enough food to eat when they do not have the animals?

**Dr. Godana:** Mr. Deputy Speaker, Sir, I take that the authority responsible for famine-relief supplies in the Office of the President attends to this immediately.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, the Minister seems to be very clear in his mind about the problem, and we thank him because he has also gone deeper into getting the root cause of this problem. As a Minister, when he is discussing this matter with the other country, has he given a deadline within which the animals must be returned, and if they do not, can he tell me what action the Kenyan Government is prepared to take?

**Mr. Godana:** Mr. Deputy Speaker, Sir, the meetings which take place across the borders between security officials, for example, between the Turkana and the counterpart districts in Ethiopia; between Marsabit and the counterpart districts in Ethiopia; between Wajir, Moyale, Mandera and their corresponding counterpart districts are going on within the framework of Kenya-Ethiopia Joint Commission. Normally, there are regular meetings even when there are no such incidents. If on a particular appointed day the two sides have met and neither of them have come to



an agreement or the animals have not been returned as promised, they normally fix appointments for the next meeting. Normally, when you deal with this kind of emergency, I know deadlines have been fixed. I cannot say that, that is the deadline, but I know that they have been fixed. We will continue to do that.

**Dr. Ali:** Mr. Deputy Speaker, Sir, while I appreciate what the Minister is saying and knowing the problems at the border, one thing I would like to state is that I have been to the border meetings from time to time, and usually the Kenyan delegation meets very junior people from the other side, who cannot even talk authoritatively about Ethiopian affairs. So, I would like to appeal to the Minister to follow up this issue with high authority, so that we can get our animals back.

**Dr. Godana:** Mr. Deputy Speaker, Sir, I want to promise the hon. Member and the House that the matter will be followed up very robustly.

#### MEASURES TO CURB DRUG ABUSE IN KENYAN SCHOOLS

**(Prof. Anyang'-Nyong'o)** to ask the Minister for Education:-

- (a) What is the Government doing to stop drug abuse in Kenyan schools and universities?
- (b) How effective has the Narcotic Drugs and Psychotropic Substances (Control) Act been in checking the spread of drug trafficking in Kenya?

**Mr. Deputy Speaker:** Prof. Anyang'-Nyong'o is not there and, therefore, his Question is dropped.

*(Question dropped)*

#### LICENCE FEES FOR NEWSPAPER VENDORS

**(Mr. Muite)** to ask the Minister for Local Government:-

- (a) Is the Minister aware that recently, the Nairobi City Council imposed a licence fee of Kshs2,400 on each of the street newspaper vendors?
- (b) Given the current emphasis on poverty eradication, could the Minister consider scrapping this licence fee forthwith?

**Mr. Deputy Speaker:** Mr. Muite is too not there. His Question is dropped.

*(Question dropped)*

#### MINISTERIAL STATEMENTS

##### TRANSFER OF PRIMARY SCHOOL TEACHERS

**The Minister for Education** (Mr. Musyoka): Thank you, Mr. Deputy Speaker, Sir. I rise to give a Ministerial Statement in response to the inquiry by hon. Anyona, who is the MP for Kitutu Masaba. He asked the Minister for Education to give a Ministerial Statement in this House on what he calls "the current controversial transfer exercise involving teachers", terming my Ministry as "corridors of chaos." I think he was trying to look a bit into history and I would like to agree with him, because we have since discussed that there are no chaos at all in the corridors of the Ministry. Hon. Anyona, would like the Minister to provide the House with guidelines in relation to the criteria involved in determining the teachers to be transferred to avoid discrimination and what he calls "possible victimisation". Therefore, I have great pleasure in making the following statement.

It has become necessary to transfer primary school teachers from overstaffed districts to understaffed districts in order to alleviate the shortage in the understaffed districts. Currently, some 33 districts and municipalities are overstaffed by 8,505 teachers, while another 39 districts are understaffed by 8,264 teachers. This gives a net surplus of 241 teachers. This is based on a staffing norm of one teacher per class plus 2.5 per cent over the number of classes in a given district or municipality.

On average, each of the teachers earns some Kshs10,000 per month, which means the Government spends approximately Kshs5 million or slightly over Kshs1 billion per year on under-utilised teachers. The parents in understaffed districts have on the other hand, employed teachers at the school level to meet the shortfall. They are spending hundreds of millions of shillings to do so, when teachers in other districts are under-utilised. It has, therefore, been decided that the transfers of teachers be effected across districts in order to obliterate the imbalance. Appended to this statement are a list of overstaffed districts and understaffed districts and the levels of overstaffing or understaffing in each district or municipality, as the case may be.

Mr. Deputy Speaker, Sir, the criteria for identifying teachers for transfer out of overstaffed districts shall be as follows: No teacher in an understaffed school or a school with the right number of teachers, shall be transferred out of that district. Secondly, within an overstaffed school, the last teacher to have been posted to the school, shall be the first to be posted out. We will use the principal of last in, first out criteria. However, teachers who are 45 years old and above are not to be transferred. This criteria of identifying teachers for transfer is objective, because it assumes that overstaffing in a school is caused by teachers who were the last to be posted to the school.

Mr. Deputy Speaker, Sir, the programme for transfer of teachers is as follows: The district and municipal education officers from overstaffed districts or in the municipalities, were expected to have identified and handed over the list of teachers for transfer, to TSC by 30th June, 2000. The TSC is to prepare and release transfer letters to the DEOs for on transmission to the teachers by 25th July, 2000. The transferred teachers' release by their present schools and districts should occur by August 2000. Teaching and learning will, therefore, not be disrupted. The teachers should then proceed to their new districts and schools by 1st September, 2000. The transferred teachers will be paid an equivalent of one-month's basic salary on confirmation that he or she has started teaching in a new district. However, this provision will not apply to teachers who have requested for transfer on their own.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I am grateful to the Minister for the statement. But this is really begging a question, because in the long run, we will need more teachers. What is the Minister putting in place to ensure that all teachers who have been trained by private and public colleges or universities are employed, so that we do not run into the risk of ending up with schools with even fewer teachers than we have at the moment?

**The Minister for Education (Mr. Musyoka):** Mr. Deputy Speaker, Sir, first and foremost, we believe we have to do the balancing because the Minister for Finance would ordinarily not listen to me when I tell them there is need to employ teachers. He might look at the figures and wonder whether we are very serious, when we have cases of overstaffing. So, we want to do this, in order to be able to see the obvious imbalances that will occur and the Government will take the necessary steps. However, I am not at this stage, saying that we will be able to employ so many of our graduates who have left teachers training colleges or universities, totally qualified with bachelor degrees in education. However I hope the hon. Member for Kitutu Masaba recognises that the Ministry is also trying to look out into the sub-regions.

There are countries like Rwanda whose the other day, their President paid a state visit here, which feel that we can co-operate with them within the framework the two Presidents signed by a way of a joint-communique, to send teachers. We have already posted some of our graduate teachers to Seychelles and we will also send more to them. But we have also taken into consideration the fact that, in science subjects, for instance, we ourselves require trained personnel to be able to teach our students. All in all, we remain seized with this matter of overstaffing and understaffing of teachers. More particularly, we hope that as time goes by, we will be able to begin a bit of recruitment.

**Mr. Mwiraria:** Mr. Deputy Speaker, Sir, I believe that the retiring age for civil servants is 50, but the mandatory one is 55 years. There are many teachers who have reached the retiring age of 50 who belong to the older grades of P3s and P2s who were promoted and the Minister is aware that, those promotions were not being done fairly on merit. Could he consider retiring those teachers and employ younger and brighter teachers to enhance the standard of education in the country?

**The Minister For Education (Mr. Musyoka):** Mr. Deputy Speaker, Sir, the Ministry is not aware that promotions were not justifiable in the past. I think it would be suicidal, for instance, the people of Imenti Central to hear their hon. Member saying that those teachers who are P3s and P2s graded and are aged 50 years should be retired. I am happy he recognises that there is no way the Ministry can that those teachers be retired before the compulsory retirement age of 55 years. Therefore, the Ministry's hands are obviously tied.

#### INVASION OF KORA PARK BY PASTORALISTS

**The Assistant Minister, Office of the President (Mr. Samoei):** Mr. Deputy Speaker, Sir, I rise to make a Ministerial Statement as requested by hon. Galgallo on the invasion of Kora National Park by pastoralists. The Government is aware of the devastating effect of the current drought situation in the country that has led to death of hundreds of livestock. However, as much as the pastoralists try to save their animals, they are advised not to invade national parks and game reserves which will adversely affect these sanctuaries and the livestock's risk of contracting highly contagious diseases such as the East Coast Fever and Foot and mouth disease which are prevalent among the wildlife animals.

Mr. Deputy Speaker, Sir, the Government wishes to make it clear that it has never given any statement to the effect that pastoralists have been allowed to graze their animals in national parks and game reserves due to the current

adverse weather condition. The general public is hereby reminded of Section 13 (2)(f) of the Kenya Wildlife Services (KWS) Act, Cap 376 Laws of Kenya which in the earlier stage--- It says:-

"Any person knowingly introducing any animals or domestic animals or vegetation into a national park, is guilty of an offence and liable to a fine not exceeding Kshs10,000 or imprisonment of not more than a year or both."

Mr. Deputy Speaker, Sir, it, therefore, remains illegal for any one to drive animals into a national park or game reserve.

The statement attributed to the Minister for Environment and Natural Resources which was aired on KBC radio on 1st July, 2000, quoted him stating that, pastoralists neighbouring Government forests could graze their animals in the forests until the drought situation improves. There was no mention of national parks and game reserves having been opened for grazing. The position is that grazing in the national parks, remains illegal. The KWS staff were, therefore, acting in accordance with the law when they drove away pastoralists in Bangale Division of Tana River who had invaded Kora National Park in search of pastures for their animals in contravention of section 13(2)(f) of the KWS Acts Cap 376 Laws of Kenya. There is a set out procedure that KWS uses to drive livestock out of the parks.

In the particular case in question, a helicopter was used to ferry rangers to the park due to the remoteness of the area. Reports from the field indicate that only minimum force was used during the exercise, which emanated from the resistance from the pastoralists because they did not want to vacate the area. All those arrested were taken to court as required by law.

The Government is appealing to pastoralists to respect the law as they try to locate pastures and watering points for their animals, to avoid conflicts with KWS and other groups.

**Mr. M. Galgalo:** Mr. Deputy Speaker, Sir, arising from the statement by the Assistant Minister, Kora National Park borders the normal grazing area in Bangale Division. It has never been developed to a level of a national park. What we are requesting is for the Minister to compensate us for the loss inflicted by use of helicopter. So many animals got lost and were eaten by wildlife. Will the Government compensate the pastoralists, now that he has said we should not graze in the park? Is he aware that, that park is not fenced like others? If so, could he consider putting up the fence around that park because our people are suffering year in, year out, due to the wrong boundaries marked by KWS?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Deputy Speaker, Sir, I think it is up to the people bordering the Kora National Park to know the extent of the ownership of their land. We will consider fencing and giving a clear demarcation of the Kora National Park when funds become available, but unfortunately, I do not think we will be in a position to compensate the pastoralists whose livestock disappeared into the forests and were eaten by the wildlife because they were in contravention of the law.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Assistant Minister quoted the provisions of the law, but they only apply in normal circumstances; when people have pastures elsewhere, but there is no pasture now, except in the national parks, and these are human beings who must survive---

Could the Assistant Minister seriously consider the plight of those people, and could he also tell this House how many people were, as a result, arrested, arraigned in court and imprisoned in total? I am informed that they are in excess of 30. Could he confirm that and give us their names?

**The Assistant Minister, Office of the President** (Mr. Samoei): Mr. Deputy Speaker, Sir, unfortunately, this House did not give a rider in the law; that it applies only in certain times. Unfortunately, we enforce the law as it is, and that particular issue was specific to the Kora National Park. It was pegged to a Ministerial Statement issued by the Minister for Environment and Natural Resources. That was the strength on which the hon. Member was asking for a Ministerial Statement, and that is why I am saying that, as the law stands, it is illegal to graze in the national parks.

There were 15 people who were arrested and charged for various offences, and not 30 as the hon. Member said.

#### TARIFFS CHARGED BY IPPS

**The Assistant Minister for Energy** (Mr. Chanzu): Mr. Deputy Speaker, Sir, last week when I was answering Question No.402 asked by the Member of Parliament for Runyejes, hon. Njeru Kathangu, I was to provide information about the tariffs, and I will furnish the information now.

In connection with generating costs by the Independent Power Producers (IPPS), the two companies in question, and which were in the answer last week, were the Iberafrica Power (East Africa) and the Westmont Power Ltd.

*(Mrs. Seii in consultations)*

**Mr. Deputy Speaker:** Order, Mrs. Seii!

**The Assistant Minister for Energy** (Mr. Chanzu): Mr. Deputy Speaker, Sir, regarding the Iberafrica Power, (East Africa), the contracted capacity is 45.25 megawatts at the cost of Kshs4.51 per kilowatt hour. In the case of the Westmont Power Ltd, the contracted capacity is 46.26 megawatts at Kshs2.64 per kilowatt hour. We have used---

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! You are consulting loudly, and therefore, you should reduce the tone so that we can hear what the hon. Assistant Minister has to tell the House.

Proceed, Mr. Chanzu.

**Mr. Kathangu:** On a point of order, Mr. Deputy Speaker, Sir. I did not seek a Ministerial Statement, but the answer he gave at that time was inadequate, and he was asked to come with the list. So, would you, therefore, direct me or the House as to what we should do about it? I was not prepared for it.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. Clearly, if the Question was deferred and the Assistant Minister was required to bring a further answer, can he go around it by bringing a Ministerial Statement? That is unprocedural.

**Mr. Deputy Speaker:** That is quite right. Mr. Chanzu, that is repetitive of you, but the Question will be put down to be answered in the normal manner.

That is the end of that story.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, on Thursday during the Zero-Hour, I raised two issues; one for the Minister for Energy and the other one for the Minister of State, Office of the President. Both of them promised to issue a statement today. Could I now call upon the two to give me the statements?

#### POWER INTERRUPTION IN HOUSEHOLDS

**The Assistant Minister for Energy** (Mr. Chanzu): Mr. Deputy Speaker, Sir, this is a Ministerial Statement in response to a matter raised in this House on Thursday, by hon. Joseph Munyao, a Nominated Member of Parliament.

The objective of power rationing is to share out the available electrical energy among consumers when they need it most so that they can use alternative energy sources, resulting in trading in the public supplied electrical energy. The peak demand for domestic consumers occur in the mornings and evenings, and effective power rationing programme has, therefore, to target those times. During the current power shortage crisis, the generation of electrical energy and the hydro-generating power stations have been substantially reduced due to the prevailing drought. The hydro capability, currently, stands at 97 megawatts in the mornings; 67 megawatts in the afternoons and 181 megawatts in the evenings. The available total generation capacity, including thermal and imports from Uganda, is 390 megawatts in the morning; 382 megawatts in the afternoon, and 450 megawatts in the evenings. That compares to the system demands of 669 megawatts; 646 megawatts, and 760 megawatts in the mornings, afternoons and evenings respectively. The existing generation capacity shortfall, therefore, ranges from 279 megawatts in the mornings to 310 megawatts in the evenings. That is the situation that led to the current power rationing programme which was effective from 8th June, 2000.

In designing the current power rationing programme, it was necessary to ensure that non-planned hydro-generation was brought into the system due to increased power demand. The objective was to manage the available water in the dams to allow generation up to the onset of the rains. As the peak demand for the domestic consumers occur in the mornings and evenings, and available generation cannot satisfy this demand, it was necessary to deny some domestic consumers power during those periods. The evening demand of domestic consumers is about 600 megawatts compared to the available power of 450 megawatts. It is, therefore, impossible to supply power to all the domestic consumers during this period. As a result, therefore, the Power Rationing Programme was designed to give half of the domestic consumers power every evening. The morning demand of power by domestic consumers alone is 500 megawatts compared to the available capacity of 390 megawatts. The programme has again catered for only half of the domestic consumers in the morning. Between midnight and 6.00 a.m. in the morning, the demand by domestic consumers is very low and the available generation from thermal sources and imports from Uganda are able to satisfy it.

Hon. Members will, therefore, appreciate the difficulties in supplying power to all the domestic consumers during the two demand peaks of morning and evening due to the current power shortage. The current power rationing

programme, therefore, addresses the equitable distribution of the available power to all categories of consumers.

**Mr. Munyao:** Mr. Deputy Speaker, Sir, the question was very simple. It was broken into two parts. The first part was that, housewives and everybody today is finding it very difficult because children come from school and need some food between 7.00 and 8.00 o'clock. Kenyans also want to see and read news during that time. Instead of giving electricity to domestic users after 11.00 p.m. we were asking the Minister to do so between 6.00 p.m. and 11.00 p.m. for children to be prepared, people to eat, read and see the news. It should also be provided in the morning between 5.00 a.m. and 7.00 a.m. for people to prepare breakfast for school going children. Secondly, how long will we live in this darkness? Must we go to Uhuru Park, undress and demonstrate?

**The Assistant Minister for Energy** (Mr. Chanzu): Mr. Deputy Speaker, Sir, the issues being raised by the hon. Member have all been taken into account. We cannot meet the demand due to the shortfall hence the rationing. We found that every time the power is switched on everybody wants to do everything. That will deplete whatever is available and we will end up in chaos. That is why we all have to bear with the situation. We have put measures in place to ensure that within the ensuing five or six months, we can have adequate electricity supply, if the rains come by the anticipated time of October this year.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. The Minister was asked this Question: Six o'clock to 11.00 o'clock in the evening and also 6.00 a.m to 7.00 a.m. are critical periods from many angles. Why not give people power at that time and disconnect after 11.00 p.m.? It is the best thing to do!

**The Assistant Minister for Energy** (Mr. Chanzu): I have just said in the Statement that the rate of usage at that time will be very high and whatever power is available will not sustain us. We would rather ration up to the time when we expect to have adequate rains.

#### POINT OF ORDER

##### TAKING PARLIAMENTARY DEBATE OUTSIDE PARLIAMENT

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir, I rise to raise a matter of procedure. Many a time the Chair has made rulings about taking parliamentary debate outside Parliament. At the moment there is the Constitution of Kenya Review (Amendment) Bill, 2000 which is pending before the House for debate during the Second Reading. As recently as last week you did make some ruling on this matter. Over the weekend some very senior hon. Members of this House, including the Leader of the Official Opposition, who is one of the longest serving hon. Member and, therefore, knows the rules best, took debate on the Bill outside the House when he was touring Gusii District.

If we go on like this, how can the country respect this Parliament if we cannot obey and enforce our own rules? What steps will the Chair take so that no hon. Member of the House, whoever it is, is allowed to break the rules of the House? As far as the Abagusii community is concerned we are demanding an apology from the Leader of the Official Opposition and his entourage for violating our customs and traditions on burial rites.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Hon. Members, last week I did make a ruling on this business of carrying out debates from the House to some baraza, Harambee or any other meeting. It has been brought to my notice that in fact, some hon. Members, did precisely that over the last weekend. At the very least, to do so is to be contemptuous of this House. Any contempt of this House must be punishable. The hon. Members who have been reported to have done so are not in the House at the moment. I think it would be unfair for me to condemn them without giving them an opportunity to say whether they in fact, uttered the words against which there has been complaint. I will wait for hon. Kibaki and hon. Sunkuli to be in the House when I will address them and ask them to accept or deny what they are reported to have said. Let me say this once again: The rule against carrying debates from the House to fora outside the House is one that has developed out of practice and that hon. Members have an opportunity to say their piece in the House. When we say "you have carried a debate out there" it means that you are answering what other hon. Members have said in here and that is really contemptuous. When those hon. Members come to the House--

**Hon. Members:** One of them is here!

**Mr. Deputy Speaker:** Order! I will pick up that issue from where I have left it now. It is only fair that they should be heard.

#### COMMUNICATIONS FROM THE CHAIR

## DISTINGUISHED GUESTS FROM EUROPEAN PARLIAMENT

While I am on my feet, let me take this opportunity to introduce our distinguished guests from the European Parliament. We have hon. Catherine Stihiker, MP from Scotland, hon. Ula Sandbaek MP from Denmark and hon. Lissy Groner MP from Germany. As you can see they are being very gracious; they have already bowed to your Floor. May I, on your behalf, welcome them to this House and wish them a very happy and fruitful stay in Kenya.

*(Applause)*

## UNSUBSTANTIATED ALLEGATION

I still have two other matters to deal with. Last week hon. Angwenyi made some allegations in this House. I was very magnanimous with him and gave him time until the following day to come with his proof. The HANSARD is here. When I put the question to him: "Hon. Angwenyi, have you spoken those words?" He said: "Yes, I have." I asked him: "Will you bring proof tomorrow?" He said: "Yes, I will." Hon. Angwenyi, could you now produce your proof?

**Mr. Angwenyi:** Thank you, Mr. Deputy Speaker, Sir. I came with those documents on Thursday, but I did not know I was to bring them today. I will bring them tomorrow then.

**Mr. Deputy Speaker:** Order! Hon. Angwenyi, you knew very well that my order was to bring that information on theft after Question Time, when we ordinarily take up matters like that in the House. But you were not in the House.

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

Remain seated where you are until I finish! This is a very serious matter! This is one of the reasons why the Chair normally insists that, if you make an allegation, you must be able to verify or prove it on the spot! This is not the first time hon. Members have made allegations. They have been called upon to provide proof. But some suddenly disappear from the House. This is simply unacceptable. So, do you have that proof now or not?

**Mr. Angwenyi:** Mr. Deputy Speaker, Sir, I was here on Thursday afternoon even after Question Time!

**Mr. Deputy Speaker:** Order, Mr. Angwenyi! If you do not have the proof with you now, I will require you to leave the Chamber this minute!

**Mr. Angwenyi:** To go and pick it?

**Mr. Deputy Speaker:** Order! You are now a stranger!

**Hon. Members:** He should bring the proof!

**Mr. Deputy Speaker:** Order! I do not share that responsibility with you!

## IMPROPER INSINUATION

The next one is Mr. Gumo! He made some reference to a Mr. Mugo and was challenged to show proof of what he said. He had said that Mr. Mugo had stolen money from Nzoia Sugar Company. When I asked hon. Gumo whether he had proof to that effect, he said that he had. I, again, gave him time until the following day, to produce that proof. But, to my surprise, on the following day and, at the material time, hon. Gumo was not in the House! He was earlier in the House, but conveniently left the Chamber before the appropriate time. But since he is here now, I call upon him to provide that proof.

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I stand by what I said! Mr. Mugo was the first General Manager of Nzoia Sugar Company. Prior to that, he was the Kenyan Ambassador to France. Before the factory was established, Mr. Mugo made all the negotiations while representing the Kenya Government, with the company that built the factory.

After the factory was established, Mr. Mugo came from France and became the General Manager of Nzoia Sugar Company. When he was the General Manager, he ordered for some tractors which were not familiar---

**Mr. Deputy Speaker:** Where is your proof, hon. Gumo?

**The Assistant Minister, Office of the President** (Mr. Gumo): It is here, Mr. Deputy Speaker, Sir!

**Hon. Members:** He should table the documents!

**The Assistant Minister, Office of the President** (Mr. Gumo): Keep quiet! Shut up!

**Mr. Deputy Speaker:** Order! We do not have the whole afternoon to listen to what he is saying!

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, I have to explain! He ordered for some tractors which were not familiar at all. They did not have any spare parts in the country. Those tractors costed nearly ten times more than their real price. When they were brought, they could not function. Instead of abandoning those tractors and buying new local tractors, he made an order for spare parts for the same tractors worth over Kshs23 million at that time. That was around 1976/77. The spare parts were brought in five or six containers---

**Mr. Deputy Speaker:** Hon. Gumo, proof will not be provided by your narration! What documents are you laying on the Table?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, the documents are here!

**Mr. Deputy Speaker:** Where are they? I am seeing only a piece of paper! What is it?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, the documents are here!

**Mr. Deputy Speaker:** What documents are they?

**The Assistant Minister, Office of the President** (Mr. Gumo): Mr. Deputy Speaker, Sir, he was supposed to have been surcharged and pay--- The documents are from the Public Investments Committee (PIC) Report of 1993. The documents are here!

**Mr. Deputy Speaker:** Please lay them on the Table.

*(Mr. Gumo laid the documents on the Table)*

*(Applause)*

Order! I have to inspect the documents first, to make sure that they are extracted from either the PIC or the Public Accounts Committee (PAC) Reports. Then, I will refer you to the relevant PIC or PAC Report and the year. These are just two pieces of paper without any heading, signature or anything! So, tomorrow morning, I will revert to this House on this issue with regard to where these documents came from, and whether, in fact, they prove the point that hon. Gumo made.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. I have the Report here! I brought it for a different issue!

**Mr. Deputy Speaker:** Order, hon. Obwocha! Hon. Members, you ought to know that when we are discussing matters after Question Time, we cannot go into debate! Hon. Obwocha, I would like to read that in the quietness of my office!

**Mr. Obwocha:** But I was assisting the Chair!

**Mr. Deputy Speaker:** But I cannot do it now!

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, I stand to seek guidance from the Chair. There is this recent tradition in this House, of complaining that Members took debate out of the House. A practise that we were making a precedent for our behaviour. But, Mr. Deputy Speaker, Sir, in the adversarial tradition of Parliament that we have inherited from the British, Members of Parliament are representatives of the people. As delegates to the National Assembly, they seek public opinion from their constituents about matters coming up before the House.

Mr. Deputy Speaker, Sir, you notice that in Britain, party leaders will write their argument about a matter before the House in the popular Press, trying to canvass in certain lines, to influence voting behaviour in the House. Where will we put the boundary between the prejudice of taking debate out of the House, and the desire to mobilise public opinion for positions on matters before the House?

**Mr. Deputy Speaker:** Well, if you were here last week, you heard me say, for example that, if we debated a matter on the adjournment, where there was no resolution of the House, Members were free to continue discussing that matter out of this House. This is because there is no determination of any issue. Now, if a matter is still live before the House, then clearly, an hon. Member who goes out and starts answering a Member who has already spoken, is indeed, contemptuous of the House because he has an opportunity to come here and air his views. Now, if an hon. Member goes to his constituency and is asked questions about what is going on, he is quite in order to explain to this constituents what is going on in the House. That is not debate. If they ask you why you voted a certain way, you can explain to them why you did so. That is not carrying debate outside this House. If they ask you what will happen to hon. Angwenyi who has just been sent out, you can answer that he was grossly out of order. That is not carrying debate outside the House. But with regard to matters that are still live, and which the House is expected to reach a determination, I think it is not right that you should go and start answering what another Member has said here.

**Mr. Orengo:** On a point of order, Mr. Deputy Speaker, Sir. I just want to point out this; because it relates to order in the House, about carrying debate outside the House.

Mr. Deputy Speaker, Sir, every Bill is published for 14 days before it is read for the first time. That is supposed to give you time to talk to your constituents before we begin debate. If you forgot like hon. Kalonzo that the Bill was published, or a Motion was pending, then you are just lost! You should not be here!

*(Laughter)*

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

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, I am standing to question something which you said you are going to make a ruling on.

**Mr. Deputy Speaker:** Order! We can do that later. Next Order!

### MOTION

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

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

*(Mr. Kombo on 5.7.2000)*

*(Resumption of Debate interrupted on 13.7.2000)*

**Mr. Deputy Speaker:** Hon. Kituyi, you were on the Floor. You have 20 minutes. Proceed!

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, thank you, very much for allowing me to continue from where I left off last Thursday. My starting point is something that has just happened here a few moments ago. An hon. Member of this House was making a presentation to the House, to suggest that somebody must have been involved in something irregular, and there was glee on the faces of Government Ministers and also foot thumping. That foot thumping was not because somebody has proved somebody has done something wrong, but because of an awareness that we are glad to see that there is somebody else who has been involved in a theft other than ourselves.

*(Laughter)*

Mr. Deputy Speaker, Sir, this just goes back to the first issue that I raised last week. What is the import of the debate of the Anti-Corruption Report to this National Assembly? Unfortunately, from what has come out of the Press, and what has been said on the Floor of this House, we have reduced the discussion of the crisis of corruption to one of inclusion or exclusion from the "List of Shame". There has been insufficient attention paid to the honour of leadership and of our National Assembly. What will be the most important watershed of this anti-corruption crusade in the history of this country? Will it be that Parliament haggled over who should be on the "List of Shame" and who should not be, or will it be that Parliament expressed outrage that even some of its own were on the "List of Shame" and, as a House, it was determined that it will now start the fight against this vice?

**The Minister for Education (Mr. Musyoka):** On a point of order, Mr. Deputy Speaker, Sir. While I hate to interrupt my good friend, Dr. Kituyi, I stand to ask for a ruling from the Chair. So much mention has been made of the phrase "List of Shame" and yet what is before the House is a report of the Parliamentary Select Committee on Anti-Corruption. Will I be in order to require that the Chair clarifies this matter because it looks as if the country is now obsessed with the question of who or who is not on the "List of Shame?" If, for instance, a whole person like Rev. Dennis White is included in that so-called "List of Shame" and he is not in a position to defend himself before this House, will I not be in order to feel that it goes against the basic tenets of natural justice that no person shall be condemned unheard? I seek a ruling that the phrase "List of Shame" should be done away with.

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

**Dr. Kituyi:** That is a point of order. How can you repeat the same?

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Chairman of the Committee himself clearly stated that there is nowhere in the Report any reference to the "List of Shame" and that this was a creation of the Press. Could the House



be in order to import that creation of the Press into the Floor of the House and in the records of HANSARD?

**Mr. Deputy Speaker:** Order! Order, hon. Members! Those who have read the Report, of course, know that there is no such thing as "List of Shame", but we have before us a Report emanating from the Select Committee of this House. That is what we are debating. However, let me say this also: Really, preoccupation with that list is missing the point. The point is the allegations. So, let us not concentrate merely on the list.

**Mr. Aringo:** Mr. Deputy Speaker, Sir, you have made a very good ruling.

*(Laughter)*

**Mr. Deputy Speaker:** Who is that Member who is treating the Chair with contempt? Proceed, hon. Dr. Kituyi!

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, please, protect me from persons who want to repeat what I am saying in another way by taking my time. I will say that let us not be obsessed with the so-called "List of Shame". I would say the so-called "List of Shame" is what we discredit the Press for calling it what it is.

Mr. Deputy Speaker, Sir, I wish to say the following: Hon. Orengo last week called upon us as leaders to deal with the root causes of problems and resolve them if they are not to recur in our politics. One of the biggest crises in our country is the land question. How are we going to deal with the land question as the basis of corruption? How can we correct historical ills that have been done against the vulnerable in our society? How can we correct the abuse of high office in treating public land like personal estates? These are questions we cannot run away from. These are not questions we can disguise because of trying to address audiences that are not here.

Mr. Deputy Speaker, Sir, if we enumerate that so-and-so was given a public house in Kileleshwa; so-and-so was given public land on the beach; so-and-so was given an ADC farm in some place in Rift Valley, and we blame these people for receiving land corrupt, we must also ask: Is the person giving that land that does not belong to him not even more corrupt than the recipients of that land?

*(Applause)*

A political culture which is ready to look at the peripheral phenomena and the "small fly", and not look at the root cause of the problem cannot help to solve these problems. Unless we abandon it, we cannot resolve the crisis that has brought us to the shame we are in today.

Mr. Deputy Speaker, Sir, there are three sides to the land problem right now in this country. The more short-term one is the criminal expulsion of citizens of this country from land they legally owned in the infamous ethnic clashes of the 1990s.

*(Applause)*

This is to the extent that perpetrators of those heinous crimes have been allowed to continue living on that land, and even in some cases, acquire instruments of ownership. We are legitimising corruption and crimes against citizens of this country; the corruption that is initiated through ethnic violence, armed violence and legitimised by letting people who lost their land totally extinguish their ownership rights over that land. If we have to correct corruption, we must rectify the crisis that derives from the ethnic clashes of the nineties.

Mr. Deputy Speaker, Sir, secondly, there is the crisis of the absence of a comprehensive body of laws about ownership and tenure of land. This has led to abuse of public land. Public land is held by the Government in trust for the people. It is not Government land. The Government has not bought it. When the Government buys land, it is for a Government project. However, for trust land that is entrusted in the Government, the Government is the trustee of the people of this country. Its principal responsibility is to protect and nurture the residual interest in that land of the citizens and future citizens of the country. When a Government exploits the absence of clear hurdles in abuse of that responsibility and starts treating that land as private estates to be given to the favoured, and to be denied to the unfavoured, there are two fundamental problems. One is abuse of office. You abuse the responsibility of a custodian of public land by treating it like private property you can give to some other people. However, secondly, it is actually corruption. You use what you are entrusted to protect to bribe people to do things, or to reward people for doing some things, or not doing some things. Every person who has illegally signed away public land is the principal perpetrator of corruption in the land dealings in this country. We know who has been signing away public land. We know who has been the principal custodian; the trustee of trust lands and public land in this country. The trust lands, during our youth, used to be called the crown lands in this country. If you look down upon them, a fundamental commitment of those who want change in this country is a commitment that they will have to rectify some of the excesses of that abuse of

privilege; a commitment that, if you want a new dispensation where corruption does not pay, some of those who have corruptly acquired pieces of public land must be made to pay commercial rates for those pieces of land, or must lose benefits and privileges for acceding corruptly that public property. That is the commitment that requires all of us to be committed to. It is a commitment that has nothing to do with self-defence, that if I say I was irregularly put on a certain list for people who acquired property, therefore, I have reduced the public shame that I brought to myself, family and my Parliament.

Mr. Deputy Speaker, Sir, we are talking about matters of national honour. If we were, indeed, in a country where virtue was profitable and honour was something we aspired to, persons suspected to be involved in corrupt deals would first step down, if they are holding public offices, seek to have their names cleansed and then seek re-appoint. In normal civilised society, a Minister of Government charged with fraud will not resit in the Cabinet as a Minister. He will step down and wait to be cleansed or convicted. If so cleansed, he can be re-appointed into the Cabinet. But we are living in a society without any such values. When we seek honour in such a society, we sound strange to others who look at us. We will sound ridiculous and even outrageous to those who will come after us. But the challenge to this National Assembly is, in spite of the heckling of those who have immediate personal guilt to protect, we must start cultivating a culture that is outraged by criminal behaviour. This is a culture that questions the millions that you give away at Harambees in the midst of starving millions of people. We cannot run away from the responsibility of turning around respect for leadership based on performance and integrity, and not on how much money one has pocketed through dubious means.

We cannot allow people to remain victims to a political dispensation which was granted on selective bribery. In the 1980s, as the State withdrew from financing social infrastructure, it started deliberately financing individual "viongozi wanaopenda maendeleo", to go and masquerade as the ones who could invest and develop things. We have become victims to that which adds a premium to easy access to money, which tempts us all to be corrupt. If Parliament can become the shrine for the worship of ill-gotten wealth; if parliamentary leadership is modelled in the view of those with more money than ideas, then this country needs another form of leadership, other than parliamentary leadership. But we have a responsibility. We have sworn to defend the dignity and honour of Parliament. That sworn commitment must be translated into action. This should be action that does not try to divide the morality of Kenyans along party lines. How can we have partisan lines about fighting corruption? How can we have partisan lines about the diminution of the dignity of the highest office in the land?

Mr. Deputy Speaker, Sir, if you read the Report that is under discussion right now, page 77 states:

"The President has abused the use of directives so excessively that Parliament is being asked to ignore Presidential..."

We should recommend that Presidential directives should be ignored. But when the President goes to a place and says: "Police should stop shooting people to kill", because some people there have been killed by the police, and then he goes to another place and says: "There are too many thieves; policemen, deal with them", that confusion confirms the need to start defining clearly when the Presidential utterances are policies or immediate policies. We want to protect the honour and dignity of the Office of the President. Can we start scaling down on Presidential directives? Can we start getting some logic or some semblance of rationality in the range of those statements?

In the countryside today, people are saying that they heard that the President said: "Stop caning children in school". Is it now in the law that if you cane a school child you will be charged in a court of law? Where is the boundary between the legal instruments and Presidential directives? That could have been done in the 1980s and before; but the dawn of the new century, how can we still have another route of legality? The route of Presidential directives is very much a twin-sister to the route of Presidential signature for the allocation of public houses. It is that impunity; that abuse of privilege that this House must express outrage about.

One of the worst things that have happened to this Parliament is the absence of an Implementation Committee. We make very nice speeches here; we even pass very nice Motions, get very good Government assurances about them, but all this comes to nought. This country cannot redeem its respect of Parliament unless Parliament has a way of forcing the Government to do what it promises to do. More than anything else, as a Parliament, our immediate most important obligation, according to this Report is the re-establishment of a Parliamentary Implementation Committee. Let hon. Members collectively commit themselves to the need, as a necessary step, to introduce an Implementation Committee so that Government assurances do not remain propaganda meant for media consumption, but become commitments which will translate into Government behaviour.

Mr. Deputy Speaker, Sir, as I approach the end of my contribution, I wish to say the following: We need, as a Parliament, to do three things. We have been disguising a fundamental problem, which is that corruption has eaten into the soul of the nation. We erect shrines to crown the sultans of corruption. That problem is much more larger than enumerating individuals who have been involved in pilfering our resources. Our nation has been humiliated. Whatever

one may want to say, if the President of Kenya is summoned to put in a defence in Washington over a case of Kshs34 billion because Mr. Ali Nassir Ibrahim has said that the President tried to use him, and when he refused to be used, the President destroyed his business, the shame does not remain with the President alone. That summon is a humiliation to the people of Kenya. Hon. Saitoti is also being summoned---

**The Vice-President** (Prof. Saitoti): On a point of order, Mr. Deputy Speaker, Sir. We have Standing Orders in this House. I think we need to respect them. One of the Standing Orders is with regard to discussing the President in this House, which the hon. Member is doing. If he wants to discuss the President, he can bring a substantive Motion.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, the hon. Saitoti has been in this House longer than me. If he cares to look at the Standing Orders, they state clearly that you cannot discuss the personal conduct of the President. The official conduct of President Daniel Moi is my business.

**The Minister for Education** (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir. I think Dr. Kituyi should accept that he cannot use the name of His Excellency the President as an authority for his argument. That is in the Standing Orders.

**Mr. Deputy Speaker:** Order! I think hon. Kituyi is repeating to this House what Prof. Anyang'-Nyong'o raised a week before, that a case has been filed in Washington against the Government of Kenya, where the President's name has been mentioned. He is not mentioning this out of his own bag. It is regrettable that the matter has taken that course of action. Prof. Anyang'-Nyong'o raised that issue here in the House, asking if the Government would submit the documents and have hon. Members look at them.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, you know there is a problem with some hon. Members who think that when they stand up here and say that other hon. Members are mentioning the name of the President, they sound more loyal than others. The fundamental point is that---

**Mr. Deputy Speaker:** Order! Order! Dr. Kituyi, even Members in the Cabinet have got their own rights and when they express them, you may not like them. But they have the same rights to express their views as you are doing just now.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, they do have those rights. I wish these Members just remember one thing---

**The Minister for Education** (Mr. Musyoka): On a point of order, Mr. Deputy Speaker, Sir. I listened to Dr. Kituyi, even touching on the constitutional powers of the President, with regard to allocation and disposal of public land. He used him as an authority and that is in the Standing Orders.

**Hon. Members:** No, that is an office!

**Mr. Deputy Speaker:** Order! Order! I am not a lawyer, but if I understood Dr. Kituyi correctly, he merely stated that the President had used those powers to allocate that land. He was questioning whether, in fact, we should now curb those rights.

**Dr. Kituyi:** There is one thing I wanted to say---

**Hon. Members:** Give him three minutes!

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

**Mr. Nyachae:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Motion. I would like to be very brief on this subject.

Mr. Deputy Speaker, Sir, the reason why this House set up a Select Committee to deal with this particular subject before us now is because the whole country had accepted that corruption is destroying our nation. We all agree, and I have not heard throughout the discussions here that there is anybody who supports corruption. Therefore, we must agree that this Committee had to carry out a job that will lead us to finding ways of stopping this evil activity. Comments have been made in this House that, perhaps, the Committee should have covered a much longer list. Personally, I would have wished to see the list going backwards. But still, there is nothing to stop the investigating team, the Kenya Anti-Corruption Authority (KACA), going backwards. The Committee did what it could during the limited time available and their Report does not say that the investigation should not go into any case that has been alleged since 1963. Those who are making those allegations can go back and investigate such corrupt deals.

Mr. Deputy Speaker, Sir, if this House seriously wants to deal with corruption, then, we must avoid the situation where self-defence takes more time in this House than finding ways of moving forward to establish a legislation that can stop corruption. I think the Committee has pointed out the genesis of corruption, and it has always been there in this country. We are actually worried about the excesses of corruption that have gone too far. Some are asking: Why is it that so much noise was not made about corruption before whereas it did exist? The reason is that corruption had not gone mad. It was there, but it had not gone mad. But in the recent years, corruption has gone mad. It has destroyed the country.

*(Applause)*

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir. Did I hear the hon. Member say, at that time corruption had not gone bad?

**Hon. Members:** Kaa chini!

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, the hon. Minister can---

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir. Do we, therefore, understand there is any corruption which is not condemnable and there is mad corruption, which is what we are singling out?

**An hon. Member:** It is the one which is not mad!

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, I do not have to answer a meaningless point of order.

*(Applause)*

I have stated very clearly that corruption has always been there, but the degree has been varying. It has gone mad and destroyed the country. If you look at the economy of this nation, there was corruption from 1963 up to the 1970s, and yet, the GDP growth of this nation was moving from 6 to 7.4 per cent. But because of corruption, we have turned backwards. We are now at 1.3 per cent GDP growth. That alone shows what corruption has done to this country. Therefore, madness of corruption is there and we should not deny it.

Mr. Deputy Speaker, Sir, personally, I would not wish to dwell on the list. As far as I am concerned, the names of the people in the list are there as examples and they are all allegations, because the Committee is not drawing any judgement on this Report.

*(Applause)*

The Committee is simply reporting back to the House what it has found out. There are two indications from that Report. At least, for those ones who have read it, it says that the Committee did make reference to some reports which have been tabled in this House before, either the Public Investments Committee (PIC) or the Controller and Auditor-General's Report or the Public Accounts Committee (PAC). They have made reference to those and they had not been stopped from making reference to those reports. Secondly, the Committee did give people audience. They also made their allegations. Those are the things they are reporting to this House, but they have not drawn up any judgement. They have not asked this House to draw any judgement on any individual named in that Report. They are simply recommending that the House looks into this Report, endorses it and refers it to KACA for further investigations. As far as we know, under the laws of this country, everybody is treated as being innocent until proved guilty. We are not proving anybody guilty here and, therefore, I do not think we should spend a lot of time debating whether I am guilty or not guilty. The allegations have been either in the PAC Reports, or by people who have appeared before the Committee. Let us treat them as allegations and move forward with the Report.

Mr. Deputy Speaker, Sir, let us be serious about this matter of corruption. If, for any reason, anybody is unhappy with this Report, he should tell us whether he wants us to allow perpetuation of corruption. How else do you want to deal with this problem?

*(Applause)*

This House did not expect to put up a Select Committee which was going to joke around. It was a serious Committee. I would say it is a Committee in which individuals concerned took a lot of risks because, to make allegations against me or against anybody, whether in the House or outside, is a very painful thing. I can understand, sometimes, that those who are named in the list are feeling very painful. It is a very painful thing, but we do not know whether you are innocent or not. So, the pain is there and we cannot say whether that pain is genuine in you or not. In this country, people commit rape and they still smile around. They believe they are innocent.

Mr. Deputy Speaker, Sir, we have heard people say: "Here I am and I am so clean." Well, it is very difficult to know whether you are talking about "clean" because you went to a bathroom and had a shower in the morning or you are clean because your heart is clean. These are issues which we need to understand and take into account because, if I am asked today, I would tell you that there so many people out there and even in this House, who did not have a bath in the morning! Whether they will say that they are clean or not, I do not know.

When people say, "I am clean", I do not know what cleanliness they are talking about. So, let us look at the

Report and say: "Here is a Report of a Committee, which we all supported jointly in this House to go ahead and do a job." They went ahead and did a job and they have brought the Report back, and they have said, "this is what we have found out." Can we then debate on that Report without having hard feelings about it? This is because nobody is drawing any judgement. As far as I am concerned, I do not see how this House can draw any judgement when the Committee is not requesting us to draw any judgement. The Committee is only asking us to adopt the Report and further action will be taken elsewhere! This is the position! What is our objective now? Our objective is to get a Bill drafted which will cover all the loopholes that create an appetite for corruption.

I listened to my brothers, hon. Dr. Kituyi and hon. Orenge, last week and they said, if we were careful enough in this House and we drew up a Bill or an Act of Parliament that takes into account those loopholes which give some powerful people chances to do certain things, we would have gone a long way in preventing corruption. That is what we need! Therefore, it is not an issue of the genesis of corruption. The genesis of corruption is just an introduction to this Report. It is not just dealing with that "List of Shame" which has been mentioned. If you gave this Committee a much longer time and told them to go back to 1963, I think the list would be much longer than the one they have produced.

Some of us have been in public offices for a long time and we know of projects like Ken-Ren. Obviously, there are certain questions about that. We know things like the Molasses Plant, Kenya Fibre Corporation and Halal Meat Products, and there are so many projects which have sunk because of corruption. There are so many others that could be brought in and which are actually left out because of the Committee's discretion to have a cut-off point and, therefore, they left out certain areas. So, we cannot simply end up with a decision that, we are only taking a decision on the list which has been made. The list has been made, yes, but I would very strongly hope that, when the investigations start on whatever this House decides, then let us hope that, that investigation team will go into all other cases of similar nature which have taken place, either after the Committee's Report or before. This will enable us to ensure that actions being taken by the Kenya Anti-Corruption Authority (KACA) are fair to all Kenyans, so that those who have been corrupt before can be tackled like anybody else. I think this is a fair request to put across.

Mr. Deputy Speaker, Sir, I am saying this because I believe that here it is not a question of condemning specific individuals. That is not the issue! The objective of this Report should be "how do we prevent corruption from continuing?" Why do I say this? I say this because, even if we grumble and say all sorts of things about what has happened; knowing our system over the years, since Independence, whatever this House decides--- One thing which is clear in my mind is that, we are not going to get a cent out of what has been eaten. What has been eaten, has been eaten and there is nothing you are going to get.

Mr. Deputy Speaker, Sir, even in this Goldenberg matter that you keep on talking about, I can assure you that what has been eaten has been eaten, and the whole thing is empty! You are not going to get anything back! So, we will simply be grumbling here for nothing. What we are really aiming at here, and what we should aim at is to stop any further destruction of public resources. That is what we are interested in, to avoid this thing being repeated. This is because we will surely destroy the country, if corruption is allowed to continue.

So, as far as I am concerned, I would strongly recommend that we look at this Report from a proper perspective; that is, how do we get ways and means of stopping corruption through legislation in this country? That is what I am supporting. Therefore, can we save time and avoid talking too much about corruption and saying: "It is not me; it is not so-and-so; it is so-and-so who ate---" This is because, sometimes when you ask: "Why did you leave out the others and picked on me"; in other words, you are saying: If I have eaten and others ate, why are you not including us all? That is not an argument, and that is not preventing corruption! That is not the way to look at it, because some of the people who have spoken here, have asked: "Why did you leave the others and you have only put up this list?" Are you saying, therefore, that: "I am on the list, but why did you not include so-and-so?" That is like a child telling his or her mother; "I ate a banana, but my brother ate it last week. Why did you not complain about what my brother did last week?" We should avoid such kind of thing and just condemn what has happened in the past and say: "In future, we must stop corruption of whatever nature." It is only through legislation that we can do that.

Mr. Deputy Speaker, Sir, the main thing about legislation, which I would like to appeal about this Report, is that when it comes to drafting the Bill, it should be a deterrent punishment.

**Mr. Wamunyinyi:** On a point of information, Mr. Deputy Speaker, Sir. I wish to inform the hon. Member that, arising from those complaints of brother and sister having eaten a banana, one hon. Member has been instructed by a Minister to move an amendment to expunge some parts of the Report, including the President's name, so that they kill this Report.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Order! Mr. Wamunyinyi, we are debating a fairly serious Motion! If you want

to crack jokes---

**Hon. Members:** No, no! It is true! Yes, it is true! That is very true!

**Mr. Deputy Speaker:** Order! There will be no such thing unless it has come to me!

**Hon. Members:** It will come! It is coming!

**Mr. Deputy Speaker:** Order! If a Member is busy learning how to compose a Motion, that is a different matter from proposing one! Unless it has been brought to me signed, there is no such thing as an amendment. Proceed!

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, I was about to wind up because I did not want to take a lot of time, but the information being given to me by my "brother" has prompted me to continue. We are aware of what is going on. The three hon. Members were taken into some towers and storey buildings, where they were "taken care of", and that kind of thing. Those are rumours.

*(Applause)*

**Mr. Deputy Speaker:** Order! Order! Hon. Nyachae, you cannot dismiss this as a rumour and then proceed to talk about more rumours. No more rumours now. Proceed.

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, I am not substantiating anything on the matter because it is a rumour. That is all I said.

**Mr. Deputy Speaker:** So, we do not want to hear it.

**Mr. Deputy Speaker:** Mr. Deputy Speaker, Sir, as we live in this world, rumours could, sometimes, have some substance, but the Standing Orders of this House do not allow us to debate rumours.

**Mr. Deputy Speaker:** Proceed!

**Mr. Nyachae:** Mr. Deputy Speaker, Sir, I would like to thank the Members of the Committee for a job well done, and ask that we take it that they have done their job on our behalf. Let us not assume that the Committee was there for any particular party, or group; it was a Committee of this House. I think it is very important to note that, sometimes, we tend to assume that there is a group of people who have influenced a Committee; these are things which are being said. Let us trust any Select Committee that we appoint, and listen carefully to what they have done. If every party that is represented in this House participated in the work of the Select Committee, how do we turn round and claim that the Members of the Committee are not the ones who came up with the recommendations, and that they may have been influenced in one way or another? Of course, if there is evidence that a Member of a Select Committee has been influenced and if such evidence is brought here in the form of a Motion we will, definitely, condemn him. However, merely circulating rumours to that effect is belittling the dignity of this House.

Therefore, I beg to support.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I rise to contribute to this historically important Motion. I neither support nor oppose the Motion and the Report of this Committee as it stands on the Order Paper. I rise to propose a general consensus.

**Hon. Members:** No!

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I rise to propose a middle course and the way forward.

**An hon. Member:** There is no middle course for corruption!

*(Loud consultations)*

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

**Mr. Anyona:** Mr. Deputy Speaker, Sir, therefore, I rise to propose an amendment to the Motion.

**Hon. Members:** Aah!

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I beg to move the following amendments to the Motion.

THAT, the Motion be amended:-

- (a) by replacing the fullstop with a comma after the word "Report" in the fourth line;
- (b) by adding the following words thereto:

"provided that-

- (i) All matters in the minutes in Volume II of the Report Minutes 125 - 510, 560, 562, 564, 565, 568, 569, 592, 614 and 619, (pages 560 - 841), relating to the Appendices in Volume I of the Report as well as all matters connected thereto be excluded;
- (ii) All matters in the Report relating to Appendices I, II, II/A, II/B, II/C, III, IV, IV/A, IV/B (pages

- 80-398) in Volume I as well as all matters connected thereto be excluded;
- (iii) All matters relating to corruption be investigated and established beyond any reasonable doubt by *prima facie* evidence in accordance with the provisions of the Constitution and the law as well as the rules of natural justice; and,
- (iv) All matters relating to the funding of the Committee be referred to the Powers and Privileges Committee".

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

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

**Mr. Obwocha:** Mr. Deputy Speaker, Sir, we would like your direction on this matter. The hon. Member who is moving this amendment, at one time, was the Chairman of one of the Parliamentary Select Committees, namely, the Public Investments Committee (PIC) of 1993; I have his Report here. One of the amendments the hon. Member is now proposing is what was passed by his Committee and adopted by this House.

**Mr. Deputy Speaker:** Order! Order! Hon. Obwocha, Mr. Anyona has not yet moved the amendments he is proposing. So, what is it that you are objecting to?

*(Loud consultations)*

Order! Order! Mr. Anyona may end up reading whatever he is reading now and say, "Hon. Members, I wish to withdraw".

So, proceed, Mr. Anyona.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I understand my responsibility to this House and country. I will, therefore, not accept or brook any intimidation, or blackmail from anybody.

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

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the Motion and Report before the House have placed this House on the horns of dilemma. They have put the integrity of this House in double jeopardy. The House cannot adopt the Motion and the Report as they stand without committing, one, possible illegality, and, two, possible injustice. This House cannot afford to commit either illegality or injustice. Equally, this House cannot reject the Motion and the Report without committing grave moral, political and social consequences.

Mr. Deputy Speaker, Sir, this House is the arbiter in the public interest. When there is conflict in public interests, they come to this House and this House, in its wisdom, resolves those conflicts. Therefore, this House cannot afford to fail, or waver, in this onerous responsibility to the country and the people of Kenya. Just to allay the anxieties - some of the people who are talking about this matter have very short memories - this is not a matter of conjecture. It is not a matter that I am raising out of the heat of the moment; I never act like that. I have served in detention prisons, prison cells and, for many hours---

**Mr. Deputy Speaker:** Aah!

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I would like to say the following. At the very beginning of the establishment of this Committee, I was very concerned, first of all, about its terms of reference. Secondly, I was very concerned about the manner in which its work might be done. As a result, I had exhaustive discussions with the Chairman of the Committee and its Members. My advice to them was: This is the beginning of a new process. Let us lay a firm foundation for the future. Let this Committee lay the foundation, so that, in future, we can deal with issues of corruption on the basis of that foundation. We did continue to consult all the way, but at some stage, when I felt that, maybe, things were going out of the normal course, I did raise the matter with the Speaker. On 8th January, 1999, I wrote a long memorandum, raising some of the issues which I felt were not in conformity with the rules of the House.

**An hon. Member:** Who appointed you!

**Mr. Anyona:** Mr. Deputy Speaker, Sir, I copied that letter to the Deputy Speaker, all Members of the Standing Orders Committee, because I felt that some of the Standing Orders were being violated; all Members of the Select Committee on Corruption and, finally, to the Clerk of the National Assembly. But in case anybody thinks that this is a matter which has just come up, I want to submit to the House that it is a matter that has been very central to my heart.

I beg to table this letter.

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

Having said that, I would like to say that this matter should be seen in the context of the background of the history of this nation. The struggle for our Independence was founded on the cardinal and immutable principle of

constitutionalism, democracy, freedom, natural justice, the rule of law and national unity. If you read the national anthem, you will see that---

**Mr. Orengo:** On a point of order, Mr. Deputy Speaker, Sir. I stand here on a point of order to seek your direction on whether this Motion that is being moved now is the type for amendment; whether it complies with the Standing Orders, and if it does, whether it is not infringing on the dignity of the House. The dignity of this House is something which is provided for in the Standing Orders, and Standing Order No.40(3)(d) requires Mr. Speaker to make an opinion as to whether or not a Motion that is proposed is framed in terms which are in consistence with the dignity of the House.

I am saying that this particular Motion is not consistent with the dignity of the House because, as you read it, it is quite clear that what hon. Anyona is trying to do is to impeach the character of a Select Committee of the House; that it does not comply with the Constitution, obey the rules of natural justice, and he is also making an allegation that, probably, this Committee carried its duty corruptly; that in doing its work, it was paid some money which should go to the Powers and Privileges Committee. So, if such an allegation is being made on the Floor of the House; if there is anything that one can describe as degrading the dignity of the House, then it is the Motion which is now being moved by hon. Anyona. I cannot think of any other thing.

*(Applause)*

If what hon. Anyona is doing is to clear his conscience, then we are also free to ask why he is moving this amendment at this time. Why is he moving it now, when, under the Powers and Privileges Committee, he could have made a complaint to it along time ago, to demonstrate to the House that he is not happy with the way the Committee carried out its work?

Mr. Deputy Speaker, Sir, Section 10(4) of the National Assembly Powers and Privileges Act states:  
"The Committee of Privileges shall, either of its own Motion or as a result of a complaint made by any person, inquire into any alleged breach by any Member of the Assembly---"

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Orengo:** Mr. Deputy Speaker, Sir, I am on a point of order.

**Hon. Members:** Dr. Godana, sit down!

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

**Mr. Orengo:** Mr. Deputy Speaker, Sir, I am very happy that you are not part of the regime. When this Minister was a Deputy Speaker, you would not perform the way he is performing.

*(Laughter)*

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Orengo:** I am on a point of order! He still does not know why---

**Mr. Deputy Speaker:** Order! Hon. Orengo, you stood on a point of order, but not really to contribute. Just make your point and let the Chair respond.

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Nobody stands on a point of order when another Member is on a point of order.

**Hon. Members:** Yes! He is out of order! He has forgotten!

**Mr. Orengo:** Mr. Deputy Speaker, Sir, let me give specific examples. Mr. Anyona wants us to amend this Motion in part "iv", that all matters relating to the funding of the Committee to be referred to the Powers and Privileges Committee. That offends Section 10(4) of the Powers and Privileges Act, because it creates the mechanism of going to the Powers and Privileges Committee. It can be done by the Committee of its own Motion, or by a complaint by a person and not by the House. I have done a lot of law and the House cannot be described as a person; a natural person can be described as a person or an organ. So, it offends Section 10(4) of the House's Powers and Privileges Act, but in relation to the fact that he is trying to impeach this Report, it is going against the dignity of this House, because we are the ones who appointed this Committee, and he is trying to tell us that it did not comply with the rules of natural justice and the Constitution.

Mr. Deputy Speaker, Sir, for that reason, I think you should not allow him even to dare try to move this



Motion, because it offends Section 10(4) of the Powers and Privileges Act. He should go back to the people who told him to bring this Motion to frame it better.

*(Laughter)*

**Mr. Anyona:** Mr. Deputy Speaker, Sir, is the Chair satisfied? I do not know whether the Chair wants to make a ruling.

**Mr. Deputy Speaker:** Order, hon. Members! I think one of the cardinal points in this House is that we must give every hon. Member an opportunity to have their say. Indeed, a Member could have stood in this House to move for the rejection of the entire Report. That is perfectly in order. That would have, perhaps, been a far greater way of showing disrespect to the House than moving an amendment. Let me say that if you read this amendment properly, it is not, in my view, proposing to exclude the minutes, because that would be totally unacceptable. It is proposing to exclude those sections of the minutes from which flow the proceedings. I think there is a difference. In any event, I cannot rule on whether hon. Anyona's Motion contradicts the spirit of the letter of the original Motion or not because he has not finished moving it. When he has done that, it will be my responsibility, indeed, to say whether I agree that this amendment is consistent with the original Motion or whether it is inconsistent. So, for the time being, I will allow hon. Anyona to continue.

*(Applause)*

**Mr. Anyona:** Thank you, Mr. Deputy Speaker, Sir. As I said, hon. Orengo and I have been in many political battles, but that does not mean that we necessarily have the same views all the time.

I was saying that this nation has a foundation, and as I was saying, if you look at the National Anthem, you will find that the basis of justice and national unity echoes through it. If you read our motto at the entrance and exit of Parliament, you will find that it talks about the "Welfare of Society and Just Government of Men". If you read our own prayer, which you read every day, it talks about matters that are brought to this House in so just a manner. In other words, if something is brought here in a manner that may not be just, then we are contravening even our own prayers to the Almighty God.

Mr. Deputy Speaker, Sir, the oath of allegiance which we have all sworn or affirmed to talks about to promote, defend and protect the Constitution of Kenya as by law established. What is the Constitution of Kenya? It is the total sum of the rights and freedoms of Kenyans. That is what we have sworn to promote, defend and protect.

If you look at the Constitution itself, on the Protection of Fundamental Rights and Freedoms of the Individual, Chapter 5 - in particular, Section 77 talks about the rule of law - it will be quite clear to you what the role of Parliament is. It is not to hang people. It is to make laws which decide who is to be hanged or not, in the courts. The role of this Parliament is not to turn itself into a kangaroo court which condemns people unheard.

Mr. Deputy Speaker, Sir, in my view, the mandate of the Committee had some problems. One of them was that the Committee did not have constitutional and operational capacity to investigate a matter of this kind and come up with specific recommendations of criminal act. It could not do that. It was not even its constitutional role. No wonder, therefore, the Committee had to resort to conjectures and allegations which are now referred to KACA for investigation. Parliament cannot adopt a Report which contains allegations against citizens, and then, send police to investigate innocent citizens. What hon. Orengo said, and it is the law, is that all citizens, are innocent until proven guilty. What we are saying here is that these are allegations--- We are now being asked to approve allegations, and to tell KACA to investigate those adversely mentioned in this report. That would be totally wrong for this House to do.

Mr. Deputy Speaker, Sir, I do not want to bring acrimony into this Report, but my interest is that this Parliament should rise above this pettiness. But since these issues are being raised in terms of procedures, then it is important for this Parliament and its Committees to follow them. If we do not do that, we can as well close shop. If you look at Standing Order No.150, it states clearly the procedure to be followed in the Committee of the House. Hon. Orengo wants us to be fastidious. I can be more fastidious than him. Look at Standing Order No.157, and I hope hon. Orengo has a copy of the Standing Orders. I believe he does not. He just talked from his heart. A heart without reason is nothing.

Under Standing Order No.157, there is a requirement of the Committee, in reference to the Chairman, to appoint an acting Chairman. What this Committee did was to appoint a substantive Vice-Chairman. That is irregular and we cannot allow a Committee of the House to do that. We agreed in Safari Park that henceforth, we may need Vice-Chairmen, but we have not reached there yet. This Committee went ahead and appointed a vice-chairman. I did not want to raise it, but since you want us to be fastidious, let us do so. That is one thing that happened.

Mr. Deputy Speaker, Sir, if you look into the provisions of Standing Order No.164(4) and Section 15 of the

National Assembly Powers and Privileges Act, as well as the general rules of natural justice, you will find that, in fact, the Committee erred. The Committee converted its sittings into seminars and workshops. That is contrary to the procedure. The Committee extended its mandate. They went to Narumoru Club to deepen the mandate. You cannot deepen the mandate of Parliament. It gives you the mandate and you cannot extend or limit it. You can only come back to Parliament, either to extend or limit it. That was not done.

**An hon. Member:** Bw. Anyona amelipwa!

**Ms. Karua:** On a point of order, Mr. Deputy Speaker, Sir. The conduct of the Committee is not the subject of the debate. If the hon. Member wanted the conduct of the Committee to become the subject of intense discussion in this House, the doors are open to him even now. He can bring a substantive Motion---

**Mr. Deputy Speaker:** Ms. Karua, you are quite right. The conduct of the Committee is not an issue. It is a Report of the Committee which is before the House.

**Ms. Karua:** Thank you, Mr. Deputy Speaker, Sir. Mr. Anyona is going on to discuss the conduct of the Committee and I would like the Chair to look at number four of his amendment. Standing Order No.48---

**Mr. Deputy Speaker:** Order! We will come to that.

**Ms. Karua:** Mr. Deputy Speaker, Sir, if you could allow me to make my point, Standing Order No.48(1) clearly states that if Mr. Speaker is of the opinion that the proposed amendment ought to be the subject of another substantive Motion, it ought not to be allowed. I am, therefore asking whether it is in order for this particular amendment to be lumped up together with the others? I have also objection to the other---

**An hon. Member:** He was paid!

**Mr. Deputy Speaker:** Order! As I said, I will make a ruling on all those issues. But I must give him an opportunity to move. I will rule on all those issues.

Proceed, hon. Anyona.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, the hon. Member is saying that we are discussing the conduct of the Committee. We are discussing whether or not the Committee complied with the rules of the House.

Mr. Deputy Speaker, Sir, let me talk about funding. Section 99 of the Constitution is quite clear on how Government services are funded. If you fund any function of Government outside the provision of the Section 99 of the Constitution, you are violating it. In this particular case, we are told that the Committee was funded by CGD, USAID, World Bank and other people to go to Botswana. If you look at *Erskine May*---

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

**Mr. Deputy Speaker:** Order! Hon. Orenge, go back to your seat. Proceed, hon. Anyona.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, if you look at *Erskine May* in this particular case, the book states that if a committee of Parliament goes outside the country and sits outside the country without the leave of the House at public expenditure, that expenditure is illegal. Here is a case.

(Applause)

**Prof. Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Member to keep on harping in this House that the Committee was funded in any manner that was not in fitting with the rules of this House, when Mr. Anyona and the House know very well that every thing that the Committee did was done with the authority of the Speaker and the Clerk of the National Assembly? If he is not satisfied that he was not in the Committee and he has been jealous of the Committee from the beginning, let him say so.

**Mr. Anyona:** Mr. Deputy Speaker, Sir, whether it was done with the consent of the Speaker or not, that would be contrary to the provision of Section 99 of the Constitution of Kenya. I want to make it quite clear that I have no other interest, but this Parliament must not be put into embarrassment. Right now, there is a constitutional interpretation being sought in the High Court. Parliament must act wisely. If we do something wrong, the courts are going to find that Parliament acted unconstitutionally.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to move.

**Mr. Orenge:** On a point of order, Mr. Deputy Speaker, Sir. There is something that has been said here. If you allow hon. Anyona's comments to go without any direction from the Chair, then, we will be forced to also discuss the Speaker. This is because he is telling us that even the Speaker or the House allowed the Committee to proceed against the rules of the House. There are letters that we have which show quite clearly that the Speaker was fully informed at every moment of the deliberations and the conduct of the Committee. I insist---

**Mr. Deputy Speaker:** Order! That matter has come up in the House before, and I did advise the House that, indeed, the Speaker was informed of the intention to fund some of these seminars by bodies other than the Government. The Speaker did accord his acceptance and approval for that process to continue. Already, copies of

those letters have been laid on the Table, and so, it is a non-issue. The Committee had the approval of the Speaker, and so, if there is an issue to be taken, it should be with the Speaker, and not in this Chamber, because that was purely an administrative issue.

**Mr. Maundu:** On a point of order, Mr. Deputy Speaker, Sir. Previously, when hon. Anyona was moving this Motion, you did indicate quite clearly that we should discuss the integrity of the Committee. Towards the conclusion of this particular amendment, hon. Anyona did indicate that the Committee was acting irregularly. Is it not possible to delete those statements from the HANSARD because they impinge on the integrity of the Committee which is not under discussion at this time of the Motion?

**Mr. Deputy Speaker:** Order! I clearly missed those words, and I will check up in the HANSARD and give a ruling. As I said, the integrity of the Committee was not in question; a Committee of the House cannot be impeached by the same House. I think we will be setting an extremely dangerous precedent. I will check those words in the HANSARD, and if they are there, I will get them expunged.

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Thank you very much, Mr. Deputy Speaker, Sir, for giving me the opportunity to second this Motion, and in that process, contribute to this very important debate on a most important subject before this august House.

As a Seconder, I am within my rights to contribute, both to the original Motion as well as to the amendments, because I have not already contributed to the debate before the House. It is right and fitting, indeed, that this House, as the supreme source of law, the guide of national morals and the nation into the future, should feel it proper and receive the initiative to examine this most important illness which has afflicted our society. No one doubts that corruption is a serious societal problem in our country. It is not a matter of one party; it is not a matter of the party in Government; it is a serious societal problem, and the earlier we are honest enough to accept that, the better.

I stand to condemn the Report of the Committee. I think this Committee which was given a noble challenge by the House to inquire into the origins and causes of one of the worst malaise afflicting our society miserably failed to do its duty, and worse, indeed, shamefully failed to live up to the expectations expected of it.

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, as you have set a precedent, beyond the flowery use of condemnational language, when a hon. Member of this House has been mentioned in that Report, he or she has a unique privilege, which hundreds of other people do not have. I have been shown a property in Kileleshwa, next to Kileleshwa Primary School, and told: "That this place, which used to be a Government plot and which has been pulled down, and now has a big highrise property, was allocated to hon. Dr. Bonaya Godana." It is mentioned in this Report. Can the hon. Minister tell us this: Was he or was he not given that Government house?

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Mr. Deputy Speaker, Sir, I am coming to that, and they are jumping up to waste my time.

**Hon. Members:** Shame!

**Mr. Deputy Speaker:** Order!

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Mr. Deputy Speaker, Sir, I know that many of these hon. Members know---

**Mr. Deputy Speaker:** Order! Hon. Members, you are asking the Minister a question, and then, you are not giving him an opportunity to answer.

Proceed, Dr. Godana.

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Mr. Deputy Speaker, Sir, many of these hon. Members know very well that I will demolish their case, and that is why they would like to drown my voice in shouts. If they have guts enough, let them listen to me.

The Report of the Committee which is before the House is unacceptable for a variety of fundamental flaws. It is true that I have been mentioned in the said Report---

**Mr. Munyasia:** Mr. Deputy Speaker, Sir, in my understanding, hon. Dr. Godana is supposed to be seconding the amendments, which are not condemning the Report. But did you hear him saying that he stands to condemn the Report? In that case, is he seconding those amendments or what is he doing?

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Mr. Deputy Speaker, Sir, the hon. Member who has just spoken, definitely, needs to study the Standing Orders, which give a hon. Member contributing to a debate on the amendments the right to contribute to the original Motion, if he or she has not already done so. I had not already done so, and I am entitled now to do so.

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

**The Minister for Foreign Affairs and International Co-operation (Dr. Godana):** Mr. Deputy Speaker, Sir, they are filibustering these are not points of order. This is a deliberate attempt to filibuster and waste my time. I seek your protection.

It is true that---

**Dr. Kituyi:** Mr. Deputy Speaker, Sir, the Standing Orders of this House allow that an hon. Member can contribute to a Motion and support an amendment except, perhaps, if he or she is seconding it. But the fundamental question is this: If you condemn a Report at the outset, you cannot possibly be seconding the amendments to it.

**Mr. Deputy Speaker:** That is a point of argument!

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Thank you very much, Mr. Deputy Speaker, Sir. Precisely, because I find the Report unacceptable and condemnable, I am prepared to go along with the amendments to correct those flaws. I have been mentioned in the Report as a beneficiary---

*(Loud consultations)*

Mr. Deputy Speaker, Sir, why are they afraid to hear me? Why are you afraid? Hear me! I am admitting it; I got it! But hear me! I have been mentioned in this Report once, and it is a reproduction of the same---

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

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, those are points of argument. It is a reproduction of the same plot, and it is duplicated; it is one. I have been mentioned in the Report as one of the beneficiaries of the so-called "illegal plot allocations," a fact which one of the main print companies' media in Nairobi have found very useful to put my name very high up in the so-called "List of Shame." I want to state at the beginning, as I stated here before, that I am a very clean man.

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

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I also know that the whole purpose of seeking to sing Dr. Godana's name on the basis of one plot which I legally got is to try and tell the world: "You know, even Dr. Godana is not as clean as people think." That is the agenda. I am afraid that no amount of mud will stick on me. I am anointed with the oil of cleanliness. I was allocated a plot in the Kileleshwa District of Nairobi by the Commissioner of Lands, legally and transparently in accordance with the law.

Mr. Deputy Speaker, Sir, there is some falsehood which many---

**Mr. Osundwa:** On a point of order, Mr. Deputy Speaker, Sir. The provisions of land allocation require that before property is allocated, it has to be advertised. Now that the Minister is admitting that he was given his house, can he confirm whether this particular plot was advertised in the Press?

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, he cannot teach me the law and if he had listened further, he would have understood. He certainly cannot tell me anything about the law.

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

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

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): I would expect somebody like hon. Obwocha who was privileged to be in my Committee when designing these Standing Orders to at least have the courtesy to respect the rules of the House which he helped design.

**Mr. Obwocha:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Dr. Godana to keep on misleading this House that he got this plot according to the law when we know that Government property that cost in excess of Kshs200,000 must be approved by this House? When was this plot approved by this House?

**Mr. Deputy Speaker:** Order! Hon. Obwocha, that is not a point of order. I cannot send you out because I am reluctant to reduce your numbers. So, I will let you get away with that.

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): That, definitely, is not part of the law of Kenya. It must be a figment of his imagination or wishful thinking. I said I was allocated the plot in question legally---

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

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): I would expect a senior hon. Member like hon. Michuki to respect this House.

**Mr. Michuki:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for a Minister of the Government to be unaware of the provisions of the Exchequer and Audit Act and the regulations made thereunder by the Minister for Finance that no Government property in excess of Kshs200,000 can be given away unless a Sessional Paper has been approved by this House?

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): If these hon. Members had the patience and the courtesy to allow Godana, whom they have accused unfairly to explain his case, they would

not be jumping up every two or three minutes.

The Committee was also guilty of professional misconduct for knowingly depicting in the Report the plot allocated to me as that of a Government house. I never acquired a Government house. The house in question - if there was a house, a semi-permanent structure built of mud, plaster and mabati roof - had been condemned long before I applied for it. It had been boarded. I got vacant land. Some falsehood is being peddled around that whenever the Government allocates land, it is under obligation to charge the market value for it. I want to state here that there is no provision in the laws of this country or in the practice of precedence in this country that plot allocation by the Government for residential purposes shall be only for commercial purposes.

**Mr. Orenge:** On a point of order, Mr. Deputy Speaker, Sir. Is it right, as a matter of record, for the Minister to create an impression that once you have vacant Government land without a house on it, it ceases to be property? I think he should go back to the Law School.

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): If I need to go back to Law School, it must be to teach people like hon. Orenge, who got there on a pedestrian ticket. I insist that property for this purpose was physical property on land. If indeed, those whose names have been mentioned like mine should have paid market value for that plot, I submit that each and every land allocation in this country since Independence, whether it is for residential, agricultural, commercial, hotel or industrial purposes, was illegal. The Committee should be prepared for us as a House to say that all we have engaged in has been an illegality.

**Mr. Wamalwa:** On a point of order, Mr. Deputy Speaker, Sir. I think the Minister speaking needs a little respite briefly because he was talking like a machine gun. Is it really in order for him to cast aspersions on hon. Orenge's intellectual ability when I, as his teacher, know that he was one of the best students the Nairobi University has ever produced?

*(Applause)*

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): If the Chairman of Ford-K vouches that, then I withdraw it. On a more serious note, we cannot accept the Report in its original version. I do not think it is proper for us to dismiss serious fundamental flaws in the presence of this Report before this House on cheap or petty pretexts such as discussing the conduct of the Committee. As regards those hon. Members who have been injuriously mentioned by the Report, it has already put our conduct, reputation and character on the table. Due to the internet operations, it has already gone abroad, outside this country. Some of us have reputations outside as well. It is, therefore, not fair that we be told that we cannot cast aspersions when it is such aspersions which show fundamental flaws in the Report.

It is unthinkable that this Committee admitted - nobody disputed this - that it got up to Kshs2 million from extra parliamentary sources in the name of NGOs and agencies of foreign governments operating here. This is not a simple matter. I think we must have the capacity to respect ourselves as a House.

**Mr. Wanjala:** On a point of order, Mr. Deputy Speaker, Sir. If I remember very well, you made a ruling here that the Committee received some money from external sources with the Chair's consent. Is it in order for the Minister to continue questioning your ruling?

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I am not aware of any conclusive ruling from the Chair that this matter cannot be discussed. This is such a serious matter that I think whatever side we are on, we should at least have the courtesy to extend each other respect. It is unthinkable, indeed an anathema, for a Committee of the House of Commons, Congress, or any Parliament which is worth its name to be influenced or even to receive external gifts, loaned or perquisites in any form more so---

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

**Mr. Deputy Speaker:** Order! Hon. Wanjala, if you want to contribute, catch my eye. You cannot interrupt every minute on a point of order. The hon. Member also wants to contribute so that his ideas may be heard.

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I want to plead with the hon. Members. Let us have at least the minimum decency. Let us extend each other the minimum decency to respect the right of every hon. Member to be heard. I respect this very much in the old practice of this House.

**Mr. Ochillo-Ayacko:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order! Overruled! Let the hon. Member also contribute! If you want to contribute, stand up, catch my eye and make your point. But 90 per cent of hon. Members are rising on points of order merely to ask questions or to argue. You are better off advancing your arguments over a long period of time. Proceed!

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Thank you very much,

Mr. Deputy Speaker, Sir. I just want to plead with the hon. Member to have the courtesy to extend to another hon. Member like himself, against whom there is a serious allegation on the Floor, to have the opportunity to defend himself! That is all I am asking for! I was saying that it is unthinkable for any Parliament worth the name, to have its Committee paid to do investigative work by an outside body. If it happens, it is taken as a serious breach of the rules and privileges of the House, and as a contempt to the House.

**Mr. Kathangu:** On a point of order, Mr. Deputy Speaker, Sir. Dr. Godana says that this House should give him an opportunity to defend himself. Is it in order for this House to listen to whichever evidence Dr. Godana wants to give?

**Mr. Deputy Speaker:** Order! In the first place, that is not a point of order! You are arguing! If I had not made the statement that I do not want to reduce any sides in number, I would have done something very different to you! A Member who wishes to defend himself in this House has the right to do so. Hon. Kathangu, if you have an issue that has been raised in the Report, and you wish to defend yourself, I will give you an opportunity to do so. If he has been mentioned in the debate in the Report, he is the subject of the debate!

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Thank you very much, Mr. Deputy Speaker, Sir. It is not necessary to nullify or to put grievously in question, the credibility of the Report. It is not necessary that we show the Committee Members were personally influenced unduly. It is sufficient that there was that potential for undue influence by the acceptance of funds without the authorization of this Parliament. The Committee by that fact is guilty of impropriety, precisely because this was a Committee on corruption, which was appointed to examine and pass judgement on the moral character of members of the public, including Members of this House. They should, in fact, have lived in a much higher moral ground. They should have guarded against any accusations which could possibly paint the credibility of the Report. They miserably failed to guard against that, and on that ground alone, this Report cannot be accepted in the manner in which it is!

Further, Mr. Deputy Speaker, Sir, there is a cardinal rule of natural justice; a universal rule of natural justice, codified in our own laws, by being enshrined in---

**Mr. Kombo:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the hon. Minister to impute improper motives on the Committee, by implying that the Committee was corrupted by being funded from outside?

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I wonder whether he listened to me, or whether he is talking from his heart and not his mind! I started a sentence by saying: "It is not necessary that we even prove as a matter of fact, that, Committee Members were unduly influenced by being corrupt." That is the implication which is seeking. It is sufficient that they engaged, maybe negligently - I would want to believe negligently - since they wrote and got letters, that they engaged in soliciting and obtaining funds from extra-parliamentary budget; from private bodies outside! A Committee of this House is a child of this House! It is responsible only to this House. It can take instructions only from this House and not anybody else; whether that body is a private body or a public body outside---

**Mr. Deputy Speaker:** Order! I have already ruled on the question of the funds from extra-governmental bodies. So, it may not be a subject of further debate.

**Mr. Ochillo-Ayacko:** On a point of order, Mr. Deputy Speaker, Sir. We have listened to the allegation by the Minister that the Committee was compromised by receiving money from extra-parliamentary sources. Now, is it in order for the Minister to make that allegation without specifying the specific laws that the Committee violated, and that makes receipt of that money unlawful or immoral?

**Mr. Deputy Speaker:** Hon. Ochillo-Ayacko, I have just ruled that I had already made a ruling---

*(Loud consultations)*

Order, hon. Members! Before hon. Ochillo-Ayacko raised that point of order, I had already made a ruling! So, let the Minister proceed.

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

Order, hon. Sifuna! There is nothing to get excited about! There is absolutely nothing to get excited about! This is because I have ruled that nobody will refer to that little sum of money that the Committee---

**Hon. Members:** But he is still talking about it!

**Mr. Deputy Speaker:** But I have already ruled him out of order!

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

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker,

Sir, I do not want any information! Do not waste my time, bwana! You are wasting my time! I think the Clerks-at-the-Table are also wasting my time!

Mr. Deputy Speaker, Sir, in any case, I had already left that subject. There is a universal rule of [**The Minister for Foreign Affairs and International Co-operation**] natural justice that, no man shall be condemned unheard. That rule is codified in Section 77 of our own Constitution. The Committee owed me a duty that, on the very first time they heard Godana's name on this list, they should have notified me and told me: "Dr. Godana, you have been mentioned with regard to some allegation of impropriety! We are giving you an opportunity to come and defend yourself!" They did not do that! They did not do that to many other people. A Committee, such as the one which came up with the Report that we are discussing, is engaged in a *quasi-judicial* exercise. It has already passed judgement on some of us.

**Mr. Muchiri:** On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to talk about the rule of natural justice in this House, when we know very well that, being in-charge of the Ministry of Foreign Affairs and International Co-operation, he extradited somebody to Kosovo before he was heard first of all in this country?

Mr. Deputy Speaker, Sir, I did not know that these Members on the opposite side fear Dr. Godana so badly that they have to deny him an opportunity to be heard. That has been proved today. I do not extradite anybody; that is the responsibility of the Attorney-General of the Republic of Kenya.

I beg to second the Motion. This report must be amended as proposed.

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

**Mr. Deputy Speaker:** Order! I will now propose the question of the amendment.

*(Question of the amendment proposed)*

**Mr. Deputy Speaker:** Now, I have something to say with regard to section (iv). I would like to inform the House that this is a matter over which the Speaker had ruled mainly, that he approved the receipt of those monies and their expenditure for purposes of facilitating the work of the Committee. Since this amendment (iv) really does not relate to any part of the Report of the Committee now before us, I am in some difficulty as to how to include it in the proposed amendment when, in fact, it does not form part of the report. In my view---

**An hon. Member:** Strike it out!

**Mr. Deputy Speaker:** Order! I can only strike it out with the agreement of the House and I do propose that we do strike it out so that we have matters only relevant to the Report before the House.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. You say this is not a part of the Report; however, if you look at the Minutes in which the trip to Botswana is discussed, it is clearly indicated that there was foreign funding. In the case of the Naro Moru and Lake Elementaita meetings, it is quite clear and there is no doubt that there was foreign funding.

Indeed, the chairman himself was good enough to say so. He did not acknowledge it in the Report, but he said when he was moving the Motion that there was Kshs5 million from the Exchequer and Kshs2 million from donor funding. That is a matter which is part of the record of this House. How can we now argue that it is not part of the Report?

**Hon. Members:** That is not true!

**Mr. Deputy Speaker:** Order! Order, hon. Members! It is true that, in fact, this matter has been referred to in the debate, but the point I am making is simply this: That it does not have to go to the Committee of Privileges via a resolution of the House. Indeed, hon. Anyona is on record as having written about it to the Speaker. So, I assume that it is really a matter being dealt with in the relevant Committee. That, really is my concern, that it is a matter, strictly speaking, referred to in the debate in this House, but strictly speaking not part of the Report on which we should---

**An hon. Member:** Put the question!

**Mr. Deputy Speaker:** Order! I cannot put the question, but we are discussing part of the Report. Yes, hon. Dr. Godana!

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I sat on that Chair for five years and---

**Hon. Members:** So what?

**The Minister for Foreign Affairs and International Co-operation** (Dr. Godana): Mr. Deputy Speaker, Sir, I am sure many of my colleagues including hon. Orengo will recall that they elected me unanimously without a dissenting vote. They knew my competence and I left with dignity without a single voice of a motion raised here against me. However, be that as it may, I respect the wisdom of the Chair and I think we have to be careful.

I presume the Speaker did, when the matter arose, explain the circumstances in which the Committee received

funds from extra-budgetary allocations. I do not believe, and I would like to be notified, that the Speaker made a substantive ruling in a manner in which we can only put it aside by a resolution of the House. I hope we do not have to come to that. I think this matter is so integral to the case we have against the credibility of this Committee that it should not be expunged from the proposed amendment.

**Ms Karua:** On a point of order, Mr. Deputy Speaker, Sir. I have been looking at Standing Order 48. It seems under this Standing Order 48 (2), we must consider whether in its opinion, the amendment should be permitted. One, whether it presents a direct negative of the question proposed and under Standing Order 48 (1), whether it raises a matter that should be raised in a Substantive Motion. If anybody wishes to discuss this Committee, the channels are open to them. Therefore, it is not up to this House to acclaim. It is up to Mr. Speaker's opinion and the question is obvious.

*(Applause)*

**Mr. Deputy Speaker:** Order! Actually, this is not even under that Standing Order. Look at Standing Order 162, which specifies what should be laid before the House, and the budget of the accounts of the Committee is not one of them. Therefore, I so rule that this section (4) of the proposed amendment cannot be discussed under that item.

*(Applause)*

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

**Mr. Deputy Speaker:** I have already proposed the question. There is no point of order.

**Mr. Kathangu:** Bw, Naibu Spika, kila mmoja wetu ambaye amesimama tangu tuanze kuzungumzia mabadiliko na ni vipi Hoja yetu itabadilishwa, amesema kwamba sababu yeye hakuweza kupata nafasi ya kuzungumzia Hoja ya kwanza, ataendelea kufanya hivyo, na mimi pia nitaendelea kufanya hivyo hivyo.

Bw. Naibu Spika, jambo ambalo linanistaajabisha ni kwamba anayejua ni mwizi akiitwa mwizi anakasirika sana; na anayeitwa mwizi na anyang'anywe kila kitu ambacho ameiiba bado anakasirika. Yule ambaye anaitwa mwizi na anasamehewa pia anafurahia sana kwamba aliiba ya kutosha. Wakati ambapo tuko hapa, mimi ningelitaka kusema tuu mambo matatu. Jambo la kwanza ni kwamba kwa miaka 107, Kenya imekuwa na shida kubwa sana kutoka kwa ufisadi wa mkoloni na ukandamizaji wa watu wa nchi hii kutoka kwa umabafu wake.

Bw. Naibu Spika, Kenya imeshuhudia watu ambao wamekuwa na shida katika uongozi kwa miaka ambayo ilifuata uongozi wa Mzee Jomo Kenyatta.

**Mr. Orenge:** On a point of order, Mr. Deputy Speaker, Sir. I am sorry for interrupting my hon. friend, but there is an issue which is pending which we do not understand. You have proposed the question, but left the matter in suspense. I understand that hon. Kathangu is now proceeding with his contribution on the proposed amendment, whereas the issue as to whether or not part (iv) forms part of the proposed amendment, or whether it has now been cleared by you for debate. That issue has not been dealt with by you. Do we understand that you have proposed the question and, therefore, we can proceed with the debate?

**Mr. Deputy Speaker:** Yes.

**Mr. Orenge:** But has part (iv) been struck out?

**Mr. Deputy Speaker:** Yes.

**Mr. Orenge:** Thank you, Mr. Deputy Speaker, Sir. I did not know that.

**Mr. Kathangu:** Bw. Naibu Spika, kwa miaka 22 ambayo Rais Moi amekuwa akiongoza nchi hii, tumeendelea kukandamizwa sana. Shida ambazo tunazungumzia sasa zimetokana na wizi, ukandamizaji na mauaji ambayo yamekuwa yakiendelea katika nchi hii yetu.

Jambo ambalo limekuwa katikati ya ufisadi nchini Kenya ni kuhusiana na mashamba. Mashamba yamekuwa ndiyo chanzo katika nchi yetu kwa kuwa kila mmoja wetu angetaka kuwa tajiri, na pamoja na hayo, apate pesa ambazo anaweza kutumia kufanyia hilo shamba kazi na apate madaraka ya kutosha ili ikiwa kutakuwa na shida yoyote, kwa mfano, kama zile pesa au yale mashamba yatakuwa na shida, awe na uwezo wa kujisimamia kisiasa na kiuchumi, ili yale mali ambayo amepora kutoka kwa wananchi aweze kuilinda na kukataa nayo.

Bw. Naibu Spika, jambo lingine ambalo nimeliona katika Bunge hili na ambalo lina maana kubwa - na ninasema haya maneno kwa uchungu mwingi wa roho - ni kwamba yule Mbunge ambaye amelea mabadiliko katika Hoja ambayo tunajadili, Mhe. Anyona, kwa muda wa zaidi ya miaka 20 sasa, mimi na yeye tumepigana katika nchi hii, tumewaza na kushauriana ni mabadiliko gani ambayo tunataka katika nchi yetu. Jambo la kwanza ambalo lilikuwa ni lazima tuone kwamba limenyanyuliwa, ambalo tulizungumzia na tukasema ni lazima limalizwe katika nchi hii, ni wizi ambao unatokana na viongozi wa Serikali. Ninahisi uchungu rohoni nikijua kwamba kila siku, kwa muda wa miaka



mingi, mimi na Mhe. Anyona tumekuwa katika shida kwa sababu ya viongozi wa Serikali na ambao siku ya leo, Mhe. Anyona anataka kuwasimamia na kuona kwamba hawatapata shida.

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for hon. Kathangu, whose conduct and behaviour was despicable when we were in prison, to drag my name into this? How does my name come in? I moved an amendment and it is my right to do so.

**Mr. Deputy Speaker:** Order! This House, of course, regrets the falling out of comrades because we all want to be comrades together. So, hon. Kathangu, would you stick to the matter before us?

**Mr. Kathangu:** Bw. Naibu Spika, mimi leo niko na miaka 50 tangu nizaliwe. Katika hiyo miaka nimekuwa jela kwa muda wa miaka minane na nusu. Kwa muda wa hiyo miaka minane na nusu, kila siku mimi na Mhe. Anyona tuliwaza na kuomba ya kuwa siku moja tutapata uhuru ili tusimamie nchi hii. Mimi nimejua kwamba kuna viongozi katika Bunge hili ambao walijipata uongozini kimakosa. Hii ni kwa sababu waliambatana na wengine ambao walikuwa na haja na nchi, lakini wakakutwa na polisi kimakosa na wakafungwa, halafu baadaye wakasema eti wao ni viongozi katika nchi.

Bw. Naibu Spika, sababu ya Mhe. Anyona kusema eti mimi nilikuwa na tabia mbaya katika jela ni kwa sababu nilimpiga makofi mengi kwa sababu ya kushirikiana na wasimamizi wa jela kutukandamiza. Hii ndiyo maana ninaona siku ya leo Mhe. Anyona ameshirikiana na viongozi wa Serikali ili kumaliza Upinzani.

**Mr. Deputy Speaker:** Order! Hon. Kathangu, the Standing Orders are very clear. If you want to discuss the conduct of a fellow hon. Member, you bring a substantive Motion and I will give you time to do so. You should not discuss another hon. Member without bringing a substantive Motion. So, you will proceed but you will not continue along those lines.

**Mr. Kathangu:** Bw. Naibu Spika, kwa kumaliza ufisadi katika Kenya, mimi na wale wote ambao tulifungwa jela nawao - na ni wengi ambao wako mafichoni huko Ulaya; wengi wako hata katika upande wa KANU na hata katika Upinzani - tulisema kwamba kwa sababu ni viongozi wengi ambao wanataka kuiba mali ya Serikali, labda litakuwa jambo la busara tuwajue ili kila mmoja wao aseme ni pesa ngapi au mali ya aina gani tunaweza kuwapatia na tuwafute kazi ili waende wakakae nyumbani kwao ili wasije kuibia Kenya siku nyingine. Hili ni jambo ambalo tulikubaliana. Mimi kila wakati ninawaangalia hawa viongozi ambao wametajwa katika Ripoti hii eti wamechukua mashamba au fedha za nchi. Ninataka kuuliza, ni pesa ngapi ambazo wangetaka tuwapatie kama nchi ya Kenya, ndipo waache kuibia nchi na waende wakakae nyumbani? Leo ni siku yangu ya kiama. Tangu mwaka 1950---

**The Assistant Minister for Local Government (Mr. Hashim):** Jambo la nidhamu, Bw. Naibu Spika. Mhe. Kathangu ameeleza kwamba angetaka kuwauliza wale viongozi ambao wamefanya ufisadi wangetaka kupatiwa pesa ngapi ili wasifanye tena ufisadi. Atazipata vipi pesa hizi bila kutumia ufisadi?

**Mr. Kathangu:** Bw. Naibu Spika, kile kitu ambacho ninakizungumzia ni kwamba ikiwa tutachukua kilio cha Mhe. Nassir, rafiki na baba yangu, kwamba ni lazima tusameheane, ni lazima tujue ni akina nani tunasamehe, tunawasamehe kwa sababu waliiba pesa ngapi au walichukua mashamba gani, na kama ni kuua, waliua nani na siku gani, ndio baadaye tuseme, kama nchi, tutawasamehe. Tunapowasamehe, hatungetaka warudi nyumbani kule kuwaibia wanavijiji ng'ombe wao. Kwa hivyo, ni lazima tuwapatie mali ya kutosha ili wasiende kuwa wezi vijijini. Kwa hivyo, inafaa waseme ni pesa ngapi wangehitaji ili tuwasamehe, tuwafute kazi na tuwalipe pesa ili waende wakakae vijijini mwao.

Bw. Naibu Spika, tangu mwaka wa 1950, Wazungu walinyanyasa nchi hii, na wananchi waliamua kwamba ni lazima wajiondoe minyororoni ya hao wakoloni. Hii ndiyo sababu walianzisha mfumo wa Mau Mau na wakapigana. Siku hizi, kila mtu anajidai sana - hata siku moja nilimsikia Rais wa nchi hii akisema: "Hata mimi nilikuwa Mau Mau. Niliona na nikaonyesha njia huko".

*(Laughter)*

Lakini nikisema kwamba sababu watu wa Mau Mau waliweza kuikomboa nchi hii kwa kumwaga damu yao, leo wakati huu tunapozungumza, mishahara tunayopewa kama Wabunge na ile Mawaziri wanapewa inatokana na ile damu ambayo ilimwagika tangu mwaka wa 1950 mpaka wa 1960. Tunasema nini? Tangu mwaka wa 1950 mpaka sasa, mwaka wa 2000, ni kusema tuna miaka 50 tangu Kenya ianze mapigano ya kujiletea uhuru.

**Mr. Nyachae:** Nidhamu, Bw. Naibu Spika. Mhe. Mbunge ambaye pia ni rafiki, anapotosha Bunge hili kwa kusema kwamba watu waliomwaga damu kutoka mwaka wa 1950 mpaka mwaka wa 1960, ndio peke yao waliopigania Uhuru. Tunajua kwamba Wanandi, Wajaluo na Wakisii walimwaga damu yao kabla ya miaka hiyo. Kwa hivyo, mhe. Mbunge analipotosha Bunge hili, kwamba Uhuru ulipiganiwa kati ya mwaka wa 1950 na 1960.

*(Applause)*

**Mr. Kathangu:** Bw. Naibu Spika, jambo ambalo mhe. Nyachae amesema ni la maana sana. Watu wengi huenda wakasahau kwamba hakuna chema unaweza kupata kwa kukaa kitako kama vile wezi wanafanya katika nchi hii. Ni lazima upigania. Ndio sababu ninasema kwamba vita kubwa katika nchi hii vilianza mwaka wa 1920---

**The Assistant Minister for Local Government (Mr. Hashim):** Nidhamu, Bw. Naibu Spika. Jambo la kusikitisha ni kwamba kila mara kunapozungumzwa juu ya Uhuru wa nchi hii, watu huzungumzia wakati wa Mau Mau, au kama vile alivyozungumza mhe. Nyachae na wanasahau awamu ya kwanza ya Waswahili kupigania Uhuru kutoka---

**Mr. Deputy Speaker:** Order! Order! Do not stand on a point of order and start arguing. Next time you do that, I am going to send you out.

**Mr. Kathangu:** Bw. Naibu Spika, ninakubali yeyote ambaye anataka kusimama, atasimama tu; lakini ni lazima tujue siku ambazo zimetengewa nchi hii ili tuzungumze juu ya ufisadi, zina maana kubwa. Wewe ungelitaka kupinga Hoja hii na ungelitaka tusizungumze juu ya ufisadi. Mhe. Mbunge ambaye ameongea kutoka Lamu na mhe. Nyachae ambaye ameongea juu ya vita na vile ule Uhuru mbalimbali ulikuja katika nchi wanatukumbusha kitu kimoja kwamba, ikiwa nchi hii baada ya miaka 50 haitarekebisha tabia yake; ikiwa nchi hii haitabadilisha fikira zake, ni kusema kwamba tunaenda kwa awamu ya 10 ya kutafuta Uhuru wa nchi. Nyakati zile tulikuwa tunatetea Uhuru na mashamba, wakati huu, tunatetea uchumi na maongozi mema ya taifa. Ikiwa uchumi unaharibika na kudhoofishwa na maongozi mabaya, Wakenya hawatakuwa na budi kusimama wima kuona ni kina nani wanaoiba mali zao, wawaondoe kutoka kwa maofisi na uongozini, ili nchi iweze kujimudu. Kama si hivyo, ni lazima tutafute njia ya kitaifa ya kuwasamehe wale ambao waliiba na wale ambao waliua, kwa sababu ni watu wa Mungu? Nchi hii ina Waislamu, Wahindu, Wakristo na wengine ambao wanaogopa Mungu sana.

Tunasema hivi, wenye kuogopa Mungu, kwamba sisi ambao tumekosewa ndio tutatafuta njia ya kusamehe. Kwa sababu gani? Yule mtu ambaye ameiba hawezi kusema amekusemehe. Yule mtu ambaye ameibiwa ndiye atasema: Okay, umeniibia, lakini nimekusamehe. Lakini kuna njia ya kufuata, kama nilikuwa ninapita na nimekukanyaga mguu, ni lazima nikumbuke kwamba nimekukanyaga, kwa hivyo ninarudi kukuomba msamaha. Wale ambao wameibia nchi hii, wote wanakubali kwamba ufisadi ni mbaya. Wote wanasema kuwa tusahau yaliyopita, ili tuanze kuishi pamoja tena. Upande huu na Wakristo wote katika nchi hii wamekubali kwamba tutawasamehe watu hao, lakini wanaweza kusimama waseme ni kweli waliiba pesa, halafu tuwasamehe? Wanaweza kusema kwamba waliyachukua mashamba ya watu na kuomba msamaha, halafu tutawasamehe?

**Mr. Sifuna:** On a point of order, Mr. Deputy Speaker, Sir. We have heard all the views from both sides of the House; will I be in order to call upon the Mover of the amendment to reply?

**Mr. Anyona:** On a point of order, Mr. Deputy Speaker, Sir. I have no right of reply.

**Mr. Deputy Speaker:** Order! Order! Hon. Anyona is too fast off the starting block. But hon. Sifuna, we will allow hon. Kathangu to finish his contribution.

**Mr. Kathangu:** Bw. Naibu Spika, kama ungetaka nimalize upesi, ningesema: Jambo la kwanza ni kwamba nchi hii inatakiwa iwajue viongozi wake ambao kazi yao ni kueneza ufisadi na maongozi yasio bora na hawangetaka tuendelee na Hoja hii, ambayo ni ya kuonyesha nchi itarekebisha namna gani. Pili, ni kujua kwamba hakuna kusamehe kunaweza kutokea bure. Tatu, nchi hii itajirekebisha tu wakati wananchi watasimama na pia sisi ambao tunaonekana kama ni malaika hapa, kuambiwa: Ninyi ndio mnaendelea kuficha ufisadi ambao upo katika nchi hii. Asante sana, Bw. Naibu Spika.

*(Question of the first part of the amendment,  
that the words to be left out be left out, proposed)*

*(Question of the first part of the amendment, that the words to be left out be left out, put and agreed to)*

*(Question of the second part of the amendment, that the words to be inserted in place thereof  
be inserted, proposed)*

*(Question of the second part of the amendment, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Question of the Motion as amended put  
and agreed to)*

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

*(Several Members up stood in their places)*

**Mr. Deputy Speaker:** Order! Order! A sufficient number of hon. Members have stood up indicating that you wish to have a Division.

**Hon. Members:** Yes! Yes!

**Mr. Deputy Speaker:** You will have a Division!

**Hon. Member:** Yes!

**Mr. Deputy Speaker:** I shall, therefore, direct that there will be a Division. Ring the Division Bell!

*(The Division Bell was rung)*

### DIVISION

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

Hon. Members, we are now going to commence the Division proceedings. But, I think most of you do not remember what the Division proceedings are, neither have you brought in your Standing Orders. So, I will go through the Standing Orders to refresh your memories.

The Tellers for the Ayes are: Hon. A.M Badawy and hon. Eng. J.N. Toro.

**An hon. Member:** They should not be from one side!

**Mr. Deputy Speaker:** Order! Wait! Do not use your memory, I have the Standing Orders Book here.

The Tellers for the Noes are: Hon.J.M. Katuku and hon. Eric T. Morogo.

That is in accordance with Standing Order 54(2); which states as follows:-

"The names of the two Tellers for the Ayes and the two Tellers for the Noes shall be submitted to Mr. Speaker. At the end of the five minutes, Mr. Speaker shall direct the doors to be locked and the Bar drawn and no Member shall thereafter enter the House until after the Division has been taken."

So, we must make sure that, that Door and any other door, be it the one at the back here, are shut.

**Mr. Deputy Speaker:** Order! Order! I am also human. The "Ayes" will proceed to the lobby to my right, and the "Noes" to the lobby to my left. But before you do so, I would like to remind you the following: That, 15 minutes after the locking of the lobby doors, the House will be called to order. Any hon. Member who shall not have voted by then shall forfeit his or her right to vote. However, no Member is obliged to vote except that those who do not wish to vote shall record their names with the Clerk-at-the-Table. Every hon. Member, other than the substantive Speaker or the Attorney-General, shall be entitled to vote in a division even though he is in the Chair. This means that I can vote twice.

*(Applause)*

Whenever there is an inequality of votes on any question not requiring a special majority, Mr. Speaker, including any other Member in the Chair, shall have a casting vote. In case of confusion or error occurring in the course of division concerning the numbers or names recorded, which cannot otherwise be corrected, Mr. Speaker shall direct the House to proceed to another division. If after a division has been made it is discovered that the number has been inaccurately reported or that an error has occurred in the names on the division lists, the fact shall be reported to the House and Mr. Speaker shall direct that the necessary correction be made.

The next provision of the relevant Standing Order is not relevant, because it is about the Constitution. The "Noes" shall, now, proceed to the lobby to my left, and the "Ayes" to the lobby to my right.

*(Loud consultations)*

**Mr. Deputy Speaker:** Order! Hon. Members, we are closing the lobby doors now. For any hon. Member

who has not cast his vote, if you do not go in now you will not have an opportunity to vote. If you do not go in now, you must forever hold your peace.

**An hon. Member:** What if I have changed my mind?

*(Laughter)*

**Mr. Deputy Speaker:** No, you cannot change your mind even if you have been seen.

### DIVISION

*(Question put and the House divided)*

*(Question carried by 84 votes to 63)*

**AYES:** Mr. Affey, Dr. Anangwe, Mr. Anyona, Dr. Awiti, Messrs. Awori, Badawy, Biwott, Chanzu, Choge, Dr. Galgalo, Dr. Godana, Messrs. Gumo, Haji, Kaindi, Kajembe, Kajwang', Kalulu, Kalweo, Karauri, Kamotho, Kiluta, Kikuyu, Kimkung, Mrs. Kittony, Messrs. Kitur, Kochalle, Kofa, Kosgey, Koske, Lagat, Lengees, Leting, Lomada, Lotodo F.P.L., Madoka, Maizs, Marrirmoi, Masakhalia, Ms. Matano, Messrs. Mbela, Mkalla, Mohamed, Mohamud, Mokku, Morogo E., Morogo W., Muchilwa, Mudavadi, Mugalla, Musila, Musyoka, Ms. Mwachai, Messrs. Mwakalu, Ndambuki, Ng'eny, Nooru, Ntutu, Ntwiga, Nyagah J., Nyenze, Odoyo, Okemo, Otita, Dr. Otula, Messrs. Rotich, Ruto, Prof. Saitoti, Messrs. Salim, Sambu, Samoei, Sang, Sankori, Sasura, Shaaban, Shakombo, Shidiye, Shill, Sirma, Sudi, Sunkuli, Too, Dr. Wako, Mr. Wambua, Dr. Wamukoya and Mr. Wehliye

Tellers of the Ayes: Mr. Badawy and Eng. Toro.

**NOES:** Messrs. Achola, Aringo, Ayoki, Donde, Galgalo M.A., Gatabaki, Gitonga, Jirongo, Kamolleh, Kariuki, Ms. Karua, Messrs. Kathangu, Katuku, Keriri, Khamasi, Kibaki, Kibicho, Kihara P.A., Kirwa, Dr. Kituyi, Messrs. Kiunjuri, Kombo, Dr. Kulundu, Messrs. Magara, Maundu, Mbitiru, Michuki, Muchiri, Mugeke, Mrs. Mugo, Messrs. Munyasia, Munyao, Muihia, Muiruri, Murathe, Dr. Murungaru, Messrs. Muriuki, Mutahi, Muya, Mwangi O.K., Mwiraria, Nderitu, Ndwiga, Mrs. Ngilu, Messrs. Njuki, Nyachae, Prof. Nyong'o, Messrs. Obwocha, Odongo, Dr. Omamo, Messrs. Orengo, Osundwa, Mrs. Seii, Messrs. Shitanda, Sifuna, Sungu, Toro, Wafula, Waithaka, Wamae, Wamalwa, Wanjala and Dr. Wekesa.

Tellers of the Noes: Messrs. Katuku and E. Morogo.

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

**Mr. Deputy Speaker:** Order! I will now propose the Question of the Motion as amended; that this House adopts the House Parliamentary Anti-Corruption---

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

Order, hon. Orengo! The Deputy Speaker is on his feet! Order!

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

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

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

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

**Mr. Deputy Speaker:** Order! Hon. Members, let us proceed procedurally. You may have a very burning issue, but when the Deputy Speaker---

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

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

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

*(Several Members stood on their feet)*

**Mr. Deputy Speaker:** Order! How do you expect to make that point of order if you are out of order? Sit down first!

**Hon. Members:** We are not going to allow this corruption!

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

*(Loud consultations)*

**Mr. Deputy Speaker:** Order, hon. Members! Wait! I will give you an opportunity to say that.

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

*(Mr. Orengo sat on the Table)*

Order, hon. Orengo! Get out of that Table!

*(Loud consultations)*

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

**Mr. Deputy Speaker:** Hon. Members are making noise! They cannot even hear a point of order if there is no order.

*(Question of the Motion as amended proposed)*

**Hon. Members:** No, Mr. Deputy Speaker, Sir! No, Mr. Deputy Speaker, Sir! No, Mr. Deputy Speaker, Sir! No, Mr. Deputy Speaker, Sir. No, Mr. Deputy Speaker, Sir.

#### **ADJOURNMENT**

**Mr. Deputy Speaker:** Order! Hon. Members, it is now time for the interruption of business. This House is, therefore, adjourned until tomorrow Wednesday, 19th July, at 9.00 a.m.

The House rose at 7.00 p.m.