

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 3rd April, 2002

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.016

MASSIVE DECLINE IN NSE SHARE PRICES

Mr. Speaker: Is Mr. Gatabaki not here? We will leave this Question until the end then. Next Question, Mr. Kimeto.

Question No.020

ESTABLISHMENT OF RESEARCH PROJECTS IN SOTIK

Mr. Kimeto asked the Minister for Agriculture:-

- (a) whether he could consider putting up pilot research projects for both maize and coffee production in Sotik, Bomet District, for the benefit of the farmers in the area; and,
- (b) what plans he has to offer subsidies to maize growing areas to enable them produce enough food as opposed to incurring heavy costs through importation of famine relief food.

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): Mr. Speaker, Sir, I beg to reply.

(a) Bomet District is adequately served by the National Maize Research Station, Kitale. With regard to coffee production, it is served by the Coffee Research Foundation through the regional research centres situated at Kisii for the western highlands, and the Koru Research Centre for the lake region. In addition to on-station maize seed research, locational specific maize seed trials are conducted in Bomet District mainly in Government farms such as Farmers Training Centres (FTCS), and also farmers' farms on farm trials.

In terms of maize seed research, the district is covered under regional research centres in Kisii and Kakamega.

Mr. Speaker, Sir, in view of the above, there is no urgent need to establish pilot research projects for both maize and coffee production in Sotik, Bomet District.

(b) The Government provides indirect subsidies to maize producers by waiving import duty on agricultural inputs and implements. For example, the Government does not levy import duty and VAT on commonly used fertilizers such as DAP, CAN, 20:20:0, and farms implements such as tractors and ploughs.

The seed industry has also been liberalised to allow more seed dealers to participate in the industry. This is expected to create competition and lower the seed prices to affordable levels. The Kenya Plant Health Inspection Services (KEPHIS) ensures on seed quality.

In addition, the Ministry buys maize from farmers for strategic grain reserve and famine relief, especially when there is a bumper harvest. This stabilises the prices and is in itself an incentive.

Mr. Kimeto: Mr. Speaker, Sir, I would like to thank the hon. Assistant Minister for giving us a detailed, but rather misleading reply. My question is whether there is a possibility of setting up a research centre in Sotik. The Assistant Minister says Sotik is served by research centres in Kitale and Koru. Here, we are dealing with people who cannot even transport maize or coffee seeds to Sotik. Could the Assistant Minister assist my people to access these seeds? Why could the Ministry not set up a research centre in Sotik Constituency because the one in Kitale does not sufficiently serve my people?

Col. Kiluta: Mr. Speaker, Sir, as I said, the Ministry considered the request made by the hon. Member. In our view, we thought the facilities in place adequately serve Sotik Constituency. However, a team from the Ministry will

be sent to Sotik to assess the situation afresh.

Mr. Kimeto: Mr. Speaker, Sir, the Assistant Minister is misleading us because in part "a" of the reply, he says Sotik Constituency is served by the local research centres. Could he mention those local pilot research centres in Sotik and their plot numbers?

Col. Kiluta: Mr. Speaker, Sir, I think that

[Col. Kiluta]

is not part of the Question. I was not prepared to give the plot numbers.

Mrs. Mugo: Mr. Speaker, Sir, it is a well known fact that we do not have enough food supplies in this country, and that many Kenyans go hungry. In many countries, staple food is always subsidized by the State and prices remain constant so that people can afford food all the time. Could the Assistant Minister tell this House why the Government cannot buy all the maize from farmers and store it, so as to ensure that there is always enough food for our people? This will also ensure that farmers do not suffer any loss.

Col. Kiluta: Mr. Speaker, Sir, the Ministry has been buying food and storing enough for our people. We understand that we do not have enough facilities to accommodate everybody, but this can be looked into afresh.

Mr. Speaker: Next Question, Mr. Githiomi.

Question No.080

INSTALLATION OF ELECTRICITY IN MIHARATI

Mr. Githiomi asked the Minister for Energy:-

(a) when he will supply electricity to Miharati divisional headquarters, Wanjohi, Rironi and Geta; and,

(b) how much he has allocated for the project and when it will commence.

Mr. Speaker: Is anyone here from the Ministry of Energy? Mr. Githiomi, we will come back to your Question.

Question No.100

TARMACKING OF MASII-TAWA ROAD

Mr. Kalulu alimuuliza Waziri wa Barabara na Ujenzi ni lini barabara ya Masii-Tawa itawekwa lami.

The Assistant Minister for Roads and Public Works (Mr. Mokku): Bw. Spika, ninaomba kujibu.

Barabara ya kutoka Masii hadi Tawa iliwekwa lami mwaka wa 1985. Baadaye, iliharibiwa na mvua ya *El Nino*. Hata hivyo, Wizara itafanya ukarabati wa barabara hiyo ikiwa kamati ya barabara wilayani itaweka urekebishaji wake katika ratiba yake ya mwaka huu.

Mr. Kalulu: Bw. Spika, ni kweli Serikali ilitumia zaidi ya Kshs30 milioni kuikarabati barabara hiyo. Lakini tunajua tangu tuwe na mvua ya *El Nino* ni zaidi ya miaka mitano. Je, Bw. Waziri Msaidizi ana habari kuwa kamati ya barabara katika Wilaya ya Makueni haijapendekeza barabara hiyo ifanyiwe ukarabati?

Mr. Mokku: Bw. Spika, ni kweli Wizara iliweka lami barabara hiyo kama nilivyosema awali. Ninakubaliana na mhe. Kalulu kuwa barabara hiyo iliharibika wakati wa mvua ya *El Nino*. Ukweli wa mambo ni kuwa ni kamati ya barabara wilayani inayoshughulikia barabara hiyo.

Mr. Kalulu: Bw. Spika, sikubaliani na Waziri Msaidizi kwa sababu barabara hiyo inatumika sana. Ni barabara ya kiwango cha "C" na inatumiwa na watu wa Makueni. Je, Waziri anaweza kueleza Bunge hili ni kiasi gani cha pesa ambacho kimetengwa kwa ukarabati wa barabara hiyo?

Mr. Mokku: Bw. Spika, barabara ambayo ninazungumzia ni D517 na ina urefu wa kilomita 16. Kulingana na mipango katika Wizara, hii ni barabara ambayo kamati ya wilaya - ambayo mhe. Mbunge ni mmoja wa wanakamati - inafaa kusimamia wala siyo Wizara.

Mr. Mutiso: Mr. Speaker, Sir, does the Assistant Minister know how much money has been set aside for this busy road which by-passes three divisions, namely, Mbooni, Wote and Masii? Is he aware whether there is any amount of money set aside by the Kenya Roads Board for that purpose?

Mr. Mokku: Mr. Speaker, Sir, the amount of money set aside for this road should be known to the hon. Member because, if this road falls under the DRC, there is a fixed amount of money that we allocate to every constituency. Therefore, the hon. Member should consult the DRC to know how much has been set aside.

Mr. Kalulu: Bw. Spika, ninafikiri sijatoshelezwa na jibu la Naibu wa Waziri, na ningependa kueleza Bunge hili na Naibu wa Waziri kwamba, tunapata taabu kwa sababu ya barabara hii. Kama vile Bw. Mutiso alivyosema, hii ni

barabara ambayo inaunganisha sehemu nyingi na ndio hutumiwa kupitisha mazao ya kilimo. Ingefaa Waziri Msaidizi ashirikiane na maofisa wake katika Wizara ili watenge kiasi fulani cha pesa ambazo zinaweza kurekebisha ile barabara, ili isiendelee kuharibika.

Mr. Mokku: Bw. Spika, inaonekana nitaendelea kujirudia kwa sababu nimesema kwamba hii barabara iko katika usimamizi wa DRC. Katika nchi hii kuna barabara ambazo zinasimamiwa na Wizara na zile zinazosimamiwa na DRC. Kwa hivyo, Wizara inapeana Kshs5 milioni kwa kila sehemu ya uwakilishi Bungeni, na inafaa kila mhe. Mbunge apange vile hizo pesa zitakavyotumika kutengeneza barabara.

Mr. Speaker: Next Question!

Question No.106

NON-PAYMENT OF MURRAM
PROCEEDS TO MR. GICHUKA

Mr. Parpai asked the Minister for Roads and Public Works:-

(a) whether he is aware that Kundan Singh Construction Company Limited, P.O. Box 15018, Nairobi, excavated murrum from Mr. Raphael Karioki Gichuka's farm, among others in 1999, when they were constructing Isinet-Loitokitok Road, C102;

(b) whether he is further aware that the contractor was to pay Mr. Gichuka Kshs200 for each lorry excavated; and,

(c) what he is doing to ensure that the farmer is paid for what has been excavated and that the quarries are filled.

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

(a) I am aware that Kundan Singh Construction Company Limited, P.O. Box 15018 Nairobi, excavated murrum from Mr. Raphael Karioki Gichuka's farm, among others, in 1999, when they were constructing Isinet-Loitokitok Road, C102.

(b) I am further aware that every farmer was to be paid a total of Kshs200 per lorry for murrum excavated from their farms.

(c) The Ministry is withholding a total of Kshs7,421,971.30 as retention money for the contractor and the Resident Engineer. The Resident Engineer have been asked to compile a list of farmers who have not been compensated to date, to enable us make the necessary deductions and pay the affected farmers accordingly. This will include Mr. Raphael Gichuka.

Mr. Parpai: Mr. Speaker, Sir, this road was constructed in 1999 and during the same year, the contractor handed over the work to the Ministry. This money that the Assistant Minister is talking about is retention money, and the contract was between the contractor and the farmers. Could the Assistant Minister tell us under what authority they are going to pay this money? Has the contractor communicated to them?

Mr. Speaker: Then, why did you ask the Question?

Mr. Parpai: Mr. Speaker, Sir, I asked the Question because I wanted the Assistant Minister to tell us whether the contractor has authorised them to pay.

Mr. Speaker: Mr. Parpai, you are defeating the intention of your own Question. If you knew that he has no authority, why did you ask the Question?

Mr. Parpai: Mr. Speaker, Sir, I would like the Assistant Minister to tell us whether the names of the farmers who were affected has been supplied to them for payment.

Mr. Mokku: Mr. Speaker, Sir, it is true that the contract was between the contractor and the farmers. But when the Ministry received the complaint from the ground that the contractor did not pay some people he had engaged to work, we had to intervene and ask the Resident Engineer to submit the complainants' names, so that we could assist them.

Mr. Wamae: Mr. Speaker, Sir, could the Assistant Minister tell us why it has taken so long for the Resident Engineer to compile this list and show what the contractor owes the farmers and other people?

Mr. Mokku: Mr. Speaker, Sir, according to me, it has not taken long. We only got aware of the complaint when the hon. Member presented the Question to Parliament.

Mr. Parpai: Mr. Speaker, Sir, in the contract, the contractor was supposed to refill the quarries, but they have not been refilled. What is the Ministry doing about that?

Mr. Mokku: Mr. Speaker, Sir, that was not part of his Question. If there is that problem, he can raise that Question.

Mr. Speaker: Mr. Mokku, it is the last part of the Question.

Mr. Mokku: Mr. Speaker, Sir, I think I have answered the last Question, because in part "c", I said that the Ministry is withholding that amount for retention, and that the Resident Engineer has been asked to compile a list of farmers who want to be compensated, alongside any other deductions accordingly, if the Resident Engineer advises that there are other areas which need to be filled.

Mr. Speaker: What about the refilling of the quarries?

Mr. Mokku: Mr. Speaker, Sir, the Resident Engineer on the ground will be given the necessary instructions to ask the contractor to fill those areas.

Mr. Parpai: Mr. Speaker, Sir, with regard to the quarries that I am talking about, the contractor left the site in 1999. That is about three years ago. Is the Ministry going to refill the quarries using the retention money, or how are you going to go about it? Could he tell the House so that I can tell my constituents?

Mr. Mokku: Mr. Speaker, Sir, I would advise the hon. Member to go and tell his people that we have the contractor's Kshs7 million, and we will not pay him until he does what he is supposed to do on the ground.

Mr. Speaker: Very well! Next Question!

Question No.092

NON-PAYMENT OF DAMAGES TO PLAINTIFFS

Mr. Speaker: Eng. Toro is not in? We shall come back to that Question later. Mr. Gatabaki's Question for the second time!

Question No.016

MASSIVE DECLINE IN NSE SHARE PRICES

Mr. Speaker: Mr. Gatabaki is not in? The Question is dropped!

(Question dropped)

Mr. Speaker: Mr. Githiomi's Question for the second time!

Question No.080

INSTALLATION OF ELECTRICITY IN MIHARATI

Mr. Githiomi asked the Minister for Energy:-

- (a) when he will supply electricity to Miharati divisional headquarters, Wanjohi, Rironi and Geta; and,
- (b) how much he has allocated for the project and when it will commence.

The Minister for Energy (Mr. Okemo): Mr. Speaker, Sir, first I would like to apologise for not being here to answer the Question on time.

However, I beg to reply.

(a) Miharati divisional headquarters, Wanjohi and Rironi markets are among the 32 projects scheduled for electricity supply under the on-going Spanish Credit Rural Electrification Programme Phase II. The survey and design work for all the projects under the programme has been completed. However, the Geta Project will be implemented upon receipt of a recommendation by the District Development Committee that it is a priority project, and subject to availability of funds. As of now, the priority projects submitted by the Nyandarua DDC are outlined in the Question which the hon. Member has got.

(b) The electrification works to Miharati divisional headquarters, Wanjohi and Rironi markets, including Rironi Secondary School, are estimated to cost Kshs26.2 million and are scheduled to begin sometime in June this year.

Mr. Githiomi: Mr. Speaker, Sir, I thank the Minister for having set aside the Kshs26.2 million for the project. However, the construction of the project was supposed to be ready by December last year. When exactly does the Minister expect this project to be complete?

Mr. Okemo: Mr. Speaker, Sir, there was a delay but, as I said, construction work will commence in June. It is expected to be completed four months after that; that is, by the end October or latest, by the end of this calendar year.

Mr. Ndicho: Mr. Speaker, Sir, the Minister always refers to the District Development Committees (DDCs) as a means of implementing electrification programmes in the rural areas. Now, other than Members of Parliament asking Questions about rural electrification in their areas, does the Ministry have its own programme? For example, the Ministry of Roads and Public Works has plans to tarmac or gravel roads. The Ministry of Water Development has plans to provide water in particular divisions. Does your Ministry have any plans to provide electricity in the rural areas, other than waiting for Members of Parliament to ask Questions and the DDCs to recommend the same?

Mr. Okemo: Mr. Speaker, Sir, we do have what we call a Master Rural Electrification Programme that covers the entire country. Now, to decide what project will take place in which area, we have to have some kind of criterion for prioritisation. That is where we rely on the DDC. But there is a master plan for rural electrification that covers the entire country.

Mr. Githiomi: Mr. Speaker, Sir, I have a letter from the Minister for Energy, Mr. Raila, stating that the Geta and Kiambogo projects would soon be implemented. Could the Minister confirm whether that is true or not? That had nothing to do with the DDC prioritisation because it had already been done much earlier.

Mr. Okemo: Mr. Speaker, Sir, I do not want to contradict my colleague, but I think in my answer, I covered the portion of about ten kilometres from Geta which needs to be electrified now. That has not been included in the Spanish Programme which, at the moment, is the only source of funds that we have, including a French Scheme which covers a different part of the country. Therefore, unless we are able to identify new sources of funding, we will not be able to do that portion that Mr. Raila may have indicated in his letter. He probably forgot to add: "Subject to availability of funds."

Mr. Speaker: Could we have Eng. Toro's Question for the second time?

Eng. Toro: Mr. Speaker, Sir, I apologise for coming late.

Question No.092

NON-PAYMENT OF DAMAGES TO PLAINTIFFS

Eng. Toro asked the Attorney-General:-

(a) whether he is aware that Ms. Margaret Mukuhi Mbuthia, Mary Njoki Ndegwa and Wairimu Karuga sued the Attorney-General in the Senior Principal Magistrate's Court at Thika, vide Civil Suit No.739 of 1995;

(b) whether he is further aware that the court, on 4th February, 1998, ruled that the Attorney-General pays the plaintiffs both general and special damages in the sums of Kshs61,050 plus costs assessed in the sum of Kshs19,935; and,

(c) when he will honour the court's decision and pay the plaintiffs.

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I have talked to the hon. Member and I am grateful to him for having agreed to postpone this Question to Wednesday, next week.

Mr. Speaker: Is that okay, Eng. Toro.

Eng. Toro: Yes, Mr. Speaker, Sir!

Mr. Speaker: I will, therefore, defer the Question.

(Question deferred)

QUESTIONS BY PRIVATE NOTICE

RELOCATION OF ISRAELI EMBASSY

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

(a) Is the Minister aware that the Israeli Embassy is located in a densely populated area of the City?

(b) Is he further aware of the dangers and security risk that this poses to the residents of the area?

(c) What urgent measures is the Government taking to relocate the Embassy?

Mr. Speaker: Is anybody here from the Office of the President?

Mr. Muite: On a point of order, Mr. Speaker, Sir. I have a personal interest because my office is next door

to the road and I am exposed to the danger of being a victim; to being shot there! Could we ask when this Question will be answered because it is very urgent? There is always a battalion of the General Service Unit (GSU) there with guns!

Mr. Speaker: Well, I hope you will not get shot! Could we wait for the Minister? We will leave this Question until the end. Let us move on to the next Question by Mr. P.K. Mwangi.

FIGHT BETWEEN KAKUZI GUARDS
AND VILLAGERS IN MAKUYU

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

(a) What caused the fight between the security guards of Kakuzi Limited and residents of Gathunguni Village, Makuyu Location, Makuyu Division, on 12th and 13th March, 2002, where more than 20 persons were critically injured?

(b) Who were the perpetrators of that unlawful act and how many people have been arrested and prosecuted in connection with the incident?

Mr. Speaker: Is anybody here from the Office of the President? We will leave this Question until the end. Let us move on to the next Question by Mr. Murungi.

IMPLEMENTATION OF COFFEE ACT, 2001

Mr. Murungi: Mr. Speaker, Sir, I beg to ask the Minister for Agriculture, the following Question by Private Notice.

(a) What steps has the Minister taken to prepare for the implementation of the Coffee Act, 2001?

(b) When will the elections of the new Coffee Board and the Coffee Development Fund Trustees be held?

The Assistant Minister for Agriculture and Rural Development (Col. Kiluta): Mr. Speaker, Sir, I beg to reply.

(a) The Ministry of Agriculture, in consultation with the Coffee Board of Kenya, has prepared draft coffee rules in two sets. But I wish to state here that the answer I am giving has already been overtaken by events in his favour. So, he cannot complain! The coffee election rules have already been gazetted and he should have got a copy by now. If not, we can arrange for him to have one. The coffee business rules are already with the Attorney-General and they should be gazetted any time now. So, we have made progress in that area. The two sets of rules have already been discussed with the Departmental Committee on Agriculture, Lands and Natural Resources. So, as I said, that has already been overtaken by events. The Attorney-General has completed the process and the coffee business rules are currently being proofread for publishing.

(b) The elections of the new Coffee Board Trustees will be conducted in accordance with the electoral rules, and will be held after the relevant notice of elections as provided for in the rules. Consultations with the Treasury are under way to establish the Coffee Development Fund. The relevant regulations have been proposed and are under consideration by the Ministry.

Mr. Speaker, Sir, the latest position is that they would be gazetted any time now, but tomorrow afternoon, the Minister will present a comprehensive statement to this House to cover all the issues related to the coffee industry.

Mr. Murungi: Mr. Speaker, Sir, I wish to thank the Assistant Minister for that answer, and the steps that he is taking to enforce the new Coffee Act. But we in COTEPA are very worried about the way the Government has gone in the appointment of the coffee marketing agents. When the Government licensed private millers two or three years ago, there were coffee wars in Central Kenya when millers went to compete for coffee from the farmers. We see a similar trend, where the coffee marketing agents have now gone to the farmers, saying: "We are going to be your marketing agents and not the others!" My question is: What steps is the Assistant Minister taking to ensure that we do not have new coffee wars sponsored by coffee marketing agents?

Col. Kiluta: Mr. Speaker, Sir, I really do not know whether there will be wars but, as I said, we will issue a comprehensive statement tomorrow afternoon. If you could bear with us, and if you will not be happy with what the Minister will say tomorrow, you can bring the contentious issues here.

Mr. Kibaki: Mr. Speaker, Sir, the Assistant Minister should take this matter very seriously. There are people who have been mismanaging coffee marketing and, right now, they have all gone to the Ministry and other places to get themselves registered as marketing agents. Those are the same people who stole coffee from growers. They are the same people who caused the wars. How can he now rise here and piously say he is hoping that something else will happen? Is he doing something to make sure that people who have previously caused the wars are not

registered as marketing agents? How can you hope they have changed; by miracle?

Col. Kiluta: Mr. Speaker, Sir, these people are not appointed by anybody. If the hon. Leader of the Official Opposition can assist us by giving us suggestions, we will take action.

Mr. Gatabaki: Mr. Speaker, Sir, the Minister for Finance told the House that coffee contributes significantly to the economy, of this country and I congratulated him for a question well answered. Considering the importance of coffee in our economy why is the Government dilly-dallying on an issue so important, which is likely to bring confusion and chaos in the coffee industry?

Col. Kiluta: Mr. Speaker, Sir, I really do not know whether we are dilly-dallying because I have said that action has already been taken. The gazettelement has already been done and whatever portion is remaining will be done within the next few weeks.

Mr. Murungi: When we were debating the Coffee Sessional Paper in this House we clearly stated that no millers should be registered as marketing agents. The millers have gone round this provision by registering under separate companies. They are just changing the letter heads and calling themselves new marketing agents. Could the Assistant Minister explain to this House why he has preferred to register the miller-based companies and refused to register the companies being sponsored by farmers' unions like Large and Small Coffee Marketing Limited and Mt. Kenya East Coffee Marketing Agency? Why are you preferring the ones registered by millers and not the ones by farmers?

Col. Kiluta: Mr. Speaker, Sir, the hon. Member could be right that they have short-circuited the system, but we are not aware of that. If he could provide enough evidence, we will investigate.

Mr. Speaker: Mrs. Ngilu's Question, for the second time.

RELOCATION OF ISRAELI EMBASSY

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

- (a) Is the Minister aware that the Israeli Embassy is located in a densely populated area of the City?
- (b) Is he further aware of the dangers and security risk that this poses to the residents of the area?
- (c) What urgent measures is the Government taking to relocate the Embassy?

Mr. Speaker: Is there anybody from the Office of the President here?

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. It is only last week that you gave a stern warning both to the Leader of Government Business and his deputy about the absence of Ministers during Question Time. We have eight Ministers and Assistant Ministers in that Ministry. These are: Messrs. Ntimama, Sunkuli, Nyagah, Nassir, Ruto, Haji, Gumo and Kochale. We also have the Leader of Government Business and his deputy. Our concern is equally your concern. Why do you not grow some legal teeth right now and bite at least one of them, so that you teach the others a lesson? This is a matter of grave concern.

Mr. Speaker: Mr. Ndicho, I share your concern. I do not want to bite anybody for now, but I hope they will come here and do the job for which they are paid. I hope they are listening to me. Those are the sentiments of the House and mine too. I am completely baffled that we cannot get one of them to come here and answer Questions. Could I defer this Question to tomorrow, Mrs. Ngilu?

Mrs. Ngilu: Yes, Mr. Speaker, Sir.

(Question deferred)

FIGHT BETWEEN KAKUZI GUARDS AND VILLAGERS IN MAKUYU

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

(a) What caused the fight between the security guards of Kakuzi Limited and residents of Gathunguni Village, Makuyu Location, Makuyu Division, on 12th and 13th March, 2002, where more than 20 persons were critically injured?

(b) Who were the perpetrators of that unlawful act and how many people have been arrested and prosecuted in connection with the incident?

Mr. Speaker: I am sure the same fate applies to Mr. P.K. Mwangi's Question.

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. The matter of Mr. P.K. Mwangi's Question is a bit

interesting in that the Minister under whose portfolio it falls did make a promise to be here to answer it this afternoon. He gave the undertaking and the Question was deferred. They are running away from the Questions.

Mr. Speaker: Where do they go?

Dr. Kituyi: Could you ask the Leader of Government Business to tell us where they are hiding?

Mr. Speaker: Mr. Attorney-General, what is happening?

(Laughter)

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, I will bring the sentiments of the House and those of the Speaker to the appropriate quarters. I know that they are not running away from answering Questions. This must be due to circumstances beyond their control. I am sure, when they come here tomorrow, they will explain.

Mr. Speaker: I do honestly hope that they will take their duties seriously because the House cannot continue like this. Will you pass that message to them?

The Attorney-General (Mr. Wako): Mr. Speaker, Sir, as I stated earlier, I will pass on the message.

Mr. Speaker: Very well. Mr. P.K. Mwangi, can I defer the Question to tomorrow?

Mr. P.K. Mwangi: Mr. Speaker, Sir, I beg the Chair to defer it to Tuesday next week.

Mr. Speaker: Very well. I am sorry about this. There is not very much I can do.

Next Order!

MOTION

ADOPTION OF REPORT ON LIVE COVERAGE OF PARLIAMENTARY PROCEEDINGS

THAT, this House adopts the Report of the Select Committee on Broadcasting and televising of parliamentary proceedings laid on the Table of the House on Thursday, 3rd May, 2001.

(Mr. Kirwa on 28.3.2002)

*(Resumption of Debate
interrupted on 2.4.2002)*

Mr. Speaker: Mr. Gatabaki, you were on the Floor?

Mr. Gatabaki: Yes, Speaker, Sir. Nothing dramatises the importance of having live coverage in this House like what we have witnessed today, that is, the absence of Cabinet Ministers, the Leader of Government Business and the four "dot-com" Vice-Chairmen of KANU who are prepared to take over the leadership of KANU and rule for the next one 1,000 years. Maybe, Mr. Jirongo had some sense in competing---

(Laughter)

On a more serious note, yesterday, I referred to the importance of live coverage and gave an example of what we saw during the so-called elections of the ruling party KANU. My mother, your mother, our wives and everybody else saw what the word "democracy" means to the ruling party, KANU. I did indicate that one Mr. Biwott, a great friend of mine, became the most powerful figure in KANU without going through the rigours of contested politics. Mr. J.J. Kamotho, the most faithful Secretary-General of KANU for 13 years did not get any post. The name of this great man from Central Kenya was never mentioned. We saw the importance of live coverage on KTN, KBC and the Nation media. We saw the kind of democracy that KANU talks about when even the Vice-President of Kenya found himself excluded from the list provided by the so-called "real democrats".

An hon. Member: And yet Mr. Ng'eny found his name there!

(Laughter)

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): On a point of order, Mr. Speaker, Sir. Is the hon. Member in order to mislead this House, and continuously so, by stating that Mr. Kamotho and the Vice-President were not even nominated? As you are aware, and it was televised, they withdrew from the race.

Hon. Members: Table the list!

Mr. Gatabaki: Mr. Speaker, Sir, during the single-party era, the House found it wise to propose live coverage of Parliament, even in those bad days of tyranny. The House proposed live coverage of Parliament so that Kenyans could see for themselves who were the despots. Ten years later, even the recommendation of a single-party Parliament has not been implemented. The question which was put again so succinctly by the Leader of the Official Opposition was: "Why is this fear in KANU; why do you fear even your shadow?"

Mr. Speaker, Sir, I had the opportunity of speaking to a senior person who retired from the Government in 1994. He told me that they were warned by the Head of Public Service that if anybody was found with an e-mail or had access to computer services, he would be fired. In the 21st Century, Kenya is the most backward in the region in embracing information technology. We are still fighting to have the internet services. This House, which is the assembly of the people of Kenya, is not connected to the internet. We have even been denied access to the cyber cafes which you are aware of and the most basic development in information technology. I am talking about the deliberate intention of our country, through this leadership, to take us backwards to the dark ages as far as technology is concerned.

Mr. Speaker, Sir, we were told again and again by the Leader of the Official Opposition that one of the major communication agencies - Telkom Kenya - is muddled up in its privatisation process. They fear facing competitiveness so that, that information is not freely available to Kenyans at affordable prices. This is what we have witnessed in this House. Ten years later, the recommendation of that single-party House has not been implemented. We are being told in this very important Report that the single and most important broadcaster, which is funded by the taxpayer, is in a terrible state of deformity. That is the KBC. We have seen clearly that KBC, after so many years of monopoly, is not capable of providing modern day communication services, and yet we allow this House to vote funds for a body which is not capable of telling the truth as the Leader of the Official Opposition said.

Mr. Speaker, Sir, the issue about live coverage is to provide knowledge, information and communication between the House and the people who have given us the mandate to lead. We want to know why the Government benches are empty, and also why the Ministers are not there to answer Questions asked by the representatives of the people. The public wants to know how they answer those Questions; what priorities do they have in Government; what kind of people they are because they have been given the destiny of controlling the affairs of this country. Who are they; how do they speak and how do they answer Questions? If this House had live coverage, the majority of Kenyans would have expressed considerable disgust over the conduct of this Government.

(Laughter)

The Minister for Finance (Mr. Obure): On a point of order, Mr. Speaker, Sir. Are you satisfied that hon. Gatabaki should be the first person to condemn Ministers for failing to come into this House when he, himself, was not present to ask the Question he was supposed to have asked this afternoon?

(Applause)

Mr. Gatabaki: Mr. Speaker, Sir, I wish it was possible to equate one community with this Minister. However, I would request you to allow this Question to be asked again in view of the fact that this bad Government took me to court for trying to voice some of the facts about bad governance.

(Laughter)

Mr. Speaker, Sir, however, the issue is not when we are going to have live coverage in this House. That is long gone! The issue is: "Why are we talking about the obvious; why are we talking about day when we know that night has come? It is only in this region where we have not introduced this kind of facility. I am saying that the Fourth Estate has become selective in the coverage of the proceedings of this House. If hon. Uhuru Kenyatta comes into this Chamber today, sits down and then walks out, that will be reported tomorrow in *The Daily Nation*, *The East African Standard*, notwithstanding the fact that other hon. Members of this House had been sitting down here since morning up to this afternoon and had contributed. So, it is selective reporting over and over again. If you look at *The Daily Nation*, *The East African Standard*, *The Kenya Times* and other newspapers today, about what happened yesterday in this House, you will be shocked to see that most contributions by hon. Members were left out. Only a few are favoured by the Fourth Estate here. I do not know for which reason the Fourth Estate has decided to favour a few hon. Members who, in the real sense, are not the major contributors in this House. The purpose of having live coverage is to do away with selective coverage by the Fourth Estate.

Mr. Keynan: On a point of order, Mr. Speaker, Sir. Would it not be in order to ask hon. Gatabaki to name those favoured hon. Members so that we know them?

Mr. Gatabaki: Mr. Speaker, Sir, one of them is not Mr. Keynan because I do not think he is favoured mainly because of his inability to articulate issues. I am saying it again and again that the purpose of live coverage is---

Mr. Ndicho: On a point of order, Mr. Speaker, Sir. Hon. Gatabaki and myself are members of the Fourth Estate and we know that one of the constraints that we have is lack of space. I think hon. Gatabaki is casting aspersions against members of the Fourth Estate due to the limited space they have. In fact, hon. Gatabaki is one of the most covered hon. Members of Parliament, and tomorrow his name will be splashed all over the newspapers.

Mr. Speaker: Order! I heard something this afternoon called "coffee wars", and now you want to introduce "Press wars". I want to be out of it.

Proceed!

Mr. Gatabaki: Mr. Speaker, Sir, a few days ago, one of my colleagues announced somewhere in Central Kenya that he was going to step down for hon. Uhuru Kenyatta to become an elected Member of Parliament, and that was given front coverage. At the same time, hon. Kijana Wamalwa and hon. Mwai Kibaki were busy campaigning in Western Kenya and they only got a footnote in the inside pages of our newspapers. I talked about the capacity of reporting that reduces the importance of dissemination of information that is based on what the papers want to give Kenyans. The answer? There were a lot interviews down here regarding who will step down and when will this gentleman be elected the Vice-President of the Republic of Kenya. Two or three days later, after all the interviews, the newspapers refused to publish about the findings of the honest opinions of the hon. Members of Parliament. Hon. Uhuru Kenyatta is not an elected hon. Member of Parliament and, therefore, he cannot be named the Vice-President of the Republic of Kenya and possibly the President. They realised that there was no position for this young gentleman. As a result, that programme was left out.

Mr. Speaker, Sir, the issue here is on what the Press can do to damage, inform, articulate and cover up. The purpose of live coverage is to give every Member equal opportunity of being covered. It will give every Member, no matter who he is, no matter how much money he has or influence, the same coverage. Whether you are Mr. Gatabaki from Githunguri or Mr. Biwott from those places we hear about in the Rift Valley Province, you will get the same coverage. This is the essence of live coverage. Some of our colleagues down there and here have never appeared in the newspapers on the reportage from Parliament. A majority of them are seated at that corner and they have never been covered by the Press. I, for one, in my two terms of parliamentary service to the people of Kenya, I have not been covered by the Kenya Broadcasting Corporation Television, despite the fact that the people of Githunguri contribute substantially to the maintenance of this vehicle of misinformation and disinformation.

Mr. Speaker: Order!

Mrs. Kittony: On a point of order, Mr. Speaker, Sir. I hate to interrupt my colleague, but is he in order to say that he has not appeared on KBC Television as if some of the hon. Members apply to the KBC to be covered?

An hon. Members: They do! And you are always there!

Mr. Gatabaki: Mr. Speaker, Sir, a case in point is the hon. Gracious Lady for whom I have got a lot of respect. Her visit to Githunguri without saying anything was given a front-page coverage by the KBC, and no amount of work I do for the promotion of coffee, tea and governance is given any space. I can understand her concern.

(Laughter)

However, we cannot avoid being part of the 21st Century. The 21st Century demands that we embrace information technology. So the issue is: Are we going to be left out in this region of the world because we fear what the public will learn about this Government? Are we going to be isolated because of the incapacity of this Government? Are we going to be isolated because, as everybody knows for many years, even our beloved President fears such small items of information technology? That is a fact. Telephones scare them. Today, Telkom (K) is a monopoly. The two internet providers have been made duopolies and nobody else is given a licence to operate because they do not want competition.

Mr. Speaker, Sir, no amount of talking can confuse and convince my colleagues that time has come to implement this Report which was first proposed by the KANU Government when it was a monopoly. Time has come for the Minister for Finance to provide the necessary funding for this kind of outfit to start operation come next July.

Mr. Speaker, Sir, I wish to thank the House because for the first time, I was not interrupted with points of order. This is a realisation, as you told the Attorney-General, that there are times when you cannot see who is the head. Where is the Leader of Government Business? Where are the other characters? This outfit has finished its usefulness.

With those few remarks, I beg to support.

(Applause)

Dr. Kituyi: On a point of order, Mr. Speaker, Sir. The Assistant Minister for Foreign Affairs and International Co-operation, Mr. Odoyo, walked in after Question Time and he is walking out without coming to the Chair to apologise because they were not represented when there was a Question for their Ministry. Could I just help you to do house-keeping work? They owe it to this House and if they are late to answer a Question, they should come and apologise to the Chair instead of sneaking in and out!

(Laughter)

(Mr. Odoyo walked into the Chamber)

Having said that, Mr. Speaker, Sir, then I would like to make my contribution.

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): Mr. Speaker, Sir---

Mr. Speaker: Order! Order! You just do not stand there and call Mr. Speaker! Mr. Speaker! What did Mr. Speaker do? What is your problem, Mr. Odoyo?

(Laughter)

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): Mr. Speaker, Sir, I beg to confirm that the "so-called Question---"

Hon. Members: The "so-called Question?" Could you withdraw that remark?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): Mr. Speaker, Sir, on behalf of my Minister, if a Question was asked and none of us was in the House to answer it, I would like to state that tomorrow we shall be in a position to respond to that particular Question. I apologise profusely under Standing Orders---

(Laughter)

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. You heard Mr. Odoyo refer to Mrs. Ngilu's Question as the "so-called Question." Could he be asked to withdraw that unkind or impetuous remark?

Mr. Speaker: Order, all of you! We are distracting the hon. Member on the Floor. I do not see any Question on the Ministry of Foreign Affairs and International Co-operation at all! What is all this?

Proceed, Dr. Kituyi!

(Mr. Odoyo stood up on his place)

Order! Order! I suppose Dr. Kituyi wanted to provoke you to say something, which, I am sure, he has not only succeeded, but did so excellently and brought you back to your seat.

Proceed, Dr. Kituyi!

(Laughter)

Dr. Kituyi: Thank you, Mr. Speaker, Sir---

The Minister for Finance (Mr. Obure): On a point of order, Mr. Speaker, Sir. In the event that there was no Question for the Ministry of Foreign Affairs and International Co-operation, would it be in order to ask Mr. Odoyo to withdraw his profound apologies?

(Laughter)

Mr. Speaker: What were you apologising for?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Odoyo): Mr. Speaker, Sir, while I recognise the inability of the hon. Member to recognise that the Question was directed to the Office of the

President as opposed to the Ministry of Foreign Affairs and International Co-operation, I withdraw my apology.

Mr. Speaker: Order! Now, we must continue!

Dr. Kituyi: Thank you very much, Mr. Speaker, Sir. This is a very interesting point of entry on discussing televised parliamentary debates. I imagine if this circus was being seen by Kenyan taxpayers at their expense---

Mr. Speaker: Order! Order!

Dr. Kituyi: Mr. Speaker, Sir, I have checked the word and I did not know that "circus" was unparliamentary in spite of what you said last time.

Mr. Speaker: Order! Order! You must be more serious than that. To refer to a discourse here as a circus is an insult to the whole House. You must withdraw that remark with appropriate apology immediately!

(Mr. Raila stood up in his place)

Order! Order! Will you sit down, please! Will you apologise, Dr. Kituyi?

Dr. Kituyi: Mr. Speaker, Sir, I withdraw the word "circus" with the necessary apology.

Mr. Speaker, Sir, sometimes the exuberance of this elegant discussion here---

Mr. Speaker: Order! Order!

The Minister for Energy (Mr. Raila): On a point of order, Mr. Speaker, Sir. This is a serious House. Dr. Kituyi should not only withdraw his remark, but he should apologise for misleading the House that there was a Question addressed to the Ministry of Foreign Affairs and International Co-operation.

Dr. Kituyi: Mr. Speaker, Sir, I have satisfied the Chair that I have withdrawn and apologised. I am not playing up to any gallery with any other sentiments. But, Mr. Speaker, Sir, I was talking about a serious matter. If the level of our debates will be found wanting by the taxpayers who pay for live coverage of parliamentary proceedings - we may have satisfied ourselves about the excitement that they are listening to our voices and looking at visages - we are creating a problem for the very institution we were supposed to strengthen by live coverage. This is the point I am trying to bring out.

Mr. Speaker, Sir, I will try to do a different thing. Since it is unanimous that we are going to pass this Report for live coverage of parliamentary proceedings, I think we should now get into the mode of conceiving how best to protect that privilege and opportunity from abuse. That is going to be the main substance of my speech. But before that, there is one Member I want to dissent from who spoke here yesterday; my colleague, Mr. Muite. He faulted the recommendations of the Kirwa Committee about fixed and focused coverage of the Member on the stage.

Mr. Speaker, Sir, while faulting the recommendations of the Kirwa Committee regarding camera coverage of hon. Members on the Floor of this House, Mr. Muite said that any hon. Member doing anything within the Chamber should be covered for people to see what is happening in the House. I found this interesting because, as history will ironically have it, the House of Commons passed a legislation and started live coverage of its proceedings on 3rd April, 1978, exactly 24 years today. On that day, one of the last sceptics who were opposed to live coverage of the House of Commons, the Hon. John Stokes, a Conservative Party Member, argued on the fear that would come if what Mr. Muite proposed were to be taken on board. If I may just paraphrase him, the Hon. John Stokes argued that a live coverage where cameras are freely covering every person, whatever he is doing, will turn a parliament into a daily cacophony - a rapt of variety show which never seems to cease. For instance, when a lady hon. Member is speaking, there will be bound to be more emphasis on her attire than on the content of her speech, and that every idiosyncrasy of hon. Members will be focused upon. If an hon. Member is sleeping - and sleeping is sometimes the best thing to do when some of our colleagues are speaking - the cameras will home in and make this look like a crime.

Mr. Speaker, Sir, this is a very legitimate concern. You cannot justify that, under the guise of relaying to Kenyans how their Members of Parliament behave, you give a free reign to cameramen and camerawomen to cover us when we are escaping from the most intimidating and, sometimes, the most "moving" speeches which tend to remove people out of the Chamber. If you do not want to move out, perhaps you will take a little nap. If the camera captures you, they cannot understand the agony that is being offended onto ears from the other side of the House. I support the position taken by the Kirwa Committee, that there has to be very careful rules about the focus of the cameras and microphones, and that only the persons who are contributing - not even the images of those who might not contribute but may want to stand behind contributing hon. Members so that they can also be seen to be in Parliament - should be focused and relayed to the public.

Mr. Speaker, Sir, there were some matters about conceding ownership of the signal. The Minister talked about a channel for broadcasting. In other parliaments where there has been live coverage of their proceedings, the parliaments own the signals. Different media houses subscribe to the signal of the those parliaments at a nominal fee. The provision of live coverage of Parliament should go hand-in-hand with pressure on the Government to do what it is

supposed to do under the law - to remove discrimination in the award of frequencies and licences for nationwide broadcast. It is not tenable for a country to have one TV station with a nationwide reach and oblige it to relay what is going in Parliament all the time. There are lots of other important things which go on out there. It will have to relay those other things too. Similarly, there has to be a possibility of different media houses being turned to when one broadcasting station has switched to other business.

It takes a very substantial maturing on the part of the Government about what liberalisation of the airwaves means. Here, we have a very strange situation. We have a Government which is talking about wanting live coverage of Parliament, and about wanting to liberalise the airwaves, but what does it do? It does something which Mr. Gatabaki talked upon. While the law of this country is against operation of monopolies and duopolies in telecommunication and broadcasting; while the Government has been confronted by a duopoly in mobile telephone service provision and a monopoly of fixed telephone lines by Telkom Kenya, what the Government has done is, instead of obeying the law and opening up enough space for competitors, that it has gotten this smiling Attorney-General to publish an amendment to the law to strike out the illegality of monopolies and duopolies.

Mr. Speaker, Sir, it is a major outrage waiting to happen, that at a time when the Government is claiming to be getting rid of monopolies, liberalising the airwaves and opening up airspace for competitors, we are in the process of being forced towards a reversion by removing provisions from the law which force it to open up the telecommunications sector. These are the same people who have said that they want a live relay of parliamentary business. Our debates will be seen between Mathare, Kawangware, Westlands and the Industrial Area, because we are not allowing the majority of TV stations to have a nationwide reach. Who will relay the proceedings of this House to the rest of the country when the Kenya Broadcasting Corporation (KBC) is obliged to follow President Moi to church?

Talking about President Moi and church reminds me of some nice things about the KBC. Every Sunday afternoon, I undertake the ritual of driving towards Nairobi, and almost religiously, I cross the railway line at Gilgil at 4.00 p.m., and I switch on the radio to find out if anything has happened, and I hear: "President Moi today attended a church service in Kabarak and the preacher said---" That has happened every Sunday at 4.00 p.m. until at one time I said to myself: "Maybe, there is a *zinzanthropus* out there in the bush. If I open the window of my car when I reach Gilgil, it will tell me: "President Moi was in church in Kabarak", as if it is a Press statement. Does the KBC believe that people consider this to be news or is it a statement of impunity, that because certain people control the KBC, they can blast us with whatever they want us to hear?

Mr. Speaker, Sir, let me return to the actual substance of broadcasting the proceedings of this House. As some hon. Members said, the implementation of these proposals should not be delayed. There are some hon. Members of this House who get extremely generous coverage for what they say. Sometimes we should blame the media for this. They say a little thing, and it is blown out of proportion until people out there start thinking: "These honourable gentlemen are really phenomenal in their wisdom". It would be very naive for Kenyans to be given a genuine opportunity to go through what you and I go through and listen to these over-covered gentlemen and hear what they usually say in this House.

In the first place, we will see a lot of abuse of decorum. We will see people trying to make appearances in order to make news, or be seen and heard by Kenyans. The rest of us will settle down. When that happens, it will be easier for me to explain to some of my friends and colleagues that it is actually true that when you come to Parliament, you will hear Mr. Raila defending Mr. Biwott more than Mr. Kamotho used to do. People do not know that it is true that Mr. Raila does that. It will be very nice for the people to hear it from Mr. Raila's own mouth and realise that he actually does what is said about him. That is a benefit of live broadcasting of our proceedings.

Mr. Speaker, Sir, we relish the opportunity that is coming. All of a sudden, you will hear some colleagues, who had become almost crippled by using signals of multiparty and anti-KANU slogans, now stand here and wail more than the bereaved. When you attack KANU, you will see people about to disintegrate, although they are not even one month old in KANU. Sometimes they breach the rules of Parliament, and are shown the door. They are offended that mother KANU is being attacked, but the old guard who have been in KANU for decades start wondering as to what is happening to them. It will be in the interest of Kenyans, who will also have the opportunity to ask themselves that question. We cannot ask the question on their behalf. What has hit that person who, all of a sudden, by a declaration and crossing of the Floor, has become religious in a position he has never understood as much as those whom he found there?

But even more fundamentally, there is a balloon being created around here. There is a shroud which is dangerous to parliamentary governance in that a group of persons - an arithmetic of honourable young men - were presented on a stage and declared the Young Turks who are supposed to bring about change. They allegedly represent the future of this country since they belong to the dot.com generation. Outside this Parliament, they are considered as leaders. However, by and large, they run away from parliamentary business; they never stay in here. They are substantially responsible for the creation of lack of quorum on the Government side. When Mr. Kamotho was the

Secretary-General of KANU, and our colleague the Leader of Government Business--- When they were at the forefront of the mainstream KANU leadership, they always made sure that Government Ministers were here to answer Questions. This is otherwise what will embrace the privilege of office. But the responsibility of whipping others to be here; to obey and respect the honour and dignity of Parliament so that even when in the House, they will speak with a level head to the extent that you can understand what they are saying, even when the Press do not cover such stories--- It will help; that, either they will shape up, or they will be shown for the charade that they are. That will be important for this country.

Mr. Speaker, Sir, it is a very dangerous thing that we are celebrating; that, Kenyans will be listening to us *ad nauseam*. It is dangerous because if we do not shape up, we will be confirming certain caricatures of Parliament that have been created by a section of the Press. You know as well as I do, that certain members of the Press have deliberately created phantom salaries, phantom free medical schemes and accident insurance, courtesy of taxpayers, for hon. Members. That is phantom because they have absolutely no bearing on the truth, and they have caricatured what being a Member of Parliament is. But now, every Kenyan who has a privilege of owning a television will be staring at his or her screen and start seeing a charade in Parliament, beneath the average expectation of what a national leader is. We will be fuelling a bias against a critical institution of governance and a contemptuous reaction towards elected representatives of the people, and we will be diminishing the potential role that more knowledge about Parliament should create for the just governance of men and women.

Mr. Speaker, Sir, but there is another worry that I have. I have a worry that if we are creating conditions under which people listen to debates in Parliament, seeing their Parliamentarians talking, seizing upon the critical issues of the day, the theatre that will be seen by the people becomes very disillusioning if the word of Parliament means nothing in the governance of the country. We have seen very substantial erosion of the dignity and integrity of our Parliament; when institutions of governance, other than the legislative, are used to shoot down critical resolutions and decisions of this House. It is not an accident that under some very glib judgements, the Kenya Roads Board was totally wounded, a move which many of us think was one of the most radical and positive legislative developments of the past decades. To a large extent, some of us even think that Eng. Kiptoon was fired as the Minister for Roads and Public Works because of his singular commitment to rid corruption in the Ministry. He had discovered the use of the Road Maintenance Levy, through a new legislation, was a critical way of stopping pilferers from accessing public money which are meant to construct and maintain roads. The little that has been salvaged of that law has made a major difference in most of our constituencies today. Imagine, if it had not been sabotaged, how far we would have been today?

(Applause)

Mr. Speaker, Sir, I do not just bemoan the sabotage and the wasted opportunity of that law. I bemoan the sabotage of Parliament that comes through some strange conduct of sections of the Judiciary. We are talking about KACA, the Road Levy Fund and the Donde Law; there are many cases where the *lacuna* between the boundaries between the Legislature and Judiciary is being assaulted from the other side. As a Parliament, we have offered our conduct as hon. gentlemen and ladies. We have not questioned the integrity of other competing institutions of governance, but as the custodian of Parliament, you should be seized by a concern about how often unilateralism is entering the conduct of other institutions of governance to the detriment of the collective voice of the Legislature, and how much longer can the Legislature of the country continue to give silent, unstated respect and reverence to other institutions if they are not reciprocating such respect from us, by the conduct they are showing towards legislation passed by our House.

It becomes important if people are happy when they hear very nice laws are being enacted by Parliament through live debate only to find that a mysterious judge somewhere, strangely after a very brief presentation, makes a very radical ruling which has the effect to negate totally the careful, much researched and debated legislative work that has been done by this National Assembly. That is the concern to me.

There is another side which should be very important; that is, assessing how far the work of this Parliament that is going to be televised live to Kenyans is going to make sense. That is, the extent to which the Executive assurances are implemented. There has been a desire before, and it has been written and talked about, but the governance of this country, through an enhanced Parliament, is not going to be effective unless and until we have an Implementation Committee. They call it in Uganda the Presidential Assurances Committee; that, Motions passed by this House should never again be subject to whims of people; that, Mr. Nassir goes out to a "mkahawa" in Mombasa and says: "*Wapende, Wasipende!*"

(Laughter)

And his word carries the day more than the collective wisdom of the Legislature of Kenya. Kenyans will look at him and say: "This is the one who was saying wapende wasipende," and his word is more important than our collective wisdom, and we are saying that we are the National Assembly of Kenya? We will start wanting to have a break. But that is also another break that we would like to have.

There has been a habit among certain persons who appear to want to be projected as radiating the authority of the State, that, when they are away from Nairobi and very distant from us, they make some extremely outrageous statements; they even threaten hailstones and lightning on the Opposition. They dare us in all manner of ways, but when they come here, and you look at them in the eye, they look down. You just wonder: If they are telling those people out there those things, why do they not repeat them here and let those people also hear how they are answered? Let this now be an opportunity to merge their two audiences; those in Parliament and the tribal audience that they delude and mislead outside there with statements of impunity and arrogance. That will be a great opportunity to reduce, at least, some of the rabid excesses of divisive rhetoric that permeates people's statements in the run-up to the elections.

I would like to finish with a few cautionary remarks. We are, as a nation, at a stage of critical transition, which constitutes an "age" transition. For a long time we will not be listening to certain persons whom we have been listening to for decades, threatening us and pouring vitriol in all manner of languages. They will leave the stage, and that is something to look forward to. But it is also an important transition; that, unless there are institutional changes to move away from a personalised rule, from a political culture where sycophancy to an individual is more important than knowledge and ability to perform your job, to a society that is knowledge-driven, and where playing by the rules is more important than how closely you are liked by an individual who occupies a high office--- Unless we reach that stage, where you stigmatise persons who are known to have stolen public money, who in many cases have been promoted to higher offices in spite of the plunder and ruin of the economy and institutions that they have left behind; in spite of the construction they have done on road reserves; unless we get beyond that, live broadcast will be just the opportunity for the people to see us and say: "They look like these; those ones who have been stealing from us!" So, we must start cleaning up our act, our Parliament, our culture of leadership, and destroy the impunity that has created demigods out of persons with very dubious immoral character. That day, it will make sense, and it will be justifiable to use taxpayers' money to broadcast parliamentary business. It will make sense in that some of the questions that we have been asking here, which have been edited out by certain sections of the Press, will be heard.

Mr. Speaker, Sir, there was a time I made what I considered to be a fairly substantive contribution on the Floor of this House. When I finished my contribution then, hon. Ms. Karua informed me that an hon. Member from the Government side had beckoned a member of the Fourth Estate to go out and meet him outside there. It appeared as if I was the only one who did not know that, that happens. As true as sunlight, an hon. Member from that side of the House disappeared and a member of the Fourth Estate from the Press Gallery disappeared. I was told the next day, not a single line of what I said would appear in that particular newspaper. The *Daily Nation* did not cover a single word of what I said that day. We have to move away from commercialised coverage of parliamentary business. We have now to move to a stage where they have to know the Standing Orders of Parliament.

(Applause)

*(Messrs. Nassir and Obure stood
up in their places)*

Mr. Speaker: Order, hon. Members! His time is not up yet!

Dr. Kituyi: Mr. Speaker, Sir, just forgive them. In fact, the Bible says some have eyes but they cannot see! We have now reached a stage where some of the more inconvenient things that are said here about those who have a lot to hide are relayed sufficiently. But I believe in responsibility! If we have the privilege of live coverage, we must also streamline our own conduct, so that we do not abuse that privilege by making outrageous and unsubstantiated statements, which can hurt many people in a way that cannot be reversed, because it has been covered live. I will be the first one to support the position that, persons who deliberately cast aspersions on the integrity and honour of persons in public life who cannot be here to defend themselves; but who are in a hurry to withdraw, because they have nothing to substantiate, penalties against such persons should be given in the time when we will have live broadcast of parliamentary proceedings.

With those remarks, I beg to support.

The Minister of State, Office of the President (Mr. Nassir): Bw. Spika, wakati umefika wa kusema ukweli na kutenga uwongo. Ni lazima jambo la utangazaji wa mijadala katika Bunge liwe mfano mwema Kenya nzima, kwa maskini na matajiri. Inafaa jambo hilo la utangazaji wa mijadala katika Bunge liwe na faida kwa mikoa na wilaya zote

katika nchi hii. Nairobi imefaidika kwa miaka mingi kwa sababu yale yanajadiliwa katika Bunge hufikia watu kwa wakati unaofaa.

Bw. Spika, Wabunge wengi wanaweza kuwakosoa wenzao hapa, lakini hiyo haiwafaidi watu wa Kenya. Watu wengi wana taabu katika nchi hii. Wengi hawana ajira, nyumba za kulala, wala shamba. Katika sehemu fulani za nchi hii, watu wameendelea sana lakini katika sehemu nyingine, watu wanakufa. Kazi kubwa tuliyonayo katika nchi hii ni kutafuta njia ya kuwasaidia watu wetu ili tuondoe taabu waliyonayo. Waheshimiwa wasilaumu wenzao kwa mambo ya uporaji. Infaa tufanye mashauri ili watu wetu waishi kwa njia inayofaa. Tuko na zaidi ya miaka 30 tangu tupate Uhuru na tuna mambo mengi ya kufanya. Hata kupitisha Hoja hii ya utangazaji wa mijadala katika Bunge ni kazi ndogo, tukilinganisha na taabu za watu wa Kenya.

Bw. Spika, kuna watu wanaokula nyama na samaki kila siku, lakini kuna watu wengi ambao hawawezi kulipia watoto wao karo za shule. Ni lazima tufanye Bajeti iliyo na usawa kwa sehemu zote za nchi hii. Inafaa tufanye mambo ya kuwafurahisha watu wetu. Nimekuwa Bunge hili kwa miaka 27 na sina furaha. Nimekuwa Waziri pia, lakini sina furaha kwa sababu watu wangu hawapati chochote! Wengine wanapata zaidi kuliko wenzao! Tuna taabu na ni lazima tubadilisha mienendo yetu. Kuwakosoa Wabunge wengine ama kushindana kwa kuongea Kiingereza sanifu si jambo la muhimu kwa watu wetu. Hatukuchaguliwa ili tufanye kazi kama hiyo. Kazi kubwa ya Wabunge ni kuwasaidia watu wao kwa kufanya Harambee na kujenga shule. Watu wengine hawana pesa za kununua hata nguo za shule. Kila siku, Wabunge hawa wanasumbuliwa kwa mambo ya karo za shule na mambo ya kutafuta ajira. Tusipofikiria juu ya mambo haya, tutakuwa na shida kubwa. Ni lazima kuwe na mabadiliko! Kubadilisha Wabunge, Mawaziri ama Rais haitabadilisha nchi, mpaka tubadilisha Katiba. Shida za wananchi zitakuwa ni zile zile, mpaka tubadilisha tabia zetu pia.

Bw. Spika, mheshimiwa mwenzangu amezungumzia mambo ya KANU. Ningependa kumwambia kwamba KANU itajenga kila sehemu ya nchi hii, lakini hatujafikiria ni nani atakuwa Rais. Rais mkubwa wa Kenya ni yule anafikiria mambo ya kuondoa umaskini katika nchi yetu.

Mr. Munyasia: On a point of order, Mr. Speaker, Sir. Hon. Nassir has been speaking for the last five minutes, but not on the Motion before the House. Could he be asked to be relevant?

Mr. Speaker: Mr. Nassir, could you, please, be relevant to the Report?

The Minister of State, Office of the President (Mr. Nassir): Bw. Spika, nilikuwa namjibu mhe. Kituyi. Mimi nataka Kenya ibadilike. Ni lazima umaskini uondolewe katika nchi hii. Kuna matajiri waliochukua ardhi kubwa katika mji wa Mombosa na kujenga nyumba za vibanda bila milango, madirisha, choo ama maji, na wanajiita viongozi wa kuwasaidia watu.

Bw. Spika, tuna mambo mengi ya kurekebisha katika nchi hii. Tutapitisha Hoja hii, lakini ni lazima mienendo yetu ibadilike. Mapenzi yetu si ya kuonekana kwenye siasa tu. Ni lazima tuwaonyeshe maskini ni nini tunaweza kuwafanyia. Ni lazima tupange mambo yetu vilivyo.

(Mr. M.M. Galgalo's cellphone rang)

Mr. Gitonga: Mr. Speaker, Sir, that is the second time his cellphone is ringing!

Mr. Speaker: Order, Mr. Galgalo! I am sorry that you must go out but next time, save us that headache! I understand that is the second time today. I am actually being incited by Mr. Gitonga. You must now leave!

(Mr. Galgalo withdrew from the Chamber)

The Minister of State, Office of the President (Mr. Nassir): Bw. Spika, watu wetu walituchagua na ni lazima tuwasaidie. Ni lazima tuwe na imani kwao. Ni lazima tupunguze pengo kati ya maskini na matajiri nchini. Ni lazima viongozi waongee kuhusu mambo ambayo yatawasaidia wananchi. Lakini tukiongea hapa ili tuonekane kama hodari na wenye kujua ni nani aliiba na ni nani hakuiba, hii inatutia aibu sana.

Kwa hayo machache, ninaunga mkono.

The Assistant Minister for Labour and Human Resource Development (Mr. Ethuro): Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this particular Motion.

I rise to support the adoption of the Report of the Select Committee on Broadcasting and Televising of Parliamentary Proceedings. It is absolutely important for the people who elected us to this House to have an opportunity to view and hear what we do here. As an hon. Member of the Library Committee, I had an occasion last year to visit the South African Parliament. The opportunities provided by the televised parliamentary debates ensure that hon. Members do their homework a bit more seriously. So, when adopting this Motion, it is important that our Parliament also improves our access to information. Our library services should be expanded as recommended in the Report.

I have one worry, and it is a big concern, and I would like to elicit the support of the House. When this Motion is adopted, we should ensure that all the corners of this Republic are covered, at least, by the Kenya Broadcasting Corporation (KBC). We will be doing injustice to the people who elected some of us to Parliament if they cannot view what happens here. When the rest of our colleagues can be viewed on television by their electorate, some of us from areas such as Mandera, Wajir, Garissa, Ijara, Samburu and Turkana Districts cannot be viewed on television by their electorate. These areas have very poor television reception. In the new millennium, it should be part of the basic infrastructure that the entire Republic has very good television reception, so that when this kind of Motion comes to the House, we know that when it is adopted, the benefits will be shared across the nation. This should not be another tool to discriminate against certain areas because of lack of information. That is my appeal to the House. I think a consensus is building up that this is absolutely necessary. Mr. Gatabaki has agreed that ten years ago, KANU had promoted this kind of Motion; so, it is generally in order.

Mr. Speaker, Sir, it is instructive to learn that if the House of Commons in the United Kingdom, a democracy that we all boast about, and most of the African Parliaments are modelled on the Westminster system, could only start broadcasting and televising its parliamentary proceedings in 1978, then we cannot say that it is too late for us to do it. Given the pace of development of our country, we can only say that this is important to consider now, especially when we have internet services all over the place. We should also ensure that our people get to know what happens in this House. If you had an opportunity to be in the United States of America (USA) and watched a particular channel, namely, "Ceasefire", you and other budding leaders would be encouraged to watch other leaders discussing business. This will ensure that we attract the best talents and bring to Parliament people who have something to offer to this country. It will also ensure that people who come to Parliament are serious enough and want to make meaningful contributions to their society.

This Motion is part of the parliamentary reform programme. In that light, I would be completely surprised if any hon. Member disagrees with this Motion. It is important that when we improve the quality of debate here, we should respect issues that are raised by other hon. Members. This facility will give every hon. Member an equal opportunity to be heard and exposed. As it stands now, the members of the Fourth Estate are very selective and biased in exposing particular hon. Members. Issues that may be important to my constituency may not be perceived by certain people to be important. But this House has a right and a responsibility to ensure that all the issues that are important to the electorate are heard, not only by hon. Members of this House, but also by the rest of the nation, so that we will build a consensus on what is important. We should understand that what may not be an issue to my electorate may be an issue to people from another corner of the Republic. As responsible citizens, we will come up with a consensus on the issues that are important to us.

Mr. Speaker, Sir, I want to revisit the issue of enabling hon. Members to access information. The business of Parliament is so crucial and important to governance, and for hon. Members to express themselves and raise pertinent issues that affect any Motion, Bill, Question or any contribution, they need to be equipped. I support the office accommodation programme for hon. Members that is on course. I also support the fact that Mr. Speaker offered hon. Members an opportunity to learn to use computers and they will have no excuse but to access computer information. If we could be connected to the internet, then hon. Members can browse and do a bit of research. This Motion has brought out all the pertinent issues that we have talked about in parliamentary democracy. We have talked about effective legislation and said that when we broadcast live the proceedings of the House, they will have a wider impact beyond the House.

Mr. Speaker, Sir, cattle rustling and insecurity in northern Kenya are aspects which we feel are not given adequate coverage. On Thursday last week and yesterday, there were two raids in Turkana District. If an opportunity was there, we would have raised this issue and Kenyans would know the pain and suffering that the people of Turkana go through; the loss of lives and property in terms of livestock. In this way, maybe, Kenyans would support some of the proposals that we would recommend in terms of surveillance and ensuring that not a single Kenyan life is lost. This is especially so in situations where we know that with effective policing, we can prevent loss of life.

Mr. Speaker, Sir, I do not want to contribute a lot. I would like to support this Motion and urge hon. Members that, as we support this Motion, we have to make sure that every corner of this Republic can, at least, access the Kenya Broadcasting Corporation (KBC), as part of the basic infrastructure of information flow.

I would also like to touch on what transpired at Kasarani. The elections which were conducted at Kasarani were proper. The vacant posts were announced and proposals made. In fact, Kasarani borrowed from the Parliamentary practice of acclamation. There is nothing wrong when we practice acclamation in this House, but when it was used at Kasarani, our friends from the other side of the House thought that there was something wrong. The Attorney-General said this morning that he was at Kasarani as an observer and he did not see anything wrong with the elections.

Mr. Speaker, Sir, hon. Members, while contributing to this Motion, have demonised the "Young Turks" who have joined a vibrant party known as "KANU". A party can only deliver and be effective if it can meet the challenges

of the times. The fact that the former NDP merged with KANU to form one strong KANU is only a reflection of the changing political scenario. I think that step has taken us forward in terms of forming parties which are based on issues and not personalities; parties which are not based on ethnic considerations or regional provisions but can actually come together and speak in one voice. I am not worried when I hear that the other three parties namely, DP, FORD(K) and NPK negotiated to form an alliance. There is nothing wrong with that. Let the political landscape be realigned in a manner in which we can get strong parties which will enhance democracy in this particular country.

Mr. Speaker, Sir, with those remarks, I would like to support the Motion very strongly.

The Assistant Minister for Trade and Industry (Mr. Ekirapa): Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. I would like to associate myself with the comments my colleagues have made namely, to support this Motion and encourage the Minister for Finance to make proposals in the next Budget to include the necessary funding for live coverage of Parliamentary proceedings. Live Parliamentary coverage will be very useful to our people in many respects. Firstly, it will be possible for our people to observe debate in the House, follow the arguments the Members they elected advance on particular issues and to assess the performance of the people they have elected to this House. It will also instil a lot of discipline in this House in the sense that Members of Parliament will attend Parliament regularly and make contribution. This is because, if they do not do so, they will be aware that those people who elected them from their respective constituencies are watching on television. The Members will not wait until Parliamentary elections are declared to appear in the constituencies to convince their people to vote for them. The electorate will have formed an opinion on a running basis; right from the day a Member reports here after elections. They will be assessing continuously the performance of their Members of Parliament. I think this is good development for the House, which I hope every hon. Member of Parliament who is here will support.

Mr. Speaker, Sir, my only worry is how this debate will be reported. I do hope that some kind of assessment will be made as to who or which media houses will be allowed to report directly from Parliament. It is terrible to say this because it appears as if we will be discriminating against some media houses. But the Chair has heard hon. Members of Parliament complain about the manner in which some media houses report the proceedings of this House. Out of 222 Members of Parliament who are here, maybe, there are less than 20 Members whose faces the Press is familiar with, and they will be the ones that they will chase and contact for comments on every possible occasion. That is not what the Press is supposed to do. The new development in the House will "kill" that kind of practice because they will be unable to control the live coverage. Therefore, the Press will be competitive, fair and report accurately on what the hon. Members have contributed.

Mr. Speaker, Sir, There is also the aspect of accuracy or the manner in which our Press reports these days. Recently, I attended a function with an hon. Member in his home and on the same day an incident happened in Mombasa where some Members of Parliament were involved in some fracas with the police. The following day, a prominent newspaper reported that two of my colleagues who were with me here in Nairobi were also involved in the fracas. I assumed that there would be a correction. On the third day, I called the editor and told him that, that story was not correct because those two hon. Members were not in Mombasa. I expected, like is expected of all reasonable Press, that there would be a correction on that report, but it was not made. It would seem, therefore, that the Press has allocated itself the responsibility of the know-it-all, and if they make a mistake, they do not care to apologise. Live coverage of the House debate will limit those malpractices because the people will watch live the proceedings of this House.

Mr. Speaker, Sir, it would be terrible if we were to eliminate certain media houses from covering proceedings of the House live on that basis. In which case, we may have to consider a system by which all the reporting from the House is made available to all the media houses. This is because, as the Chair knows, every Press has got its readers, and it is fair to provide all of them with the proceedings of the House. So, it may be necessary to consider that the House has its Press system which releases copies to the national Press with a proviso, of course, that, that information is not mutilated to make it different from what it was.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

I was talking about the way the Press is reporting these days and this may be digressing a little bit. But I think it is important to say that our Press ought to do a little more to help us in this country. The economy is in trouble and part of it is because of our own reporting. The way we observe ourselves, the way we think about our country and the way the Press is projecting the image of this country. I am not saying that they must not report the truth, but what I am saying is that; if you live out there, you may think that this country is absolutely impossible to live in. How about our

tourism? That is one reason why tourists are scared of coming to this country because the tourist is a very insecure person in a foreign country. You do not go to a country where you read that there is war going on or there is war which is about to break out. You keep off that place. In doing so, in respect of Kenya, we have our national Press which has helped to ruin our economy. I would like to associate the Press to the sense of patriotism, while not hiding the truth but, be reasonable most of the time. Do not exaggerate everything--- Some of these stories, of course, are not factual, but they are juicy; they are nice to hear and there are times when some of our Press men or women, listen more to other people out there than to correct story here in the country. So, I want to appeal to our national Press to be objective, criticise when they must, but please, remember also that at the end of the day, we are all Kenyans. Without Kenya, you cannot exist.

Mr. Deputy Speaker, Sir, I want to say something about the Kenya Broadcasting Corporation (KBC) because to date it is the only media that is covering the whole country. There are certain parts of this country which are not covered by KBC or which are not being clearly covered by KBC. In order that every Kenyan has the opportunity to observe Parliamentary debates and be able to assess the performance of their Members of Parliament, I would like also to appeal for consideration that the Ministry of Finance must take account of this development. In other words, for every area in this country which is not covered by the KBC, much should be done to ensure that people of that area are also able to receive television signals and to watch Parliamentary debates. If we do not do that, then part of the objective for allowing live coverage of debates in Parliament will be lost and that is to educate the *wananchi* out there; the electorate, on how debates are carried out to encourage the budding politicians to learn how debate are carried out in the House. That is why there should be some apprenticeship for those people who are interested in coming to Parliament. So that, when they arrive in Parliament, if they get elected, they do not come in without, at least, the elementary knowledge of Parliamentary Procedures and Practice.

Mr. Deputy Speaker, Sir, with regard to the issue of the equipment, I know that we want live coverage of Parliament to start soon enough. But I think there are a lot of costs that are going to be involved. There are a lot of costs on the basic equipment that we are going to meet and this Parliament will have to take account of those costs, so that when we introduce the live coverage, it should be proper and well-thought-out, so that we do not end up having something that has not been properly thought-out. This is because the equipment for live coverage is fairly expensive and we need it to be the state-of-the-art for the debates to be properly conveyed to the countryside.

Mr. Deputy Speaker, Sir, with regard to the other press, I think it is called the alternative press and some people call it the gutter press, there seems to be too much freedom by this gutter press. The freedom to malign people; report untruths and the freedom simply to be reckless. We seem to be totally unable to do anything about it. I know that the recent heavy fines imposed by courts on the main Press is causing ripples and, I am sure the management of those media houses might be getting extremely strict with their editors. But the alternative press, or the so-called gutter press, does not seem to have the same control from their own management. Some legislation or some action must be taken really to make these people responsible. This is because you cannot have freedom which you misuse to infringe on other people's freedom. You cannot have that freedom without responsibility. Really, we must do something about the gutter Press. While I am a great supporter of free Press, I support a free press which is responsible. I do hope that this issue will have to be looked into and appropriate action be taken.

Mr. Deputy Speaker, Sir, I know that there is another Bill which was coming before this House and I think it had become controversial. The Attorney-General is here and I do not know whether the Bill on the Press is coming in or not. But that may be the time that we may want to discuss the responsibility of the Press. I am interested in discussing about the ownership of the Press because I think that ownership has got very important contribution to make in the way the ladies and gentlemen of the Press look at their responsibility.

In other countries there is clear law that requires the ownership of newspapers or other media to respect certain national laws. For example, the percentage of ownership that would introduce the local people to the ownership of newspapers and other media and, therefore, enable them to contribute to the policies of that Press. Some of the reasons why we suffer here is because we do not have that kind of control and, therefore, a lot of people do not know who is owning even the small gutter Press. I think it is important and there is nothing controversial about that. It is important for people to say that they are the ones who own it and they must publish their policies so that we know that the editors are following the owner's policies. But if the owner is somebody who has really no interest in this country, except making money out of it, then we have a problem. When that Bill comes before the House, I hope hon. Members will address it with the seriousness it deserves. We need to study what happens in other countries; how the Press is organised in Canada, America, United Kingdom, Australia, New Zealand *et cetera*, so that we can borrow a leaf from those countries, when we discuss these issues, because they are very important.

Mr. Deputy Speaker, Sir, today you may be in charge of the Press and, therefore, you do not see the need to introduce these kinds of regulations, but tomorrow you may see it. But let us come up with laws about the Press that are fair to everybody. But let us respect the privacy of individuals and the sovereignty of the country in which they

operate.

Mr. Deputy Speaker, Sir, that relates to this debate where we are now discussing about the introduction of live coverage of Parliamentary proceedings. While I am not advocating for any censorship, because we cannot do that in this day and age, we must encourage our Press to be free and independent. But that independence must come with the necessary responsibility.

Mr. Deputy Speaker, Sir, I would like to express my support for this Motion. Apart from the implementation aspect which may be delayed, I think this Motion has been greatly welcomed by every hon. Member of this House. I am looking forward to its implementation as soon as possible.

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

Mr. Mboko: Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to contribute to this Motion. I stand to support this Motion because it is aimed at starting the live coverage of parliamentary proceedings by both the print and electronic media.

Some hon. Members, including myself, have fallen prey to misreporting, or we are never covered at all by the media. We know very well that the print media does not have the capacity to print all the proceedings of this House. We also know very well that the print media cannot cover only parliamentary proceedings in their newspapers. But the live coverage of parliamentary proceedings will serve the interests of our electorate. They will be able to see how we contribute in this House. They will judge us by the way we conduct business in this House. When there is no live coverage of parliamentary proceedings in this august House, it is a problem to us hon. Members because our electorate will think that we do not actively participate in the debates of this House. Therefore, it is time we started the live coverage of parliamentary proceedings.

The question of lack of money by this Government to implement this very important Motion is a scapegoat. When we compare the economy of this country with of our neighbours, we find that ours is more stronger and sound than theirs. However, our neighbours have live coverage of their parliamentary proceedings. Therefore, it is incumbent upon this Government to ask Parliament to approve the budget for the live coverage of its proceedings. As you can see, many hon. Members are not here. It is not because they do not want to be here, but if we had live coverage of parliamentary proceedings, their constituents would know when hon. Members are in the House. With the live coverage of parliamentary proceedings, I am sure this House will never experience incidents of lack of quorum.

Mr. Deputy Speaker, Sir, I concur with the Minister for Energy who said that hon. Members of this Select Committee who went overseas to collect views and study how other Parliaments work had a joy ride. They would have done this through contacts of other Parliaments in the world. They would have compared and contrasted the notes and see which areas required some improvement. However, I believe the Select Committee did a wonderful job. They highlighted all the important issues to be considered before we start live coverage of our proceedings. We, as Parliament, know which areas to improve on.

Mr. Deputy Speaker, Sir, I do not want to dwell a lot on the print and electronic media. While it is good for this nation to have the electronic media covering live the proceedings of this House, we should bear in mind that most parts of this country do not have television facilities and signals. The Central Government, through the Ministry of Tourism and Information, should make sure that there are television signals in every part of this country so that our constituents can see how we conduct business in this House. As far as television signals are concerned, the technology we apply, as a nation, is very archaic. We need to connect to the satellite so that people from Moyale, Loitokitok and Tana River receive television signals. It is very simple to do so. However, this Government wants to muzzle the Press and that is why they are saying there is no money. They do not want our people have to be informed. They want them to only hear that "*KANU yajenga nchi.*" They do not want our people to hear a different view from other hon. Members.

Mr. Deputy Speaker, Sir, since we have liberalised our airwaves, let our people have access to information. They will only judge us through performance and participation in the debates of this House.

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

Mr. Katuku: Bw. Naibu Spika, asante kwa kunipa fursa hii ili niweze kuchangia Hoja hii. Kwa vile Hoja hii ni muhimu sana, nimeamua kuzungumza kwa lugha ya Kiswahili ili wananchi wetu waelewe ninayosema.

Kwanza, ningependa kuishukuru Kamati hii kwa kazi nzuri waliyoifanya ya kuandika ripoti hii. Walitumia muda wao mwingi na kujinyima mambo mengi ili kuandika ripoti hii tunayojadili siku ya leo. Nimeisoma ripoti hii na ni kweli Kamati hii ilifanya kazi nzuri. Walizungumza na wataalamu wa hapa nchini na kutembelea nchi za ng'ambo kuona jinsi shughuli za Bunge zinavyoendeshwa. Hata hivyo, nilishangaa sana wakati Katibu Mkuu mpya wa chama cha KANU, Bw. Raila, aliposema Kamati hii iliharibu pesa za umma kwa kuzuru Afrika Kusini na Uingereza. Bw. Raila alikosea sana kwa vile hili lilikuwa ni jambo muhimu wao kuzuru mataifa hayo ili kuona jinsi mambo yanavyofanywa. Hii ndio sababu wametuletea ripoti nzuri kama hii. Ikiwa kuna mhe. Mbunge yeyote ambaye hakuridhika na ziara hiyo, basi pengine anaona kijicho na angelitaka awe ni yeye aliyeteuliwa kuzuru mataifa hayo.

Hilo lilikuwa si jambo nzuri hata kidogo. Kwa maoni yangu, Kamati hii ilifanya kazi nzuri sana. Walifanya utafiti wa kutosha kabla ya kuandika ripoti hii. Waliandika ripoti hii baada ya kupata maoni kutoka kwa wataalamu hapa nchini na wa kigeni. Walitembelea vituo vya utangazaji vya hapa nchini kuona ni vipi tunaweza kupata huduma ambayo itawezesha wananchi wetu kupata habari sahihi kuhusu vile Hoja na Miswada hujadiliwa katika Bunge hili.

Ninamuona mhe. Kituyi akitabasamu kwa vile ninazungunza lugha ya Kiswahili. Haamini kama ninaweza kuzungumza kwa ufasaha lugha hii. Mimi ni Mswahili wa kutoka bara.

Bw. Naibu Spika, jambo lingine ambalo limenifurahisha ni kwamba, tukipitisha Hoja hii, wanaolipa ushuru watukuwa wanapata habari moja kwa moja, wala siyo habari ambayo imepitia kwa watu wengine ambao wana ubaguzi. Wananchi wenyewe watajionea vile Mbunge wao anavayofanya ile kazi aliyotumwa kufanya Bungeni, wala siyo kuja hapa Bungeni kuwasifu watu fulani badala ya kuwafanyia kazi wale waliomchagua.

Mr. Munyasia: Mr. Deputy Speaker, Sir, now that we have heard so much on this Motion, would I be in order to move that the Mover be now called upon to reply?

Mr. Speaker: I will allow Mr. Katuku to complete his speech.

Mr. Katuku: Asante sana, Bw. Naibu Spika.

Kuna wale ambao wamesema kwamba, ili kuyatimiza yale yaliyopendekezwa katika Ripoti hii, itagharimu pesa nyingi. Mimi nina maoni tofauti. Pesa ambazo zitawezesha mapendekezo ya Ripoti hii kutekelezwa, ili wananchi wapate nafasi kupata ripoti za mijadala ya Bunge kupitia kwa runinga na redio, si pesa nyingi. Mpango huu hauwezi kutugharimu zaidi ya Kshs20 milioni. Katika hivyo, ni jambo muhimu ikiwa hizi pesa zitategwa kwa Bajeti ambayo tutasoma mwezi wa sita, ikiwa tutafika kule tukiwa Wabunge, kwa sababu Katiba ya Kenya inasema kwamba, Rais anaweza kuvunja Bunge hili wakati wowote. Hii ndio sababu siku hizi tuna shida ya quorum katika Bunge. Wakati Rais alipokuwa akifungua Bunge hili, alisema kwamba huu ni mwaka wa siasa; mwaka wa uchaguzi. Watu wengi wamebabaika, kwa sababu hawajui kama wataweza kurudi hapa Bungeni, na ndio sababu wanakimbilia katika mawakilisho yao ili kutafuta kura.

Bw. Naibu Spika, ningependa kumhimiza Bw. Oloo-Aringo alete Mswada katika Bunge hili ili sisi wenyewe tuweze kujitengeneza kalenda ya shughuli za Bunge. Tutaweza kujua ni lini Bunge litavunjwa na ni lini Bunge lipya litachaguliwa. Hilo ni jambo muhimu sana, na ningependa huo Mswada uletwe na tuipitishie ili Bunge lianze kupata quorum. Wabunge wengi wanababaika. Wengine walipewa viti katika New KANU, ndiposa wamerudi katika sehemu zao za uwakilishi Bungeni ili kutafuta ni njia gani wanaweza kuchaguliwa tena wakati wa uchaguzi.

Bw. Naibu Spika, kuenza maneno ya haki ni jambo muhimu. Jana nilikuwa nikisikiza redio ya KBC ikitangaza kwamba, Prof. Ghai hawezi kumaliza kazi ya kurekebisha Katiba kama vile ilivyopangwa. Pia nikasikiza matangazo tofauti katika redio ya Nation, kwamba, Prof. Ghai amesema kwamba, inawezekana. Kwa hivyo, sikuweza kujua ni taarifa gani iliyokuwa ya ukweli. Ndiyo sababu ninasema kwamba, ni jambo muhimu majadiliano katika Bunge hili yafanywe kwa njia wazi wazi, na ya ukweli.

Bw. Naibu Spika, kuna redio au magazeti mengine ambayo yanaelekezwa na watu fulani; wengine ni wanasiasa na wengine kule nje. Na ikiwa habari inayotazamiwa kutangazwa inahusu matendo

[Mr. Katuku]

yao mabaya wanapiga simu na kukatiza hayo matangazo. Juzi Bw. Parpai alitaja katika Bunge kwamba kuna gari la aina ya Mercedes ambalo lilitambuliwa katika Kamati ya PIC, kwamba, halijalipiwa kodi, lakini linaegeshwa hapa nje ya Bunge kila siku na mmoja wetu. Kwa vile hiyo habari haikutakikana iwafikie wananchi, Mbunge huyo alipigia wahariri wa redio fulani ambayo yeye ana hisa nyingi. Aliwaeleza kwamba, akisikia hiyo habari ikitangazwa katika hiyo redio, atawafuta wafanyakazi hao. Tungependa mambo kama haya yatangazwe wazi wazi, na waandishi wa habari waandike habari sahihi.

Mr. Kathangu: Jambo la nidhamu, Bw. Naibu Spika. Mhe. Katuku amesema kwamba, kuna mmoja wa Wabunge ama Mawziri ambao walipiga simu katika kituo fulani cha redio au televisheni kusema kwamba habari fulani isitangazwe. Ningependa kumuuliza Bw. Katuku atueleze ni nani huyo.

Mr. Speaker: What do you say, Mr. Katuku?

Mr. Katuku: Bw. Naibu Spika, mimi sitaki kumtaja huyo Mbunge lakini, inaonekana Bw. Kathangu anataka nimitaje. Ningependa unirusu niendelee kuzungumza juu ya Hoja hii, ili nisiingilie maneno hayo, kwa sababu yatasababisha madhara mengi.

Mr. Speaker: Sorry! When you refer to an hon. Member of this House, you are also referring to yourself, and I cannot allow you to make that kind of a general statement whereby you are accusing every hon. Member without particularising which hon. Member you are talking about. So, if you cannot do it, you must withdraw and apologise now.

Mr. Katuku: Bw. Naibu Spika, nitasema. Ukweli ni kwamba, stesheni yenyewe ni Kiss F.M., ambao walipigiwa simu na mhe. Kitony. Hilo ni jambo lililo wazi na tunajua hivyo.

Bw. Naibu Spika, ningependa kusema kwamba habari ni lazima zitolewe wazi wazi. Wakati mwingine

tunawalaumu waandishi wa habari kwa kutoandika habari sahihi. Lakini ukweli ni kwamba, wakati mwingine wao huandika habari sahihi vile walivyoshuhudia, lakini hiyo habari inapofika katika vyumba vya habari kama vile, Nation, KTN, Kiss F.M. na KBC, wale wahariri wanapigiwa simu na kukatazwa kutangaza habari hiyo. Haifai kuwalaumu hawa maripota, bali wakubwa wao.

The Minister for Energy (Mr. Raila): Jambo la nidhamu, Bw. Naibu Spika. Ingawaje umempatia Bw. Katuku nafasi, lakini ana haki ya kuendelea kuongea juu ya mambo ambayo hayahusiki kamwe na Hoja ambayo iko katika Bunge? Ningeomba kwamba, kama hana mengine ya kusema, tutamatishe mjadala juu ya Hoja hii ili tujadiliane juu ya mambo mengine muhimu.

Mr. Katuku: Bw. Naibu Spika, sijui ni kwa nini huyu Katibu mpya wa New KANU amepotea. Mimi ninaongea juu ya censorship. Na hiyo inalingana kabisa na Hoja hii. Pengine anataka kupimana nguvu na Bw. Kamotho, lakini ninajua kwamba, hawezi kumfikia yeye. Yale ninayoyasema ni kwamba, lazima vituo vya habari vieneze habari za kweli. Ndiposa hii Ripoti inasema kwamba tuwe na kituo cha habari katika Bunge ambacho kitaeneza habari sahihi kwa wananchi. Kwa mfano, kama wananchi wangukuwa wanaona haya yanayotendeka, wangetambua kwamba Bw. Raila ameanza kuiga vitendo vya Bw. Kamotho. Tukiangalia jambo la kutoa nafasi kwa mashirika mengine kutangaza habari nchini, zinatolewa kwa mapendeleo. Kiss FM imekuja juzi lakini inasikika huko Mwala. Nation Radio ilikuja kitambo lakini haijafika hata Machakos! Ni nini kinaendelea? Kuna uthabiti wa kuhakikisha kwamba wale wanaopewa nafasi ni wale ambao watahakikisha kwamba maneno yatakayofika kwa wananchi ni yale wanayoyataka wao wenyewe.

Bw. Naibu Spika, kwa vile sitaki kuendelea sana, na nataka Hoja hii ipitishwe, ningependa kukomea hapo na kuliomba Bunge hili lione umuhimu wa kupitisha Hoja hii kwa kanuni na kauli moja, ili wananchi wajue kweli Wabunge wanataka mambo yao yaendeleo.

Ahsante sana.

Mr. Speaker: Hon. Members, there is nobody else who is willing to contribute to the Motion. I have no alternative other than to call upon the Mover to reply.

Mr. Kirwa: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this opportunity to reply to this particular Motion. I will begin by thanking Members of Parliament who have had the chance to contribute to this Motion. We, as Members of the Committee, are greatly honoured by the fact that Members have expressed a lot of interest and showed that they are interested in this Motion going through. I am also grateful to the Ministry for having thought it wise to support this particular Motion. There are certain specific aspects of the Members' contributions that I will be shirking my responsibility, if I did not mention them. It did come to my knowledge that some of the Members who were supposed to have known about various aspects of this Motion were least informed.

One of them is the Minister for Tourism and Information himself, who, in his contribution, made certain allegations and assertions that he could not show that he had knowledge of what we have been doing for the last one year. According to recommendations by technical experts, the budget that is provided by the House is Kshs60 million, which I do know is already under consideration and it is already in our books. The figure of Kshs1.5 billion is a figure that is totally exaggerated and does not have any bearing to this particular Motion. I would want the Minister--- When we moved the Motion the first time, it was under the Ministry of Transport and Communications. So, the current Minister may not have been informed by his new officers. When the then Minister for Transport and Communications, Mr. Mudavadi, came before our Committee, he came with certain members of the Ministry, including the Permanent Secretary and the Kenya Broadcasting Corporation (KBC) staff. They gave us information that we relied on, in making the recommendations that we did. So, for the Minister not to be aware of what was going on, it is totally a problem that lies within the Department in his Ministry.

Mr. Deputy Speaker, Sir, I would want Members, and the country at large, to be aware of the fact that when we talk of live broadcast of proceedings of the House and various Committees, we are not talking about television alone. We are talking of television and sound broadcasts. We are not insisting on the proceedings of this House being broadcast live on television simultaneously with the radio broadcasts. What we are saying is that what is feasible should be done as soon as possible. It does not require a lot of technical readjustments nor does it require a lot of money. What is required is the co-operation of the departments involved and amendment of various laws and Standing Orders of the House, to bring them in line with what this particular Motion desires. We can set it off by starting with radio broadcasts, so that all the constituencies of the Republic concerned, get that particular information. That is important because the kind of information regime that we have only targets certain areas of high potential because of adverts that come with certain broadcasts. For example, the only station that reaches a higher percentage of this country is the KBC. The other stations do not because of monetary considerations---

(Mr. Wako consulted loudly)

Mr. Speaker: Order, Mr. Attorney-General! You seem to be the only person who is capable of talking to his "Shadow!"

Mr. Kirwa: Mr. Deputy Speaker, Sir, thank you for those remarks because that is why we are in trouble with this Attorney-General. All the time, the laws that are brought to this House are not in conformity with what the Government should be doing. It is for the first time that we do realise various laws that are passed by the House, through the advice of the Attorney-General, are challenged in courts of law. That is an anomaly that does not measure up to the respect that the world has given to Mr. Wako! If he cares to listen---

The Attorney-General (Mr. Wako): On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member, who is my friend, in order to say that first, laws are brought to this House, when no laws are brought to this House? It is Bills that are brought to this House!

Is he also in order to say that the Bills that the Attorney-General brings here are challenged in a court of law, when we know very well that the Bills that are brought here are normally altered on the spur of the moment from the Floor of the House during the Committee Stage and it is those amendments that are challenged in the courts of law?

Mr. Speaker: Order, Mr. Attorney-General! You are now making a speech and not really a point of order! If the point of order that you are raising was that he was not being truthful, I would agree with you!

Mr. Kirwa: Mr. Deputy Speaker, Sir, I do agree with the Attorney-General on one thing; that he is my friend. But for the rest of the story, he is just trying to cover the spade!

Mr. Deputy Speaker, Sir, as I was saying, the question of funding also depends on the goodwill of the participants. For those who may be interested in this particular issue, we have said, as a Committee, that after this Motion has been passed by the House, we are going to call a stakeholders meeting for all interested parties, to put what is required for this facility to be broadcast. So, when we were discussing with various stakeholders in earlier considerations, there were some media houses willing and able to facilitate that kind of programme. But we, as the Committee, using our collective wisdom, decided that the signal has to be owned by Parliament for a number of reasons.

One is that, that is information emanating from Parliament and being information emanating from Parliament, we wanted some kind of harmonisation of what Parliament does. Why I am talking about harmonisation is that, this House has been understood by different people to mean different things. It is important that the picture of Parliament comes out clearly to members of the public. The only way you can do that is by ensuring that there is some effective transmission of what goes on in the House. The other reason is that we did not want to favour one station at the expense of all other stations. Therefore, we said that we are going to have a small control room where the sound and the vision are going to be mixed and the signal given to various media houses.

The Minister mentioned certain laws which have provisions to the effect that whoever has the signal must have a broadcasting station. Those laws were not being observed in the stations that we visited. As I said while moving this Motion, we visited the House of Commons and the House of Lords and noted that the signal was owned by Parliament. In South Africa the situation is the same, but much freer because any channel can pick the information from the House. That is an issue that we as a committee ought to look into very seriously.

Mr. Deputy Speaker, Sir, as to the use of cameras in the House, we felt that this is a new phenomenon that might make members of the Press and other individuals over-excited. At this formative stage we felt that it is important for this aspect to be controlled by a Committee of the House and the staff of the House so that the cameras that will be mounted here shall only take care of situations that are relevant to the deliberations in the House. It is also important that, when we talk about contributions from hon. Members being to the required standards, we need to improve the capacity of Members of Parliament to contribute. As we talk, this Parliament is ill-equipped; in terms of research facilities and staff. It is important that some of these aspects are put into consideration for us to have proper staff to do research for Members of Parliament and also provide adequate materials for hon. Members to make effective contributions in the House.

Currently, a Member of Parliament is supposed to do for himself messengerial duties, typing and any other work that facilitates debate in this House. This situation is not evident in other parliaments where it is clearly demonstrated that a Member of Parliament comes to the House when he is well prepared with briefs on various Bills, Motions and other aspects that the House deliberates upon. The new Secretary-General of my party did mention that the trips that we undertook abroad were just an exercise in futility because, as he said, the information was readily available.

I have been a Member of various committees and it is good to remind hon. Raila and other hon. Members that trips for MPs are meant to complement what they already know. Therefore, we are not saying that we are oblivious of what is in this country, but we wanted to see what other Parliaments do. It really demeans the character of a Member of Parliament to say that what we were doing were joy rides. We did a lot of work outside there than probably what some

of these hon. Members did in Kasarani on the 18th of last month. That is not important for me, but it is good that he is here so that he can get that information live because we want live coverage of the proceedings of the House.

A more important thing that we came across as Members of the Committee is Section 5 of the CCK Act of 1998, which forbids monopoly and duopoly in terms of operations of telecommunications. We expected the Ministry to implement this Act to the letter. There is a Government policy position that is really not the law. I hope the Attorney-General will tell us that he is going against the law by allowing Telkom Kenya a monopoly for five years. It is public information that under the Statute Law Miscellaneous (Amendments) Bill, there is a clause carefully hidden somewhere by the Attorney-General that facilitates the illegality that has been going on by removing that section that forbids duopoly and monopoly.

This is really unfair to the Members of the House and this is what the Attorney-General has done on a number of occasions where he chooses to bring many controversial aspects of the law under what he calls Miscellaneous Amendments and sticks it somewhere under the schedule. For a very intelligent person, such as Mr. Wako, to do some of these mischievous things, is something that this country should be told about. I hope we will have live coverage in this House sooner than later so that the Attorney-General is properly exposed. He has used his intellectual capacity to incapacitate Kenyans from getting effective information. This is a situation that is worrying me because if it was somebody else I would not mind. The capacity of Mr. Wako is too much; above some of these little tricks which are supposed to be reserved for my colleagues from Rift Valley Province who went to Kasarani to become officials of the party, but not Mr. Wako.

There is also the question of licensing. The licences for the broadcasting stations are supposed to come from the Ministry of Tourism and Information. I do not know whether this portfolio has now been transferred to the Ministry of Transport and Communications. The Minister for Tourism and Information gives a letter to a certain prospective licensee who wants to own a broadcasting station. This person then goes to another organisation to get the frequency and another organisation will give him the power to operate the station. These three aspects are the loopholes the Executive has been using to frustrate many upcoming individuals. You will find a case where Citizen radio and television have not met certain requirements and yet they claim that they have the license to broadcast. As a nation, we should not look at the specific individuals applying for the licences. Let us not do things in a manner that will make posterity judge us harshly.

It takes only one day of election, unless it is extended, for those who are on the Government to change to the Opposition side. It does not take two days unless you extend it from 29th to 30th. You will not have that leeway every year because Kenyans will say "No". We should not look at some of these aspects in terms of wanting to control information. That information you are seeking to control now may be vital to you tomorrow and you will not have the chance to access it. There is a Kamba saying that whenever you are digging a hole, let it not be so deep that if you fall into it, you will

be covered completely because you may be the one to fall into it. So, you may become the victim of some of these draconian rules that you are bringing to the House. The person who designed the guillotine machine, after looking at it and realising it was a very good machine to execute people who were not loyal to the state, was the first victim of that machine. Mr. Charles Njonjo did the same thing and he was the first victim of what he did. Why do you need so many examples? Why do you not learn from history; that some of the laws you are making to favour yourselves against the Opposition, may end up being used against you when you are in the Opposition tomorrow? This is a fact and Kenyans are listening. The Attorney-General is also listening.

(Applause)

This is because at times I get disturbed. Even hon. Members of Parliament who have been in this House longer than me do not realise the futility of doing the wrong things. It is important for them to realise that. Once you give somebody a frequency to broadcast, why do you limit him to a certain grid radius? Is it because there are certain Kenyans who you do not want to get certain information? Why are we denying Kenyans access to information? Why do we not give Kenyans a chance to receive information from other Members? If you feel you have something that is better than what the other Members have, you also use the same media to counter that particular information.

Mr. Deputy Speaker, Sir, some of these issues bother many of us. This is because when you look at the control of information, especially through KBC, you will notice that the only programme possibly where my name can be mentioned is "*Leo katika Bunge*." Even when I attend a funeral with the President they choose to say that I was not there. Now, we were not burying the President; we were burying an individual who is not the President. Why do you choose to say: "Among the Members of Parliament present were So-and-so?" You also choose even to mention some junior hon. Members and you leave out some of us just because you feel that the President will not be happy to hear that we attended the same funeral. That is not the President's funeral; it is somebody else's funeral. God forbid, I do not

want the President to die and if he died, I may not attend his funeral. So, you do not have to say that some other hon. Members were present, but hon. Kirwa was not there. It is very interesting and at times you get baffled. A funeral! No! I do not know! If it is a wedding, yes! However, even if it is a wedding, it is not the President who is marrying; it is somebody else marrying somebody's daughter. In fact, these two people happen to be my friends and I know them and they also happen to know the President. This is because the President and I come from the same part of the country. So, why do you choose to say: "So-and-so was in the wedding", and even hon. Raila who is not known came because of the President and then you leave my name out and yet I know these people?

(Applause)

I find it very interesting, but anyway, this is life. However, we want to get over this. The earlier we do it, the better.

Mr. Deputy Speaker, Sir, the other thing is the question of the Press. Well, people have been lambasting the Press for what they are able to do or what they have not done. I think the Kenyan Press, under the circumstances, has done the best and I am not saying this so that they can report what I am saying. I am saying it because it is a statement of fact. These are the facts: As a matter of fact, the Kenyan Press is owned by those in the Executive and, therefore, it has very little leeway on what to report and how to report it. What we need to do, possibly in the future, is to encourage some of these young men and women to start their own Press. Once they start their own Press, they will graduate. However, the tendency among Kenyans that really disturbs me as a leader is that once you start something you allow yourself to be bought by those who already have money and, therefore, you subjugate yourself to a capacity below your intelligence. So, I am advising young Kenyans who want to venture into this field of the Press, that the only way we can get as much Press freedom as we can is by them owning the Press and not you, Mr. Deputy Speaker, Sir and then resist the temptation---

Mr. Kombo: Even Mr. Deputy Speaker can own the Press!

Mr. Kirwa: Mr. Deputy Speaker can own the Press but, you see, he is not a young Kenyan. However, if he owned the Press, I would be worried because he is already in the Executive and so it may not be as free as it should.

(Laughter)

So, it really worries me and I say that the mushrooming of the gutter press is a product of this information bottleneck. Although we blame the gutter press, even some people in the system have been using the gutter press to settle their own scores and this is true.

The Minister for Energy (Mr. Raila): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member has just said that Mr. Deputy Speaker is part of the Executive. Is that right? We have the Executive, Legislature and Judiciary. Is the

hon. member in order to mislead the House that Mr. Deputy Speaker is part of the Executive?

Mr. Munyasia: But Mr. Deputy Speaker did not protest!

(Laughter)

Mr. Kirwa: Mr. Deputy Speaker, Sir, I was actually mentioning the person who actually is occupying the Chair now and not the Chair itself. The Chair belongs to Parliament, but the person occupying the Chair is part of the Executive.

Mr. Speaker: Order, hon. Kirwa! You are cutting it too thin! The person occupying the Chair and the Chair are synonymous. It is evident that the Speaker is a member of the Legislature and if you meant something different, then you did not say it.

Mr. Kirwa: Mr. Deputy Speaker, Sir, I really agree with the Chair and also with you. I just hope also that the hon. Minister will respect that position and allow you the freedom, all the time, to be able to discharge your duty from the Chair as the Deputy Speaker of this particular House. This is because the danger is---

The Minister for Energy (Mr. Raila): On a point of order, Mr. Deputy Speaker, Sir. The hon. Member continues to mislead the House. First, the Speaker, and anybody who sits in the Speaker's Chair is not part of the Executive, but part of the Legislature. Secondly, no Minister has powers to tell the Speaker what to do or to restrict his rights. So, if the hon. Member has nothing else to say, I would suggest that he concludes what he is saying. However, I would demand that he makes a correction and withdraws the remark that the Speaker is part of the Executive.

Mr. Kirwa: Mr. Deputy Speaker, Sir, I thought you made a remark and I agreed with you that---

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

Mr. Speaker: There is no such thing as "point of information"! Order, hon. Members! We are discussing a fairly important issue and, occasionally, the Chair will allow jokes even if they are poked at him. However, if you persist in pursuing the line of argument that perpetuates the futility of that joke, the Chair must say, no. Hon. Kirwa, the Speaker, or the person who chairs the proceedings of this House, is not a member of the Executive. That must be clear to everybody and I will not tolerate any more reference to the Chair as being a member of the Executive.

Mr. Kirwa: Mr. Deputy Speaker, Sir, I thought I did agree with you.

Mr. Speaker: Okay! Proceed now on a different line.

Mr. Kirwa: Yes, Mr. Deputy Speaker, Sir. I do not know why hon. Raila is concerned. I did civics and I think he does not know civics.

Mr. Kathangu: Jambo la nidhamu, Bw. Naibu Spika. Matamshi yangu nayaelekeza Waziri wetu wa Kawi, Bw. Raila, kwamba---

Mr. Speaker: Order! You cannot raise a point of order against an hon. Member who is seated in a corner and not participating in debate! If you wanted to do it, you should have done it before he sat down. Now, I have already allowed hon. Kirwa to proceed and you cannot rise on a point of order to bring back another Member onto the Floor. No! Sorry!

Proceed!

Mr. Kirwa: Mr. Deputy Speaker, Sir, that was a very interesting interlude.

Mr. Deputy Speaker, Sir, as a Committee, we did recommend that the Committee to be formed should be designated the Library, HANSARD and Broadcasting Committee. I strongly believe this is the best way forward for this Parliament. We did suggest, and it is good for record purposes, that the current library should be expanded and even some of the departments that are occupying the library should be transferred to the other building once it is ready. I am saying this because there is a likelihood, just because there is a new wing of Parliament coming up, of transferring the library services to the other side. If this happens, there is the risk that we will not be adjacent to the information that we require to make quick reference. We found out, in other parliaments, that such a library facility is close to the Chamber as much as possible. This is something which---

Mr. Speaker: Where do you get the information that there is not going to be a library here once the Continental House is open?

Mr. Kirwa: Mr. Deputy Speaker, Sir, I do not know why I am getting into trouble with the Chair. I said that some people implementing this programme may be tempted to transfer that facility to the other side.

Mr. Speaker: I happen to know that, that is not the intention of anybody and that the library here will continue to be in place.

Mr. Kirwa: Mr. Deputy Speaker, Sir, it needs to be expanded for it to be effective to all Members of Parliament and those wanting to contribute.

Mr. Deputy Speaker, Sir, having said that, I wish to thank Mr. Speaker and all Members of the Committee. I wish to extend my appreciation to the Deputy Speaker and the Clerk of the National Assembly for facilitating the work of the Committee and giving us constant advice through various consultations. I wish also to thank all the Members of the Committee for having given me the co-operation that I required to execute my job as the Chairman. I also wish to commend Frederick Ebert Foundation for the financial assistance which enabled us to undertake a trip to South Africa and have a report writing retreat. I must say the two activities immensely contributed towards the completion of this Report.

With those few remarks, I beg to move.

(Question put and agreed to)

Mr. Speaker: Next Order!

BILL

Second Reading

THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS BILL

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I beg to move that the Kenya National Commission on Human Rights Bill be now read a Second Time.

Mr. Deputy Speaker, Sir, I will refer to my extensive notes in moving this very important Bill.

QUORUM

Mr. P.K. Mwangi: On a point of order, Mr. Deputy Speaker, Sir. Do you realise that there is no quorum in the House?

Mr. Speaker: I do not have to see, tell me!

Mr. P.K. Mwangi: I am informing the Chair that there is no quorum in the House.

Mr. Speaker: Mr. P.K. Mwangi, read your Standing Orders and see how to put it correctly. I do agree with you that there is no quorum. Ring the Division Bell!

(The Division Bell was rung)

Mr. Speaker: Order! We now have a quorum. Proceed, Mr. Attorney-General!

The Attorney-General (Mr. Wako): Mr. Deputy Speaker, Sir, I think this is one of the most important Bills that this House is going to enact in the course of this year. Indeed, I am glad that it is the first Bill to be debated by this House because it touches on the very important topic of human rights. As we all know, the topic of human rights is very important. In fact, each and every person is in this world to exercise and enjoy his or her rights. The Government and the society as a whole, are there to provide an enabling environment where human rights can be protected and enjoyed. Obviously, the ability of the Government to effectively discharge its responsibilities to protect and promote human rights under our Constitution predominantly depends on the strength of its domestic institutions, the most important of which is the Judiciary or the courts of law. It is also important that the institutions of Government, particularly the police, operate in a manner which respects the human rights of individuals.

Mr. Deputy Speaker, Sir, because of the Government's commitment to the promotion and protection of human rights, a Standing Committee on Human Rights was established under Executive power by the President vide Gazette Notice No.3482 of 1996. That Standing Committee on Human Rights had the mandate to investigate complaints of alleged violation of fundamental rights and freedoms as set out in our Constitution. It had the mandate which is analogous to that of an Ombudsman; to investigate complaints of alleged injustice, abuse of power and unfair treatment of any person. It also had the mandate to educate the public about their human rights and freedom.

Mr. Deputy Speaker, Sir, the Committee was appointed by the President, and its Chairman was Prof. Onesmus K. Mutungi. It had a strong membership of ten other persons. The Committee was established by executive authority. During its launch, I said that this was the first step towards ensuring that we had an independent institution which would enhance the protection and promotion of human rights. I further stated that this was a Government vision, and that rather than it being established by executive powers, it should ultimately be established under an Act of Parliament. It was then hoped that when the new constitution comes into place, it will be important enough for it to become a constitutional institution. So, we are now in the second stage.

I must say that the Committee has operated fairly well. It has progressed in its activities. Most of its proceedings were of a confidential nature. Initially, most of its reports formed confidential Government documents. However, three years ago, we gave it the liberty to publish its reports, so that everybody could know its activities. The Committee has also engaged in educating the public. It has literally visited all the provinces of Kenya. It has also become very active publicly in investigating allegations of human rights abuse. Members of Parliament may know that, recently, the Committee investigated the King'ong'o tragedy that happened in Nyeri, and came to a conclusion which the court also agreed with. In my capacity as the Attorney-General, I ordered fresh investigations into the matter to ensure that there is absolutely no cover-up of what took place at King'ong'o Prison.

Mr. Deputy Speaker, Sir, the Committee has started to contribute significantly in enhancing the protection of human rights. However, as we all know, for such an institution to operate independently, it must have independent powers conferred upon it under an Act of Parliament. That is what we now want to do. At one of the sessions, I reminded the Committee that it is time the Committee went into the second stage. So, taking into account its experience, we mandated the Committee to come up with a preliminary draft Bill on this matter. I am pleased to inform the House that the Committee undertook its work seriously and produced a preliminary draft Bill.

It has been the consistent practice of my office to consult widely, particularly amongst groups of people or persons who have any interest in a matter that is to be legislated upon. I decided to subject the preliminary draft Bill to a workshop, which was held at Safari Park Hotel on 20th and 21st, March, 2000. The participants of the workshop comprised of all non-governmental organisations (NGOs) and civil society groups which are very active in highlighting violation of human rights and also taking up their violations. At that workshop, more than 21 NGOs were represented.

Mr. Deputy Speaker, Sir, in addition to our own human rights activists within Kenya, we also invited activists from other countries to come and look at the preliminary draft Bill. Present at that workshop was Mrs. Shalley Mabutsela, who is the Chairperson of the South African Human Rights Commission. Also present was Commissioner Milton Omara of the Uganda Human Rights Commission. But more importantly, we also managed to get one of the top-most experts in the field of setting up national institutions to promote and protect human rights within the United Nations system. So, we had Mr. Brian Budekin, who is a special advisor to the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, who also came and spent three days with us just looking at that draft.

I am glad that I took the decision to have this consultation process, because what came out of that workshop were many ideas and amendments to the draft Bill, which will go towards strengthening the institution and making it effective. It was then recommended that there be working groups to take the recommendations of the workshop into account in finalising the draft Bill. The working group comprised of officers from the Judiciary, the Law Society of Kenya, the public universities, the Law Reform Commission and representatives of civil societies, including the Kenya Human Rights Commission, People Against Torture, among others. The working group met on 24th and 25th May, 2000. Mr. Brian Budekin also came, and they finalised the draft Bill. I am glad to inform this House that the Cabinet accepted the draft Bill subject to some minor amendments, which we effected and published the Bill. The Bill, of course, lapsed with the end of the Fourth and Fifth Sessions of this Parliament. I am glad that, at last, I am initiating debate on it.

Mr. Deputy Speaker, Sir, in addition to this Bill, the Standing Committee on Human Rights has also undertaken a consultative process to have a National Action Plan for the Promotion and Protection of Human Rights at the National Stakeholders Forum where, again, all the human rights activists in Mombasa were involved. The ideas for the Action Plan were presented and a steering committee formed. I am pleased to inform the House that the steering committee is now working very hard towards the creation of the National Action Plan for the Promotion and Protection of Human Rights.

Mr. Deputy Speaker, Sir, if I may briefly touch on some of the salient features of the Bill, I will invite hon. Members to look at page 4 of the Bill. There are a number of definitions of what-is-what, but I just want to draw your attention to the definition of human rights. It means the fundamental rights and freedoms of any individual are protected under the Constitution, and any human rights provided for in any international instrument, to which Kenya is signatory. An international instrument means any treaty, convention and declaration of statement of principles relating to human rights adopted by the General Assembly of United Nations, the Organisation of African Unity or any other international or regional organisation of which Kenya is a party. There are many international conventions to which Kenya is a party such as the International Convention on Civil and Political Rights, the International Convention on Economic Social and Cultural Rights, all those conventions which deal with discrimination, outlawing as it were; discrimination against women and the United Nations Convention on the Rights of the Child. Of course, we have the mother of them all; the Universal Declaration of Human Rights, which came into force in 1948. Kenya is a party to all those conventions which bring out the international standards of the issue of human rights.

When we talk about the National Commission on Human Rights, its implementation, promotion and protection of human rights, of course, under our Constitution, we just want to remind hon. Members that we are talking about human rights at a level which is internationally recognised. We are not just committing ourselves, but we want to implement the human rights which are internationally recognised because that is where Kenya belongs to. That is our vision.

The Minister, for the purposes of this Bill, will be the Attorney-General. I will then draw the attention of hon. Members to page 6. Under part three, of course, there is the establishment, powers and functions of the Kenya National Commission on Human Rights. Clause 3 is the usual body corporate of all Acts. But Clause 4 states that the Commission shall consist of a Chairman and seven other Commissioners nominated by the National Assembly and appointed by the President in accordance with section 6. Clause 5 talks about the qualifications of people who will be Commissioners: You must be a citizen of Kenya and a person of high moral character and proven integrity. In other words, the integrity is proved, obvious and transparent. They must have knowledge and experience in matters relating to human rights. In the case of the Chairperson of that Commission, he or she must be a person qualified to hold office as a Judge of the High Court of Kenya. I can see opposite me some hon. Members who qualify under our Constitution to be Judges because they have been advocates for more than seven years. We have my Shadow Attorney-General, Mr. Murungi, and Mr. Kihoro. Even on the KANU side, there are a quite number. Any person who qualifies to be a Judge and has the moral character and experience in human rights issues and is a man of proven integrity can be appointed as Chairman.

Mr. Deputy Speaker, Sir, it is important that the method of appointing these people should also be transparent because we are dealing with human rights issues. What will be method? Once the Act comes into operation, the Attorney-General shall cause an advertisement in, at least, three daily newspapers of national circulation and, then,

people will apply. When they have applied, there is a Committee to look at page 8, comprising of the Speaker of the National Assembly, the Chief Justice or his nominee and the Attorney-General or his nominee. You may notice that under Clause 4, we have provided for Commissioners nominated by the National Assembly. You will see that, as far as the Speaker is concerned, we did not say "the Speaker of the National Assembly or his nominee" because we expect the Speaker to be the Chairman of this Committee which will look at the applications that have been submitted. Then, they will shortlist the applicants to, at least, 12. They will be submitted to the President, and he will appoint nine.

Under Clause 8, in order to give status to this Commission, we have said that the Chairperson of the Commission will enjoy the status of a Judge of the Court of Appeal. The Commissioners will enjoy the status of a Judge of the High Court, but the terms and conditions of service will be determined by the Commission in consultation with the Treasury; in other words, if they are not full time, their terms and conditions will be considered.

Very often, as we normally have Commissioners of Assize appointed, and their status is that of a High Court Judge, but they do not earn as Judges, the same will apply to these Commissioners. They will earn a sitting allowance and other things that will be paid alongside that. Although they will be enjoying that status, their terms and package will be negotiated separately. The Commissioners will be appointed for a term of five years and are eligible for re-appointment only for one other term, and after that period lapses, that will be the end. Therefore, the maximum number of years that a Commissioner can serve is ten years, if he or she is a good Commissioner. I believe that there are many people in this country who can also be given a chance to serve in that capacity. If he or she is a Member of Parliament, it is stated there that he or she cannot qualify to be a Commissioner. That applies also to members of the Executive. But if one ceases to be a Member of Parliament - like Mr. Kihoro - then he can qualify to be appointed as a Commissioner. That is, if one ceases to be a Member of Parliament because he or she does not want any more to represent his or her constituency.

They have security of tenure, and it is provided for under an Act of Parliament. They can only be removed for misbehaviour and misconduct. That will be only after a tribunal appointed for that purpose by the Chief Justice has looked into that issue and come to a conclusion that, sure enough, the said conduct and misbehaviour warrants the termination of the service of a Commissioner from the Commission.

I have not touched on everything, but only the salient points. The principal office and meeting place for the Commission shall be in a Nairobi, but it is envisaged, of course, that they will be travelling round the country, and they can also have offices outside Nairobi.

Clause 15 gives powers to the Commission to appoint such officers and staff as they may consider necessary. Clause 16 is very important. It deals with the functions of the Commission, which are to investigate cases of human rights on its own initiative or upon a complaint made by a person. In other words, they are not just like a court, which can be seized with a matter because an application had been made in court. If they come across or hear any violation of human rights, they will not just wait for the complaint to come from a member of public. They can, at their own initiative, undertake investigations into that complaint. They can also visit prisons and places of detention or related facilities.

Mr. Deputy Speaker, Sir, this is very vital power given to the Commission, by taking into account the number of complaints that we receive about what is going on in our prisons and other places. The Commission can visit Kamiti or Kodiaga maximum prisons at any time. In the case of King'ong'o Prison, they went there, investigated and submitted a report to a court which caused me to--- Now they will have the power! On page 19, it is stated that they will have the power to order the release of any detained or restricted person. They can go there and say: "We are ordering now." They do not have to await a recommendation which will have to be considered by somebody else before that happens. Under this Bill, they will have the power to do that. They will also have the power to order payment of compensation. They will also have power to make any other order that they may deem fit to remedy the situation. So, this Act gives the Commission teeth to be able to protect the citizens of Kenya from violation of human rights and, where it has occurred, to make the necessary orders of release of compensation or redress.

The other function is to informally educate the public about human rights. They also have the authority to recommend to this Parliament, effective measures meant to promote human rights, including provision of compensation to victims of violations of human rights or their families. As you will see later on, they are supposed to submit a report to this House through the Attorney-General. It is mandatory that I have to submit their report to the House every year. In that report, they can make recommendations on the measures that they think can be undertaken or can be regulated upon to promote human rights.

Mr. Deputy Speaker, Sir, they can also formulate programmes to increase public awareness on issues of human rights. More importantly - and this is one of the issues that have to be addressed in any situation, the issue of human rights carries with it certain responsibilities and duties. When we talk about freedom of the Press, as provided for under Article 19 of the International Covenant on Civil and Political Rights, there are certain duties and responsibilities that go with human rights. The problem here is that people have tended to think that human rights are

free for all and that they can do anything without knowing that, to properly enjoy those human rights, one has to observe certain duties and responsibilities. So, this Commission will also educate the public; that when it comes to matters of freedom of speech and freedom of the Press, there are certain responsibilities that go with them. They will have to educate the public in a comprehensive manner in which human rights can really be enjoyed.

Mr. Deputy Speaker, Sir, this Commission will also monitor the Government with regard to compliance and obligations under international treaties and conventions on human rights. I wish to take this opportunity to inform the House that, whereas we were not good at meeting our reporting obligations under the various international covenants, we have begun meeting those obligations. Sometime last year, we met our obligations under the United Nations Convention on the Rights of the Child in Geneva. Prior to that, we had met our obligations under the United Nations Convention on Discrimination Against Women. We are currently drafting our report under the International Covenant on Civil and Political Rights. In this regard, we will soon invite Members of Parliament to a workshop which we are going to hold so that we can draft the Bill together. These reports are not meant to condemn. They are meant to identify positive aspects, but also difficulties that are encountered in enjoying these rights. So, they will be monitoring us to see whether we are meeting our obligations under the international conventions and so on. There are very many other functions listed here which give this Commission teeth to be able to perform.

Mr. Deputy Speaker, Sir, under Clause 18, it states as follows:-

"The Commission shall have all the powers necessary or expedient for the proper performance of its functions under this Act and shall not be subject to direction or control of any other person or authority."

Mr. Deputy Speaker, Sir, may I remind hon. Members that, under our Constitution, the independent offices of the Attorney-General, Auditor and Controller-General, the Public Service Commission and the Electoral Commission of Kenya use the same phraseology we have used above. Therefore, we are creating an independent National Commission on Human Rights.

Mr. Deputy Speaker, Sir, the Commission will have powers similar to those of the courts. It can issue summons to require a person to appear before it. The Commission does not have such powers now. They depend very much on the co-operation of whoever they are seeking information from. But under this Act, they are given the power to summon people to their offices and question them. So, if violation of human rights occurs in my office, I can be summoned by the Commission to go and explain why that violation is occurring in my office. Right now, they depend on my co-operation. I can refuse to go and the most they can say in their report is: "We asked the Attorney-General to appear before the Commission but he never responded." But when we enact this Bill into law, they will have the power to summon me. If I do not obey, they can see what to do because I cannot prosecute myself.

Mr. Deputy Speaker, Sir, On page 24, it states as follows:-

"Where the Commission has carried out an inquiry and the inquiry discloses a violation of human rights or negligence in the prevention of abuse of human rights by a public servant, they can recommend to the Attorney-General or any other relevant authority to prosecute or take such action as they may deem fit."

What is important here is that they will have the power and authority to institute cases in their own name. Under paragraph (b) on page 24, the Commission will have the power, in its own name, to commence and prosecute appropriate proceedings in the High Court of Kenya under Section 84(1) of the Constitution for such orders, writs or directions as may be appropriate. So, there could be people who are indigent. We cannot afford to do anything because the Commission will have the power to protect such people by instituting appropriate cases in court. We also have therein, a provision on financial provisions. We also have miscellaneous provisions and this is important. It states as follows:-

"The Commission shall not investigate any matter which is pending before a court or a judicial tribunal."

We do not want to be in a position where one matter is before a court, another one is before the Commission and another one is before somebody else. So, if a matter is before the court, they cannot go into it because the court is already seized of the matter. The Commission cannot go into matters which touch on the relationship between this Government and its power to exercise the prerogative of mercy.

I talked about the independence of the Commission. That is also enhanced by Clause 33. To enable it to move, no suit or legal proceedings shall be taken against the Commission or its members on matters on which it has acted provided it has acted in good faith, and whatever was done was in pursuance of this proposed Act or any regulations or orders made under it. Once this Bill is enacted, the Standing Committee on Human Rights will cease to be and we will now have the National Commission on Human Rights.

Mr. Deputy Speaker, Sir, to sum up, this is a very important Bill and I am pleased to move it because the area of human rights has also been my field. So, I am glad that I have moved it, and I really plead with the hon. Members to

pass it unanimously.

With those few remarks, I beg to move the Bill and call upon Mr. Raila to second it.

The Minister for Energy (Mr. Raila): Thank you, Mr. Deputy Speaker, Sir. I rise to second this Bill with a lot of pleasure because I believe that this proposed legislation is long overdue.

I want to begin by congratulating the Attorney-General for the initiative of drafting this Bill and bringing it before the House. As the Attorney-General has said, when moving the Bill, the proposed Commission shall be a successor to the Standing Committee on Human Rights appointed by the President on 21st June, 2000. One of the most important aspects of this Bill is that it has introduced transparency in recruitment and appointment of the members of this Commission, which will give it that requisite independence that it requires to discharge its functions. Human rights, as the Mover has said, are fundamental in any civilised society. The degree to which human rights are respected and protected is a measure of the level of democracy and civilisation in any society. So, there are certain rights which are so fundamental that they are entrenched in most constitutions. I know that, by the time we are through with our constitutional review process, we shall have a Constitution with basic rights entrenched in it. Some of the basic rights are the right to life, food, shelter, good quality education and good health. That is why, when a hospital detains a patient because he cannot pay medical bills, it is violating a fundamental human right. We recently passed the Children Bill here which is aimed at protecting the rights of the child.

There is also the right of gender which is also fundamental. For example, female genital mutilation is a violation of a fundamental human right, and so when an hon. Member of Parliament, hon. Angwenyi, goes on record saying that it is a healthy civilised practice, he is inciting the society and, therefore, he can be accused of violating a fundamental human right. The right to employment is also one of the fundamental human rights. When you discriminate against the opposite sex, on the basis of gender, you are violating a fundamental human right. So, when an hon. Member of Parliament spoke publicly and said that women divorcees should not be employed as judges of the High Court, he not only incited the public, but also violated a fundamental human right. He did not tell us what should happen to male divorcees. He only talked about women divorcees. This is a big shame to this House, that an hon. Member can be on record inciting people against the opposite sex. It may not even be the mistake of a woman who has been divorced. Why should she be penalised because her husband was a drunkard or a murderer? This Bill will help us to protect our people against violation of some of those fundamental rights.

Mr. Deputy Speaker, Sir, Clause 16, on page 16 of the Bill, is fairly instructive. It gives the Commission the powers to investigate, either on its own initiative or upon a complaint made by any person or groups of persons, the violation of any human right. So, the Commission will not have to wait for people to go and complain. It will be able to immediately institute investigations when it will perceive that human rights have been violated. This happens almost on a daily basis and sometimes the law enforcement agencies are guilty of inaction. On such cases, the Commission will be justified to institute investigations. For example, recently we had an incident in Kariobangi North when a gang of marauding thugs went to an estate at night and killed innocent citizens with impunity. They killed 23 people. To date, not a single one of the more than 60 people who were arrested has been arraigned before a court of law. Instead, we are seeing people being arrested and charged with the murder of two *Mungiki* supporters. It is not right to kill a *Mungiki* supporter because somebody is supposed to be innocent until proved guilty by a court of law, but the *Mungiki* supporters were not justified in carrying out a revenge and killing 23 innocent people and to date, not a single person has been arraigned before a court of law. The police may, in this particular case, be guilty of an act of omission because, while some people have been arrested, most of them have been left to go scot-free.

Mr. Deputy Speaker, Sir, part "b" says:

"To visit prisons and places of detention or related facilities with a view to assessing and inspecting the conditions under which the inmates are held and make appropriate recommendations thereon."

This is the crux of the matter. In other words, they do not have to wait until an inmate has complained in a court to make it move to the prisons and inspect them. The courts are obliged by the law to carry out periodic or random visits to prisons to see the conditions under which people are held there. I am saying this from experience, that those conditions can be despicable. The law says that anybody who is in prison is still a human being, and a prisoner has fundamental human rights. Therefore, if they force you to sleep on a concrete floor with only one blanket to spread on the floor and another one to cover yourself, they are violating your fundamental human rights. When your breakfast is just a mug of *uji*, your lunch, which you are made to eat sometimes at 9.00 a.m. or 10.00 a.m. is just *sukuma wiki* and *ugali* and your supper is a bowl of beans and *ugali* and you are made to sleep at 2.00 p.m. or 3.00 p.m. for the whole night, they are violating your fundamental human rights. When you receive a Christmas card in June on the ground that it was still being censored and when your letters take three to four months to arrive, they are violating your fundamental human rights. Those are some of the conditions I hope that this Commission will help to improve if it does its work properly.

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

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, I will not take the information.

Mr. Speaker: Mr. Kihoro, wait for your time to contribute and then give us that information!

Proceed, Mr. Raila!

The Minister for Energy (Mr. Raila): Mr. Deputy Speaker, Sir, when they deny you the right to read newspapers or listen to the radio to know what is happening in the outside world, they are violating your fundamental human rights. I am happy that today we have no single detainee in our country. I was the last political detainee to have come out of prison. I do not want to imagine that we will ever have a situation where any of our citizens will be sent to detention without the due process of law.

Part "c" of the Bill is also very important. It says:-

"To inform and educate the public as to human rights for the purpose of enhancing respect for such rights by means of a continuing programme of research, publication, lectures and symposia and by such other means as the Commission may deem fit."

I know, for a fact, that there are a number of our people who violate human rights merely because of ignorance. A number of our people are also ignorant about their human rights. This aspect of education is very important and I hope that the Commission, when it will be formed, will take it very seriously and move around the countryside to educate the people about the fundamental human rights. If you go to the Coast Province, for example, you will find that it is a tradition to marry girls at the age of 12 years. The parents who do this do not know that they are violating the human rights of those children. There is what they call "*rehani*"; that somebody can come and borrow from you and give you his daughter as a security. You hold that daughter as a security until he comes to redeem her by paying the debt. Most of the time, when you go to demand your money, he tells you that you can take the daughter if you so wish. There is also what they call "*malu*". If you are found committing adultery, you will appear before a council of elders

who will demand, once the spouse has admitted that adultery was committed, you pay *malu* in terms of money or animals. Once you have paid that, everything is fine, but if you do not pay it, you will find worst crimes, like assassination, being committed. One time, I asked one of the elders why somebody has to pay them *malu* for committing adultery with his wife, and he told me that they do that "*kwa sababu ya ule utamu alioukika*."

(Laughter)

I am saying that some of these things are done basically because of ignorance and, therefore, I hope that this aspect will be taken very seriously by the Commission.

Part "d" says:-

"To recommend to Parliament effective means to promote human rights, including provision of compensation to victims of violations of human rights or their families."

The compensation aspect is very important in these issues, because it can also be a deterrent to people who violate human rights. It is important that even Parliament is educated because if an hon. Member of Parliament can say what the hon. Member for Kanduyi said, he needs education. The Commission and his party can educate him. This is because it reflects very badly on a political party, like FORD(K), when one of its members says such things. I know that a member of the former NDP and a member of the new KANU will not be guilty of this kind of violation.

We want to build a civilised society; a society where people can sleep without fear that their rights will be violated. We want a society where any child, who is born, irrespective of his or her social background, will have access to quality education. This is because, as I said earlier on, education is a fundamental human right. When we give our children quality education, we empower them to face the legacy of the future. We should not have a set standard of education for those people who can afford to pay higher fees and a low quality education for the children of the poor. We should create a level field where all our children can access quality education.

In terms of health provision, we should make it possible for every Kenyan, when he or she falls sick, to access medical care or get treatment irrespective of his social background, whether he or she has got money or not.

Mr. Deputy Speaker, Sir, it is a fundamental human right that somebody should have the right to shelter because that is a contributing factor to the right to life. I can see under Section E of the Bill, the Commission is mandated to formulate, implement and oversee programmes intended to inculcate, in the citizens or other persons resident in Kenya, awareness of their civic responsibilities and appreciation of their rights and obligations as free people. Rights also go together with the responsibilities. Some people only talk about their rights, but they do not talk about their responsibilities and obligations to other citizens. It is very important for our citizens to know that, whereas we have these rights, we also have an obligation and a responsibility to A, B, C and D.

Mr. Deputy Speaker, Sir, civic education is in vogue these days. Everybody is talking about civic education and sometimes it is misconceived. For example, people have been talking about civic education with regard to the

Constitutional review. When you listen to them, they are saying that we should turn the whole country into an education class to teach our people about the Constitution so that, at the end of it all, they become constitutional experts. I have said that this is a very romantic idea; it is an idea which is not possible! Our people should know their civic responsibilities and that is why I think it is going to be very important for the Commission to monitor the Government's compliance with its obligations under international treaties and conventions on human rights. Yes, because we do not have all of these rights protected under our statutes or our laws. Some of the laws which we do not have are covered by some international treaties and statutes.

Mr. Deputy Speaker, Sir, this Bill basically mandates the Commission to ensure that the Government complies with international treaties to which it is a party and has signed and, to ensure that those treaties are respected and honoured. This is a very important provision. It should encourage the efforts of other institutions working in the field of human rights and co-operate with such other institutions for the purpose of promoting and protecting human rights in Kenya. As a reality, we cannot leave this responsibility of promoting and protecting human rights solely in the hands of the Government. That is the reason why we should encourage other institutions and organisations to be involved in promoting and protecting human rights, because those efforts are complementary to the efforts of the Government.

At the same time, we are saying that we should encourage communal policing in our rural and urban areas to serve as a complementary aspect to the duties of the police. But we should not leave the issues of protection of human rights purely in the hands of police, so that any time a crime is committed, somebody would ask: "Where were the police?"; when the nearest police station is 20 kilometres away. The people and other organisations have got a responsibility of protecting human rights and this should be encouraged and promoted. The Commission should investigate and reconcile complaints on its own initiative, where the nature of human rights violations makes reconciliation possible and appropriate.

Mr. Deputy Speaker, Sir, one most important aspect of the work of this Commission is to produce periodic reports of its work, present them to the President and to Parliament so that Parliament is constantly made aware of what the Commission is doing so that Parliament can evaluate the work of the Commission. This is very important because as law-makers and representatives of the people, hon. Members have a right to know whether the Commission which they created is doing its work in accordance with the law, or we have just created another dormant Commission there which is just guzzling public funds and doing nothing; in other words, a toothless bulldog Commission.

I think the provisions in this Bill are meant to make this Commission truly independent and should give it sufficient teeth to be able to discharge its responsibilities.

With those remarks, I beg to second.

(Question proposed)

Mr. Murungi: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Bill. I would like to join my friend and former client, Mr. Raila Odinga, in congratulating the Attorney-General for bringing this important Bill before this House.

Mr. Deputy Speaker, Sir, I would like to say upfront, that we are supporting this Bill, but subject to a few amendments, which the Attorney-General knows about because they were discussed at the Departmental Committee on Administration of Justice and Legal Affairs. They are not major, but very few. When the Chairman of the Departmental Committee on Administration of Justice and Legal Affairs presents the Report of the Committee to this House, it will be quite clear what those amendments are.

Mr. Deputy Speaker, Sir, we have come a long way and I am happy that the Attorney-General, who is a lawyer known all over the world as a great crusader for human rights; and at one moment he was the UN Special Rapporteur for enforcing the UN Convention against torture and extra-judicial executions has, at last, lived to his name and brought this Bill before this House. We have said many bad things about him, but I think today, we should have some kind words for the Attorney-General. These are the kind of things that we have been expecting the Attorney-General to do. In fact, he should have brought this Bill a few years back, but as the *Wazungu* say: "Better late than never".

ADJOURNMENT

Mr. Speaker: Order! Order, hon. Members! It is now time for the interruption of the business of this House. The House, therefore, stands adjourned until tomorrow, Thursday, 4th April, 2002, at 2.30 p.m.

The House rose at 6.30 p.m.