

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 25th October, 2000

The House met at 9.00 a.m.

*[The Temporary Deputy Speaker
(Mr. Musila) in the Chair]*

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.356

CHIEF FOR URUKU LOCATION

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Murungi not here? We will come back to this Question. Let us proceed to Mr. Munyasia's Question.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I would like to inform the Chair that I have not received the written reply to it.

Question No.608

DEATH OF MR. CHELEKESI

Mr. Munyasia asked the Minister for Home Affairs, Heritage and Sports what caused the death of Mr. John Walialu Chelekesi, who was held at Bungoma GK Prison remand between 12th and 20th June, 2000.

The Temporary Deputy Speaker (Mr. Musila): Is the Minister for Home Affairs, Heritage and Sports here? He is not here. We will come back to this Question.

Question No.488

DELAY IN PAYMENT OF TEACHERS' SALARIES

The Temporary Deputy Speaker (Mr. Musila): Mr. Katuku is also not here. We will come back to this Question.

Question No.559

UPGRADING OF NAVAKHOLO HEALTH CENTRE

The Temporary Deputy Speaker (Mr. Musila): Dr. Kulundu, too, is not here. We will come back to this Question.

Question No.550

ALLOCATION OF KANU GROUNDS

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Kiunjuri also not here? We will come back to the Question. Let us proceed to Mr. Ndicho's Question.

*Question No.380*INSURANCE OF THIKA MUNICIPAL
COUNCIL VEHICLES

The Temporary Deputy Speaker (Mr. Musila): Mr. Ndicho is also not here. Mr. Murungi's Question, for the second time!

Question No.356

CHIEF FOR URUKU LOCATION

The Temporary Deputy Speaker (Mr. Musila): Mr. Murungi is still not here. So, his Question is dropped.

(Question dropped)

The Temporary Deputy Speaker (Mr. Musila): Could you, for the second time, ask your Question, Mr. Munyasia?

Question No.608

DEATH OF MR. CHELEKESI

Mr. Munyasia asked the Minister for Home Affairs, Heritage and Sports what caused **[Mr. Munyasia]** the death of Mr. John Walialu Chelekesi, who was held at Bungoma GK Prison remand between 12th and 20th June, 2000.

The Temporary Deputy Speaker (Mr. Musila): The Minister for Home Affairs, Heritage and Sports has not yet come. I think the Chair will have to make a statement on this state of affairs towards the end of Question Time. I will, however, defer this Question in the interest of the hon. Questioner and those affected.

(Question deferred)

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. I would like to plead with the Chair that it might be too early to defer this Question. Mr. Ndicho is now here to ask his Question. By the time we exhaust it, the Minister for Home Affairs, Heritage and Sports might be here to reply to my Question.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Munyasia. It is not too early to defer your Question. You know very well that the rules of this House do not allow us to go to a Question the third time. So, your Question is deferred. I think I have been very fair to you.

Mr. Katuku's Question, for the second time!

Question No.488

DELAY IN PAYMENT OF TEACHERS' SALARIES

The Temporary Deputy Speaker (Mr. Musila): Mr. Katuku has not come yet? His Question is dropped.

(Question dropped)

The Temporary Deputy Speaker (Mr. Musila): Let us go to Dr. Kulundu's Question for the second time.

Question No.559

UPGRADING OF NAVAKHOLO HEALTH CENTRE

The Temporary Deputy Speaker (Mr. Musila): Dr. Kulundu is still not here? So, his Question is also dropped.

(Question dropped)

Question No.550

ALLOCATION OF KANU GROUNDS

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Kiunjuri also not here? The Question is also dropped.

(Question dropped)

The Temporary Deputy Speaker (Mr. Musila): Let us proceed to Mr. Ndicho's Question, for the second time.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. We have risen here several times and expressed our wish to have Wednesday Morning Sessions rescheduled to Fridays or---

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Ndicho, you know very well that, that is not a point of order. If you wish to bring a Motion here seeking to change the times and days on which this House should sit, that would be a different issue. Simply because somebody is late to reply to Questions here, we cannot, now, change this House's schedule of sitting. So, could you ask your Question?

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, before I ask my Question, I would like to apologise for coming late.

Question No.380

INSURANCE OF THIKA MUNICIPAL
COUNCIL VEHICLES

Mr. Ndicho asked the Minister for Local Government:-

(a) whether he is aware that the following Thika Municipal Council vehicles are not insured yet they are operating on the road, posing great danger to drivers, passengers and third party persons: Lorry KAH 082; Toyota Corolla KAB 173Q; Pickup KAB 174Q; Pickup KAB 175Q; Pickup KAB 176Q; Motor Cycle KAB 411Q; Motor Cycle KAB 412Q; Motor Cycle KAB 413Q and Motor Cycle KAB 414Q;

(b) why those vehicles are not insured; and,

(c) whether he could, as a matter of urgency, order that the said vehicles be insured.

The Temporary Deputy Speaker (Mr. Musila): Is the Minister for Local Government not here?

Mr. Ndicho: That is why we should reschedule this session to Friday, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Musila): I will defer this Question.

(Question deferred)

The Temporary Deputy Speaker (Mr. Musila): Hon. Members, once again, the Chair has to express its displeasure over the lack of seriousness exhibited by hon. Members in the business of this House, particularly on Wednesday mornings. Ministers have failed to come here to answer Questions. Similarly, hon. Members have also failed to come to ask their Questions. Therefore, once again, the Chair takes this matter very seriously. I hope that Ministers and hon. Questioners will improve in this case.

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that, at least, two hon. Members were present to ask their Questions today, and that not even one Minister was available to answer any of the Questions appearing on the Order Paper, would I be in order to take this opportunity and ask the President to reshuffle the Cabinet with immediate effect?

(Applause)

The Temporary Deputy Speaker (Mr. Musila): That is not a point of order, Mr. Munyasia.

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of the fact that I have got the written answer to my Question, and in line with the principle of collective responsibility exercised by the Government in this House, and given the fact that this is a very burning issue about vehicles operating on public roads without having been insured, thereby risking the lives of the drivers and passengers, would I be in order to ask that hon. Madoka replies to my Question? He is the most senior Government Minister present here. Why can he not read out the

reply to my Question, so that we may resolve this issue since it touches on the lives of Kenyans?

The Temporary Deputy Speaker (Mr. Musila): Hon. Ndicho, I do appreciate that it is an important Question, but I have deferred it instead of dropping it. Therefore, it would be unfair for you to ask hon. Maj. Madoka, the Minister of State, Office of the President, to answer a Question that squarely falls under the jurisdiction of the Ministry of Local Government. In any case, I believe that the Minister has not even seen the written reply. So, we will defer the Question till tomorrow.

The Assistant Minister for Agriculture and Rural Development (Mr. Sumbweiywo): On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard what hon. Munyasia said. I think it is wrong for him to imply that there are no Ministers and Assistant Ministers in this House. There are some Ministers and Assistant Ministers who are ready to answer Questions. It just happens that some relevant Ministers and Assistant Ministers are not available to answer some Questions that were asked, and they are only two. So, it is wrong if hon. Munyasia is left unchallenged because it might be misunderstood by the public; that they elected us to come to this House and we absent ourselves.

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Sumbweiywo, regarding your point of order, I did ignore Mr. Munyasia's point of order for obvious reasons. But then, I think you cannot stand here and defend Ministers and Assistant Minister; by saying that only two Ministers have not come. The Chair made it very clear that the Ministers and Assistant Ministers are guilty of not coming to answer Questions and, similarly, hon. Members are guilty of not coming to ask their Questions. Therefore, shall we now proceed with the remaining Questions?

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, the last time we had a similar problem, the Leader of Government Business, Prof. George Saitoti, said that it was because it had rained. It seems that this Government "sleeps" whenever it rains. Since today there was no rain, what reasons does Maj. Madoka, whom I understand is the seniormost Minister here, and I do not know how he becomes senior--

The Temporary Deputy Speaker (Mr. Musila): Order, Dr. Ochuodho! You are pointing a finger at Ministers and Assistant Ministers; what about hon. Members who have not come to ask their Questions?

(Applause)

Dr. Ochuodho: On a point of order---

The Temporary Deputy Speaker (Mr. Musila): Order! Will you sit down? I will not entertain another point of order on that issue because I have already stated here very clearly that the Ministers, Assistant Ministers and hon. Members are not here. So, it is not just Ministers and Assistant Ministers who should be punctual.

Mr. Katuku: Mr. Temporary Deputy Speaker, Sir, I am one of the hon. Members who were listed to ask Questions this morning, and I have just come late. In view of the fact that so many other hon. Members have not come, and even Ministers and Assistant Ministers are not here, would I be in order to ask the Chair to consider overruling his own ruling in order to have the dropped Questions reinstated?

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Katuku, two wrongs do not make a right. Your Question was dropped.

Mr. Ndicho: Mr. Temporary Deputy Speaker, Sir, I want you to correct a statement that you have just made; that you could have dropped my Question, had it not been for the importance that it carries. You cannot drop a Question in the absence of the Minister; you can only drop a Question in the absence of the Questioner.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Ndicho! What are you arguing about? I did not drop your Question; I said that it was very important, but the Minister or Assistant Minister responsible are not here and, so, the Question is deferred till tomorrow.

Could we proceed now?

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

The Temporary Deputy Speaker (Mr. Musila): Dr. Ochuodho, I have already entertained enough points of order from you.

Questions by Private Notice, Mr. Muite!

QUESTIONS BY PRIVATE NOTICE

EXCESSIVE DOMESTIC BORROWING

(Mr. Muite) to ask the Minister for Finance:-

(a) Is the Minister aware that as at 30th June, 2000, the total domestic borrowing stood at Kshs163 billion?

(b) Is he further aware that as at 9th October, 2000, the domestic borrowing stood at Kshs170 billion?

(c) What has necessitated this excessive borrowing and why has the Minister backtracked on his promise to reduce the level of domestic borrowing?

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Muite not here? We will leave his Question until the end.

IMMINENT CLOSURE OF SONY SUGAR COMPANY

(Mr. Ochilo-Ayacko) to ask the Minister for Agriculture:-

(a) Is the Minister aware that South Nyanza Sugar Company Limited is facing imminent closure as a result of cash flow problems arising from lack of cane?

(b) What remedial measures has the Minister put in place?

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Ayacko not here?

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, I am asking the Question on his behalf.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Achola! You do not force yourself to ask Questions. There are procedures to be followed.

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, I am directly involved and also affected by the Question.

The Temporary Deputy Speaker (Mr. Musila): Order! Next Question by Mr. N. Nyagah.

CESS COLLECTION BY PRIVATE COMPANY

(Mr. N. Nyagah) to ask the Minister for Local Government:-

(a) Why has the Ministry allowed collection of cess by a private company at the retail market in Muthurwa contrary to the local authority by-laws?

(b) Is the Minister aware that the Nairobi City Council is losing at least Kshs300,000 per month which it earned previously, before allowing another parallel market to operate on the same grounds?

(c) What action will the Minister take to ensure that no collection of cess will be allowed by any unauthorised body and that no parallel market will operate within a radius of 100 yards?

The Temporary Deputy Speaker (Mr. Musila): Is Mr. N. Nyagah not here? We will leave his Question for a while.

REPAIR OF SIGIRI FERRY

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Roads and Public Works the following Question by Private Notice.

(a) Is the Minister aware that Sigiri Ferry in Budalangi Division, Busia District, on River Nzoia, which connects the Northern and Southern Bunyala has broken down, making communication in this flood-prone division impassable?

(b) What urgent steps is the Minister taking to repair the ferry to ease communication?

(c) Could the Minister consider constructing a bridge on the river to replace the ferry which frequently breaks down?

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

(a) Yes, I am aware that the Sigiri Ferry in Budalangi Division in Busia District on River Nzoia is not working. The ferry is on a road which is class "C" road, which is under the Ministry of Roads and Public Works.

Having looked at it again, we hope to do the following: To re-inspect the ferry immediately in the next one week and see what action to take. We also hope to include the bridge for consideration in the near-future. However, we have budgetary limitations on the bridge. The situation was that it was going to be included under the Bailey Bridges Phase III which, unfortunately, does not seem to be taking off. We, therefore, hope that we shall look for funds elsewhere to see whether we can build the bridge. We hope to re-inspect the ferry and, maybe, put it into use as soon as possible.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, Sigiri Ferry broke down in 1994, and the Minister has said that he is aware of that. He is promising to re-inspect the ferry within one week. Could he clarify on who will re-inspect the ferry?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, it is true that the ferry broke down in 1994. The Ministry of Roads and Public Works, Kakamega, will re-inspect the ferry within the next one week.

Mr. Shitanda: Mr. Temporary Deputy Speaker, Sir, you heard the Assistant Minister say that the ferry broke down in 1994. It is now six years since it broke down. Is it fair for the Minister to wait until a Question is filed in this House before they can contact their officers to go and look into the problem?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, I talked of "re-inspection." We had inspected before, and we made arrangements to put a bailey bridge. The third phase of that programme never took off.

Mr. Wanjala: Mr. Temporary Deputy Speaker, Sir, the bridge that we are talking about is on a road class "C". Budalangi is a flood-prone area, and the river divides the division into two. So, communication within that area is a problem. The River Nzoia is so big that when it reaches Budalangi, it widens and the flow of water goes very fast. This place has got several dykes. How soon will the Assistant Minister implement the project of building a bridge there, unlike a ferry that breaks down and they never do repair?

Eng. Rotich: Mr. Temporary Deputy Speaker, Sir, the bridge we wanted to put up is about 100 metres long from bank to bank. We do not have the estimates now but the bridge was going to cost about Kshs150 million and it did not take off. We are very serious. The problem is caused by shortage of funds. We will do something about the ferry.

The Temporary Deputy Speaker (Mr. Musila): Mr. Muite's Question, for the second time?

EXCESSIVE DOMESTIC BORROWING

(Mr. Muite) to ask the Minister for Finance:-

(a) Is the Minister aware that as at 30th June, 2000, the total domestic borrowing stood as Kshs163 billion?

(b) Is he further aware that as at 9th October, 2000, the domestic borrowing stood at Kshs170 billion?

(c) What has necessitated this excessive borrowing and why has the Minister backtracked on his promise to reduce the level of domestic borrowing?

The Temporary Deputy Speaker (Mr. Musila): Is Mr. Muite still not here? The Question is dropped.

(Question dropped)

The Temporary Deputy Speaker (Mr. Musila): Mr. Ochilo-Ayacko's Question for the second time?

IMMINENT CLOSURE OF SONY SUGAR COMPANY

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, I would want to apologise for coming late. My vehicle broke down.

I beg to ask the Minister for Agriculture the following Question by Private Notice.

(a) Is the Minister aware that South Nyanza Sugar Company Limited (SONY) is facing imminent closure as a result of cash flow problems arising from lack of cane?

(b) What remedial measures has the Minister put in place?

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

(a) I am aware that South Nyanza Sugar Company Limited, like all other sugar companies in the country, is currently faced with cane supply problems arising from the industry-wide cane shortage. The industry-wide cane shortage has resulted in reduced sugar production and cash flow problems in all sugar companies, SONY included. The reduced cane availability in Awendo and Transmara areas is, however, not expected to result in any imminent unscheduled closure of the factory.

(b) The Ministry of Agriculture in conjunction with the board and management of SONY initiated a massive land and cane development recovery programme in February this year when it became apparent that the factory would experience cane-supply problems as a result of the mid 1998 *El Nino* rains. The rains caused widespread flooding which severely curtailed programmed land development and planting schedules, leading to reduction in cane availability this year. Diversification over the last few years into growing of other cash crops such as tobacco and tea by former cane farmers has also contributed to the reduced cane supply being experienced at the factory. In order to avoid aggravating the cane supply problem by crushing immature cane to maintain the 2000/2001 performance targets,

the company has limited crushing days to five days instead of the normal seven days of operation. This revised and rationalised operation that is also to varying extent being implemented by other sugar companies will ensure that the factory reverts back to near normal production and cash flow levels in February 2001. The contemplated operation will at the same time help avoid closure of factory due to cane supply problems except for the two week mini-maintenance scheduled for November this year.

Mr. Ochilo-Ayacko: Mr. Temporary Deputy Speaker, Sir, it is not proper for Assistant Ministers to come and tell untruths in the House. I want to inform the House that there is not a single tree of coffee or tea in my constituency that has replaced sugar-cane. Is it in order for the Assistant Minister to mislead the House that sugar-cane farmers at Awendo and other neighbouring areas have uprooted sugar-cane and replaced the same with tea when the fact is that they have not been paid and that is why they are not growing sugar-cane?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I did not say that the farmers have uprooted sugar-cane; I said that they have reduced the acreage under the sugar-cane and grown other crops. The question of non-payment might be there, but I am not sure about it.

Mr. Achola: Could the Assistant Minister explain to the House why Kshs200 million has not been paid to the farmers of this area? In fact, there is shortage of sugar-cane in this area because farmers have not been paid Kshs200 million. Could the Assistant Minister tell the House when the farmers will be paid this amount?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I am not aware of that colossal amount of money not having been paid to the sugar-cane farmers.

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, have you noticed that the Question that hon. Ochilo-Ayacko has asked requests the Assistant Minister to explain the imminent closure of SONY as a result of cash flow problems? In the Assistant Minister's answer, there is not a single statement regarding the cash flow problems in SONY. Can the Assistant Minister address himself to the Question and give us facts and figures regarding the cash flow problems at SONY which is leading to the imminent closure? Lack of sugar-cane is just a consequence of the cash flow problems. Can the Assistant Minister address himself to the Question and tell us the exact nature of these cash-flow problems at SONY?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, the cane supply problem is attributed partly to the *El Nino* rains in 1998. Accumulated---

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir!

Mr. Sumbeiywo: I am answering your question, my friend.

The Temporary Deputy Speaker (Mr. Musila): Order! Professor, why do you not let him reply?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I was saying that the accumulated arrears---

Mr. Ndicho: On a point of order, Mr. Temporary Deputy Speaker, Sir. Are you satisfied that the Assistant Minister is not behaving the way he used to when he was in the Presidential Escort by banging the table before us? Hon. Anyang'-Nyong'o has a right to raise a point of order. This is not the Presidential Escort where you bang tables to your junior men!

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, the job of Presidential Escort Commander is a very honourable one. If hon. Ndicho was suitable for the job, he would have been appointed, but I am sorry he was not able to do so. I was capable and I have been the best Presidential Escort Commander in this country. I saved this country in 1982 when you were not there!

The Temporary Deputy Speaker (Mr. Musila): Order! Mr. Assistant Minister, now that you have made your point, can you go ahead and answer the question?

Mr. Sumbeiywo: Thank you, Mr. Temporary Deputy Speaker, Sir. The accumulated payment of arrears due to farmers which has also led to a sizable number of farmers abandoning cane farming, thus worsening the cane supply problem, is being addressed by the Ministry very seriously. The SONY Sugar Company has been directed to inform the Ministry of the reasons why they cannot pay these farmers. Very soon, we will resolve the problem.

Mr. Omamba: Mr. Temporary Deputy Speaker, Sir, farmers took their sugar-cane to the factory in December, last year, and to date they have not received their payment. What plans has the Assistant Minister got in place for these farmers who have not earned money for such a long time? Can he borrow money from somewhere or from the Kenya Sugar Authority (KSA) to pay up these farmers, because that is the only source of income that they depend on to pay school fees, buy food *et cetera*?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, that is a good question. Currently, the company is evaluating whether to reduce the operations to below the current five days crushing period and, at the same time, to cushion itself against the effects of reduced cash flow, the company has put in place negotiations with creditors for a moratorium on outstanding payments to conserve cash flow until such a time when the company will get itself in order.

Mr. Achola: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Chair has continued to allow the

Assistant Minister to contradict himself. Just a few minutes ago when I asked the Question, he said that he was not aware that SONY owed farmers more than Kshs200 million. Right now, he has said that it will get into negotiations with farmers to allow them credit facilities. Why does the Chair allow the Assistant Minister to mislead this House?

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Achola! It is upon you, the Questioner, to detect those anomalies and ask the Assistant Minister questions. It is not the Chair to ask him those questions. Mr. Assistant Minister, can you respond to that?

Mr. Achola: The Chair is the real problem!

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Achola!

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I said that I was not aware that the company was debiting farmers that colossal sum of money. There is a problem. The amount of money that was owed to the farmers was a lot and we were not aware in the Ministry.

Prof. Anyang'-Nyong'o: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the Assistant Minister to keep on evading the question? If he does not have a proper answer, let him come back to the House later on and answer the Question. The Question is about the cash flow problems of SONY. Up-to-now, the Assistant Minister has not addressed himself to that Question. Is it in order for the Assistant Minister to evade the Question and leave this House without a proper answer? If not, let him go and come back with a proper answer.

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I have a proper answer and I have answered this Question. I said that there are negotiations with the CDC for rescheduling of loans so that the cash flow in the factory is no longer experienced. There are also negotiations with the KSA and the Commissioner of VAT on a revised payment of outstanding arrears on account of reduced sugar production, while remaining current on fresh remittance. There is also a proposal to dispose of obsolete stock to improve cash flow. So, the Ministry is addressing this issue very seriously.

Mr. Ochilo-Ayacko: Thank you, Mr. Temporary Deputy Speaker, Sir. Arising from the answer given by the Assistant Minister where he seems to attribute all the cash flow problems of SONY to lack of sugar-cane, could he tell us how, in the first place, how these cash flow problems that are related to sugar-cane arose? Were they as a result of corruption or mismanagement?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I said earlier on that there were so many factors which contributed to the cash flow problems. One of the factors was that the farmers could not produce enough sugar-cane to be crushed because of the *El Nino* rains. I also said that the payment from the creditors could not be made on time. Those are the main reasons why there was the problem of cash flow.

Mr. Ochilo-Ayacko: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to avoid answering the question that has been properly directed at him? The question is: How did this cash flow problems arise? How did SONY get into the debt repayment problems?

Mr. Sumbeiywo: Mr. Temporary Deputy Speaker, Sir, I answered that question earlier on. I said that SONY got into this problem because of lack of funds to pay the farmers. I also said that sugar-cane that was supposed to have been grown during the *El Nino* rains could not be crushed on time.

The Temporary Deputy Speaker (Mr. Musila): Let us move on to Question number three by Private Notice for the second time.

CESS COLLECTION BY PRIVATE COMPANY

(Mr. N. Nyagah) to ask the Minister for Local Government:-

(a) Why has the Ministry allowed collection of cess by a private company at the retail market in Muthurwa contrary to the local authority by-laws?

(b) Is the Minister aware that Nairobi City Council is losing at least Kshs300,000 per month which it earned previously, before allowing another parallel market to operate on the same ground?

(c) What action will the Minister take to ensure that no collection of cess will be undertaken by any unauthorised body and that no parallel market will operate within a radius of 100 yards?

The Temporary Deputy Speaker (Mr. Musila): Is Mr. N. Nyagah not here? The Question is dropped. That is end of Question Time.

(Question dropped)

COMMUNICATION FROM THE CHAIR

NEED TO OBSERVE PUNCTUALITY

The Temporary Deputy Speaker (Mr. Musila): Now, hon. Members, this has been a very bad morning in as far as Questions and answers are concerned. On the Order Paper, we had 10 Questions listed and out of those, six Questions were dropped because hon. Members who were supposed to ask them were not there; two Questions were deferred because the Ministers who were supposed to answer them were not there. So, only two Questions have been dealt with. From those statistics, you can see for yourselves who is the real culprit. I do not need to say much.

Mr. Kiunjuri: On a point of order, Mr. Temporary Deputy Speaker, Sir. I know that you are a good man and there is a precedent that was set by the hon. Speaker whereby, having got time left, he allowed hon. Members to ask Questions although they had been dropped.

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Kiunjuri! That does not give you time to come and ask your Questions whenever you want. Before I call the next Order, I think there are two Ministerial Statements to be made.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. We really apologise for coming late and for not being able to ask Questions. We do not want our constituents to suffer because of our lateness. We do know you have enormous discretionary powers under Standing Order No.1. We plead with you, at least, to sympathise with us today and allow us to ask these two Questions for the two of us who are here because we have a little time left. We shall not do this again.

The Temporary Deputy Speaker (Mr. Musila): Mr. Murungi, I am very sympathetic, but in order that we be more serious with the business of the House, the Questions dropped stand dropped.

MINISTERIAL STATEMENT

KENYA STAND ON SOMALI
TRANSITIONAL GOVERNMENT

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, in response to the request by hon. Shill last week that the Government issues a Ministerial Statement with regard to the situation in Somalia, I wish to give the following Statement.

The Kenya Government has been actively involved in the search for a just and lasting peace in Somalia ever since the collapse of the Government of the late President Siad Barre in January, 1991 which plunged that country into anarchy. The decade long crisis in Somalia has impacted negatively beyond that country's borders, including Kenya which has had to bear the brunt of the socio-economic fall-out from the civil war.

The civil war has resulted in an exodus of refugees into Kenya, putting pressure on our meagre resources. Arms designed to the various factions and groups have contributed to a proliferation of illicit small arms and light weapons in the region, leading to insecurity in neighbouring countries, Kenya included. The hosting in Nairobi of the Great Lakes and Horn of Africa Regional Conference on small arms and light weapons in March this year was aimed at addressing the problems forced by such proliferation of arms in our region.

Over the past ten years, a significant number of initiatives aimed at resolving the Somalia conflict have been undertaken by the international community, OAU, UN, the League of Arab States, the Organisation of Islamic Conference, the European Union as well as individual states such as Italy and the United States of America (USA). Countries in the Horn of Africa Sub-region, notably Ethiopia, which was mandated by the OAU to act on its behalf in facilitating the Somalia peace process together with Kenya, have also made contributions within the framework of the Inter-Governmental Authority on Development (IGAD). One of the earliest attempts to reconcile the Somalia political leaders took place in Nairobi from 11th to 12th March, 1994. Later in October, 1996, President Moi held talks in Nairobi with the principal Somalia faction leaders who agreed to stop the civil war and start negotiations towards resolving the conflict permanently. Unfortunately, on their return to Somalia, they failed to honour their commitment.

The on-going peace and reconciliation process in Somalia is a product of proposals made by President Ismael Omar Guelle of Djibouti during his address to the UN General Assembly in New York in September, 1999. President Guelle's proposals were based on the building block peace dividend approach in favour of involving civil society, including intellectuals, artistes, elders and religious leaders.

At the Seventh IGAD Summit of Heads of States and Governments held in Djibouti on 26th November, 1999, attended by President Moi, the Summit declared full support for the Djibouti led peace initiative. The Summit noted that it was crucial to institutionalise the peace initiative and called for its elaboration as well as the development of a mechanism for implementation. It urges the international community to support Djibouti's proposals. The IGAD Standing Committee for Somalia comprising Djibouti, Kenya, Ethiopia, Sudan, Uganda and Eritrea, including the

IGAD Partners Forum held its Ninth meeting in Nairobi on 15th December, 1999, to review how best to support the implementation of the IGAD Summit Resolution on Somalia.

The Standing Committee underscored the need to move quickly and resolved that Djibouti should be given adequate time to provide a more detailed plan. This resulted in the Arte Peace and Reconciliation Conference on Somalia held over a period of four months in Djibouti, culminating in the establishment of the Transitional National Assembly and the election of Mr. Abdul Kassim Salat as the Transitional President of Somalia. Kenya was represented at the inauguration ceremony of the new President by hon. Affey, Assistant Minister in the Ministry of Foreign Affairs and International Co-operation. President Moi was unable to attend this meeting due to prior commitments to the Arusha Summit on Burundi held from 27th to 28th August 2000.

Kenya has thus been part of the Djibouti led initiative on Somalia all along. Kenya welcomes the creation of the Transitional National Assembly and the election of a Transitional President as important steps in the search for a comprehensive and durable peace in Somalia. In the same spirit, we welcome the naming of a new cabinet over the weekend. We regard this development as positive steps towards the establishment of an effective central government, rehabilitation of the country and the restoration of peace and security.

Finally, Kenya hopes that the establishment of the new Assembly and the election of a President as well as the appointment of the cabinet will lead to the foundation of a national government while preserving the unity, territorial integrity and sovereignty of Somalia. It is in this regard that Kenya urges the new Somalia President to build on the outcome of the Arte Conference by bringing on board those Somalia factions and leaders who did not participate in the conference or who rejected its outcome through a policy of dialogue, tolerance and accommodation. Kenya is keen that all those who did not participate in the conference and have rejected its outcome or otherwise expressed reservations thereafter do join the reconciliation process in order to make it all-inclusive. Accordingly, we also urge them to rejoin the reconciliation process aimed at promoting understanding among the Somalia leaders to pursue these efforts. The meeting last month between President Moi and one or more of the Somalia faction leaders was in line with the IGAD efforts aimed at reconciliation in Somalia.

Mr. Shill: Mr. Temporary Deputy Speaker, Sir, I am happy with the statement given by the Minister. We in Kenya cannot down-play the importance of peace in Somalia. There are many guns in Nairobi whose origin is Somalia. Somalia has turned out to be a drug trafficking and a terrorists' breeding zone, as well as a toxic waste disposal ground. Could the Minister tell this House why the Government decided to host Mr. Aideed who is their favourite "warlord" without consulting the other faction leaders?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, let me make it very clear that we have no favourite "warlord" or favourite faction. Hon. Shill will agree that this country has been most generous to the Somali people during their 10 years of suffering. Our concern is to see a sustainable, lasting and viable peace in Somalia. To that end, we wish to see all the Somali groups get involved in the peace process. That is why we are urging both the Government and those who did not join in the peace effort to get together, forget the past and get on with their Government of National Unity. That is how we have received those who have come here. We have always received all other factions who sought our support.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, it is not totally true that the Government of Kenya has been even-handed in the way it has dealt with the armed faction leaders from Somalia. From the early period when the Kenya Government "looked the other way" when petroleum through Kenya was fuelling the "war machine" of Captain Morgan due to their cosy relationship with Mr. Aideed, it demonstrates that Kenya has not been even-handed to all the faction leaders. Could the Minister explain why - considering that peace in Somalia is of higher importance to Kenya than peace in Burundi - the President of Kenya chose to be present for a photogenic occasion in Arusha when he could have sent a more significant diplomatic gesture by being present personally in Somalia or sending his full Foreign Affairs Minister to represent him in Djibouti? Foreign relations is the external projection of domestic politics. How can Kenya be urging for tolerance, dialogue and accommodation in Somalia when it cannot exercise that at home?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, what Dr. Kituyi has said is not true. There was nothing sinister about the President attending the Arusha meeting. The Arusha meeting had been planned in advance while the meeting in Djibouti was only finalised a day before the Arusha meeting. In fact, hon. Affey who represented the Kenyan Government learnt of his departure only the evening before the meeting. So, it was too late to change the commitment of President Moi to be at the Burundi Peace Talks where peace is as important to us as it is in Somalia. The issue of us being concerned about tolerance and dialogue abroad and not at home is not there. We have no problem at home. That concept exists only in the minds of the likes of hon. Dr. Kituyi!

Prof. Anyang'-Nyong'o: Mr. Temporary Deputy Speaker, Sir, I want to join my colleagues in expressing the concern that peace in Somalia is of utmost importance to Kenya, not just because Somalia is a neighbour, but because we are tied culturally, historically, and also politically. But in order for the present initiative in Somalia to be sustained

and made to succeed, the relationship between Kenya and Ethiopia in ensuring that, that peace succeeds, is extremely important. To what extent can the Minister assure this House that both Ethiopia and Kenya are committed to this peace initiative, and that we are going to work in tandem, rather than on a collision course?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, we are both committed alongside the three countries bordering Somalia; Djibouti, Ethiopia and Kenya, and we are in continuous consultation.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, I am surprised that the Kenya Government is usually very slow at recognising legitimate governments. In the late 1970s, the then Foreign Minister, Dr. Njoroge Mungai, said that Kenya had adopted the foreign policy of "wait-and-see". Why has this Government not officially recognised the Government in Somalia?

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, we never de-recognised any Government, if the hon. Member can recall those debates in Parliament, or elsewhere. in the days of hon. Njoroge Mungai. I would like to make it clear that the policy of this Government on recognition has always been based on one solid principle, namely: Recognise any Government which is in effective control of the territory and people, so as to meet the international obligations of that country.

Mr. Orengo: Mr. Temporary Deputy Speaker, Sir, it is common knowledge that some of the Somali warlords come here quite often for obvious reasons which I do not expect the Minister to tell us. But knowing that those warlords come here, and now there is a new dispensation in Somalia, the position of Kenya Government should be articulated openly. Why have you not found it necessary, even as a matter of courtesy, to invite the new Somali President to Kenya to give peace a chance in that country? Why should we keep on having these warlords in Kenya? Even last week, one was here!

The Minister for Foreign Affairs and International Co-operation (Dr. Godana): Mr. Temporary Deputy Speaker, Sir, we want to give genuine peace in Somalia a chance. All our efforts have always been constantly geared to that end. People have to bear in mind that over the years, this country has developed to be the asylum country in the region; the country to which people from neighbouring countries who have been in problems or on the wrong side of the political divide in their own countries, have at least counted as one sure place to go to. We have no desire to change that policy with regard to the Somali Government or any other government in the region. I would like to inform the House that many of those in Government in Somalia today or indeed in some other countries which are neighbouring us and have effective legitimate governments, were at one time people who had taken refuge here. I think it is in our interest to continue with that policy.

INVASION OF KABETE VETERINARY LAND

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, over the last few weeks, there has been Press coverage about a group of people who moved into what used to be Kabete Veterinary Farm. A few weeks ago, the Minister for Agriculture and Rural Development was requested by this Parliament to make a Ministerial Statement on the status of the land and the so-called, invasion. The issue was transferred to my Ministry when it was established that the land in question does not belong to the Ministry of Agriculture and Rural Development and neither does it belong to KARI.

Mr. Temporary Deputy Speaker, Sir, the land in question was surrendered to my Ministry on 3rd October, 1995. The land is LR No.189/R. My Ministry, as requested by the Ministry of Agriculture and Rural Development proceeded and allocated the land to the following:-

Horticultural Crops Development Authority

The Dairy Board of Kenya

The Cotton Board of Kenya

Eureka Holdings Limited

Trophy Fresh Company

Njurui Agencies

Pamus Econo Investments

Nyai Enterprises

Elmut Supplies

Mr. E.K. Wahome

Mr. J.K. Kiingi

Mr. Ayako Kabagendi

Freedom from Hunger

Kenya Sugar Authority

Rift-Valley Housing Company Limited
Edom Investment Limited
Rima Limited
Jariam Limited
Justice Bosire
Teenage and Beyond for Christ Church
Yorkdale Investments
Joma Investments
A. Nyamu & K.M. Kithinji & Kariuki Macharia
Rurago Limited
Pentecostal Assemblies of God
KARI Headquarters
Mab-Lok Limited

As clearly stated by my colleague, hon. Marsden Madoka, two weeks ago, the Government does not condone invasion of private land by anybody. That is why our security forces moved in quickly to disperse the various groups that had moved into that piece of land, which is owned by private interests and also by some public organizations.

In conclusion, our records are open and anyone who may wish to carry out an official search, to confirm any information pertaining to the land, is free to do so.

Mr. Kibicho: Mr. Temporary Deputy Speaker, Sir, this appears to be a clear case of grabbing. The House has expressed its concern about the land which has been grabbed from KARI. Could the Minister consider revoking this allotment, because individual interests should not outweigh public interests?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, in this particular case, the title deeds for this land have been issued. It is therefore, not possible to revoke the allocations.

Mr. Mwenda: Mr. Temporary Deputy Speaker, Sir, the Minister has said that the land was transferred to his Ministry in 1995, but prior to that, it must have been the property of KARI. What necessitated the transfer of the property to his Ministry in 1995? It does appear that it was a scheme to ensure that this land was made available for sub-division and allocation to private developers.

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, the land did not belong to the Kenya Agricultural Research Institute (KARI). As I stated in my statement, the land belonged to the Veterinary Department. It became necessary to allocate part of the land. The allocation of land started from the 1950s. The original land belonging to the Veterinary Department was much bigger. But over the last 50 years, the process of allocating it to various departments, groups and companies has been going on. So, it was because of the requirement for those public and private entities that the allocation was done. But it is a normal thing which has been going on for a long time.

Mr. Ngunjiri: Mr. Temporary Deputy Speaker, Sir, could the Minister tell this House what economic necessity occasioned the allocation of the land? Who are the directors of Eureka Holdings?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, many of the records that we hold do not show the owners of those particular companies. It is difficult to establish who owns those particular companies.

Dr. Kituyi: Mr. Temporary Deputy Speaker, Sir, the hon. Minister, who is a good friend of mine, presents an infraction on public property as if it is a saintly exercise. He has carefully avoided answering the question of what public interest necessitated transfer of public land to private individuals. He can even pretend away that the Government does not know the owners and directors of companies that were given Government land! But more fundamentally, could he tell this House whether the Government finds it outrageous, repugnant and unjustifiable, the invasion of property, whether private or public? The persons who invaded the land were led there, addressed, soothed and promised that they will come back there by a person who is an Assistant Minister of Government in the Office of the President! What does he say about his Government?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Temporary Deputy Speaker, Sir, as I explained very clearly, the Government moved in to save a delicate situation which could have caused serious problems. It moved in to protect the land that belonged to private individuals and public organisations. As I stated earlier, the land will continue to be in the names of individuals and institutions which were allocated the land in 1995. It is difficult to know the real owners of those companies. There were forces that entered there to take the piece of land that belonged to private companies and public institutions. According to the newspapers, there were individuals who went there. There is no action greater than the action Kenya Government took. The security forces moved in to clear the two groups that had attempted to cause chaos on the site.

MOTIONS

ABOLITION OF CAPITAL PUNISHMENT

(Mr. Murungi on 4.10.2000)

(Resumption of Debate interrupted on 4.10.2000)

The Temporary Deputy Speaker (Mr. Musila): Mr. Murungi was moving his Motion. Proceed, Mr. Murungi!

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I am still moving the Motion on the abolition of capital punishment. As I was saying last time, capital punishment should be abolished because it is based on a primitive theory of justice. Such notions of justice as; "a tooth for a tooth or a life for a life", are concepts based on the law of Moses. Such concepts are no longer acceptable in our modern society. It is on this score that I would like to thank Amnesty International and the European Union, for issuing a statement in support of this Motion last week.

Mr. Temporary Deputy Speaker, Sir, capital punishment is also based on a rather simplistic theory of crime. Criminologists do now agree that criminals are not born. Criminals are actually products of their social environment. In this country, we have created a very cruel and unjust society, which is turning innocent Kenyans into criminals and murderers. We have created a society which the late Mwalimu Julius Nyerere described as a "man-eat-man society". Last year, the computer science graduates who kidnapped a businessman called Mr. Papat were victims of poverty. They had to kidnap in order to survive. Sometime back, the late J.M. Kariuki said: "Kenya would be a country of ten millionaires and ten million beggars." We are now in a society with ten billionaires and 30 million beggars! Those beggars will have to survive. So long as we have unemployment, and half of the population living below the poverty line, there will always be murder, robbery and crime in this country.

So, what we need to do is to humanise our society and improve the economic prosperity of this country. That is the best way to fight crime, including murder. The principal duty of every Government is to protect the right to life. In this country, we have policies which do not protect that right. For instance, we have not yet signed the Genocide Convention. The Minister for Foreign Affairs and International Co-operation is here! The Government should come and tell us why it has not signed the Genocide Convention, which is an instrument for preventing mass murder.

Mr. Temporary Deputy Speaker, Sir, recently, we had the Akiwumi Judicial Commission which went round the country collecting evidence as to what caused the tribal clashes in which thousands of people were killed in this country. To date, the Government has hidden that Report, giving Kenyans the impression that it is protecting the perpetrators of tribal clashes in this country! The Government should come out clean and tell us what the Report said. That Report should be laid on the Table of this House. Let Kenyans debate it!

Mr. Temporary Deputy Speaker, Sir, recently, Maj. Madoka, who is a Minister of the Government, stood up in this House and defended a policy of extra-judicial execution by the police! That is the shoot-to-kill policy! Our Constitution does not permit killing on sight of any suspect. We are surprised---

The Minister of State, Office of the President (Maj. Madoka): On a point of order, Mr. Temporary Deputy Speaker, Sir. At no time did I support a policy of shooting to kill. What I said is that people do not kill deliberately. That is when they are not able to get the target accurately.

Mr. Murungi: Thank you for the clarification. The Attorney-General, who is the Principal Legal Advisor of the Government, has not come out against the policy of shoot-to-kill. We feel that the Government has a lot to do to protect the right to life and it is high time we abolished capital punishment.

Mr. Temporary Deputy Speaker, Sir, we have a lot of unresolved political assassinations in this country, all the way from Mr. Pinto, Tom Mboya, Ngala, J.M. Kariuki, Dr. Robert Ouko and Father Kaiser. We hope that hon. Magara will not be added on that list!

With those few remarks, I beg to move and request Prof. Anyang'-Nyong'o to second.

Prof. Anyang'-Nyong'o: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to second and support this Motion. This Motion calls upon the House to abolish capital punishment in Kenya in order to enhance protection of the right to life.

Mr. Temporary Deputy Speaker, Sir, one of the most fundamental principles of a civilized and democratic state is that each and every individual living under that government should have a right to life. The death penalty, in history and in this country, has not only been used as a punishment to those who have been accused and convicted of murder, but it has also been used to put to death those who have committed other so-called offences to which the death penalty is attached. For example, in this country, robbery with violence is a subject of capital punishment, if convicted.

In other countries, for example, in Iran, rape or abusing God and the Ayatollah can send you to death if you

are convicted. In this country too, treason can send you to the gallows. In the history of this country, there are people who have been sent to the gallows for having been accused of having committed treason. The late Ochuka and Mr. Okumu Oteyo were sent to the gallows for that. It is not always the case that the reason why people commit treason are looked into. We know that those who cause treason are not really the people who commit treason, but those people who misgovern the country. So, in those instances, it is extremely unjust to send some people to the gallows because they were trying to address problems that are facing the country.

In other countries, we know that merely being accused of undermining the Government - whatever that means - can send one to the gallows. Similarly, there are countries where, if you are heard speaking ill of the Head of State, that too can send you to the gallows. So, all these reasons, why there is death penalty in the world, are not just because somebody has murdered, but there are all kinds of so-called crimes which need a very final and uncorrectable punishment called death.

Mr. Temporary Deputy Speaker, Sir, I want to give instances, in the history of this country, where people have been sent to the gallows and it was subsequently found that, were further investigations done, they would not have been convicted to death. For example, in the late 1960s, a young man called Hannington Juma, who was working as a nurse at Kenyatta National Hospital or the then King George VI Hospital, was accused of having murdered a British Voluntary Service Overseas (VSO) Woman. The only evidence that was available was a piece of hair belonging to that lady which was found in his clothes in his apartment. That was enough to convict Mr. Hannington Juma to death for having committed the so-called murder of this British VSO woman. But we know that the then settlers insisted on Mr. Hannington Juma being sent to the gallows because, just before Independence, a young man called Mr. Peter Bull was also sent to the gallows for killing his cook. Mr. Peter Bull was apparently angry because the cook had beaten his dog. Mr. Peter Bull was convicted to death for murdering his cook. That was just before Independence and he tried to appeal to the Queen and he was never successful.

So, when Mr. Hannington Juma was accused, on very circumstantial evidence, that he had killed this British VSO woman, he was finally put to death. These are two cases, where, because Peter Bull(?) had been convicted just before Independence, somehow, the Kenyan Government thought it would kind of create a balance by also convicting Mr. Hannington Juma to death. I remember that story very well when I was a young man. I thought it was a very cruel way in which capital punishment was used. Although, subsequently, it was discovered that Mr. Hannington Juma should not have been put to death had investigations been done properly, it was too late.

Mr. Temporary Deputy Speaker, Sir, by the sheer fact that capital punishment is too final, I do not think it is the civilized way of dealing with crime. Secondly, it is very clear that capital punishment does not work as a deterrent because once you have put somebody to death, you are deterring nothing. He is not going to be there to observe any rules or to be any more careful on what they do. He is dead and that is all! In any case, it is also argued that, those who are left behind, when a criminal is put to death, will be more careful not to commit the same crime. There is no evidence, whatsoever, the world over, that capital punishment does act as a deterrent. If capital punishment does act as a deterrent, then indeed, robbery with violence would not be there in Kenya today. This is because, in our law books, we have the fact that, people who rob with violence are put to death when they are convicted of such crimes. However, in spite of the many people we have put to death, there is absolutely no evidence in the Republic of Kenya that robbery with violence is going down. If anything, the poorer the people are, the more desperate they are to get something to live on and the more likely it is that they will be tempted to commit robbery with violence so that they have something to eat.

Mr. Temporary Deputy Speaker, Sir, in October last year, a young man called Mr. Oketch in Githogoro was accused of having used a dangerous weapon to force a shopkeeper to give him Kshs3,500, and he was sentenced to death under the laws of Kenya. Fortunately, in April this year, the death penalty was quashed and he was imprisoned for three years with hard labour. This was after the Public Law Institute and the Kenya Human Rights Commission had interceded in his case because the death sentence was too severe. Now, how many young men and women are put to death for robbery with violence because the Public Law Institute and the Kenya Human Rights Commission are not aware and, therefore, they cannot intercede and get the sentence quashed? We have too many such cases and I do believe that, were we to run a fairer and more justice society with a fairer distribution of wealth and fairer availability of opportunities, we will have less incidents of people robbing with violence and hence less need to put such a severe law in our law books, saying that: "If you rob with violence, you will be convicted to death."

Mr. Temporary Deputy Speaker, Sir, for example, the reason why we have more carjackings in Nairobi and more violent robberies in our own homes and so on, is because some people are being retrenched from the Civil Service including the army and the police, with very few opportunities elsewhere. Secondly, the examples they are seeing in society show that, people who have political power are constantly robbing society of the wealth needed for development and using it for very selfish reasons.

A good example is the Question that the Minister for Lands and Settlement was trying to answer regarding

the land that was grabbed near KARI. In 1995, when this land was allocated to those individuals and companies, it was not even done legally. The law requires that, land being allocated should be gazetted in the Kenya Gazette so that all Kenyans have equal opportunity to apply for that allocation. If you look at the Minister's answer, you will find that, only about 27 individuals and companies got the land, without it being advertised in the Kenya Gazette. Therefore, the original process was itself unfair and illegal. So, somebody like my dear friend, hon. Fred Gumo, knows as a Government Minister, that what was done in 1995 was illegal and applies the same illegality to go and acquire the land. So, here is a case where two forms of illegality do not make a right. It is these forms of illegality - the unfair ruling in the country; the unfair distribution of resources and the unfair exercise of justice that makes others who are less fortunate take a crowbar and force you to give them Kshs20, so that they can go and buy an egg or milk to eat and drink, respectively. According to our law, if they do that, they will be sentenced to death for having attempted robbery with violence.

Mr. Temporary Deputy Speaker, Sir, this is where the injustice comes in. Bad laws come from bad systems of government and justice. What we need in our society is justice and fair play. What we need in our country, and all over the world, is fairness to everybody. In that regard, I would like to condemn Al Gore in his campaigns in the United States of America, for having supported the death penalty. The death penalty - the capital punishment that he supported - may cost him the presidency and I hope that he does not behave like that.

I beg to support.

(Question proposed)

The Minister for Medical Services (Dr. Anangwe): Mr. Temporary Deputy Speaker, Sir, thank you for giving me an opportunity to make my contribution. Let me state, at the outset, that I oppose this Motion. I know that capital punishment raises a fundamental and moral issue but we should also be aware that morality is contextual, in the sense that what is moral in one society need not be so in another. By definition, and sociologists will tell you, morality is what is popular in that particular environment and it changes in time and space.

Mr. Temporary Deputy Speaker, Sir, along time ago, there were certain punishments that used to be meted out amongst some Kenyan communities. Like where I come from, if you stole livestock, the punishment was that they would tie the animal on your legs and it would be prodded to run and pull you along until you are dead. That was moral at that particular time. Sometime back, within the Luyia society, if you stole, justice was meted out by pushing a stick from one end of the ear to the other, until you were dead but times have changed. Christianity has come in, the State has come in through colonialism and then we got Independence. We have adopted some of the laws but let me tell you that morality is contextual. The norms and values, which the society may hold, depend on the environment itself. Therefore, what I am simply saying is that in some cases, even the State may be ahead of the communities and the larger society when, in fact, they would wish to mete out death penalty and the State is standing in-between the victims and the people who would wish to mete out death penalties.

Mr. Temporary Deputy Speaker, Sir, recently, there was a person who was mistaken to be a child abductor in Eastlands. Of course, this was an old man who was walking by with his granddaughter and, because there was suspicion about child abductors in the air, the old man never had the opportunity to explain. The emotions were high and the instinct through morality of the Eastlands people was that, death penalty must be meted out, whether or not the State was willing to intercede. Of course, the police came in with their guns and it became a war between the State that wished to pursue this matter through the legal process versus the masses who wanted instant justice. Of course, the State was overwhelmed and the victim ended up dying, although in this particular case, very unfairly.

So, all we are trying to say, as we pursue morality and moral issues in this House, is that let us not import morality that is repugnant to the society itself. There are certain crimes within this particular environment--- If we were to vote through a referendum or conduct an election, people would want certain crimes to be punished through death penalties. So, all I am trying to say is that when capital punishment was introduced in this country, all the way from colonial days through the State, there was need for it. There were certain crimes that ought to have been punished through death, largely because these crimes, as they were being committed, were also infringing on the rights of others to live and to the extent that you infringe on the rights of others to live, you deny them the opportunity to live, you kill them; yes, you should be put to death. If it is found that you had malice aforethought; you committed these crimes; you premeditated to commit them to end somebody's life, you should really get the same punishment.

Mr. Temporary Deputy Speaker, Sir, all I am trying to say is that the right to life is also subject to other people's rights to enjoy their lives and to the extent that you threaten and cut their lives short, surely, you must also suffer the same penalty. I know that my colleagues here, hon. Members, have been saying that it is against human rights but may I also say that human rights themselves are contextual. If you go in one society, a slate of things that are called human rights include things like a right to marry, to education and many others. To what extent can all societies

be able to do this?

Mr. Temporary Deputy Speaker, Sir, it has been argued that in the modern society, capital punishment is repugnant. Yes, I agree. There are modern societies but they vary in their degrees of modernity. I agree that Kenya is a society or is composed of so many societies. There are certain values that are universal but I also agree that there are certain aspects of life in this country that are also just typical or unique to this environment. So, let us not just borrow a leaf because in Britain, people have banned capital punishment and, therefore, we should also follow suit. Just because you attended a conference and people argued against capital punishment; you got indoctrinated and you then come over here and start preaching the same gospel. We have our own slate of human rights and it includes protection of life and to the extent that if you endanger this particular life, you should suffer the same penalty.

Mr. Temporary Deputy Speaker, Sir, I am saying this against a background of rising rate of crime, which includes carjacking, murder, rape, and many others. We should be able to send the right signal to those who are perpetrating this crime. If we sit here and we say that we are voting against capital punishment, we may be sending the wrong signal. There will be an increase in carjackings and murders. I know one hon. Member did argue here that in spite of capital punishment, there are still murders and robberies going on but let us also say that without capital punishment, people would be committing these crimes with impunity because they know that at the end of the day, all they will do is to go to prison. However, when they know that there is a possibility they could be put to death, they are a bit careful. So, let us not send the wrong signal outside there. People will take the law into their hands. There will be an increase in carjackings, murders, robberies and so forth. I am sure that if the victims of these crimes or members of their families were to express their opinion, of course, they have a totally different view but, for most people, it is very imperative that we send out the right signal by not allowing people to get away with crimes which endanger life.

In any case, even within the present set-up of our legal system, there are moderating and safety valves. In the event of cases which have been cited here, where people may be indicted erroneously or wrongly and end up being convicted, of course, the Constitution does provide the prerogative of mercy to be exercised by the President. There is a committee which does all this. Many people have been able to argue out their cases in order to escape this particular penalty. In other words, what I am saying is that we should not just say, because there is capital punishment, there is no opportunity for one who may have been convicted erroneously to be heard. In any case, we have a legal system which has tiers. We have the magisterial court, the High Court and the Court of Appeal. If you can exhaust all these courts and the Magistrates and Judges still believe you should be put to death, then you deserve to die.

Mr. Temporary Deputy Speaker, Sir, all I would like to say is that it is very imperative that we retain this particular law. Yes, we are a modern society, but even in the United States of America, people are still put to death for committing crimes that endanger other people's lives.

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

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me the opportunity to contribute to this important Motion. What the Mover of this Motion is proposing is a very drastic action. The abolition of the death sentence is a very drastic action. However, drastic actions must be properly justified. Unfortunately, it has not been justified at all. So, I am rising to oppose this particular Motion.

Mr. Temporary Deputy Speaker, Sir, if you read the contribution of the Mover of this Motion, during a similar Motion in 1994, and you look at what he said last week and this week, you would wonder whether he is the same person using the same source of information. In 1994, we were told that within a decade, 250 Kenyans had already been executed. However, in the year 2000, we are told that since 1985, only two Kenyans, Mr. Ochuka and Mr. Pancreas Okumu, have been executed. I looked at the hon. Member and wondered whether he is the same man who moved a similar Motion in 1994. What happened to the 250 Kenyans assumed to have been executed within the decade before 1994? Why are you telling us it is only two Kenyans who have been executed from 1985? We had then been given graphic details about what happened from Block G to H; how convicts are hanged and that they are usually hanged in a very primitive way. He is telling us now, in the year 2000, that the President has never signed any other execution order. What is all this?

Mr. Temporary Deputy Speaker, Sir, the fact that there is paucity of information must not be blamed, perhaps, on the Mover of the Motion. Maybe, it should be blamed on the Attorney-General who is not listening. In 1997, the House passed the National Crime Research Centre Bill which received Presidential assent on 22nd August, 1997. That Centre should have been giving out information on the effective ways of dealing with crimes. They should be the ones telling us about certain criminal tendencies. That has not been done. I would like to use this opportunity to urge the Attorney-General to ensure that the National Crime Research Centre is put in place. Let it inform the Kenyan public about what is happening.

Therefore, the Mover of the Motion, without having the base of information to argue his case, has desperately tried to bring in the issue of logic. For example, he argues that if we have to retain capital punishment, then rapists must also be raped. But what is wrong with using one wrong in order to correct another one? If there is a

speeding car, what does the policeman do? Does he say that we must drive at certain speed and that he will not over-speed in order not to punish the speeding driver? If it is the question of logic, it defeats reason because, in practice, you must use a certain wrong in order to stop another.

Mr. Temporary Deputy Speaker, Sir, we have been told about the issue of deterrence. Certain foreign studies have been quoted; that deterrence has not been proved. But they have not said that the contrary is true. Deterrence, especially where death is concerned, has been proved true; closest to us here in Uganda. Ugandans have been informed that the AIDS virus leads to death and that it is as sure as the sun rises in the east. So, you will not escape it. Once you are infected with the AIDS virus, you will die. Therefore, because AIDS has death attached to it, the sexual behaviour in Uganda has changed. That is why the rate of infection in Uganda has dropped. Ugandans are alert. You cannot say death does not scare anyone. It all stands to reason; everyone of us is scared of death. If we will let people get away with crimes deserving death, we will not help. I have never seen any particular study that says death does not deter because the example of the AIDS scourge in Uganda has already shown that. If we want to check the spread of the AIDS pandemic in this country, all we have to do is to inform the public that as soon as you get the AIDS virus, you will die. You will see the sexual behaviour change among our people. Therefore, what our legal systems should do is to ensure that for those who are caught and proved guilty of certain crimes that we have said must be punished by death, they should be punished by it. If there are any convicts waiting to be executed, they should be executed immediately. I do not see anything uncivilised in this particular process, where you allow someone to defend himself, judgement is made and then he is allowed to appeal. Now, with the DNA advanced technology, we are now zeroing down on the actual criminals, and the innocent will be exonerated. Once it is proved through DNA that this man committed the crime, let us send him to his death immediately.

Mr. Temporary Deputy Speaker, Sir, no one here would let the Kenyan territory go to anyone. We tell the Somalis, Ethiopians, Ugandans and our other neighbours, that we shall defend every inch of our land by all means and we are prepared to send our soldiers to die in the defence of it. We should say the same about our people here; that anyone who will take away the life of a Kenyan will also face death. We shall defend the life of every Kenyan. If we take away the death penalty, we would be saying we will not defend any Kenyan.

Mr. Temporary Deputy Speaker, Sir, before I conclude, for those of us who may be carried away by the issue of deterrence, there is no particular proof. You cannot use statistics to say last year or this year, the death sentence was introduced and so many people were executed, but in the same year there was a rise in the number of murders. If those were to be the reasons why we should do away with the death sentence, then we could also do away with prisons in this country. This is because we use prisons to fight crime. However, if you go by the statistics, you will find that more and more people are being convicted but the crime rate is increasing. Are they arguing that we should do away with prisons because the statistics show that even with imprisonment, more and more people are still committing crime? I find it senseless!

Finally, I want to say that public opinion is important. We are a Legislative Assembly but we are an Assembly of representatives of the people. We must hear what our people say, we cannot ignore it. The people will be in favour of capital punishment and we cannot do away with it. The Mover of the **[Mr. Munyasia]** Motion must not treat us as the advertisement agencies do. They say that mothers who care trust Ribena and so on.

The Temporary Deputy Speaker (Mr. Musila): Order, hon. Munyasia! Your time is up!

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me an opportunity to contribute to this Motion. Hon. Murungi is my brother, and very good friend, but I must strongly oppose this Motion.

(Applause)

Capital punishment is not a human rights issue. What human rights are we talking about when somebody murders another one and he is not punished? Whose human rights are we talking about? Has the murdered person been given his human rights? The murderer must be equally punished so that people are deterred from killing others. It has been pointed out that, even in the USA, there is still capital punishment. In this country, and most other African countries, because of lack of maturity, proper education, affluence and the prevalence of poverty, if we enacted this law; we would be committing murder to our people. I come from a community where, if someone threatens to kill you, you must take it very seriously because he will kill you. Even if he has to run very far to get a spear or a panga to come and kill you, he will do that. You had better run away very hard or look for people to beseech him. But when they are doing that, occasionally they say: "I would have killed you if the White man did not come". This means that if there were no laws; he would have killed you. A lot of those who do not kill say that they are restrained by law. They know that if they kill, they will be killed. If we were to remove this law, I do not know what would happen in Kenya within the next two days. There are very many poor people who will even prefer to go to jail. There is famine and poverty is

prevalent in Kenya. There are so many people who, if they knew they will kill and not be killed themselves, will prefer to kill so that they can spend the rest of their life in jail because they are assured of a meal there. I know Dr. Ochuodho did not want to eat in prison, but there are many people who would like to go there because poverty has hurt them more than they will be hurt in jail. So, we must have measures to stop people from killing others.

Mr. Temporary Deputy Speaker, Sir, in any case, before you are hanged, you are charged with murder. It must be proved beyond reasonable doubt that you committed the murder. There should be no element of doubt before a sentence of hanging is passed on you. There is no loophole that allows the hanging of innocent people. Innocent people cannot be hanged because it must be proved beyond reasonable doubt. The hon. Mover of this Motion is a lawyer and he knows that. He also comes from the Meru Community and there are many others like us, who will not hesitate to kill you.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is true we come from the same community with the hon. Assistant Minister and the murder rate there is the highest in this country. But if the death sentence is really a deterrent, is the Assistant Minister--

The Temporary Deputy Speaker (Mr. Musila): Order, Mr. Murungi! That is a point of argument. If you are standing on a point of order, let us hear it. It should be a point of order and not point of argument.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that the death sentence will be a deterrent when, as a matter of fact in the community where we come from, despite the existence of the death penalty, we still have the highest murder rate in this country?

The Assistant Minister for Education, Science and Technology (Mr. Karauri): Mr. Temporary Deputy Speaker, Sir, I think that is not a point of order. It is a question, but I am willing to respond to it. We may have the highest murder rate, but if capital punishment was to be removed from our laws, the number would be, maybe, 1,000 times what it is today. People are restrained by the fact that they know they will be hanged if they commit murder.

Mr. Temporary Deputy Speaker, Sir, the only other point I want to add here is on the death warrant. People have said that for a long time death warrants have not been signed for people who have been sentenced to be hanged. I think this responsibility should be removed from the President so that there is a committee or a jury that signs the death warrant. If this was done, it would not be the Head of State who would be signing the death warrant. There should be a legal committee or a jury formed that will be signing these warrants. Then, they can be signed fast and swiftly because the murderers must also die as quickly as they killed the other people.

With those few remarks, I beg to oppose.

Mr. Nderitu: Thank you very much, Mr. Temporary Deputy Speaker, Sir. First and foremost, I rise to support this Motion. I have got facts and let us not be rhetoric. The reasons behind the crime rate in this country--- In fact, the reason why guys are carrying guns, hijacking vehicles and stealing, day in, day out, is because the life has become too difficult. If this law is to stay, then we should also add a clause which states that the fellows who cause these problems to the society should also be hanged. I tend to believe that a lot of Government officers are to blame for this. There is no human being who has the right to take away the life of another one, other than God. In this country today, it is only the President who is a signatory to that death warrant. Why? If you look at our courts, the statement which is there is that, one has to be proved guilty beyond any reasonable doubt. I do not think it happens here. There is a lot of politics and witch-hunting in our courts such that the judgements are never fair. Take the example of a fellow who has been in jail in Naivasha Maximum Prison for the last 35 years. But the judgement said he did not pull the trigger to kill Pinto. Why is that fellow still in jail today? The judgement is: "I am sorry, my friend, although you did not pull the trigger, I will put you in." Why did that fellow go to jail?

There are very many examples that can be cited here, which enter into our social lives and governance ethics. They all seem to ask the question: What are the governors doing? If you destroy the structures, through which everybody should earn, his living, what do you expect? Today, I do not blame those fellows who hijacked my wife and children. Those fellows told my wife clearly: "Mama, tafadhali, njaa ndiyo imetufanya tufanye hivi". Who has caused all this? Hunger can be eradicated if our Government wakes up. The post office will work if our Government wakes up.

Mr. Temporary Deputy Speaker, Sir, the Government is now retrenching civil servants. What do you think those civil servants being retrenched are going to do? Are they going to sit in their houses and die? We are creating a bombshell here. The crime rate in this country will rise by 25 per cent. The Government has sacked 25,000 civil servants. What do you think a 30-year-old guy, with a wife and children who go to school, will do? Those fellows are going to steal everything that you have; you will never put on your spectacles or jackets.

An hon. Member: Including yours!

Mr. Nderitu: Yes, including mine; I agree. So, what do we do? The people who are to blame most for all this are those who are in the governing body. We should not destroy everything and then say: "This guy should be killed for violent robbery". Why do we have the Public Investment Committee (PIC) and the Public Accounts Committee

(PAC)? You will find that a Government Minister has stolen more than Kshs14 billion. You go ahead and hang somebody, because he hijacked a car at gunpoint. Those people who steal Government money, which belongs to the public, really, are the ones who should be killed; they should not come here and make laws on who should be killed.

I agree that if somebody kills another person, he should be punished. However, I do not think there is any human being who has a right over the life of another human being. My friends, I would rather we think again about this. We had the Hammurabi Law - a tooth for a tooth and an eye for an eye. I think we are now a bit civilised. There is always a reason why a person kills another one. That reason is what we should look for. We should establish why such a person killed another. To deter that, we must deal with that reason.

Mr. Temporary Deputy Speaker, Sir, this country's prisons today are worse than the death penalty. Some people who have been jailed for pick-pocketing are put together with others who were jailed for rape. Really, something must be done in this country, especially, for prisons. Prison should be a place to kind of train criminals to change; prisoners should be shown that crime is bad. However, this country's prisons are today hardening criminals. Why should you jail somebody for three years, because he snatched Ksh50.00 and take him to a place where there is no good water or food? Prisoners wear tattered clothes. They are, in fact, being punished very much. I would, therefore, urge, through you, the Attorney-General, to look into the status of this country's prisons. Actually, we are not helping our boys, women or girls. Problems in prison have become the order of the day.

What suggestions are there, if somebody is listening? Prisoners should be trained, so that they may come out with some kind of skills. They should be trained to appreciate that killing is awkward, but should not be killed. When you kill a prisoner, you do not solve the problem. When you hang somebody, really, you do not solve any problem in society. Killing somebody is bad. The law that provides for killing, really, is outdated. The Government, which has caused all these people to start shooting each other, should be hanged first. For example, some people have recently lynched other people they suspected to have stolen children. The Government knew very well that there was devil worshipping in the country, but did nothing to stop it despite the fact that it has the police force in place. I understand that it would be difficult to have a policeman on every person's door but, really, something must be done. So, the onus for all this rests at the doorstep of the Government.

I am afraid to say that our country is growing in terms of both population and activities. However, the Government should ensure that crime is curtailed, but not by killing the perpetrators of crime. It is awkward for a policeman to shoot somebody in the process of dispersing people who have attended a public rally that has not been licensed. How many people have been killed by policemen in such circumstances? How many of those policemen have been hanged? Innocent people have been killed in such circumstances, but at the end of the day, there was no proof of any crime committed by the person killed. Who carry guns and bullets in this country? Let us not have double standards.

With those few remarks, I beg to support the Motion. Nobody should be killed, because he has committed a crime.

The Minister of State, Office of the President (Mr. Nassir): Bw. Naibu Spika wa Muda, miongoni mwa zile Hoja zinazopaswa kukataliwa na Wakenya, hii ni nambari moja. Hii ni kwa sababu kwa muda wa miaka 15 sasa, Serikali ya Kenya haijaua mtu hata mmoja kati ya wale wafungwa waliohukumiwa kifo. Katika nchi nyingine, wafungwa wanaohukumiwa kifo huuliwa kila siku; wale wanaoiba hukutwa mikono yao na kadhalika; Serikali ya nchi hii haijafanya hivyo kwa muda mrefu sasa. Hii ndiyo sababu watu wengine wanawatumia watoto wa wenzao kufanya fujo.

Kuipitisha Hoja hii ni sawa na kuwahimiza wauaji waendeleo kuuu watu. Nchi hii imekumbwa na ongezeko kubwa la uhalifu. Unaweza ukafikiri kwamba tunaishi katika wakati wa "Old American Cowboys". Watu siku hizi wanauana tu. Ni kama kwamba watu hawana vichwa. Kwa sababu mtu atauliwa, inachukuliwa kama hana kichwa. Kuifuta sheria inayoruhusu kuuawa kwa wauaji kutachangia kuongezeka kwa visa vya mauaji. Mhalifu akiishiwa na pesa za kununulia chakula na pombe, atachukua bunduki na kuwaibia watu kwa mabavu, ama kuwaua. Kwa mujibu wa sheria, polisi hawaruhusiwi kuwapiga wezi risasi; wanatakiwa kupiga risasi angani. Wezi pia wanaifahamu sheria hii. Hivyo basi, wezi huendelea na shughuli zao za kuiba bila ya kuogopa kwa sababu wanajua ya kwamba hawatapigwa risasi.

Bw. Naibu Spika wa Muda, viongozi wote katika nchi hii ni lazima wajitahidi ili kuzuia kumwagika kwa damu ya watu wasio na hatia. Tunaona jinsi hali ilivyo katika sehemu mbalimbali ulimwenguni; damu inamwagika kila mahali. Watoto wachanga wasiokuwa na hatia pia wanauawa. Kwa hivyo, inafaa tuelimike kutokana na mifano hiyo. Ningependa tudumisha sheria ya kuwanyonga wahalifu ili watu waogope kuuu. Hata kama mtu ni tajiri, iwapo atashindwa katika uchaguzi wa kidemokrasia, asiwahusishe wafuasi wa *Mungiki* ama watoto wa wenzake katika ghasia ambazo zinaweza kusababisha vifo. Eti kwa sababu yeye ni tajiri, anataka waende wakafanye fujo! Dini ya Kiislamu haikubali fujo.

Bw. Naibu Spika wa Muda, wafuasi wa dhehebu la *Mungiki* hupigana na polisi huko Nyeri na kuwaua watu,

na wanajiunga na dini ya Kiislamu ili wapewe hifadhi baadaye. Nataka kuwaomba Wakenya wajihadhari na wafuasi wa *Mungiki*. Tutakubali waendeleo na mambo yao ya siasa ikiwa wanaona ya kwamba wanaweza kupata kura; kutaja wale wanaotenda mabaya; kusema Serikali ni mbovu na kupigana na ufasadi. Lakini kura na uongozi zitapatikana kutokana na kazi unayofanya, sio kwa maneno matupu.

Naomba tutilie mkazo jambo la amani na watu kupendana nchini. Lakini mtindo wa kudanganyana uko katika Kenya, na utaleta taabu kubwa sana. Hatuaminiani sisi Wakenya. Ikiwa mtu fulani ameanguka na kufa, watu wanaomba Serikali ifanye uchunguzi. Lakini tunaweza kufanya uchunguzi kila siku? Haya yote yanatokana na watu kutoaminiana. Kwa hivyo, nadhani Mbunge aliyeleta hii Hoja hakufikiria siku za mbele. Lakini kama angejua hatari iliyoko katika Kenya, angeiacha Hoja hii na aseme kuwe na adhabu kali ya kuweza kuzuia mambo haya. Hamu ya wengi wetu ni kupata uongozi, lakini hatutaki uongozi wa watu kupigana au kutumia watoto wa watu wengine.

Mimi nasema ya kwamba Kenya haina taabu na watu maskini. Kenya ina shida na matajiri kwa sababu wanataka uongozi. Kwa sababu mtu alikula ile sukari tamu sana zamani, anaona bado lazima ale tena. Lakini hawatakula tena! Wale Wakenya wajinga wamekufa, na waliobaki sasa katika Kenya ni werevu. Hata mtoto aliye barabarani ni mwerevu, na hatakubali kutoa uongozi kutoka Serikali ya sasa na kuwapatia watu ambao walitufanya mabaya zamani.

Tunataka amani, ushirikiano na upendo katika Kenya. Pia, tunataka kuhimiza kila jambo ambalo litazuia watu wasiendeleo zaidi kufanya mambo ya kuuu watu, na litakuwa bora sana. Kuhusu bunduki zinazofichwa ndani ya Kenya hii, kuna Mbunge ambaye alihimiza tutafute watoto ambao wana bunduki na tuwashike. Lakini nani anawapatia bunduki? Hata si kazi kubwa kwa polisi kushika mtu na bunduki na kumfunga. Swali ni: Alipata bunduki hiyo wapi? Nani alitengeza hayo mambo? Nani alifanya hiyo fujo?

Kwa hivyo, napinga kwa dhiti hii Hoja kwa sababu nina watoto tisa na sitaki waone mabaya katika Kenya. Ukinunua bunduki na kuuu mtu, lazima uuawe pia. Ukimwaga damu ya mtu, na wewe nawe utauawa. Hakuna haja kuzuia mtu ambaye ameua asiawe.

Bw. Naibu Spika wa Muda, kwa hayo machache, napinga vikali Hoja hii.

Mr. Achola: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Motion. From the outset, I would like to say that I am opposed to this Motion. In fact, I am surprised my friend, hon. Murungi, brought this Motion to the Floor of the House.

Mr. Temporary Deputy Speaker, Sir, I would like to start by giving a historical background; as to whether the death penalty affords a deterrent punishment or not. Around 1800, we had a cult in India called the "*Thagees*"? The "*Thagees*"? went around, killing everybody in India. They murdered close to 2 million people until the Britons came, put their feet down and insisted on arresting and hanging the "*Thagees*"?, but the cult never ended. It was only after the "*Thagees*"? were hanged in public that the murders were eliminated.

Down in South Africa, cases of rape are the highest in the world but recently, the South Africans changed their ways of doing things. They stopped raping middle-aged women and started raping young children. The reason was that the young children were assumed to be HIV/AIDS free, and they knew that it kills and if they do that, they would be free of it. The fact that HIV/AIDS kills was a deterrent against raping the middle-aged people. Therefore, capital punishment is deterrent against murder cases.

My own father was murdered by a mentally deranged person. When he was taken to court, my mother appealed to the court to set him free, but that was not like today. The man was not freed, and he was taken to court and sentenced to life imprisonment, but later on he was freed. On the third day upon being released, he murdered another person. I think it is crazy for any one of us to think that removing capital punishment is an option that can be taken by anybody.

I heard Prof. Anyang'-Nyong'o talk about some people who can be killed for crimes that they did not commit. But if steps have been taken to ensure that whoever is charged with murder is given a fair trial and opportunities for appeal, then, that situation need not arise. That argument should be completely dismissed, and anybody who murders should also be killed.

We have also talked about what the Bible says on morality. I would like to quote from the books of Exodus and Genesis. In Genesis 9:6, God states:-

"Whoever sheds man's blood, by man his blood shall also be shed."

In fact, in Exodus 21:12, He states:

"He who sends a man so that he dies he shall surely be put to death."

I do not know where hon. Murungi and others got those lofty ideas from; that is, to come here and suggest that death sentence should be eliminated. Personally, I think that, that idea should be completely opposed and anybody who kills should be punished by being killed.

Mr. Temporary Deputy Speaker, Sir, you remember what happened in 1998 during the Bomb Blast incident in Nairobi. Mr. Osama Bin Laden has been bragging all over the world that he was the one who masterminded it, and

continues killing people and getting away with it. Yet, here we have Kenyans who say that someone like him should not be hanged. We remember with sadness the more than 200 innocent Kenyans who were killed by those mad people. If you were to catch a mad man, surely, you cannot say that he or she should be left alone because death sentence is primitive. What is more primitive than someone coming to kill over 200 Kenyans and being left to go scot-free? Hon. Murungi should be ashamed of having said a thing like that!

One other point that I would like to raise is that the cost of keeping prisoners in prison is prohibitive. I will give an example of what it costs in the USA.

Mr. Murungi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the hon. Member repeat what I should be ashamed about?

Mr. Achola: Mr. Temporary Deputy Speaker, Sir, first of all, he is my great friend, but I do not know where he got those funny ideas from and bringing this Motion to the Floor of the House.

Mr. Temporary Deputy Speaker, Sir, in the USA, the cost of keeping a prisoner - that is as of 1995 - in a cell, because the other option of capital punishment is that the culprit be jailed for life--- In the USA in 1996, the cost of keeping one criminal in jail was US\$25,000 a year. Supposing the man lives in jail for 50 years? You will have 50 years multiplied by US\$25,000. What is this for? Someone who has killed another in cold blood? Why should we keep on spending millions of shillings, which we can hardly afford, on someone who has murdered an innocent person? I would like to oppose this Motion vehemently and request hon. Murungi, if possible, to withdraw it.

I would like to give another example. There was a case in the USA where a highway robber murdered someone who was travelling in his car. He was arrested, taken to jail and given a death sentence. However, on appeal, he was also still given the death sentence. On the third appeal the man was released. On the fourth day of his release, he went home and committed precisely a similar offence; he murdered someone again in his car. When he was taken back to jail he was tried and before he could be executed he escaped from jail. He went out and murdered another 19 people before he was eventually taken back to court and given the death sentence. The best thing for those people who commit murder is to be given capital punishment.

I want to finish by saying that I thoroughly oppose the Motion.

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

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

Mr. Kimetto: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity. I just want to examine ways and means of giving this corporal punishment. Corporal punishment does not deter other criminals from committing crimes. It is not a straightforward way of eliminating crime. We should examine the exact cause of the offence. In some cases, a person faces the death sentence after having killed another when he was insane. When somebody kills another while he is insane, he should not get corporal punishment because he did not do it intentionally. It is very important---

The Assistant Minister for Agriculture (Mr. Sumbeiywo): Mr. Temporary Deputy Speaker, Sir. I do not know whether I got hon. Kimetto clearly. He is talking about corporal punishment while we are talking about the death sentence. I do not know what he said.

Mr. Kimetto: Thank you, for giving me the information ahead of time. Capital punishment should be given after considering the circumstances surrounding the offence because this is very important. Whenever somebody kills, some people immediately wish to kill him in the same manner without studying the cause of the offence. I would like Kenyans to know exactly the cause of these offences before capital punishment is meted out. There are some ladies who go to hospital to give birth to children and they lack blood. Why do we not have these offenders donate blood so as to enable others to live longer instead of patients dying because of lack of blood? If somebody kills and he has good blood, why do we not ask him to donate his blood, as a way of punishment? In the case of those who kill others accidentally, like in the case of a driver who accidentally kills someone, they should be made to help others live longer by donating their blood to them. Why do we kill them and yet other people who could have been assisted by them are also dying? Killing is not a proper way of eliminating crime. Killing has been there since time immemorial. There must be a way of punishing these people instead of directly killing them. It is said in the Bible that whoever kills will meet his death by being killed. That is a godly doctrine. How come that human beings are contradicting what God has said? Let God do what is there. We are not above God who put the doctrine in place. It is only God himself who can kill. There is no time that you can assist God to kill people. God knows exactly when these people will be killed. We should do what is in the doctrine of God. God knows exactly how to kill you if you have killed. There is nobody who

will do what God has done or will do. God will come down to earth and judge the living and the dead during the last day of every individual in this world. There is no need to punish others because God will give the punishment. I am suggesting that we administer corporal punishment instead of capital punishment.

Mr. Temporary Deputy Speaker, Sir, when someone is sentenced to death, who is this person who has the responsibility of killing him? Will he not face cruelty in life? How many times will he have killed? If there is somebody who has been authorised by our law to kill others, who among the hon. Members could be put in such a position that he will be killing other people that have already killed? Is there any possibility of coming up with the right person for that job if you are given the responsibility of killing other people? Let God do the punishing himself and human beings do the punishment by appreciating that this person who has killed can assist others to improve their living standards.

Mr. Temporary Deputy Speaker, Sir, why do we not allow the convicts to carry out construction works on our roads and schools instead of killing them?

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Manyara): It is now time for the Government side to respond but, Mr. Wako, I understand that you have given Mr. Sajjad two minutes to contribute to the Motion.

Mr. Sajjad: Mr. Temporary Deputy Speaker, Sir, I thank the Attorney-General for giving me two minutes to contribute to this Motion.

Mr. Temporary Deputy Speaker, Sir, presently, we are facing a lot of insecurity in the country. There were about 20 carjacking incidents in Nairobi over the weekend, while in Mombasa there are about seven similar incidents. Last Monday, a vehicle which was carrying money and was under police escort was ambushed in Mombasa and one of the policemen died after both the policemen and the employees were shot at. Presently, with full knowledge that there is capital punishment, thugs who are well armed and attack the police. If we abolish capital punishment, then thugs will have a licence to kill. I believe that if we abolish capital punishment, we will give the robbers, especially the violent ones, a licence to go and kill.

(Applause)

There have been cases of murder, and people have been jailed. After coming out they get involved in violent robberies again.

With these few remarks, I beg to oppose this Motion.

Thank you very much, Mr. Temporary Deputy Speaker, Sir.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to respond on behalf of the Government.

The Mover of this Motion moved almost a similar Motion on 30th November, 1994, and the position of the Government at that time was that because of the importance of the issues involved in discussing capital punishment; because of the conscience and morality issues involved; because it evokes very strong feelings from the people when the matter is being discussed, this was an issue on which the Government stood to be guided by the people. So, we said: "Let the people guide us on this issue." It is because of that, that I advised that we should withdraw the whip from the Government side and also from the Opposition side, so that the people can discuss this important issue freely with their conscience.

Capital punishment is the ultimate punishment that one can mete out on an individual. However, capital punishment is recognised even in the International Convention on Human Rights. When the conventions on human rights talk about the right to life, they add a qualification that, that right to life will not be violated if it is taken away in due execution of a court order. That approach has also found its way in our Constitution. Section 71(1) also has a similar phraseology. The additional requirement under the international standard is that death penalty should only be imposed by the courts, if two conditions are met. First, the accused persons must be given every opportunity to properly defend himself before the court. Secondly, it must only be imposed on very serious crimes. That is why in those countries where there is a death penalty which is imposed on lesser crimes, for example, economic crimes, there has been an outcry. But those are the type of crimes which do not warrant a death penalty to be imposed. So, the seriousness of the offence becomes very important at the international level. But it is also true to say that since these international conventions were entered into in mid 1960s, there has been a noticeable movement away from capital punishment. In fact, there is a very strong movement internationally towards abolishing capital punishment. In this regard, the countries which belong to the European Union (EU) have gone a step further and abolished capital punishment, and even in stating that they will extradite somebody who has committed an offence in a particular country, which is outside the EU, if that person in going to the country where he has committed an offence will be subject to capital punishment if he is found guilty. They are stopping that. There are also other countries which say that

they must have capital punishment. For example, I know that Singapore has said that had it not been for capital punishment, they would not have dealt effectively with the control of drug trafficking in their country. Although they are surrounded by countries where drug trafficking is high, it is almost nil in Singapore, because of the death penalty. They have come on record as saying so. There are many other countries in the developing world for various reasons, which have said that they cannot do away with death penalty today. It is not just in the developing countries, but even in the United States of America (USA), where a number of States abolished the death penalty, but they have had to reinstate it. Consequently, the USA becomes one of the biggest countries where execution takes place in the developed world as we speak today.

Mr. Temporary Deputy Speaker, Sir, it is illustrative to note that both the Republican and the Democratic Parties have in their own way supported death penalty, so that they can be perceived to be very tough on crime. It may be recalled that in 1992, the then Arkansas Governor, Mr. Bill Clinton, interrupted his presidential campaign to return home to preside over the execution of Leakey Ray Rector, a black man, who had been convicted of killing a police officer. He hoped that by doing that, he would send a strong message to the Americans that he was very tough on crime. We do know that, that message went home and he was subsequently elected as the President of the USA.

We also know that recently, Governor Bush, while also campaigning to be the President of the USA interrupted his campaign to make a decision on Rickley Nollam Mackeel who had been sentenced in 1993 for raping and murdering his 12 year-old step- daughter. In the course of the trial, the state, had refused or barred the DNA test. I would like to say that 18 minutes before the man was executed, Mr. Bush stopped it and said that the man should be given the opportunity to undergo the DNA test, and depending on that, it would be ruled whether or not he should face death penalty. In America the argument used against capital punishment is that an innocent person could be punished unjustly. That is something which we should also consider in this country. Is it possible in our case for one to easily punish an innocent person?

Mr. Temporary Deputy Speaker, Sir, in America today, because of the new DNA tests, more than 90 people facing the death sentence have been declared innocent, after going through the DNA tests. We do not have a similar procedure under our own system. So, one of the arguments raised against capital punishment apart from the moral approach that it is only God who gives and takes away life; it is possible that we could be punishing an innocent person. On the other hand, we have families of the persons who had been murdered who would like to see justice done. In this regard, I had a personal experience in my office today. I got a letter complaining that a murder suspect had been released without any punishment. The family of the murdered person wrote to inform me that they were going to mete out punishment to this murder suspect themselves. So, there is this element of retribution which must be taken into account when we are debating this Motion. In America, the people who are for capital punishment are more or less unanimous in wanting to be there personally to witness the execution of the persons who murdered the members of their families. Should that also happen in this country?

Mr. Temporary Deputy Speaker, Sir, in America today 73 per cent of the people - according to the recent poll - support capital punishment. If capital punishment is done away with and we substituted with life imprisonment without parole, then 52 per cent of the population will support abolition of capital punishment.

Mr. Temporary Deputy Speaker, Sir, I thought I should outline the arguments for and against the abolition of capital punishment in Kenya. In this country, criminality is on the rise. People are being shot every other day and families of the victims are very sensitive about this issue. The whole world is now moving towards the abolition of capital punishment. But there is a request that those countries that have abolished capital punishment should reduce considerably the offences which attract capital punishment. The position of the Government of Kenya is to gauge and see whether the people of Kenya really support capital punishment. Our constitution presupposes the existence of capital punishment under Section 71(1) of the Constitution. The international conventions also presuppose the existence of capital punishment for most serious crimes.

In other countries, the abolition of capital punishment has not been a simple matter for legislation. It has been a matter for the Constitution. The South African Constitution says everybody has a right to life without any limiting factors found in other constitutions. Therefore, capital punishment has been abolished in South Africa, although there is now a movement to restore it because of the level of criminality which is going up. This is an issue which we should let the people of Kenya think about, decide on and guide us on the way forward. Fortunately, we are now about to engage in the Constitutional Review Process. This Parliament is about to recommend the appointment of persons who will be commissioners under the Constitution of Kenya Review Commission Act. I am glad that there has been a very good response from the applicants towards that end. I hope the best people have applied so that we can have the best Commission under the Act. They will collect and collate views from every constituency in this country. I will recommend to them that they should get to know what the people of this country have got to say about capital punishment.

Mr. Temporary Deputy Speaker, Sir, this House can pass this Motion, but for it to be reflective of the wishes

of the people of this country, it must give a clear indication that this House supports the abolition of capital punishment. This is a constitutional matter and two-thirds of the entire Members of this House will have to vote affirmatively that they want capital punishment to be scrapped. The Government will then be bound by those views because it will be indicative of the views of the people of this country on the issue of capital punishment.

Mr. Temporary Deputy Speaker, Sir, each country must decide on its own whether the time is ripe for the abolition of capital punishment. There is an international movement towards the abolition of capital punishment although there are some key countries which still retain capital punishment on their statute books. These include China, United States of America and Japan. So, the issue should not just be confined to a debate within this House. This is an issue, which I hope, will attract a very constructive debate outside this House so that a consensus can emerge on what the people of this country want on this issue of capital punishment.

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I am donating four minutes of my time to hon. Raila; three minutes to hon. Dr. Ochuodho, and the balance to myself.

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, I am very grateful to hon. Murungi for giving me this opportunity. This is a Motion of conscience and likewise, we in the NDP have removed the Whip, to allow our Members to vote with their conscience.

Mr. Temporary Deputy Speaker, Sir, I feel very strongly about this issue, because we are talking about the lives of human beings. The purpose of any form of punishment is to help the culprit to reform. That is the essence of any form of punishment. The reason why the death sentence has been opposed is that, it does not give the victim an opportunity to reform. That is the reason why in many countries, the death sentence has been discarded as a form of punishment. The European Union has abandoned the death sentence, because it was held in Europe, from the medieval times that, death sentence was used to punish people. It has been found, as confirmed by the Attorney-General, that over 50 per cent of the people who were subjected to death sentences did not commit the offences for which they were punished. This is the reason why it has been recognised that death sentence is primitive and is not a deterrent.

Mr. Temporary Deputy Speaker, Sir, there are a number of Christians in this House who know that one of the innocent persons who was executed for no offence committed was Jesus Christ himself. So, I wonder why Christians would want to mete out a sentence that they know was found to have been very wanting.

I personally was in Kamiti Maximum Prison and spent time with people---

The Assistant Minister for Health (Mr. Sankori): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Raila to mislead the House by equating the death of Jesus Christ to criminals, while it is clearly stated in the Bible that there was a purpose for that?

Mr. Raila: Mr. Temporary Deputy Speaker, Sir, that is an argument.

I have spent time in Kamiti Maximum Prison in the company of people who had been condemned to death. Over 1,000 people who have been sentenced to death are in Kamiti Maximum Prison, but they have not been executed because for a very long time, His Excellency the President, being mindful of fellow human beings, has not signed the execution order. Those people undergo serious mental torture because they do not know when the signature is going to be appended, so that they can be executed. If you spoke to those people, you would find out that over 50 per cent of them did not commit the offences for which they were sentenced to death.

Mr. Temporary Deputy Speaker, Sir, in the USA, the DNA tests are carried out. The Attorney-General has stated that more than 90 people who had been sentenced to death have been spared because of the DNA tests. Those are people who would have, ordinarily been executed. The Attorney-General has also mentioned the case of Rickley Nollam Mackeel, who has spent 18 years in imprisonment and who was finally condemned to death on the basis of evidence by one single person. Governor George Bush reprieved him 18 minutes before he was executed. This was basically because of the campaign that was going on. I agree, therefore, that this matter should be a subject of the constitutional review, but this House, being the august House, should send very clear signals that as elected representatives of the people, they oppose the death sentence.

With those few remarks, I beg to support.

Dr. Ochuodho: Mr. Temporary Deputy Speaker, Sir, we must address the root cause of the crimes that are being committed. I do not believe that by retaining capital punishment, we are going to solve the problem. It is like treating the symptoms. We should ask ourselves why we have violent robbers. My view is, it is because of abject poverty which we must first tackle. What justification do we have to execute a Kenyan who, maybe, through a bank robbery, took Kshs1 million, but people who took billions of shillings in the Goldenberg case - some of who are with us in the House - are going scot free? We must give a befitting punishment for the crimes. There must be fairness in applying punishment.

Mr. Temporary Deputy Speaker, Sir, while in Kibos Prison, being Kenya's latest political prisoner, I came across somebody who was first convicted to death, but it was commuted later to life imprisonment. This man has been in jail for 28 good years--

Mr. Munyasia: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard hon. Dr. Ochuodho say that he is a recent political prisoner. Is assault a political offence?

The Temporary Deputy Speaker (Mr. Imanyara): Dr. Ochuodho, your time is up!

Mr. Murungi: Mr. Temporary Deputy Speaker, Sir, I would like to thank all the hon. Members of this House who have spoken in support of this Motion and especially the Attorney-General for giving the two sides of the debate and saying that the global movement is towards abolition.

Mr. Temporary Deputy Speaker, Sir, we as a House, should give leadership in these areas, so that as the people decide, they know that the Parliament of the Republic of Kenya is against capital punishment. We should stand and be counted in defence of human rights and the right to life.

Mr. Temporary Deputy Speaker, Sir, hon. Sajjad said that abolishing capital punishment is giving the licence to kill, to robbers. What capital punishment does, as a matter of fact, is to give a few people in Government the right to take away life. It is giving the Government licence to kill.

I think it is hon. Kimetto who got it right. The right to life is a gift from God. It is only God who gives and takes away life. So, no Government or person should arrogate himself the right to take away life, because he cannot give life. It is true that in some countries---

The Assistant Minister, Office of the President (Mr. Too): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for hon. Murungi to mislead this House that the Government takes away the lives of the people, while we know that somebody is taken to court and found guilty? Hon. Murungi is a lawyer and he knows that, if somebody is not found guilty of the offence, he is set free. He is misleading us!

The Temporary Deputy Speaker (Mr. Imanyara): That is not a point of order! Proceed, hon. Murungi!

Mr. Murungi: That is not a point of order! We are calling upon this House to give leadership to the people of Kenya, in this important area. We have said that constitutional reforms will address the issue of capital punishment, which is the correct approach. The Motion had requested the Attorney-General to introduce the necessary legislation to abolish capital punishment. Since the capital punishment abolition will require the amendment of Section 71 of the Constitution, I agree that, that is a constitutional matter. So, we are asking the Attorney-General to move in the right direction. Let him not come and say that the Government has no views! Let the Government clearly provide leadership and state that it supports the abolition of capital punishment, so that the people of Kenya can clearly know the direction in which we are moving.

With those few remarks, I beg to move.

(Question put and negatived)

ESTABLISHMENT OF KENYA
LIVESTOCK DEVELOPMENT AUTHORITY

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, in view of the Government's commitment to eradicate poverty by the year 2015, and noting that a large number of people living in abject poverty reside in the rural livestock rearing parts of Kenya, and being aware that our livestock industry continues to be a high foreign exchange earner with great potential for generating wealth and employment opportunities; this House recommends that the Government establishes the Kenya Livestock Development Authority under the Crop(s) and Livestock Act, Cap 321 of the Laws of Kenya, in order to promote and develop the livestock industry.

Mr. Temporary Deputy Speaker, Sir, the livestock sector plays a very important role in the development of any economy. There are many countries which are not mineral-rich or oil-rich, but have managed to register economic growth year in, year out. Those countries have applied prudent economic management and policies which have diversified their economies, and benefited their entire populations. There are countries like Denmark in the Scandinavian countries, Argentina in Latin America, Australia and New Zealand in Oceania and Botswana in Africa. Those countries have developed their livestock sectors.

Mr. Temporary Deputy Speaker, Sir, here in Kenya, in 1988, the Government showed some seriousness with regard to the livestock sector. There was an attempt to have a Ministry of Livestock Development, to take charge of the affairs of the livestock sector. That did not last long. After some time, the Ministry was abolished. We had the Ministry of Agriculture, which was more or less concerned with coffee and tea, and relegated the livestock sector to the back door.

Over 70 per cent of Kenya is arid and semi-arid, and is inhabited by livestock farmers. Government policies towards the livestock sector have not been very encouraging. Some of the key components in the economy which have supported the livestock sector have been deliberately mismanaged over the last two years.

One such institution which acted as the mainstay of the livestock economy is the Kenya Meat Commission (KMC). I am sure most of us know the state of the KMC today. That was the only source of marketing for livestock farmers. With the KMC now dead, I am sure you know the fate of the livestock farmers. Another institution which used to support the livestock farmers was the Kenya Co-operative Creameries (KCC). That is also not in existence. It has been crisis-ridden. Today, it is not performing. Another important institution that played a very pivotal role in the livestock sector was the Kenya National Assurance Company (KNAC). I am sure many of you will wonder which role the KNAC played in the development of the livestock sector. The concept of insurance was to indemnify the client against any unforeseen disasters. When the KNAC was in operation, there used to be a pool of insurance companies that insured livestock. With the collapse of the KNAC, that pool ceased to exist. Therefore, livestock farmers were left with no insurance option. That is one of the major risks facing the livestock farmers.

Mr. Temporary Deputy Speaker, Sir, there are a number of socio-economic and institutional vagaries that affect livestock farmers. The issue of shortage of investments is a major factor. Our Government has tended to heavily invest in coffee, tea, pyrethrum and other sectors of our economy, forgetting the livestock sector. That has greatly affected the development of the livestock sector. Because of the economic hardships today, the Government has not been able to conduct research that could benefit the livestock farmers. The livestock farmers continue to suffer.

On the issue of undeveloped infrastructure, it is a reality that today, areas occupied by livestock farmers are undeveloped. They are the most marginalised. Where there is no infrastructure, the investors do not venture there. With proper policies by the Government, investors are willing to venture into such areas. There are investors who are willing to build abattoirs and butcheries in order to buy livestock from the farmers. But today, that is not possible because those areas cannot be penetrated.

Mr. Temporary Deputy Speaker, Sir, due to lack of trained manpower, livestock farmers continue to suffer. Currently, with the retrenchment exercise, almost all the extension officers have been removed. Therefore, the livestock farmers have nobody to attend to their livestock. The notorious regime of cost-sharing has also affected the livestock farmers. The concept of cost-sharing was meant for the wealthy Kenyans. More than 70 per cent of Kenyans live in the rural areas, and have nothing other than a few breeds of livestock and a few farming activities. With cost-sharing, they are expected to buy artificial insemination and pay the services of the veterinary officers. Those people are now living in utter hopelessness! They have given up on everything because those services used to be provided by the Government free of charge.

Mr. Temporary Deputy Speaker, Sir, the Agricultural Development Corporation (ADC) used to play a very important role in the development of the livestock sector. At one time, the ADC had two big butcheries in Malindi and Mombasa, which catered for the needs of livestock farmers in Coast Province. With the deliberate mismanagement of the ADC, which has now been turned into a hunting ground for land grabbers, we have forgotten the noble role which it is meant to play.

Mr. Temporary Deputy Speaker, Sir, this again is a deliberate attempt not to support livestock farmers. Chunks of land which were previously used as holding grounds by the Ministry of Agriculture and Rural Development and the Livestock Marketing Division (LMD) have now been degazetted and allocated to politically correct individuals. This is very unfortunate because a piece of land owned by one politically correct individual can cater for the needs of 1,000 farmers. This is an anomaly that neither needs an investor nor a foreigner. It is a mess that we have come up with by ourselves and it is something that needs the attention of the Government.

Mr. Temporary Deputy Speaker, Sir, the livestock sub-sector is very important. At one time, Kenya ranked sixth in the world as the leading exporter of hides and skins. Today, because of poor co-ordination and lack of investment or interest by the Government in the entire sector, there is no organised market for our hides and skins, and most of them are now rotting in Thika, Athi River and other parts of the country. I am sure you must have smelt the stench along Mombasa Road, near Athi River Town, because Athi River has been turned into a dumping ground for hides and skins since there is no market. This does not need an investor or a lot of resources; it needs liberalisation and privatisation by the relevant Ministry.

In 1988, the beef production of this country was over 170,000 metric tonnes. Goats and sheep gave about 6,200 metric tonnes of meat, totalling to 176,200. What we needed annually for our local consumption was 385,000 metric tonnes, but, today, even our Ministry is getting canned beef from Australia and Botswana, while we have the capacity to produce beef. That is an indirect way of wasting our meagre resources because those very resources that are being used to import canned beef from Australia and Botswana would have been used to develop the livestock sub-sector. That would have created more job opportunities and given the livestock farmer an incentive to continue breeding quality animals. But this is not the trend today.

The dairy industry is also in a crisis. The dairy boards are also dying away. The dairy boards sector takes care of the interests of just a small section of the Kenyan Society. I am sure the Dairy Board is on the verge of collapse because it is not getting the necessary support from the Ministry. It is high time the Ministry of Agriculture and Rural

Development diversified its activities. This is because for so long we have given a lot of attention to coffee and tea. Even other countries have diversified their economies. In the current era, it is foolhardy and most unexpected for the Government to continue implementing the same policies that were implemented in 1960. I think that shows lack of seriousness and I am sure we have the resources, but we lack the necessary concern by the relevant Ministry.

Mr. Temporary Deputy Speaker, Sir, because of the prolonged drought and the currently prevalent cattle, the livestock farmer is the most insecure. Today, the livestock farmer feels threatened more than ever before. You must have heard that, because of insecurity, cattle farmers in West Pokot, Marakwet, Wajir, Garissa, Marsabit and other areas all over the country are so insecure that they cannot herd their animals. This is not something that requires an investor from abroad, it is something that our security agencies can do. The livestock farmer is subjected to so many natural and man-made calamities. The major man-made calamity currently is insecurity.

There is a deliberate mismanagement of Kenya Meat Commission (KMC), the killing of LMD and the grabbing of all the holding grounds. Even if there was a serious investor, all the holding grounds have been grabbed all the way from Mandera, through Wajir, Mwingi to Nairobi and all the way from Lamu, Mombasa and Taita Taveta. So, even if we had investors today, what are they going to use since all the holding grounds have been grabbed? This is something that does not require an investor. It is something which requires a pronouncement by whoever is responsible.

Mr. Temporary Deputy Speaker, Sir, you must have heard about the grabbing of land which belongs to the Kenya Agricultural Research Institute (KARI). Whoever is concerned should give the directive for repossession of KARI land which has been allocated to people. KARI used to provide research centres for the entire country. I am told that at one time, the late Mwalimu Nyerere said that Kenya is a country of ten millionaires with 10 million paupers. We are becoming a man-eat-man society! We are literally going for anything without showing any due regard for the future generation. We have grabbed all the holding grounds; we have killed the LMD and now the KMC is almost gone with no more holding grounds. The future for the livestock farmers is bleak. This is an issue that requires urgent national attention.

One of the reasons why Mitsubishi Corporation withdrew from the KMC is because they were told to invest in just a mere physical infrastructure without even being shown the land where those facilities were situated. The land belonged to a different individual because the title deed was with somebody else and the structures were just handed over to the Mitsubishi Corporation. Even commonsense demands that one cannot invest in a property that is in the name of another individual. As a result, Kenyans are suffering today!

The issue of KMC is going to haunt the Government because for quite sometime, the Government has been promising that the KMC will be revived. I believe that the Government is just buying time by postponing a serious problem that would have been tackled immediately. Today and since the *El Nino*-induced floods; with almost three years consecutive drought, the livestock farmers, especially in Northern Kenya are the most affected people in our society. I am sure that most of them, after losing their animals, must be roaming in villages with nothing to eat and with no hope in life at all.

Mr. Temporary Deputy Speaker, Sir, it is high time we had an Authority to take care of these people. We have three Authorities taking care of the dry regions. We have Kerio Valley Development Authority (KVDA), Ewaso Nyiro North and Ewaso Nyiro South Development Authorities. These Authorities are not doing anything at all! Why should we not have an Authority that will serve the interests of our people and focus on the interests of the livestock farmers? This would boost the economy by motivating them and therefore, create employment opportunities. With the current retrenchment and the dwindling global and local economic resources, the only avenue for Kenya is to diversify our economy. One of the ways of doing this, is to build the capacity of the livestock farmer.

Mr. Temporary Deputy Speaker, Sir, today, like where I come from in Wajir West, we have literally lost everything. I have not heard even one newspaper cover that story. That shows as if it is a national culture. It is high time we prioritised the different segments of our economy in order to serve Kenyans. This is because the interest of the Government is to take care of the lives and properties of Kenyans. If we are losing our animals to drought and insecurity due to cattle rustling, that would have been one of the most effective things the Government would have controlled because it has the capacity to control. But we are seeing a do not care culture which in itself is giving us a feeling that maybe, in the long-term, the aim of the Government is to wipe out both the livestock farmers and the animals. I hope this is not the intention because this is what we are seeing.

The Minister for Agriculture and Rural Development goes visiting every corner of this country, but I hardly see him visit the livestock dominated areas. Whenever there is a small crisis of coffee or tea disease, the whole world is there. Do we not also have the right as farmers to get part of the national cake? For how long are we going to cry? I am sure, right now, if you thoroughly scrutinise the budget of the Ministry of Agriculture and Rural Development, you will find very little in any---

QUORUM

The Assistant Minister for Energy (Mr. Sasura): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is there a quorum in the House?

The Temporary Deputy Speaker (Mr. Imanyara): No, we do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Mr. Imanyara): We have a quorum now. You may proceed, Mr. Keynan. You have one minute of your time remaining.

Mr. Keynan: Mr. Temporary Deputy Speaker, Sir, I was trying to say that, this is a very important sub-sector of our economy which has been neglected. Policies that the Government has tended to ameliorate included the veterinary clinical services, artificial insemination (AI), education and extension services, meat inspection, provision of holding grounds, disease control, livestock marketing and research division which have not worked. All these departments are not funded. Even where they are, they just exist in books.

Mr. Temporary Deputy Speaker, Sir, I will call on hon. Munyasia to second the Motion.

Mr. Munyasia: Mr. Temporary Deputy Speaker, Sir, in seconding this Motion, I wish to reiterate what everyone already knows; that, this country is sinking further into abject poverty. Indeed, it calls upon all of us as responsible political leaders, to take and support every measure that can alleviate the poverty and this particular problem.

Mr. Temporary Deputy Speaker, Sir, many times, there is a tendency for people to classify Kenya into certain zones and let us not view this Motion that has been moved by hon. Keynan, as if it is one for North Eastern Kenya. All of us keep livestock. In my area, we have suffered. In the past three or so years, we had the problem of tsetse flies and we lost almost all our cows and oxen. There are veterinary services and yet, our people cannot farm or easily plough their farms because they do not have oxen. That is why I think it is appropriate for hon. Keynan to propose the creation of a particular Authority that will be more focused, looking exclusively into this particular area of livestock development. Every area requires officers on the ground to control diseases and educate our people to move away from the traditional methods of livestock rearing. This is the only way we can improve our livestock.

Mr. Temporary Deputy Speaker, Sir, because of the importance of this particular Motion, I do not want to take much time. So, with those remarks, I beg to second.

(Question proposed)

The Assistant Minister, Office of the President (Mr. Haji): Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me the opportunity to contribute to this very important Motion. From the onset, I support the Motion. This is because the LMD was established to enhance the livelihood of people in the livestock-rearing areas. When we talk about livestock areas, we are not only talking about the North Eastern Province, but the whole country. This is because in the African tradition, people attach a lot of importance to livestock. The purposes of having LMD and KMC was to help our people in destocking livestock when it was necessary. For example, the destocking of livestock was made necessary when there was overgrazing, when people were competing for water resources and grazing pastures and also during the drought. It was one way of saving farmers' livestock during the drought or when there was an epidemic that would wipe out livestock. It was also one way of helping livestock farmers to earn money, so that they could meet their basic needs for most families. For example, they would sell their livestock to take their children to school, so that they would participate in nation building.

Mr. Temporary Deputy Speaker, Sir, the LMD used to play a very significant role in the livestock sector. It was used to raise livestock for KMC to process beef for export to European countries. Right now, the Kenya large-scale farmers, like Dr. Wekesa, have nowhere to take their animals. It also assured Kenyans of availability of high quality meat for consumption.

Mr. Temporary Deputy Speaker, Sir, the purpose of having the KMC, supported by the LMD and other large scale farmers was to allow this country to can beef for export. We know that when we export more from this country, we realise foreign exchange that will help us to buy fuel which is used by farmers and also by transporters who move our people from one place to another.

Mr. Temporary Deputy Speaker, Sir, when we compare crop farmers with their livestock counterparts, the latter are really disappointed and disadvantaged. In the crop farming sector, there is the Coffee Board of Kenya, the Tea Board of Kenya, the Kenya Sugar Authority and the Pyrethrum Board of Kenya, whereas in the livestock sector; the only regulatory board that we have is the Kenya Co-operative Creameries Ltd which is also in its dying stage. Right now, as I am speaking here, there is a lot of hue and cry about KCC.

Mr. Temporary Deputy Speaker, Sir, when we come to research, we hear of research being undertaken in Ruiru and many other places on coffee and other crops. To some small extent, there is some livestock research that is going on in KARI, but I think time has come when we should be able to reach our farmers. I say this because in the old days, we used to have veterinary scouts; that is, people who had been given rudimentary training on how to diagnose and treat diseases. These days, we are left only with officers with degrees who are not prepared to walk or travel by public means. They want to have motorised means of travelling which is not available to all corners of this country. We would like to see a situation whereby the locals are trained so that they can live with the animals and treat them as fast as possible when they diagnose any disease.

Mr. Temporary Deputy Speaker, Sir, time has come when the Government made arrangements, either through private entrepreneurs or through a board like the other boards in the farming sector that I have mentioned. We should have abattoirs and slaughterhouses in many parts of this country where people are predominantly livestock farmers. I have areas in mind like Garissa, Mandera, Archer Post in Isiolo, Tana River, Trans Mara and even Trans Nzoia because of its proximity to West Pokot, Turkana and some parts of Baringo. In those areas, we have very good road networks. If we had refrigerated motor vehicles ferrying meat from those areas to our cities, I am sure we would not have people slaughtering donkeys to be sold in butcheries as we have been witnessing in the recent past. It will also enhance good quality meat because in those abattoirs and slaughterhouses, there will be qualified inspectors who will inspect meat.

Mr. Temporary Deputy Speaker, Sir, I would also like to request that the question of Muslims slaughtering animals in all our urban centres should be emphasized. When Muslims are slaughtering animals, you are assured of good meat. But when people are left to slaughter animals in the forests, definitely, next time, they will sell to us not only donkeys but also dogs and other unpalatable meat. If we develop abattoirs and slaughterhouses in those areas, there will also be need for us to improve the airstrips where cargo planes can land. For example, we have a very big airport in Wajir. We have a similar one in Mandera. We have another one in Lokichogio. The other day I learnt that there will be a daily flight from Nairobi and other parts of this country to Lokichogio and passengers will be charged US\$300. We can take advantage of those facilities so that we do not concentrate everything in the Capital City where the production cost of canned meat is very expensive because of the hard life that people face.

Mr. Temporary Deputy Speaker, Sir, it will also be necessary for us to look again into the question of holding grounds. We have been told that some of the holding grounds have been allocated to individuals. I think the Government should look for money and get some more holding grounds because they are very important for not only giving a breathing space to the animals before they go for slaughter, but they also help in controlling diseases. This prevents animals from being moved from one place to another without being inspected and checked as they go on transit.

Mr. Temporary Deputy Speaker, Sir, a board of livestock similar to LMD, if established, will also enhance security because farmers will be able to sell their animals, and then there will be no need for some of them to steal.

With those few remarks, I beg to support.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): It is now time for the interruption of business. The House is, therefore, adjourned until this afternoon at 2.30 p.m.

The House rose at 12.30 p.m.