

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 10th August, 2005

The House met at 9.00 a.m.

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

PRAYERS

QUESTIONS BY PRIVATE NOTICE

WATER SHORTAGE IN TIGONI SUB-DISTRICT HOSPITAL

Mr. Kanyingi: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Health the following Question by Private Notice

(a) Is the Minister aware that Tigoni Sub-District Hospital is facing an acute water shortage, posing a serious health risk to both workers and patients?

(b) what immediate steps is she taking to ensure that water supply is restored before an outbreak of water-borne and other hygiene-related diseases?

The Minister for Health (Mrs. Ngilu): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I would want to, first of all, thank the hon. Member for making me aware that Tigoni Sub-District Hospital has been experiencing a water shortage.

(b) I want to assure him that we have allocated resources for the water pump to be repaired, and water supply will be restored to the sub-district hospital as soon as possible.

The Temporary Deputy Speaker (Mr. Phogisio): Yes, Mr. Magara.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Phogisio): Order, Mr. Omingo! Let us first have the owner of the Question, Mr. Kanyingi, ask a supplementary question!

Mr. Kanyingi: Mr. Temporary Deputy Speaker, Sir, is the Minister aware that the pump broke down, and when a driller was called in, he removed and went away with it because he was not paid Kshs500,000? Is she aware of that?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I am not aware of that. But I am aware that the pump is not working, and that is why we are trying to fix it, so that water can once again flow in the hospital.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, you heard the Minister agreeing with the hon. Member, and thanking him for, indeed, making her aware of the water shortage at the sub-district hospital. Water is crucial in any health institution in this country. Could the Minister tell us the role of her officers on the ground, if hon. Members must, indeed, bring Questions to Parliament for her to act? Could she tell us the role of her officers in the implementation of Government programmes in the field?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, we have put in place District Health Management Teams (DHMTs) who should do some of these things, unless they are very costly. Therefore, some of the small things can be handled by the DHMTs that we have on the ground.

However, our officers should let us know of the problems on the ground. But, sometimes, they take action without telling the headquarters about it.

Mr. Mwanicha: On a point of order, Mr. Temporary Deputy Speaker, Sir. You heard the hon. Member inform the Minister that the pump she is talking about is not on the ground. It was removed by a man who had supplied it because he had not been paid. It is clear that she got wrong information. Would I be in order to ask the Minister to inform the House what stern action she will take against her staff who gave her wrong information?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, yes, sometimes I get wrong information, but it is my business to verify it and ensure that the information that I am given is correct. I have said that I am grateful that the hon. Member has given me the right information. I believe that is the right information, because what I was given and what he is giving me are contradictory. I want to believe that what the hon. Member is telling me is correct. I will go and verify it, so that the situation is rectified.

The Temporary Deputy Speaker (Mr. Phogisio): Yes, Mr. M. Maitha!

Mr. M. Maitha: Thank you, Mr. Temporary Deputy Speaker, Sir. The Minister has said that she has allocated some funds to this sub-district hospital. Could she tell the House how much money she has allocated to it this financial year?

Mrs. Ngilu: Mr. Temporary Deputy, Speaker, when I presented my Ministry's vote last week, I indicated how much we were going to spend in every district for operations and maintenance. That is the money that we are going to use for this sub-district hospital. It falls within Kiambu District.

The Temporary Deputy Speaker (Mr. Phogisio): Madam Minister, if you agreed with the hon. Member that Kshs500,000 is required to replace the pump, when will this be done?

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, I have said that it may not necessarily be Kshs500,000; that is what hon. Kanyingi has told me. I have said that I will go to the ground and verify this to ensure that, if that is what is required, I provide it. It may not be Kshs500,000, but I appreciate the information from the hon. Member.

The Temporary Deputy Speaker (Mr. Phogisio): Mr. Kanyingi are you giving away your last chance?

Mr. Kanyingi: Mr. Temporary Deputy Speaker, Sir, what happened was that a contractor was given the job to instal the pump for Kshs1.2 million. He was paid Kshs700,000 and there was a balance of Kshs500,000, which has not been paid up to now. I am asking the Minister when she will pay this balance to make sure that the contractor re-instals the pump at the sub-district hospital.

Mrs. Ngilu: Mr. Temporary Deputy Speaker, Sir, that is a bit contradictory because, first, he said it was a broken down pump. Now, he is saying that we have not paid the contractor. So, I would rather be given time to go and find out the exact position. I can only assure the hon. Member that the situation will be rectified.

The Temporary Deputy Speaker (Mr. Phogisio): Very well. Next Question!

RELIEF FOOD SUPPLIES
TO BUNGALE RESIDENTS

(Mr. Kombe) to ask the Minister of State, Office of the President:-

(a) Is the Minister aware that the residents of Bungale Location in Magarini Constituency are on the verge of starvation due to lack of food following prolonged drought?

(b) What urgent measures is he putting in place to supply relief food to the residents of Bungale Location until the rainy season starts?

The Temporary Deputy Speaker (Mr. Poghisio): Is Mr. Kombe not here? His Question is dropped.

(Question dropped)

ILLEGAL REVENUE COLLECTION
FROM GACIBINE MARKET

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I beg to ask the Minister for Local Government the following Question by Private Notice.

(a) Is the Minister aware that Tharaka County Council has been collecting trade licence fees and market gate fees from Gacibine Market in Tigania East Constituency yet the market falls under Nyambene County Council?

(b) Is he further aware that this illegal activity by Tharaka County Council is contributing to tension in the area that could escalate into conflict any time soon?

(c) How much funds has the Tharaka County council so far collected from the market?

The Temporary Deputy Speaker (Mr. Poghisio): Is the Minister for Local Government not there? Maybe the Leader of Government Business has something to say about that.

The Vice-President and Minister for Home Affairs (Mr. Awori): Mr. Temporary Deputy Speaker, Sir, all I can do is to get hold of the Minister concerned and express concern that he should be here. I suggest that you defer the Question until tomorrow.

The Temporary Deputy Speaker (Mr. Poghisio): All right, Question is deferred.

(Question deferred)

Mr. Ngoyoni: On a point of order, Mr. Temporary Deputy Speaker, Sir. Maybe similarly, you can also defer Question No.2 by Private Notice simply because it is a very important Question that touches on the lives of Kenyans. I think it is not fair to just drop it like that. So, I urge the Chair to rescind the decision and equally defer the Question on humanitarian grounds.

The Temporary Deputy Speaker (Mr. Poghisio): Well, if there is no person to ask the Question, there is no point. This is a Question by Private Notice and you know the rules.

Let us now go to ordinary Questions.

Mr. Sudi: The Chair is being unfair!

The Temporary Deputy Speaker (Mr. Poghisio): Order! Order, Mr. Sudi! Mr. Sudi, I have heard what you said and I am not going to take it lightly. What did you want to say?

Mr. Sudi: Mr. Temporary Deputy Speaker, Sir, while I respect the orders you give from that Chair, I think it is unfair to drop a Question--

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Sudi!

Mr. Sudi: Mr. Temporary Deputy Speaker, Sir, I apologise.

The Temporary Deputy Speaker (Mr. Poghisio): What do you apologise for?

(Laughter)

Mr. Sudi: For standing here and asking you not to drop any Question but to give it the respect it deserves.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Sudi! As you know, the Chair

cannot be unfair. You cannot sit there and accuse the Chair of being unfair. So, unless you apologise unreservedly, you are going to be---

Mr. Sudi: Mr. Temporary Deputy Speaker, Sir, I apologise for saying that the Chair is unfair. But I did not use that term. May be you never heard me correctly. I said it was wrong to drop one Question and defer the other one. If the Questioner is not there, may be even the Minister is not there.

Mr. Weya: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to speak from the Dispatch Box when he is not a Shadow Minister?

The Temporary Deputy Speaker (Mr. Poghisio): Not only that. I think, without wasting a lot of our time, Mr. Sudi thinks the Chair did not hear him utter those words. He has now given conditions for his apologies. Maybe, you would like to take a good walk this morning out of the Chamber. So, Mr. Sudi, can you proceed to the Back Bench and apologise unreservedly?

(Mr. Sudi proceeded to the Back Bench)

Mr. Sudi: Mr. Temporary Deputy Speaker, Sir, you know I am the Minister for Energy in the Shadow Cabinet set up. However, I withdraw and apologise.

(Laughter)

ORAL ANSWERS TO QUESTIONS

Question No.373

INDEPENDENT BODY TO INVESTIGATE CRIMINAL CASES INVOLVING POLICE OFFICERS

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

(a) whether he is aware that *wananchi* are shying away from reporting criminal incidents to the police where members of the police force are suspected to be the perpetrators;

(b) whether he is further aware that during instances where officers in the force are suspected of committing murder, inquest files are opened to delay prosecution of the officers involved; and,

(c) when he will set up an independent body to investigate and prosecute cases where police officers are suspects.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I had an answer to this Question but a few corrections have had to be made. I am seeking the indulgence of the Chair to give me five minutes and I will be able to have an appropriate answer, as we proceed to the next Question which is also directed to our office.

The Temporary Deputy Speaker (Mr. Poghisio): Did you hear that, Mr. Serut?

Mr. Serut: Yes, and I have no objection, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): All right, we will come back to it.

(Question deferred)

Question No.563

VEHICLES FOR DISTRICT OFFICERS

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

- (a) whether he could inform the House how many District Officers (DOs) have no official vehicles in the country; and,
- (b) what plans the Government has to provide all DOs with official vehicles.

Mr. Temporary Deputy Speaker, Sir, I do not have a written reply to this Question.

The Assistant Minister, Office of the President (Mr. Kingi): Mr. Temporary Deputy Speaker, Sir, first of all, we sent the written answer yesterday to the National Assembly, and I do not know why the hon. Member does not have a copy.

However, I beg to reply.

(a) There are 243 divisions in the country without official vehicles.

(b) There is Kshs400 million which has been allocated to my office this financial year for the purchase of motor vehicles. In so doing, those divisions without vehicles will be considered for allocation once the vehicles have been purchased.

Mr. ole Metito: Mr. Temporary Deputy Speaker, Sir, 243 DOs without vehicles is quite a big number. How does the Government expect these DOs to perform, in accordance with their performance contracts, without these vehicles? Some of them are in very vast divisions that require vehicles for effective performance of their duties.

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, of the 447 divisions that we have in the country, it is only 243 that do not have vehicles. I have said that we have set aside Kshs400 million to buy vehicles and those divisions without vehicles will be considered.

Mr. Kagwe: Mr. Temporary Deputy Speaker, Sir, the issue of DOs not having vehicles is of concern. The DO in my division moves around in public vehicles (*matatus*) in an area where *Mungiki* operatives are very active. Not only do DOs lack vehicles, but when they have them, the vehicles do not have fuel. So, in the Kshs400 million that the Assistant Minister has spoken about, is there sufficient maintenance and fuel allowances?

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, the Kshs400 million I am talking about is solely for the purchase of motor vehicles. But if the Member looked at our budget carefully, we have also set aside some other funds for maintenance and purchase of fuel for vehicles for both DOs and DCs.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, how many vehicles does the Office of the President intend to purchase? The Assistant Minister should table a list showing how the vehicles will be distributed, so that hon. Members can follow up the issue.

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, the number of the vehicles that we will purchase will depend on a number of things. Therefore, I am not able to state exactly how many vehicles we will purchase. As to who the beneficiaries will be, I have a list of the DOs who do not have vehicles and I can lay it on the Table if the hon. Member so wishes.

The Temporary Deputy Speaker (Mr. Poghisi): Mr. Assistant Minister, you can certainly help the hon. Members. You have so much money for purchasing so many vehicles. What is the point of giving the hon. Members the list of the DOs who do not have vehicles?

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, I have a list of the DOs who do not have vehicles in this country. These will be the beneficiaries once the vehicles have been purchased.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to tell the House that he does not know how many vehicles the Office of the President wants to purchase? On what basis did the Office of the President allocate the Kshs400 million?

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, we have set aside Kshs400 million for the purchase of vehicles. The number of the vehicles that we will purchase will depend on a number of other issues such as the prices. It is not possible now to state exactly how many vehicles we will purchase using the Kshs400 million.

Mr. Mwancha: On a point of order, Mr. Temporary Deputy Speaker, Sir. In the past, there have been shoddy deals in the Office of the President which have been brought to this House. The Assistant Minister is now telling us that he does not know the price per vehicle and yet, that was the basis of their budgeting. Is he in order to mislead the House?

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, this will depend on the prices of the vehicles. Prices change every day. If I say that we will buy 200 vehicles and tomorrow the prices are adjusted, we will not be able to buy 200 vehicles.

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Assistant Minister, you can see the mood of the hon. Members. When you budget, you use certain figures. That is what hon. Members are asking for.

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, I have said, and I want to repeat, that we intend to buy vehicles for all the 207 divisions that do not have vehicles. However, this will also depend on the prices of the vehicles at the time of the purchase. If we will be able to buy vehicles for all the 243 DOs from the Kshs400 million, we will definitely do it.

The Temporary Deputy Speaker (Mr. Poghisio): Order! I think this is going to take us nowhere. Mr. Assistant Minister, if I am going to do my own shopping, I do that kind of a thing, but this is the Government. The Government knows what it is going to buy for what amount of money.

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, I quite agree with you. I have said, and I want to repeat, that we will buy the vehicles depending on the prices at the time of the purchase. We have budgeted for the vehicles, but you also know how the Government collects money. We may get this money at the end of December or early next year. So, how can we say that we will buy 200 vehicles?

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to continue going round in circles? The Government knows what vehicles to buy and at what cost. Could he tell us what vehicles the Office of the President intends to buy so that we can tell him how much money they will cost? We want to know how the vehicles will be distributed.

Mr. Kingi: Mr. Temporary Deputy Speaker, Sir, we have set aside Kshs400 million for the purchase of vehicles. If by the time we will be buying the vehicles one vehicle will cost Kshs2 million, then we will buy 200 vehicles.

The Temporary Deputy Speaker (Mr. Poghisio): Order! We are not going anywhere with this Question. Therefore, I want to give the Assistant Minister more time to bring the figures tomorrow.

(Question deferred)

Question No.587

ASSISTANCE TO HIV/AIDS
ORPHANS IN KIPKELION

Dr. Rutto asked the Vice-President and Minister for Home Affairs:-

- (a) whether he is aware that there are many children who have been orphaned and made vulnerable by HIV/AIDS in Kipkelion Constituency; and,
- (b) what specific measures he has taken to address the plight of orphans and vulnerable children (OVC) in the constituency.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs (Prof. Kibwana): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that there are many children who have been orphaned and made vulnerable by HIV/AIDS in Kipkelion Constituency. A rapid assessment carried out by my Ministry in 2004 revealed that there were 17,444 orphans in Kericho District in which Kipkelion Constituency falls.

(b) My Ministry has formed a National Steering Committee on orphans and vulnerable children to co-ordinate reforms to problems of these children in the entire country. The committee held a meeting with the hon. Members at Safari Park Hotel to explain the measures the Government is undertaking to address the plight of orphans and vulnerable children. The meeting resolved that hon. Members should make use of the Constituency AIDS Control Committees funds, the Constituencies Development Fund (CDF) and the Education Bursary Fund to target assistance to orphans and vulnerable children. I wish to encourage the hon. Member for Kipkelion to make use of these avenues to benefit orphans and vulnerable children.

Dr. Rutto: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is trivialising the matter. He knows very well that the Constituency AIDS Control Committees funds are not very much available. The CDF is not enough and the Education Bursary Funds are only for secondary school students. The problem of orphaned children is enormous. The Assistant Minister cannot give us a blanket answer. He should tell us the specific measures that his Ministry is undertaking to address the plight of orphans. He has given us a blanket answer.

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, it is true that the problem of orphans and vulnerable children is a big problem in our country. According to the survey that we did in 2004, it was revealed that we have about 1.8 million orphans in the country and about 60 per cent of them are as a result of HIV/AIDS. However, we have a specific pilot programme within the Ministry which is beginning to target orphans in designated districts. The purpose of this programme is to assist the families that will take care of orphans by paying Kshs500 for each of those children.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghio): Order, hon. Members! Consultations are getting louder! Please, consult in low tones.

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, as I was saying, we have an on-going pilot programme in Kwale, Nairobi and Mandera, where we are paying Kshs500 to families---

The Temporary Deputy Speaker (Mr. Poghio): Order, please, consult but in low tones! You also have the option of walking out of the Chamber to consult!

Prof. Kibwana: Thank you, Mr. Temporary Deputy Speaker, Sir, for assisting me. This is a very serious issue---

The Temporary Deputy Speaker (Mr. Poghio): Order, Mr. Assistant Minister! If what you are presenting does not concern Kipkelion Constituency, then you should not be presenting it. The hon. Member wants you to address the problem in Kipkelion Constituency.

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, when there is an on-going pilot programme, eventually, on the basis of its findings, nationwide projects are extended. This ends up

being a matter of concern for all the districts in the country. That is why I was giving the specific example of how we are beginning, in a realistic way, to deal with the problem of orphans within families so that they are not just taken to children's homes. After the pilot study programme is conducted, the Ministry will explore how support will be extended to all districts in the country. However, it is important to say that hon. Members have a responsibility, through the Constituencies Development Fund (CDF) to assist orphans. Within the CDFs, there are monies and projects where orphans are assisted in the constituencies. This is a problem we must all assist in solving. It is not an issue which someone can solve alone.

Prof. Oniang'o: Thank you, Mr. Temporary Deputy Speaker, Sir. The plight of orphans is a national crisis and a matter of urgency. It cannot be piloted. If the Government would recover all the money it loses through corruption, it would channel some of it to help orphans. Could the Assistant Minister tell us what national strategies he has to address the plight of the nearly 2 million orphans in this country? Local communities cannot take care of all orphans!

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, my colleague, who is a researcher, knows that when you are dealing with a serious problem, you need to be sure of how to handle it. When you pilot it, that becomes the purport of the strategy. But this House, in its wisdom, voted some money to assist in taking care of orphans. The money which was allocated, about Kshs48 million, is like a drop in the ocean. It is also part of the responsibility of this House to enhance the money to be used for the purpose of taking care of the orphans because as the hon. Member said, it is a problem that we must all help to solve.

Mr. Mwanzia: Thank you, Mr. Temporary Deputy Speaker, Sir. We know that there is a lot of money which is handled by the National AIDS Control Council (NACC). We know that this money is meant to promote awareness of AIDS. There is no one in this country today, who does not know that AIDS is real. Could the Assistant Minister consider changing the Government policy, so that instead of this money being channelled to CBOs and self-help groups, it could be sent straightaway to orphans so that it can be used to pay school fees? That is the core of the problem!

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, before we make major policy shifts, this House, indeed, has to discuss them. The NACC is within the Office of the President and not my Ministry. So, I cannot unilaterally direct it on what to do. I agree that if this House decides that this is an important policy shift, then it should initiate it and make it a national policy.

Dr. Rutto: Mr. Temporary Deputy Speaker, Sir, the problem facing orphans cannot wait for research work to be completed. Could the Assistant Minister give us a time table of what he intends to do, so as to address this problem as fast as possible?

Prof. Kibwana: Mr. Temporary Deputy Speaker, Sir, as I have indicated, there are three districts where we are already piloting. We also have money from this House, which will be used to extend the coverage of the research work. There are many donors, for instance, DFID, who are interested in this novel way of taking care of orphans within a family environment. I can assure the hon. Member that the small districts will come on board in the national coverage. This will be of interest to the hon. Member because of the problem in Kericho, and particularly his constituency. The hon. Member should involve his people in the national projects.

Question No.616

REDUCTION OF ROAD ACCIDENTS
THROUGH TRANSPORT SECTOR REFORMS

Mr. Mukiri asked the Minister for Finance:-

(a) whether he could confirm to the House that the rate of road accidents in the

country has drastically gone down following the implementation of reforms in the transport sector; and,

(b) if the answer to (a) above in the affirmative, why the rate of third party insurance premiums has not been reduced correspondingly.

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

(a) From an insurance point of view, I cannot say with certainty, that the rate of road accidents has drastically declined following the implementation of reforms in the transport industry. The number of new claims to the insurance industry reported in the early part of the year 2004 declined with the trend reversing towards the end of the year, to date.

(b) For an insurance company to adjust premium ratings, there must be a scientific criteria based on the claims experienced by the underwriters. Third party claims generally take a longer period, at least three years, before they manifest themselves. This is due to the long legal processes involved in quantifying liability. It would, therefore, take sometime for the underwriters of a motor vehicle's third party risks to realise the claim spills to enable them adjust premiums accordingly.

Mr. Mukiri: Thank you, Mr. Temporary Deputy Speaker, Sir. Even without following the insurance point of view, it is common knowledge that the risks that were inherent in Public Service Vehicles (PSVs) due to implementation of the reforms, the rate of road accidents has dropped. I think it is very easy for the Assistant Minister to confirm that from the Minister in charge of internal security. The PSV sector has invested heavily in reducing the risks which are inherent in it. This is through installation of speed governors and the number of passengers they used to transport in one vehicle at ago. It is only prudent, therefore, that the Government comes in to assist those in the sector. Could the Assistant Minister confirm that the accident rates have gone down and that benefits should be passed on to the motor vehicle owners?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, indeed, the risks have gone down. As the insurance sector observed the compliance with the new transport rules, the Government reduced the third party premiums, from Kshs85,000 to Kshs71,000 and the comprehensive premiums by 15 per cent. We appreciate that the risks have gone down and, in consultation with the insurance companies, the premiums have been reduced.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, some of the people who are really suffering are vehicle owners because insurance premiums have now gone so high that hardly anyone is able to afford them. We promised to assist those people who---

The Temporary Deputy Speaker: Order! Why do you not just ask the question?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I am coming to the question. We promised to help those people---

The Temporary Deputy Speaker (Mr. Poghio): Order! I can move on to the next Question!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister assure this House that they will either revive the Kenya National Assurance Company which went under or start a new insurance company that can take care of our people who cannot afford to insure with the existing insurance companies?

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, as the hon. Member knows, we have started the Kenya National Assurance 2001 Company Limited to take care of what the previous company did. As to the other underwriters, this is a free market and we have a number of them. We can only do consultations with the insurance companies on the reduction of insurance premiums.

Mr. Kimeto: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is only hon. Members from that side of the House who have been given an opportunity to ask the Assistant Minister questions. Would I be in order to request you to give me a chance to ask a supplementary

question?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Kimeto! That is a frivolous point of order!

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, I wanted to---

The Temporary Deputy Speaker (Mr. Poghisio): Order! I have said it is a frivolous point of order!

Mr. Kimeto: Mr. Temporary Deputy Speaker, Sir, my supplementary question was that---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Kimeto! Do not stand on a point of order again! I have already given chance for the last question. Yours is a frivolous point of order!

Prof. Olweny: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you see Mr. Wanjala go across to consult with Mr. Kimeto and then came back and sat without bowing to the Chair?

The Temporary Deputy Speaker: Order! Mr. Wanjala you are an hon. Member of Parliament. Hon. Members of Parliament do the right thing. I expect you to do the right thing so that we can finish with the Questions.

(Mr. Wanjala walked back to the Bar and bowed to the Chair)

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, the information we are getting from the Government is that the rate of accidents have gone down by 50 per cent. The corresponding benefit in this industry should, therefore, be about 50 per cent. If the premiums were going for Kshs80,000 then the motor vehicle industry---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Mukiri I told you to ask the last question. I do not expect a statement from you! Just ask your last question!

Mr. Mukiri: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has said that they have just reduced the premiums by about only Kshs10,000 whereas the risk in the industry has reduced by about 50 per cent. Could the Assistant Minister consider consulting with the insurance industry to ensure that these premiums are reduced to about 50 per cent so that motor vehicle owners can pay premiums at Kshs40,000? He should consider the fact that millions of people are employed in this industry.

Mr. Obwocha: Mr. Temporary Deputy Speaker, Sir, I have already said that, in 2003, the premiums on an 18-seater *matatu* were Kshs105,000. We talked to the industry and they reduced it from Kshs87,000, which they had come down to, to Kshs71,000. For comprehensive insurance, it was about 15 per cent. Motor insurance is a loss-making class of business. So, it cannot reduce further than that. We are willing to talk to the Commissioner of Insurance, and insurance companies, to see whether they can assist that industry.

Question No.556

REPAIR OF LESSOS-KESSES ROAD

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

- (a) whether he is aware that Road D305 (Lessos-Kesses) is in a state of disrepair; and,
- (b) what measures he is taking to improve this road.

The Assistant Minister for Roads and Public Works (Eng. Toro): Mr. Temporary Deputy

Speaker, Sir, I beg to reply.

(a) I am aware that Road No.D305 (Lessos-Kesses) is in a state of disrepair.

(b) My Ministry has prioritised this road for improvement under the ADB-funded Roads 2000 Programme which is expected to be rolled out in the course of this current financial year.

Mr. Koros: Mr. Temporary Deputy Speaker, Sir, the answer which has been given by the Assistant Minister is unsatisfactory. This road is only 10 kilometres long and it links Nandi and Uasin Gishu districts. What does the Assistant Minister mean by saying that it has been prioritised? Supposing the donor or the ADB withdraws the funds; what will happen to this road?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, there is a long history to this road which is a bit sad. As early as 1992, this part of the road was supposed to be upgraded to bitumen standard. Unfortunately, at that time it was not done. That section of the road which is about 11 kilometres long was left out when that section was upgraded to bitumen standard. On that section of the road only the sub-grade was done in 1992. Over the years, the only thing that has been done to this road is the annual maintenance.

Mr. Muturi: Mr. Temporary Deputy Speaker, Sir, as you may have heard from the Assistant Minister's answer, it is the same old story of Roads 2000 Programme. As the title to that programme suggests, it was conceived around the year 2000. Five to six years down the road, we are being told that the road is scheduled to be improved during this financial year. This story about "this financial year" has been told year in, year out. Could the Assistant Minister specify when those roads, that are due to be improved under the Roads 2000 Programme, are going to commence? There is always a component of the GoK as well as donor funding. If the GoK component is not forthcoming, this story becomes endless.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, it does not mean that the programme for this particular road was started in the year 2000. The concept of maintenance of Roads 2000 Programme, as it was named when it was started, has been carried on. Even in the next five years, we will still be talking about Roads 2000 Programme. Those programmes that are coming on board will still be referred to as being under Roads 2000 Programme. We have other districts that are waiting to be funded under the Roads 2000 Programme and they are not yet started.

(Temporary power failure)

Mr. Mwenje: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could the Minister for Energy tell the House why most parts of the city have been experiencing constant blackouts from last night up to this morning?

Wako wapi hawa? Bw. Kiunjuri yuko wapi?

*(Several hon. Members pointed
at Mr. Kiunjuri)*

Hon. Members: He is here!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, Mr. Kiunjuri is here! He should tell us what is happening!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, I think there is something wrong with Mr. Muturi because after he spoke, the lights went off. He should apologise to the House!

(Laughter)

Mr. Muturi: What do you mean?

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, this road will be prioritised under the African Development Bank (ADB) funding during this financial year.

Mr. Temporary Deputy Speaker, Sir, I would like to comment on the Roads 2000 Programme. Where the programmes are being initiated, hon. Members are asked to sit with the consulting engineers and give priorities on their constituencies and districts so that the consultants get the priorities right. If this has not happened, it is going to happen. The Roads 2000 Programme can only succeed when hon. Members are on board and discuss with the consultants on the priority of the roads. If that is not done, it is going to be a game of musical chairs. The hon. Members will continue to raise Questions about the programme in the House yet we have asked the consultants to sit down with them.

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Will I be in order to ask the Assistant Minister to clarify to this House whether the reason behind the failure of the Roads 2000 Programme is the demand by the Treasury to control the funds from the British Government?

The Temporary Deputy Speaker (Mr. Poghisio): That is more of a point of information than a point of order! It is also an argument! Mr. Assistant Minister, if you like, you can say something about that.

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, that is precisely what I am saying. The funds for Roads 2000 Programme and the prioritization of the roads should not be controlled by any other Ministry apart from the Ministry of Roads and Public Works in conjunction with hon. Members. If it never happened before, we are saying that any measure on Roads 2000 Programme and prioritization must be done in conjunction with hon. Members. If it is not happening, please bring it to our attention.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! Hon. Members, we have spend so much time on one Question. All Questions are important. Let me give the last chance to the hon. Questioner.

(Mr. Waithaka stood up in his place)

Mr. Waithaka, it had better be a point of order!

Mr. Waithaka: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister is misleading this House. As you are aware, we are now in the year 2005. It is not right to be talking about the Roads 2000 Programme every year. The Roads 2000 Programme involved projects that were supposed to have been implemented in the year 2000. Today, we are in 2005. What is this Roads 2000 Programme?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Mr. Waithaka!

Mr. Koros: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister tell the House why the Government has not released the money for training yet he is saying that the programme is going to start soon? What urgent measures is he going to take to ensure that each road is tarmacked and included in the next financial year?

Mr. Cheboi: This financial year!

Eng. Toro: Mr. Temporary Deputy Speaker, Sir, as I said, under the Roads 2000 Programme, there is no upgrading of roads to bitumen standard. The Roads 2000 concept is to upgrade roads to gravel standard. There is, therefore, no programme to upgrade this road to bitumen standard. Training is done when the works commence. The local consultants in the district have to be trained to undertake the various construction works on the ground. We are emphasising, as the Ministry, that the

local contractors within a district should be given priority. They should also be trained in our colleges, both in Nairobi and Kisii, to be able to undertake maintenance works under this concept. If this training has not started, it will be implemented.

Question No.112

SCHOOL FEES WAIVER FOR STUDENTS IN
FAMINE-STRICKEN AREAS

Mr. Ndambuki asked the Minister for Education, Science and Technology whether he could inform the House whether there are plans to waive school fees for students from the areas affected by famine in the country.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, before the Assistant Minister responds, I would like to inform you that we can move on faster during Question Time if hon. Members just ask Questions and if Ministers respond to them precisely. Ministers should avoid issuing statements and policies. Please, respond to a Question as relates to its content. Hon. Members should also come up with supplementary questions beforehand. Please, avoid coming up with these questions when you stand up to ask them. This will save us a lot of time.

Proceed, Dr. Mwiria!

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

The Ministry does not have immediate plans to waive school fees for students from areas affected by famine in the country. However, to address the plight of these kind of students and others, several measures have been taken by the Ministry. These measures include provision of bursary funds, grants, laboratory equipment funds, pockets of poverty funds, ASAL grants and donor intervention to support completion of projects in schools. To ease the burden on parents, there is a fee guideline to ensure that secondary school fees are controlled. Secondary schools have also been asked to spread out the payment of school fees to, again, ease the burden on parents. Again, the Free Primary School Education Programme reduces the cost of education generally. However, there are no immediate plans to give money directly to famine-stricken communities.

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister has not answered my Question. I am sure the Chair is aware that there are many districts which have not received rain for the last three years. I am only asking the Ministry to consider waiving school fees for needy students. Last year, for example, Kshs95 million was not paid in Makueni District to cater for school fees for secondary school students. So, could the Assistant Minister tell us what plans they have to save these children from being sent home for lack of fees?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, this matter has come up several times in this House; on whether or not school fees should be waived. It is not possible for the Ministry to do that for a variety of reasons, including the fact that if you do that, even those parents who can afford may take advantage. Even in the poverty-stricken areas, there are rich parents who can afford to pay school fees for their children. Let me say that there are no immediate plans, but there are measures; for example, the bursary programme is supposed to assist. There is also the CDF money that could be used to meet the cost of some of these cases. There are also locals, including Mr. Ndambuki; rich hon. Members of Parliament, who can account for up to 100 students in this kind of circumstances.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is not taking famine and famine victims seriously. When there is famine, the Government always provides food. This means that parents do not have the capacity to get food as well as to pay secondary school fees. This is a big issue and the Assistant Minister should be serious for a moment. What is the Government doing to set

up a special fund for those districts that are affected by famine in order to help needy children?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I have already spoken about what is being done in the ASAL areas. In addition to the bursaries, I have said there are also grants.

Secondly, it is not true for the hon. Member to say that parents do not have the capacity. It is not possible to just have the capacity to have children, but not to cater for them. Parents also have a responsibility. When we talk about cost-sharing, parents must also contribute to the education.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Dr. Mwiria, please, respond to the questions as asked. Inform the House whether you will waive the fees or not. The fact that some hon. Members come from famine-stricken areas--- Mr. Ethuro says that the Government provides relief food and all he wants to know is if you could also help them with the issue of school fees. It is that simple.

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, when I say there are no immediate plans, it does not mean that we will not consider it. Already, there are measures being taken. We have talked about the large sums of money devoted to the Ministry of Education, Science and Technology. How much more money can we devote to education while we are complaining about other Ministries needing some support? So, there are no immediate plans, but this is being considered. We already have the school feeding programme for children in these areas. That will ease the burden. However, in terms of providing school fees---

Mr. Ethuro: On a point of order, Mr. Temporary Deputy Speaker, Sir. It is a biological fact that reproduction is a natural thing. We were even talking of reproductive ability yesterday, which should be factored in the Gross Domestic Product (GDP). Is the Assistant Minister in order to insult our people by saying that just because we cannot produce food, we should also not reproduce children? Does he want to try?

(Applause)

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I know that reproductive ability is natural. However, it is a naturalness that can be controlled. So, *kama unaonyesha uko dume kwa kuzaa pia* you must show there are other responsibilities that you can meet. We must live up to what we can support. The Government will come in, of course, and it is already coming in to supplement what---

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Abdirahman, it had better be a point of order!

Mr. Abdirahman: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to talk about the Free Primary School Education Programme and the normal grants for secondary schools when we are talking about emergencies? Is he in order to talk about development issues when we are talking about an emergency and drought? He is just diverting our attention by talking about reproduction, which is not really very relevant in this case.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, we take away a lot of time when we rise on frivolous points of order. We are asking questions, which sometimes turn into arguments. Dr. Mwiria, let us not address irrelevant issues. How did we end up with the issue of reproduction?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I thought Mr. Ethuro asked me about the issue of reproduction, and I thought I should respond.

I brought up the issue about grant

as an indication that we are doing some things to ease the burden. There is already some contribution by the Government in various forms and, therefore, less will be expected from parents. That is some

form of help. It is only in that indirect way that I am saying there is some contribution.

Dr. Galgalo: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister talked about these programmes which we already know. In fact, they are not really helping because their magnitude is so little that they have very little effect. The main expenditure in schools is about feeding children. Could he consider giving food directly to those schools, so as to waive some of the fees hence the food for fees programme?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, I agree with the hon. Member on this issue. However, I would like to reiterate that many districts, including the one Mr. Ndambuki comes from, are benefitting from the primary schools feeding programme. However, we shall consider this for secondary schools given the resources that are available. If possible, that is another issue that we will take into account.

The Temporary Deputy Speaker (Mr. Poghio): Last question, Mr. Ndambuki!

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, I thank the Assistant Minister for coming up with all these options. I would like him to address the case of those students coming from the famine-stricken areas because, at the end of the day, they will be sent home. Could he allocate a portion of these grants to specific districts where famine is prevalent?

Dr. Mwiria: Mr. Temporary Deputy Speaker, Sir, we shall consider that. If resources are available, we shall address the issue as suggested.

The Temporary Deputy Speaker (Mr. Poghio): Next Question, Mr. M. Maitha!

Question No.377

ELECTRIFICATION OF KALALA
COFFEE FACTORY

Mr. M. Maitha asked the Minister for Energy:-

- (a) whether he is aware that Kalala Coffee Factory which was started in 1956 has no electricity; and,
- (b) when this factory will be provided with electricity.

The Assistant Minister for Energy (Mr. Kiunjuri): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

(a) I am aware that Kalala Coffee Factory has no electricity supply.

(b) The factory was not included under Phase I of the European Union-supported STABEX Coffee Factories Electrification Programme, because the estimated cost for supplying electricity to the factory, which then was Kshs5.5 million, was more than the set minimum limit of Kshs2.8 million per factory. Further, it was also excluded from Phase II of the programme because internal wiring had not been done by July, 2004; and that was a mandatory requirement. Moreover, it is not among the five top priority projects submitted by the Machakos District Development Committee (DDC). Given this position, it is not possible to give an indication of when the factory will be provided with electricity.

Mr. M. Maitha: Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank the Assistant Minister for that answer. But 50 years since that factory was started, it has not been provided with electricity. The lines supplying electricity to Matungulu Girls' Secondary School pass just 100 metres from that factory. Could the Assistant Minister use his discretion to make sure that the factory gets electricity?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, if it is true that that powerline to Matungulu Girls' Secondary School passes just 100 metres from the factory, and if it is capable of carrying enough electricity to supply the factory, then it would be considered, but on condition that they do the wiring.

The Temporary Deputy Speaker (Mr. Poghio): Very well, next Question!

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

The Temporary Deputy Speaker (Mr. Poghisio): No points of order! What is it, Mr. Mwenje?

Mr. Mwenje: Now that the Assistant Minister is available, could he also explain why there has been no electricity in Nairobi since yesterday at 1.00 o'clock up to now in so many areas, including Parliament?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, the hon. Member for Embakasi is a very experienced Member of this Parliament and he knows the rules and procedures of the House. If he wants an answer, he should either request a Ministerial Statement or ask a Question, and we shall answer it.

(Applause)

Mr. Ndambuki: Mr. Temporary Deputy Speaker, Sir, I would like to ask the Assistant Minister for energy the following question: In 2001/2002, most coffee factories in Machakos and Makueni districts were earmarked for electrification and farmers were even requested to do the wiring, and they did it. But up to today, they have not received electricity. Could the Assistant Minister tell us what happened to the STABEX funds which were to be used to supply electricity to those factories?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, there was STABEX I and II, which were donor funds. Those funds were not from the Kenya Power and Lighting Company (KPLC). They earmarked those factories and most of them benefitted, except those which never fulfilled the conditions which had been laid down. We have also considered a number of those factories under the French Phase II Programme. I would like to ask hon. Members to ensure that factories meet the laid down conditions, otherwise you can come to my office and we will show you which factories will benefit from the French Phase II Programme.

Mr. Munya: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not answered the question which he has been asked. The question is that there are factories that were required to be wired in preparation for funding from STABEX II. What happened to those funds?

(Applause)

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, as I have indicated earlier, those were donor funds and, in most cases, those are turn-key projects which are not carried out by the KPLC. So, to our information and knowledge, all those factories that were earmarked to benefit from that fund benefitted.

The Temporary Deputy Speaker (Mr. Poghisio): Last question, Mr. M. Maitha!

Mr. M. Maitha: Mr. Temporary Deputy Speaker, Sir, earlier on, I had requested the Assistant Minister to supply electricity to Katangini, Kinyui and Muisuni markets since the powerline also passes over Katangini Market. Could he consider giving those markets electricity?

Mr. Kiunjuri: Mr. Temporary Deputy Speaker, Sir, we have already considered supplying electricity to Muisuni and Katangini markets under the French Phase II Programme, which is about to start any time in the course of the year.

(Applause)

The Temporary Deputy Speaker (Mr. Poghisio): Very well. Next Question, Mr. Mwancha!

Question No.462

NUMBER OF DEATHS FROM

MILK-BASED MICRO-ORGANISMS

Mr. Mwancha asked the Minister for Livestock and Fisheries Development:-

(a) how many people

have died from milk-based micro-organisms in the last three years; and,

(b) whether he could consider the registration of all small-scale milk traders to facilitate their training for quality milk sales.

The Assistant Minister for Livestock and Fisheries Development (Dr. Wekesa): Mr. Temporary Deputy Speaker, Sir, I beg to reply.

With your permission, I am not very happy with the answer given by my officers regarding part "a" of the Question. But I am happy with part "b". So, with your permission, I would like to know whether we should defer the Question or should I answer part "b".

Mr. Maore: On a point of order, Mr. Temporary Deputy Speaker, Sir. If you look at the arrangement of the Question, I totally agree with the Assistant Minister. Part "b" should be answered by the Ministry of Health because the safety of food products, when on the table, should be the responsibility of the Ministry of Health. When the milk is being carried by the cow, it is the responsibility of the Ministry of Livestock and Fisheries Development. So, I think this is mixed-up in the Question.

The Temporary Deputy Speaker (Mr. Poghisio): What do you have to say, Mr. Mwancha? We can actually defer the Question until tomorrow.

Mr. Mwancha: Mr. Temporary Deputy Speaker, Sir, I have no problem with that, but the truth of the matter is that the mother carrying vegetables and milk to the market is arrested for carrying milk, and not vegetables. So, she is only victimized for carrying milk. Could the Question be answered tomorrow as soon as possible?

The Temporary Deputy Speaker (Mr. Poghisio): Order, Order! Yes, the Question is deferred until tomorrow.

(Question deferred)

Next Question, Mr. Weya!

Question No.601

CONSTRUCTION OF NEW KPCU
MILLING PLANT AT DANDORA

Mr. Weya asked the Minister for Co-operative Development and Marketing:-

(a) whether he is aware that the Kenya Planters Co-operative Union is in the process of putting up a new milling plant at Dandora, Nairobi; and,

(b) how the contractor for the project was identified.

The Temporary Deputy Speaker (Mr. Poghisio): Is the Minister not here? The Question is also deferred until tomorrow.

(Question deferred)

We had passed Mr. Serut's Question. Is the Minister ready to respond?

Question No.373

INDEPENDENT BODY TO

INVESTIGATE CRIMINAL CASES
INVOLVING POLICE OFFICERS

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

- (a) whether he is aware that citizens are shying away from reporting criminal incidents to the police where police officers are suspected to be the perpetrators;
- (b) whether he is further aware that during instances where officers in the force are suspected of committing murder, inquest files are opened to delay prosecution of the officers involved; and,
- (c) when will the Minister set up an independent body to investigate and prosecute cases where police officers are suspects.

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

(a) I am aware that some citizens are shying away from reporting criminal incidents to police where police officers are suspected to be the perpetrators. This is because of the general public belief that such cases are not handled impartially. Besides, the officers who are suspects sometimes intimidate the would-be complainants or reporteers.

(b) I am not aware of instances where inquest procedures have been used to delay the prosecution of officers suspected of committing murder. Police officers, like any other Kenyan citizens, are not above the law and are only protected by the law to the extent that they execute their duties lawfully; and,

(c) The subject of complaint procedures against police officers are some of the issues being addressed by the National Task Force on Police Reforms. However, currently, there is a section within the police force that deals with complaints. Members of the public are encouraged to report to senior police officers within whose area of jurisdiction the complaints may relate to whenever they feel that suspected officers are intimidating them or feel dissatisfied with the handling of their report to any police station.

Mr. Serut: Mr. Temporary Deputy Speaker, Sir, I asked this Question knowing that the Assistant Minister is aware of these cases. However, I am surprised at the answers that he is giving to this House. It is in the public domain that in cases where the police are suspects, none is prosecuted. If any prosecutions ever take place, very few policemen are prosecuted. Last year, when the Assistant Minister was still a Back-bencher, I asked two Questions related to this particular one and he contributed towards it. I am now asking about an incident where a student was shot by a policeman in Mount Elgon Constituency. Inquest File No.3 was opened and until today, that policeman has never been interdicted. When will the police move away from being witnesses and prosecutors in cases that they themselves are suspects?

The Temporary Deputy Speaker (Mr. Poghio): Why are you giving a lecture instead of asking a question?

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, that was, indeed, a statement. I wish to emphasise that the police are not above the law. I have said this before and I repeat it. Even the Flying Squad will not be allowed to fly in the face of the law.

It is not true to say that the police have not been prosecuted in instances where they have breached the law. Last year alone, 57 police officers were charged before courts of law for offences ranging from robbery to simple theft. That is a demonstration that we are prepared to subject them to the due process of the law.

Mr. Temporary Deputy Speaker, Sir, with regard to the issue where a student was shot in Mount Elgon Constituency, I do not have the details. I would appreciate if the hon. Member gave me specific details. If there is an instance where a police officer shot somebody and he was seen doing it,

then there is no point of an inquest. What should follow is a prosecution in that particular case. However, where the evidence is in doubt as to who could have perpetrated the offence, then we use an inquest. Where the cause of death is clear and the suspect has been identified, we really do not need to go through the process of an inquest.

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, this Assistant Minister knows too well what we are talking about. He said that if a junior police officer commits a crime against a civilian, we should report the matter to the senior police officers, for example, the Officer Commanding Police Division (OCPD). Only the other day, in Marsabit, during a search conducted in one of the villages in Saku Constituency, the Officer Commanding Station (OCS) broke into somebody's house. The owner of the house reported to the police that he had lost Kshs10,000 during the search. The matter was recorded in the Occurrence Book (OB) and when I reported the matter to the OCPD, he wondered how I had got the OB number. Could the Assistant Minister, when instituting the reforms he is always talking about which we know are unlikely to come, give the citizens of this country an independent police line to deal with criminal police officers who oppress the people of this country every day? He should not run away from that fact. I believe he knows that he is a human rights lawyer. He, therefore, knows what to do. He should not become an advocate for the Government all of a sudden.

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I think the hon. Member wanted to make a statement that touched on my character, but I can assure him that I am still very firm on human rights issues.

Concerning the task force on police reforms, I was just trying to restrain myself from disclosing what it might come up with. However, one of the proposals for reform is the establishment of an independent oversight body to which members of the public can complain against the police. In that case, one will be able to complain against a known police officer. Currently, we have desks in the police stations and complaints are lodged to senior officers. We hope, and I am confident, that before the end of the year, we shall be able to lay on the Table of this House a Sessional Paper on police reforms.

As far as the case of the OCPD and OCS in Marsabit is concerned, it has not been brought to my attention and I will be quite happy if the hon. Member gives me details of his complaint, so that I act appropriately.

Mr. Too: Mr. Temporary Deputy Speaker, Sir, you heard the Assistant Minister say that members of the public with complaints can lodge them with senior police officers. Could he tell us if the senior police officers have OBs in which to record complaints? He also said that the officers manning the Report Offices are not trustworthy and, therefore, members of the public with complaints should report to the senior officers. Is it an admission that he has no confidence in those officers manning the Report Offices?

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I think that question should have been properly answered by the person who has raised it since he served in the police force and brought it to the kind of disrepute that we are trying to deal with. We are trying to repair the damage caused during his tenure.

We have launched community policing because we appreciate that the public---

Dr. Rutto: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to impute improper character on an hon. Member of Parliament?

Hon. Members: Who! Who!

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, I was only acknowledging the fact that the hon. Member served as the Director of Criminal Investigations Department (CID), and he should, therefore, know how the public lost confidence in the police, having served in it for a long time.

Now, the solution to lack of confidence by the public in the police is community policing that

we are trying to introduce. Its essence is to ensure that the public can share confidential information with the police on matters of crime. For the benefit of hon. Members who have already launched community policing in their respective areas, there will be a *baraza* every three months, where members of the public will be welcome to lodge complaints about the conduct of police officers or any suspected criminals within their area of jurisdiction. Community policing committees will be meeting once in a month with the police to share crime intelligence in their respective areas. This is a measure towards restoring public confidence in the police force.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, the Assistant Minister is talking about grandiose projects on community policing and what his Ministry is doing to effect reforms. Could he tell us which police division in the country has active police lines which members of the public can use to call? Thieves know that there is no working telephone to any police station. So, when they attack somewhere, they are sure of getting away without being caught. Which telephone lines are working?

Mr. M. Kariuki: Mr. Temporary Deputy Speaker, Sir, for every division, we have some hotlines. It is true that a number of police stations do not have landlines. However, police officers have mobile telephone numbers. These are issues that we are trying to settle by clearing accumulated bills for landlines. Police officers, however, have mobile telephones. I am prepared, to lay on the Table of this House the hotlines for respective areas if required to so.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! You should table the list of all the police hotlines. I think you can do that. We have exhausted our time for Questions. That was the last Question.

POINTS OF ORDER

DENIAL OF ENTRY INTO POLICE STATION TO KHRC CONTRARY TO THE LAW

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

The Temporary Deputy Speaker (Mr. Poghisio): What is it, Mr. Omingo?

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I rise to demand a Ministerial Statement from the Minister of State, Office of the President regarding the conduct of the police during the arrest of the people who were protesting about the constitution-making process. Officials from the Kenya Human Rights Commission (KHRC) visited the Port Police Station in the last week of July and were denied entry. That is in total contravention of the law that was passed in this House on the KHRC, Section 16(1)(b). It states that the Commissioners are allowed to enter all prisons and all other places of detention. Could the Minister, therefore, tell this House whether:-

- (i) The police are following suit the behaviour of Cabinet Ministers who disrespect the law.
- (ii) What is the Government stand regarding the rule of law versus policy.
- (iii) Whether the Commissioner of Police is above the law.
- (iv) What action does the Minister intend to take against those who flouted the law of the land.

MINISTERIAL STATEMENT

HUMAN RIGHTS COMMISSION
HAS UNHINDERED ACCESS TO

ALL DETENTION CENTRES

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, that is a matter that we can summarily deal with here. That is because Government policy is found in the law. Section 16 of the law on KHRC gives the Commissioners unhindered right---

The Temporary Deputy Speaker (Mr. Poghio): He asked for a Ministerial Statement. I do not think he meant that you issue it now.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Well, I will be quite happy to deal with the matter summarily right here. I do not think that this is a matter that has serious statements of the law, so to speak.

This House passed a law in 2003. We created the KHRC and Section 16 of that Act gave Commissioners unhindered access to all places of detention. No police officer - not even the Commissioner of Police - can stop the Commissioners from accessing a place of detention in this country. What I would like to clarify, maybe tomorrow, is to find out who is the officer who stopped the Commissioners from accessing a police station in Mombasa. I would like to emphasise here that the Commission has unhindered access to all places of detention, and anybody who blocks their way will be subject to the process of the law. I will elaborate on the specific issue of the officer who denied them access tomorrow.

The Temporary Deputy Speaker (Mr. Poghio): I will give a chance to Mr. Ethuro.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I would like to seek two Ministerial Statements from the Minister of State, Office of the President.

SHOOTING OF MR. AKHURDIGMOI
BY POLICE RESERVIST

First, on 5th May, 2005, at a place known as Namada, a police reservist shot dead an old man known as Akhurdigmoi. I was present, and exercising our civilian duty, we managed to arrest him. He was taken to Kitale. After one week, the alleged suspect was released. Somebody was shot dead and another one was wounded by the said police reservist, and he is out there scot-free. I want to know from the Minister, under what circumstances was the suspect released from police custody?

THE DISARMAMENT IN NORTH RIFT

The second issue regards the disarmament that is going on in North Rift districts. The authority of the Government stated that they were going to get all the illegal arms from Turkana, Pokot, Marakwet and Samburu. We want to know the results of that exercise; how many guns have been recovered and how many are still out there. We want the Minister to confirm to this House whether the other programmes that were associated with disarmament, including the construction of security roads and development of water points have been undertaken. We want the Minister to deny the rumour that after the 15th August, 2005, the Government is going to use force to disarm those communities. I want, at the earliest opportunity, to put up objections to any use of force. It shall be countered by the same communities if the Government proceeded that way.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I can issue that Statement tomorrow because the facts are ready.

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

The Temporary Deputy Speaker (Mr. Poghisio): Order! Some of you can seek their Ministerial Statements later. We have already exhausted Question Time. The Assistant Minister would like to issue a Ministerial Statement before we move on to something else.

MINISTERIAL STATEMENT

IMPOUNDING OF LIVESTOCK IN MOYALE

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I wish to respond to a demand for a Ministerial Statement sought by Dr. Galgallo on 4th August, 2005, on the impounding of livestock from Moyale.

Mr. Temporary Deputy Speaker, Sir, following the raid on Turbi on 12th July, 2005, which resulted in the unfortunate loss of several lives and theft of livestock, police roadblocks were mounted on all routes leading outside the two districts of Marsabit and Moyale. The purpose of the roadblocks was to ensure that no livestock suspected to have been stolen during the raid left the affected districts. On the 27th July, 2005, police officers--- There is a correction there; it is 22nd July, 2005 and not 27th July, 2005! On 22nd July, 2005, police officers, acting on credible sources of information, intercepted three lorries at Matuu on Garissa-Nairobi Road that were ferrying livestock whose origin was suspect. The lorries were impounded and taken to Marsabit Police Station where the reports on stolen livestock were made. Given the nature of the goods that were the subject of the theft, on 28th July, 2005, the Marsabit Senior Resident Magistrate promptly conducted an open court within the Marsabit Police Station to ensure that the animals do not suffer any further undue cruelty by their continued stay within the police station. The court directed that all subject livestock that was properly identified by the claimants be handed over to them with conditions, pending the determination of the case. The drivers of the lorries that were impounded are suspects in the case for handling stolen goods and are, at the moment, in custody.

Mr. Temporary Deputy Speaker, Sir, on 1st August, 2005, the court further directed the release of the lorries to their owners subject to specific conditions. That case is already a subject matter before the court, and I do not wish to dwell further into issues that may be *sub judice* and prejudice investigations that are still on-going.

Mr. Temporary Deputy Speaker, Sir, I am satisfied that the police executed the work within the limits of the law and they are still under firm instructions to ensure that any evidence that may lead to more arrests of those who may have been involved in the Turbi massacre are brought to book. However, I wish to assure the House that, that would be done with utmost diligence and discipline, to ensure that innocent citizens are not necessarily harassed. In that regard, I wish to confirm that there is now free movement of livestock from the affected areas to Nairobi, subject to the usual strict adherence to livestock movement permits.

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, I think you have to give this issue due significance because it is a very serious matter. You have heard the Assistant Minister say that---

The Temporary Deputy Speaker (Mr. Poghisio): Order! It is significant enough that you have been given time. So, just seek your clarification.

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, you have heard the Assistant Minister say that the livestock were given to the claimants pending the decision of the court. What kind of justice is it, that somebody comes and claims an article and the police give it to the claimant pending the judgement? Would it not be better justice if the livestock remained in the custody of the police pending judgement? Is that not the right thing, rather than giving the livestock to the claimants? We know these claimants were ferried from Kariobangi by a colleague in this House. They were ferried from Kariobangi to Matuu. Could the Assistant Minister provide the names of the beneficiaries?

Secondly, is he satisfied that it is justifiable that the animals are given to the claimants pending a court case?

The Assistant Minister, Office of the President (Mr. M. Kariuki): On a point of order, Mr. Temporary Deputy Speaker, Sir. The hon. Member has said that the claimants were ferried by an hon. Member of this House from Kariobangi to Matuu. I think it is important that he substantiates his claim. We must know this person who ferried the claimants.

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir---

The Temporary Deputy Speaker (Mr. Poghisio): Order! Why are you not patient enough so that the Assistant Minister takes his seat before you are on your feet? Can you substantiate your claims?

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, my substantiation will come if the Assistant Minister tables the list of the beneficiaries and I will prove that they were ferried from here.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Poghisio): Order, all of you! You are going to miss the point if you are going to bring us to a place where we have to decide whether you continue or not. If you make unsubstantiated claims and you are challenged to do so, substantiate or withdraw until you are ready to substantiate.

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, I think I made my point. The point is that I have information and I know that people were ferried---

The Temporary Deputy Speaker (Mr. Poghisio): Order! I think this is not a debate any more. It is just an issue of seeking clarification. You have sought your clarification and let us move on to somebody else.

Proceed, Mr. Sasura!

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, I will seek my clarification. I think you need to be patient with us. This is not a very light matter as you take it.

The Temporary Deputy Speaker (Mr. Poghisio): Order! I think if you do not want to talk anything about this issue, say so. Who has taken it lightly? Why should you accuse the Chair of taking it lightly?

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, I was not referring to you in any case. I am saying that this is a very serious matter and the House should not take it lightly. I did not refer to you.

The Temporary Deputy Speaker (Mr. Poghisio): What is the House? Seek your clarification!

Mr. Sasura: Mr. Temporary Deputy Speaker, Sir, this business has been going on for the last 40 years. Livestock business has not started after the Turbi massacre. The truth of the matter is that the police in Marsabit have become judges. The action which is being taken by the police, and the fact that anybody within Marsabit is claiming any livestock passing between Moyale and Marsabit, purporting it to belong to the people of Turbi, is fuelling more animosity and clashes in that area. Could the Assistant Minister assure the House that criminals in the name of livestock owners, as a result of the Turbi clashes, do not spark off more ethnic hatred by colluding with the local police because, definitely, this will not augur well for the security of that area?

Mr. Ngoyoni: Mr. Temporary Deputy Speaker, Sir, for record purposes and for the benefit of the Assistant Minister, insecurity in Marsabit is definitely caused by blatant disregard of the rule of law and selective application of the law. Livestock trade has been there since time immemorial. In fact, from January, my constituents have lost 8,000 goats and sheep. The Government has not erected

roadblocks to intercept them going to the markets in these particular areas. Could the Assistant Minister wake up and erect roadblocks? Definitely these are some people are trying to bring insecurity in this area. Those utterances will lead to more insecurity in this area. What is the Assistant Minister doing to ensure that there is fair application of the rule of law to all citizens?

Mr. Bahari: Mr. Temporary Deputy Speaker, Sir, could the Assistant Minister clarify perhaps in detail what process they went through in identifying the animals and, at the same time, whether there are some animals which were never identified and they are perhaps still at the police station?

Mr. Moroto: Bw. Naibu Spika wa Muda, biashara ya ng'ombe haihusu wale watu wa Mkoa wa Kaskazini Mashariki peke yake. Kule Wilaya ya Pokot Magharibi, ng'ombe wameshikwa katika vizuizi vya barabara zaidi ya mara kumi. Wakati mwingi polisi wanawapeleka stesheni ya polisi na baadaye wanapotea. Je, wana shimo lipi la kuingiza ng'ombe? Baada ya mhe. Michuki kwenda Eldoret kuna uvumi ambao unaenezwa kwamba wafugaji wa ng'ombe wata vurugwa ili waishe kabisa. Waziri Msaidizi, je huo ni ukweli?

Dr. Godana: Mr. Temporary Deputy Speaker, Sir, an hon. Member has said that there is an hon. Member of this House who actually ferried people from Kariobangi to Matuu. I think the Assistant Minister had asked him to substantiate his claims. Could he substantiate his claims? I know all hon. Members know that when an hon. Member utters a statement which he knows to be false, then it is called contempt of Parliament.

The Temporary Deputy Speaker (Mr. Poghiso): Order! I raised that matter with Dr. Galgallo. I have left that matter to him. Could you substantiate your claim?

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, if I am going to mention the name of an hon. Member, I will bring a Substantive Motion and I will table all the facts against him. I know those people who were ferried from here. If the Assistant Minister tells us the names of the people who were given those livestock, they will concur with what I am---

The Temporary Deputy Speaker (Mr. Poghiso): Order! I only wanted a very simple response. You were challenged. It is not the name of an hon. Member of Parliament. It is the statement of fact. If you are not sure about the facts, it is better not to say them, and rather withdraw and apologise until you are ready to say them. You are being challenged that if you are ready, then go ahead and substantiate your claim.

Dr. Galgallo: Mr. Temporary Deputy Speaker, Sir, in order not to interrupt this critical issue, for the time being, I withdraw my claim but I will come back to it later.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I can understand why this is a very emotive issue, especially coming hot on the heels of the Turbi massacre.

In response to Dr. Galgallo's clarification that he sought on what kind of justice this is, as I said, the matter was before the court and, therefore, the order to release the animals to the claimants was a court order. We cannot question the wisdom of our courts. We are bound by the rule of law and we have to follow the due process in arriving at our decision. That was observed by the magistrate. An appropriate decision was made, that pending the final determination as to whether these animals were stolen or not, the custody of the animals was placed in the hands of the claimants. So, I think we better leave matters at that. Whether the police were the appropriate authorities or not, that, in the wisdom of the court, was not appropriate. The court went ahead to grant the custody to the claimant.

Now, as to how we can remove ethnic hatred in this matter, I think the solution lies with the Members of Parliament from this particular area. I have visited that particular place and I know the accusations that are traded across the board. It is basically that so-and-so is responsible. If you go to the other side, they claim so-and-so is responsible. I think we need to get together and provide leadership in this area. I am gratified to note that somebody is making an initiative to bring the four

hon. Members together, to try and see how they can move forward in terms of removing ethnic hatred which is already quite deep in that particular place.

On selective application of the law, I do not think that is the case. We have made arrests as far as the Turbi massacre is concerned. We have also made arrests as far as the other nine people are concerned. I think that the process of the law will have to be complied with to ensure that people do not get away with the murder of other persons. It will be a very unfortunate incident to leave a person who has committed a grievous crime of murder.

Mr. Sasura: On a point of order, Mr. Temporary Deputy Speaker, Sir. We cannot just sit here and listen to the Assistant Minister when he is misleading the House and nation. He has said that nine people have been arrested in connection with the nine people killed in Bubisa; that is, the children and women. The only persons arrested following the death of those nine people are those purported to have robbed with violence the vehicle of the parish priest. It is not the people who murdered the nine people. Could he tell us who were arrested and when? He is misleading the nation and we cannot listen to him!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, if you understand the under-current in this area, then you will be able to understand why the hon. Member is very emotive about this matter. I know that there is an ethnic conflict between the Gabras and Borans. Each side wants to see the other arraigned in court. This is a fact.

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

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, I think I better finish my Statement. We cannot sit here and pretend that those seeking clarifications are, in fact, non-interested parties. They are interested parties in this conflict. I think we have to be very honest on this.

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

The Temporary Deputy Speaker (Mr. Poghismo): Order, both of you! Dr. Galgallo, if the Assistant Minister is saying things which you do not like, let him finish. At least, he gave you a chance to raise clarifications and all of them were directed to him. Now, we must listen to what he has to say. Proceed!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, as I said, arrests have been made in respect of Bubisa and Turbi, and appropriate charges are being preferred. I think it is important that we respect the independence of our police in carrying out investigations. Let us not go by rumour or what we would wish to be done. Let the facts tell the story.

Mr. Temporary Deputy Speaker, Sir, as far as the identification of the animals is concerned, the magistrate was satisfied that the claimant *prima facie* had made up a case. That is why the animals were placed in the custody of the claimant, pending the hearing and determination of the case before the court.

The final clarification that was sought was that, in such instances the police have been known to take the animals and sell them to benefit themselves. I will be quite happy to receive a specific complaint of the police officers who intercepted animals and sold them to benefit themselves. That is a crime. I would be quite happy to get any evidence pointing at any police officer who has abused his powers to sell the animals.

Mr. Temporary Deputy Speaker, Sir, I think I have addressed all the issues.

Dr. Galgallo: On a point of order, Mr. Temporary Deputy Speaker, Sir. The Assistant Minister has not addressed one issue; the beneficiaries of that loot, because it is a loot. Who are the beneficiaries of that livestock? I want their names. That is the gist of my question, so that I can prove that they are not people from Turbi. Could he give us the list of those beneficiaries? For record---

The Temporary Deputy Speaker (Mr. Poghismo): Order, Dr. Galgallo!

Dr. Galgallo: Just one minute, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Galgallo! This is a Ministerial Statement. Once you have raised a matter, allow him then to respond. Look at how much time we have given this particular Statement.

Proceed, Mr. Assistant Minister!

The Assistant Minister, Office of the President (Mr. M. Kariuki): Mr. Temporary Deputy Speaker, Sir, the hon. Member wishes to find out who the claimants are. That is in the charge sheet that is before the court. It states who the claimant is. I have the registration numbers of the vehicles that were involved in the transportation. The following are the registration numbers of the lorries intercepted at Matuu: KAS 354T, KAS 455M and KAN 868R. The vehicle that was intercepted at Marsabit carrying animals is registration No.KAP 547W. Those were the vehicles that were transporting the animals. As I said, the list of claimants can be found in the court file.

Mr. Angwenyi: Mr. Temporary Deputy Speaker, Sir, I would like to seek a clarification as to whether the Assistant Minister has involved the Departmental Committee on Defence and Foreign Relations, which is financed by the Parliamentary Service Commission, in this crisis, because they have, in the past, involved them in Sudan and Rwanda issues under the chairmanship of the Deputy Speaker. They have done a great job out there. Could you use them in our own country?

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Much as you have very important information, we have reached the end of that issue.

Next Order!

MOTIONS

INTRODUCTION OF INFORMAL SECTOR BILL

THAT, noting with concern the growth and proliferation of uncontrolled small-scale enterprises and hawking in our streets and road reserves and appreciating that this informal sector is the source of livelihood of the overwhelming majority of our urban population who cannot procure jobs or who have been retrenched or retired; and aware that this sector of our population needs to be economically empowered and given legal protection and recognition; this House do grant leave for introduction of a Bill for an Act of Parliament entitled *The Informal Sector (Small Enterprise and Hawking) Bill* to establish a regulatory and oversight Authority and to provide for micro-finance to small business enterprises and to the hawking fraternity.

(Mr. Wamwere on 3.8.2005)

*(Resumption of Debate interrupted
on 3.8.2005)*

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mwenje was on the Floor.
Proceed!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, just before I move on to this Motion, I want to alert the Chair and the Clerks-at-the-Table that this loudspeaker behind me is not working. So, can somebody attend to it because it has been like that for one year?

Moving on to the Motion that was brought here by Mr. Wamwere, we are discussing about a Motion that will regularise the business of the hawkers and other small-scale traders. This is a very

important Motion that every hon. Member here who loves and claims to be speaking for the small-scale business people should support. If you do not support it, then we know who you are. We will know that you have no business or interest in the small-scale business people. Anybody caring for the small-scale business people must support this Motion.

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Mwenje, who are you addressing?

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, of course, I am addressing the House, through the Chair. I am saying that if anybody opposes this particular Motion, he or she is not here for the interests of the people of Kenya, but rather for his own interests.

Mr. Angwenyi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is my friend, Mr. Mwenje, in order to threaten the House on a Motion which is being discussed?

The Temporary Deputy Speaker (Mr. Poghisio): Order! Mr. Mwenje, your job is to convince all hon. Members of Parliament to vote with you.

Mr. Mwenje: Precisely, that is what I am doing!

Mr. Temporary Deputy Speaker, Sir, what Mr. Angwenyi has raised is, indeed, not a point of order. So, I am saying, anybody opposing this Motion does not have the interests of the ordinary people at heart. We need to help these people because they are the voters and usually suffer when problems arise. They are the people we depend on.

Mr. Temporary Deputy Speaker, Sir, hawking has created employment for more than 70 per cent of our people. If you go to Gikomba Market, or to the streets of Nairobi and even upcountry, you will see many *kiosks*. Those are the people called small traders who should be given the opportunity. As I speak, *kiosks* are being demolished in Nairobi by the Provincial Administration. This must stop forthwith. I am going to instruct *kiosk* owners to chastise anybody who will try to destroy their *kiosks*. We will not allow this to continue because it is driving our people out of business.

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

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

Mr. Sirma: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to ask the citizens of this country to fight the Government or the people who are carrying out demolition of illegal structures? The citizens are defenceless. We do not know how much ammunition they have, unless he tells us that he has sufficient ammunition.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I was brought to this House by those people, and not by the Government. I must speak for them because they are the ones who brought me here. From now henceforth, if anybody tries to demolish their kiosks, he or she will face the music. I repeat, they will face the music. We must stop demolition of kiosks.

These people do not have formal employment. We cannot create employment for them. They have created employment for themselves. We need to support them to ensure that they succeed. Even those who supply seedlings within town centres are also being bothered. The other week I ran after City Council *askaris* and stopped them from taking away seedlings from people who were selling them within the city centre.

We cannot continue doing this kind of thing. There must be order in this country. The only way to create order is to pass this Bill, which provides for the formation of a body to look after hawkers. The local authorities have no heart for these people. So, they will never take interest in them. We cannot allow this situation to continue. The solution is to ensure that we have a body in place to regulate the operations of small-scale business people.

Mr. Temporary Deputy Speaker, Sir, small-scale traders do not access bank loans. If we really want to help them make money, we must have an organisation that can finance them. We should have a section, for example, in the Kenya Commercial Bank (KCB), National Bank of Kenya (NBK) or the Co-operative Bank, to provide them with small loans so that they can do business. There are those people who go for millions of shillings, but if those people were given even Kshs50,000, that would be important to them.

So, the Government should put aside some money to finance small-scale industries and traders rather than leave them alone to remain poor. That way, we will not be helping our people. The Government should put some money somewhere to finance small-scale traders to enable them do their business or give money to the body that has been proposed in this Bill to finance the traders. Alternatively, we should create a section in the commercial banks to finance them so that they can do business. Why do we only take care of the rich people in this country? Why do we not take care of the ordinary people? Every hon. Member of Parliament is elected mainly by the poor people.

Mr. Temporary Deputy Speaker, Sir, I have hardly seen the rich queuing to vote for hon. Members of Parliament. You could only find five or ten rich people queuing to vote. The poor people who vote for hon. Members of Parliament are the ones who do not benefit from this Government. We must form a body which will either finance them or arrange for them to be financed. If we do not do that as hon. Members, we risk not being elected. Anybody who will vote against this Motion will be reported by the media as not supporting small-scale traders. So, this Motion must be supported by every hon. Member of this House.

The Temporary Deputy Speaker (Mr. Kagwima): Order, Mr. Mwenje! Address the Chair!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, I am addressing the hon. Members who do not want to listen. Of course, they must hear!

The Temporary Deputy Speaker (Mr. Kagwima): Order! You must address the Chair.

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, you must also hear that if you do not support small-scale traders, they will not re-elect you to this House. That should be heard by everybody.

Hawkers do business on the roadside because they cannot own plots. They cannot buy commercial buildings. They should be allowed to operate on the road reserves. When time comes for the roads to be expanded, they will move away. But why move them away from a road which is earmarked for expansion in the year 2010? They can do business on the roadside for those five or ten years. Their children will grow up and go to school, and by the time the road is required for expansion, they will be more than willing to move. So, they should be left alone to do their businesses on the roadside, because they cannot afford plots. They do not have plots and they do not want to fight the owners of those plots. They are small-scale traders; they are short-timers. They should be allowed to do their work wherever they are.

With those remarks, I beg to support.

Mr. Sirma: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion.

I rise to support the Motion. It is also timely. If you saw how emotive Mr. Mwenje was while contributing to this Motion, you would understand how he intends to answer his people in the year 2007.

Mr. Temporary Deputy Speaker, Sir, the NARC Government came to power with many promises to the people. Among the promises it made to Kenyans was to settle the informal business people, especially those in the *Jua Kali* sector and hawkers. Two-and-half years down the line, the Government has done nothing. It has gone on with the usual way of dealing with hawkers in this country. Hawkets have suffered for a long time through harassment by Government security agents, Nairobi City Council *askaris* and through corruption.

If a hawker is licensed to do business and three hours later, or a day after, his kiosk is demolished, what would you call such a Government? That is theft by the Government. This Government is stealing from the people of Kenya by allowing them to pay licence and single business permit fees and then, later on, rob them of their wares.

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Did you hear Mr. Sirma use unparliamentary language? He said that this Government is "stealing" from the people, which is unparliamentary. Could you tell him to withdraw that?

The Temporary Deputy Speaker (Mr. Kagwima): There are two things. One, although there is no challenge from anybody, I am not sure whether the Government is stealing. Secondly, the word "stealing" is unparliamentary. So, you have to withdraw the word!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I wish to withdraw the word "stealing". But what do we call a situation where the Government robs its people? The Government takes money and wares from its people, and yet they are licensed. This is a situation where the Government has no morals. It actually borders on the integrity and morality of this Government.

Mr. Temporary Deputy Speaker, Sir, we want an organised small-enterprise and hawking business in this country. Kenya is not an exception to hawking. If you go to Europe, Asia and other countries in the world, hawking is a normal business. The only difference is that we lack organisation in this country. We cannot organise hawkers to do business. I hope the Minister, whose Assistant Minister was a former councillor, would have done much better to streamline that sector. What have they done to the residents of this country? Yesterday, there was a meeting in Makongeni and the Minister was supposed to preside over it, but because they demolished kiosks in that area, he feared to go there. The Assistant Minister too did not go. They only sent a public officer to represent them. That is because of the ills that they committed against the residents of Makongeni and adjacent areas.

Mr. Temporary Deputy Speaker, Sir, when we talk about wealth creation, it is not only created through agriculture. Trade is a way of creating wealth. Small-scale traders must be assisted to do business. When members of the public who are doing genuine hawking business are denied the opportunity to do so because there is no law in place, it is very sad.

Mr. Temporary Deputy Speaker, Sir, the present Government is doing all it can to destroy wealth in this country. The former Government appreciated the *Jua Kali* sector. The *Jua Kali* sector was placed under the Ministry of Technical Training and trading sheds were put up all over the country. They were being misadvised by the same people who are destroying people's property now. These people are just repeating what they have been doing in the past.

The Assistant Minister for Trade and Industry (Mr. Miriti): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to mislead this House that the former Government did not destroy kiosks when, in fact, he was in charge of the Ministry of Local Government when many kiosks were destroyed in Mombasa, Nakuru and many other parts of the country?

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, I wish the hon. Member would have been listening. I said they are using the same policy that was used by the former Government. They came to power by misleading Kenyans that they were going to change policies. Otherwise, this Government is just following *Nyayo* footsteps. They are doing exactly what was done in the past. If this Government thinks that it is a reformed Government, I am sorry to say that it is more worse and barbaric. It is destroying people's property.

The Assistant Minister for Finance (Mr. Katuku): On a point of order, Mr. Temporary Deputy Speaker, Sir. In view of what Mr. Sirma has said - he has admitted that they committed crimes against Kenyans - could he apologise to Kenyans first, and then put up an argument?

Mr. Sirma: We are not apologising for what was done. But, of course, what has happened in the recent past needs to be addressed.

The Temporary Deputy Speaker (Mr. Kagwima): Order, Mr. Sirma! That is an opinion. I think it is a point of argument and not a point of order!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, as you have ruled, that is a very irrelevant point of order! I want to agree with you.

The Temporary Deputy Speaker (Mr. Kagwima): Order, Mr. Sirma! You are now distorting my ruling. I did not say it is irrelevant. I only said that it is a point of argument. It is his opinion and he is entitled to it! It is not a point of order!

Proceed!

Mr. Sirma: Mr. Temporary Deputy Speaker, Sir, in an organised hawking system, streets are reserved on specific days for hawking. The time has come to identify people who will be financed by the Small-Scale Enterprises Programme. That will give an opportunity to people to do organised business without looking around. People have been robbed of their goods. We want to streamline that. If we organise those groups properly, we are going to have a sector that is more organised and reliable. It will create more employment in this country.

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

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

In conclusion, we want this Government to rise above its current level. We want it to change its ways. We want it to be accountable to Kenyans. We do not want them to use the police and city council *askaris* to harass the people. That is what is happening today. As we have seen in the recent past, this Government does not even respect the rule of law. It does not even respect court orders. There are many incidents where hawkers have gone to court and obtained orders to restrain Nairobi City Council *askaris* from demolishing their structures. But this Government continues with its illegal behaviour.

With those few remarks, I beg to support.

The Assistant Minister for Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I want to reiterate the point that has been made by several other hon. Members. If we want to empower majority of Kenyans, then programmes related to the informal sector and those that support poor Kenyans will go a long way to narrow the gap.

First of all, with regard to employment, we have been told many times that the Government credits the informal sector for creating as many as 500,000 jobs per year, as it promised. Therefore, even as a Government, it is our interest to protect that sector and ensure that it grows, instead of killing it.

Secondly, in terms of innovation, if we want to have our local industries; have our own ideas that are not borrowed from outside; support our own innovators who can come up with locally generated products and create employment, we have to support that sector. In view of the fact that many research institutions and universities do not have the resources to do so, and given the fact that many of the people who are innovative are those in the informal sector, we have a responsibility not to only support their businesses, but also to support that capacity so that they can come up with products which can compete with those from other countries.

Secondly, Mr. Temporary Deputy Speaker, Sir, I think Mr. Mwenje made the point very strongly that it is also in the interest not just of hon. Members, but the rich people of this country that we should try our level best to narrow the gap between the rich and the poor. It is in our interest not

to have so many beggars on the streets. It is in our interest to eliminate crime and discourage our youths from taking drugs. It is in our interest to have parents who can pay school fees so that we do not consistently ask for more bursary money. It is in our interest, therefore, to avert that revolution. The only way to avert a revolution between the rich and the poor; the only way to ensure that the group of 60 per cent which lives below the poverty line does not grow and get extremely disappointed with us, to the point that it will confront us, is by supporting the programmes which can help them get out of their misery. However, this should be done in an organised way.

Once this Motion is passed, we should think very seriously about the services we have to provide, to ensure that the sector is attractive. This should be in terms of sewerage, water, toilets, electricity, roofing markets, providing platforms where the informal sector people will display their products, and providing stock-market kind of information, whereby the informal operators will have an idea of how much products cost in Mombasa, Nairobi or in the rural towns. We can also train the hawkers so that they can compete with the more established sector. We should also provide credit. We can learn from the Asian countries where rural banks have made a big difference with regard to supporting the small community of the informal sector.

Mr. Temporary Deputy Speaker, Sir, there are many facilities we can use to support the informal sector. First, why can we not resettle the hawkers on the public land which was grabbed and has commercial value, if we reclaim it? If you look at the by-passes which were grabbed, there are big complexes which have been erected on them, including supermarkets. If there is a group which should benefit from that acquisition, it is those who cannot afford to buy land, and not those who can afford but grab it. For example, if we take petrol stations and public parks, is it possible for us to find opportunities within those complexes for the informal sector, so that they can continue to provide services for those who go there for leisure?

I would like to say that this is not an urban issue. We should think of how we can support the informal sector even in the rural areas. In places where there are large factories, what can be done in their neighbourhood or within those big white farms to support groups of people who will provide unique services to the people who work in those factories and farms?

Mr. Temporary Deputy Speaker, Sir, in terms of tertiary institutions, we have universities and middle level colleges all over the place. Are there facilities which can be best provided around those colleges, that could be best provided by the informal sector? Even with the pastoral communities, is it enough to just concentrate on the large pastoral farmers who have 1,000 or 2,000 head of cattle? What else can be done within those communities to support those who are in the leather tanning industries and those who deal with products which emanate from those communities?

With regard to education, we have been challenged a great deal for starting practical education which is not being appreciated. It is partly because we are producing graduates from those colleges for whom there is no employment. One way of creating employment is by ensuring that we support those who generate employment opportunities outside the formal sector. The Government and the private sector cannot accommodate all those that are looking for jobs. Therefore, to convince the youth who are taking practical subjects that education is of value, whether they are in secondary schools where they are doing industrial courses or in diploma colleges, where they are taking up electrical engineering, mechanical engineering and all sorts of courses, it is important for us to provide a conducive environment for employment in the informal sector. Those are the best opportunities, if we, indeed, want them to be self-reliant. We cannot say that we would like our youth to be self-reliant and at the same time we are not providing any opportunities for them to be self-reliant. As much as we are emphasizing reforms in terms of supporting vocational technical education, entrepreneurial and survival skills, it will be theoretical to support all the youth to be entrepreneurs if we do not give them a chance to practice those skills.

Finally, as much as I support this Motion, I hope that it will be organised once we pass it so that we do not have kiosks everywhere, just the same way we are saying that farmers cannot occupy

water catchment areas. As much as we support the hawkers, we have to ensure that they do not impinge on the right of others. We should have an orderly environment for doing business for both the hawkers and the businessmen who have more resources. I do not agree with the hon. Members who have said that kiosks should not be demolished and that hawkers should rise up in arms. That kind of lawlessness does not help even the hawkers.

Secondly, Mr. Temporary Deputy Speaker, Sir, in terms of organisation, we must ensure that we issue licences to genuine hawkers and not the rich people who take advantage. This is because many of the people who hawk products on the streets are not necessarily representatives of themselves. They represent people who have property all over the country and are using hawkers as front people to sell their wares. We need to be careful on this.

Thirdly, we should be careful when it comes to planning, to avoid over-concentration and duplication. It does not help if we license hawkers to concentrate in one place selling the same kind of goods. It is important to ensure that wherever the hawkers are, they sell commodities which are unique and are few so that they do not compete for the same customers. The products which are being sold should not be duplicated from one place to another. It is important to plan the location of kiosks as well as business. A good example has been given in terms of how we can allow the hawkers to sell their wares in the main streets on Saturdays and Sundays. We should identify specific locations in towns and in the rural areas where the hawkers can sell their wares.

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

Mr. Bahari: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to join my colleagues in supporting this Motion, which is very timely. Many hon. Members have talked about the contribution of the informal sector to the economy. I do not think this needs to be over-emphasized. It is quite clear and conspicuous in terms of employment, revenue generation and occupation of our people, how much the informal sector has contributed to the economy of this country over a period of time. We know very well that one of the key priorities of this Government is to improve or turn round the economy of this country.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Bahari! You have got only four minutes to contribute because the Government Responder has to reply! So, organise yourself.

Mr. Bahari: Thank you, Mr. Temporary Deputy Speaker, Sir. So, it is extremely important that this Government takes into account the role the informal sector plays in our economy. We are happy that a Sessional Paper has been brought before this House. I hope that the Government will implement what is contained and will be deliberated in that Sessional Paper.

Mr. Temporary Deputy Speaker, Sir, one of the key things to take into account when selling a product, because the people in the informal sector sell certain products, is a place. We know that nobody has planned for the hawkers. The market is there, but the place is not there. So, the council *askaris* have to keep on chasing them left, right and centre. In spite of the fact that we have chased them all along, the hawkers have not given up because this is their livelihood.

Mr. Temporary Deputy Speaker, Sir, it is natural that where you make a living, that is the place you will be. So, it is very important that this cardinal principle of marketing must be complied with and the local authorities must provide those facilities. Unfortunately, most of the raids happen at night. As much as one mayor said that the law applies during day and night, I think it is extremely inhuman to destroy people's property when the owners are asleep. We have seen the way our people cry the moment they realise in the morning that all their lifetime earnings are gone. So, this must be done in an organised manner. Although the Government has from time to time promised that there will be no demolition, it has gone ahead to ensure that the demolitions are not only done, but they are done at night.

Mr. Temporary Deputy Speaker, Sir, one way of dealing with this matter once and for all is for the Minister to make it mandatory for all local authorities to make a budgetary provision for the

informal sector development. I know the current and immediate former Ministers for Local Authorities have made attempts to deal with this issue, but they have not been successful. It is time we provided solutions instead of chasing hawkers all over town.

Mr. Temporary Deputy Speaker, Sir, local authorities collect a lot of revenue. But if you asked most of them what they have provided in terms of development or infrastructural improvement for the informal sector, they have done nothing.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Can we have the Official Government Responder now?

The Assistant Minister for Local Government (Mr. Tarus): Mr. Temporary Deputy Speaker, Sir, before I respond, I

would like to donate a few minutes to the following hon. Members. I will donate five minutes, three minutes and two minutes each to hon. M. Kariuki, hon. Munya and hon. Kipchumba, respectively.

The Assistant Minister, Office of the President (Mr. M. Kariuki): Thank you, Mr. Temporary Deputy Speaker, Sir. First of all, I would like to thank the Member who brought this Motion, because I brought a similar Motion about a year ago, but I did not have the opportunity to move it.

Mr. Temporary Deputy Speaker, Sir, there are two important issues that we need to bear in mind. One is the right to life. The right to life, as understood today in the modern world where we have great regard to human life, also means, in addition to having enough to eat and be alive, the right to a means of livelihood. Each Kenyan is entitled to have a right to a means of livelihood. More than 90 per cent of our people are in the so-called informal sector, trying to earn a means of livelihood for themselves. I think it is important that we acknowledge that these are the people who have elected us.

Speaking for myself, 90 per cent of my voters are, in fact, small business people and hawkers. One of my projects at the constituency is to try and create a formal market for them using Constituency Development Fund (CDF), where we can put about 6,000 hawkers and small traders so that they can have a means of livelihood.

Mr. Temporary Deputy Speaker, Sir, we keep talking about the fact that we have a GDP of 4.3 per cent, which is encouraging. But we forget that we have to create a local market here. The way to do it is to empower our people. When people have money in their pockets, they are able to purchase goods. We can learn from a country like Japan. It is important to note that 90 per cent of Japanese trade is actually local. Their exports constitute only 10 per cent, because their people have the purchasing power. They are able to produce goods and machinery which are actually bought locally.

So, I think, in terms of empowering our people and creating a market for our products, we must target the lower bracket of our economic ladder to ensure that our people have the means to purchase goods. One way of ensuring that is to empower them economically in terms of their businesses. We should not concentrate on the export market. If our people had the money, we would sell our goods locally and our economy would grow, without having to beg the multilateral donors who give us conditionalities which reduce our dignity into beggars.

Mr. Temporary Deputy Speaker, Sir, as far as the *Jua Kali* industry is concerned, it is time we woke up to the reality. We need to standardise the products they produce so that we are able to impart technology and our people can move forward.

With those remarks, I beg to support.

Mr. Munya: Mr. Temporary Deputy Speaker, Sir, I rise to support this very important Motion. Economic growth that does not have any trickle-down effect to the very poor people in our communities is not sustainable. Any Government planning that does not support the informal sector, which is very critical in expanding the middle class, which is also critical in having purchasing power even for the products that the formal sector is producing, does not go very far in helping this country.

Mr. Temporary Deputy Speaker, Sir, it is important to acknowledge that most of the big companies that we talk about today started as small-scale enterprises. The big designing companies that are famous in Italy started as small-scale family enterprises. If the Governments of those days did not support those businesses, they would not be the multinational companies that we see today. Microsoft International was started by Bill Gates in a garage as a small-scale enterprise being run by a jobless person. That is why our Government must stop treating small enterprises as illegal. That is the general attitude we have in this country, yet we know that 60 per cent of the population in this country is either in the informal sector or agricultural sector.

Mr. Temporary Deputy Speaker, Sir, we have to come up with ways and means of assisting small-scale enterprises access credit, because that is the biggest hindrance to their development. India experienced a big economic boom recently. The World Bank was praising India because there was an economic miracle happening there. But the small people on the ground were not touched by the benefits of that growth. Within no time, the ruling party was thrown out of power because the general majority of the people were not happy with what was happening. Therefore, every planning that this Government undertakes must be geared towards assisting the ordinary small-scale trader access credit and get space to do business.

It is a shame that when you approach town, near the Globe Cinema roundabout, you will see small-scale traders operating on the roadsides where there are no facilities, and they can even be knocked down by vehicles. This is because our planners do not recognise these people as business people.

Mr. Temporary Deputy Speaker, Sir, the Government must also restructure the Postbank, because it was intended, from the very beginning, to be a vehicle of assisting small entrepreneurs to get credit. It must be restructured to give cheap credit to the small-scale traders. Right now, the institution is being run like any other bank and it is not friendly to the poor people. It was moved from the Post Office and now it is an independent bank which is being run like any other bank.

With those few remarks, I beg to support.

(Loud consultations)

The Temporary Deputy Speaker (Mr. Khamasi): Order! Mr. M. Maitha and Mr. Kombe, Standing Order No.85 does not allow you to do what you are doing now.

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, I wish to support this very important Motion. I hope Mr. Wamwere will be able to bring the Bill quickly because if it delays, it will come at a time when there will be no hawkers in this country. As we are aware, all the hawkers are being pushed out of Nairobi. This is a very unfortunate situation. The Government has pledged to create a lot of jobs and those jobs are now being lost. We have witnessed even disabled people being bundled into lorries and being chased out of Nairobi as if they are criminals. This attitude of the Government must stop immediately. If we develop this sector, it can earn a lot of revenue for local authorities. Therefore, the Government must take advantage in developing this sector.

Finally, in addition, the Government should start a specialised department that will look into the issue of ensuring that there are funds to assist this sector. The Non-Governmental Organisations (NGOs) raise a lot of money which is not always used properly. I wish that 50 per cent of the money that is raised by the NGOs could be channelled to the small-scale enterprises, so that our economy can grow.

With those few remarks, I beg to support.

The Assistant Minister for Local Government (Mr. Tarus): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this chance. I want to thank the hon. Members, particularly hon. Wamwere, who came up with this Motion.

The Ministry joins hands with the hon. Members to support the spirit of this Motion. We know that across the country, there is, indeed, a proliferation of small-scale enterprises and the sector is growing everyday. Hon. Members have given a lot of views with regard to how this sector has been managed in the past. This Motion is intended to ensure that this sector becomes planned and organised. The Ministry recognises that over 85 per cent of the poor people are engaged in this sector.

Mr. Temporary Deputy Speaker, Sir, the Mover of the Motion has requested to seek leave to introduce a Bill to establish a regulatory framework to manage the issues of the informal sector. However, I would like to bring to the attention of the hon. Members the fact that it does not mean that the regulatory framework has not been there in the past. The Local Government Act establishes local authorities across the country and local authorities have been playing the role of being the regulatory organs. Although the regulatory framework has been there, there have been gaps which have not allowed the sector to thrive. While preparing the Bill, we would like to encourage the hon. Member to liaise with our Ministry and other interested Ministries such as the Ministry of Finance and the Ministry of Trade and Industry for purposes of ensuring that what will become law will have received appropriate consideration.

Mr. Temporary Deputy Speaker, Sir, I also want to take note of the hon. Members' contributions with regard to issues like the demolition of kiosks. The Ministry intends to ensure that this sector becomes planned and organised and that, the jurisdictions of other businesses are catered for. We know that because of lack of open programmes to support the poor people, they have put up shops and kiosks on land that is owned, perhaps, by other people. They have also put up kiosks along the road reserves. We realise the importance of road reserves. We also realise the importance of security. It is important to take cognisance of the fact that the Ministry has also to ensure that it provides the necessary space to make sure that businesses thrive in this country.

The Shadow Minister for Local Government has talked about the demolition of kiosks. We need to know that there is a global view of what each local authority should do to make sure that waste disposal is managed properly and each business that operates fulfils the health concern requirements. Each trader should also not infringe on the interests of other businesses. We recognise the fact that kiosks have been demolished not because the regulatory framework has not been there. We need to make sure that we have the necessary legal framework to make sure that once these businesses are licensed, they operate in an organised manner and in the appropriate places.

Mr. Temporary Deputy Speaker, Sir, I also want to bring to the attention of the hon. Members the fact that the Ministry recognises that for this country to develop, the informal sector has to play a critical role. Hon. Members have mentioned all these issues and I hope that all these concerns will be addressed as we work together to develop an appropriate Bill to establish a regulatory framework. We promise to ensure that the poor people of this country are catered for.

With those few remarks, I wish to support.

Mr. G.G. Kariuki: Thank you, Mr. Temporary Deputy Speaker, Sir. I also rise to contribute to this very important Motion. This Motion should have been brought to this House many years ago, if the Government was operating according to the promises that it had given to the people. It should have been brought to the House even before the NARC Government came to power. Even the previous Government needed to have organised or created some order in this informal sector. The only way that Kenyans can get jobs, as we promised during the last general elections, is by encouragement---

The Temporary Deputy Speaker (Mr. Khamasi): Hon. G.G. Kariuki, you have very little time left before I call upon the Mover of the Motion to reply. In fact, you have only three minutes left!

Mr. G. G. Kariuki: Mr. Temporary Deputy Speaker, Sir, the only way that the Government can create jobs is by encouraging establishment of informal businesses because that is where one does

not need any skills. Anyone can start selling eggs to people who are willing to eat eggs. We need to encourage and support everybody who wants to do informal business. But, the traditional way of our politics has been that things have to be done the way the British did them. This is where we go wrong. Time has come when we must think about the wishes of our people. We must look at the wishes of the people, who elected us to this House, and bring matters to this House for resolution. That is what my colleague has done.

This is a great matter and the country will be happy to see it effected. I hope that the Minister, who has said that the hon. Member must consult and associate himself with other Ministries, will not drag the hon. Member backwards. I hope that the hon. Member will not accept to be handled the way we were, with regard to the Wildlife Bill. He needs to stand firm, bring his views here and let the Minister consult him and not the other way round. If we let things go wrong, this Bill will never be law. I do not know why the Government behaves as if it is not part of this country when it is dealing with matters of national importance. I think it is very important that we support---

The Assistant Minister for Local Government (Mr. Tarus): On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the hon. Member in order to impute a motive that we will not support this Bill when we have, in fact, given full intention to support it?

Mr. G.G. Kariuki: Mr. Temporary Deputy Speaker, Sir, I am perfectly in order. The history of this House is that, and you will prove me right, if you allow Ministers to meddle with your Bill, then you are in trouble.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): Where is the Mover of the Motion? Are you not interested in making a reply?

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I thought you would use the words "I call upon the Mover to reply."

(Laughter)

The Temporary Deputy Speaker (Mr. Khamasi): Hon. Mr. Wamwere, when I call the Mover, I am referring to you. So, you need to make your reply now.

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I wish to donate my time as follows; two minutes each, to Messrs. Miriti, Omingo, Mwaboza, Poghisiso, Kombe, half-a-minute to Prof. Mango and another half-a-minute for myself.

The Temporary Deputy Speaker (Mr. Khamasi): So, you have given out all your time?

Mr. Wamwere: No! Mr. Temporary Deputy Speaker, Sir, I have half-a-minute left for myself.

The Assistant Minister for Trade and Industry (Mr. Miriti): Thank you, Mr. Temporary Deputy Speaker, Sir. I want to thank Mr. Wamwere for bringing this Motion to this House. The Ministry of Trade and Industry supports it. However, there are sections of the Motion that I tend to disagree with. For instance, the section which implies that small-scale entrepreneurs and hawkers are people who are jobless. I would like to believe, and view these people as emerging entrepreneurs who have the potential to grow, and have come up willingly to enter into this difficult sector of business. We need to encourage those people and show them that what they are doing is good for the country. We should not say that what they are doing is a manifestation of poverty.

Indeed, the Government is trying to streamline this business. There is a Sessional Paper, which was introduced here by the Minister for Labour and Human Resource Development to ensure that the small and micro-enterprises programme is on. The programme targets the informal sector.

If you walk in the streets of Nairobi, and especially in the Central Business District (CBD), you will see that most of the people who own businesses are foreigners. On the other hand, hawkers and

owners of the small businesses are the indigenous people. They are in the streets, not because they are jobless or idle, but because they cannot afford rent and the goodwill asked for by owners of premises. We need to streamline the sector and have the businesses done in an orderly manner so as to ensure that the environment where they are operating from is clean and well managed. If, for instance, you go to the roundabout near the Central Police Station, you will find the small business people there.

I beg to support.

The Temporary Deputy Speaker (Mr. Khamasi): The Mover of this Motion should know that once he has been given time to make his response and donates it, then it is not the responsibility of the Chair to police whoever time has been donated to.

Mr. Omingo: Mr. Temporary Deputy Speaker, Sir, I want to thank the Minister for Local Government for supporting this Motion. This changes the position of this Government, which has in the past, been perceived as a Government of "class", where it only takes care of the needs of the affluent. I commend that move.

Banks, when they do not provide credit, are an impediment to development. They are supposed to help people make progress by introducing themselves to the informal sector. If they did this, we believe that more people would do business. This Government has not given the youth value for their votes. It concentrates on the needs of people with big money. Our policy is "one man, one vote." A youth's vote is just as important as a multi-millionaire's vote. We hope that the informal sector will absorb the youth who are the ones who voted and gave this Government an overwhelming majority votes. Thinking about the youth should be critical.

Malaysia has an arrangement where people in the informal sector are given time to operate in the streets. In Liverpool Street, London, they have this kind of arrangement. Our people are saying that they cannot operate because they do not have infrastructure and the toilets have been grabbed. Now that Mr. M. Kariuki wants to repossess stolen property, they should recover the stolen public toilets so that hawkers can utilise them. Let us plan our system and involve our people while doing this. If we have to develop, we must consider the less advantaged members of society, including the poor and early retrenchees, so that this Government is not perceived to be a Government of a particular class of people.

I beg to support.

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I---

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wamwere! You have not usurped the powers of the Chair.

Mr. Poghiso: Mr. Temporary Deputy Speaker, Sir, I would like to thank Mr. Wamwere for giving me one minute to contribute to this Motion. I hope the Chair will protect Mr. Wamwere from himself because he has donated all his time. He only has 30 seconds left. He will not even be able to say "I beg to move." I hope he will remember to say that.

Mr. Temporary Deputy Speaker, Sir, I support the Motion since it is a very important one. Most of the people who are hawking will stay with the money here in this country. The rest of the people we are trying to protect will repatriate money out of this country. Let us keep our own money because that is putting money where your mouth is.

Stakeholders including hawkers should be called to participate in the drafting of the Bill. The Government needs to support this Motion unreservedly and without conditions. We should plan our towns and cities well so that we allow for broad streets for people to hawk. We should train our people on hawking in the city so that they can do a good job.

I beg to support.

The Assistant Minister for Immigration and Registration of Persons (Mr. Mwaboza): Bw. Naibu Spika wa Muda, ningependa kutoa shukrani kwa kunipatia fursa hii kuchangia mjadala huu. Juzi, Wizara inayowashughulikia wafanyakazi ikijibu Swali hapa Bungeni ilisema ya kwamba

zaidi ya kazi nusu milioni zilibuniwa kutokaka na himaya hii. Ni vipi tutatathmini kwamba ni kweli watu hawa walikuwa wamebuniwa kazi ikiwa hakuna sheria muafaka ambayo itakuwa na mwelekeo na mpangilio wa jinsi watu hawa wanaorodheshwa na jinsi watakavyofanya kazi kulingana na sheria za mabaraza ambazo ziko katika nchi hii?

Itakuwa ni bora kabisa kwamba sheria kama hii ipitishwe kuzingatia wafanyakazi hawa. Mbali na hayo, huko sehemu ya Mombasa zaidi ya wafanyabiashara ndogo ndogo 10,000 walitapeliwa kwa kuchukuliwa Kshs200 wakiambiwa eti kwamba kutajengwa soko sehemu ya Mishomoroni. Kufikia sasa Baraza la Mji wa Mombasa limeshindwa kuweka hesabu zake ama kuwaelezea ni wapi pesa zao ziliwekwa, ilhali hawana njia yoyote ya kulipeleka Baraza la Mji mahakamani, kusudi ijulikane pesa zao zilifanyiwa nini. Sheria kama hii ikipitishwa, mahoka hao watazingatiwa, na haki zao zitakuwa zimetwa maanani.

Bw. Naibu Spika wa Muda, ikiwa sheria hii itakuwepo, sehemu kadhaa zitaweza kutengwa ndani ya sheria ile. Itakuwa vyema ikiwa kila baraza litatenga sehemu fulani ambapo mahoka hawa wataweza kufanya biashara zao. Tukiwa na mpangilio huo, itakuwa rahisi kwa baraza lolote kutoza mahoka hao ushuru katika sehemu wanazofanyia kazi, na kuimarisha hali yao ya kufanya kazi ama mazingira yao.

Nchi kama India, Afrika Kusini na China wana mipangilio hii na ndiposa wamebuni uchumi wao. Ikiwa nchi ya Kenya inataka kuendelea, ni lazima maswala haya yatekelezwe kwa sababu watu hawa ni wengi nchini.

Ikiwa ardhi ya umma ambayo ilikuwa imetengwa imenyakuliwa, basi kuna mpangilio wa kutumia mikokoteni katika sehemu fulani kusudi wafanye kazi yao.

Ninaomba kuunga mkono.

Mr. Kombe: Bw. Naibu Spika wa Muda, Ningependa kuchukua nafasi hii kuunga mkono Hoja hii ya wachuuzi watembezi. Katika Jiji la Nairobi, utawapata wachuuzi hawa wakifanya biashara hiyo saa za jioni na kupata riziki zao. Laiti kama Kenya nzima---

The Temporary Deputy Speaker (Mr. Khamasi): Order! Your time is up.

Mr. Wamwere, I hope you will have time to reply.

Mr. Wamwere: Mr. Temporary Deputy Speaker, Sir, I want to thank all hon. Members for the support they gave to this Motion. I want to thank the Government for supporting the Motion. We will bring the Bill to the House as soon as possible.

I beg to move.

(Question put and agreed to)

GRANTING OF EPZ STATUS TO TEA FACTORIES

Mr. Wambora: Mr. Temporary Deputy Speaker, Sir, I beg to move:-

THAT, aware that tea is Kenya's number one foreign exchange earner; aware further that tea production and supply far out-matches the international tea demand, a phenomenon which is likely to lead to stagnation or decline of tea prices and tea farmers' earnings; cognizant of the high cost of production, processing and packaging of tea, this House urges the Government to lower high cost of tea production by granting tea factories Export Processing Zones (EPZ) status under the EPZ Act, Chapter 517, upon application by respective tea factories.

Mr. Temporary Deputy Speaker, Sir, I gave notice of this Motion sometime last year in October, and I am glad to now have a chance to move this Motion which is of key importance to tea

farmers and the Kenyan economy. I want to take the next 15 minutes discussing the rationale of this Motion. I also want to expound on the EPZ Act as it relates to this Motion. Thirdly, I would like to outline the benefit of being in the EPZ status. Fourthly, I would like to show the impact of implementing this Motion.

Mr. Temporary Deputy Speaker, Sir, one of the major things to note about the tea sub-sector is the fact that today, Kenya is the world number one tea exporter, having surpassed Sri Lanka. In addition, tea is also Kenya's number one foreign exchange earner. This underscores the significance of this Motion, because it has serious implications if things go wrong for tea growers.

It has also serious implications if things do not work properly for the economy of this country. We must, therefore, take note of the issues which can threaten the earnings from tea. One of these threats is the one which has been mentioned in the Motion: that is the supply outmatching the demand.

This is a very dangerous phenomenon. When the supply out-matches the demand, the prices are bound to collapse or stagnate. When I gave notice of this Motion, I did not know what would happen six months later. As predicted by my Motion - I want to quote the statement of the Managing Director of the Tea Board in the *Daily Nation* of 27th May, 2005 - He says that the tea export volumes declined by 2.8 million kilogrammes in April, 2005.

The Temporary Deputy Speaker (Mr. Khamasi): Order, Mr. Wambora! Our Standing Orders are very clear. Newspapers are not authority on which you can quote.

Mr. Wambora: Mr. Temporary Deputy Speaker, Sir, I will not quote the newspaper. However, the truth is that in April, 2005, the tea export volumes in this country declined by 2.8 million kilogrammes as a result excessive supply of tea internationally. The prices fell by Kshs12 per kilogramme; from Kshs132 per kilogramme to Kshs120 per kilogramme. This is a very dangerous trend!

Secondly, this can lead to a decline in prices or stagnation, which has just been verified.

The other factor is the high cost of production, processing and transportation. We are also aware of the high cost of energy in this country which is more than twice as expensive as that of South Africa. Some tea factories have tried to use firewood, which is a danger to the environment. That is, therefore, not a solution.

Mr. Temporary Deputy Speaker, Sir, the other problem afflicting this sub-sector is the high cost of poor roads. As a result, tea factories are subsidising the Government because they are forced to maintain the tea roads that join the tea buying centres and the tea factories for the delivery of tea leaves. We are aware of the high cost of transportation. Transporting tea from Nairobi to Mombasa is more expensive than transporting it from Mombasa to Dubai. Therefore, the cost of production is exceptionally high.

With all these threats to the tea sub-sector, our number one foreign exchange earner and the top export in the world, as a country, we need to improve our road network and lower the cost of producing electricity. These remedial measures are long term solutions. They will take a long time to implement. There is need for an immediate solution to contain the threats to the tea sub-sector. The only way to do this is by granting the tea factories Export Processing Zone (EPZ) status. That is the way, we will reduce the cost of production for the farmers in the short term.

Mr. Temporary Deputy Speaker, Sir, there is urgent need for this short-term solution to be implemented. As I have said, in April, 2005, we lost Kshs12 per kilogramme of our tea because of over-production internationally.

Having said that, I would like to touch on the EPZ Act, Cap.517. Among other things, the purpose of this Act, which was passed by this Parliament in 1990 and came into force in October the same year, was four-fold. The first one was to establish the EPZs. The other purpose was to establish the EPZ authority, but more relevant for the purpose of this Motion was the fact that the Act was to provide for the promotion and facilitation of export- oriented investments and development of an

enabling environment for such investments and for connected purposes. So, we have a legal framework in place under which we can implement this Motion by allowing tea factories to fall under the Act. Now that 95 per cent of our tea is for export purposes, and it is only less than 5 per cent which is consumed locally, it falls very clearly under the EPZ Act. This is quite in order.

Mr. Temporary Deputy Speaker, Sir, the process of going about this for the Minister for Trade and Industry is very simple. It is defined by Section 15(1) of the EPZ Act. It says:-

"The Minister may, on recommendation of the authority, with the objective of attracting, promoting or increasing the manufacture of or trade in export goods by notice in the gazette, shall declare an area of Kenya to be an EPZ."

It is as simple as that. It is very easy for the Minister for Trade and Industry to establish tea factories as EPZs. It is just a question of gazetting them under Section 15 of the EPZ Act.

Mr. Temporary Deputy Speaker, Sir, the establishment of EPZ enterprises which are corporate companies is defined in the Act as follows:-

"The EPZ operator means a corporate body engaged in the management of an EPZ designated under Section 15."

So, tea factories, which are corporate bodies would fall under the EPZ status very comfortably.

Now Section 23(1) says:-

"No EPZ enterprise shall be established and the benefits, described in Part 8, shall not accrue to any enterprise unless the EPZ enterprise holds a valid licence issued by the authority, and further that the licence shall be granted by the authority if the application is found to meet the objective of this Act and if it is incorporated in Kenya."

These tea factories would qualify under that sub-section.

Mr. Temporary Deputy Speaker, Sir, having said that, may I now move on to the possible benefits which would accrue to EPZ enterprises. What kind of benefits do we want these tea factories to enjoy? Some of these benefits are defined in Section 29(1) of the EPZ Act. They include, among others, exemption from registration under the VAT Act and payment of Excise Duty as specified in the Customs and Excise Act. Exemption from the payment of Income Tax as specified in the Income Tax Act for the first ten years from the date of the first sale as an EPZ enterprise. Other benefits include, exemption from payment of Withholding Tax on dividends and other payments made to non-residents. Exemption from Stamp Duty, rent and penalty control and any other exemption as may be granted by the Minister by notice in the gazette. So, the benefits are ample; they are there. The tea sub-sector requires all these benefits, so that it is able to enjoy lower costs of production to maintain the leading status of Kenya being the major tea exporter in the world, and obviously maintain the leadership of this sub-sector as the No.1 foreign exchange earner in the country.

Mr. Temporary Deputy Speaker, Sir, having known the benefits which accrue to EPZ enterprises. I would like to end my presentation so as to give my Seconder a chance to also give his presentation on this Motion by indicating the impact of implementing the Motion. Now, the tea sub-sector has been administered by the Tea Act, Chapter 343, which was amended in 1999 by the Tea (Amendment) Act which took effect in 2000. The main objective was to amend the Tea Act, Cap. 348 of the Laws of Kenya to introduce measures which were necessary in order to accelerate the restructuring and liberalization of the tea industry. That is how the establishment of the Kenya Tea Development Agency (KTDA) came about. The incorporation of tea factories as autonomous companies came about as a result of the Tea (Amendment) Act of 1999.

When implemented, this Motion is going to take the liberalization of the tea industry or the tea sub-sector to a higher level which will create more viable, high-earning tea blending and packaging factories. This is very necessary, because even as Kenya becomes the number one tea exporter in the world, it only exports one per cent of value added tea as compared to Sri Lanka, which exports 54 per

cent and India, which exports 50 per cent. So, we are leading in exporting the commodity, but we are far behind in exporting value-added commodity. What is the implication of this? The implication is that, when we export a commodity which has no value addition as a raw material, we are getting only one-third of what we would get if we added value to it. When implemented, this Motion will enable tea factories to add value to blend their tea; to buy equipment and packaging materials tax free and be able to have blending and packaging factories throughout the country. By so doing, we will enable tea factories to earn three times what they are earning from their produce.

With those few remarks, I wish to move this Motion and call upon Dr. Rutto to second.

(Applause)

Dr. Rutto: Thank you very much, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to second the Motion by hon. Wambora. As you know very well, tea is a source of income for many Kenyans; therefore, it is necessary to enhance the sales and benefits that are accrued from tea production.

The Motion points out that the cost of production of tea is high, thereby affecting the amount of benefits that a farmer can accrue from the sale of tea.

This Motion urges the House to accept that tea-producing zones be declared Export Processing Zones (EPZs). One factor that the Mover of the Motion has pointed out is the cost of transportation. In many places, although the road network has somewhat been improved, the cost of transportation is still a big problem to farmers. I support the suggestion that these areas, where tea factories are located, be declared EPZs. There is a way in which we can reduce the cost of transportation. For example, we could introduce tax-free facilities in the importation of vehicles used to transport tea. Secondly, we could target the actual processing in the tea factories. We need to create an enabling environment for the workers, so that tea is produced at a low cost. The cost of machinery is at the heart of the processing of tea.

The Mover of the Motion said that by declaring the areas in which tea factories are located EPZs, we will, in fact, be providing an opportunity for the reduction of the cost of machinery that is used in processing tea. He also said that in so doing, we will be likely to enhance the value of the tea we produce, thereby opening a lucrative market for our tea. I wish to support those sentiments.

Mr. Temporary Deputy Speaker, Sir, we all know that tea is a major foreign exchange earner, especially when we refer to the agricultural sector. Coffee is, perhaps, another one. By enhancing the quality of tea, we will in effect also be enhancing our chances of earning more foreign exchange. The Mover said that Kenya produces more tea than any other exporting country in the world. So, by enhancing the quality of our tea, we will in effect also be enhancing foreign exchange reserves by exporting more tea. That is why we are saying that we should move---

The Temporary Deputy Speaker (Mr. Poghisio): Order, Dr. Rutto! You will have five minutes to continue next time we will be discussing this Motion.

Hon. Members, usually, we end Sessions for today at 12.30 p.m. However, if you look at your Order Paper, you will see that today there is the following: "Motion of Adjournment - End of Normal Sitting Day". The Minister for Justice and Constitutional Affairs will now move that this House does adjourn.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, thank you---

An hon. Member: Mr. Kamotho!

The Temporary Deputy Speaker (Mr. Poghisio): The Assistant Minister will first move the Motion of Adjournment and then we shall call upon Mr. Kamotho.

**MOTION FOR THE ADJOURNMENT
UNDER STANDING ORDER NO.18**

UNSATISFACTORY REPLY TO QUESTION
ON GOVERNMENT PLANS TO
PURCHASE COSTLY SECURITY EQUIPMENT

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I beg to move that, the House do now adjourn to discuss the Motion by Mr. Kamotho.

(Applause)

Mr. Khamasi: On a point of order, Mr. Temporary Deputy Speaker, Sir. Procedurally, I thought that, after the Assistant Minister has moved the Motion, you propose the question before you can allow Mr. Kamotho to proceed.

The Temporary Deputy Speaker (Mr. Poghiso): In fact, I would like to---

(Question proposed)

I would like to ask hon. Members to use the limited time properly. We only have 30 minutes. The Mover and the Responder should take the shortest time possible, maybe, five minutes, so that others could participate.

Proceed!

Mr. Kamotho: Mr. Temporary Deputy Speaker, Sir, on 28th July, 2005, I asked the Minister for Justice and Constitutional Affairs a Question regarding the procurement of security equipment as advertised in the media both locally and internationally. The answer given by the Minister was very unsatisfactory and inadequate and, therefore, I felt that there was need to discuss the matter more deeply, so that hon. Members can be brought into the picture as to what is going on in the Ministry of Justice and Constitutional Affairs.

The advertisement, which appeared in the local and international Press, was asking for bidders to supply 14 equipment to the Government of Kenya through the Ministry of Justice and Constitutional Affairs. Some of these equipment have absolutely nothing to do with the Ministry.

Furthermore, this year's Budget, 2005/2006 does not reflect any financial allocations for the purchase of that particular equipment. We all know that the Government of Kenya or even any agent of the Government of Kenya, cannot spend any money without the authority of this House. Therefore, it is important to know that what the Minister for Justice and Constitutional Affairs is doing is absolutely unconstitutional. To add on that, the items he claims to be buying are irrelevant to the terms of reference of his Ministry. What have items like riot helmets, bullet-proof vests, finger-print identification systems, passport reading machines and currency validation machines got to do with that Ministry? What do these particular items have to do with the Ministry of Justice and Constitutional Affairs?

(Applause)

Mr. Temporary Deputy Speaker, Sir, secondly, to spend this kind of money at this time when the country is suffering from extreme poverty is wrong. This estimated expenditure of, maybe, up to Kshs14 billion would have been better utilised by giving it to the Constituency Development Fund, and

every Kenyan would benefit from it. The NARC Government declared in 2002 that it will have zero tolerance to corruption. If this is not corruption, then what is it? We have never heard a Ministry procuring goods and services on behalf of other Ministries. It is like telling the Ministry of Gender, Sports, Culture and Social Services to procure drugs and medicine for the Ministry of Health.

(Applause)

Mr. Temporary Deputy Speaker, Sir, the Minister has to come out clean and tell us what is going on. Why was the tender for the purchase of this equipment not advertised by the Office of the President or the Ministry of Immigration and Registration of Persons, because this equipment is relevant to them? Why is the Ministry of Justice and Constitutional Affairs, a Ministry that is supposed to lead the fight against corruption, now leading in corruption?

I beg to move.

Mr. Billow: Thank you, Mr. Temporary Deputy Speaker, Sir. This is a very serious matter. We are talking about a Government which is undermining the very Constitution of this Republic which it undertook to honour. The Constitution is very clear that no one is authorised to withdraw a penny from the Consolidated Fund without authority of this House. So, to the extent that this Government continues to engage in off-Budget financing, it is not right. The Constitution envisages that any withdrawal of money for the purpose of an expenditure by the Government must be approved by this House. So, to the extent that they withdraw money and spend it without the approval of this House is an illegality. It is an illegality that was responsible for the Anglo Leasing affair. You will all remember that two years ago, that money was not budgeted for and this country almost lost billions of shillings.

Mr. Temporary Deputy Speaker, Sir, the excuse that we are given is that these are donor funds. There is no provision in the laws of this country that donor funds can be spent without accountability. Absolutely, there is no provision in our Constitution or in any of our laws for such an expenditure. Donor funds must be channelled through the Treasury and they must be spent in accordance with the provisions of the statutes in this country. Even if the donors are happy, we find this exercise nothing more than an attempt by the donors and this Ministry to collude and procure this security equipment from the donors, and in the process we know for sure that there is no security contract without kickbacks. Those donors are involved and it is this country which will bear that burden. We shall be the ones who will bear the debt burden. We shall be the ones who will pay and it is a rip-off, fraud and this contract must be stopped.

Secondly, it is the dignity of this House which is also at stake. We sit here quite often discussing Votes and approving what we believe is an expenditure for the Government. This country will incur billions of shillings worth of expenditure without approval by this House. This Government is really short-changing this House. It is our duty, as Parliament, to say: No! We cannot allow it to happen. There is no point why, we, as a House, sit down to legislate when that very legislation we make is thrown into the dustbin and the Government goes ahead to do whatever it wishes with regard to this money.

Mr. Temporary Deputy Speaker, Sir, when we review estimates, we are doing two things. First and foremost, we are discussing and scrutinizing expenditure for a particular project which has been submitted by the Government. So, we must have a project and then we allocate funds to it. This project of buying security equipment has not been provided for at all. We did not approve any project of procuring those kinds of security equipment. It is not a priority. We have the Economic Recovery Strategy (ERS) which sets out all the priorities of this country between 2004 and 2007. There is no provision whatsoever under the Ministry of Justice and Constitutional Affairs for procurement of those kinds of equipment. This programme known as Governance, Justice, Law and Order Sector Reform Programme (GJLOS), even in the context of the ERS, is for the purpose of building capacity of the

institution. That is the reform that GJLOS was supposed to undertake; not buying bullet-proof vests, hand cuffs or grenades to kill and maim our people in the streets because they are fighting for their rights.

Mr. Temporary Deputy Speaker, Sir, the problem we have in this country is one of corruption. The reason why those people in power avoid institutions, procedures and processes in procurement, is so that they can get a kickback out of it. There is no other reason that can be justified for this. Whether you pull funds because the donors brought them in or not, even under their very noses, this money will be stolen. A half of it will go to kickbacks. We will end up with materials that will not be of any use to us. The Kenya Police now has all those things. What they need is transport and fuel for their vehicles. What they need is known to them. Everyday, they are asking GJLOS to give them those things and they are not able to provide. Yet, we see millions of money being spent on these kind of things. This Government must show its commitment to fighting corruption. That can be done by going through the procedures laid out in law.

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

The Temporary Deputy Speaker (Mr. Poghisio): Would the Assistant Minister wish to respond?

Hon. Members: We still have time!

The Temporary Deputy Speaker (Mr. Poghisio): Let me give one hon.

Member a chance. Basically, I would like the Chairman of the relevant Committee to contribute. But, please, take as little time as you can. You do not have to take five minutes.

Proceed, Mr. Mwenje!

Mr. Mwenje: Mr. Temporary Deputy Speaker, Sir, our current President at one time said, when he was the Leader of the Official Opposition, that even if you want to rig, you must do so, wisely. You do not come out in the open and rig something when everybody is seeing what you are doing. You need to hide a little bit.

(Applause)

This scandal is not hidden even a little bit. Since this kind of Motion normally does not have proper conclusion on what we are saying, from the outset, I would like to request the Chair that it orders this matter to be referred to the relevant Departmental Committee for further investigation, so that we can summon the Minister for Finance, Minister in charge of national security, and Minister for Justice and Constitutional Affairs to tell us what this deal is all about. This is a clear deal which is being done here. We need to summon those Ministers. I know we have the power to summon them even without the Chair's directive, but we would even have more strength when it makes that kind of ruling. In the first place, why take all these security apparatus, as listed in this tender, to the Ministry of Justice and Constitutional Affairs? What is it that is being hidden in there? What is this deal that they do on our behalf, so that nobody can notice what is exactly happening? It is a clear deal which anybody can see?

(Applause)

Anybody can see that this is a clear deal. Even when you look at the items being bought, you wonder what priority there is in buying anti-riot helmets and shields when we already have a lot of anti-riot vehicles? Who does the Government intend to fight? Is the Government buying those equipment to use them against taxpayers? As a Government, let us be a little honest. We are here to serve our people.

Mr. Temporary Deputy Speaker, Sir, the list of these items includes some equipment for the Immigration Department. What does the Immigration Department have to do with constitutional

affairs? Fortunately, the department is also under the Departmental Committee on Administration, National Security and Local Authorities, which I Chair. This is something we will seriously scrutinise and find out why it is happening. We will establish the game that is being played.

As one hon. Member said, the expenditure of any public finances must be voted by this House. Even donor funding is normally included in the Budget. While presenting the Budget, the Minister said that any donor money that will come, it will be budgeted for and Parliament will be informed accordingly, for its approval. This expenditure is now being incurred without the approval of this House. Eventually, it is the people we represent here who are expected to repay that money. The Government does not have its own money to come and do this kind of thing.

Mr. Temporary Deputy Speaker, Sir, with those remarks, I appeal that we object totally to this kind of expenditure. The matter should now come to the relevant House Departmental Committee for final investigation.

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, let us agree that each hon. Member takes just two minutes so that more hon. Members may contribute.

Hon. Members: Yes!

The Temporary Deputy Speaker (Mr. Poghisio): Very well! I will have Mr. Maore and then Mr. Khamasi.

Mr. Maore: Mr. Temporary Deputy Speaker, Sir, if you remember very well, the Minister said that the advertisement appeared in all the newspapers. That is not true; it only appeared in the *Economist* newspaper. If you look very carefully, you will see that after it appeared in that publication, the Government pretended to be using the Financial Management Agency to control the donor-funded kitty. Now, the moment you start having public money coming into the country through private firms, and then the public has to repay that money; this is a scandalous Government we are having.

(Applause)

Mr. Temporary Deputy Speaker, Sir, just before we recovered from the deal between the Treasury and the Ministry of Home Affairs, where they "cooked" up the Anglo Leasing Scandal, and refused to tell us who these other headless monsters were, you can believe that, maybe, the same monsters are being staged managed overseas, so that they can purport to get this procurement. With me, is a copy of the Organisation of Government of May, 2005. If you look at the list of functions of the Ministry of Justice and Constitutional Affairs, the State Law Office or the Judiciary, there is no reference whatsoever about DJLOS. It is not a Government department or a parastatal or a non-governmental organisation. It is a conduit for some people to make money. This is immoral, illegal and unfair. So, it should be stopped.

Thank you.

Mr. Khamasi: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me a chance to also comment on this Motion.

First of all, I would like to advise Mr. Mwenje - the Chairman of the Departmental Committee on Administration, National Security and Local Authorities - that he does not need your authority to do what he has asked for. It is his responsibility, as the Chairman of that Committee to summon the Minister and interrogate him on this matter.

Mr. Temporary Deputy Speaker, Sir, the days when hon. Members on the Government side were used as rubber stamp are over. We cannot, out of our own morals, support an action like this one. I know that Mr. Githae wants to stand and defend the Government. Mr. Githae, you are a very clean man. Please, do not defend something immoral like this one. You should not support it. We have seen similar immoral things happen in other Ministries. We have seen the immorality that has been done in the allocation of resources in the Ministry of Water and Irrigation as well as in the Ministry of

Roads and Public Works. We shall stand straight and say "no" to what is wrong. We will not support Motions here because we belong to the Government side. If something is wrong, we must stand firm and say "no". What is happening in this Ministry is outright theft. It is irregular and immoral. It should not be supported.

Mr. Temporary Deputy Speaker, Sir, if the Ministers present budgets which are not straight, we will stand up for the people of Kenya and refuse to pass them. This is one item we will refuse to pass and Mr. Githae would better know that.

(Applause)

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to respond.

I am surprised that quite a number of hon. Members are not aware of this wonderful programme. "GJLOS" stands for "Governance Justice Law and Order Sector Reform Programme". This programme is spearheaded, co-ordinated and hosted by the Ministry of Justice and Constitutional Affairs, which has the overall mandate on matters incidental to good governance, human rights, accountability and transparency.

Mr. Temporary Deputy Speaker, Sir, as soon as this Ministry was created, we discovered that there were many programmes which were being run by various departments and Ministries which dealt with justice, law and order. However, they were not co-ordinated. There was a lot of duplication and wastage. What this wonderful programme has done is to request the donors to pool their aid in a basket. Instead of having 16 reporting requirements, meetings and review meetings, we have one document. So, the donors have put in their money.

I would like to assure this House that the Ministry of Justice and Constitutional Affairs does not even handle a single cent of that money. An agreement was signed between the Treasury and the donors. There is a formal agreement and that can be proved later on. It was drawn, signed and covered by the newspapers.

Under the first short-term programme, the donors agreed to contribute over Kshs500 million. In the current financial year, the donors have agreed to contribute Kshs1.6 billion. However, the overall programme will cost Kshs3.3 billion. Therefore, the issue that the Ministry will spend Kshs10 billion to buy security equipment is not correct. Again, I have been surprised by the ignorance of hon. Members. These funds are under Vote Head D17 - Ministry of Justice and Constitutional Affairs. So, what games is the Ministry playing? Those items will be brought here for scrutiny. I cannot be responsible for the failure of hon. Member to read!

Mr. Billow: On a point of order, Mr. Speaker, Sir. The Assistant Minister is taking us round in circles. He only needs to answer two questions.

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

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to talk about Vote D17, which covers the entire Ministry? We have scrutinised this Vote and there is no single provision for the purchase of those items. Could he give us a specific Head and Item under that Vote so that we can check them? Secondly, is he in order to say that the helmets and bullet proof jackets are not worthy that amount of money, and yet he has not itemised them? Let him tell us how many they are and we will tell him how much they cost.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, the only reason why the quantity of the helmets was not advertised is because this was deemed to be confidential information---

Hon. Members: How much were they?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): I will give you

the amounts. I have the information. First of all, we need to be commended for advertising the security equipment---

Hon. Members: *Huo ni uongo mtupu!*

The Temporary Deputy Speaker (Mr. Phogisio): Order, hon. Members!

Mr. K. Kilonzo, what is your point of order?

Mr. K. Kilonzo: Mr. Temporary Deputy Speaker, Sir, is the Assistant Minister in order to tell us that this equipment was not advertised because that information is confidential while we have a copy here and we know this money is supposed to fund the referendum?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, as I said, we need to be commended. This is because, for the first time, tenders for the supply of security equipment were advertised in our local newspapers---

Hon. Members: Which papers?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, they were advertised. There were 200 red helmets. They were specifically for the police. The long shields were 200---

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. Could he table that document?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me finish, so that the House can understand what happened. It is a pity that hon. Members asked for this information and yet, they do not want to listen to what I am saying!

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Githae, we understand that this information is public. Hon. Members, I am sure he will table that document.

Mr. Billow: Mr. Temporary Deputy Speaker, Sir, could he table the tender documents? That will give us the details he is reading to us and we will know whether it was Kshs10 billion or Kshs10 million.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, let me first go through this document and then table it later. Bullet proof vests were only 63---

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

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, could you protect me? Hon. Members want information, but they seem not to want to listen to what I am saying.

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! Let us listen to Mr. Githae.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, there were three finger printing and identification systems, 20 radio communication, 10 power supply, one radio communication, one base station, 2,000 radio handsets, eight metal detectors, 30 document inspection equipment, three passport reading machines, three stereo microscopes, three scanners and three digital cameras. So, what I am saying is that this is an important programme and a lot of things---

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

The Temporary Deputy Speaker (Mr. Poghisio): Order, hon. Members! You asked the Assistant Minister for information, which he is delivering now.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am giving what we have done so far. We have supported the Judiciary and trained officers from the Children Department---

Mr. Omingo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is the Assistant Minister in order to mislead this House that his Ministry is in charge of law and human rights? What is relevant between human rights, helmets and bullet-proof vests?

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, as I said, we are only co-ordinating this programme and dealing with the reforms. The requirements are given by the user departments.

These hon. Members do not want to hear what I am saying!

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

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Kipchumba, what do you want to raise?

Mr. Kipchumba: Mr. Temporary Deputy Speaker, Sir, you earlier made a ruling that Mr. Githae tables the documents he is going through. Could you confirm that he has actually tabled the bid documents?

The Temporary Deputy Speaker (Mr. Poghisio): Mr. Githae, just proceed!

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, I am just giving what this programme has done so far. Recently you saw the wonderful buses that were bought for the Prisons Department. That is part of this programme. The houses for the warders will be built. We have also trained immigration officers on human rights. We have also trained 4,000 Administration Police officers. We have purchased police vehicles, equipment---

Mr. Billow: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is Mr. Githae in order to talk about what GJLOS stands for when the issue is this equipment being ordered. Could he address the issues raised by hon. Member with regard to this procurement which was not approved by the House? It is not even in the Budget. In fact, it is very irregular.

The Assistant Minister for Justice and Constitutional Affairs (Mr. Githae): Mr. Temporary Deputy Speaker, Sir, as I said, there is nothing irregular about this programme. It is wonderful and, therefore, it needs to be supported. We have seen a lot of reforms that have been conducted under this programme. We are also helping NACADA and supporting the Registrar-General. So, there is nothing irregular about this programme. It is under the Budget under Development Vote No.17, and hon. Members can go and peruse this.

Thank you.

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Poghisio): Hon. Members, as you realise, we did interrupt the business of the House, to discuss matter. This House is now adjourned until this afternoon, Wednesday 10th August, 2005, at 2.30 p.m.

The House rose at 1.00 p.m.