

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 2<sup>nd</sup> February, 2011

The House met at 2.30 p.m.

*[Mr. Speaker in the Chair]*

### PRAYERS

### NOTICE OF MOTION

#### WAIVER OF MORTUARY FEES

**Mr. Mbau:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, noting that according to the Kenya Integrated Household Budget Survey (KIHBS) of 2005/2006 it was estimated that 17.5 million people, or an equivalent of 46 per cent of the Kenyan population live in absolute poverty and on less than one dollar a day; aware that the Government has been unable to provide them with free medical facilities to ease their burden and conscious that many families have had bodies of their loved ones not released for burials in various public and private morgues for lack of money to clear various fees and charges; further mindful that every Kenyan family would wish to accord their departed a decent burial at a place of their choice; this House urges the Government to waive mortuary fees in all public hospitals for bodies claimed within 21 days and those not claimed become a subject of disposal by the hospital authorities in accordance with law.

### QUESTIONS BY PRIVATE NOTICE

#### CORRUPTION CASES FORWARDED TO ATTORNEY-GENERAL BY KACC

**Mr. Kombo:** Mr. Speaker, Sir, I beg to ask the Attorney General the following Question by Private Notice.

(a) Could the Attorney-General provide details of corruption cases that the Kenya Anti-Corruption Commission (KACC) has investigated and forwarded to the Attorney-General for direction since the appointment of the current Director?

(b) How many of these cases has the Attorney-General approved for prosecution, rejected and/ or returned to the Commission and why?

**The Attorney-General** (Mr. Wako): Mr. Speaker, Sir, I stand to be guided by you. As you are aware, I had actually answered and laid on the Table the Fourth Quarterly Report of the Kenya Anti-Corruption Commission (KACC) covering the period

up to 31<sup>st</sup> December, 2010. Hon. Kombo said that since he had not read the Report, we continue today. I do not know whether he should start by questioning me on it or should I read again what I had read yesterday? I stand to be guided here.

**Mr. Speaker:** Resume your seat for a moment, Mr. Wako. I think the way you should proceed is take up from the information that you laid on the Table which is the Report of the KACC up to last year. If there have been any other cases beyond that Report, then you are to give information as to what those cases have been and so on.

**The Attorney-General (Mr. Wako):** Thank you, Mr. Speaker, Sir, for that guidance. Actually, the first document that I laid consisted of cumulative cases that I received from the KACC which covered the period up to 31<sup>st</sup> January, 2011. So, the additional cases I have got were in the first document that I laid on the Table. I then laid the two Quarterly Reports which have been laid on the Table since Prof. PLO Lumumba became the Director of KACC. According to me, that sort of explained everything. However, I can relay them again.

**Mr. Speaker:** Yes. Please do so in order that hon. Kombo may have access to them if he has not.

*(The Attorney-General laid the Reports on the Table)*

**The Attorney-General (Mr. Wako):** Mr. Speaker, Sir, as to part (b) of the Question, the recommendations that the KACC made in respect of each of the files submitted to me and my action thereon and the reasons therefore are set out in great detail in the Reports that I have laid in this House.

**Mr. Kombo:** Mr. Speaker, Sir, I had a chance to peruse through the documents and to my pleasant surprise--- In the past there has been a ping pong game between the KACC and the Attorney-General. They have been accusing each other of not doing this and that. However, it would appear that since Prof. Lumumba became the Director of KACC, he has been agreeing on many cases with the Attorney-General. So, with regard to the Report that we have, they have agreed almost 100 per cent.

The Attorney-General said that the reasons for returning some of the files are contained in the Report. In the second case, the Attorney-General has returned a file recommending further investigations. What are the reasons for doubting that the KACC did its work well?

**Mr. Wako:** Mr. Speaker, Sir, it is true that if you look at the two quarterly reports, particularly the last pages of each report which contains a statistical summary of files forwarded to the Attorney-General, we have agreed on nearly all the files so that by the end of that quarter there were no files awaiting the Attorney-General's action. This applies to both quarters. However, there are two files in the second and third quarters where as the hon. Member states, we had to return the file because we felt that there were many areas which required further investigations and resubmission.

I can confirm to this House that in respect of that file which hon. Kombo has talked about, the KACC has, indeed, carried out further investigations covering the areas that we asked and they have only today returned the file for our perusal. I cannot give the details. Normally, we identify the specific areas which require further investigations.

**Mr. Imanyara:** Mr. Speaker, Sir, it is common knowledge that over a month ago His Excellency the USA Ambassador handed over to Prof. PLO Lumumba a dossier for

the investigation of cases involving drug trafficking. Could the Attorney-General tell us whether he has received any report specifically in relation to the narcotics trade? If he has, why is it that the Police Department is issuing information to the public that it is unable to make headway when, indeed, the investigation was being carried out by another agency?

**Mr. Wako:** Mr. Speaker, Sir, I would like to state that I have not received any such file concerning the investigations of the drug-related cases either from the KACC or the Commissioner of Police. I stand to be corrected, but I believe that the position of the Director of the KACC was that the investigation into the drug-related cases did not come within the purview of the Anti-Corruption Economic Crimes Act. He, therefore, left the matter to be dealt with by the Department of Criminal Investigations. I am yet to receive any report to that regard.

**Mr. Twaha:** Mr. Speaker, Sir, I know of certain cases where KACC forwarded some cases to the Attorney-General, but they only submitted the incriminating evidence and willfully withheld the exonerating evidence. Given the performance contract and people wanting to look busy, could the Attorney-General assure this House that he will ask the KACC to be forwarding exonerating as well as incriminating evidence?

**Mr. Wako:** Mr. Speaker, Sir, I am not aware of any file where the KACC only refers to me incriminating evidence and not evidence that can acquit the accused person. The ethics governing investigations and criminal procedure is that we are not here to condemn or acquit. We are prosecutors and this is in our national prosecution policy, which I launched last year. A prosecutor must submit to the court all the evidence relating to that case, whether it supports the prosecution or not and it is up to the court to decide. The job of the prosecutor is to ensure that justice is done. If you come across any such files, please, bring them to our attention and when we are reviewing that particular file, we can ask many questions. Sometimes we return the files for further investigations. At that stage, you can bring in that particular evidence which you feel has been left out.

**Mr. Njuguna:** Mr. Speaker, Sir, emanating from the report given by the Attorney-General, you will note that about 53 cases were referred to his office for prosecution. Could he inform this House what deliberate steps he is taking to make sure that all these cases will be prosecuted even before his retirement this year?

**Mr. Wako:** Mr. Speaker, Sir, I hope the Member is asking for a further extension before I retire, so that I can deal with all these cases. The fact of the matter is that one cannot prosecute all the cases by the time he retires. I am the last Attorney-General who is also the prosecutor. Since 27<sup>th</sup> August, 2010, I am wearing two hats, namely, for the Attorney-General and the Director of Public Prosecutions. That is why I recently called for the appointment of the Director of Public Prosecutions, so that there is a proper appointment under the Constitution of an Attorney-General who will only be the principal legal advisor to the Government. I am sure that the Director of Public Prosecutions, who will be appointed, will continue the good work that the Chief Public Prosecutor, Tobiko Keriako, has done. I can inform this House that I was with the Committee of Experts and as soon as I realized that the Director of Public Prosecutions will become a constitutional office, we immediately began re-organizing that office. It is now really organized just awaiting the appointment. I am sure we will continue with the prosecution of corruption cases with rigor and gusto.

**Mr. Kombo:** Mr. Speaker, Sir, to successfully prosecute corruption cases is not an easy job. Part of the problem that we have had is that the KACC investigates while the office of the Attorney-General prosecutes. The people who have all the facts are at the KACC. Now that the Attorney-General is actually retiring, could he consider giving more powers to the Commission, so that it can prosecute? Prosecutorial powers should be given to the Commission because it is the one that investigates cases and is the only one that can best prosecute.

**Mr. Wako:** Mr. Speaker, Sir, my opinion on this matter is that now that we are going to have a Director of Public Prosecutions, a constitutional office, devoted to nothing else but prosecutions, he should continue to prosecute corruption cases. When the KACC was being constituted, I read a number of documents, some from Transparency International, by experts who had been dealing with this issue and they felt that for mega corruption or any serious crime, it is too dangerous for one institution to be charged with investigative powers plus prosecutorial powers. That power corrupts and absolute power corrupts completely. This applies more to these type of cases. Unless you have checks and balances between the investigator and the prosecutor, some people will be taken to court with very little evidence just because the investigator has the power to prosecute. If the powers are separate, the investigator will be focused on obtaining sufficient evidence to allow that other person to come to the same conclusion and prosecute.

So, in the interest of justice, I am still of the opinion that in corruption and serious criminal cases, the distinction between the investigator and the prosecutor should be there. What is important is that the two should work in tandem. While respecting their independent functions, they should work in unison. That is why under the current Constitution you will notice that the Commissioner of Police, for example, is now mandated to act on the request by the Director of Public Prosecutions to investigate. Therefore, to that extent, he is answerable to the Director of Public Prosecutions as opposed to now when he is not even answerable to me at all.

#### MASS FAILURE IN KCPE IN KISII/NYAMIRA COUNTIES

**Dr. Monda:** Mr. Speaker, Sir, I beg to ask the Minister for Education the following Question by Private Notice.

(a) What was the cause of mass failure in KCPE in Kisii and Nyamira Counties?

(b) Could the Minister provide a list of all registered candidates in the 2010, Kenya Certificate of Primary Education in Kisii and Nyamira Counties and the breakdown of their performance?

(c) What is the Government doing, in terms of policy development, to address the poor state of education standards nationally?

**The Assistant Minister for Education** (Prof. Olweny): Mr. Speaker, Sir, I beg to seek the indulgence of the House to allow me to answer this Question tomorrow in the afternoon. I do not have an appropriate answer yet to the Question.

**Mr. Speaker:** Dr. Monda!

**Dr. Monda:** Mr. Speaker, Sir, I do not have any objection to that.

**Mr. Speaker:** Very well! So, I direct that you answer this Question next Wednesday. Or you are ready to answer it tomorrow in the afternoon? Are you sure, Assistant Minister?

**The Assistant Minister for Education** (Prof. Olweny): Mr. Speaker, Sir, I can handle it tomorrow.

**Mr. Speaker:** You can? It is so ordered!

*(Question deferred)*

GOVERNMENT POSITION ON VICE-PRESIDENT'S  
"SHUTTLE DIPLOMACY"

**Dr. Khalwale:** Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs the following Question by Private Notice.

(a) Could the Minister clarify whether the mission by the Vice-President to lobby African States to support Kenya's bid to pull out of the International Criminal Court (ICC) reflects the official Government position on the issue?

(b) How much money has the Government spent on the Vice-President's "shuttle diplomacy" so far?

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Mr. Speaker, Sir, I beg to reply.

(a) I wish to inform this House that the mission that was undertaken by His Excellency the Vice-President and Minister for Home Affairs of "shuttle diplomacy" across the African Continent was not with an objective of lobbying the African countries to support the deferral of the International Criminal Court (ICC) intended prosecutions for one year. The "shuttle diplomacy" was with a view of bringing the process of justice for the election crimes back home, so that the suspects can be tried locally since we believe that even the ICC Tribunal appreciates the fact that a local tribunal is better than taking our people to be tried in Europe.

The ICC Prosecutor, Mr. Luis Moreno Ocampo, on 17<sup>th</sup> December, 2010, named six suspects whom he was requesting the ICC to issue summons to secure their attendance at the court. However, the Kenyan Government is not a failed State. With the passage of our new Constitution, the Government felt that there was a necessary need for us to negotiate and have a moral position whereby the African Union, the Inter-Governmental Authority on Development (IGAD) and the East African Community would have to support our country to solve the problem of the post-election violence peacefully by providing justice and at the same time making sure that we have reconciliation in our country. The grant of a deferral would, therefore, allow for sufficient time to revamp the key judicial institutions and other Government infrastructure.

Further, prosecution of post-election crimes at home would facilitate the trial of all post-election violence suspects, and not just those who are bearing the highest responsibility. Conducting those trials locally would send a very strong message both internally and externally, so that Kenya would no longer accept impunity.

So, even when the Vice-President and Minister for Home Affairs was doing the "shuttle diplomacy" within African, his agenda was not to demand that Kenya pulls out of the ICC. The agenda was to ask that the ICC allows us to look for a local mechanism, which would then make it possible for all the victims and all the perpetrators of the crime to face each other.

Thank you, Mr. Speaker, Sir.

**Dr. Khalwale:** Mr. Speaker, Sir, before I raise my supplementary question, I would like you to allow me to raise a point of order. The Question has two parts. The Assistant Minister has answered only part “a”. He has told us nothing about how much money the Government has spent on the “shuttle diplomacy” that was undertaken by the Vice-President and Minister for Home Affairs.

**Mr. Speaker:** That is valid!

**Dr. Khalwale:** Mr. Speaker, Sir, before he responds, he has given me a written answer which bears his response to part “b” of the Question.

**Mr. Speaker:** Assistant Minister, could you respond to part “b” of the Question?

**The Assistant Minister for Foreign Affairs (Mr. Onyonka):** Mr. Speaker, Sir, I apologise. The information I have from the Ministry of Foreign Affairs is that the amount of money that the Kenya Government spent for the “shuttle diplomacy” within the last two weeks is Kshs3,659,728. This amount does not include the small amount of money that the Vice-President and Minister for Home Affairs and the officers he carried along with him have spent from his Ministry. This is a budget which has been given to me by the Ministry of Foreign Affairs, which includes expenses incurred by officers from the Ministry of Foreign Affairs, who were with the Vice-President and Minister for Home Affairs.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Arising from hon. Khalwale’s point of order and the answer given by the Assistant Minister, it is clear that the answer to part “b” of the Question is not complete in the sense that it does not encompass the amount of money that the Government has spent. He seems to be concentrating on what his Ministry has spent. Is that in order?

**Mr. Speaker:** Assistant Minister, is your answer incomplete?

**Mr. Onyonka:** Mr. Speaker, Sir, unfortunately, the answer is “yes”, because we were unable to get the Accounting Officer in the Office of the Vice-President and Ministry of Home Affairs to give us the full amount. So, the figure I have given is what the Ministry of Foreign Affairs has spent. If need be, I will bring the figure relating to the amount which was spent by the Office of the Vice-President and Ministry of Home Affairs.

**Dr. Khalwale:** Mr. Speaker, Sir, I am sorry to yet again request that before I raise my supplementary question, you allow me to raise a point of order.

**Mr. Speaker:** Proceed.

**Dr. Khalwale:** Mr. Speaker, Sir, given that the Assistant Minister has admitted that his answer is incomplete, could I request the Chair that we give him until Tuesday, so that we can get a comprehensive answer to this very important issue touching on accountability? The reason for raising this point of order is that if we are going to accept only the expenditure that was incurred by the Ministry of Foreign Affairs, the taxpayer will not know how much was spent from the Office of the Vice-President and Ministry of Home Affairs, how much was spent from the Office of the President and how much was spent from Parliament.

The Vice-President and Minister for Home Affairs was having, in some of those trips of his, accompaniments of up to ten people. Those people did not come from the Office of the Vice-President and Ministry of Home Affairs, and the Office of the President, alone. Some of them come from Parliament. Therefore, the taxpayer would like to know about the expenses incurred by those other persons who accompanied him.

Mr. Speaker, Sir, I beg that you defer this Question because, for example, when we find that Parliament also paid for Members of Parliament who accompanied the Vice-President and Minister for Home Affairs, we would want to know under what circumstances the Parliamentary Budget was utilised for purposes of funding those suspect trips.

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

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

Assistant Minister, will you be able to give a fuller answer if you are given time, and how much time do you require?

**Mr. Onyonka:** Mr. Speaker, Sir, the answer for that question would be “yes” for the simple reason that as you are aware, the team that has been working with the Vice-President and Minister for Home Affairs has been away. Some of them have been coming in from Addis Ababa. If we are allowed, I believe, up to Thursday, I should come with a comprehensive answer.

**Mr. Speaker:** Are you asking for up to tomorrow?

**Mr. Onyonka:** Mr. Speaker, Sir, I am asking for up to Tuesday, next week.

**Mr. Speaker:** Very well! I direct that the Question appears on the Order Paper on Tuesday, next week.

*(Question deferred)*

Next Question, Sheikh Dor!

#### LAND OWNERSHIP IN LAMU COUNTY

**Mr. Yakub:** Mr. Speaker, Sir, I beg to ask the Minister for Lands the following Question by Private Notice.

(a) Could the Minister provide the names of landowners and acreage of ownership in Lamu County, and those issued with title deeds in the last ten years and indicate the specific dates they were issued?

(b) Could the Minister confirm that the Government plans to settle persons displaced during the 2008 post-election violence in Lamu County and, if so, is the Minister aware that the plan is creating tension in the area?

(c) What measures is the Minister taking to ensure that the concerns of the residents are addressed, and could the Minister consider resettling the local Internally Displaced Persons (IDPs) first before resettling IDPs from outside the County?

**The Assistant Minister for Lands** (Mr. Bifwoli): Mr. Speaker, Sir, I stand to beg the indulgence of the Chair to give us more time to look for the answer.

**Mr. Speaker:** Very well! As a matter of fact, I had received prior communication that this Question will need more time.

Yes, Sheikh Dor!

**Mr. Yakub:** Mr. Speaker, Sir, I accept.

**Mr. Speaker:** Therefore, we will defer this Question to next Wednesday afternoon.

*(Question deferred)*

Hon. Members, the same will apply to Question No.639; which is also deferred to next Wednesday for the same reason.

## **ORAL ANSWERS TO QUESTIONS**

*Question No.639*

ORIGINAL ACREAGE OF KARI LAND LR164/4/R

*(Question deferred)*

**Mr. Speaker:** Next Question, Member for Makueni!

*Question No.428*

TRANSFER OF KATHIKWANI PRIMARY SCHOOL  
TO MUKAA EDUCATION OFFICE

**Mr. Kiilu** asked the Minister for Education:-

(a) why Kathikwani Primary School, which is administratively in Katani Sub-location, Mutyambua Location in Nzau District, was transferred to Mukaa District Education Office; and,

(b) when the school will be transferred back to Nzau District Education Board for administration along with all other schools in Nzau District.

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

(a) Kathikwani Primary School has never been transferred. Currently, it is administratively in Kasikeu Division, Mukaa District, as per the District Education Board returns and records held by the Ministry.

(b) In view of the answer to part "a" of the Question above, the issue does not arise.

**Mr. Kiilu:** Mr. Speaker, Sir, while I agree with the Assistant Minister's answer, currently this school is being administered from Mukaa District. I wish to bring to the attention of the Assistant Minister the fact that this school is in Katani Sub-location, which is in Mutyambua Location, Makueni Constituency. Why has the Ministry found it necessary to retain this school in a district education board which is not in my constituency?

**Prof. Olweny:** Mr. Speaker, Sir, the Ministry of Education is not involved in the drawing of boundaries of districts. The information that we have is that this school is close to the boundary but it is in Mukaa District. It is actually in Kilome Constituency and I have talked personally to the District Officer on the ground. District boundaries are drawn by a different Ministry. So, we go by the boundaries as they are.



**Mr. Kiilu:** Mr. Speaker, Sir, I do not want to dispute what the Assistant Minister has said about the boundaries but what I know is that this school is in Mutyambua Location in my constituency. I am raising this Question because the residents of this location have raised concerns that the school does not get funding from the Kilome and Makueni Constituencies Development Fund (CDF). The only way I can support this school using the CDF money is by the school being transferred to where it rightfully belongs and that is Nzaui DEB. Could the Assistant Minister confirm that he will take that action?

**Prof. Olweny:** Mr. Speaker, Sir, could the hon. Member repeat what he wants me to confirm? I did not get that well.

**Mr. Kiilu:** Mr. Speaker, Sir, for the Assistant Minister's sake, I would like to repeat what I have said. I have no quarrel with this school being administered from where it is now but my problem is that the residents of Mutyambua Location where the school is built do not benefit from the CDF, Makueni because the school is administered from somewhere else. Even the Kilome CDF office says that the school is built in another location, therefore, they cannot support it. Could the Assistant Minister take a corrective measure of returning this school to Mutyambua Location so that it can be administered and funded from the rightful DEB which is Nzaui?

**Prof. Olweny:** Mr. Speaker, Sir, there are two ways left for my colleague the hon. Member. First is to deal with the issue of boundaries. That means involving the community that is within that area and the Provincial Administration with regard to where the school is. Secondly, the two DEBs; one for Mukaa District and the other one for the hon. Member's district should agree on where the school should be placed. After that, they will bring the minutes to the Ministry headquarters. We shall compare notes with the Ministry in charge of Provincial Administration and Internal Security and make an appropriate decision. I cannot make the decision that he wants me to make on the Floor of the House because it involves another Minister as well.

**Mr. Speaker:** Let us move on to Mr. Olago's Question!

**Mr. Olago:** Mr. Speaker, Sir, before the Minister rises to answer that Question I would like to seek a clarification. The Question that I drafted was directed to the Office of the Deputy Prime Minister and Minister for Finance. That is where the Office of the Clerk forwarded the Question, but the answer is coming from the Ministry of State for Provincial Administration and Internal Security. The Question touches on procurement which is under the Office of the Deputy Prime Minister and Minister for Finance. I wonder why the Question is being answered by the Ministry of State for Provincial Administration and Internal Security.

#### *Question No.404*

#### DIRECT PROCUREMENT OF AIR TICKETS FROM KQ

**Mr. Olago** asked the Minister of State for Provincial Administration and Internal Security:-

(a) whether he is aware that by a Circular Letter Ref. No. OP/CAB/9/67A dated 10th August, 2010, the Permanent Secretary in the Office of the President directed all Permanent Secretaries and Accounting

Officers of the Government and Parastatals to procure all air travel tickets directly from Kenya Airways;

(b) whether he is also aware that the directive altered the specific provisions of Section 4 (1) (a) of the Public Procurement and Disposal Act and has caused concern to other airlines; and,

(c) what steps he is taking to ensure the circular is withdrawn immediately.

**Mr. Speaker:** Maybe the Minister will explain why that is the case.

Proceed, Mr. Ojode!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, this Question was directed to the Ministry of State for Provincial Administration and Internal Security because the Permanent Secretary who gave the directive comes from the Office of the President.

I beg to reply.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. The circular the Assistant Minister says came from the Office of the President, actually came from the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service and the Question was rightly forwarded to the Office of the Deputy Prime Minister and Ministry of Finance. What does the Assistant Minister mean when he says that the circular came from his Ministry and yet it is not in charge of procurement?

**Mr. Speaker:** Order, the Member for Yatta! Hon. Members, the essence of Questions is that they seek information from the Government. It does not matter how the Government supplies that information. So, you first receive the information and if there are any weaknesses then you may want to interrogate that matter.

Proceed, Mr. Assistant Minister!

**The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode):** Mr. Speaker, Sir, I concur with your ruling that let them listen to my answer first and if there are further interventions then we will respond to them.

(a) Mr. Speaker, Sir, I am not aware that through Circular Letter Ref.No.OP/Cabinet/9/674 dated 10<sup>th</sup> August, 2010, the Permanent Secretary, Secretary to the Cabinet and Head of the Public Service in the Office of the President directed all Permanent Secretaries and Accounting Officers of the Government and parastatals to procure all air travel tickets directly from Kenya Airways.

(b) I am not aware that there is any alteration of the specific provisions of Section 4(1) of Public Procurement and Disposal Act, 2005.

(c) There is no intention of withdrawing the said circular.

**Mr. Olago:** Mr. Speaker, Sir, in his answer the hon. Assistant Minister says that he is not aware about such a circular. I would like to table before the House the circular that I am referring to.

*(Mr. Olago laid the document on the Table)*

The circular that I am referring to is dated 10<sup>th</sup> August, 2010. It is addressed to all Permanent Secretaries and Accounting Officers. It reads as follows:-

“Office of the President: Government Support to Kenya Airways and Buying of Tickets Directly from Kenya Airways Kenya Airways has requested me to bring to the attention of Government Ministries and parastatals that procuring tickets directly from Kenya Airways is more cost effective. Furthermore, the management of the Kenya Airways has committed itself to offering attractive discounts to Government Ministries and parastatals when the tickets are sourced directly. You are also advised that the Government and parastatals should accord priority to national careers whenever they are travelling abroad.”

Mr. Speaker, Sir, that being the circular and considering the provisions of the Public Procurement and Disposal Act, clearly in this circular Mr. Muthaura was impressing on Government Ministries and parastatals to offend the provisions of the procurement rules. If that is the case, why is the Ministry saying that it is not aware of this circular when it is there?

**Mr. Ojode:** Mr. Speaker, Sir, you will agree with me that the Government will save money if the Kenya Airways management will offer a discount. The letter says very clearly that the Kenya Airways should be accorded priority. That does not mean that they should not buy tickets from anywhere else. However, whenever Government officials want to use the airline, because of the massive discounts which the Ministries will get, they should be accorded priority in purchasing of the tickets.

**Mr. Olago:** On a point of order, Mr. Speaker, Sir. Even if the discounts are massive, is it in order for the Government Ministry to abuse its authority or disobey an Act of Parliament?

**Mr. Speaker:** Order! The Member for Kisumu Town West, I do not see that the manner in which you are pursuing the matter is regular because if you look at your Question, you will find that part “a” is asking whether the Minister is aware that by Circular Letter Ref. No.OP/CAB/9/67A dated 10<sup>th</sup> August, 2010, the Permanent Secretary in the Office of the President directed--- The key word there is “directed” all Permanent Secretaries and Accounting Officers--- The letter that you have tabled which is dated 10<sup>th</sup> August, 2010 does not say so. There is no directive in this letter. I am afraid that your pursuit on those lines appears wrongful.

**Ms. Karua:** Mr. Speaker, Sir, whereas I must confess that Kenya Airways is my airline of choice, and that as nationals we have a duty to support our national carrier, could the Assistant Minister go through the Procurement and Disposal Act and tell us whether there is a clause that allows the Government to prefer Kenya Airways? If there is not, could the law be amended to have such a clause?

**Mr. Ojode:** Mr. Speaker, Sir, I think my colleagues should go through the circular which was sent out by the Permanent Secretary. The circular was suggesting that in the event that you need to travel outside Kenya you will get cheaper tickets from the Kenya Airways, because they have agreed to give good discounts for those who go out of the country. The circular does not direct. The circular is just suggesting that in the event that you want to go outside the country, you should make it a priority of getting ticket from the Kenya Airways. That is not a directive. The Permanent Secretary is suggesting that---

**Mr. Speaker:** Order, Assistant Minister! Did you hear the question by the Member for Gichugu? Ms. Karua, maybe you can repeat the question so that the Assistant Minister understands.

**Ms. Karua:** Mr. Speaker, Sir, I am appreciating Kenya Airways, which is my airline of choice and our national carrier, and I believe, as nationals, we have a duty to support it. I am, therefore, in appreciation asking him: Is there a section in the procurement law which would allow the Government to prefer that all its agencies buy tickets from Kenya Airways? If there is not, could he consider expanding the law to include such a section?

*(Applause)*

**Mr. Ojode:** Mr. Speaker, Sir, that is a good suggestion. I would buy it. Indeed, we need to amend the Procurement and Disposal Act in order for that section to be incorporated in it.

**Mr. K. Kilonzo:** Mr. Speaker, Sir, whereas we appreciate what Kenya Airways is doing, we are equally setting a very bad precedent in this country, given that there are other airlines owned by locals. By doing this, are you trying to get these airlines, for example Fly 540, Precision Air, Safari and Jetlink, out of business?. Are you not giving advantage to one airline over the others? Is that fair?

**Mr. Ojode:** Mr. Speaker, Sir, just as Ms. Karua said this is our airline. We are not preventing other airlines giving us a discount. This is a competitive business. If Jetlink wants to give competitive rates, let it also write to us, so that we can consider it alongside Kenya Airways.

**Mr. Linturi:** On a point of order, Mr. Speaker, Sir. The purpose of the Procurement and Disposal Act is to enhance efficiency and competition. In view of the circular, however much I appreciate that you need to support our national carrier, I am afraid this is giving leverage to Kenya Airways to do business at the expense of others. If we are to support our national carrier, I want to know the percentage of shareholding of Kenyans in Kenya Airways, so as to show that we are supporting our own.

**Mr. Ojode:** Mr. Speaker, Sir, you will agree with me that the particular question is different from what I was asked. If he wants to know the percentage of shareholding, I will give him. However, the hon. Member should file a Question in order for me to give him the shareholding percentage .

**Mr. Olago:** Mr. Speaker, Sir, considering that Kenya Airways is a private company, because the Government shareholding is less than 50 per cent; is it not discriminative for the Government to give priority to Kenya Airways, and leave out other privately-owned airlines in Kenya?

**Mr. Ojode:** Mr. Speaker, Sir, I mentioned here that we have public and private airlines. If we can get competitive rates from those privately-owned airlines we will consider them along with Kenya Airways. We are not denying our people the right to use them. However, let them also be competitive.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. I was really hoping that I would catch your eye. Thank you.

Mr. Speaker, Sir, I will be out of order if I do not declare my interest. I have an interest in the travel business. The question here is that Kenya Airways is now supplying tickets to the Government and parastatals without having gone through the procurement

procedure. If Kenya Airways had gone through the process with travel agents, this Question would not be before the House. Kenya Airways has not participated in any tender, yet they are supplying tickets. The question is very simple: Why should Kenya Airways be exempted from procurement procedures, which other players in the industry have been subjected to?

**Mr. Speaker:** Order, Member for Yatta! You realize that you stood on a point of order!

**Mr. C. Kilonzo:** Is he in order to mislead the House?

*(Laughter)*

**Mr. Speaker:** Assistant Minister, you may respond!

**Mr. Ojode:** Mr. Speaker, Sir, I do not think I am misleading the House. You know this is business; even if you want to leave for New York today, you will ask your secretary to call the travel agents to look for a competitive ticket. You will find that Kenya Airways offers a cheaper rate. My Permanent Secretary was simply advising that those who want to go out---

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

**Mr. Ojode:** Why do you not let me finish my explanation?

**Mr. Speaker:** Order, Member for Yatta! Assistant Minister, just respond to the part where the Member for Yatta did assert that Kenya Airways has not gone through the procurement procedures for tickets to be purchased from the airline by different Government departments.

**Mr. Ojode:** Mr. Speaker, Sir, tickets are purchased through procurement procedures. I was explaining to him that we have just notified various Ministries that they might get cheaper tickets from Kenya Airways. However, they should go through the procurement procedures.

**Mr. C. Kilonzo:** On a point of order, Mr. Speaker, Sir. The Assistant Minister is deliberately misleading the House. Kenya Airways has never participated in any tender, and is not listed as a supplier after having gone through the process. I know it because I declared my interest in this matter; I have had audience with this association dealing with travel agents. The Assistant Minister should come out very clearly. He knows very well that there is no Ministry or parastatal which has been shortlisted. The matter is very simple, they must participate in a tender process.

**Mr. Speaker:** Assistant Minister, that is a matter of argument. The Member for Yatta is putting his position against the position that you have put. Therefore, that is not a valid point of order. The Assistant Minister has given information and you are at variance with that information. Order! I called you to ask Question No.594. So, just ask the Question and let the Minister reply.

**Mr. Kutuny:** Mr. Speaker, Sir, I wanted to withdraw this Question because it has been overtaken by events. It has been five months since I asked this Question and the Government took action immediately. It is only now that it is appearing on the Order Paper.

**Mr. Speaker:** Then do so concisely!

*Question No.594*

CANCELLATION OF DRUGS SUPPLY TO BENON DISPENSARY

**Mr. Kutuny:** Mr. Speaker, Sir, I beg to ask the Minister for Public Health and Sanitation:-

(a) whether she is aware that the supply of drugs meant for Benon Dispensary was cancelled;

(b) whether she could explain why supply of drugs to the dispensary was stopped; and,

(c) what action the Ministry is taking to address the shortage of drugs in the dispensary.

**Mr. Speaker:** Order Member for Cherangany! You have stated clearly that you wish to withdraw Question No.594. Is that so?

**Mr. Kutuny:** Mr. Speaker, Sir, I wish to withdraw Question No.594 as it appears on the Order Paper because it has been overtaken by events.

**Mr. Speaker:** Very well! Well done! Question withdrawn!

*(Question withdrawn)*

*Question No. 616*

CRITERIA FOR SELECTION OF KVDA  
FUNDED PROJECTS

**Mr. Kiptanui:** Mr. Speaker, Sir, I beg to ask the Minister for Regional Development Authorities:-

(a) what criteria is used in selection of projects funded by the Kerio Valley Development Authority (KVDA);

(b) if he could provide a list of projects/programmes funded by KVDA over the last five years, indicating constituencies that have benefited as well as their budgetary allocations.

**The Assistant Minister for Regional Development Authorities** (Mr. ole Metito): Mr. Speaker, Sir, I beg to reply.

(a) It is the Authority's philosophy to undertake its activities in a well coordinated manner following its strategic plan, Vision 2030 and the Millennium Development Goals (MDGs).

The criteria used to select projects include but is not limited to the following:-

- (i) The availability of resources to be exploited in an area. For example, water for hydro power and irrigation, mineral resources, fertile soil for agriculture among others.
- (ii) Budgetary allocation giving priority to projects which ensures great impact to communities.
- (iii) Projects which are feasible and are acceptable by stakeholders to ensure their suitability and sustainability.

These target projects are demand driven in areas of interest from community and finally, KVDA Board of Directors resolution and approval in line with Government

policies over time, such as MDGs, Vision 2030, Medium-Term Plans, performance contract targets and strategic plans.

(b)The projects or programmes funded by KVDA over the last five years in all the constituencies is a very long list and I hereby table it.

*(Mr. ole Metito laid the document on the Table)*

I would like just to say that for the last five years, KVDA has spent Kshs238,565,755.43 in development projects.

**Mr. Kiptanui:** Mr. Speaker, Sir, I would like to thank the Assistant Minister for answering this Question. From the list given by the Assistant Minister, it appears that the projects being undertaken by KVDA are not fairly distributed. Out of the Kshs238 million funded by KVDA, Kapenguria Constituency has got over Kshs150 million whereas constituencies like Keiyo South and Keiyo North have got projects worth less than Kshs10 million. Why is there this variance?

**Mr. ole Metito:** Mr. Speaker, Sir, it is true, the hon. Member is stating the correct position. However, the biggest income for KVDA is the Turkwel Dam which is in Kapenguria. The dam has got twofolds; one which generates electricity and is under the Ministry of Energy through KenGen and the maintenance of the dam which is under my Ministry. So, the money which is given to KVDA, which forms the biggest income for KVDA, is from KenGen through Turkwel, which is mostly used to maintain the dam. So, what goes to Kapenguria is mostly for the maintenance of the Turkwel Dam.

**Mr. Langat:** Mr. Speaker, Sir, when the Assistant Minister was answering the Question with regard to the criteria, I heard him talk about consultations between the stakeholders and the KVDA. Could the Assistant Minister tell this House what measures he is going to take to ensure that in future we have serious consultations between KVDA and the stakeholders?

**Mr. ole Metito:** Mr. Speaker, Sir, in my initial reply, I said that we use the following measures, but not limited to; that means that other avenues are open. One of them is that we have, as a Ministry, what we call regional coordinators in all the regions, who attend District Development Committees where these projects are ratified.

*(Loud Consultations)*

**Mr. Speaker:** Order, hon. Members! Lower your level of consultations so that the Assistant Minister can be heard! I have directed many times repeatedly, that it is disorderly conduct to stay in the passages in the House. You must just transit through there. So, do not use them to hold conferences. Acting Chief Whips, hon. Kajembe, and the Member for Kilgoris should take note of that. If you want to consult, we have places for you within the Chamber where you can go and consult between yourselves.

Proceed!

**Mr. ole Metito:** Mr. Speaker, Sir, I was just finalizing by saying that we have regional coordinators in all regions which are now counties and they do attend DDCs meetings in their respective districts which are constituency based, where they forward the proposals and they are ratified in those meetings. I expect the hon. Members of the respective counties to attend those DDCs meetings and give their input.

**Mr. Joho:** Mr. Speaker, Sir, I would like to ask the Assistant Minister whether the same criteria is applied in all the regional authorities. For example, I am aware that the coconut development is very fundamental to the coastal people yet we know the Coast Development Authority has had issues working in tandem with the Authority.

**Mr. ole Metito:** Mr. Speaker, Sir, you will agree with me that that is a different Question. But on general observation, all the regional development authorities operate on similar criteria, mostly aligning their development projects on Government policies. However, the criteria that should be used by all of them is extensive consultation, whereby all stakeholders for the region concerned are involved. I am very sure that hon. Members are very important stakeholders who should be brought on board in all issues to do with development in those areas. But should there be issues with CDA, I am very much available to liaise with the Member for Kisauni to ensure that we iron them out.

**Mr. Kiptanui:** Mr. Speaker, Sir, when is the Assistant Minister going to undertake major projects in Keiyo South, like the construction of dams so that we can feel that KVDA is part of us?

**Mr. ole Metito:** Mr. Speaker, Sir, our regional officer for that region is based in Iten. I confirm and assure the hon. Member that I will liaise with him to ensure that in the next financial year, we try to source for funds and consider doing a very important dam that has always been coming up in the development plans for Keiyo.

*Question No.645*

STALLING OF MBOLOLO WATER PROJECT

**Mr. Mwakulegwa** asked the Minister for Water and Irrigation:-

(a) whether she could state why the Mbololo Water Project has stalled;

(b) how much has been spent on the project so far and how much will be allocated for the project in future; and,

(c) what steps the Ministry is taking to complete the project.

**Mr. Speaker:** Anyone here from the Ministry of Water and Irrigation? I know that the substantive Minister is out of the country, but where is the Assistant Minister?

**An hon. Member:** Mr. Waititu is here!

*(Laughter)*

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Speaker, Sir, I beg to reply.

**Mr. Speaker:** Order, Member for Embakasi! You must apologize to the House!

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): Mr. Speaker, Sir, I apologize for sitting behind!

**Mr. Speaker:** Is that the only reason that I had to call you four times before you showed up?

**The Assistant Minister for Water and Irrigation** (Mr. Waititu): I apologize, Mr. Speaker, Sir.

**Mr. Speaker:** Very well.



Proceed!

**The Assistant Minister for Water and Irrigation (Mr. Waititu):** Mr. Speaker, Sir, I beg to reply.

(a) Mbololo Water Project has not stalled. It has been ongoing since the 2006/2007 Financial Year.

(b) A total of Kshs37 million has been spent so far on the project. However, in this financial year, 2010/2011, the project will receive Kshs6 million. The balance of Kshs20 million required to complete the project will be allocated in the next financial year, 2011/2012.

(c) The Ministry has prioritized the implementation of this project and as stated in “b” above; all funds will be allocated in the 2011/2012 Financial Year.

**Mr. Mwakulegwa:** Mr. Speaker, Sir, this project was supposed to take three years; from 2006/2007 to 2008/2009 Financial Year but it has now taken more than five years. I seek for the Chair’s indulgence. This is a five-kilometer water pipeline which the Assistant Minister has said has not stalled. Five kilometers is taking six good years to complete. There must be a reason he is not telling us. Why are the contractors not able to complete this work on time?

**Mr. Waititu:** Mr. Speaker, Sir, according to the information available to me, the implementation period is supposed to take six years. The project was started in the 2006/2007 Financial Year and it is supposed to be completed in 2012.

**Mr. Njuguna:** Mr. Speaker, Sir, while acknowledging the undertaking by the Assistant Minister to improve water services in that area, I would like him to inform the House the interim measures he has taken to make sure that the people in that area do not suffer from water shortages, particularly during this time of drought.

**Mr. Waititu:** Mr. Speaker, Sir, during this time of the drought, the Ministry has undertaken to supply water to almost every district. If the hon. Member faces a severe problem in his area, he can come to our Ministry and we will make an arrangement to supply water to his area immediately.

**Dr. Otichilo:** Mr. Speaker, Sir, this project started in 2006 and is projected to be completed in 2012. This is almost six years and it is only five kilometers. I wish to know from the Assistant Minister; what has been accomplished so far where Kshs37 million has been spent? Could he also tell us the percentage of the project that is remaining? Why can the Assistant Minister not speed up the works so that this project is completed since it is in a dry area and the people in that area are suffering?

**Mr. Waititu:** Mr. Speaker, Sir, so far, three kilometers have been covered with 100 millimeter diameter GI Pipes Class B and two storage tanks of 200 meter cubed capacity have been constructed. Two booster stations have already been completed. Four booster pumps for the two pump stations have also been installed. Two transformers for power have also been installed and a 300 millimeter storage tank is already on site. This project was supposed to cost Kshs63 million but so far Kshs37 million has already been spent up to last financial year. This financial year, the Ministry has allocated the project Kshs6 million.

**Mr. Mwakulegwa:** Mr. Speaker, Sir, considering the fact that three kilometers have been done for the last three years using Kshs37 million, could the Assistant Minister contract this job so that the two kilometers can be completed this year? Could he also increase the funding to the project to Kshs20 million?

**Mr. Waititu:** Mr. Speaker, Sir, this project is being undertaken by the Coast Water Services Board (CWSB). I can only consult more to see whether it can be contracted. However, first, we have to source the funding. Therefore, we cannot do it immediately as the hon. Member has requested. We have to wait until next year when we will allocate it funds.

**Mr. Mwakulegwa:** On a point of order, Mr. Speaker, Sir. My question was very specific. Can these works be awarded to a contractor for speedy completion of this project?

**Mr. Speaker:** The Assistant Minister has actually answered that question. However, if you want to say anything more, Mr. Assistant Minister, you may. Otherwise, I am satisfied that you have answered the Question.

**Mr. Waititu:** I do not have anything more to add, Mr. Speaker, Sir.

**Mr. Speaker:** Very well, that brings us to the end of Question Time. Let us move on to the next Order!

### **PRIME MINISTER'S TIME**

**Mr. Speaker:** We will first deal with the Prime Minister, because it is now the Prime Minister's Time. Let us get a Statement from that Office.

### **PRIME MINISTERIAL STATEMENT**

#### **GOVERNMENT INTERVENTIONS TO ADDRESS CURRENT DROUGHT SITUATION**

**The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi):** Mr. Speaker, Sir, I wish to make a Statement on the current drought situation in the country. It is fairly detailed, so I would like the House to bear with me on this. I am issuing this Statement on behalf of the Prime Minister.

Mr. Speaker, Sir, I recently made a tour of parts of eastern---

**Mr. Ruto:** On a point of order, Mr. Speaker, Sir. Since it is quite obvious that the Deputy Prime Minister and Minister for Local Government is actually speaking on behalf of the substantive holder of the office, would it not have been in order for him to give us, may be, an apology from the Prime Minister or to confirm that he has actually been delegated to come and give us this Statement? This is because the Deputy Prime Minister and Minister for Local Government has gone straight to read the Statement.

*(Laughter)*

**Mr. Speaker:** Order, the Member for Chepalungu! This matter was actually raised last year, may be even by you or with your support and I gave very clear directions on it. Please, revisit your HANSARD. It will give you the answer.

*(Applause)*

Proceed, Mr. Deputy Prime Minister and Minister for Local Government!

**Mr. James Maina Kamau:** On a point of order, Mr. Speaker, Sir.

**Mr. Speaker:** What is it, the Member for Kandara?

**Mr. James Maina Kamau:** On a point of order, Mr. Speaker, Sir. While we appreciate what the Deputy Prime Minister and Minister for Local Government is about to tell us, will I be in order if I ask him to give us the highlight of what went on in Ivory Coast before we possibly come to this issue?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, we are going by the issue of what appears on the Order Paper today. I think what is listed is a report on the drought situation. But I take note that the hon. Member would like the House to be appraised on the issue of Ivory Coast and I will undertake to do so at the next Prime Minister's Time.

Mr. Speaker, Sir, I recently made a tour of parts of Eastern and North Eastern counties to assess the negative effects of the droughts currently ravaging parts of the country. The worst affected larger districts include Garissa, Marsabit, Isiolo, Tana River, Tharaka, Wajir, Mandera, West Pokot, Samburu, Baringo, Kajiado, Makueni, Kwale, Kilifi and Turkana.

The Government's response to the drought crisis is being co-ordinated by the Crisis Response Centre (CRC) and the National Disaster Operation Centre (NDOC). The CRC and the NDOC carry out frequent assessments of the drought situation on the ground, design mitigation measures and co-ordinate the interventions by various Government partners. Most parts of the country received depressed rains, while other parts received no rains at all, resulting in some severe scarcity of pasture, food and water. The pasture available in some areas will not last beyond February, 2011. Distances to water and pasture sources have increased resulting in human and livestock migrations. Water prices have increased. For example, in Marsabit, a 20 litre jerrican is retailing at Kshs50 compared to the normal price of Kshs10. There is massive migration of livestock in search of pastures and water. Livestock deaths mainly as a result of lack of water in dry grazing areas have also been reported.

The situation is compounded by disease outbreaks of foot and mouth disease and other infectious diseases, which are necessitating restrictions in official livestock movements and market activities.

Mr. Speaker, Sir, food crops in the affected districts have weathered due to water stress. Crop production is expected to decline by over 30 percent in some parts of the country, while total crop failure maybe experienced in parts of eastern, coast and central Kenya, which are short rain dependent. Some schools are yet to open due to water problems in the affected areas. Schools in 96 districts are under the School Feeding Programme, which has been adversely affected by lack of water due the drought. Power supply remains fair, but declining as the drought progress. Maximum power generation is being undertaken through hydro and thermal generation to conserve water usage in Masinga Dam. The Sondu Miriu water level is declining. Should the situation continue to deteriorate, then power generation will be negatively affected, increasing reliance on thermal power generation, which is more expensive.

Mr. Speaker, Sir, the Government is feeding more than one million people, while the World Food Programme (WFP) is distributing food to another 1.6 million people. From November, last year to January, 2011, the Government has distributed food to needy districts in the following quantities: Maize of 90-Kilogramme bags, 237,000 bags;

valued at Kshs426 million, beans in 50-Kilogramme bags, 96,600 bags; valued at Kshs313,950,000, rice, 650,000 bags; valued at Kshs269 million, cooking oil, that is 6.3 litre cartons amounting to 42,500 cartons valued at Kshs121 million. In this regard, the Government has committed Kshs1.5 billion for immediate use by the Ministry of State for Special Programmes to alleviate drought related hunger.

Mr. Speaker, Sir, the Government has also deployed military, administration police and National Youth Service trucks to assist in the transportation of relief food at district level. The Ministry of Water and Irrigation has established six teams in Marsabit, Wajir, Marigat, Kapenguria, Kajiado and, of course, Nairobi headquarters. These teams are responsible for assessment and response. The Ministry purchased five water boozers to enhance water trucking, bringing the fleet to a total 19 and has set aside another Kshs237 million for quick response.

The Ministry of Water and Irrigation in liaison with the private sector will also hire private trucks to assist in water trucking, particularly in North Horr and other affected areas. The Government has also rehabilitated some boreholes and is conducting water trucking in the affected districts and equipping and servicing of unoperational boreholes. Provision of fuel subsidy for operation of borehole water supply is ongoing. Distribution of chlorine tablets for household water treatment is ongoing.

The Government has also conducted vaccination 2,024,000 herds of livestock against various diseases as of now. Disease surveillance and sensitization of pastoralists to sell their livestock before their body condition deteriorates further are ongoing. Vector and vermine control have been stepped up, while supplementary feeding has been enhanced. Efforts are also underway to kick off livestock off-take for approximately 120,000 herds of cattle in Upper Eastern before their body condition deteriorates further.

Government institutions have been directed to purchase canned beef from the Kenya Meat Commission (KMC) in order to generate sufficient funds to improve on livestock off-take.

The Government has also enhanced supplementary feeding for pregnant and lactating mothers, children under five years and the elderly.

Household water chlorination, mobile and outreach services to the migrating populations have been intensified. Public education on positive sanitation and hygiene services is ongoing. The Government intends to ensure that children retained in school during the drought through enhanced school feeding programme of 1.2 million children have provision of midday meals in the ASAL areas. Due to the drought, there is need to enhance the school feeding programme beyond the districts covered under the regular school feeding programme under the home grown programme. The Ministry of Education has been authorised to allocated funds to cater for additional 1.4 million children under enhanced school feeding programme.

The Government is also considering paying school fees for secondary students in the drought stricken counties so as to assist their families to have more food. In this regard, a committee is working closely with the Ministry of Education and the Treasury to fine tune this particular aspect.

Mr. Speaker, Sir, this is the communication regarding the drought situation in the country.

**Mr. Speaker:** We will allow clarifications as much as possible and restrict them to five beginning with the Member for Mutito.

The Deputy Prime Minister and Minister for Local Government, please, take notes.

**Mr. K. Kilonzo:** Mr. Speaker, Sir, while listening to the Deputy Prime Minister and Minister for Local Government, I realise that he did not mention Kitui County. I want to believe that is an oversight because that is one of the areas that is also mostly affected by the drought. However, I want him to clarify the following: How much money apart from the Kshs1.5 billion which was set aside by the Government, would be used for direct procurement boozers, water trucking and also for seeds? We are now going to the period of the short rains where we expect our farmers to be provided with seeds. When I refer to seeds, I am not just referring to maize and beans. I am also looking at the drought resistant beans. How much money has been set aside for this purpose?

Lastly, one the issue of school feeding programme, I was recently in my constituency and I realized that students have dropped out of schools due to famine. How soon is he going to restart the school feeding programme because it is very important? When are they going to start giving relief food to the affected areas?

**Mr. Bahari:** Mr. Speaker, Sir, I want to bring to the attention of the Deputy Prime Minister and Minister for Local Government that contrary to what he has said about the school feeding programme, it is non-existent. Our schools have not received any food from the schools feeding programme. I want him to take note of that. However, I would like to seek the following clarification: It is now ten days since the Prime Minister went to northern Kenya and up to now, even with the mention of the Army and the NYS trucks, there has been nothing extra other than the normal food supplies that the Government has been giving to that area. Could the Deputy Prime Minister and Minister for Local Government clarify how serious they are in handling this matter other than making Press statements and organizing political *barazas* in northern Kenya?

**Mr. Letimalo:** Mr. Speaker, Sir, in his Statement, the Deputy Prime Minister and Minister for Local Government has said that they are considering paying school fees for students from drought affected areas. Is it possible, through the Ministry of Education, to write to those schools so that the administrators do not send away students who are unable to pay school fees as they wait for that committee to work out the modalities of paying school fees? Secondly, there is another issue of concern. We have been getting complaints from the beneficiaries of the relief food and also the schools that are having a feeding programme that what they are getting is too little to make them wait for the next supply. Is it possible for the Government to increase the food ration so that, at least, they can get adequate food?

**Mr. Wambugu:** Mr. Speaker, Sir, also following closely the Statement by the Deputy Prime Minister and Minister for Local Government and also relating to the tour that was conducted by the Prime Minister recently to study the drought situation in the country, could the Deputy Prime Minister and Minister for Local Government advise this House whether the opening up of an ODM office was in line with the trip that was held using Government funds and transport and whether that trip was party-funded or Government-funded?

(Applause)

**Mr. Sirat:** Mr. Speaker, Sir, I want to tell the Prime Minister through the Deputy Prime Minister and Minister for Local Government that he visited six constituencies in northern Kenya. He visited Dujis, Mandera East, Mandera West, Wajir North, North Horr and Isiolo. Those areas are represented by ODM Members of Parliament. In his mind, did he think that it is only areas represented by ODM Members of Parliament that were affected by drought? Secondly, is he aware that Wajir South Constituency - which is vast and the largest constituency in North Eastern Province - is the worst affected area in terms of drought? Thirdly, the vehicles that are used for water trucking are unable to move due to bad road conditions. What is he going to do about that?

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

**Mr. Mbadi:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Order, Mr. Sirat! Do you want to be informed by Mr. Mbadi?

**Mr. Sirat:** No!

**Mr. Speaker:** Very well!

**Ms. Leshoomo:** Bw. Spika, ningependa kumwambia Naibu wa Waziri Mkuu na Waziri wa Serikali za Wilaya kwamba wakati tunazungumzia mambo ya njaa, yasichangwe na mambo mengine kwa sababu watu wako na njaa. Mahali ninapotoka, watu wangu wanakosa chakula. Msafara wa Prime Minister haukutembelea wananchi kuangalia ni nani anastahili kupewa chakula ama ni nani hastahili.

**Hon. Members:** Kwa nini?

**Ms. Leshoomo:** Nipe nafasi ili nimalize kuuliza swali langu halafu mtauliza yenu! Nasema hivyo kwa sababu tunatoka pahali watu wanaumia; tunatoka pahali watu wanadanganywa kila siku. Mkisema boreholes zitajengwa, magari ya jeshi yanaenda na wananchi wanayaangalia hayo magari na hakuna kitu ambacho kinafanyika. Kwa hivyo, tunaomba kujua kama kuna chakula ama hakuna. Serikali inasaidia watu wachache. Tunataka waache kudanganya hapa kwamba chakula na maji yatapelekwa huko wakati ambapo hakuna kitu kinachotendeka. Watu wanaumia! Wanafunzi hawaendi shule. Wale wanaotarajia kwenda Form I, hawataenda kwa sababu ya taabu. Kwa hivyo, ningependa kuuunga mkono kwamba kutembea kwa Prime Minister sehemu zile ni kutembelea watu wake wa ODM. Hakuenda kuangalia mambo ya njaa!

*(Loud consultations)*

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

**Amb. Affey:** Mr. Speaker, Sir, it is very clear that the situation is grave and we had asked the Government why there is no wish on its part to declare this matter a national disaster. Why has it taken the Government up to today to issue a Statement and to fail to declare this grave matter a national disaster?

**Mr. Speaker:** Mr. Deputy Prime Minister and Minister for Local Government, you may now respond!

**The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi):** Mr. Speaker, Sir, I will start with the issues raised by Mr. K. Kilonzo and I wish to state that, indeed, Kitui is one of the affected counties. It was an accidental omission in the Statement. So, I just want to correct that particular position and agree

with him. I also want to state that the amount of money that has gone to the Ministry of State for Special Programmes of Kshs1.5 billion is just a portion of the resources that are really supposed to be set aside to deal with the drought crisis. The estimated cost of effectively dealing with the crisis is actually Kshs9 billion. That is why the team is working very closely with the Treasury to look at how they can marshal sufficient resources beyond the Kshs1.5 billion. Some Ministries which are affected like, for instance, the Ministry of Northern Kenya and Other Arid Lands has been able to reallocate within its resources up to about Kshs172 million and part of that money is now being used to help in the distribution of food and water.

However, I do not have the exact figure in terms of how much has been set aside for the specific needs or water bowsers. I can undertake to inform the House about those details once the technical committee that is working on it can provide a more specific figure in that regard. But I have noted that with regard to seeds, we do not just deal with maize. We also have to deal with drought resistant crops which would do better in some of the arid and semi arid areas.

Mr. Speaker, Sir, finally Mr. Bahari raised a very important matter regarding the school feeding programme and the delays that are being experienced in terms of the delivery of the food, either to the schools or to various institutions in some of these areas. I would like to admit here that it has taken much longer than earlier anticipated putting the logistics of all the military and NSY vehicles to assist in distribution of food. As I said, the Government has not abandoned the school feeding programme in these areas, but there has been a logistical problem which has been tackled effectively by the Crisis Response Centre (CRC). We shall see improvement because now, these vehicles will be deployed and fueled appropriately. The same issue in a way also would entail what Mr. Letimalo raised. The only difference is that he raised the issue of sending students away. This communication is important, so that the Ministry of Education can handle it effectively.

I also want to state that the exact figure and the logistics of how the school fees will be dealt with must be dealt with in consultation with the Ministry of Education and Treasury, so that the genuinely needy students in these areas do benefit. We do not want a situation where there is no drought or crisis and then you find that they are finding their way into this particular scheme. It is something that needs to be worked out very carefully.

Mr. Speaker, Sir, I want to state here that the issue of drought and the question of where people were supposed to be visited or not visited has nothing to do with the political party of the area MP. So, anybody saying that---

**Mr. Mbadi:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Deputy Prime Minister and Minister for Local Government, do you want to be informed by the Member for Gwassi?

**The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi):** Yes, Mr. Speaker, Sir.

**Mr. Mbadi:** Mr. Speaker, Sir, I just want to inform the Deputy Prime Minister and Minister for Local Government that concerning the issue that Mr. Sirat raised with regard to constituencies which were not visited and his is one of them, I think the Prime Minister did that because the Vice-President had visited there not long ago. I believe he

assessed the drought situation in that constituency. But, unfortunately, instead of taking food, he just visited and then came back.

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Speaker, Sir, I was actually involved in a food distribution exercise. So, let us avoid being partisan.

**Mr. Speaker:** Order, hon. Members. The Prime Minister and the Vice-President are both leaders of the Republic of Kenya and they ought to treat all Kenyans fairly, equally and equitably.

Proceed, Mr. Deputy Prime Minister and Minister for Local Government.

**The Deputy Prime Minister and Minister for local Government** (Mr. Mudavadi): Thank you, Mr. Speaker, Sir. On that note, I see no merit in trying to deal with a Member of Parliament of any particular political persuasion---

**Mr. Ruto:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Mr. Deputy Prime Minister and Minister for Local Government, do you want to be informed by the Member for Chepalungu?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, the Member for Chepalungu was my classmate. Let me hear what he has to say.

**Mr. Ruto:** Mr. Speaker, Sir, I would like to inform the Deputy Prime Minister and Minister for Local Government that the Prime Minister actually visited the places. He had a very busy schedule opening ODM offices and, therefore, it was important to visit an ODM zone. He opened ODM offices. He also met a number of leaders in those areas, but he was not accompanied by technical officers from the Ministry of Agriculture or Ministry of State for Special Programmes to assess the drought situation during the visit.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I just want to say on a lighter note that that is the kind of problem we used to have with him when we were in school.

Mr. Speaker, Sir, the point I want to make here is that in reality, I think the issue of the drought and how it is affecting us is much more serious. Of course, it is not bad to have some light moments. But I really want to say that whether it is Mr. Musyoka or Mr. Raila visiting these areas and whether the MP in the given area is from a particular political persuasion, it is just a coincidence. It has nothing to do with the crisis that we are dealing with. So, I think it is important that we re-focus our energies and really deal with the crisis so that we respond to issues that are more pertinent to what is required.

There is an issue that has also been raised by Amb. Affey as to whether the situation should be declared a national disaster at this point in time. There is a process of assessment and to the best of my knowledge, a national disaster of this magnitude is normally declared by the Head of State after he has received all the details and data for him to qualify that this is a national disaster. There is a disaster, but there is a distinction of that qualification and that requires further consultations. It depends on whether the advice that will be coming from the CRC and the relevant Ministries will be able to continuously upraise him. If need be, I am sure the President can then declare the situation a national disaster.

I also want to state here that during the visit to these areas, I happened to be in some of the areas and I know for sure that there were several technical officers dealing



with aspects of food, water, medicine and so forth. They were part of the entourage of the Prime Minister.

**Mr. Gabbow:** On a point of information, Mr. Speaker, Sir.

**Mr. Speaker:** Deputy Prime Minister and Minister for Local Government, do you want that point of information?

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Yes, let me have it.

**Mr. Gabbow:** Mr. Speaker, Sir, I thank Mr. Deputy Prime Minister and Minister for Local Government for the trust he has in me. The Prime Minister came to my constituency, Wajir North, and he was accompanied by professionals. There were five Permanent Secretaries and food was distributed. It was on a non-partisan programme. It was a Government programme. So, I tend to think that those who are saying that issues of parties and no technical persons accompanied him there are wrong.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I think I have been assisted effectively---

**Mr. Chanzu:** On a point of order, Mr. Speaker, Sir. I just want to add that the Prime Minister started with Saku Constituency which is represented by a PNU Member of Parliament.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Speaker, Sir, I think on that note, I believe I have responded to the supplementary issues that were raised on that Statement.

**Mr. Speaker:** Very well. That brings us to the end of that matter. Could we have the Statement from the Ministry of Foreign Affairs? I hope it is brief. I certainly know that is urgent so, we will have to take it.

## MINISTERIAL STATEMENT

### UNREST IN EGYPT

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Mr. Speaker, Sir, I would like to inform the House that the recent unrest in Egypt was sparked by developments in Tunisia where street protests have forced President Ben Ali to cede power and leave the country after ruling for 24 years.

Mr. Speaker, Sir, as a result of that, there have been other protests in other countries within northern Africa, and indeed, the Arab world. But demonstrations have particularly been large in Egypt in the cities of Cairo, Alexandria, Suez and others. It is expected that Egyptians will turn up in large numbers after the Friday prayers for a planned march to the palace of the President. As a result of that observation, the Ministry of Foreign Affairs has been closely monitoring the situation in Egypt. We have been maintaining close contact with the Kenyan Ambassador, Mr. Dave Arunga. Communication has been difficult since the crisis began because there have been some disruptions in telephone and internet communications. However, I want to announce that we made contact with the Kenya Airways in Cairo and the office has given the Ambassador a mobile satellite telephone.

*[Mr. Speaker left the Chair]*

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

We are aware that the situation in Egypt is deteriorating with dwindling food supplies, commercial banks are closed, there are long queues for bread and there is no food in general. As a result of that, this is what we have done in the Ministry of Foreign Affairs. The Ambassador in Egypt has immediately been instructed from Nairobi to look out for all Kenyan nationals wherever they may be in Egypt and make the necessary arrangements for their safe evacuation, including facilitating their movement outside Egypt. As a result, the Kenyan Embassy in Cairo has been in touch with all Kenyans registered and even those who are not registered. There are certain actions which are being taken. We have also instructed the Kenyan Ambassador in Cairo to make sure that he evacuates all the family members of all staff members who are working there and all the dependants of the Embassy staff have left Cairo. Most of them have already landed in Nairobi because they left last night.

Three, the Acting Permanent Secretary, Mr. Wamoto, spoke to the Chief Executive of Kenya Airways, Mr. Titus Naikuni, about an hour ago. Mr. Naikuni has promised to assist in evacuating all the Kenyans. If Kenya Airways does not provide transport to Nairobi, Mr. Naikuni promised that he will provide code-sharing with British Airways and other European Airlines to take Kenyans to Europe if need be.

There are about 200 Kenyans in Egypt according to the records that we have; 148 of them are students. About 100 of them are based in Cairo and live in hostels. They have indicated their preference to remain in Cairo. Some of them have said that they will monitor the situation in Cairo but the Embassy will constantly be in touch with them. A total of 228 students live in Alexandria and when we visited there recently with the Vice-President, those students were there. They have all left the country for Kenya. Most of them left yesterday and a few had left a few days before as the Ambassador confirmed.

Mr. Temporary Deputy Speaker, Sir, there are 10 students based in Alexandria who are pursuing post graduate studies in exchange programmes with Moi University and other institutions. Nine of them have already left but one was left behind because he has family members there. Seven Kenyans work for Afri Mexin Bank which is situated in Cairo. They have all evacuated their family members to Nairobi. Only two of those Kenyans have decided to remain in Cairo to monitor the situation closely.

Lastly, with regard to media reports indicating several Kenyans were stranded in Cairo, the Embassy has been in contact with all of them. We are prepared and ready to make sure that they are evacuated, if need be. We believe that no Kenyan's life is in danger.

**Mr. Keynan:** Mr. Temporary Deputy Speaker, Sir, I appreciate the many *ad hoc* measures that have been put in place by the Ministry of Foreign Affairs. As you have heard, some of them were made as late as one hour ago. That issue has been going on for the last one week. Those of us who have been watching the Cable News Network (CNN) and Al Jazeera television news channels know that this is not a small issue. It is something that can affect the whole region. What other contingent measures have you put in place in neighbouring countries where we do not have missions, but we have Kenyans

and they are likely to be affected by the same issues that have affected Egypt and Tunisia?

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir. The Kenyan Government is in touch with the countries that border Egypt. One of them is Sudan. We have been discussing with our Ambassador in Khartoum and I can assure you that we will receive any Kenyans who may be in trouble in Egypt if need be. Secondly, some of the contingency measures are those I have mentioned. However, there is a likelihood that we got some information as late as one hour ago. The reason for that is that the situation is very volatile. It is very dynamic and is changing very fast. Therefore, we are putting good modalities in place to make sure that the Kenyans who are there do not get harmed or nothing happens to them.

Lastly, I would like to say that the reason why we did not initially move very fast to evacuate Kenyans was because we have been maintaining a good relationship with Egypt. We believed that Egypt was a stable country. Obviously, we did not imagine that what has happened in Egypt would happen. I hope that Kenyans and, especially, Members of this House are watching what is happening in Egypt carefully. That is because the issues in Egypt are related to governance and corruption.

**Mr. G. Nyamweya:** Mr. Temporary Deputy Speaker, Sir, the last part of the Assistant Minister's remarks is very depressing. Basically, the Foreign Affairs Ministry seems to be living in hope that things will be all right. That cannot be so. Any serious Government, surely, must look at geopolitical realities of the world. Quite rightly, what is happening in Egypt can happen anywhere else and even Kenya cannot be spared. There are issues of unemployment and corruption. They all have a bearing on that issue. What is the Ministry of Foreign Affairs doing in preparation for the rest of the surrounding countries which are facing the same problems? I visited the Kenyan Embassy in Cairo and it is located in the most awkward position and even to evacuate our people from there is impossible. What urgent measures can the Assistant Minister take to assure us? As a Government, will you re-evaluate our standing where there are potential problems, bearing in mind that the Kenyan diaspora is among the largest in the world?

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to tell hon. Nyamweya that we are consulting with all Departments of the Government, including all the Ministries which are responsible. They include Ministry of State for Provincial Administration and Internal Security, Ministry of Foreign Affairs, Office of the President and the Office of the Deputy Prime Minister and Ministry of Finance. We are on high alert. With regard to Kenyans who are living in countries where there is volatility and likelihood that things could go wrong, I can assure this House that we will make sure that no Kenyan is harmed. I cannot give all the details and instructions on what we will do because of security reasons. However, everybody in the Government of Kenya is alert and I can assure you that all Kenyans will be safe. Those who should be evacuated will be evacuated. If need be, the Government will send more aeroplanes which we can charter.

**Mr. Ogindo:** Thank you, Mr. Temporary Deputy Speaker, Sir. I would like to thank the Assistant Minister and hope that they will ensure that all Kenyans are safe. The uprising we are seeing in Africa is as a result of the youth being frustrated due to unemployment. Now that the Ministry is aware of the cause of those problems outside there, and there is the same potential in our neighbourhood, what have they done to

inform our own Government on such dangers and ensure that we are able to create jobs for our youth so that we do not face the same problems as a country?

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, I wish to inform my colleague and friend that the issue of informing the Government on what the national policy should be is strictly the agenda of the Ministry of State for Planning, National Development and Vision 2030 and the Ministry of Finance. This House is aware and we have been talking about the critical issues of unemployment and the interventions which the Kenyan Government and, indeed, we as leaders, need to bring forth, so that we can solve this problem. I would not want to get into the details of that, but I can assure you that in our own Ministerial wikileaks, the Government is aware of the problem, the economics and the politics of it.

**Mr. Keynan:** On a point or order, Mr. Temporary Deputy Speaker, Sir. You have heard the Assistant Minister talking about their own wikileaks. Sometimes back, wikileaks was dismissed as a rumour channel that had no basis and right now, it is becoming a source of information for none other than the same Government. Is he in order?

**The Temporary Deputy Speaker** (Mr. Imanyara): He talked about their “own” wikileaks.

**Mr. Ochieng’:** Mr. Temporary Deputy Speaker, Sir, in his Statement, the Assistant Minister has indicated that on Friday, the situation in Egypt could even escalate for worse. Could he inform this House the measures he has put in place to evacuate our people by tomorrow without any delay to avoid any harm to our people who are living there?

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, last week, I led a delegation of 12 Kenyan technocrats to Egypt to look at the ICT development there since they are very advanced. We visited the equivalent of our ITC Park and various ICT institutions. The Government of Egypt took good care of us. They welcomed us and gave us all the information that we needed. I must congratulate that Government for what it did. On Friday when we were supposed to come back, it was not the fault of the Government that we were unable to get to the airport. Everybody was concerned about our security. When we crossed the city to approach the airport, we came across serious barricades, road blocks, tear gas, police and everybody on the highway. So, we could not make it to the airport. We attempted with a lot of difficulty to get back to the hotel. It took us almost two hours to get back to the hotel. When we got back to the hotel, we found that all our rooms had been taken up through long distance booking. Fortunately, the people who were supposed to occupy the rooms did not show up because they could not even reach the hotel. In fact, on that Friday, even the Vice-President and Minister for Home Affairs was at the airport.

**The Temporary Deputy Speaker** (Mr. Imanyara): Ask for the clarification!

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, since I was there, allow me to just develop my question.

**The Temporary Deputy Speaker** (Mr. Imanyara): No! Ask the clarification that you are seeking.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, the Ministry of Foreign Affairs should develop a mechanism of providing communication to all our volatile embassies in the whole world even if it means teaming up with certain countries. It should provide

proper information such as the usage of V-SAT network and landlines. Our Ambassador in Egypt was at the airport to meet with the Vice-President and Minister for Home Affairs and it was also not possible to reach him by mobile phone. As I speak, I am sure Kenyans in Egypt are stranded. There is no food in Egypt. Even when we were at the airport, there was no food.

**The Temporary Deputy Speaker** (Mr. Imanyara): Eng. Rege, please, I do not want to interrupt you.

**Eng. Rege:** Mr. Temporary Deputy Speaker, Sir, I would like to advise the Ministry of Foreign Affairs to look into ways and means of evacuating the Kenyans in Egypt immediately. I believe they could use the British or the American embassies.

**The Temporary Deputy Speaker** (Mr. Imanyara): Assistant Minister, can you deal with the two issues, namely, by hon. Ochieng' and Eng. Rege?

**The Assistant Minister for Foreign Affairs** (Mr. Onyonka): Mr. Temporary Deputy Speaker, Sir, there are contingencies and plans in place in Cairo. The Ministry of Foreign Affairs through our Ambassador, Mr. Arunga, is in contact, as I said earlier, with all the Kenyans who are living there. This is something that we were not expecting. I agree with what Eng. Rege has said that all our embassies need to have mobile satellite phones, so that when there is a crisis, we can get in touch with our people. This is a matter that the Ministry will look into. The acting Permanent Secretary, Mr. Wamoto and a few senior officers within the Ministry have set up a crisis room and are deliberating on what the immediate contingency measures need to be and what needs to be done to make sure that all the Kenyans in Cairo, if they want to come back, come back safely. I do not believe that anything will happen to Kenyans since we have always maintained good relations with our neighbours and our friends.

## POINTS OF ORDER

### OUTCOME OF VICE-PRESIDENT'S SHUTTLE DIPLOMACY

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I wish to seek a Ministerial Statement from the Vice-President and Minister for Home Affairs on his recent diplomatic visit to various African Heads of States. I would like him to clarify the following:-

(i) Whether there was Cabinet approval to seek support from the African Union Heads of States for the deferral of the matter now before the ICC on violence in Kenya associated with the 2007 General Elections?

(ii) What was the outcome and---

**The Temporary Deputy Speaker** (Mr. Imanyara): Order, Mr. Kioni! Was there not a Question like that on the Order Paper this morning?

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, it was fairly different. I went through it and the issues that were raised were different.

**The Temporary Deputy Speaker** (Mr. Imanyara): I want to get this from the clerks. Let us continue.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I wish to continue.

(ii) What was the outcome or the response of the diplomatic visits to the African States and at the African Union Heads of States meeting in Addis Ababa, Ethiopia?

(iii) What should Kenyans expect from the African Union Heads of States resolution, if there was any?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I will attempt to come up with a Statement if it is possible tomorrow in the afternoon when as the Leader of Government Business I have 15 minutes. Perhaps, I could, before that, come up with a Statement on this very important matter.

**The Temporary Deputy Speaker** (Mr. Imanyara): Very well! Then we can proceed to the next Order!

## PROCEDURAL MOTION

### REDUCTION OF PUBLICATION PERIOD OF VETTING OF JUDGES AND MAGISTRATES BILL/JUDICIAL SERVICE BILL

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Temporary Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to the provisions of Standing Order 107, this House orders that the publication period of the Vetting of Judges and Magistrates Bill (Bill No.1 of 2011) and the Judicial Service Bill (Bill No. 2 of 2011) be reduced from 14 to 6 days.

The reason for moving this Motion is because of the urgency of these two pieces of legislation. It will be recalled that after the First Reading, it was found necessary to withdraw these Bills and that there was need to consult with the newly established Commission on the Implementation of the Constitution (CIC). A lot of progress has been made and now because of the lost time, we feel that we should expedite and fast-track debate on these two very important Bills, without which we will find it difficult to implement the new Constitution. The date of the publication is 27<sup>th</sup> January, and if we are to allow the 14 days in consonance with the provisions of Standing Order No.107, the First Reading can only take place on the 9<sup>th</sup> of this month or thereabout.

Therefore, in view of the urgency of this matter, I want to plead with the House that the publication period of these Bills be reduced from 14 days to six days. That way, we will be in a position to even have the Second Reading as early as next week.

With those few remarks, I would want to ask the Minister for Justice, National Cohesion and Constitutional Affairs to kindly second this Motion.

**The Minister for Justice, National Cohesion and Constitutional Affairs** (Mr. M. Kilonzo): Mr. Speaker, Sir, I beg to second the Motion.

I would like to thank the Leader of Government Business and the House Business Committee for agreeing to put this Motion on the Order Paper.

Mr. Temporary Deputy Speaker, Sir, when I look at you, I see a man who has fought for reforms in this country at enormous risk to you as a person as well as to institutions you have run. These two Bills are indeed the first substantive Bills to be published in this country following the promulgation of the Constitution. I am saying so because the only other Bill that this House has enacted into law is the Bill for the

establishment of the Commission on the Implementation of the Constitution. I stood here then and thanked you as well as the House for passing that Bill.

Mr. Temporary Deputy Speaker, Sir, you will have noticed that that Commission was produced by this country in a consultative manner, and that Commission is doing a wonderful job. These two Bills were in fact published as early as 30<sup>th</sup> August, 2010, which was only three days after the promulgation of the new Constitution. However, out of the dictates of the Constitution – I remember you even addressing this matter – it was thought that to debate them was premature and so they were withdrawn from Parliament until the consultations required under Article 259(11) of the Constitution with the Commission on Implementation of the Constitution, including the various sections in the Transitional Clauses.

I am happy to say that, as the Leader of Government Business has kindly mentioned, the House advised and agreed to my Ministry's request to withdraw the earlier Bills, notwithstanding that the Commission had already approved the Judicial Service Bill. It is because we felt that it would be far better that since God has given you two legs, you move with the two instead of moving with one. Therefore, we come in readiness with pride and with confirmation that the processing of these Bills is now as constitutional as the Constitution requires.

Mr. Temporary Deputy Speaker, Sir, therefore, since these Bills have been in the public domain since August, 2010, it is only fair that we reduce the period of publication from 14 days to six days. They were published on 27<sup>th</sup> January, and they have been distributed to not only hon. Members of the House but also nationally, so that we can debate them. The issues arising from these Bills are very fundamental today on the national scene as well as elsewhere.

The fact that the first Bill seeks to comply with the Constitution in terms of vetting all judicial officers, comprising of judges and magistrates serving in the country, and that the second Bill seeks to establish by law, the Judicial Service Commission; and also to create a method for recruitment of new judges, it cannot be gainsaid that these two Bills will, in fact, form the foundation for the Constitution implementation process.

Mr. Temporary Deputy Speaker, Sir, being such a distinguished lawyer, you will probably understand this even more than I do.

Therefore, I beg to support.

*(Question proposed)*

**Mr. Njuguna:** Mr. Temporary Deputy Speaker, Sir, I thank you for giving me this opportunity to also support this very important Motion.

First, let me indicate that this Motion is very important as Kenyans have been yearning for a clean Judiciary for a long time. The Chair will recall that even some prominent Kenyans have suffered for reforms in the Judiciary. Therefore, it is important that this matter is given due attention and consideration.

Mr. Temporary Deputy Speaker, Sir, the Judiciary is known both locally and internationally as the most corrupt institution on this land. One way of addressing this concern is to very quickly support this Motion. It is in our institutional memory that about one million cases lie unattended in our courts today. Some of the litigants have already

passed away as their cases have continued to be unattended. There are some people who are ageing, and they do not know whether their cases will be heard any time soon.

It is, therefore, important to realise that fairness and justice have been denied to those Kenyans. Therefore, if we allow this Bill to be debated, vetting of judges and magistrates will take place and this will rekindle confidence and trust in the minds of Kenyans. It is, therefore, important that, without any reservations, we support this Motion.

With those few remarks, I endorse this very timely Motion.

**Mr. Kioni:** Mr. Temporary Deputy Speaker, Sir, I thank you for giving me the opportunity to support this Motion.

I want to agree with the Minister for Justice, National Cohesion and Constitutional Affairs that these are the two most crucial pieces of legislation that are before us, which came up immediately after the promulgation of the Constitution. The passing of this Motion will send a signal of commitment by this House to deal with matters of implementation of the new Constitution. I appreciate that this would have come much earlier, but the need for further consultations with the Commission on Implementation of the Constitution, among others, was crucial.

I want to thank the Minister for Justice and Constitutional Affairs for seconding this Motion. I know that in the very recent past, he has had difficulties supporting anything that has come our way in terms of pieces of legislation. The reforms envisaged in the Constitution will be achieved by the enactment of these Bills, especially within the Judiciary. Commitments have been given by the Executive that reforms are underway in the Judiciary, and it is important that these Bills be fast-tracked, so that other necessary pieces of legislation can also be brought, so that we can deal with them.

Mr. Temporary Deputy Speaker, Sir, at times Kenyans may have gotten the feeling that the implementation process is moving slowly, but the fast-tracking of these Bills should serve to give them confidence that, as a House, we are still committed to the implementation of the Constitution within the shortest time possible. It is important that, as a House, we also make sure that we are able to go by the timelines set out in the Constitution, so that the country can continue moving forward.

With those remarks, I beg to support.

**Mrs. Shebesh:** Mr. Temporary Deputy Speaker, Sir, I would like to support this Motion. As I do that, I would like to re-emphasize the value of vetting. It is obvious that it has come to our attention that vetting is crucial. I would like to bring out what I think vetting is. To me, vetting is not just an exercise in futility. It is what establishes one's academic credentials, integrity, goodwill within the civil society and the public in general and good will within the private sector. The Judges' and Magistrates' vetting will be one of the biggest reforms that we will be undertaking as a country in the new Constitution.

What we are going through now is unfortunate but I believe that a job not done well must be repeated. I do believe that we are going to repeat because of the mistake that has been made by the Government. I believe that by the Government bringing this Motion before the House, it is an indication that they are willing to relook at the mistakes they have made. The Ministry of Justice, National Cohesion and Constitutional Affairs must continue to be vigilant. I want to say that history will judge the Ministry well or harshly depending on how we are able to establish judicial mechanisms in this country. It is always a person within this Ministry that has to remain vigilant. Therefore, I commend



the Minister for remaining steadfast in keeping to the letter of the law because we do not want to cry in future that we made a mistake when we had somebody who was capable sitting in that office.

Therefore, I do support the Vetting of the Judges and Magistrates Bill. I would like to say that it is about time that the mistakes that were made without vetting are corrected. This is especially so with the nomination that was done recently without this particular procedure.

I support this Motion.

**Dr. Otichillo:** Mr. Temporary Deputy Speaker, Sir, I rise to support this Motion. It is very timely that we pass these two Bills. Let me take this chance to congratulate the Minister for Justice, National Cohesion and Constitutional Affairs. In my view, he has done a very good job. He has remained steadfast and has been working very hard to see that the two Bills are brought before this House. Therefore, I would like to say that we need to fast-track these Bills so that they can be passed so that we initiate reforms in our judiciary system.

With those few remarks, I support this Motion.

*(Question put and agreed to)*

## **BILLS**

### *First Readings*

#### THE VETTING OF JUDGES AND MAGISTRATES BILL THE JUDICIAL SERVICE BILL

*(Orders for the First Readings read – Read the First Time  
and ordered to be referred to the relevant Departmental Committee)*

## **MOTIONS**

### ADOPTION OF REPORT ON EXTRA-JUDICIAL KILLINGS

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on its fact finding visit to Lari, Koibatek, Dagoreti, Kisauni and Nyakach over alleged extra judicial killings in the Districts; from 11<sup>th</sup> October to 27<sup>th</sup> November, 2010, laid on the Table of the House on 16<sup>th</sup> December 2010, subject to the following amendments:-

- I. Paragraph (viii) on page 31  
By deleting all the words after the word “death” appearing on the first line and inserting in place thereof the words “point to police involvement as the boy was not seen alive since the time he was arrested”
- II. Paragraph 4 on page 32

i. By deleting the words “cannot” appearing on the first line and inserting the word “should” in place thereof.

ii. By deleting the words “are unclear” appearing on the second line and inserting the words “point to police involvement” in place thereof.

iii. By deleting the sentences appearing on the second line up to the end of the paragraph.

III. Paragraph 5 on page 32

i. By inserting the word “though” at the beginning of line I

ii. By deleting the full-stop after the word “acquitted” and inserting a “comma” in place thereof.

iii. By deleting the words “thereafter does not wish to open an inquiry into a case that the court conclusively dealt with” appearing in line 2 and inserting the following words in place thereof; “proposes that the prosecution should appeal against the ruling”.

*(Mr. Kapondi on 18.1.2011)*

*(Resumption of Debate interrupted  
on 18.1.2011)*

**The Temporary Deputy Speaker** (Mr. Imanyara): I am informed that the debate on the Motion was completed and he was due to reply but since he is not here I will put the Question.

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

*Resolved accordingly:*

THAT, this House approves the Report of the Departmental Committee on Administration and National Security on its fact finding visit to Lari, Koibatek, Dagoreti, Kisauni and Nyakach over alleged extra judicial killings in the Districts; from 11<sup>th</sup> October to 27<sup>th</sup> November, 2010, laid on the Table of the House on 16<sup>th</sup> December 2010, subject to the following amendments:-

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II. Paragraph 4 on page 32

i. By deleting the words “cannot” appearing on the first line and inserting the word “should” in place thereof.

- ii. By deleting the words “are unclear” appearing on the second line and inserting the words “point to police involvement” in place thereof
  - iii. By deleting the sentences appearing on the second line up to the end of the paragraph.
- III. Paragraph 5 on page 32
  - i. By inserting the word “though” at the beginning of line I
  - ii. By deleting the full-stop after the word “acquitted” and inserting a “comma” in place thereof.
  - iii. By deleting the words “thereafter does not wish to open an inquiry into a case that the court conclusively dealt with” appearing in line 2 and inserting the following words in place thereof; “proposes that the prosecution should appeal against the ruling”.

**The Temporary Deputy Speaker** (Mr. Imanyara): Let us move on to the next Motion. I understand that the Leader of this delegation and the Members are not in the House. So, I will defer the Motion to such other time as the House Business Committee shall reinstate it.

ADOPTION OF REPORT ON 123<sup>RD</sup>  
ASSEMBLY OF IPU

THAT, this House adopts the Report of the IPU Kenya Delegation to the 123<sup>rd</sup> Assembly of the Inter-Parliamentary Union (IPU) held in Geneva, Switzerland from 4th – 6th October 2010, laid on the Table of the House on Tuesday 23rd November, 2010.

*(Motion deferred)*

**BILL**

*Second Reading*

THE VETERINARY SURGEONS AND  
PARA-PROFESSIONALS BILL

**The Temporary Deputy Speaker** (Mr. Imanyara): Is the Minister responsible not there? Hon. Members, there being no Minister responsible, I will defer the Order also to such time as the House Business Committee shall reinstate it.

*(Bill deferred)*

## **ADJOURNMENT**

**The Temporary Deputy Speaker** (Mr. Imanyara): Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, Thursday, 3<sup>rd</sup> February, 2011 at 2.30 p.m.

The House rose at 4.50 p.m.