

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday, 27th August, 2009

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

QUESTIONS BY PRIVATE NOTICE

INTERDICTION OF MERU G.K. PRISON OFFICERS

Mr. Linturi: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice:-

(a) Could the Vice-President and Minister for Home Affairs confirm that Mr. Daniel Mutiria M'Ikiugu, the Superintendent of Prisons in charge of the main Meru G.K. Prison and eight other prison officers, were interdicted on 2nd May, 2009 and that a *nolle prosequi* was subsequently entered on 14th July, 2009, thereby discharging them?

(b) What steps has he taken to ensure that the officers are re-instated as prison officers and their powers and privileges reinstated in compliance with the rule of natural justice?

(c) Could he also give an undertaking that the said officers' dues will be paid for the time they have been out of office?

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

(a) I hereby confirm that Mr. Daniel Mutiria M'Ikiugu, a Superintendent of Prisons and the then officer in charge of Meru G.K. Prison and eight others from the Prisons Service were interdicted. However, the interdiction date was 2nd May, 2008 and not 2nd May, 2009. I further confirm that the Attorney-General entered a *nolle prosequi* in respect of the charges against the officers on 14th July, 2008 and not 14th July, 2009.

(b) The officers were discharged by the Chief Magistrates Court and their case is now subject to administrative process in accordance with the Civil Service Code of Regulations and will be settled soon.

(c) The officers under interdiction receive their half salary each month in accordance with the Code of Regulations.

Mr. Linturi: Mr. Speaker, Sir, the Assistant Minister has admitted that those people were interdicted and the matter is undergoing an administrative process. I remember sometimes in February, the Vice-President and Minister for Home Affairs had committed himself to have those officers reinstated in their positions. In view of that, could the Assistant Minister tell us when that matter is likely to end and when those

officers will report back to their stations? That is because there is no charge pending against them.

Mrs. Kones: Mr. Speaker, Sir, upon being served with letters to show cause why disciplinary action should not be taken against them, those officers went to court and the matter is still pending in court awaiting judgement.

Ms. Karua: Mr. Speaker, Sir, noting that, that was a case of alleged brutality - and we had many such cases especially during the events of early this year - could the Assistant Minister confirm to this House whether there is a policy within the Ministry on how to deal with cases of brutality or alleged brutality? In particular, what happened to the officers from the Kamiti Maximum Prison who were responsible for some prisoners' deaths?

Mrs. Kones: Mr. Speaker, Sir, when the Attorney-General entered the *nolle prosequi*, the case was referred to an administrative process within the Ministry. So, it is being handled and very soon, we shall know the outcome.

Mr. Olago: Mr. Speaker, Sir, I notice a contradiction in the Assistant Minister's answer. When a *nolle prosequi* is entered by the Attorney-General, the understanding is that the case is withdrawn. So, nothing else should be pending. Is the Assistant Minister satisfied that when the Attorney-General entered a *nolle prosequi*, the case was not finalized? Are those officers not being subjected to double jeopardy by having administrative proceedings again?

Mrs. Kones: Mr. Speaker, Sir, when they were served with the "show cause" letters, they went to court. So, the case is still in court.

Mr. Linturi: Mr. Speaker, Sir, it is really unfortunate because I feel that the Assistant Minister is not able to answer this Question as we would have expected. I am saying that because the matter she is referring to is a matter of judicial review that was filed by some of the officers because the State was taking too long.

In my view, this Question might not be adequately answered by the Assistant Minister. I request that you defer this Question until such a time when the Vice-President and Minister for Home Affairs will be able to answer it. This matter was here again in April and he had committed himself before this House that he would settle it in a month's time. If I remember, last week, I gave the indulgence because of the situation that was in the House. It was my view that the Vice-President and Minister for Home Affairs will come to answer this Question. I seek your indulgence on this matter. Those officers are really suffering and even as they receive---

Mr. Speaker: Order, Mr. Linturi! You cannot go on forever. Hon. Members, we all agree that this is Question Time. The first Question by Private Notice has been asked by the Member for Igembe South and we have already spent five minutes on it. The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs has given her answers as best as she could. If any Member, and in particular the Member for Igembe South, feels the Question has not been answered well and he has, indeed, said that he is not satisfied with the answers given by the Assistant Minister - then the reasonable and sensible thing to do would be to ask further questions. We have given you an opportunity to ask further questions, which you have chosen not to do. So, we must move on to the next Question.

DEATHS OF CONVICTS/REMANDEES
AT KODIAGA GK PRISON

Mr. Olago: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is the Vice-President and Minister for Home Affairs aware that in the past seven days there have been deaths of 18 convicts/remandees at Kodiaga G.K Prison in Kisumu caused directly by lack of sufficient food, drugs, overcrowding, unhygienic conditions and poor water and sanitation?

(b) What action is he taking to punish prisons officers who are responsible for this state of affairs?

(c) What action is he also taking to ensure that all prisons in the country are not death-traps?

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

(a) I am not aware that there have been deaths of 18 convicts/remandees at Kodiaga G.K Prison in Kisumu in the past seven days. However, I am aware that there have been ten deaths in the past two months. There is sufficient food and drugs. Water and sanitation are at acceptable levels and subject to frequent testing by prison authorities and the District Public Health Office, Kisumu. I admit that certain sections of the prison accommodate an excess number of inmates above the recommended figure, but the situation is not critical.

(b) For prisoners who die while undergoing treatment in hospital, postmortem results will guide as to the cause of death. Other deaths in custody are subjected to both inquests by police as well as postmortem. All the reported cases died in hospital. The results will guide as to any liability where pre-existing medical conditions are not the cause of death. As final results are awaited, there is no action contemplated against the officer in charge or staff of Kodiaga Prison.

(c) I wish to assure the House that inmates in all prisons are accorded the same level of treatment obtainable in our public health institutions. The Prisons Service works closely with the Ministries responsible for health and the Kenya Medical Supplies Agency (KEMSA) to ensure sufficient supply of medicine. Whereas the prisons have several seconded Ministry of Health staff, efforts are being made to increase these staff as well as the Prisons medical staff, through recruitment and training. Medical camps with partners are also routinely held. The department has increased the scale and range of feeding, clothing and supply of all prisoners to ensure that they enjoy provision of their basic human rights. Staff are undergoing continuous training and measures are being undertaken with stakeholders to reduce congestion and ensure adequate provision for inmates.

Ms. Karua: Mr. Speaker, Sir---

(Mr. Olago stood up in his place)

Mr. Speaker: Order, Mr. Olago! Whoever catches the Speaker's eye has the first opportunity.

(Mr. Lekuton gestured at the Chair)

Order, Mr. Lekuton! You do not talk to the Chair by signals or gestures.

(Laughter)

Ms. Karua: Mr. Speaker, Sir, the Assistant Minister has admitted that there is overcrowding in Kodiaga GK Prison, Kisumu. Could she, therefore, tell us what is the recommended number of inmates in this prison and what is the number the prison is actually holding now?

Mrs. Kones: Mr. Speaker, Sir, what the hon. Member has asked is a different Question. However, I know that all prisons in Kenya have a problem of congestion. The number of inmates in Kenyan prisons is more than the required number, but the reforms currently going on in the Prisons Service will address such problems.

Mr. Olago: Mr. Speaker, Sir, the core function of the Prisons Service in Kenya is to rehabilitate offenders and keep in custody those who are awaiting trial. However, it is too much when you have ten deaths in one prison within a period of two months. There must be something wrong at Kodiaga GK Prison despite the effort of the officer in charge of the prison. Under these circumstances, what has the Ministry done to facilitate intake of clean water and sufficient food into the prison?

Mrs. Kones: Mr. Speaker, Sir, the main cause of the ten deaths reported in two months in the prison is unhygienic water and sanitation. About three cases are linked to malaria and pneumonia. The rest of the deaths are related to waterborne diseases. However, efforts are being made to ensure that they are provided with clean water because there has been scarcity of water.

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to say that the cause of the deaths is related to waterborne diseases, when she is aware that the water system at Kodiaga Prison is in a very pathetic state?

Mrs. Kones: Mr. Speaker, Sir, the water system is in a pathetic state, but we are trying to find ways of, at least, improving it.

Mr. Speaker: Order! Mrs. Assistant Minister, the answers you have given, beginning with the answer that you gave regarding the question by Ms. Karua and now the answer to the hon. Member for Kisumu Town West, point to the fact that you do not seem to be well prepared to answer this Question. This is because this Question pertains to what has happened to inmates at Kodiaga GK Prison in Kisumu. So, in getting up to answer it, you ought to have anticipated supplementary questions covering such areas as the capacity of the prison, causes of the deaths and all the issues relating to Kodiaga Prison. So, when you say that a question asking you about the capacity of the prison is a different Question, then obviously you are in error.

So, I will defer this Question to Thursday, next week so that you have enough time to get all the information that you require to respond to it adequately, inclusive of supplementary questions. At least, now you have had a feel of what the House is like.

(Question deferred)

REGIONAL BALANCE IN STUDENTS
ADMISSION INTO TTCS

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

(a) Does the Government consider regional balance in admitting students to public teacher training colleges?

(b) Could the Minister table the per-college list of admissions to public teacher training colleges for the year 2009 and provide a breakdown of the admissions on constituency basis?

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

(a) Regional balance is considered in admissions to public teachers training colleges. Admissions are determined by the needs for all regions and capacity of the colleges. The quota for each district is calculated by using this approved formula. The district approved teacher establishment plus district teacher needs, divide by the national teacher establishment plus national teacher needs, then you multiply that by the total vacancies in colleges.

(b) The per-college list for 2009 intake is here and I wish to table it. The process is still on-going and will be finalised by the end of September, 2009.

(Prof. Olweny laid the document on the Table)

The hon. Member wanted us to give a breakdown based on constituencies but that has not been done. What we have done and that is the way we do it, is to give the breakdown, first of all, on the admission to a particular college. The admission to that particular college is broken down into districts, divisions and zones. The hon. Member can take advantage of this information.

Mr. Mwaita: Mr. Speaker, Sir, I wish to thank the Assistant Minister for giving us a very comprehensive mathematical formula on the admissions to the teacher training colleges. However, could he consider distributing the various slots on constituency basis in order to ensure equity and fairness, now that constituencies are the centres of planning where the Government is heading to?

Prof. Olweny: Mr. Speaker, Sir, if constituencies are already districts, then it is there in that file because the intake in those constituencies that are already districts is based on that. If your constituency is already a district, go and look for it in that index list.

Mr. I. Muoki: Mr. Speaker, Sir, it is a known fact from historical perspective that some districts are seriously under-staffed. Given that the teachers taken to the training colleges are meant to go and work later in those areas, could the Assistant Minister take affirmative action by deliberately taking more teachers to training colleges from those areas where there is under-staffing?

Prof. Olweny: Mr. Speaker, Sir, that is taken care of by the formula because it talks of the teacher-needs. That is the shortage of teachers within that particular district. If the district is a constituency, then the intake is within that particular constituency.

Mr. Mwangi: Mr. Speaker, Sir, while I appreciate what the Ministry is doing and as a follow-up on Mr. I. Muoki's question, some parts of this Republic have excess trained teachers. Would I be in order to request the Ministry to take those extra teachers to those other areas where they have a shortage and if not, is it necessary to keep on training P1 teachers while the Government cannot employ them?

Prof. Olweny: Mr. Speaker, Sir, we cannot afford to stop training teachers. We shall keep on training teachers because we know we do not have enough. Even the trained teachers that are not employed, if we deployed all of them today, we shall not have enough yet. Regarding those places which do not have enough teachers, we try as much as possible to post teachers outside their districts.

Mr. Kigen: Mr. Speaker, Sir, I would like to ask the Assistant Minister to tell this House what criteria is used in selecting those who are to be trained.

Prof. Olweny: Mr. Speaker, Sir, selection of those to be trained is simply based on academic merit. They should have a minimum grade C (plain).

Mr. Jamleck Irungu Kamau: Mr. Speaker, Sir, I want to know from the Minister, because I know in my constituency and others, there are those teachers who graduated way back in 2000 but they have not yet been absorbed by the Teachers Service Commission (TSC). Why do we continue training teachers every year and yet those who qualified over ten years ago are still not employed?

Prof. Olweny: Mr. Speaker, Sir, I have said that the teachers that are trained and are not yet employed are not enough for us in this country. Regarding employment, avail the money to the Ministry of Education through this House, then we shall employ all of them.

Mr. Jamleck Irungu Kamau: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister clearly say that the teachers who have been trained are not enough in this country and yet they are out there doing nothing. They are not employed. Why has the Government not been able to employ those who are not anywhere instead of saying that we do not have enough teachers?

Mr. Speaker: Order, Assistant Minister, you need not respond to that. The hon. Member stood on a point of order and has instead asked a question.

Mr. Bahari: On a point of order, Mr. Speaker, Sir. My point of order is that the Assistant Minister seems not to have understood the question. The question is; can there be a balance between training and employment so that the people you have invested in are not outside waiting? That becomes a waste of resources. So, is the Assistant Minister in order not to understand the question put to him?

(Laughter)

Prof. Olweny: Mr. Speaker, Sir, I understood the question very well. I also think that the hon. Member did not understand my response and I still maintain the response; that we shall keep on training teachers. We shall keep on doing our work until we have enough trained teachers. Today, we do not have enough trained teachers. It is up to this House to give us enough money to employ those trained teachers.

Mr. Speaker: Last Question, Mr. Mwaita!

Mr. Mwaita: Mr. Speaker, Sir, I seek your indulgence now that the Assistant Minister has laid the list on the Table of the House. The Question should be deferred so that I get time to peruse it.

Mr. Speaker: Order! This is time for Questions. If you are not satisfied with the answer given by the Assistant Minister, the purpose of this time is for you to interrogate him further by asking suitable questions that will enable him to give you desired answers, if not explanations.

We cannot defer every Question because an answer at a given point is not satisfactory.

Mr. Mwaita: Mr. Speaker, Sir, he has just tabled a document showing the list as required in part (iii) of the Question. So, I was seeking indulgence from the Chair so that I get time to peruse the list that he has tabled.

However, could he consider affirmative action especially for Arid and Semi-Arid Areas now that he has given grade C (plain) as the minimum qualification?

Mr. Speaker: Fair enough! Hon. Members, if you ask a Question in a particular manner and you receive the answer as sought, then you cannot complain that the answer therefore gives you a reason to ask for more time. That ought to be understood because part (ii) of the Question, for instance, on Question No.3 by Private Notice asks:-

“Could the Minister Table the list?”

The Assistant Minister has proceeded to lay the list on the Table. So, what wrong has he done?

Proceed, Assistant Minister!

Prof. Olweny: Thank you, Mr. Speaker, Sir. Regarding affirmative action to ASAL areas, the people in disadvantaged areas, particularly in ASAL areas, are given more time to apply but we cannot lower the grade below grade C (plain) because it will lower the quality of teachers.

Mr. Abdirahman: On a point of order, Mr. Speaker, Sir. This is not a serious professor.

Prof. Olweny: On a point of order, Mr. Speaker, Sir. I never met this man in the class where I was teaching. How can he say that I am not a serious professor? I am not professing here. We are dealing with Questions directed to the Ministry of Education.

(Laughter)

Mr. Speaker: Mr. Abdirahman, Prof. Olweny is conceding that he was properly awarded the degree that led to his being designated a professor.

Mr. Abdirahman: Mr. Speaker, Sir, the professor is the Assistant Minister for Education and what he is giving us in terms of information is not right. That is why I am saying that Ministers, whether professors or ordinary Ministers, must take work seriously in this House. I rose on a point of order because he said that recruitment for teacher training colleges in ASAL areas or disadvantaged areas is given more time when we know that it is standardized across the country.

Is he in order to mislead this House by telling us that people in northern Kenya or the disadvantaged regions are given more time when in essence they are not? That is what I am raising.

Prof. Olweny: Mr. Speaker, Sir, I will repeat that. I am telling him that we have given them more time. His constituents were given more time to apply than the rest of the country. We also know that North Eastern Province is much further away from the rest of the country to Nairobi.

HARASSMENT OF MOTOR CYCLE OWNERS
FOR LACK OF NEW GENERATION NUMBER PLATES

Mr. Shakeel: Mr. Speaker, Sir, I beg to ask the Deputy Prime Minister and Minister for Finance the following Question by Private Notice.

(a) Could the Minister state why motor cycle owners, including *boda boda* operators, are being arrested and detained in Kisumu and Mombasa for not having the new generation number plates?

(b) Could the Government provide the plates in time and also grant a grace period within which motorists should comply, to avoid harassment and arrest of the operators?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Finance (Dr. Oburu): Mr. Speaker, Sir, I beg to reply.

(a) I am not aware of any arrests or detention of motor cycle owners and *boda boda* operators as a result of the inability of the Kenya Revenue Authority (KRA) to provide them with new generation number plates.

(b) KRA has adequate number of new generation number plates. There has never been a shortage of the same at any given time. All those who meet the set requirements and would like to be issued with the number plates, should be advised to contact the KRA as the number plates will be issued to them free of charge.

Mr. Shakeel: Mr. Speaker, Sir, the Assistant Minister, perhaps, has not been properly advised. At the moment, there are over 20 motor cycles laying at Kisumu Police Station. I am sure there is equivalent number in Mombasa, Nairobi and other towns. Furthermore, the police officers are charging between Kshs3,000 to Kshs5,000 for a breakdown to ferry these motor cycles to police stations. The police officers have clearly told us that it is their job to arrest the motor cycles owners without the prescribed number plates. The prescribed number plates are the new generation plates. It takes KRA three weeks to give a new generation number plates. *Boda boda* operators cannot afford to wait for three weeks. However, KRA is unable to provide the number plates immediately.

Mr. Speaker: Order, hon. Shakeel! Could you come to the question? What is your question?

Mr. Shakeel: Mr. Speaker, Sir, could the Assistant Minister order those number plates to released immediately? Could the KRA give *boda boda* operators three weeks within which to have the new generation number plates? Could he also make sure during these three weeks nobody will be harassed or arrested?

Mr. Speaker: Order, Assistant Minister! There is no question for you to respond to.

(Mr. Shakeel stood up in his place)

(Laughter)

Order, Mr. Shakeel! Anybody else interested!

Yes, Mr. Abdirahman!

Mr. Abdirahman: Mr. Speaker, Sir, I want to ask why the Government cannot license motor cycles and other *boda boda* operators because they ferry people and goods. It is important that they are licensed. Why can the Government not license these people since they cause a lot of accidents?

Dr. Oburu: Mr. Speaker, Sir, the *boda boda* and motor cycles are very importance means of transport for the poor echelon of the society. The Government, therefore, cannot refuse to issue licences to them. The new generation number plates are issued immediately on application. It takes a maximum of three hours to issue the number plates.

Mr. Olago: Mr. Speaker, Sir, if the answer by the hon. Minister is true and he believes in it, could he kindly confirm to the House that no *boda boda* rider will be arrested for failure to have the new number plates when the number plates are being held by the KRA or sellers of the motor cycles?

Dr. Oburu: Mr. Speaker, Sir, my Ministry has not issued any orders for arrests for those who do not have the new generation number plates. If this is happening, then it is not because of the new number plates. It is the Registrar of Motor Vehicles who issues the deadlines and gives orders to the police. As yet, we have not issued any such order to police to arrest any motor cycles without the new generation number plates.

(Mr. Linturi walked towards the Dispatch Box)

Mr. Speaker: Order, Mr. Linturi!

(Laughter)

Mr. Linturi: Thank you, Mr. Speaker, Sir. I want to hear from the Assistant Minister whether he is aware of the dangers posed to pedestrians and other motorists by the *boda boda* riders. It is true that they ferry people and goods from one point to another, but they do not have passenger insurance. So, I want to know whether he is making any arrangement to make it a condition that before the motor cycles carry people they have third party insurance covers.

Dr. Oburu: Mr. Speaker, Sir, the role of my Ministry is to change and issue these new generation number plates to *boda bodas* and motor cycles. It is also a requirement that the motor cycles have insurance for their motor bikes. Those who do not have the insurance are actually breaking the law. The law enforcement officers should deal with them accordingly. We cannot issue----

Mr. Olago: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to talk about general insurance for motor cycles when the question by hon. Linturi was specific; passenger cover insurance?

Dr. Oburu: Mr. Speaker, Sir, I do not know what the hon. Member means by passenger cover insurance because when you have an insurance the insurance it is to the third party which is the passenger you are carrying and the motor cycle itself.

Mr. Olago: Point of information, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Olago! Dr. Oburu, do you want to be informed?

Dr. Oburu: Yes, Mr. Speaker, Sir.

Mr. Olago: Thank you, Mr. Speaker, Sir. I wish to inform the hon. Assistant Minister that passenger cover relates to the cover of the insurance for the person who is paying fare while third party insurance only relates to the motor vehicle insured and not the passenger or the goods carried therein.

Dr. Oburu: Mr. Speaker, Sir, he was just informing me. He was not asking a question.

Ms. Karua: Mr. Speaker, Sir, now that it is quite clear that motor cycle owners who are mainly the youths, for whom the main means of employment is those motor cycles or *boda bodas*, are being harassed by the police under the guise of being asked for these licences and also noting that the Government is one, could the Assistant Minister consider liaising with his counterpart in the Ministry of State for Provincial Administration and Internal Security and getting a general announcement that the deadlines for the new number plates has not been given and, therefore, there should be cessation of harassment for the *boda boda* riders.

Dr. Oburu: Mr. Speaker, Sir, the police arrest *boda bodas* or motor cycles for very many other reasons. It is not just because of the new generation number plates. If a motor cycle operator does not have a helmet, he is arrested. But I will talk to my friend here the Assistant Minister, Ministry of State for Provincial Administration and Internal Security. If, indeed, there is such harassment it should be stopped. But I am not aware of that kind of harassment.

Mr. Shakeel: Mr. Speaker, Sir, could the Assistant Minister further please instruct those motor dealers---

(Laughter)

I want to ask the Assistant Minister if there is any requirement for motor/cycles to be released by dealers without the necessary registration because that is also causing a problem.

Dr. Oburu: Mr. Speaker, Sir, it is now a requirement that no vehicle or motor/cycle will be released without, first, getting the number plate. That is the case. I do not know whether he wants that to be reversed.

Mr. Speaker: Order! Order, Mr. Assistant Minister! You only answer questions; you do not ask questions.

Dr. Oburu: Mr. Speaker, Sir, my answer is that, that is the practice and it is the law.

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. I would like to inform the Assistant Minister that---

(Laughter)

Is the Assistant Minister in order to mislead the House because we know for a fact, and I can give him numbers of motor/cycles which have been released by dealers in Kisumu without the number plates being released? The number plate is held because of a loan. So, could he please, make a point of asking the dealers why they are doing that?

Dr. Oburu: Mr. Speaker, Sir, if there is any illegal activity by any dealer, I think there is the law enforcement to deal with that because that is what the law says.

ORAL ANSWERS TO QUESTIONS

Question No.114

PROVISION OF HEALTH FACILITIES IN TURKANA REGION

Mr. Ethuro asked the Minister for Medical Services:-

(a) whether he could table the number, location and distance of district, sub-district hospitals, health centres and dispensaries in Turkana Central, Turkana North and Turkana South districts; and,

(b) what urgent measures he is taking to ensure that adequate health facilities are provided in the Turkana region, in compliance with Millennium Development Goals (MDGs).

Mr. Speaker: Minister for Medical Services not here? We will revert to your Question later, Mr. Ethuro.

Next Question, Mr. Were!

Question No.209

UPGRADING OF MATUNGU SUB-DISTRICT HOSPITAL

Mr. Were asked the Minister for Medical Services:-

(a) when he will elevate Matungu Sub-district Hospital to a district hospital in view of creation of Matungu District; and,

(b) when the Government will provide sufficient infrastructure to the hospital.

An hon. Member: He is here!

(Prof. Anyang'-Nyong'o entered Chamber)

Mr. Speaker: Prof. Anyang'-Nyong'o, proceed to answer Question No.209!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Did you say Question No.209? There are two Questions.

(Laughter)

Mr. Speaker: Yes!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

Matungu Sub-district Hospital---

(Mr. Shakeel stood up in his place)

Mr. Speaker: Order! Proceed, Mr. Minister!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I beg to reply.

(a) Matungu Sub-district Hospital is the designated district hospital for Matungu District---

Mr. Shakeel: On a point of order, Mr. Speaker, Sir. I would like to inform the Minister that he is answering the wrong Question!

(Laughter)

Mr. Speaker: Order! Order, hon. Members! Mr. Shakeel, I know that this afternoon, you may be in the mood of providing entertainment to the House but, please, refrain from any further comics.

(Laughter)

Proceed, Mr. Minister! Answer Question No.209!

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, Mr. Shakeel had something white during lunch time.

However, I beg to reply.

(a) Matungu Sub-district Hospital is the designated district hospital for Matungu District in line with the recommendation of the local leaders. It will be gazetted as such when it acquires the necessary infrastructure for a district hospital. These include a theatre, a radiology unit, a 100-bed in patient service provision unit, a supplies services unit and a mortuary, among others.

(b) Matungu district is among more than 100 new districts created since 2007. The Ministry has received requests to upgrade lower level facilities like Matungu Sub-district Hospital to become district hospitals in all these new districts. However, the Ministry's annual development allocation of Kshs300 million is insufficient to meet the upgrading needs averaging close to Kshs500 million per facility. So what we have is less than what we require to upgrade a single facility. In view of this inadequate budget, the Ministry will progressively prioritize construction of key infrastructure in the facilities earmarked for upgrading within the available budget. Such infrastructure improvement will be matched by commensurate deployment of personnel. Matungu Sub-district Hospital will be given consideration within this framework alongside other proposed district hospitals.

Mr. Were: Mr. Speaker, Sir, I asked a similar Question one year ago and apparently, I am receiving nearly the same answer. What particular plans does the Minister have for this specific sub-district hospital? What plans does he have?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the hon. Member is right. What pertained one year ago still pertains today because the Office of the Deputy Prime Minister and Ministry of Finance has not changed its mind regarding allocation of resources to the Ministry in regard to Development Budget. Indeed, the allocation this year was a carbon copy of the allocation of the previous years. So, we have planned to put in place the necessary infrastructure that Matungu Sub-district Hospital needs but unfortunately, Prof. Anyang'-Nyong'o does not have the account to withdraw from to

provide these services. That account is in the Exchequer. If hon. Members can push the Exchequer to give us the money to do what we intend to do, we shall be more than grateful.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. Is the Minister in order to mislead the House that it is Parliament that will provide him with money yet he is quite aware that it is the Executive that must prioritize and budget? In fact, he has a responsibility to push for the budgetary provision for this particular line item.

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, the Executive proposes and Parliament allocates. If Parliament abrogates that duty then, indeed, the people of Kenya will hold Parliament responsible for abrogation of duty.

(Several hon. Members stood up in his place)

Mr. Speaker: Order, Mr. Minister! You can see you are provoking additional points of order on that matter. Please, acquaint yourself with the budgetary making procedure and process; where proposals come from, who prepares the Estimates and what Parliament does because what you have said is not accurate.

Anybody else interested?

(Mr. Ruto stood up in his place)

Order, Mr. Ruto! Sometimes you should let matters rest where they are.

Mr. Washiali: Mr. Speaker, Sir, Matungu District was hived off from Mumias District and as we speak today, Mumias District does not have a district hospital. While I do not have an objection with my colleague asking for a district hospital, a law of common sense requires that a parent district should also be given a district hospital first before---

Mr. Speaker: Order! Order! Mr. Washiali, this is Question Time! It is not time for you to critique your colleague. I will not allow turf wars to be fought here.

Mr. Washiali: Mr. Speaker, Sir, when will the Minister also consider providing Mumias District with a district hospital?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I think I have said time and again in this House that our aim is to provide every district with a district hospital. The people of Kenya demand and require that. Indeed, in our hospital reform system, we have planned to have, first, sub-district hospitals where district hospitals do not exist and then upgrade those sub-district hospitals to district hospitals. This is our commitment.

Mr. Speaker, Sir, however, the only way we can do that is if we have resources. We have tried within what we can to seek concessional funds. This year alone, we are dealing with 23 sub-districts and district hospitals. Subsequently, if we get more concessional funds, we shall continue to do so. The responsibility, really, is on the Exchequer to realise that health is a basic need and that these district hospitals are necessary. Therefore, it is for Parliament, when the Budget is read here to make sure that it is examined so that the Executive can be informed in no uncertain terms by the House of Representatives that these services are needed.

Mr. Speaker: Ask the last question, Mr. Were!

Mr. Were: Mr. Speaker, Sir, while I appreciate the request for a district hospital by my colleague from Mumias, this sub-district hospital has been serving the whole district. So, it has been there by right and by agreement by all the local leaders.

Mr. Speaker: Order, Mr. Were! Could you ask the last question? I gave directions that I will not allow turf wars to be fought in the House.

Mr. Were: Mr. Speaker, Sir, the Minister has indicated clearly that while a single facility requires Kshs500 million to be upgraded, he only got Kshs300 million for the whole nation. Why has he not considered giving some percentage out of the Kshs300 million to improve this sub-district hospital?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, I agree entirely with the hon. Member. Indeed, as I have said, all the sub-district hospitals have been prioritised. We are quite prepared to work with the Member of Parliament to get a certain percentage out of the Kshs300 million to supplement with the CDF to put certain facilities in Matungu.

Let me confirm to the hon. Member that we shall divide that Kshs300 million as fairly as possible and in terms of the need in each particular facility. So, this is not a lot of money and if you spread it too thinly, it may not be effective. However, in the case of Matungu, we shall give priority to a theatre, a radiology unit, a 100 bed in-patient service and the supply of other services, for example, mortuary. You will realise that we cannot do all of that, but we shall, in consultation with the Member of Parliament, decide what we should do given the allocation of Kshs300 million that we have for the whole nation.

Question No.114

PROVISION OF HEALTH
FACILITIES IN TURKANA REGION

Mr. Ethuro asked the Minister for Medical Services:-

(a) to table the number, location and distance of district, sub-district hospitals, health centres and dispensaries in Turkana Central, Turkana North and Turkana South districts; and,

(b) what urgent measures he is taking to ensure that adequate health facilities are provided in the Turkana region in compliance with the Millennium Development Goals (MDGs).

Mr. Speaker, Sir, this Question has been deferred for the last two weeks.

Mr. Speaker: The Minister is here and he will proceed to answer.

The Minister for Medical Services (Prof. Anyang'-Nyong'o): Mr. Speaker, Sir, I apologise to the Chair and the hon. Member for coming a little bit late. However, I beg to answer.

(a) In the Turkana region, the Ministry has three hospitals located as follows:-

- (i) Lodwar District Hospital in Turkana Central
 - (ii) Lopiding Sub-district Hospital in Turkana North
 - (iii) Lokitaung Sub-district Hospital in Turkana North
- There is no hospital in Turkana South District.

As regards the health centres and dispensaries, these fall under the mandate of the Ministry of Public Health and Sanitation. I am sure that the responsible Minister can provide the information about the distribution that the hon. Member requires.

(b) The policy of the Ministry is to have, at least, a sub-district hospital in every constituency. As per this guidance, the Ministry needs to put up a hospital in Turkana South. To address this need, the Ministry, during the Budget preparation process for the Financial Year 2009/2010 proposed to the Treasury to allocate funds to construct 42 new hospitals one of which was to be located in Turkana South. Unfortunately, the Treasury was unable to allocate the required funds. The Ministry will continue to engage the Treasury and the development partners to support the construction of a hospital for Turkana South and other deserving constituencies.

Mr. Ethuro: Mr. Speaker, Sir, while I thank the Minister for the answer, I beg for your consideration. First of all, in his answer to part “a” of the Question, the Minister has said that he is unable to get information because he is in a different Ministry. The Constitution is clear that Ministers are collectively responsible to the House on this information. I will proceed only after the Chair has given me guidance on this aspect. It is this Minister’s responsibility to get us the information because they are sharing the same building! What does he need---

Mr. Speaker: Order, Mr. Ethuro! Your point is made. Mr. Minister, that explanation, seen in the light of directions previously given by the Chair, is not acceptable. Could you indicate when you will have this information to fully respond to the Question?

Prof. Anyang’-Nyong’o: Mr. Speaker, Sir, I beg your indulgence because I am responsible for hospitals. I will do my best for the hon. Member to meet his concerns and requirements. If, indeed, I am expected to provide information from other Ministries, I can do so within the context of Cabinet responsibilities. That can be done if I am given time.

Mr. Speaker: How long do you require to do that?

Prof. Anyang’-Nyong’o: Mr. Speaker, Sir, I could do it within the next two weeks.

Mr. Speaker: Fair enough. Is there anybody else who is interested in this matter?

Mr. Bahari: Mr. Speaker, Sir, I listened to the Minister carefully and I think he did not answer the Question adequately. While he has given the number and location, the issue of distance has not been tackled and yet it is key in this answer. Could he give us the distance between these hospitals?

Mr. Speaker: Order! Mr. Minister, I do not think you need to respond to that. The Question states: “could the Minister table the number, location and distance of district, sub-district hospitals, health centres and dispensaries in Turkana Central---” The Question does not require him to give the distance between hospitals or distance from where to where. So, you need not respond to that question because I do not think it is valid.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. While you are right by saying “between”, he has not given “either”, that is, even from one hospital to the next one. The distance in this Question---

Mr. Speaker: Order, Mr. Ethuro! If you are confirming that I am right, then you have no concern over the response of the Minister. This Question does not ask distance from what to what or where to where. So, there is nothing out of order, the way I see it.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The hon. Minister has told us that there is no hospital at all in Turkana South. Is it because a large part of Turkana

South is now occupied by foreign forces or is it part of a greater plan to cede the entire Turkana South to Sudan? Could we get a clarification?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, that question is better addressed to the Ministry of State for Provincial Administration and Internal Security. Ours is to put up health centres, dispensaries and hospitals. If they are not there, we shall say so. The reasons why they are not there can be explained as I did before in terms of budgetary allocation. When it comes to bandits and creatures like those, there is a Ministry responsible for them.

Mr. Okemo: Mr. Speaker, Sir, I am a bit baffled by the nomenclature describing hospitals, dispensaries and all these. Is it possible to have a sub-district hospital without a district hospital? If my logic makes sense, you cannot talk about a sub-district hospital when you do not have a district hospital. Is it based on geography or facilities? Which is which?

Prof. Anyang'-Nyong'o: Mr. Speaker, Sir, it is quite possible to have a college in a particular locality without a university. The university can be very far from that particular location, but it means that there is a facility somewhere to which a college refers to as a university. The same is true of medical services. You can have a sub-district hospital in Turkana South District without necessarily having a district hospital in that particular district, but there maybe, indeed, within the medical zone, which is constituted by several districts, a district hospital to which that sub-district refers. That is why we talk about a national referral system.

Mr. Speaker: Last question, Mr. Ekwe Ethuro!

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. I am seeking the indulgence of the Chair---

Mr. Speaker: Order! Order, Mr. Ethuro! You have been given an opportunity to ask the last question. If you want to proceed---

Mr. Ethuro: Mr. Speaker, Sir, I did not even ask the first question!

Mr. Speaker: You will utilise this opportunity. If you choose not to, then we will proceed to the next Question.

Mr. Ethuro: Mr. Speaker, Sir, I declined to utilise the opportunity, because I did not have the opportunity in the first place.

Mr. Speaker: Fair enough!

Mr. Ethuro: I asked for direction about seeking more information. I expected further direction to proceed. I have been rising on a point of order, so that I can know whether---

Mr. Speaker: Order, Mr. Ethuro! You will not direct the Chair on how to conduct the business of this House. As long as the Chair lives within the spirit and intent of the Standing Orders, I am afraid, I will not permit that kind of conduct.

I will, therefore, defer this Question for two weeks for the Minister to come with further information as was sought at the beginning in the first intervention by Mr. Ethuro. But you must stand corrected on how to conduct yourself.

Mr. Ethuro: Mr. Speaker, Sir, I oblige.

Mr. Speaker: Next Question by the Member for Kandara!

Question No.410

RE-LOCATION OF EASTLEIGH AIRBASE FOR SAFETY REASONS

Mr. James Maina Kamau asked the Minister of State for Defence:-

(a) whether the Government has considered re-locating the Eastleigh Airbase from the city centre for safety reasons; and,

(b) whether the Government is taking any other measures to ensure safety of the people around the airport, given the growth in population and economic activities around it.

The Assistant Minister of State for Defence (Maj-Gen. Nkaiserry): Mr. Speaker, Sir, I beg to reply.

(a) The Government has not considered re-locating Moi Airbase at Eastleigh from its current location. However, the Ministry is greatly concerned over the encroachment on land in an area known as “Kiambu” that is about 200 metres from the camp’s Bomb Dump, contrary to international minimum safety distance of 400 metres. This is potentially dangerous, more so in an event of an accident inside the Bomb Dump, which could be catastrophic.

Secondly, the construction of tall buildings in the area has also posed great danger to landing aircraft as pilots have to dodge the buildings in order to align aircrafts for landing. The problem is grave at night as the buildings are still under construction and have no lights. The situation is worse for the inexperienced pilots, who at times veer off the flight path centre line as they approach the landing, and could easily crash into buildings.

(b) The Ministry of State for Defence has written to the Permanent Secretary (PS), Ministry of Lands, as well as to the Town Clerk, Nairobi City Council, recommending the following measures to ensure safety of the people around the airport:-

(i) moving of Kiambu slum dwellers to another site;

(ii) stopping by Nairobi City Council of construction of all buildings next to the runway or inside the approach panel;

(iii) stopping of further allocation of land around Moi Air Base (MAB) until land officials determine boundaries since some of the land could be within the cantonment area.

(iv) We have invited the Town Clerk, Nairobi City Council, and the Director of Planning, Ministry of Lands, for a tour of MAB to assess the danger posed by these buildings and settlement. The Ministry is, therefore, waiting for the concerned Ministry to act as recommended.

Thank you, Mr. Speaker, Sir.

Mr. James Maina Kamau: Mr. Speaker, Sir, I would like to thank the Assistant Minister for attempting to answer the Question. This country is famous for acting when disasters have occurred. Recently, we had a near-fatal disaster when a light aircraft crashed into Nyayo High Rise Estate. What is easier to re-locate, is it the Airbase or the people around it?

Maj-Gen. Nkaiserry: Mr. Speaker, Sir, you cannot control accidents. An accident can even occur in the safest of airports. So, as regards MAB, that is the location.

The Ministry is not intending to move it. However, if the hon. Member could avail approximately 1,000 hectares in his constituency, we could consider, for the safety of the people, re-locating the airbase to that area.

Dr. Eseli: Mr. Speaker, Sir, now that the Assistant Minister has said that they do not intend to re-locate the airbase despite the dangers that it poses, could he assure this House that he is confident that the military, as is constituted now, will be able to deal with any emergencies that may arise in case of an accident, given that the younger officers have been retired and the older ones are the ones running the military?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, my friend, Dr. Eseli, is a retired Major who served in the Kenya Army, and he should know that our pilots are very competent. Since we established MAB, the accident rate has been very low. So, I do not think the retirement of junior officers and the retaining of senior officers will have anything to do with the safety of MAB.

Dr. Nuh: Mr. Speaker, Sir, recollecting what happened in Tanzania some two months ago, what steps has the Ministry taken to ensure that such incidents do not occur given that, that place is heavily populated?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, we are very much prepared for any eventuality.

Mr. Lekuton: Mr. Speaker, Sir, the issue of airports and security is extremely important to us. Do we have a code? What is the estimated height of buildings along aircraft flying routes?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, the landing approach area to the airport should have no building at all. So, the issue of height should not even arise. We have asked the Nairobi City Council and the Ministry of Lands to remove these people, because the landing funnel of the airstrip should be very clear. So, the issue of height of buildings should not even arise.

Mr. Maina Kamau: Mr. Speaker, Sir, what is the justification of having a military airbase right in the middle of the city? The noise made by the supersonic jets is harmful to the ears which are not protected.

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, the justification is the decision of the Government of the Republic of Kenya. It will remain so, until another Government decides otherwise.

Question No.274

COMPENSATION FOR RESIDENTS
OF EMBAKASI *JUA KALI* ESTATE

Mr. Waititu asked the Minister for Roads:-

- (a) whether he could confirm that the eastern bypass will pass through *Jua Kali* Estate in Embakasi area next to Mugoya offices; and,
- (b) what plans he has to compensate the owners of the affected houses at the estate which have been earmarked for demolition.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, I beg to reply.

(a) I confirm that the eastern bypass will not pass through *Jua Kali* Estate. As we know it on the official records, that is the estate that is next to the Mugoya offices.

(b) My Ministry has no plans to compensate the owners of the *Jua Kali* Estate since they will not be affected by the bypass.

Mr. Waititu: Mr. Speaker, Sir, I have just conversed with the Assistant Minister. We have agreed that there is another *Jua Kali* which is not in his records. The housing unit which the bypass is earmarked to pass through will be demolished. He has just informed me that the bypass was surveyed in 1970. Could he avail the survey documents that show that, that bypass was surveyed in 1970 and that that land was Government land and not a private land?

Mr. Kinyanjui: Mr. Speaker, Sir, quite clearly that is a different Question. We have all the records, from 1970, of all the land that was acquired by the Government for the purposes of expansion of the bypass. This will be availed at the appropriate time. Members of the public can access this information at the Ministry of Roads Headquarters.

Mr. Speaker: Hon. Members, the Chair is satisfied that that Question has been adequately dealt with. So, we will take Question No.368.

Question No.368

IRREGULAR AWARD OF NORTHERN BYPASS
CONTRACT TO M/S CHINA ROADS COMPANY

Mr. Mbadi asked the Minister for Roads:-

(a) why the Ministry used the design of 1970 in contracting for the construction of the northern bypass without considering the changes that have taken place since then;

(b) why M/s China Roads and Bridges Corporation, a company blacklisted by the World Bank on allegations of corruption, has been awarded the single-sourced contract of constructing the bypass; and,

(c) why the Kshs8.6 billion loan from the China Government to the Government of Kenya is being paid directly to the China Roads and Bridges Corporation and not through the Exchequer and whether the decision was meant to circumvent the procurement procedures and regulations.

The Assistant Minister for Roads (Mr. Kinyanjui): Mr. Speaker, Sir, I beg to reply.

(a) The design used for contracting out these works was carried out between 2006 and 2007.

(b) China Roads and Bridges Construction Company has carried out major works in Kenya for the last 20 years and was selected due to their previous record of work in Kenya.

The Nairobi eastern and northern bypass project is an engineer-procure and contract project, what we call a turnkey project financed by the Chinese Government who appointed the China Roads and Bridges Construction Company as the contractor, in consultation with the Government of Kenya, in line with the mutual understanding of the two countries. It is therefore, a government to government understanding.

(c) At the time of signing the contracts, China Roads and Bridges Construction Company had not been blacklisted by the World Bank for undertaking World Bank sponsored projects.

Payments are being effected to the contractor in accordance with the conditions of the preferential concessional loan to the Government of Kenya by the Chinese Government. All payments are made on certification by the Government with a portion payable by the Government of Kenya following the normal procedure while the portion payable by the Chinese Government being forwarded to them for payment by the Ministry of Finance as is the case with other projects financed by development partners and in accordance with the laid down Government procedures.

Mr. Mbadi: Mr. Speaker, Sir, it is believed that when two countries are entering into contract; each country tries as much as possible to safeguard its own interests. I believe that the Kenya Government in entering such a contract, should have carried out due diligence to make sure that the interest of the Kenyan public and the taxpayers' money is safeguarded. Could the Assistant Minister tell this House what the total contract sum is, how much is coming from the Chinese Government and how much is coming from the Kenya Government? What is the rate of interest payable on the loan that the China Government is giving us to warrant single sourcing from a Chinese company?

Mr. Kinyanjui: Mr. Speaker, Sir, what the hon. Member is asking are the terms of contract and under what circumstances we were able to take up the loan. But that is an entirely different Question. The Question sought to find out why the Kenya Government gave the China Roads and Bridges Construction Company the contract, which I have clearly answered. Nevertheless, the terms of the loan are available at the Ministry. They can be made available on request. However, under the Public Procurement Act passed in this House, whenever we have a concessional loan, the interest of the country that is giving the concessional loan will be put into account and that can be verified.

Mr. Mbadi: Mr. Speaker, Sir, is it really in order for the Assistant Minister to evade my Question deliberately? My Question is talking about single sourcing. By just referring to single sourcing, he should have known that I intended to know the due diligence that the Ministry has taken. Why did they single source? Were the terms so favourable?

Mr. Speaker: Mr. Mbadi, you have made your point, that the Assistant Minister has not responded to your Question as to why the Ministry single sourced. So, you rest it there. Let us hear the Assistant Minister.

Mr. Kinyanjui: Mr. Speaker, Sir, about 70 per cent of the funds for doing this bypass is coming from the Chinese Government. One of the conditions set out is that the company that would undertake this particular project would be a Chinese company. In this case, the Chinese company, in consultation with the Government of Kenya, arrived at the China Roads and Bridges Construction Company.

This was one of the key conditions given by the financier that the China Roads and Bridges Construction Company should be contracted for the loan to be given to Kenya. It is given at very extraordinary terms, for example, there is a grace period. We are talking about 2 per cent interest. It is really a concessional loan to the Government of Kenya.

Mr. Chanzu: Mr. Speaker, Sir, let me refer to the statement that the Assistant Minister made referring to the payment being made in proportions to the China Roads

and Bridges Construction Company where the Kenya Government pays a portion of it and the Chinese Government pays a portion of it. He said the Chinese Government is paying 70 per cent. Why did the Government not consider, just like any other contract that we sign, allowing a joint venture between China Roads and Bridges Construction Company and a Kenyan company in the same proportion?

Mr. Kinyanjui: Mr. Speaker, Sir, I am not so sure I have understood the question, but if I may answer, it is not the first such project that we have undertaken. The project from the Jomo Kenyatta International Airport (JKIA) to United Nations Environment Programme (UNEP), Gigiri is one such project that we have undertaken under very similar terms. I want to assure the hon. Member that this is exactly as is stipulated in the Public Procurement and Ethics Bill.

Mr. Olago: Mr. Speaker, Sir, the Assistant Minister has told the House that China Roads and Bridges Construction Company was not blacklisted at the time this contract was entered into. Is it not true that the parent company was blacklisted on the 14th of January this year when the Kenya Government entered into commitment on 20th January this year? Our Government knew that this company was blacklisted by the World Bank!

Mr. Kinyanjui: Mr. Speaker, Sir, I want to clearly state that the bypass project is not a World Bank project. When China Roads and Bridges Construction Company was blacklisted in another foreign country, Kenya was not party to that contract. Therefore, the terms of the contract in this particular case included the Kenya Government, the China Government and the China Roads and Bridges Construction Company. We are not interested parties in the contracts---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to evade Mr. Olago's question which was very simple? Is he implying that we are not bound by decisions made by the World Bank? The World Bank blacklisted the parent company for eight years for being involved in corruption in the Philippines. It is very clear and it was posted on the World Bank website on 14th January. The Kenyan Government went ahead and awarded a contract to the same company that was blacklisted yet the public will pay for the same.

Mr. Kinyanjui: Mr. Speaker, Sir, I think it is important that we clearly distinguish contracts awarded by the Ministry which are not subject to the World Bank procedures. The issue in question is about China Roads and Bridges Construction Company in another foreign country. They are incorporated here in Kenya and therefore, the troubles out there cannot be extended to the situation here in Kenya.

I want to assure Members that China Roads and Bridges Company has undertaken major projects including the Construction of Mombasa – Nairobi Road and the Gigiri – JKIA project, many of which have been very successful projects.

Mr. Speaker: Last question, Mr. Mbadi!

Mr. Mbadi: Mr. Speaker, Sir, I had a number of questions on this issue and I feel not satisfied. I feel the answer that the Assistant Minister has given is not satisfactory, but probably, I will pursue it in a different way.

Mr. Speaker, Sir, the Assistant Minister has indicated that the design work was carried out again between 2006 and 2007 yet the earlier design was done in 1970. From 1970 to 2006, a lot of things have taken place including the coming up of human settlement, especially the Githunguri slums. Has the Ministry taken into consideration

that those people are likely to be displaced? If they are going to be displaced, where are they going to be taken?

Mr. Kinyanjui: Mr. Speaker, Sir, I have indicated that the bypass concept was started in the year 1970 but the project that we gave out was an engineer, procure and construct. This simply means you design, procure and construct. You do the whole project.

We are doing what we are calling over-passes and under-passes in most of the roads. So we will not have roundabouts. In all areas that we are going through human settlement, we have done all the necessary mitigation factors and we will ensure that where we ought to pay or compensate, we will do that. However, where there is illegal settlement on Government lands, we will not compensate.

Mr. Speaker: Hon. Members, because of where we are on time, I am afraid we will have to defer the balance of the Questions to Tuesday next week. We will now accommodate two Ministerial Statements beginning with the Minister for Foreign Affairs.

Question No.384

EXCLUSION OF KAMARA DIVISION CANDIDATES
FROM NYS RECRUITMENT EXERCISE

(Question deferred)

Question No.205

NUMBER OF SENIOR POLICE OFFICERS
PREMATURELY RETIRED SINCE 2007

(Question deferred)

Question No.105

SPLITTING OF KAPCHEROP INTO
CHEBORORWA/MAKUTANO DIVISIONS

(Question deferred)

Question No.255

BENEFITS OF ROLLA PROJECT BETWEEN
GOK/AL-BADAR LTD OF KUWAIT

(Question deferred)

Question No.349

NUMBER OF GK PRISONS IN KENYA

(Question deferred)

Question No.366

DESIGNATION OF USONGA LOCATION
AS HARDSHIP AREA

(Question deferred)

Mr. Speaker: Next Order!

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I have a Statement requested by Mr. Olago, my learned senior. This was first directed to---

Mr. Speaker: For purpose of record on the HANSARD, much as I said we take Statements I think the Order needs to be read out.

MINISTERIAL STATEMENT

STATE OF INTERNATIONAL INSTRUMENTS RATIFIED
BY GOVERNMENT

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Speaker, Sir, I wish to make the following Statement:-

Following the request made on the 18th August 2009 by the hon. John Olago Aluoch, MP, I am happy to provide an annexed record, a list of international treaties ratified by Kenya. I have already furnished my learned senior with a copy. The list covers all subjects of public life including trade, investment, environment, human rights education, culture, transport, communication, narcotic drugs and psychotropic substances, physical matters, among others.

Mr. Speaker, Sir, I want to state that it is not possible to provide a comprehensive list of all the treaties ratified by Kenya in this Statement because it is quite long and it keeps changing and is scattered in many Ministries. The compilation is still on and I have informed my learned friend that an additional list will be provided to him.

Mr. Speaker, Sir, information regarding these treaties is also readily available in the treaties database of the organizations under which these treaties were negotiated such as the United Nations (UN), the African Union (AU) and the East African Community (EAC).

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

Mr. Deputy Speaker, Sir, regarding the list of international treaties ratified and domesticated by Kenya, I would like to assure the House that each treaty so ratified and domesticated is contained in an Act of Parliament. In Kenya, the domestication of treaties is done by the Office of the Attorney-General which is the lead office responsible for drafting and submitting new Bills to Parliament and or amendments to Acts of Parliament/or for consideration and passage by this House.

Proposals for domestication of provisions of international treaties are normally presented to the House by the Attorney-General following the ratification of any particular treaty. In the process of preparation of a Bill, the Attorney-General consults with the relevant departments of Ministries dealing with the issues contained therein. Some of the notable treaties ratified and domesticated by Kenya include the United Nations Convention on Persons with Disabilities, which was domesticated as the Persons with Disabilities Act (Act No.14, 2003), the African Charter of the Rights and Welfare of the Child and the Convention on the Rights on the Child which were domesticated as the Children's Act (No.8, 2001), the Vienna Convention on Diplomatic Relations of 1961 which was domesticated as the Privileges and Immunities Act, the United Nations Conventions Against Corruption which was domesticated as the Anti-Corruption and Economic Crimes Act and the Public Officer Ethics Act of 2003. There are many others including the recently passed Bill on International Crimes.

Mr. Deputy Speaker, Sir, the issue of whether Parliament's approval was sought and obtained in the process, I would like to inform the House that in Kenya, Parliament's approval for ratification of treaties is not required. It is normally ratified by the Cabinet. Whenever Kenyans are desirous of ratifying a treaty, the line Ministry under whose docket the subject matter of the treaty falls, will be required to submit a memorandum to Cabinet for consideration and approval and thereafter, the treaty is ratified. Where there is need to domesticate, then a Bill is brought to Parliament and passed by this House.

Thank you.

Mr. Olago: Mr. Deputy Speaker, Sir, the list that has been provided by the international instruments is not complete, as the Minister has said. The fundamental issue is that some of these international instruments have such serious ramifications for our country. However, before the Cabinet approves them, they should be brought to the House for debate before we commit our country. Recently, the Cabinet approved the Rome Statute without bringing it to the attention of the House. Later on, the House ratified it by the domestication of the International Crimes Act. However, we are now seeing how serious that matter was, that the Cabinet entered into that without consulting Parliament. Under those circumstances, what is the Ministry doing to ensure that before the Cabinet commits Kenya in international instruments, they are brought to the House for debate and directions?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, under the international law and following the practice and precedence in this country, treaty-making and execution is an Executive function. Treaty ratification is an Executive function and treaty domestication is a Legislative function. So, the Executive negotiates and signs a treaty, and then brings it to the Executive, which is the Cabinet, to ratify it. When there is need for domestication, then it is brought to the legislature for domestication through Legislation. That is the standard procedure under the international law and has been the practice in this country since Independence.

Ms. A. Abdalla: Thank you, Mr. Deputy Speaker, Sir. If we agree with the Minister that treaty signing is an Executive function, could he explain to us why we are unable to trace the different treaties that have been passed? We have been tossed between his Ministry and the Attorney-General's Chamber. Is there any plan for his Ministry to set up a database so that Kenyans can be aware of when those treaties were signed without reverting back to the database of the UN agencies under which those treaties were signed?

The Minister for Foreign Affairs (Mr. Wetangula): Indeed, Mr. Deputy Speaker, Sir, I said that most of these treaties are scattered around Government Departments and Ministries. A couple of months ago, the Cabinet directed that the depository of these instruments will be my Ministry. We are now in the process of gathering all of them from various Ministries and various Government Departments. Within a short time to come, we will provide a comprehensive readily available list of each and every treaty, whether ratified or domesticated or both.

Mr. Ruto: Thank you, Mr. Deputy Speaker, Sir. The hon. Minister has told us that ratification is basically an Executive function. Has he contextualized the fact that, historically, the ratification of treaties or emanation of that law that allowed the Executive to ratify these treaties started in the last century when countries were being led by kings who considered themselves as sovereigns? I think the sovereignty of the Republic of Kenya repossess on Parliament. It is incumbent upon the Government to consult Parliament whenever it purports to enter into any treaty that binds this country.

Mr. Deputy Speaker: Seek clarification now!

Mr. Ruto: Could the Minister clarify the basis of the latest court rulings by Mr. Ringera that Parliament is the one that ought to ratify these treaties?

Mr. Baiya: Mr. Deputy Speaker, Sir, I would want the Minister to clarify what he has said in his Ministerial Statement that the Executive has the overall responsibility to negotiate the treaty. Is that power over and above the normal power that the Government has on policy issues where it lays on the Table the policies for discussion and debate by hon. Members? If the Government had the power to commit the country without discussion, debate or policy by Parliament, then it would be executing without the mandate of the Kenyan people.

Secondly, do we have a list of undomesticated treaties that require to be domesticated? Could we have that list?

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, starting with my good friend, Mr. Isaac Ruto of the Mau fame, under Article 23 of the Constitution of Kenya, the Executive authority of this country is vested upon the President who exercises it in conjunction and with the support of the Cabinet which includes the Rt. hon. Prime Minister and Ministers. That Executive is vested with authority to negotiate and execute treaties on behalf of the country. It also has the residual responsibility and duty derived from the Constitution to ratify those treaties. When it comes to domestication, we have to turn those treaties into laws of this country and only this Parliament can enact laws for the country. That is why I said that the Executive function is to negotiate, sign and ratify. The parliamentary function is to domesticate.

On Mr. Baiya's question, I have just provided a list here but I was humble enough to admit without being prodded by anybody that it is not conclusive. There are many

more that we will have to add and bring to this House as and when we conclude that. On the issue of --- What was your first issue?

Let him repeat!

Mr. Baiya: Mr. Deputy Speaker, Sir, the Government brings policy papers for debate and discussion before the House. On the same basis, why can the Government not have a foreign policy position on various aspects before concluding the contracts? One day we will wake up and find that some Executives have sold this country and they will even have hidden the cake to themselves.

The Minister for Foreign Affairs (Mr. Wetangula): Mr. Deputy Speaker, Sir, the nature and texture of treaties is very complex. Some are negotiated at multi-lateral levels such as the AU and the UN. It would be impractical for the Government to bring drafts here before they execute or sign them.

The Government or the Executive is an elected arm of leadership in this country. It represents the interests of all Kenyans including Mr. Baiya. We must operate on the basis of good faith, good conduct and reasonable representation at all levels. The Government will at all time act in the best interest of the people of this country, including my learned junior, Mr. Baiya.

Mr. Deputy Speaker: Order! We can take one more Ministerial Statement from the Office of the President. Proceed, Mr. Assistant Minister.

HARASSMENT OF REPORTERS BY POLICE

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, on 20th July, 2009, Dr. Khalwale rose on a point of order to seek a Ministerial Statement from our office, regarding what he termed as harassment of reporters by the police. I wish to state as follows:-

Mr. Deputy Speaker, Sir, the *Star Newspaper* published a story in their edition No.635 captioned: Fazul Dossiers Missing from Malindi 2008, Mombasa 2002. Police Lose Vital Files on *Al Qaeda*.

In the main story that followed, the reporters, Andrew Teyie and Maina Kamore, gave un-substantiated details alleging that Kenyan police officers had either lost those vital files on the world's most wanted terrorist Harun Fazul Abdullah Mohammed, thus raising questions on the integrity of the national security agencies. When police read the story which, by itself, was termed as alarming, they launched investigations immediately on the alleged offence of destroying evidence contrary to Section 116 of the Penal Code Cap. 63, Laws of Kenya.

Guided by the Judges Rules, they summoned the two reporters to appear before Senior Assistant Commissioner of Police, Mr. Nicholas Kamwende. Rule number one of the Judges Rules states:-

“When a police officer endeavours to discover the author of a crime, there is no objection to questioning in respect thereof to any person or persons, whether suspected or not, from whom he thinks that useful information can be obtained.”

The Judges Rules are rules of practice which act as guidance for police officers when interviewing persons, whether they are suspected of any crime or not. Those rules

were developed and adopted in 1912 in England, and have been in use within and without Commonwealth countries ever since.

Mr. Deputy Speaker, Sir, the police officer invoked Section 22(1) of the Police Act Cap. 84, Laws of Kenya, which also states as follows, and I quote:-

“A police officer may by writing under his hand require any person who he has reason to believe has information which will assist him in investigating an alleged offence to attend before him at a police station or police office in the district in which such a person resides, or for the time being is.

Mr. Deputy Speaker, Sir, on 22nd July, 2009, the two reporters were summoned in writing at 10.20 a.m. to appear before Nicholas Kamwende, a Senior Assistant Commissioner of Police at 2.00 p.m. at the Anti-Terrorism Police Unit Head Office in Nairobi. The two reporters appeared accompanied by their lawyer, hon. Paul Muite, a Senior Counsel and Miss. Catherine Gicheru. The two were interviewed by the police in the company of their advocates.

However, Mr. Deputy Speaker, Sir, having supplied this House with the details illuminating the circumstances surrounding the actions by the police in relation to the matter in question, and whereas the Government affirms the powers herein above applied as enshrined in the Judges Rules and in the Police Act, the Government cannot and is not about to condone harassment and any action done contrary and in disregard of other relevant provisions of the law which this honourable House is the maker.

Mr. Deputy Speaker, Sir, the spirit of the Media Act is that there should be no inhibition of Press freedom which may undermine the democratic strides we have made as a nation. Section 35(i) of the Media Act provides thus, and I quote:-

“The media shall, in a free and independent manner and style, inform the public on issues of public interest and importance in a fair, accurate and unbiased manner whilst distinctively isolating opinion from facts and avoiding offensive coverage of nudity, violence and ethnic biases.”

That ordinarily calls for a responsible and accountable practice of journalism that enhances a positive democratic culture and the rule of law. I must note that protection against disclosure of sources is at the core of the practice of journalism, and Section 35(i) of the said Act enshrines that particular principle.

However, the government will appreciate honest, unbiased investigative journalism and subsequent sharing of the relevant sensitive information by the journalists or media houses with the police in good time, preceding the publishing of sensitive or emotive articles for purposes of:-

- (1) Avoiding suspicion by other parties, and commencing
- (2) an effective investigation into various sensitive matters that come to their notice.

The honest sharing of information approach will not only disclose the skeletons in any matter and expedite investigation but will also harness co-operation and collaborative activities which, certainly, will make our society safer.

The police have no intention of harassing or/and intimidating journalists or the media, including *Star Newspaper*, KISS 100, Classic 105, KISS TV, Classic TV or any other media house for that matter.

In conclusion, our doors remain open for continuous consultations with the media fraternity and other private sector stakeholders under the public/private partnership framework. Thank you.

Dr. Khalwale: Mr. Deputy Speaker, Sir, I thank the Assistant Minister for that honest answer. To me, it sounds like the Government is friendly to the media in this country. There is only one judicial system in this country. I am wondering: Why did it require the intervention of the Chief Magistrate in Mombasa to have those gentlemen freed? Why did the Government take those people to court when, in the first place, they were neither accused, nor witnesses or officers of the court? Could the Assistant Minister clarify why the police are acting in total disrespect to the law that gives insulation to reporters from disclosing the source of their stories? Finally, since the Assistant Minister has said that the Government has no intention of harassing the reporters and raiding media houses, could he also use this opportunity to apologise to KISS FM, KISS TV Station, *Star Newspapers* and other sister publications for the harassment that it visited on those reporters?

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir. Could the Assistant Minister confirm or deny---

Mr. Deputy Speaker: Order! As much as the Chair is giving a leeway, this is a Ministerial Statement. You can only seek clarification!

Mr. K. Kilonzo: Mr. Deputy Speaker, Sir, I want the Assistant Minister to assure this House that, indeed, the Government has not been systematically targeting Radio Africa Group from the time they exposed the error in the Supplementary Budget? The arrest and arraigning in court of those two journalists in court is just a tip of the iceberg. Their main aim is to close Radio Africa, the *Star Newspaper* and continue harassing other media houses.

Mr. Mungatana: Mr. Deputy Speaker, Sir, just a quick one. Could the Assistant Minister clarify whether this Government will respect and protect the media when it is carrying out its duty and, especially, when the reporters are quoting their sources? He should confirm today that the Government will protect the journalists as they expose the issues that are affecting the Government. To date, the Government has refused to release Members of Parliament who want to serve in the Opposition and, therefore, the media is really the one that is bringing out issues that are affecting this country.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I will start with Dr. Khalwale's clarification. First, the reporters were not under arrest at all. They were summoned - and I have evidence which I can lay on the Table of the House - to explain their source of the story. I wish to lay the document on the Table for ease of reference.

(Mr. Ojode laid the document on the Table)

Mr. Deputy Speaker, Sir, we do not arrest those who accurately come up with a story. The reporters were summoned to explain the source of their story. This is what the summons say: "Explain to the officer the source of the information on your edition No.635 of 20th July." That, in itself, does not necessarily mean that they were arrested.

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

Mr. Deputy Speaker: It is a clarification! The Assistant Minister is making clarifications. Hon. Members, you cannot use a Ministerial Statement to debate. If you want to debate or to scrutinize the Assistant Minister in the manner that you are proceeding, then use the right provisions in the Standing Orders. Do not do it in form of a Ministerial Statement. You can only seek clarification. He is clarifying now and you have to listen!

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, I went a notch higher and spoke to some of those reporters. They indicated to me that they were not arrested. They were required, through the summons, to explain.

Dr. Khalwale: On a point of order, Mr. Deputy Speaker, Sir. The rules of debate require that a Member should not mislead this House. Indeed, by laying the document on the Table, the Assistant Minister is misleading the House. We know that in law, a newspaper reporter is not under any duress to disclose the source of his or her information. Indeed, Magistrate Felix Kombo ruled in a similar case involving Ms. Kwamboka of the *Standard Newspapers* when she was taken to court to disclose the source of her information. He set her free. He is misleading the House by laying a document on the Table. It is simply a document that the Government used to arm-twist those young reporters, so that they could feel intimidated and so, something illegal by way of disclosing the source of their information.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Deputy Speaker, Sir, you will agree with me that we are not in a court of law. Those reporters were never charged. I have evidence here to show that.

The other clarification that Dr. Khalwale wanted was for the Government to apologise. He wants us to apologise for what and yet, the reporters were never charged? So, why should we apologise? I want to make it clear here that the police officers never intimidated or harassed those reporters. If there is any evidence to the contrary, I will take stern action to any police officer who harassed or intimidated those reporters.

I said that no arrest had been made. I would like the reporters to be friendly in terms of accuracy. They should report accurately. Otherwise, there was no intimidation and there has never been any harassment.

Mr. K. Kilonzo: On a point of order, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: Order, hon. Member! Hon. Members, when you seek a Ministerial Statement, you must understand that the Minister will bring a Statement. You might not like the Statement. You can only seek clarification on the content of the Statement. Let us live by the rules of the House. If you want to scrutinize and prosecute, then use other provisions.

COMMUNICATIONS FROM THE CHAIR

CHANGE OF ADJOURNMENT DATE

Hon. Members, the House Business Committee approved a tentative Parliamentary Calendar for the current Session and circulated the same to all Members. The Parliamentary Calendar had indicated that the House will adjourn today Thursday,

27th August, 2009, and resume on 13th October, 2009. Hon. Members, the House concluded the business of the Committee of Supply yesterday, after applying the Guillotine Procedure to all the Votes which had not been debated. The law requires that the House considers the Appropriation Bill in order to complete the budgetary process. In this regard, and contrary to earlier indications, the Motion for the Adjournment of the House is not in today's Order Paper on the above account. The House will, therefore, sit on Tuesday, 1st September, 2009, to consider the Appropriation Bill and then adjourn thereafter.

MODE OF COMMUNICATION ON PARTY AFFAIRS
FROM PRIME MINISTER'S OFFICE

Hon. Members, I have another Communication to make. On Wednesday, 19th August, 2009, during the Afternoon Sitting, the Member of Parliament for Chepalungu, hon. Isaac Ruto, rose on a point of order seeking guidance from the Chair regarding a letter he received from the Chief-of-Staff of the Office of the Prime Minister. The Member sought to know who can give communication on issues before the Floor of the House from the Office of the Prime Minister, and whether it is the Chief-of-Staff or the Permanent Secretary.

Hon. Members, the Chair has gone through the letter which bears the letter-head of the Office of the Prime Minister and addressed to all ODM Members of Parliament. The subject matter of the point of order by Mr. Isaac Ruto involves a communication to members of a political party and not on a matter before the House. All official correspondences on parliamentary matters are usually channeled through the Office of the Speaker and the Clerk of the National Assembly. Let me take this opportunity to reiterate that the Chair will not wish to be involved in matters touching on affairs of political parties as the Chair has no role over party matters. The Chair should, therefore, not be dragged into party affairs unless it pertains to business before the House, or the matter being raised has hampered a Member's performance in discharging his/her mandate as a Member of Parliament on the Floor of the House. I am certain that there are mechanisms within the party hierarchy to deal with such matters.

Hon. Members, from the foregoing and in view of the fact that Mr. Ruto did not specifically indicate to the Chair that the letter has interfered with his role as a Member of Parliament, I wish to direct that the letter laid by the Member does not fall within the ambit of the House.

The Chair is also oblivious to the cardinal rule of separation of powers. The fact that the letter laid had a letterhead of the Office of the Prime Minister is a matter best left to be sorted out by the Executive arm of the Government. The Chair will not usurp the role of the Executive, as it is up to them to ensure that the public officer adhere to the Public Officers Ethics Act and Code of Conduct when performing their duties.

I, therefore, order that the said letter be expunged from the records of the House.

Hon. Members, I also further wish to make another Communication before we proceed to the next Order.

DEFERMENT OF MOTION ON ADOPTION OF
REPORT ON CONSERVATION OF MAU FOREST COMPLEX

We will proceed to the Supplementary Order Paper which hon. Members have. Subsequent to that, the Chair also wishes to communicate that Order No.12 which is a Motion by the Rt. Hon. Prime Minister on the Mau Forest Complex will not be moved today and adopted. This is because the Chair is in possession of a High Court Miscellaneous Case No.313 of 2005. It is a bulky paperwork that the Chair intends to go through, acquaint itself and rule on the issue of *Sub Judice*.

Consequently, the Chair directs that this Motion is placed on the Order Paper on Tuesday, next week.

Thank you.

Mr. Mungatana: Mr. Deputy Speaker, Sir, I am not challenging your ruling but definitely, there is an issue. This is because you were here when that letter was tabled regarding the utilization of the Office of the Prime Minister to collect Kshs50,000 from ODM Members of Parliament. The hon. Member wanted to know whether that was ethical, because we have a clear prohibition of utilization of the office of any Minister, Prime Minister or---

Mr. Deputy Speaker: Order, hon. Mungatana! To begin with, once the Chair gives a direction on a matter and rules, that becomes the end of the debate. That has been the tradition of the House.

Nonetheless, the Chair wants to reiterate again, that there is a cardinal separation of powers in a democracy. There is the role of the Executive, the Legislature and the Judiciary. The Chair will not play the role of the Executive. This is clearly a matter for the Executive. The Chair has appreciated that such matters will only be best dealt with by the Executive. Parliament or the Legislature for that matter has got to understand its role and the Chair understands its role. Under those circumstances, the Chair will not debate now as to whether or not there is an issue here that meritS action. The Chair does not want to get dragged into that. There is an arm of the Government that deals with that. If it has to be acted upon, it will be acted upon by that appropriate arm of the Government.

Mr. Ruto: On a point of order, Mr. Deputy Speaker, Sir. With due respect, I had also raised an issue with regard to who can communicate to Parliament from that office. I did not hear a ruling in relation to that, and yet you alluded to it in your ruling. You have said that there is somebody styling himself as the chief of staff and yet there is a Permanent Secretary in that office duly appointed by His Excellency the President and is possibly the Accounting Officer for that Ministry. Who in that office should be communicating to Parliament?

Mr. Deputy Speaker: Order! This matter is closed! But nonetheless, it is for the Government to determine who will communicate on behalf of the Government. Mr. Ruto, this is your third or fourth term in Parliament. The Executive has got its own prerogative. It arranges its process in its own way.

The Chair cannot, will not and shall not determine who speaks for the Government. The Executive does that on its own.

An hon. Member: Mr. Deputy Speaker, Sir, there was a ruling on that!

Mr. Deputy Speaker: This is not a communication that was directed to Parliament. It was directed to a Member of Parliament in his capacity as a Member of a particular political party.

(Several hon. Members stood up in their places)

Hon. Members, if you respect your basis for being here and the traditions of the House, once the Chair gives a ruling, the matter ends there. You might not like the way the Chair has ruled, but you just have to accept it, because that is it. There is no appellate unless you, as Parliament, change the rules of engagement in the House. However, I do not see why you should do that because this is the way all democracies work. You have got to accept that!

Next Order!

BILLS

First Readings

THE PROCEEDS OF CRIME AND
ANTI-MONEY LAUNDERING BILL

THE PRICE CONTROL (ESSENTIAL GOODS) BILL

*(Orders for First Readings read – Read the First Time – Ordered
to be referred to the relevant Departmental Committees)*

Second Reading

THE NATIONAL YOUTH COUNCIL BILL

(The Minister for Youth Affairs and Sports on 23.7.2009)

(Resumption of Debate interrupted on 23.7.2009)

Mr. Deputy Speaker: Hon. Oparanya was seconding!
Proceed!

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Deputy Speaker, Sir, I had started seconding this Bill when I was interrupted. I rise to second it.

Mr. Deputy Speaker, Sir, the youth of this country comprise of about 40 per cent of the total population, which is about 15 million Kenyans.

Mr. Deputy Speaker, Sir, we shall establish the exact figure when we finish the census that we are undertaking. We have always said that the youth of this country will be the leaders of tomorrow. We have been saying that since Independence and we still say so even now. The youth of this country face many challenges. They face problems of unemployment, high levels of poverty, lack of finance and credit when they want to start

their own businesses or to advance themselves, they are also exposed to high health and social risks like HIV/AIDS and other diseases, drug abuse and crime. Generally, the youths of this country lack opportunities.

Mr. Deputy Speaker, Sir, the issue of National Youth Policy came up during the Ninth Parliament and it was agreed that we should have a youth policy for this country. So, the Bill that we have before us, which I am seconding, is therefore, meant to operationalize the National Youth Council Policy that we discussed in the Ninth Parliament.

In order to make the youth of this country useful to us--- I know the youth have done us proud, for example, in just the recently concluded World Athletics Championships in Berlin, which was held between 15th and 23rd August, 2009, where Kenya was number three overall in the whole world behind the United States of America and Jamaica. They got 11 medals. The youth of this country have done us proud but unfortunately, as a country, we have not focused much in trying to help them to access employment and to be assured of better health facilities and training. Even as they struggle to give us more medals, we should ensure that there are proper sports and recreational facilities for them.

Under the Vision 2030 programme, the youth is one of the issues that we have focused on to ensure that the youth of this country contribute to economic development of our country. In that Vision 2030, which is under my Ministry, we want to ensure that the youth have access to better training and that we upgrade technical and vocational training and ensure that they have entrepreneurship to make sure that productivity in all our sectors is enhanced.

Mr. Deputy Speaker, Sir, within the Vision 2030 youth programme, we are also focusing on the revision of education and training curriculum at all levels. Within that, we intend to rehabilitate all youth polytechnics, to raise the level of entrepreneurship and technical ability of our youth. We want to introduce a national programme to recognize the talents of the youth, especially those who are able to excel in various skills. Within the flagship project for 2012, in the medium plan, 2008/2012, and already this is being undertaken by the Ministry of Sports and Youth Affairs, there is proper provision to ensure that we construct the youth centres in every constituency. This is already being done. Within that, as a Government, we plan to have a sports lottery fund that will assist the youth to develop and nurture their sporting talents.

Mr. Deputy Speaker, Sir, within the Bill that we are debating now, we intend to promote and popularize the youth policy which deals with issues that affect the youth. We also want the youth to be able, within the provision of the Bill, to advocate and lobby legislation on issues affecting them. We want to ensure that all youth activities are mainstreamed in our planning and budgeting process. Already, as you are aware, the Government has undertaken some initiatives towards that by starting programmes like *Kazi Kwa Vijana*, although it is not being implemented properly, but that is an initiative towards ensuring that the youth who do not have proper skills have something to do and thereby contributing to the national development of our country.

Mr. Deputy Speaker, Sir, it has come too late. But the fact that it has come too late, is an initiative in the right direction. I know that if we had proper youth programmes, what happened after the General Election in 2007 would not have happened. This is an

opportunity for us to ensure that all youth programmes are mainstreamed on the planning and budgeting process of this country.

If you look at the Bill, it intends to establish a council and a board. But the establishment of the two bodies is not clearly spelt out. I think it is important that the Minister in charge looks at that. Traditionally, the council is meant to be an advisory body. But if you look at the Bill, you will find that the council is the implementing arm while the board is just advisory. So, the functions of the two are also not very clearly spelt out.

Regarding the appointment to the Youth Council---

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. This is a Minister in this Government and he is supposed to be seconding what the Government has agreed upon. But he is now already criticizing it. Is he part of the Government or against the Government? There is confusion here. What is going on?

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Deputy Speaker, Sir, there is no confusion at all. I have been seconding this particular Bill and where there should be some amendments, they should be suggested. Obviously, this particular Bill will come to the Committee Stage. So, I am suggesting what should be looked at. I am not wrong on that particular issue. Do not forget that I am also a Member of Parliament. I have also personal interest for the youth of this country.

Mr. Deputy Speaker, Sir, the second issue is on the appointments. I feel that on the appointments, the Minister has suggested that she would appoint six people to the Council. I suggest they should be eight people, so that we have one representative for each province. These appointments should be given to the youth, so that they elect their own representatives. Those representatives should be forwarded to the Minister for the appointment.

Mr. Mungatana: On a point of order, Mr. Deputy Speaker, Sir. Even if you are to give leeway, this is not acceptable. He is either seconding the Government Bill or he is opposing it. He cannot eat his cake it. Is he really in order?

Mr. Deputy Speaker: Hon. Minister, it is very unusual for the Government to move a lot of amendments. There is threshold on which you cannot go on with the Bill in terms of moving with the amendments. My presumption is that you are in agreement with the Minister on those amendments that you are moving now.

Hon. Minister for Youth Affairs and Sports, is that the position? The Minister is actually seconding this Motion and moving amendments; is he in consultation with you and is this the Government position.

The Minister for Youth Affairs and Sports (Prof. Sambili): Mr. Deputy Speaker, Sir, yes the hon. Member is seconding the Bill. The amendments will come during the Committee Stage. As I said, we shall take all the suggestions on board during the Committee Stage.

Mr. Deputy Speaker: Madam Minister, are you satisfied that the amendments being proposed by the Minister for Planning, National Development and Vision 2030, right now will not be way beyond the threshold that is acceptable under our Standing Orders. Essentially, you will have to rewrite the Bill again afresh if you will move amendments that are in excess of the required threshold.

The Minister for Youth Affairs and Sports (Prof. Sambili): Mr. Deputy Speaker, Sir, the Minister has suggested we increase the number of youth representatives in the council from six to eight to represent eight provinces. I think he is in order to do so.

Mr. Deputy Speaker: Fair enough!

Proceed, Mr. Minister!

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Deputy Speaker, Sir, let me assure the House that I have already discussed some of these issues that I have mentioned with the Minister concerned.

Mr. Deputy Speaker: The Chair appreciates that you are also the Minister for Planning, National Development and Vision 2030.

Proceed!

The Minister for Planning, National Development and Vision 2030 (Mr. Oparanya): Mr. Deputy Speaker, Sir, the last point I have is that within the Bill, the age bracket of the youth is from 15 years to 30 years. This is not consistent with the Vision 2030 and international standards. Within the Vision 2030, we recognise that the age limit of the youth should be 15 years to 35 years. So, that is also another issue that I need the Minister to consider.

With those few remarks, I beg to second the Motion.

(Question proposed)

The Minister for Environment and Mineral Resources (Mr. Michuki): Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to join my sons in this discussion because I too I am concerned about their welfare.

Mr. Deputy Speaker, Sir, this Bill has come at the right time. It has come at the right time because the Government has initiated many programmes for the youth. There is the Youth Enterprise Development Fund (YEDF), creation of centres of excellence, polytechnics will be improved and others set ups. There is genuine concern about the future and welfare of the youth within the Government. I, therefore, want to support these proposals and volunteer some suggestions as to how the service to the youth could be improved.

Mr. Deputy Speaker, Sir, I have had an occasion to discuss with the Minister about certain thoughts that I have. For example, it is my opinion that the current groupings of youths, so that they can benefit from the Fund has to be improved. New ideas must be injected into it. I hope the Minister will consider in effect, actually spending money to hire a consultant who will identify the inclinations and vocations that the youth hold. By so doing, the youth of this country will be grouped according to their vocations and not because the Youth Officer in a given constituency wants certain youth to form a group. Let us identify those who are interested in football, so that we can invest in football throughout the country. Let us identify those who are interested in agriculture and polytechnics; we assume that all the youth are interested in them. Let them identify those who will fit according to their inclinations, and so on and so forth. The marathon runners are among these youth. We need to identify them so that as we invest in sports, we are being specific and not generalising the ambitions of the youth. So, I suggest that this exercise is carried out. The youths should be grouped and investments made accordingly. Others may want to be trained as veterinarians. Let us not just get youth

looking for any job which is available. Let us identify them so that we can channel their talents and energies in the proper direction for the benefit of the country at the end of the day. That is one of my proposals.

The youth projects also need consultancy. They need to be identified. We must remember that most of these youth have just come out of schools. They have not brushed with the real lives. We need to guide them. We need to come up with projects which have been tested elsewhere. We can also borrow the best case scenarios from other countries. We can finance those best case scenarios to get the youth to earn their livelihood.

I want to congratulate the youth because of the good job they have done in assisting my Ministry through the *Kazi Kwa Vijana* Programme to clean up the Nairobi City and River. Not many of you know, but you may have heard that we have done quite a lot in removing solid wastes from all estates in Nairobi, except Mathare North where our teams are now heading to. We have cleaned the rivers. Some of these rivers are not longer rivers, like Ngong River because water has been tapped up in the upper parts of the River. We are trying to get those who have dams in that area to release the water, so that it can flow into Nairobi dam which we want to clean up and get the rivers flowing through the industrial area. We have cleaned the river from Mombasa road through Mater Hospital into these villages that are commonly known as Kwa Jenga and Mukuru. So, whatever is coming out of Kibera is flowing through these areas because all the solid waste has been removed. I want to congratulate the youth; they have done a very good job and I am sure they will continue to do the same.

Mr. Deputy Speaker, Sir, the Ministry should take steps to strengthen their staffing in districts and constituencies. One officer roaming all over the place is not enough to carry out proper service to the youth. We need more staff to be recruited and we need more to serve the youth after all, we all work for our youth. We have a saying in my language which says that “the old age feeds on the youth” and we would like to prepare our youth so that when they are old, at least, they will have earned something in their youth to feed their aged.

Therefore, with those few remarks, I beg to support.

Mr. Wamalwa: Mr. Deputy Speaker, Sir, I rise to support the Bill. The Bill comes at a very crucial time when the youth of this nation are losing hope. The problem of unemployment and the high cost of living has eaten into their resolve to be optimistic and hard working Kenyans; that they have resulted in a state of despair. The youth of this nation, who are the majority of our population have, indeed, instead of being the greatest asset, being almost 70 per cent of our population, turned into a menace because of the hopelessness that has set in. You have heard many of our youth turning to gangs like Mungiki, Sabaot Land Defence Forces (SLDF), Chinkororo and other illegal gangs. They have turned to crime because they have been to school; they have failed to secure any meaningful employment or a way to earn a living and put bread on the table. Recently, there was a very sad case recently when I heard of a young man in Nakuru who was arrested with bhang. That young man was called Mukabwa. When they asked that young man to give his defence, he told the magistrate that he had to smoke bhang because unless he did so, he would not be able to earn a living. Every day, that young man has to smoke some bhang and go and hit the stones very hard so that he could get a shilling per stone. You can imagine how many stones the young man would have to cut in a day to raise, at least, Kshs100.

We have heard of other hopeless cases in North Eastern where we have had our young men because of the situation up there, deciding to cross over to Somalia and join *Al Qaeda* and other gangs like *Al Shabaab* to go and fight alongside them and get some dollars, participate in piracy so that they can earn a living. This is the state of hopelessness in our nation; the state of hopelessness amongst our youth. They are turning into a menace unless something is done. But we also know that there is great talent and potential in our youth. If this potential is properly harnessed, it can turn into a great asset for our nation. Indeed, we have heard of young men who have come up and recently I saw one on television, who came up with a gadget that can charge mobile phones using the *boda boda*. As he rides, he could actually put that gadget on the wheel of the *boda boda* and it would generate power and charge a phone. This is a great talent! We saw a young man who once upon a time came up with an anti-theft gadget that could be used to track cars. A young man born in Kenya and out of the genius that God gave him, he is able to come up with that gadget. If only we could tap that talent, there is plenty of talent amongst our youth, whether it is in the fine art, music performances we have seen; whether it is on the field and track. We have seen the potential and the gift that we have amongst our youth in this nation.

But now that the nation is 46 years old, the time has come that we are now as a nation, coming up with a youth policy. It has taken many years. It has been overdue. It also tells you that though Kenya is a youthful nation, we have not really given priority to youth matters. Over 40 years without a comprehensive policy on the youth of this nation, to come now and have a policy for the youth 46 years down the line, tells you there is something terribly wrong in our leadership. Over all these years, we have not prioritized. To come now with this Bill, we are saying it is coming a little too late and it is something that ought to have been done many years ago. But it also gives us and the youth of this nation hope that finally, we are getting round to think about the youth; to come up with issues that could actually give them hope and recognize them because though they are the majority in our nation, they have no say. They hold no position until recently in decision making organs of this nation. To have a Youth Council is the first step towards that direction where we will have a council looking at this Bill that will give time and attention to the youth and to listen to their views. Looking at the manner in which the council is formed and the advisory board, we should have a system where the youth themselves will have a say through their representatives right from the districts. Indeed, like in my district, Trans Nzoia, we have been told that there would be elections where they would be allowed from the locations to the divisions to elect representatives. However, those elections were held at locational levels but not at the district level. The youth would like to elect their representatives. We are hoping that if we could amend – and we will be proposing these amendments at Committee Stage – where after finishing elections at the districts, we could have elections at the provinces such that we could have provincial representatives from all the eight provinces. So, these eight provincial representatives should be elected by the youth themselves so that as they are coming, they have the mandate and voice of the youth and are able to champion the issues touching on the youth.

Mr. Deputy Speaker, Sir, looking at Section 4 of the proposed Bill, you will find that both in the council and the advisory body, the appointments are to be made by the Minister. The Minister will appoint this and that and he would also have a Permanent

Secretary for this and that. There are many civil servants on this board more than even the youth themselves. We will need to look at that so that we give the youth more voice in representation and we give them more say.

Looking at this Bill also, it is a little disappointing in terms of empowerment of the youth. Looking at the functions of the council, again, to say that the work of the Council would be to register youth groups, that is something that the district youth officer can do. We do not need the youth council to do that; to promote and popularize the national youth policy.

Mr. Deputy Speaker, Sir, the youth of this nation need empowerment and yet there is no aspect of empowerment in this Bill at all. The youth of this country are very resourceful. Many of them because of lack of employment have resorted to *boda boda* business after school. I come from western Kenya and I can tell you that this has become the mode of family planning because many of the youth who ride these bicycles for many years are unable to perform "other duties". We have had the marriage institution endangered because of this and the Ministry should look at this.

When we look at the empowerment of the youth, we should find out how we can empower the youth who have ventured into the *boda boda* business. Probably, we should facilitate them so that they can move from bicycles to motor bikes. That component is lacking and we should look at this seriously. If we do this, we will have a more enlightened and productive youth. We will also have more than 70 per cent of our population being more productive than they have been in the past. This will contribute greatly to the development of this nation.

Therefore, it is my view that we should move a number of amendments to this Bill. I agree that we need to expand the definition of the word "youth" under Clause 2 so that we can extend it to 35 years. If you look at our Constitution, you will find that the earliest age one can be allowed to run for the Presidency is when one is 35 years old. We have a huge group of Kenyans who are unemployed between the teenage years up to 35 years. We believe that if this net is widened, they will definitely be covered.

Mr. Deputy Speaker, Sir, in empowering the youth, we must add to the functions of the Council. The youth must also have a say in some policy matters. They should be consulted on the *Kazi kwa Vijana* programme. I believe that if there was proper consultation by the Government, we would have come up with better policies under the *Kazi kwa Vijana* Programme. This is a noble idea, but to just get a group of youth to dig trenches and get Kshs250 a day will not help. They have put up a road in my constituency which leads nowhere. You will find that in another village, they have dug a dam, but there is no road leading to the dam. So, if there was consultation to see how we can connect between the dam and the road and how we can empower the youth after digging the dam, for example, get fingerlings and put there fish so that they can sustain the project, the better. It does not make sense to me at all to dig trenches and leave them open. This is the case and yet Kshs15 billion has been set aside for this programme. We need to come up with a better policy.

It is not just the *Kazi kwa Vijana* programme. We also have other policies like the one for the intern teachers where we have the KNUT and other teachers' organizations complaining. The Government has come up with the policy without consulting the stakeholders who have gone to court. Millions of taxpayers' money has been set aside for this programme without consultation and the stakeholders have rejected it. Through a

council like this, a very important sector of the society will be consulted so that they can also give their input. If they had a say, they could have assessed the number of *boda boda* in Kenya. At first, they were in Western Kenya, but today they are almost in every town. This money would have gone a long way in boosting that very important industry.

With those few remarks, I beg to support this Bill.

Mrs. Noor: Thank you, Mr. Deputy Speaker, Sir for giving me this chance to contribute to this very important Bill. At the outset, I would like to say that the youth of this country have hope today. The boys and girls in this country feel that there is light at the end of the tunnel today. They also feel that their issues are of national importance.

This is a very important Bill. When leaders all over the world always stand up, they tell the youth that they are the leaders of tomorrow and yet there is no more tomorrow. We have today! It is important for us to add value to this Bill.

I would like to go straight to the Bill and talk about the functions of the Council. As has been indicated, the functions of the Council do not empower the youth. I propose that we have an additional function for the youth Council so that they can have a mandate to provide an oversight management of the National Youth Council kitty. This will enable them know what is happening in the national Youth Enterprise Development Fund (YEDF) because they will monitor and account for the money. They will, in fact, ensure that transparency is upheld in the usage of the YEDF money. They will also be in a position to make recommendation on the proper use of the Fund and the mode of distribution. They will determine what is really important for them and look critically at issues such as the mode of distribution of the money from the Fund. They will also manage and account for the funds.

Mr. Deputy Speaker, Sir, as the youth play these oversight role, they will ensure that no youth organization in this country is discriminated against on the basis of ethnicity, region, educational level or disability as far as the YEDF is concerned. Since we are empowering the youth, they will be in a position to investigate cases of misuse of funds, discrimination, bribery and corruption. They will also be able to commission research. Empowering the youth means giving them an opportunity to commission a research on their issues either with regard to disbursement of funds or other issues related to youth affairs.

This will also ensure that the youth, including young women and the disabled are represented in all youth activities and organs starting from the Youth Council to other youth organizations in the country. This Bill has failed to incorporate the YEDF as part of the functions of the National Youth Council. This is an oversight and it needs to be corrected. Under Clause 5, which is on the composition of the Council, many have already said that the Minister will appoint six people. I propose that we have eight people who will represent the eight regions. This will take care of the principle of inclusivity.

Mr. Deputy Speaker, Sir, amongst the youth, we also need to look into the issue of representation of disabled persons, girls and traditionally unrepresented groups like the urban poor, the homeless as well as those in ASAL regions. People living with disabilities, girls, the urban poor and homeless people have unique challenges. These are the only groups of people who, if involved in the National Youth Council, can critically address their issues, because they know what it means to be homeless, or to live with disability, or to be a girl child. So, this is a special group that needs to be included. We can propose to have two extra persons to represent that category of people.

Still on the composition of the National Youth Council, the proposal made in this Bill does not give the age limit of the chairperson of the Council. It is an open-ended proposal; it does not give limit of the age of the person who is going to be the chairperson. We need to provide for qualifications for that person and the age limit. One should not be appointed the chairperson of the National Youth Council unless one is less than 40 years old, and is within the age bracket of the youth.

Mr. Deputy Speaker, Sir, on establishment and functions of the advisory body, we already have the National Youth Council. This is the overall umbrella body of the youth organisation in this country. The advisory body should be a management tool that will advise the National Youth Council. If you look at the Bill, you will see that this is not very clear. There are two parallel bodies that are going to be established under this Bill. My suggestion is that the advisory body should be an internal management tool, whose task should be to advise and aid the National Youth Council in its work.

The membership of the advisory committee can be appointed by the National Youth Council itself. Once appointed, the advisory committee can appoint, from amongst its membership, a chairperson. The chairman of the advisory committee must be an experienced person in youth development, and should have a track record for him to be engaged in youth activities across the country.

Mr. Deputy Speaker, Sir, in addition, we have several proposals contained in this Bill, including that of the bodies that can appoint representatives to the advisory committee. Among them is the Kenya Private Sector Alliance, the National Council of Non-Governmental Organisations, and Commission of Higher Education, *et cetera*. Looking through this proposal, I have not seen any women organisation. These are organisations that women do not or fit in. Let us have *Maendeleo ya Wanawake Organisation* represented on the nominating body.

Another group that is very important to include is the Permanent Secretary (PS), Ministry of State for Provincial Administration and Internal Security, because youth affairs are critical. You know what kind of activities are undertaken by our youth. Since the Ministry of State for Provincial Administration and Internal Security has a lot of information on our youth, the National Youth Council will be able to work closely with this Ministry for purposes of getting proper advice on security matters.

Mr. Deputy Speaker, Sir, another body that is very important, and which should be included in the nomination is the National Campaign Against Drug Abuse Authority (NACADA). This is a very important agency since it has been dealing with issues relating to the youth. The NACADA has been engaging with the youth for many years.

With those few remarks, I beg to support.

The Assistant Minister for Regional Development Authorities (Mr. ole Metito): Thank you very much, Mr. Deputy Speaker, Sir, for giving me an opportunity to also contribute to this Bill. From the outset, I would like to say that I support the Bill.

I am very proud that I was personally the one who moved debate, in the last Parliament, on the National Youth Policy document that paved way for the introduction of the Bill that we are discussing today. I want to agree with my colleagues who spoke earlier on the age limit. The age that we adopted in the National Youth Policy is 35 years. That is the age limit that is internationally recognised.

Mr. Deputy Speaker, Sir, we are going by the data that 70 per cent of the population of this country are 35 years old and below. We are going to get the new

Census data. I am sure that this percentage will go up. So, we are talking of a very big population in this country. So, if we make the process very consultative and inclusive, the majority of Kenyans will be consulted in this regard.

Moving on to Part II of the Bill, Clause 4 highlights the functions of the Council. There are so many well-intended functions that could see the youth of this country being brought on board, with respect to development issues. I want to start with Clause 4A, which provides that the Council will be involved with the registration of youth groups and youth-ocussed, community-based organisations.

Mr. Deputy Speaker, Sir, this is going to be a very big move from the past, because as it is at the moment, this function is being performed by the Social Services Department at the district level, which has been dogged by a lot of problems. That Department is even under a different Ministry, rather than the Ministry of Youth Affairs and Sports. This is a very important function, because the registration of youth groups and youth-focussed community-based organisations by this Council will bring the youth of this country together.

I would like its regulations, to ensure that we avoid what we see being done at the moment. We have to regulate the membership of these youth groups, because at the moment, there is no limit. The minimum number of persons to be registered as a youth group is seven, but there is no maximum upper limit. This has not been essential in the management of youth groups, and with respect to the trickle-down effect.

Mr. Deputy Speaker, Sir, if you have over 50 youths in one group, the funds provided through the Youth Enterprise Development Fund (YEDF) and other resources may not make a big impact. So, it is good to regulate the membership of youth groups in terms of the minimum number as well as the upper limit.

Mr. Deputy Speaker, Sir, I would also wish to see that within those groups, the age limit is specified for you to be in those groups. This is because we have had a lot of middle men who use those groups and give the name of "youth". If you look at them it is only the chairman, the secretary and the treasurer who are really in the category of youth. The entire membership is made up of old men and women. This will not benefit the youth groups.

What has become a problem is the type of groups which are there; whether you have mixed or single gender youth groups on the ground. I think it is important for the Ministry to consider that as well as they form these youth groups on the ground because mixed and single gender groups have got both their pros and cons. This should be discussed in detail by the council that will manage all this.

Mr. Deputy Speaker, Sir, another function under Clause 4(b) is the issue of mobilizing resources to support and fund youth programmes and initiatives. I would like to see us also funding individual youth initiatives rather than just focusing on the group initiatives. We have so many talented individual youth. When we focus only on the bigger groups, it may not really make an impact and may not give those individual youth space to exercise and exploit their potential. Even as we mobilize resources, let us focus on individual talent.

Mr. Deputy Speaker, Sir, just about two, three weeks ago, this House had the privilege to be in a two-day workshop with the Kenya Private Sector Alliance (KEPSA). Those of us who attended, we had very good representation of the youth because KEPSA has got governors. One of their governors was a youth representing the *Jua Kali* or

informal sector and he is called Muteti. He really gave a very good presentation on what really affects the youth of this country. It is good if we can borrow from that angle.

As we talk of mobilizing resources as a function, I would wish to see the Ministry really handling the issue of what makes youth not really access credit. Mostly, it is because of lack of collateral that can be used as security. When it comes to land ownership, the youth are also disadvantaged. It is good for us to look into that.

Mr. Deputy Speaker, Sir, according to Paragraph "H", it says the function of this council is to inspire and promote the spirit of unity, patriotism, volunteerism and service among the youth. This has to do with leadership. The leadership of this country must lead by example. They must be the role models for the youth of this country through the decisions they make and the influence they command because of their offices. They should really inspire the youth to have that unity and patriotism. The appointments they make really matter a lot in terms of unity and patriotism among the youth.

One of the factors that is really affecting the youth is unemployment. You will find youth with qualified papers, but we have always been disappointing them on two grounds. One, is that they must attain a certain age for them to apply for a job opportunity. They will be told that for them to apply for a certain job, they should be 45 years and below and yet, a young man or lady has just finished the university at the age of 25 years and he needs the job and has the papers. He is told that he has to be 40 years or 45 years in order to get that job.

Even in cases where they have attained the required age, they are asked to have 10 years experience. That is really disappointing to the youth of this country. We should move away from that.

Mr. Deputy Speaker, Sir, a lot has been said about the appointment. I want to go to Clause 5 which talks about the composition of the council. I want to agree with my colleague that we should give youth ownership of this process for it to work very well and have acceptance. The Minister should appoint not more than six persons. Even if we have to move that number to eight, we should give the youth a slot to elect, if not all the six, at least 60 per cent of them should come from the youth.

I would also like to comment on the issue of the age of those who will be appointed. It is suggested that the chairman will be appointed by the Minister. The Permanent Secretary – finance, the Attorney-General--- All those will not be within the youth bracket. The only slot left is slot "E" whereby the Minister will appoint not more than six persons of which others have proposed that the figure should go to eight. Even if it goes to eight that is not a problem. Let us have them coming from the youth associations in the regions so that we also put the age limit that they should bring people who are within that age bracket. This will ensure that they know what really affects them.

[Mr. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Prof. Kamar) took the Chair]*

Madam Temporary Deputy Speaker, my other concern is Clause 10 on the issue of the secretary who shall be appointed by the council. My only concern on that is that we have not really indicated the time limit for the secretary. Clause 10(2) states that the

secretary shall hold office for such a period and on such terms and constitutions of employment as the council may determine.

Regarding all the other appointees, it has been clearly stated that they will serve a term of three years, renewable once. I think being the CEO of the council, it is also good that the time limit is defined. It is like any other MD or CEO in all our parastatals that has always been a term of three years renewable.

If we leave it like that, he may be there to foresee the management of over four boards and may run things as usual, saying he has seen so many boards.

Madam Temporary Deputy Speaker, I am very sure all speakers have said that there are too many Ministerial appointees. There are 22 people in total. It says 11 of them will be appointed by the Minister. The other 11 will come from organizations. One of the other issues affecting the youth of this country is drug abuse. I would suggest that among the nominating organizations is NACADA. The other issue that affects youth in this country is health related issues; the HIV/AIDS scourge. I think it is also important to include youth living with HIV/AIDS.

The last issue is on the First Schedule, Provision 2(1)(a) where it is stated that a member of the council other than an ex-officio member may at any time resign from office by notice in writing. If the CEO wishes to resign, why is he exempted from that provision? I think it is important to let that person pave way if he wants to look for greener pastures elsewhere.

Madam Temporary Deputy Speaker, I beg to support.

Mr. Musyimi: Madam Temporary Deputy Speaker, thank you very much. I beg to support and wish to thank the hon. Minister. I think it left a little concern about what we discover in terms of the state of this country. I am glad that the hon. Minister responsible for that, Mr. Oparanya is here. We have a very grave situation in Kenya. I think if one were to rate the issues we face as a nation, one would have to rate the youth question right up there, as one thinks of Agenda 4, issues of governance, the economy, use of natural resources and so on and so forth. I think this Policy, is a bit late but they say better late than never. I commend the Minister for bringing it here.

Madam Temporary Deputy Speaker, in the 19th Century, a European thinker by the name Karl Marx told us that the key issues that affect our survival are land, labour and capital. Whereas one may not agree with Karl Marx's diagnosis of the problem of Europe at the time or the prescription that he gave to this problem, one agrees with the diagnosis of the importance of land, labour and capital. There is one more thing that Karl Marx said that I think we always lose sight of. That was the problem of alienation.

I do not think we have said enough about this problem. Any caring leader looking at our youth today looks at faces often fairly blank, of young people who feel vacuumed. They look as if they are rudderless. They have no one to look up to. They have no one that they feel they have faith in; they have no one they feel they can trust with their future. They feel misunderstood and misrepresented. This problem of alienation is a serious problem. I think that is why the young people have found themselves easily attracted to militia groups, to be involved in miraa and a lot of other anti-social behavior. I am not sure we have listened enough to the youth. I am not sure we have listened to the problems of the youth and their predicament and given them enough space as adults and as leaders to hear their problems.

Madam Temporary Deputy Speaker, I think part of the problem has been our politics. I think our politics needs to be seriously fixed. Our politics has not been pro-people. Our politics has not been pro-youth. We have been very defensive about our track record. We have lacked the courage and humility to look at ourselves and say we have failed because how else would you expect the level of unemployment that we face today and the challenges of youth we face and all the other issues--- Something somewhere has obviously not been right. This has not happened for a long time. If this Youth Policy is going to succeed, we need a context, environment and framework that is credible. We need a body politic that makes sense, not just to those that we do not like but also to all of us. So, I think it is very important that we sort out and finish the issue of the Constitution. I think it is very important that we do not lose sight of Agenda 4; the issues of land reform and all the other challenges that we face. It will be very crucial for this Youth Policy to find a nation where it can thrive and have meaning. The success of the Policy will also be the success of our people.

Talking about alienation, over the last ten to 20 years, there has been a tremendous emphasis on the girl child and I think rightly so. But I do not know whether it has occurred to us that all of a sudden, the Kenyan boy seems to lack confidence. You meet the Kenyan girl and they have a sense of bounce. They know where they are going and what they want. Anywhere across this country, meet the Kenyan girl and you are meeting a fairly confident person. Meet a Kenyan boy and in the eyes, there is just a sense of, "I am not sure". I think in affirming the girl child, we have actually forgotten the boy child. I fear for a nation that ignores the importance of one gender. I therefore, think that this Youth Policy needs to find a way of not discriminating against the girl, because that did a great loss to us as a nation, but find a way of recognizing that we now have a problem. The boy child is now finding himself after Standard Eight and Form Four, caught up in all sorts of activities.

Madam Temporary Deputy Speaker, as I finish, I would have probably suggested that when you come to list of nominating bodies, I think we forget two very important movements in this country; the boy scouts and the girl guides. Maybe these would have something to offer. I am not sure that we have benefited enough from the religious sector. It is a sector I am a little familiar with and when I looked at the four nominating bodies, they are bringing just one person. I would have thought myself, that we could have benefited more from the religious sector because quite often, they work without prejudice and agendas. Often, they would have programmes that would be of benefit to our young people.

Madam Temporary Deputy Speaker, I think that this Policy is very timely but I have raised my concerns. I think we need to sort out our politics so that the Policy is hoisted in a framework that is credible.

With those few remarks, I beg to support.

Mr. Kathuri: Madam Temporary Deputy Speaker, I also stand here to support this Bill. From the onset, this is a Bill that has come too late. It should have come earlier and it should have assisted in fixing some of the problems that we, who are getting out of the youth bracket, have gone through. There is no way we can talk of the future without looking at the youth. There is no way we can ignore the youth and expect to have a future.

I cannot fail to commend the Ministry and the Government because of thinking of the Youth Fund. This is a move in the right direction. However, alongside thinking about the youth through the Youth Fund, it is important to let the Minister know that the banks have taken advantage of this money. They charge the youth negotiation fee which is high. Some go to as high as 3 per cent, yet this is Government money. I think that is not fair.

It is also good to realize that even as these banks charge negotiation fees, they still ask for security. When they ask for security and charge those high fees, that loan becomes more expensive than if the youth went to borrow normally from the bank. It is good for the Ministry to see how best it gives directives to the various institutions which control this Fund. They should be limited to charging a maximum of 1 per cent if not 0.5 per cent as negotiation fee. After all, what are they negotiating? This is Government money and they have only been given the money to administer. Yes, they should guarantee repayment but they should not be exploiting the youth by charging high negotiation fees.

Madam Temporary Deputy Speaker, it is also good to let the Minister know that when you talk of security, it just chases the youth away. We agree that the money must be secured but we would rather think of an easier convenient system rather than subject the youth, who may be an orphan or daughter of a squatter--- These people do not have securities. Even when they have security, it could be communal land. The parents do not have any security that they can offer. We should think in terms of a system whereby the provincial administration; the Assistant Chief and the Chief, should be the ones to provide the guarantee. If the youth have to set up a business, it has to be within a specific locality. If they have to apply for these funds, there must be a provision where the Provincial Administration can come in and confirm that they know them and that they are of good conduct, their parents are So-and-So, they come from this specific village. They should give details of where the parents come from. Surely, if that is done, it will not be difficult to secure the money.

It is also good for us to realize that we need to promote good morals among our youth. They should be of good character. Maybe, we can enjoin the church so that when a youth is applying for funds, as much as we are not promoting church activities in business, it is good for us to say that the youth should belong to a church choir or a church gathering. I imagine that a youth who is a regular member of a particular church would be of good character. It would be very important to see if we can coin the issue of Provincial Administration and the church to see if we can come up with a guaranteed system which would make the bank feel as if it is not exposed to the extent that it would lose its money. I believe that way, this money would become cheaper and so that they can access more funds and the repayments would become easier.

Madam Temporary Deputy Speaker, Sir, it is also good to realize that most of our youth apply for these funds just because they are available. These youth may be straight from school and they are still searching for jobs, white collar jobs for that matter. However, since these funds are there, they imagine that they should apply for the money while they are looking for a job. Whenever there is an interview being conducted by the military, they close their businesses and go for the interviews. This kind of person is like a hyena. He walks on two paths. That is not possible. I wish we would restrict ourselves. First of all, the youth should either be from the polytechnic or from the *Jua Kali* sector. If you give these youths money, they would be sure that they are not going to join the police

force or they are not waiting to join the universities or they are not waiting for something else that is more formal than the *Jua Kali* sector. This money is basically meant for those who do not intend to join the formal sector. When you give money to a young person who is straight from school - I stand to be corrected - whose mind is more focused on formal employment, she or he would not concentrate on that line of business. If the Ministry handles this issue from that perspective, I am sure that we will reduce the number of defaulters and we will also get more committed youths. It would definitely be better.

I can also give myself as an example. Before I joined the *Jua Kali* sector, I wasted a whole year; I am talking about 15 years ago, searching for a white collar job. I would say no to those who were encouraging me to go into the informal sector. That full year, which I wasted, as much as things worked out well later, I wish I had joined the *Jua Kali* sector earlier. However, I was convinced that the formal sector was where I belonged. I believe that I was not alone. There are many who are still in that group. Worst of all, when there is economic turbulence; you expect the youth to feel shy from joining business. When they hear that there are other youths earning Kshs50,000, they do not think about how they can earn that money in the informal sector. It is good for us to be clear on who we are targeting otherwise, we will lose track.

Madam Temporary Deputy Speaker, the issue of age limit is very important. The Ministry has been sticking to 30. However, a person of 35 years, for all intents and purposes, is a youth. It is good for us to include those young men who are 35 years and below in the age group of the youths. It is realistic that a person of 35 years--- Actually many of them are not even married. They are shying away from having families because they do not have anything to feed their families with. They are relying on their parents. It is good for us to realize that a person of 35 years is still young enough to be considered a youth. By extension, it is important for us to realize that even those who are past age 35 and maybe, slightly above that, have been in the informal sector. You can see how committed they are. They have been with the youth groups. They have been advanced money and it is not good to let them go like a baby who has stopped sucking, yet their teeth are not strong enough to eat maize. This is somebody who has just graduated from being a youth.

If somebody has just moved out of the youth bracket and he or she has consistently been performing well while in the youth bracket, it is good for us to allow that person to continue until he or she becomes stable to operate independently.

There are many activities which are carried out by the youth such as promotion. We have seen some of them dancing on platforms promoting Omo, among other consumer goods. We always find the youth on the stage and yet the contracts are always awarded to people who are old enough to be their parents. It is good for the Ministry to see how it can lobby, more than it is doing now, with those big companies which carry out promotions so that the youth groups are awarded contracts to do those promotions so that they can earn a decent amount of money. When they are recruited by those who win those contracts, they are paid peanuts. They will never get out of that vicious cycle and it is only fair that the Ministry lobbies through the sister Ministries which license those companies to carry out those promotions and related activities. I believe that is something that can be achieved by the Ministry if it is keen.

We have seen some people who purport to be youth representatives and yet they are here in Nairobi, although they may be representing youths who are in Embu. It is sad to see a youth employed in Nairobi working with the Ministry or a certain company, going for meetings in Embu or any other place for that matter and yet he purports to be representing the youth from that locality. Let us be very clear and make it a policy that any youth representative should come from that locality. If he gets a job elsewhere, it is up to the Ministry to make it very clear that the youth should relinquish that office to another youth who is residing there and operating within the locality. I believe that way, the representation will be more effective than it is today.

I believe that if we attend to those issues, there will be significant improvement in the way we are handling our youth and we will definitely see better results. Unfortunately, all of us who are here came here courtesy of the youths and women. If we ignore them, this will be a time bomb and we will find ourselves swallowed. This will be very unfortunate if we ignore. However, with the way the Minister is committed to the activities of the youth, I am sure that she will deliver a policy on this Bill once it is passed. She will pass policies which are very convenient and attractive to the youth.

With those many words, I support.

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, there being no other Member who is willing to contribute, I call upon the Minister to respond.

The Minister for Youth Affairs and Sports (Prof. Sambili): Madam Temporary Deputy Speaker, Sir, I would like to take this opportunity to sincerely thank hon. Members for their very useful contributions. I want to assure them that we are going to incorporate the suggestions that they have given. I have taken notes of all the contributions from hon. Members.

As the Minister for Youth Affairs and Sports, I agree that it is important to increase the number of youth representatives from six to eight. That is on page 308. That way, each major region in this country will be represented. I agree with the hon. Member who suggested that there should be elections of those youth leaders, right from the locational level up to the provincial level. The youth know their needs. Besides the eight, we are going to look for youths with special needs. The eight should include, at least, three females. We will discuss to see whether the Council could co-opt other people with specific desirable talents.

As has been said, we know the challenges that face our youth. We know the level of hopelessness that our youth are experiencing because there are no jobs. I am going to take into account what has been suggested here. We will allow bodies like NACADA, scouts and girl guides to be represented in the Council. Those organizations have very solid structures. They promote virtues like honesty, trustworthiness and others. We would like such virtues to be promoted. I agree that those bodies should be given an opportunity to bring their representatives to the Council or the Board.

Madam Temporary Deputy Speaker, the issue of membership is very essential. I am very conscious of the need for mentorship, maybe, because I have been a teacher. I know the problems that students have. When I was doing my post-graduate studies, I had an opportunity to interview the youth who had left school. I was looking at the employment related experiences of the young people of this country. That was ten years ago. One of the things that came out was that those who were mentored by businessmen

who were selling and buying cows or goats admired the informal employment. So, I will take into consideration those very useful suggestions regarding mentorship.

Also, with regard to the issue of the boy child, I appreciate that, maybe, we focus too much on the girl child and yet, we know that a society cannot develop healthily if one gender is not encouraged. So, I would like to assure this House that we will look at that issue of supporting both the boys and the girls of this country.

I also want to add here that it is important for us, as leaders, to mind our language, so that we do not discourage the young people. We will look at all those suggestions and implement them. I assure hon. Members, while thanking them very sincerely, that we will consider their proposals quickly. This is because we know that more than three quarters of our population at the moment; that is before we get the results of the current census, is made up of young people.

On the issue of 35 years, we already accept in the Ministry that the youth bracket should be between 15 years and 35 years because we want them to benefit from the Youth Enterprise Development Fund (YEDF). I would like to add that we are conscious that the YEDF money is not reaching the intended youth. I would like to assure hon. Members that we want to increase the proportion of the constituency component of the YEDF, so that hon. Members can support the young people within their constituencies because they know them. I urge them to take a more active role in identifying the youth that apply for the YEDF at the constituency level.

Madam Temporary Deputy Speaker, at the moment, at least seven out of ten should be young people. I take the suggestion that we should get more young people involved in the groups seriously. As for supporting individual youth, I understand that young people have wonderful talents. I have been involved in science congress and I know that students in secondary schools discover wonderful projects. It has been pointed out here by Mr. Wamalwa the young person who has found a way of charging a mobile phone using his *boda boda*. There are others who have prepared fodder for animals. We would like to support individual project proposals of young people. We are very open and conscious of the urgency of addressing the issues of the youth. We would like not only to focus on sports, but also on youth issues.

Madam Temporary Deputy Speaker, I appreciate the support of hon. Members. If there are hon. Members who have not had an opportunity to contribute to this Bill, they are welcome to give us written proposals so that we can provide comprehensive and useful policies that will help us catch up, because as a country, we are 46 years old and we need to move fast.

In conclusion, when I look at the young people who have been involved in sports and their determination, I feel - and I know that all other leaders feel this - that we must provide an enabling environment for our patriotic young people, so that they can be leaders of today who contribute to the development of this great nation.

Madam Temporary Deputy Speaker, I beg to move.

(Question put and agreed to)

MOTION

ADOPTION OF REPORT ON PERSONS KILLED BY VIGILANTE GROUPS

Mr. Kapondi: Madam Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts the Report of the Committee on Administration and National Security on the number of persons killed by vigilante groups in the months of April and May, 2009 laid on the Table of the House on Thursday, 30th July, 2009.

I wish to say that the visit to Nyeri East and Kirinyaga districts arose from the resolution of this House made on 28th May, 2009 by the Chair which touched on the dispute of numbers in this House. Ms. Karua, hon. Member for Gichugu Constituency had requested for a Ministerial Statement on 27th May, 2009 from the Minister of State for Provincial Administration and Internal Security. Arising out of the dispute over the figures, this House resolved that the Committee on Administration and National Security pays a visit to the said areas so that it could come up with the precise numbers of the people who were killed by the vigilante groups and *Mungiki* in Kirinyaga.

Madam Temporary Deputy Speaker, the Committee on Administration and National Security visited the said areas, took evidence from the Provincial Security Committee in Nyeri, visited Gathaithi Village in Mathira and took evidence at Gathaithi Primary School. The Committee also visited Kerugoya Town and took evidence from the District Security Intelligence Committee and the local leadership. The Committee further visited "the Hague" that is, the *Mungiki* sect Kangaroo court located in Thiba River in Mwea Constituency. Other areas that the Committee visited included Kiarwi and Gathaithi sites. After that, the Committee took evidence again, in camera this time, from people who had certain fears as regards to their security, in Nairobi, at the Continental House. These were basically people from Kirinyaga.

Madam Temporary Deputy Speaker, what the Committee observed is that the *Mungiki* phenomenon in those areas is something that has grown into a hydra. There is a serious code of silence in those areas. Members of the public cannot easily open up. So, taking evidence from members of the public is not an easy task because nobody is willing to open up. There were serious contradictions that came up from the groups that gave evidence in public and those who gave evidence in camera. Overall, we realized, in our observations that unless something urgent is done, then the security of this country, particularly in those areas is seriously compromised. I wish to state that we further took evidence from the Minister of State for Provincial Administration and Internal Security, the Permanent Secretary, the Police Commissioner, the Director of Intelligence, Internal Division. Out of all the evidence that we gathered, the Committee concluded that 28 people were killed and 14 died of other causes, thus bringing the total number to 42 people.

Madam Temporary Deputy Speaker, the other observations were that a total of 29 persons were killed in Mathira attacks. Twenty two of these were slaughtered in upper Gathaithi village near the border with Kirinyanga West while seven others were killed in Kiraiyu Trading centre. Fourteen *Mungiki* sect members were killed by vigilante groups prior to the murders on 20th and 21st of April, 2009.

As I said earlier, what we realised is that there appears to be a profound code of silence by politicians and leaders from Central Province in their condemnation of activities of these outlawed militias. Community policing seems to have been taken over because of these frustrations by mobs that have resorted to unorthodox means to flush out Mungiki sect members, killing them while others have been forced to migrate to safer areas. The frustrated mobs have mutated into vigilante groups, thus soiling the community policing initiative to the extent that it is now very difficult to distinguish in those areas who is in the community policing and who is a Mungiki or vigilante.

Madam Temporary Deputy Speaker, the people of Kerugoya in Kirinyanga Central District, in their recommendations to us, wanted the District Security Committees to stay because there appears to be a lot of politics regarding their transfers. This claim has given Mungiki adherents to have avenues of penetrating the said areas.

We also noted that Mungiki sect members have subdued the people of Central Province to the extent that they do not talk about it openly. The Committee noted that in some areas, it was considered a taboo to refer to the sect by name. Since the name Mungiki instils a lot of fear in the people, there would be victims. Other organized criminal gangs have also taken advantage of that, so that any activity which they commit, they know that there is somebody who would be blamed over this; that is Mungiki. So, a lot of criminal gangs have taken advantage of the presence of Mungiki in those areas to associate anything that takes place to Mungiki.

The Committee also noted that there is a lot of suspicion and tension in those areas among the communities living within the affected areas. For instance, we noted that in Mathira, the members of public said that as far they were concerned, they had no problems with Mungiki. But the murders that were meted to Gathaithi residents arose out of the push by the vigilantes from Kerugoya to pursue Mungiki to Mathira which forced the Mungiki adherents to regroup and exert revenge which resulted in the deaths of the people that I have just mentioned. In those areas, there is a general perception from the public that the Government is not committed to fighting organized crimes and hence, the emerging culture of mobs taking over and taking the law into their hands.

Madam Temporary Deputy Speaker, the Committee realized that the Mungiki sect seems to have grown into a hydra with tentacles spread across all cadres of society so that politicians, businessmen, ordinary members of the public, security personnel and other people have representation in the sect. So, arising out of this, the Committee came up with a number of recommendations: That, the killings, whether by Mungiki or vigilantes are unacceptable and should be condemned in the strongest and harshest terms possible and tough deterrent measures imposed on the culprits. We recommended further that there is an urgent need to enact legislation to deal with illegal militia groups in the country because unless that is done as a matter of urgency, then the security of this country will be taken over by militia gangs and other mobs. So, the publication of the Prevention of Organized Crime Bill should be fast-tracked to deal conclusively with these crimes of terror which is meted on innocent Kenyans and other peace loving people of this country.

We also recommended very strongly that the security personnel in this country should undergo intensive and specialized training to be able to deal with this organized crime. At present, the security apparatus lack the skills and expertise to effectively deal with organized crime in this country. The way they are fighting crime today is the way

they were fighting crime ten or 20 years ago. So, the same tactics cannot apply. We also felt very strongly that the Minister in charge of internal security should set up an in-house committee to vet and weed out officers accused of complicity and deemed to be lax in the war against organized crime. Officers who have overstayed in one region should also be transferred to other stations. We also recommended very strongly that sponsors and leadership of the outlawed militia because it came out very clear that these are people who are known, the National Security Intelligence Service (NSIS) knows these people; the security personnel in this country know them and because the numbers are big, you cannot arrest all those people and put them in cells or the political leadership. So, an in-house more or less kind of committee should be set up so that these leaders are made to understand that their activities are known, so they either change or they are exposed.

The matter of unemployment for the youth must be placed on the Government's top priority agenda to deal with emerging trends of youth turning to crime due to idleness and hopelessness. *Kazi kwa Vijana* is one of the initiatives but the way it has been conducted has not had the necessary impact. So, in this particular area, politicians should be given the lead when it comes to engaging those idle youth in activities that generate income because they know these young men very well. They fall within their jurisdictions as hon. Members and, therefore, they are best placed to deal with the right people.

We also felt that immediate measures should be taken to curtail the activities of illegal gangs. If they are not checked now, they may get out of control and generate a major crisis to the Government. This is because it will be very difficult to deal with them at that stage.

Madam Temporary Deputy Speaker, the Committee felt that the Government should take advantage of the need-driven community policing to partner the police so that the community policing can be revitalized and strengthened. This is because as it is currently, it is not clearly defined. Although the Government has created a number of districts, particularly in those areas, the District Security Intelligence Committees have not been operationalized. That should be done as a matter of urgency.

The Committee also felt that the Government ought to institute a multi-dimensional approach in the war against criminal organized gangs which should include community policing, de-oathing, rehabilitation of sect desertees, tough legislative structures and civic education to victims of extortionist gangs to resist attempts of illegal fines. The 2006 Witness Protection Act, should also be operationalized to allow witnesses to open up and provide information while testifying in cases against illegal militias without fear of reprisals.

In summary, we felt that unless the Government acts swiftly now, criminal gangs will take charge of some areas of this country. It will be too late to act if they procrastinate over this. The time to sort out this mess is now and the Government should sort it out conclusively.

Madam Temporary Deputy Speaker, with those many remarks, I beg to move and ask Mr. Kiuna to second.

The Temporary Deputy Speaker (Prof. Kamar): Yes, Mr. Kiuna. You have two minutes to contribute. You will continue when resume.

Mr. Kiuna: Madam Temporary Deputy Speaker, I stand to second my Chairman. I was with him and we visited all those places. In fact, I do not have to repeat what he has

said. My comment is that the Government has failed. Unless stern action is taken in Central Province soon--- Instead of the Government being seen to be working, it is the gangsters who control wananchi. We felt sorry for them, but there was nothing we could do.

As I support this Motion---

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kamar): Order, Mr. Kiuna! You will have the right to a few more minutes when we resume this debate.

Hon. Members, that concludes the business on the Order Paper. Therefore, the House stands adjourned until Tuesday, 1st September, 2009, at 2.30 p.m.

The House rose at 6.30 p.m.