

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 7th April, 2010

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PAPER LAID

The following Paper was laid on the Table:-

Report of the Kenyan Delegation to the 120th Assembly of the Inter-Parliamentary Union (IPU) held in Addis Ababa, Ethiopia between 5th and 10th April, 2009.

(By Mr. Farah)

NOTICE OF MOTION

ADOPTION OF REPORT OF KENYAN DELEGATION
TO THE 120th IPU ASSEMBLY

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

THAT this House adopts the Report of the Kenyan Delegation to the 120th Assembly of the Inter-Parliamentary Union (IPU) held in Addis Ababa, Ethiopia between 5th and 10th April, 2009.

ORAL ANSWERS TO QUESTIONS

Question No.029

ILLEGAL STAY IN OFFICE BY HARAMBEE
SACCO MANAGEMENT TEAM

Mr. Speaker: Hon. Members, I have information that the Member for Gichugu is not able to be here this afternoon because she had to travel to her constituency on urgent business that could not wait. I will defer that Question to Tuesday, next week.

(Question deferred)

Question No.086

LIST OF STATE PARASTATAL CHIEF EXECUTIVE
OFFICERS EMPLOYED IN ACTING CAPACITY

Mr. Speaker: Is the Member for Kitui West not here? We will revisit that Question a little later.

Question No.089

NON-COMPLETION OF PROJECTS
AT MASALANI DISTRICT HOSPITAL

Mr. Speaker: Is Ms. Sophia Noor not here? She is also not here. We will revisit the question one more time.

Question No.124

UPSURGE OF INSECURITY IN
DANDORA ESTATE

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

- (a) Whether he is aware that security in Dandora Estate has deteriorated in the last three months;
- (b) why the officer in charge of Kinyago Police Post was transferred in spite of his good record at the station; and,
- (c) if the police post will be upgraded to a police station as proposed by the DDC and if so, when the construction works will commence.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I beg to reply.

(a) The Minister is not aware that security in Dandora has deteriorated in the last three weeks. Indeed, we have stepped up security patrols within the area and incidences of insecurity have drastically gone down.

(b) Chief Inspector Samson Ogero, who was the officer in charge, Kinyago Police Post, was nominated to attend a promotion course, that is, Higher Training Course No.82 at the Kenya Police College. A replacement, Chief Inspector, Johnstone Wanyama was posted and reported there on 27th December, 2009.

(c) It is true that the DDC recommended the police post to be upgraded to a police station. I do not have any objection to that recommendation. This will require some basic infrastructure and logistical facilities to be in place.

In fact, construction of staff houses is already underway in preparation for the upgrading of the post to a police station. I have also indicated to the hon. Member that because Dandora is expanding quite massively, I have accepted to upgrade this police post into a fully fledged police station.

Mr. Waititu: Mr. Speaker, Sir, I appreciate the answer by the Assistant Minister. However, Dandora is well known to be an area with rampant insecurity. One aspect that could have improved security in the area is the night patrols by both the Administration

Policemen (APs) and the regular Police. What happens on the ground, however, is that there is no co-ordination between the APs and the regular police. In fact, one hardly sees night patrols by policemen in Dandora. The police officers in Dandora only patrol during the day and most of the crimes are committed at night. I request the Assistant Minister to increase night patrols in Dandora. Before, there was one, a Mr. Samson, who was a Police Inspector in charge of the post. He had done very good work in the area, but he was transferred. Could the Assistant Minister bring back Mr. Samson to Dandora because he had improved security in the area?

Mr. Ojode: Mr. Speaker, Sir, I concur with the hon. Member that, indeed, it is necessary to intensify night patrols. Night patrols will not only be intensified in Dandora but in every estate in Nairobi. I am happy with what the police are doing, especially at night. There are those who cannot see the police patrol the streets because the majority of them are busy in bars. The truth of the matter is that my police officers are patrolling the streets and the estates within Nairobi.

We have very many other good officers, just like Mr. Ogero. It is not possible for me to wait for Mr. Ogero to finish his course and then take him back to Dandora. I will recommend Mr. Ogero to be upgraded or elevated to another position because of the good work he has exhibited.

Mr. Kigen: Mr. Speaker, Sir, patrols are very important components of security. In my constituency, there are areas which have been recommended for patrols. However, the *askaris* cannot carry out the patrols because of lack of fuel. What is the Assistant Minister doing to make sure that *askaris* have enough fuel to be able to carry out patrols?

Mr. Ojode: Mr. Speaker, Sir, we do not entirely rely on patrol by vehicles. We have three categories of patrols. We have night patrol done on foot. We also have night patrol done using motorcycles. We will buy motorcycles and give them to the police to use at night and during the day. We also have patrols done using vehicles. So, night patrols are not zeroed on motor vehicle use only. The presence of the police, even if they are just walking is felt by criminals who run away. The police are doing a good job.

Mr. Mbugua: Mr. Speaker, Sir, various police posts have not been gazetted. When is the Assistant Minister likely to gazette them?

Mr. Ojode: Mr. Speaker, Sir, all police posts are gazetted. After gazettelement is when we post officers there. I would have challenged the hon. Member for Kamukunji to mention just one police post which he thinks has not been gazetted.

Mr. Olago: Mr. Speaker, Sir, the worry of hon. Waititu is that the officer who has been posted to Kinyago Police Station may not be as competent as the one who has left. Chief Inspector Johnson Wanyama who has been transferred to Kinyago used to serve in Kisumu for several years. He is a fantastic police officer and he reduced crime. When he was transferred from Kisumu, there was a demonstration by the public. So, I wish he could be taken to a fully fledged police station and not a police post. When will the Assistant Minister do so, or even transfer him back to Kisumu?

Mr. Ojode: Mr. Speaker, Sir, sometimes I am at a loss because my colleagues vilify me here when a police officer stays for more than three years in one particular station. At the same time, when they find a good worker, they want that good worker to stay for more than five years. So, I am at a loss. I need the guidance of the Chair as to whether to have officers stay in one particular station for more than three or four years. We, as the Government, had decided that those police officers who have stayed for more

than three years in one particular station must be transferred to exhibit that excellence somewhere else.

You are aware of what happened last week in Luanda where Mr. Speaker and hon. Otichilo come from. Three people were butchered as a result of some officers having stayed there for many years. It is good luck that we are transferring all those who have stayed in one particular station for more than three years. That is the only way of having checks and balances.

Mr. Olago: On a point of order, Mr. Speaker, Sir. I agree that it is in order for officers to be transferred from time to time. However, is it in order for the Ministry, in making these transfers, to ensure that police officers of the same ethnic origin are placed in one particular place?

Mr. Speaker: Order! That is not a point of order! That is a question! We have rules which we must apply. You wanted the direction of the Chair. You should transfer officers as a matter of standard practice and regularly. So, if the practice and regulations say you transfer them after every three years, please, do so strictly. If officers are good in one area, they may also transfer their services to other areas. These best practices are needed all over the country. They are not the exclusive rights of Kisumu Town West, for that matter.

Mr. Chanzu: Mr. Speaker, Sir, I want to thank the Assistant Minister for the comprehensive answer that he has given. He has indicated that he will put in place patrols all over, including Nairobi. Could he indicate roughly when he will put this in place?

Mr. Ojode: Mr. Speaker, Sir, currently we have patrols within the streets of Nairobi and the estates. But I said we will intensify the patrols. The word "intensifying" means that I will add more personnel to patrol the streets of Nairobi as well as the estates to beef up security.

Mr. Speaker: Beginning from when, Mr. Assistant Minister?

Mr. Ojode: Mr. Speaker, Sir, even as from tonight. We do not have to wait.

Mr. Ruto: On a point of order, Mr. Speaker, Sir. The Assistant Minister is just filibustering. He is simply making statements that he is aware that he is not about to implement. Is he in order to mislead the House that tonight there will be increased patrols without giving us hard facts? Where will he get more the officers to patrol the streets of Nairobi? Has he recruited more officers? Where will he get them? Are they asleep at the moment?

Mr. Speaker: Order, Member for Chepalungu! To me, that sounds like a point of argument. At best, a different opinion!

Mr. Njuguna: Mr. Speaker, Sir, I appreciate the reply given by the Assistant Minister and I also note with satisfaction the enthusiasm and spirit he has shown in improving security in Embakasi. Could he in addition indicate to this House how much funds he has allocated for the intended new police division in Embakasi?

Mr. Ojode: Mr. Speaker, Sir, that is a very valid question. Currently, we have injected some funds for the construction of houses. Come next financial year, which will begin in July, we will factor in some money for the construction of the administration block for the police station in Dandora. So, I believe that the Member for Embakasi is happy that we are taking care of that station in terms of finances.

Mr. Waititu: Mr. Speaker, Sir, Dandora Police Post is serving a very large area. It is serving Korogocho, Ngomongo and Dandora itself. This is an area that needs more

police officers. What urgent measures is the Assistant Minister taking to increase the number of police officers at the police post? When will the construction of the police station in Dandora start?

Mr. Ojode: Mr. Speaker, Sir, I have no intention of increasing the police force in Dandora, simply because I have enough personnel there. The only thing that I need to do is to enhance the patrols. So, if they are doing two rounds in a night, I will increase them to three or four rounds. With regard to how much money will be allocated for the construction of the police station in Dandora; I can only advise the hon. Member to wait for the next Budget because we will definitely put some funds aside for its construction.

Question No.135

NON-PAYMENT OF DUES TO RETIRED TEACHERS
BETWEEN 1997 AND 2007

Mr. Pesa asked the Minister for Education:-

(a) what the Ministry's position is on the dues owed to thousands of teachers who retired between 1997 and 2007 and are yet to receive money as was ordered by the High Court two years ago;

(b) why the Teachers Service Commission (TSC) has not implemented court orders issued by the High Court sitting in Nakuru in 1997 soon after the negotiated salary deal between the Government and the Kenya National Union of Teachers (KNUT); and,

(c) whether he could state the position of the Pensions Department and the Treasury on the matter and also indicate how much interest will be paid on this money, considering that the affected teachers have incurred a lot of expenses in the hope of being paid by the Government.

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

(a) The above matter is still pending in the Court of Appeal having been lodged by the Government on 28th October, 2008. Thus, according to Standing Order No.43, it would be *sub judice* to discuss this matter in the House before a ruling is made. Further, I would like to refer the hon. Member to the HANSARD of May, 2009, on Parliamentary Question No.174 by hon. Kioni, where I answered a similar Question.

Mr. Olago: On a point of order, Mr. Speaker, Sir. You have ruled here repeatedly on what needs to be complied with before the issue of *sub judice* can be raised. The hon. Assistant Minister has raised the issue of Standing Order No.43, but I thought he was going to refer to the Standing Order No.80. I am at a loss as to what he means. Many Kenyans are affected by this issue. If he is not ready to answer it, then it should be for very good reasons.

Mr. Mungatana: On a point of order, Mr. Speaker, Sir. Further to the point of order that has been raised by hon. Olago, the correct Standing Order is No.80. If the Assistant Minister will rely on it, he needs to show that those proceedings, whether they are civil or criminal, are, in fact, active. He needs to have come here with a proper hearing notice, a proper complaint or something to show that those civil proceedings are

active, so that he can rely on the provisions of Standing Order No.80. Is he in order to try and dodge answering a Question which is validly before him?

Mr. Speaker: Mr. Assistant Minister, those are legitimate concerns. What is your response to the two points of order as raised, and they are related?

The Assistant Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, I have the supplementary information on that. The Nakuru HCC No.65 of 2006, Samuel P. Kamau and others versus the Teachers Service Commission.

Mr. Speaker: Have you got copies of the pleadings?

The Assistant Minister for Education (Mr. Mwatela): I do not have the pleadings but I can furnish the House with them in the---

Mr. Speaker: You must table copies of the pleadings. The second part is that there must be demonstration that those proceedings are active. I did make a very substantive ruling on this matter, which you should acquaint yourself with, even as you come to table those documents.

The Minister for Education (Mr. Mwatela): Mr. Speaker, Sir, could I then do that tomorrow?

Mr. Speaker: Yes, you may resume your seat.

(Mr. Olago stoop up in his place)

What is it, Mr. Olago?

Mr. Olago: Mr. Speaker, Sir, in an attempt to buttress his submission, the Assistant Minister has quoted a copy of a pleading, which is headed "Nakuru High Court Civil Case". But the answer refers to the Court of Appeal. So he had better address that in his mind as he comes back to the House.

Mr. Speaker: Fair enough. Mr. Assistant Minister, could you please table all your pleadings tomorrow afternoon? This matter will appear on the Order Paper for you to do that. Then I will give further directions thereafter.

The Minister for Education (Mr. Mwatela): Yes, Mr. Speaker, Sir.

Mr. Speaker: Member for Migori, please note that the Question will be on the Order Paper tomorrow afternoon for the Assistant Minister to table all the pleadings.

Mr. Pesa: Thank you, Mr. Speaker, Sir.

(Question deferred)

Mr. Speaker: Member for Matinyani!

Mr. Nyamai: Mr. Speaker, Sir, first, my sincere apologies for coming late. In as much as I want to give an explanation, it is not my wish. I would have wanted to be here, but I got caught up in a slight accident on Mombasa Road when I was coming to the House. My sincere apologies.

Question No.086

LIST OF STATE PARASTATAL CHIEF EXECUTIVE
OFFICERS EMPLOYED IN ACTING CAPACITY

Mr. Nyamai asked the Minister of State for Public Service:-

(a) to provide the complete list of state parastatals (by Ministry) whose Chief Executive Officers are currently employed in acting capacity, indicating the length of service in the same capacity and the reasons why the positions have not been substantively filled; and,

(b) How this state of affairs has affected the reforms in the public sector service delivery programme.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

(a) Currently, there are 18 State Corporations whose Chief Executive Officers are serving on acting appointments. I wish to table the list which gives the names of the corporations, the Ministries under which they fall, the period over which the Chief Executive Officers have been acting, and the reasons for the positions having not been filled. Acting appointments are normally done in consideration of the competence of the person's qualifications and experience, and the selection of people to be appointed on acting positions is done in such a way that the person would normally qualify for the position if he or she participated in an interview to fill the post.

(b) The recruitment of Chief Executive Officers in acting capacity has not affected reforms in the public sector delivery programme, as the officers appointed to act in the position are fairly competent.

(Mr. Otieno laid the document on the Table)

Mr. Nyamai: Mr. Speaker, Sir, in the Minister's list the period of acting ranges from four months to two years, two years being for the Public Procurement Authority, which is a critical agency for this country. Could the Minister explain the reason why it has taken more than two years, or so, to recruit a CEO for the Public Procurement Authority?

Mr. Otieno: Mr. Speaker, Sir, as I have indicated, the recruitment process is ongoing and the Ministry for Finance should be able to conclude this matter soon.

Mr. Bahari: Mr. Speaker, Sir, when Chief Executive Officers act, sometimes they do not make very crucial decisions for failure of one or two other things. Does the Government have a policy---

Mr. Mbadi: On a point of order, Mr. Speaker, Sir. Mr. Shakeel has been allowed to come inside the House with a bag which is closed and I am not sure whether we are safe with this bag.

Mr. Speaker: Mr. Shakeel, could you respond to that?

Mr. Shakeel: Mr. Speaker, Sir, this is a computer that has passed through the scanning machine; the security officers allowed me to come in with it. In any case, it fits the requirement of a handbag for a gentleman.

Mr. Speaker: Fair enough. Hon. Members, I will want to verify that in fact this bag has been scanned. So, I will give directions in a little while after I have been satisfied that the bag for Mr. Shakeel, indeed, went through the scanner.

Mr. Nyamai.

Mr. Bahari: Mr. Speaker, Sir, I had not finished my question.

In view of the fact that State Corporations are a very specific target, and given that from this list some of the CEOs have been acting for two years, does the Government have a specific policy specifying how long it takes or the maximum period a CEO can act, or an acting CEO can be in place before there is a replacement?

Mr. Otieno: Mr. Speaker, Sir, the instructions are that positions should be filled by the appointing authorities within six months. Where the post has been vacant for longer than six months, there is always a reason, and it is not possible to give a hypothetical answer without being specific, as to what has delayed the particular appointment.

Mr. Ochieng: Mr. Speaker, Sir, the positions which have not been confirmed all belong to the Ministry of Finance. Why is it that the Ministry of Finance is unable to confirm the staff in positions for almost two years in quite a number of parastatals that are under it?

Mr. Otieno: Mr. Speaker, Sir, following this particular Question, we will draw the attention of all the Ministries that vacancies that have not been filled within the last six months should be filled immediately.

Dr. Khalwale: Mr. Speaker, Sir, when I look at the list which the Minister has given to us, very many of these corporations have their CEOs out of office because they are undergoing investigations. The fact that so many of them are under investigations confirms our fears that most of these corporations are being used deliberately to siphon public funds. Could the Minister give the House an update of the state of those investigations, and if possible table here progress reports, because for all we know, nothing might be going on in terms of investigations?

Mr. Otieno: Mr. Speaker, Sir, investigations come under different agencies. Not all of them are under my Ministry. In this particular case, we will make a follow up to find out the status of every investigation. If an hon. Member is interested in any particular one he can put a specific Question and we will come up with an appropriate answer.

Mr. Nyamai: Mr. Speaker, Sir, those of us who have been in the public sector know that most of these appointments have not been made, particularly when it takes more than six months. It allows the person who is acting to have an upper hand over other potential applicants when it comes to the interviews. Could the Minister confirm that these appointments are not being delayed deliberately, so that they give some people an undue advantage? In the case where we have somebody who has been acting for more than six months, since he has not been confirmed, it means that person is not fit for that post. So, could he confirm that any person who has acted for more than six months will not eventually find themselves being recruited?

Mr. Otieno: Mr. Speaker, Sir, I am not aware of any out of these 18 positions where delay is because of a favour or conspiracy to give some particular officer an advantage.

As to the six months period, it passes because of the recruitment process. You will realise that in so many of these appointments, we have not been able to get appropriate officers because of the remuneration levels attached. Sometimes, we have had to revise this to attract competent officers in line with the current service delivery objectives.

Mr. Speaker: Order, hon. Members! We have received confirmation that the bag which the Member for Kisumu Town East is carrying does not have in it anything

offensive and that it has been scanned and no ammunition was found in it. There is nothing that could be dangerous to Members.

(Applause)

(Mr. Mungatana stood up in his place)

What is it the Member for Garsen?

Mr. Mungatana: Mr. Speaker, Sir, the reason we want to ask Questions here is so that we can have results. All the lists that the Minister has given us--- The Public Procurement Oversight Authority has had a Chief Executive Officer (CEO) acting for two years. Could the Minister undertake to deal with that specific one? All the others are less than two years. This one which is cross-cutting affects the whole country and all Ministries. The Chief Executive Officer has acted for two years. Could the Minister undertake to look into that matter?

Mr. Speaker: The Member for Garsen, as I see it, you are out of order. This is because we have concluded business on that Question. The last question was asked by the Member for Kitui West and so, the matter is closed for all practical purposes!

PRIME MINISTER'S TIME

Mr. Speaker: Hon. Members, we now want to take the Question under Prime Ministers Time.

The Member for Wajir West, please, proceed!

Question No.QPM.2

BENCHMARK FOR PERFORMANCE CONTRACTING

Mr. Keynan asked the Prime Minister:-

(a) given that performance contracts have been signed between Ministries and their employees, what the benchmarks for performance contracting are; and,

(b) remedial actions that have been taken to ensure that the performance of Ministries which were rated low is improved.

Mr. Speaker: Order, hon. Members, just for the purpose of the record, Question No.089 by Ms. Sophia Noor is dropped, unless she can emerge now. When I called out the first time, she was not here and I can see she is still not here.

Question No.089

NON-COMPLETION OF PROJECTS AT MASALANI DISTRICT HOSPITAL

(Question dropped)

The Question is dropped and we are now on Prime Ministers' Time, with the Question by the Member for Wajir West.

Hon. Members, the Clerks-at-the-Table are concerned that I have moved to Prime Minister's Time without calling the next order. Will Members please, note that we are on the slot of Question Time? What the Member has is a Question which comes during Prime Minister's Time which commences at 3.00 p.m.

If it is a Question, we need not call next order. Next order, you will notice is on Statements! If this is a Question, it is not a Statement.

Therefore, the Prime Minister really ought to be here!

Mr. Mungatana: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it the Member for Garsen?

Mr. Mungatana: Mr. Speaker, Sir, even if the Prime Minister is not there, where are the two Deputy Prime Ministers?

Mr. C. Kilonzo: On a point of order, Mr. Speaker, Sir. I believe you will agree with me that it appears the Prime Minister's Question Time is becoming irrelevant, going by what has been happening in the previous occasions. It is not being taken seriously and I plead with the Chair to take action against the Prime Minister. Some of us plan on how to grill the Prime Minister and it is a waste of time if we plan and he does not show up.

Mr. Speaker: Order, the Member for Yatta! The Rt. hon. Prime Minister, and the record will bear me out, has always been here when expected!

(Mr. Raila entered the Chamber)

(Applause)

Mr. Keynan: Mr. Speaker, Sir, when a Back-bencher fails to ask a Question, the Chair has always been thorough. Why do you not do the same to the Members of the Front Bench, including the Prime Minister?

Mr. Speaker: Order, Mr. Keynan! I will have no reason not to apply the same rules that apply to all Members to the Rt. hon. Prime Minister!

The Rt. Hon. Prime Minister, Question No.QPM.2 under your Order has already been asked by Mr. Keynan. You were not here to answer the Question. You have arrived now but this matter is alive; so, I expect you to offer an explanation.

PRIME MINISTER'S TIME

Question No.QPM.2

BENCHMARK FOR PERFORMANCE

CONTRACTING

The Prime Minister (Mr. Raila): Thank you, Mr. Speaker, Sir. I want to apologise to the House for being slightly late. The House will also remember that I have

in the past been very generous with this Time. I have actually allowed discretions for the other Questions to go beyond the normal time. I apologise for coming slightly late but I am ready with the response for the hon. Member's Question.

Mr. Ruto: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, the Member for Chepalungu!

The Rt. Hon. Prime Minister, you have uttered the words, "I apologise". But before the Chair takes your apology and accepts or otherwise, you must give an explanation! It is not good enough to say, "I apologise"!

(Mr. Ruto stood up in his place)

Order, the Member for Chepalungu!

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member for Chepalungu will never let any opportunity pass--- I know he is addressing another audience out there!

(Laughter)

Mr. Speaker, Sir, let me just leave it at that. I apologise for being slightly late. I thought that the other Questions on the Order Paper would go beyond this time.

Mr. Speaker: That is good enough! You were looking at the past practice.

Mr. Ruto: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: The Member for Chepalungu, what is it? The Rt. Hon. Prime Minister, please take your seat!

Mr. Ruto: Mr. Speaker, Sir, is it in order for the Rt. hon. Prime Minister to impute that when I am rising on a point of order in my legitimate work as a Member of Parliament, I am addressing another audience?

Further, I wanted to raise with you that the Prime Minister qualified his coming late by saying he usually donates his time. Is it in order for him to organise the business of the House?

(Laughter)

Mr. Speaker: Order, Member of Parliament for Chepalungu! The Business of the House is organised by the House through various organs. The various organs, as we all know, are the House Business Committee, which prioritises the Business to be transacted in the House and, secondly, Mr. Speaker, who has powers, under the Standing Orders, to determine how we will conduct our Business and in what sequence. So, the Rt. Hon. Prime Minister does not have that mandate.

With respect to your claim that he is implying that you are addressing a different audience, I understood the Rt. Hon. Prime Minister. That was not meant to impute any improper motive on your part. The Rt. Hon. Prime was only re-emphasising the fact that these proceedings are live and it may very well be that you are aware that you are addressing a larger audience than the House this afternoon.

(Laughter)

So, the Rt. Hon. Prime Minister, please, proceed to answer the Question.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, as I answer this Question, I also want to telescope my intention to brief hon. Members, after answering this Question, about the situation of the floods that are right now ravaging the country. I, therefore, want to be brief on this particular item, so that I can have a little more time to brief hon. Members.

Performance contracts are set annually at the beginning of each financial year. They are signed by the Permanent Secretaries (PSs) of the respective Ministries and counter-signed by the Prime Minister and the Minister. The key components of a performance contract are performance targets against which the performance is measured. Targets are set on each of the performance indicators, which represent key activities of the Ministry concerned and the objectives in the strategic plan of that Ministry.

Mr. Speaker, Sir, until the last fiscal year, there were no standards against which performance targets were set. It was largely a matter of negotiation by the PSs. There was, therefore, no objective basis to compare performance across Ministries. As a result, the ranking of Ministries at times seems to diverge from the common perception of users of Government services. For this reason, the annual report on performance contracts was withdrawn last year.

In order to rectify this problem, performance benchmarks were introduced this year. Benchmarks are the norm based on international best practices, against which performance targets are set. Benchmarks also help Ministries to better be informed about management practices in planning, budgeting and linking with public aspirations.

Mr. Speaker, Sir, the Government has, in this regard, put in place a set of remedial measures that it is taking to strengthen performance of Ministries that are rated poorly. Such measures include, among others, sharing of lessons learnt by the evaluators and placing a poorly performing Ministry on the programme of Rapid Results Initiative. Furthermore, punitive actions are taken through sanctions by the Government. For example, the names of poorly performing Ministries are published in the print and electronic media. A reprimand is issued to those Ministries by His Excellency the President and the Prime Minister. In addition, those Ministries that are performing really badly are provided with further guidance by my Office, through the Performance Contracting Department. On the other hand, top performers are awarded trophies and certificates to boost their morale and are encouraged to continue with the good work.

Mr. Speaker, Sir, the Government is also continuously improving the modality of performance contracting. For example, it is cascading performance contract targets to all levels of management. It is also institutionalising operational and managerial autonomy in the Ministries so as to avoid macro-management and to leave managers free to realise their performance targets.

Finally and most importantly, through customer satisfaction surveys, suggestion boxes and hotlines, performance contracting has empowered ordinary Kenyans. The Government is committed to further strengthening performance contracting and delivering key public services that all Kenyans rightly deserve.

Mr. Speaker, Sir, performance contracts are meant to improve service provision to the general public. Their measure is the satisfaction that the public derives from improved

quality of services. We have, therefore, instituted measures that will enable the Government to measure whether the public is satisfied with the services they are getting or not.

For example, I know that it has been possible to improve service delivery in the Ministry of State for Immigration and Registration of Persons. We know that issuance of passports has now improved substantially as a result of the introduction of performance contracting. Patients at Government clinics, health centres and hospitals also say that the services have improved.

Mr. Speaker, Sir, this is an experiment, and we would like to receive any kind of advice that hon. Members may have, so that the Government can improve on this new mechanism for better service delivery to the people of this country.

Thank you.

Mr. Keynan: Mr. Speaker, Sir, while I appreciate the answer given by the Prime Minister, performance contracts must be specific, measurable, achievable, realistic and time-bound in order to realise effective, efficient, ethical and social development of the management of a particular institution. Taking this into account, who designs the performance targets and what happens if one fails to meet the set targets within the public circles?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have alluded to what we call “performance benchmarks”. These benchmarks are based on international best practices. There are targets that are set. This is done by expert consultants who have been contracted by the Government to do so. So, public servants are not allowed to arbitrarily set the benchmarks themselves. The benchmarks are set by professional consultants who look at practices in other countries that have introduced performance contracting like Canada, Australia and the United Kingdom.

Once the benchmarks have been set, the PS and the Minister sign the contract. In turn, other officers within the Government also sign contracts with the PSs. These are targets that are known to be achievable. The performance, therefore, is measured on the levels of achievement of the benchmarks that will have been in place previously. So, they are objective and quantifiable. They are not targets that are arbitrarily set.

Mr. Bahari: Mr. Speaker, Sir, in the answer that has been given by the Prime Minister, I have not heard something that is very important in performance contracting. That is particularly on the issue of continuous assessment. Normally, these reviews come after the financial year. That is when the exercise is concluded and grading done. Could the Prime Minister confirm that there are periodic reviews within the course of the 12 months period, so that this is not seen as something that happens annually or ceremoniously?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, indeed, there is continuous assessment. But I have said that this contract was signed at two levels. The first one is the one which is signed by the Ministers and their Permanent Secretaries with the Prime Minister. The second level is the one that is signed between the officers and their Permanent Secretary. The Permanent Secretary and the Minister commit themselves to achievement of certain performance targets. Therefore, it is their responsibility to ensure that officers working under them achieve those targets. To do so, there is need for continuous assessment rather than waiting until the end of the year. There is provision for continuous assessment.

Mr. Nyamai: Mr. Speaker, Sir, in an earlier Question which I had asked the Minister of State for Public Service, we were given a list of 18 parastatals with Acting Chief Executive Officers (CEO). Some of them have acted for two years. Could the Prime Minister confirm to this House whether there are performance contracts between the Acting CEO and the Permanent Secretaries? If there are, how are they being measured in view of the fact that there are no substantive CEOs?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, a CEO is a CEO, permanent or acting. They have an obligation to ensure that the office works efficiently. So, if there is an acting CEO, he is under an obligation to ensure that, that parastatal performs in accordance with the commitment as per the performance contract.

Mr. Lessonet: Mr. Speaker, Sir, I would like the Prime Minister to confirm to this House whether all members of the three arms of Government; that is, the Executive, Judiciary and Legislature, have all signed performance contracts. If some have not, what action has been taken?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member is right in pointing out the three arms of Government; that is, the Legislature, Executive and Judiciary. In the spirit of separation of powers, all these arms of Government are independent of each other. However, I have taken the liberty to recommend the other arms of Government; that is, the Legislature and Judiciary, to also introduce the performance contracts. I am happy to inform the hon. Members here that the Legislature has actually followed suit and introduced performance contracting. However, I must say that I have been disappointed at the reluctance of the Judiciary to introduce performance contracting. We cannot compel the Judiciary to do so, but I have held a view that the Judiciary is functionally independent of the Executive, but organically, part and parcel of the Government. They would be advised to accept the recommendation of the Executive and introduce performance contracting.

Mr. M'Mithiaru: Mr. Speaker, Sir, the performance contracting is all about the measurable targets that will have some impact on the ground. But what we have seen is that the performance contracts have been signed – which will just be pieces of paper – but the underlying performance is the impact it will have on the ground. What we have seen in most of the services rendered by those who sign the performance contracts, there is no quality and customer satisfaction. The other day, I was in my constituency where a pole has been erected in the centre of a tarmac road. Also, the bills prepared by the Ministry of Public Works are highly inflated. In the public good, could the Prime Minister confirm that the performance contracting will also ensure that there is a proper assessment on the ground to ensure that there is customer satisfaction, quality for value of money and time is maintained?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, performance contracting is relatively new in our governance structure. As I have mentioned, since its introduction, there have been some improvements but we are continuing to evaluate. Like right now, we are just about to release the results of last year on how the Ministries performed. Since this exercise is done objectively by independent people who are not part and parcel of the Government, the results will come out and poor performance will be revealed. This gives us an opportunity to deal with those officers or Ministries which are underperforming. For example, issues like an electricity pole being planted in the middle of a tarmac road will come out. But it shows how far the rot had gone in our society.

Where an officer can sanction the erection of an electricity post right in the middle of a tarmac road is a very strong statement of deterioration of services. So, this enables us to deal severely with those kinds of officers.

Mr. Mungatana: Mr. Speaker, Sir, thank you for giving me this opportunity. Sometime ago – two years I believe – there was a governance project called the Governance, Justice, Law and Order Sector Programme (GJLOS), which was foreign funded. I am made to understand that almost Kshs2 billion was allocated to cross-cutting Ministries, including the Ministry of State for Immigration, Ministry of State for Provincial Administration and Internal Security, Ministry of Justice, National Cohesion and Constitutional Affairs and Ministry of Home Affairs, amongst others.

Mr. Speaker, Sir, I am given to understand that almost Kshs1.2 billion from donors was returned because of lack of absorption capacity by these various Ministries. Is the Prime Minister aware of this and what action can he take against the various heads who signed performance contracts to make sure that reforms were effected in the GJLOS sector?

Mr. Speaker: Mr. Prime Minister did you follow?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I followed and I want to thank the hon. Member for raising that issue.

Mr. Speaker, Sir, I do not have a specific programme in the Ministry of Justice, National Cohesion and Constitutional Affairs. But, I know that that there are a number of similar cases where money has been provided by donors and the financial year ends before it has been spent. Sometimes, this happens because of the bureaucratic procedures that are attached to disbursement of some of these donor funds. It will require that the Government has, for example, completely complied with all the requirements. But because of the bureaucracy in disbursement, the financial year ends before the money has been disbursed. I know that in a number of cases, the Government is not at fault, but if the hon. Member could provide the details of this particular case on non-expenditure or consumption of the funds; if, for example, the donor had already released the money, then I would be able to deal with that specific case. But there are sometimes a lot of difficulties in consuming the monies that are provided by donors.

Mr. Keynan: Mr. Speaker, Sir, the concept of performance contracting is a critical component of Vision 2030. In it, there are a number of targets that ought to have been met by 2012. One of them is the creation of two special economic zones, four industrial parks, five SME parks and so on. Taking into account that this is a Grand Coalition and the Prime Minister is not just a prime minister but one of the Principals of the Republic of Kenya--- Among this, there are supposed to have been reform recruitment programmes. There are supposed to be quality assurance officers. There is supposed to be open merit-based recruitments. How many of the Ministries that you supervise have met this basic bench-mark. If there are some, what penalties have they faced?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the first part of the hon. Member's question actually refers to Vision 2030 projects. We call them the flagship projects. Those projects are long term, especially the industrial parks, special economic zones and so on. We are in the process of implementing those projects. Those are not things that you wake up today and you begin to implement immediately. They require a lot of planning and mobilization of funds to be able to implement them. I want to assure

the hon. Member and the House in general that the Government is fully committed to implementation of Vision 2030 programmes and projects.

Mr. Speaker, Sir, every Ministry implements its part. The issues of performance or merit-based recruitment and promotions is also being implemented right now. We have also issued instructions that in the new recruitments, due regard must be given to ethnic balancing to ensure that this society is balanced and that there is no particular community that is advantaged more than others. So, we are dealing with issues of aristocracy very effectively. So, it must also be known that we have inherited a system that was fairly disjointed and there were many disparities which we cannot deal with overnight. We have to deal with these things systematically. I want to give assurance that there is real commitment to ensure that there is good governance and that civil servants do deliver, are properly motivated, that is, they are well remunerated and that we also deal with issues of corruption, nepotism and tribalism, to ensure that there is good performance in the Public Service.

Mr. Speaker: Hon. Members, that brings us to the end of the Prime Minister's Time.

Next Order!

Mr. Prime Minister, I understand that you have a statement to give but note that earlier on, there was a statement on the same subject by the Minister of State for Special Programmes. Just be careful that you have acquainted yourself with that Ministerial Statement so that what you are saying will be complementary, new or adding to it.

PRIME MINISTERIAL STATEMENT

DISASTER MANAGEMENT MEASURERS

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I have just seen the Ministerial Statement that was issued by the Minister of State for Special Programmes. It contains, by and large, most of the facts that I wanted to give here today. Yesterday, I had a meeting of the National Disaster Response Centre. I took the privilege to invite hon. Members from the affected areas so that they are properly briefed by the officers who are handling this matter as to the measures that the Government is taking to deal with this crisis at the moment. Therefore, I do not intend to repeat what the Minister has already dealt with very effectively, except that I want to say a few things.

Mr. Speaker, Sir, first, the Kenya Meteorological Department is predicting that , the country is likely to receive enhanced rainfall during the month of April except in the coastal areas. Heavy rains may continue probably up to mid June. There are areas which are flood-prone like Tana River and other areas. There will be floods in Budalangi, Nyando and Kano Plains. Landslides and mudslides are likely to occur in Murang'a, Nandi Hills and other parts of Western Kenya. So, I just want to say that the Government is going to take measures to deal with this situation. Kenya as a country can prevent or at least minimize the sufferings caused by floods. We can and must strengthen our disaster management capacity. We can and must establish a Disaster Mitigation Fund so that resources can be made available immediately as need arises. We can and must promote afforestation and judicious use of land, including terracing and other devices.

Mr. Speaker, Sir, I was in Rwanda over the Easter holidays. Rwanda and Burundi are mountainous countries. What they have done is build terraces along the mountains and hills in order to arrest soil erosion. When I spoke to the President of Rwanda, he told me that he has now made it mandatory for people to plant trees. In each and every family, a tree is planted per head every year. What we are going through is very directly associated to the bad land use upcountry. A lot of soil is being wasted. I was talking to the Egyptian Ambassador last week and he told me that contrary to what people think, it is not just water that they get from here. The most precious commodity they receive is soil. As a result of erosion that we experience here, a lot of soil is transported by water to Egypt which they arrest and use to fertilize their lands. So, it is imperative upon hon. Members to carry out education among their people about the issue of better land management and use. We must ensure that we plant trees all over the country. That will help us to come up with a more sustainable way of dealing with the issue of flooding in our country.

With those few remarks, I beg to finish.

Mr. Speaker: We will allow a maximum of five clarifications beginning with Mr. Imanyara.

Mr. Imanyara: Mr. Speaker, Sir, the Rt. Hon. Prime Minister has said that they are relying on the predictions of the Kenya Meteorological Department. To what extent do you trust that their predictions will come true, given that in the past, we have had farmers wanting to sue them for giving them catastrophic losses as a result of disastrous predictions?

Mr. M'Mithiaru: Thank you, Mr. Speaker, Sir. There are also roads which have been destroyed by the ongoing rains. So, what is the Prime Minister doing also to ensure that those places that have been cut off from communication--- An example is Laare Market in my constituency; it has been cut off completely because of the poor road, which was washed away and cars cannot pass. Is there any emergency fund to address the issue of the roads which have cut off communications in certain market centres?

Mr. Koech: Thank you, Mr. Speaker, Sir, for this opportunity. Of course, the fact that we are going to have a lot of rains is a welcome idea in this country. In my area, we have so many people who occupy the Nandi Escarpment. Could the Prime Minister consider finding land for these people so that they are relocated and they plant trees along the escarpment?

Mr. Ngugi: Thank you, Mr. Speaker, Sir. It is good to hear that the Prime Minister was in Rwanda and that he interacted with a very progressive President, who really has the will to effect policies that he feels are right. In this House, we have heard the Minister for Agriculture say that he is going to bring in a law to require you to plant trees on 10 per cent of your land. We have heard the Minister for Environment and Mineral Resources saying that blue gum trees which are within 50 metres from rivers are going to be uprooted. When are such policies going to be effected, and when will this Government have the will to effect policies that will benefit the people?

Lastly, Mr. Speaker, Sir---

Mr. Speaker: Order! One clarification only!

Mr. Ngugi: It is a rider, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Ngugi! You just needed to prepare yourself well and you would have covered that in one request!

Proceed, Mr. I. Muoki!

Mr. I. Muoki: Thank you, Mr. Speaker, Sir. You will recall that last year we were warned by the weathermen that the rains this year would be enhanced. The Minister of State for Special Programmes then said that the Ministry was prepared to tackle the issue of the enhanced rains. We are now experiencing problems, and the areas which experience the problem of floods are the same areas which also experience drought and starvation. I am thinking of areas like Turkana, North Eastern, Tana River, lower parts of Ukambani which I represent and others.

So, Mr. Speaker, Sir, what I wanted to ask the Prime Minister is if we can have a plan in place, because this phenomenon will recur, even if it is after ten years. On the same note, are there special funds for repair of roads, because the roads in my constituency and in Tana River, which I border, have been destroyed by these rains, and the money that we have for roads cannot actually cater for these emergencies as a result of the floods?

Thank you, Mr. Speaker, Sir.

Mr. Njuguna: Thank you, Mr. Speaker, Sir. As we applaud the Prime Minister for being very elaborate on some of the points that have been raised in this House; aware that he has predicted, through the Meteorological Department that rains will continue; with these rains continuing, families, schools and even the unsettled Internally Displaced Persons (IDPs) will also be affected. What specific arrangement has the Prime Minister made for the vulnerable community scattered all over the country?

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The Rt. Hon. Prime Minister, respond! If we have a little time, we will do another round of five questions.

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the hon. Member for Imenti Central wondered whether I have faith in the Kenya Meteorological services. Yes, I have faith in them. Sometimes there are doubts, and these have to do with the reliability of facilities that this departments has. I remember when I was a university student in Europe, there was a cartoon in a newspaper congratulating the weatherman; congratulations were because out of 365 predictions of the previous year, at least five were correct!

Mr. Speaker, Sir, this is a science that has been evolving. But, now, with satellites up there, and international collaboration, it is possible to predict almost very accurately the pattern of weather over a period of time. They are able, for example, to see storms, hurricanes and so on hours before they occur.

So, Mr. Speaker, Sir, our Meteorological Department has got some of the most sophisticated equipment or instruments in this part of the world, and it works very closely with the meteorological departments of the United States and of other European countries. Yesterday, we were taken through, by the Director of the Kenya Meteorological Department, what is likely to happen between now and June. We are told, for example, that the increase in surface water temperatures over the Indian and Pacific Oceans has a bearing on the rain patterns here. So, it is possible to predict when the *El-Nino* or the *La-Nina* is going to occur. So, I think that we have a very reliable facility at the Kenya Meteorological Department.

Mr. Speaker, Sir, hon. M'Mithiaru and, I think, hon. I. Muoki are concerned about the issue of roads in their constituencies, which have been badly affected. As I

mentioned, a lot of the destruction occurred to our infrastructure; roads and bridges have been washed away by the floods, and that is the reason why costs have continued to increase. It is no longer possible for the Roads Department to predict or to quantify accurately the amount of money that they need because the figures they give today differ again tomorrow, because there will be some destruction taking place overnight as the rains continue.

So, Mr. Speaker, Sir, we have provided funds to the Ministry of Roads. We had estimated Kshs2 billion in January/February, but it has increased. We also have budgetary constraints, because all this is happening in the middle of a financial year, and most of this was not expected. But a lot of repair work is taking place. In some areas where it is not happening, we were told yesterday by the engineers that because of the wet conditions, they cannot send out heavy equipment when the ground is still wet. So, they are basically just creating diversions and waiting until it dries up so that, then, they can embark on more permanent repairs of the damage that has taken place.

Mr. Speaker, Sir, the hon. Member for Mosop wanted us to resettle people who live on the Nandi Escarpment before afforestation can take place. I want to inform the hon. Member that we do not have to resettle people; that can take place even when people are there. That is what I saw in Rwanda. What has happened? The people were only moved to one section. People now live in settlements instead of being scattered all over, that is people building homes here, there and there, thereby making it impossible to carry out a systematic afforestation exercise.

Again, it is not possible to provide proper services for people when they are living in such a scattered way. We cannot provide electricity, water or even build a school for them. It is, therefore, necessary for us to begin to do what has already been effectively done in Rwanda, to move people in settlements so that land remains to be farmed communally and do terracing properly to stem the tide of soil erosion on land which is inclined. We are soon going to be discussing with hon. Members the idea of communal labour to conserve the environment. In the colonial days, we had one day in a week set aside for people to voluntarily go and work on the land consolidation exercise. This is not land consolidation, but land terracing exercise. People used to donate free labour for the purpose of conservation of soil. This no longer happens and we are in serious danger. We, as a Government, will begin discussions among our people to see if it is possible to introduce the exercise which was discontinued at the end of the colonial times.

Hon. Member for Kinangop talked about the statements made by the Minister for Agriculture and the Minister for Environment and Mineral Resources. These were good statements. They are a declaration of the intention of the Government. Just as I have said, these are some of the issues which we are initiating which require involvement of the wider leadership and not just the Government in order to involve people in the exercise. When we say that every farmer should donate 10 per cent of his or her land for tree planting, that is a statement that requires discussions to be implemented. When the Minister asks people to uproot blue gums along the river beds, that is a good intention. However, that cannot be done by the Government alone. There must be involvement of people in this kind of exercise. So, we require a wider involvement of leadership of this country to implement some of these good intentions.

With regard to hon. Muoki's question, yes, I have said that we are living between two disasters of drought and floods, *El nino* and *La Nina*. We are taking measures to

plan for them. We have a disaster response committee which was set up last year to deal with drought. When the floods came, we diverted our attention to deal with them. We do not want to be fire fighting all the time. We want to have a sustainable programme of dealing with this issue. We have already come up with a proper policy instrument to do so.

I think I have dealt with part of Mr. Njuguna's question on roads. There are vulnerable groups like students, IDPs, pastoralists and farmers who are affected when floods come. When the floods disappear, they are equally affected. As I have mentioned, the Government is taking measures to alleviate the suffering of all the vulnerable groups wherever they are.

Mr. Speaker: Order, hon. Members! We are out of time, I am afraid. We have to move to requests of Statements.

POINTS OF ORDER

DECLINING STATE OF EDUCATION IN NORTH EASTERN PROVINCE

Mr. Farah: On a point of order, Mr. Speaker, Sir. I am seeking a Ministerial Statement from the Minister for Education. The state of education in North Eastern Province, right now, is in a very pathetic state. We continue to hold the tail in all national examinations in the country to the extent that some districts, like my district, are not sending even a single student to the university through the Joint Admissions Programme.

In the statement, he should indicate why the Provincial Director of Education (PDE), who since his posting, which is over two years today, has not visited any of the schools in the province; even a school which is hardly 200 meters from him; and, why he has not travelled to Garissa Town and yet, he is still being maintained as the PDE? He should also indicate his official role, home and the social joints that he frequents.

He should also indicate why the failed Delocalization Policy for Education in North Eastern Province has not been abandoned by the Ministry. We all know the original idea of delocalization was meant to bring the cream of education managers from other successful provinces to replicate the same in North Eastern Province. He should also tell us why they continue to post to North Eastern Province, officers who are sent there for discipline purposes.

I wish he could give us the immediate steps, as a matter of policy, the Government intends to take to arrest this terrible state of education in North Eastern Province? Owing to that situation, we would want this Ministerial Statement to be brought to the Floor of the House as soon as possible.

Mr. Speaker: Where is the Minister for Education? Could the Minister for Public Service hold brief for the Minister for Education and indicate when the Statement will be available?

The Minister of State for Public Service (Mr. Otieno): Thank you, Mr. Speaker, Sir. I will make sure that the word is passed to them and they respond.

Mr. Speaker: I direct that the Statement is delivered on Wednesday morning.

Mr. Farah: On a point of order, Mr. Speaker, Sir. Could I seek your indulgence? I wish to persecute that. Could it be done on Wednesday afternoon?

Mr. Speaker: Fair enough! It is so directed! Wednesday at 2.30 pm.

DEATHS OF YOUNG KENYANS
IN FOREIGN WARS

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. In the last few months, Kenyans who have been reading newspapers must have noticed that they have been reading a lot of funeral announcements of young Kenyan men and women, who have been dying fighting foreign wars, particularly in Iraq and Afghanistan. I am seeking a Ministerial Statement from the Minister for Foreign Affairs to tell us how many Kenyans have died fighting foreign wars, particularly in Iraq and Afghanistan. What is the Government policy with regard to young Kenyans who are serving in foreign militaries? How many have died?

Mr. Speaker: Order, hon. Members! Since this matter is also related to defence, will hon. Maj-Gen. Nkaisserry hold brief for the Minister for Foreign Affairs and indicate when the Statement will be available? Too many Kenyans are dying fighting wars out of Kenya, including Iraq.

The Assistant Minister, Ministry of State for Defence (Maj. Gen. Nkaisserry): Thank you, Mr. Speaker, Sir. What is the request?

Mr. Imanyara: It is in the HANSARD but I would be quite happy--- I started by pointing out---

Mr. Speaker: Order, Member for Central Imenti! I have given you a summary of what the Member is asking for. There is concern that too many Kenyans are dying fighting in foreign land, including Iraq, possibly Somalia and other countries. The hon. Member wants the Minister for Foreign Affairs to indicate how many Kenyans have died, what the country is doing to stop those deaths and so on and so forth.

The Assistant Minister, Ministry of State for Defence (Maj.-General Nkaisserry): Thank you, Mr. Speaker, Sir. I undertake to inform the Minister to bring the Statement on Thursday next week.

Mr. Speaker: It is so ordered. Yes, the Member for Embakasi!

LEASE OF ASPHALT PLANT BY NAIROBI
CITY COUNCIL

Mr. Waititu: Mr. Speaker, Sir, I rise to seek a Ministerial Statement from the Deputy Prime Minister and Minister for Local Government regarding the leasing of a plot LR.No. 209/7750/3 -The Asphalt Plant. In the Statement, the Minister should state whether there was any competitive bidding as per the Public Procurement and Disposal Act. If so, provide the documentary prove. The Minister should also state whether there was a Nairobi City Council resolution to approve the decision as per the requirements of the Local Government Act Cap. 265. He should also state clearly whether the materials and the equipments that were being stored in that plant will continue being stored there. Considering that the plant was used as bitumen mixing plant, what will be the fate of the Department of Engineering at the city council considering that plant has now been leased out for over 45 years, and who was the actual beneficiary of that deal? Who benefited from that allocation of the plant?

The Deputy Prime Minister and Minister for Local Government (Mr. Mudavadi): Mr. Speaker, Sir, I undertake to give a response to that request on Thursday next week.

Mr. Speaker: Very well, it is so ordered, Thursday afternoon. Yes, the Member for Shinyalu?

Mr. Kizito: Mr. Speaker, Sir, I rise to seek a Ministerial Statement---

Mr. Speaker: Order, Member for Shinyalu! I have no notice that you want to seek a Ministerial Statement!

Mr. Kizito: I had given notice to the Chair in the morning.

Mr. Speaker: I am the Chair, I have no notice! Order, the Member for Shinyalu. Since the Deputy Speaker is in the House this afternoon, maybe he will confirm to the Chair that you in fact made that request.

(Mr. Deputy Speaker consulted with the Speaker)

Member for Shinyalu, you may proceed!

DIVERSION OF SUBSIDIZED FERTILIZERS TO
WEST KENYA SUGAR FACTORY

Mr. Kizito: Mr. Speaker, Sir, I am rising to seek a Ministerial Statement from the Office of the President, Minister of State for Provincial Administration and Internal Security on what happened in West Kenya Sugar factory where over 100 bags of Government of Kenya subsidized fertilizer meant to be sold to the poor farmers at a low price were found in a private go down owned by the West Kenya Sugar Factory. In that Statement, I wish to ask the Minister to state why this fertilizer was there and whose business it was since the fertilizer was being sold at Kshs4000. Who supplied it to the private factory when it could only be supplied by the National Cereals and Produce Board?

Mr. Speaker, Sir, the journalists who went to seek for information were thoroughly beaten by the factory security staff. I want also to know what action was taken against the assailants and the factory.

Mr. Speaker: When will that be available?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, this issue came in the House in the morning. It is being revisited by another hon. Member. In the morning, I said that, first of all, anything to do with fertilizer does not fall under my docket. The Chair ordered that the Minister for Agriculture should come with a Statement by next week. What falls under my docket is a small component which talks about beating, which I will be able to respond to when the Minister requests for some information.

Mr. Speaker: Fair enough. I direct that the Minister for Agriculture delivers that Statement on Wednesday morning.

Hon. Members I wish to draw your attention to the provisions of our Standing Orders, with respect to Statements which is Order No. 36(3). That any Member who wants to request for a Ministerial Statement shall notify the Chair of the subject of the Statement at least one hour before the sitting. This is not decorative. There is a reason

why this Standing Order provides as such. It gives the Chair time to determine whether or not we should proceed by way of a request for a Statement or we could proceed by way of an Ordinary Question or a Question by Private Notice. Hon. Members, we have noticed that a number of issues which could very well be dealt with as Ordinary Questions or Questions by Private Notice are being lumped under requests for Ministerial Statements. Please, comply with this order so that your request to the Speaker's Office is in writing because that then gives us an opportunity to have the technical staff go through your request and determine in what category it will fall. I am not by any chance saying that the Member for Shinyalu's case does not fall in that category. But all Members, please, be on notice, that you must put your requests for Ministerial Statement in writing so that we are able to advise you whether or not they pass the test.

MEMBERS' FAILURE TO RECORD ABSTENTION

Mr. Ruto: On a point of order, Mr. Speaker, Sir. On Wednesday last week, we were in the process of voting, under Standing Order No.63 (1) and (2), there were 150 Members present. Under that Standing Order, it does not oblige everybody to vote but they have to record their abstention, if they are in the House.

Mr. Speaker, Sir, I requested that under that Standing Order, we be told who actually did not vote and what steps the Chair is taking to ensure the compliance of that Standing Order and whether such Members could be named under Standing Order No.63 (2).

Mr. Speaker: Hon. Members, the matter that has been addressed by the Member for Chepalungu is of a very grave nature. Unfortunately, the matter is being addressed belatedly. The manner in which we are supposed to live within the Standing Orders is such that any matter which is out of order, and that disorder is committed in the face of the House, such as this one which was committed on Wednesday, last week, ought to be raised instantly so that the Chair has an opportunity to ascertain whether or not, in fact, there is a breach.

So, given that this matter was not raised when business was being transacted, it is far too late now for the Chair to establish the veracity of this assertion. So, I am afraid I will not make any finding on it in the House. However, I am prepared to deal with the matter if it is referred to the Speaker's Office in writing because we have other avenues of addressing this matter including pursuant to the provisions of the Powers and Privileges Act. It is an avenue we will consider if we receive suitable presentation and/or complaint.

Mr. Ruto: Mr. Speaker, Sir, considering the gravity of the matter, I will comply with your ruling that I put my complaint in writing. However, I raised that point of order last week and I had a Communication from the Chair that the matter would be addressed.

Mr. Speaker: Given the directions that I have now made, it will be addressed in the manner in which I have directed. Let me have it in writing in the Speaker's Office and it will be dealt with by the Speaker's Office.

The Minister for Lands (Mr. Orengo): Mr. Speaker, Sir, I remember when the hon. Member for Chepalungu raised the issue and I pointed to the House at that time. I hope that the Office of the Serjeant-at-Arms will take it seriously that at the end of the Division Bell it is not only the Bars that should be drawn, but all the entrances into the

Chamber. The exits should be firmly closed. I noticed that some people came into the Chamber from behind the Speaker's Door. There is a possible explanation that some people may have exited the Chamber through the same door. Probably, it is something that needs to be brought to the Office of the Serjent-at-Arms. I spoke about it when the hon. Member for Chepalungu raised the issue.

In order to ensure the integrity of the voting process, when the Division Bell has stopped ringing, the Serjent-at-Arms must make sure that all the doors, exits and entrances are firmly closed. However, I am willing, to share solely and in confidence with the Speaker, the persons who entered through the back door.

Mr. Speaker: The Member for Ugenya what you have said, in fact, compounds the gravity of the matter. With your indication that you will confide in Mr. Speaker, will you, please, do so in writing confidentially and it will be treated as such?

In the meantime, hon. Members, the Office of the Serjent-at-Arms is urged to take notice. The Office needs to ensure that if we proceed to a Division, the Bar is drawn and all doors are locked and remain locked and supervised to be so locked until the end of the Division. The Office of the Serjent-at-Arms will have to ensure that and the Office of the Clerk must supervise to see to compliance.

We will now move to the next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[Mr. Speaker left the Chair]

IN THE COMMITTEE

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

THE WITNESS PROTECTION (AMENDMENT) BILL

The Temporary Deputy Chairman (Mr. Imanyara): Order, hon. Members! We are now in the Committee of the whole House with regard to the Witness Protection (Amendment) Bill, 2010. Before I call upon the amendments, there is a correction to be made by the Attorney-General regarding what appears as Clause 30C and ought to be appearing as Clause 28 in the Order Paper. Mr. Attorney-General, could you indicate the correction?

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, what appears as "Clause 30C" should be Clause 28. It should, therefore, read:-

"That Clause 28 of the Bill be amended as proposed in Section 30C by-"

Mr. Temporary Deputy Chairman, Sir, that is because the Clause 30C that was referred to there is actually a sub-paragraph of Clause 28.

The Temporary Deputy Chairman (Mr. Imanyara): I direct that the Order Paper be amended accordingly to reflect the proposed change.

We may now proceed.

(Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 agreed to)

Clause 28

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, Clause 28 be amended in the proposed Section 30C by-

- (a) inserting the words 'for a first offence' immediately after the word "conviction";
- (b) deleting the words "five hundred thousand shillings" and substituting therefor the words "one million shillings";
- (c) inserting the following new paragraph immediately after paragraph (a)-
“(b) for a second or subsequent offence, to imprisonment for a term not exceeding five years.”

The effect of this is to increase the fine from Kshs500,000 to Kshs1 million to any person who will interfere with the work of the officials of the agency which we are establishing.

For subsequent convictions, the option of the fine goes and it is a custodial sentence up to five years.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 28 as amended agreed to)

(Clauses 29 and 30 agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Chairman, Sir I beg to move that the Committee doth report to the House its consideration of the Witness Protection (Amendment) Bill, and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Chairman
(Mr. Imanyara) in the Chair]*

REPORT, CONSIDERATION OF REPORT AND THIRD READING

THE WITNESS PROTECTION (AMENDMENT) BILL

Mr. Wamalwa: Mr. Temporary Deputy Speaker, Sir, I beg to report that the Committee of the whole House has considered The Witness Protection (Amendment) Bill, and approved the same with amendments.

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move that the House doth agree with the Committee in the said Report.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

The Attorney-General (Mr. Wako): Mr. Temporary Deputy Speaker, Sir, I beg to move that the Witness Protection (Amendment) Bill, be now read the Third Time.

The Minister of State for Public Service (Mr. Otieno) seconded.

(Question proposed)

(Question put and agreed to)

*(The Bill was accordingly read
the Third Time and passed)*

BILLS

First Readings

THE COUNTER-TRAFFICKING IN PERSONS BILL
THE PREVENTION OF ORGANIZED CRIMES BILL

*(Orders for First Readings read – Read the First
Time and ordered to be read the
Second Time tomorrow)*

Second Reading

THE PENSIONS (AMENDMENT) BILL

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, hon. Olago had indicated in writing that he wishes to withdraw this Bill. The Bill, therefore, stands withdrawn.

(The Bill was withdrawn)

Next Order!

MOTION

ADOPTION OF REPORT ON PROCUREMENT OF CEMETRY LAND

THAT, this House adopts the Report of the Departmental Committee on Local Authorities on the deliberations on the Procurement of Cemetery Land laid on the Table of the House on Thursday 4th March, 2010.

(The Clerk-at-the Table consulted with the Chair)

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, I am told we are using the Supplementary Order Paper, which I do not have. May I have it?

ADJOURNMENT

The Temporary Deputy Speaker (Mr. Imanyara): Hon. Members, there is no other business on the Order Paper for today. Therefore, the House stands adjourned until tomorrow, Thursday, 8th April, 2010, at 2.30 p.m.

The House rose at 4.30 p.m.