

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 19th October, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

PETITION

DELAYED RESPONSE TO PETITION BY MAU MAU WAR VETERANS

Mr. Wamalwa: On a point of order, Mr. Speaker, Sir. There was a matter that was brought to your attention by the hon. Gitabu Imanyara regarding a Petition by the Mau Mau war veterans that has been pending before this House. I had brought it over two years ago. This particular Petition had been referred to the Departmental Committee on Justice and Legal Affairs, but there has been a stalemate in that Committee. The matter has been pending for over two years. Tomorrow is *Mashujaa* Day. I would really appreciate it if you gave further directions on the matter. Perhaps, that Petition could be referred to the Implementation Committee for action.

Mr. Speaker: Member for Saboti, yes, that is a *bona fide* point of order. According to the Standing Orders when a Petition is tabled in the House and referred either to a Departmental Committee or a Government Department, that Committee or Department ought to finalize its investigation and table its response in Parliament, in addition to ensuring that it is addressed to the petitioners and that they become aware of the outcome of the investigation. Unfortunately, in the prevailing circumstances, as you have rightly said, that Petition was committed to the Departmental Committee on Justice and Legal Affairs. So far, no report has been made because the Committee has largely been dysfunctional.

However, matters pertaining to that Committee have been active in the sense that they have been addressed and spoken to in the House Business Committee. So far, there has been no solution that has come about. So, given that situation and being aware, further from my position as Speaker, that this matter is going to be addressed again in the House, I want to leave further developments to the course that it will take when it is raised again. Indeed, it will be raised. Maybe, it will be raised this afternoon. Those are the indications that I have. However, I want to reassure Kenyans, just like, you Member for Saboti, that all Members of Parliament recognize and are sympathetic to the contribution that was made by the *Mau Mau* towards the Independence of this country. We acknowledge them. We appreciate them and we will do everything we can to ensure that they are duly compensated as much as the law permits. I want to give that assurance even as we mark *Mashujaa Day* tomorrow.

QUESTION BY PRIVATE NOTICE

STATUS OF NEWLY CREATED CONSTITUENCIES

Mr. Mungatana: Mr. Speaker, Sir, I beg to ask the Minister for Justice, National Cohesion and Constitutional Affairs the following Question by Private Notice.

Can the Minister confirm that the 80 new constituencies created by the Constitution will be available for contest during the 2012 General Elections and, if so, what preparations has the Government made in that regard?

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I do not have a comprehensive answer for this Question. Looking at the Question, it is a very serious one because it touches on whether we will have the 80 constituencies for the contest in 2012. I would like to give a very comprehensive answer. I have spoken to my learned colleague and, with the indulgence of the Chair, I would like to do so, on Tuesday, next week.

Mr. Speaker: Very well, the Question is deferred until Tuesday, next week.

(Question deferred)

ORAL ANSWERS TO QUESTIONS

Question No.1189

ESTABLISHMENT OF LAW COURT AT WAMBA

Mr. Letimalo asked the Minister for Justice, National Cohesion and Constitutional Affairs what plans the Ministry has to establish Law Courts at Wamba, the Samburu East District headquarters.

The Assistant Minister for Justice, National Cohesion and Constitutional Affairs (Mr. Cheptumo): Mr. Speaker, Sir, I have been waiting for the Judiciary to supply me with the appropriate answer for this Question. This morning, I spoke to them. However, by the time I was coming to the House, I had not received that communication. With the indulgence of the Chair, I wish to seek that I be allowed to answer this Question on Tuesday, next week. I have already shared this with my colleague and he is agreeable to it.

Mr. Speaker: Very well. The Question is deferred to Tuesday next week.

(Question deferred)

Question No.924

NUMBER OF UNEMPLOYED PERSONS IN TURKANA COUNTY

Mr. Ethuro asked the Minister for Labour:-

(a) how many people are unemployed in Turkana County;

(b) what the Government is doing to alleviate unemployment in the county; and

(c) when he will also establish a Labour office and a National Social Security Fund (NSSF) office in Lodwar in order to serve the larger Turkana County?

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

(a) There are 95,080 unemployed persons in Turkana County as per the last population count in 2002.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. There is an answer I got which is similar to the last one. So, I did not know he had revised his answer as he had promised. Apparently, he has revised it and I do not have a copy of the revised answer.

Mr. Speaker: Mr. Ojaamong, do you have an extra copy of the answer that you are just beginning to read?

Mr. Ojaamong: Mr. Speaker, Sir, I do not have an extra copy, but I provided enough copies to the Clerks. I think they did not give---

Mr. Speaker: Very well. So that we proceed with business, could you, please, table the answer which you have now, so that a copy could be made and the Member is furnished with it? Maybe, Mr. Ojaamong, you want to resume your sit. We will revisit the Question a little later. The Member needs time to acquaint himself with the contents of your answer.

Next Question!

Question No.1120

EXCLUSION OF KISAUNI CONSTITUENCY FROM REP

Mr. Speaker: Member for Kisauni! Question dropped.

(Question dropped)

Question No.1143

CONFISCATION OF MR. JOSHUA MARITIM'S TRADE LICENCE
BY BURETI COUNTY COUNCIL

Mr. Speaker: Member for Sotik! Question dropped!

(Question dropped)

Question No.1162

NUMBER OF NURSES RECRUITED UNDER ESP
IN BURA/GALOLE/GARSEN

Dr. Nuh asked the Minister for Public Health and Sanitation:-

(a) if he could provide details of the nurses recruited through the Economic Stimulus Programme in Bura, Galole and Garsen Constituencies and state the facilities to which they were posted and the respective dates of posting;

(b) what the current shortage in the respective health facilities in the three constituencies is and to what extent that shortage has affected service delivery in the health facilities; and

(c) when the Minister will recruit more nurses to address the shortage.

The Assistant Minister for Public Health and Sanitation (Dr. Gesami): Mr. Speaker, Sir, I beg to reply.

(a) I hereby table the details of the nurses recruited through the ESP in Bura, Galole and Garsen constituencies and the facilities to which they were posted and their respective dates of posting.

(b) Further, the current shortage in the respective health facilities in the three constituencies is 49 nurses. Bura has 18 nurses; Galole has 11 nurses; and Garsen has 20 nurses. My Ministry was unable to get the required number of nurses during the ESP recruitment because there were no nurses from the local community which has affected service delivery. In case of emergencies, patients are referred to the nearest district hospital.

(c) My Ministry is currently going on with the recruitment of nurses under the ESP which is in turn expected to improve service delivery in respective constituencies.

Dr. Nuh: Mr. Speaker, Sir, I understand that the Assistant Minister says they were unable to capture enough human resource to deploy to these health centres which are far flung. What I am aware of is that the District Health Management Team of Tana River, sometime in May, 2011, forwarded names of eight nurses to the respective Ministry for hiring through the ESP. The information I have is that none of these nurses were recruited or reported to their preferred stations. What has occasioned the delay if the reason is that they were unable to have enough people to apply for the positions?

Dr. Gesami: We have recruited eight nurses in Bura. We forwarded their names to the Public Service Commission to allocate them personal numbers and we are still waiting. We are following up the matter and, as soon as they get their personal numbers, we will post them.

Mr. Mwangi: Mr. Speaker, Sir, while the Assistant Minister was answering this Question, he indicated that there was a shortage of nurses. I am sure that the shortage is not only in those three constituencies. It is a national problem. What is the policy of the Ministry? Why does the Ministry not post those Kenyans nationally, so that they reach areas which do not have qualified staff to deliver services in all those dispensaries and clinics?

Dr. Gesami: Mr. Speaker, Sir, indeed, we have a shortage of nurses in most constituencies. But there are those nurses who want to work in towns. Some nurses want to work in Nairobi and in private hospitals and we cannot force them to work for the Government. So, we may be having some extra nurses in major urban centres, but they do not want to take jobs in the rural areas. So, we want to train a critical mass of a number of nurses and send them to various areas where they are required.

Mr. Ethuro: Mr. Speaker, Sir, I wish to commend the Government for introducing the Economic Stimulus Programme (ESP). But the noble objective of that programme is being frustrated by this particular Ministry in terms of failure to recruit more nurses and take them to medical training centres so that they can fill the serious shortfall of nurses in all the district health facilities. What is the Assistant Minister going to specifically do to ensure that areas like Bura and Lodwar, where there are 39 health facilities without nurses--- The local medical training centres should be recruiting local personnel as a priority. When are you going to do so, Mr. Assistant Minister?

Dr. Gesami: Mr. Speaker, Sir, it is true that we have got a shortage of nurses in this country. Three years ago, I answered a Question here where I said that this country requires a minimum of 75,000 nurses. At the moment, we have only 36,000 nurses both in public and private hospitals. Therefore, we are far away from getting the number that we want. Our nursing schools are over-stretched. The lecturers and the teaching staff are not able to cope with the numbers that we admit in various Medical Training Centres (MTCs). Nevertheless, as a Government, we are trying to get as many nurses and other health workers as possible for this country.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House that the training facilities in MTCs are overstretched, when I know for a fact that, Lodwar MTC is performing under capacity because some of the course like public health and nursing were withdrawn two years ago? My question was: What is he doing to reinstate those courses with a stated objective of promoting and recruiting local people to those nursing courses? That is because we have the capacity for you.

Mr. Speaker: Mr. Minister, that is clear!

Dr. Gesami: Mr. Speaker, Sir, some of those courses were withdrawn because of lack of staff to teach them.

Mr. Speaker: Order, Dr. Gesami! The question is clear and straight forward. What are you doing to reinstate the courses?

Dr. Gesami: Mr. Speaker, Sir, we are not able to reinstate the course because we do not have the teaching staff.

Mr. Speaker: Order, Dr. Gesami! That cannot be satisfactory on the face of it, even from the position where I sit. You cannot reinstate the course because you do not have staff? Are you going to do nothing about it indefinitely or what are you saying?

Dr. Gesami: Mr. Speaker, Sir, I want to say that we are in the process of training staff to teach those courses and, as soon as we train them ,we shall reinstate those courses.

Mr. Speaker: That is a better answer definitely.

Dr. Gesami: Thank you, Sir.

Mr. Pesa: Mr. Speaker, Sir, the teaching staff that the Assistant Minister is claiming are not there to teach the health workers in MTCs are ordinary doctors that serve in our hospitals. Could the Assistant Minister undertake to ensure that all our district hospitals are given the facilities and authority to open up medical training colleges, so that the same doctors can be used as staff in MTCs?

Dr. Gesami: Mr. Speaker, Sir, I am privileged to speak from a point of knowledge. In fact, we do not have enough workers in various hospitals. In district

hospitals we are lacking doctors and nurses. When MTCs became parastatals, they were required to employ their own staff. That is a problem and I think we are addressing it.

Mr. Affey: Mr. Speaker, Sir, we all know the important role that nurses play, particularly in counties where there is a shortage of doctors. So, the nurses are a critical element of our health care services. The Assistant Minister has said that in May, eight nurses were recruited and they are waiting for the Public Service Commission to give them numbers. I think the Assistant Minister is trying to pass the buck to the Public Service Commission. Does he have evidence that he has actually followed that matter with the Public Service Commission? If he has, could he table it so that we can all be satisfied?

Dr. Gesami: Mr. Speaker, Sir, I was told yesterday by the hon. Member for Bura that actually, eight nurses were employed. I undertook to ask my Permanent Secretary whether the forms filled by the nurses came to our Ministry. He indicated to me that he is following it up with the Public Service Commission to see whether we can get those numbers and employ those nurses. It is unfortunate because there is a process of employment between the Ministry, the Public Service Commission, back to the Ministry headquarters and to the station. That is the only problem we have.

Mr. Imanyara: Mr. Speaker, Sir, there are many organizations and parastatals that employ people in this country. We have the Kenya Wildlife Service (KWS), the armed forces and so on. When they recruit people, they are even given the dates for reporting. Why is it necessary to send them to the Public Service Commission? When did you send the names? Have they given you any reason why they are not giving those people numbers, or is it an excuse to delay and frustrate the posting of nurses?

Dr. Gesami: Mr. Speaker, Sir, before the Public Service Commission gives us personal numbers for those nurses, we can never post them. So, I will undertake to find out where the delay is and, if necessary, I will make a report to this House.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. The reason why we file Questions in this House is to give the Minister the opportunity to “find out”. So, it cannot be that part of the answer is to go and “find out”. That is not additional information. This is a matter of how long it takes. He has acknowledged that there is a shortage of nurses. He got eight of them, but the hon. Member says it has taken about nine months from the time they submitted the names to the Public Service Commission. In an area like Bura which requires each and every personnel that can be availed to it, how long does it take between you and the Public Service Commission to finish the job?

Mr. Speaker, Sir, could you commit him to bring the answer---

Mr. Speaker: Order! You rose on a point of order and you have raised it very well. So, let the Assistant Minister respond.

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

Mr. Speaker: Is it on the same aspect or the same matter?

Dr. Nuh: On the same aspect.

Mr. Speaker: The same aspect? Very well. Mr. Assistant Minister, just wait for this other point of order.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. I do not know whether the Assistant Minister is in order to purport that he is still finding out because the reality is that I filed this Question two months ago. It must have been submitted to the Ministry close to a month ago. So, is he in order to purport that he is still in the process of finding

out where the problem is, when we ought to have been given a confirmation date of when the Public Service Commission will recruit those nurses?

Mr. Speaker: Very well! Take those two points of order together.

Dr. Gesami: Mr. Speaker, Sir, when we were recruiting 20 nurses for every constituency, it took us exactly four months. We got the names from the stations and forwarded them to the Ministry Headquarters, the Public Service Commission and back to the Ministry. For those eight nurses, I was told about their employment yesterday by the hon. Member for Bura, Dr. Nuh. I have undertaken to find out what is causing that delay of five months now. It should take about four month like the last time. So, I will undertake to find out where the delay is because we need those nurses as soon as yesterday. I am very concerned as well.

Mr. Speaker: Fair enough! Hon. Member for Bura, could you just, on your own, follow up with the Assistant Minister and see that this is done as soon as possible, within the next three weeks? If it is not, you will be at liberty to raise the matter with my office and we will put this Question back on the Order Paper for the Assistant Minister to make a report to the House.

Mr. James Maina Kamau: Mr. Speaker, Sir, when the Government recruits staff, they are posted to already existing Government dispensaries. You know many dispensaries have come up through Constituencies Development Fund (CDF). Could he tell us what he is doing to supply dispensaries that were constructed using the CDF with nurses?

Dr. Gesami: Mr. Speaker, Sir, once we employ the nurses at the level of the constituency, it is the responsibility of the Medical Officer of Health (MOH) and his DHMT to distribute them to all the facilities within the constituency. If they have not done that, they need to do it. They need to balance the number of staff in every constituency.

Dr. Nuh: Mr. Speaker, Sir, I am so much concerned. I would like to ask the Assistant Minister whether he is aware the reason why we are unable to attract nurses in the far-flung areas is because of hardships. Is it within his capacity to increase the allowances of nurses who are posted to those far-flung areas so that we can have a sizeable human resource in those areas?

Dr. Gesami: Mr. Speaker, Sir, it is not the Ministry of Health which determines hardship areas. Hardship areas are determined elsewhere and, as soon as we are told of a hardship area, then we pay the necessary allowances.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to avoid the question? Even if it is the Ministry of Finance which sets the regulation as to how much one is supposed to be paid, the advice comes from the Ministry concerned and the Public Service Commission.

Mr. Speaker: Order, hon. Member for Bura. As I understand it and I have followed the answer by the Assistant Minister, he has not avoided the question. He had asserted that the area concerned is not categorized as a hardship area and he has not been advised as such. When it is categorized and the Ministry is advised, they will ensure that they pay enhanced salaries and allowances as payable for persons working in hardship areas. That is how I followed it.

Dr. Nuh: Then the Assistant Minister is misleading this House because the nurses were recruited under the ESP and given a baseline and a salary that is overall and equal

all over the country. It does not matter whether somebody comes from a hardship area or not. It is upon the Assistant Minister---

Mr. Speaker: Order, hon. Member for Bura! Has the particular area that you are talking about been declared a hardship area?

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

Mr. Speaker: In that case then, Dr. Gesami, you are misleading the House, indeed. Could you respond to that?

Dr. Gesami: Mr. Speaker, Sir, we were given a flat rate regardless of the constituencies. If Galore and Bura are classified as hardships areas, then we will look into that and advise accordingly.

Mr. Speaker: Very well! Dr. Nuh, just follow up once again. Take the requisite evidence to the Assistant Minister that, that is a hardship area and we will expect the Ministry to immediately begin to pay those allowances that are payable to persons working in those areas. Three weeks hereafter, of course, we will revisit the matter as necessary.

Dr. Nuh: Thank you, Mr. Speaker, Sir. Much obliged!

(Mr. Ethuro stood up in his place)

Mr. Speaker: Mr. Ethuro, that looks like settled, but let me hear you!

Mr. Ethuro: Mr. Speaker, Sir, you have actually settled it. But in that settlement, I am disturbed by the role of the hon. Member to inform the Government on what it should ordinarily be seized of.

(Applause)

Mr. Speaker: For purposes of this Question today, let us leave it there. But, in future, you can ask this Government why they do not have information which they should have.

Mr. Ethuro: Thank you, Mr. Speaker, Sir, next time!

Question No.1101

DISMISSAL OF SPTE EVANS OCHIENG FROM ARMY

Mr. Ochieng asked the Minister of State for Defence:-

(a) under what circumstances SPTE Evans Ochieng (SVC No. 61522) was dismissed from employment in May 2006 after serving in the Armed Forces for 18 years;

(b) whether he could confirm that the officer was held in custody for 311 days without being charged in court and, if so, what was the justification; and,

(c) when his terminal dues will be paid.

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

(a) Senior Private Evans Ochieng was enlisted in the Kenya Defence Forces on 28th April, 1988 and posted to 12th Engineer Battalion on completion of the basic recruit training. He later trained as a pay clerk and worked in various units, including the Kenya Army Salaries Department in 1992, where he was employed as a binder clerk until he was dismissed from the Defence Forces in May 2006. The serviceman was involved in several fraud cases while he was discharging his duties in the Kenya Army Salaries Department. Following thorough investigations, the serviceman was found to have a case to answer relating to fraud and, subsequently, three charges were preferred against him under Section 68 of the Armed Forces Act. The Commanding Officer found him guilty on all the charges during the summary trial. He was demoted from the rank of corporal to private in the first charge. He was imprisoned for 42 days in the second charge and dismissed from the Defence Forces in the third charge. The serviceman later sought redress as provided for in Section 226 of the Armed Forces Act on the grounds that the award meted to him was too severe. He further pleaded for leniency mitigating that he did not know what he was doing as a binder clerk. His redress was, however, dismissed by the Commander, Kenya Army for lack of merit.

(b) The ex-serviceman was never held in custody for 311 days or any other number of days without being charged in court as alleged. He was in the barracks with the other soldiers as it is routine. He was, however, required to remain within his duty station all the time as a suspect, pending investigations involving serious cases of fraud against him.

(c) The offences of fraud committed by the ex-servicemen were very serious and thus, it attracted the punishment of dismissal as provided for in Section 82(4)(b) of the Armed Forces Act. In accordance with Chapter Four of the Defence Forces Standing Orders, servicemen who are dismissed from service are not entitled to discharge benefits except for salaries not drawn. In addition, they are given one way road travel expenses to their homes.

Thank you, Mr. Speaker, Sir.

Mr. Ochieng: Mr. Speaker, Sir, the answer the Assistant Minister has just read is quite misleading. I have a statement here which clearly indicates that the serviceman was detained in unlawful custody for about 311 days. If at all it is alleged that he committed offences of fraud, why was he not arraigned in court? Why was he simply dismissed to go home?

Maj-Gen. Nkaiserry: Mr. Speaker, Sir, according to military procedure, if you are not found guilty, you remain in the barracks. You report to the guardroom continuously until your case is determined. So, that soldier was not detained; he was just in the barracks as required by the law.

Mr. Olago: Mr. Speaker, Sir, has the Assistant Minister considered that the sections of the Armed Forces Act that relate to setting up of tribunals and trying offenders, particularly where allegations are so severe as to indicate fraud, are expected to be consistent with the provisions of the Constitution that say that there should be fairness to all, irrespective of status? The officer who was in charge of that tribunal must have been the officer who was his senior. So, his senior is the complainant and the judge. Is that fair?

Maj-Gen. Nkaiserry: Mr. Speaker, Sir, as I said, the ex-serviceman was a clerk in the salaries department. He was found to be responsible for fraud cases involving his

section and, therefore, the charges were preferred against him as an individual. The charges were not preferred on the team. There was no team here. If you are working at a particular specific section in the salaries department and fraud is detected, then you are dealt with; you are responsible.

Mr. Olago: On a point of order, Mr. Speaker, Sir. The thrust of my question - which, I think, eluded the Assistant Minister - is that if the allegations were so grave, then why could the accused not be taken to the normal criminal procedure court?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, I thought the hon. Member is a lawyer. In the Armed Forces, the commanding officer is the judge according to the Armed Forces Act. He would better read it.

Mr. Imanyara: Mr. Speaker, Sir, the Assistant Minister is at great pains to paint that officer in the darkest language possible and making allegations of fraud. I have some experience in court martials and I know how they can be abused. Could he give the particulars of the fraud cases including the case numbers and the amounts involved, so that we can gauge whether the sentence was deserved? Could he give the particulars?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, yes, I can bring the particulars of the case. But I do not have them now.

Mr. Speaker: Very well! Mr. Ochieng!

(Mr. Imanyara stood up in his place)

Order, Mr. Imanyara! You are a Member of the Panel and if you are on a point of order on a matter that arose before I called the Member for Nyakach, then it is overtaken. Naturally, you know that. You know the rules; you know the practice! The hon. Member for Nyakach.

Mr. Ochieng: Mr. Speaker, Sir, I am still not satisfied with the answer. What is happening here is that, that man was a very junior officer and his responsibility in the forces was just to prepare vouchers. Then those vouchers would be taken to Warrant Officer I, II and III to certify. How did it happen that he is the only person who was sacrificed in this process, while the three officers have been left behind working in the forces?

Maj-Gen. Nkaisserry: Mr. Speaker, Sir, it is because of the level of fraud. The fraud was detected at the level of the corporal. That is why I am saying that he is responsible as an individual in the particular section. That is because he was dealing with that particular section of salaries. On the issue of fraud, he actually did it himself. He tried to get money. If you want all the details, I will bring them as the hon. Member is saying. I can bring the things later on!

Question No.1217

RETIREMENT OF PERSONS WITH DISABILITIES

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

(a) whether he is aware that persons with disabilities are being retired at the age of 60 years despite the Government's directive to extend their retirement age to 65 years; and,

(b) what he is doing to enforce the directive and ensure that they are not forced to retire at 60 years.

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow):
Mr. Speaker, Sir, I beg to reply.

(a) I am aware that persons with disabilities are being retired at the age of 60 years. The retirement is in accordance with the following:-

(i) Office of the President Circular Ref.No.OPCAB/C/7A dated 20th March 2007 that announced the increase in the mandatory retirement age for public servants from 55 to 60 years with effect from 1st April, 2009. That is with the exception of judges, academic staff in public universities and research scientists.

(ii) Section 15(6) of the Persons with Disabilities Act, 2003, provides the retirement age for persons with disabilities at 60 years.

(b) There is no directive or law extending the retirement age of persons with disabilities to 65 years. The Ministry of Gender, Children and Social Development is, however, in the process of reviewing the Persons with Disabilities Act, so as to raise the retirement age of persons with disabilities from 60 years to 65 years. In view of the foregoing, the provisions of Section 15(6) of the Persons with Disabilities Act, 2003, shall, therefore, continue to apply until the Act is amended and the policy reviewed.

Mr. Mureithi: Mr. Speaker, Sir, I have received the reply. But in terms of extending the period, I have with me a Press Statement which was signed by the Minister in 2009 that extended the period from 55 to 60 years. On page 3, it says that persons with disabilities will work to age 65 years if they so wish. I also have an appeal from one teacher, Mary Anyango, who has been forced to retire at an earlier age. She is pleading with the Government to make sure that they are not discriminated as per this circular. I am asking the Assistant Minister what he will do to fulfill the obligation that is stipulated in this Press Statement that increased the retirement age of people with disabilities from 55 to 60 years, and gave the people with disabilities an extension to 65 years. I would like to table it.

(Mr. Mureithi laid the document on the Table)

Maj. Sugow: Mr. Speaker, Sir, I agree with the hon. Member regarding that particular statement made my colleague, Mr. Otieno, on the matter of extension of retirement age. However, when the decision to raise the retirement age for public servants from 55 years to 60 years was being made, a lot of factors were put into consideration. The most important of all was the provision on service delivery after the age of 55 years, as far as the mental and physical ability of the public servant is concerned. The most valuable aspect which we considered as well, and which was important to the service, was the experience. But besides the experience, the person's ability to deliver service was very important. It took a long time before that decision was made; to extend from 55 years to 60 years. As at that time, according to the Persons with Disabilities Act, already, they were retiring at 60 years. Therefore, it was different from the public service as at then. It became a little bit of an issue. The issue was service delivery by persons with disabilities beyond the age of 60 years. It has taken a bit of time to make a decision on whether to extend from 60 years to 65 years for that cadre of public servants. But that issue is now being addressed and it has reached an advance stage. The Ministry of

Gender, Children and Social Services is coming up with the review and amendments to the Act.

Mr. Olago: On a point of order, Mr. Speaker, Sir. You heard the Assistant Minister say that the retirement age for the disabled cannot be extended to 65 years, unless the law is amended. But he is aware that the retirement age for civil servants was enhanced from 55 years to 60 years by a circular from the Office of the President. Is it in order for the Assistant Minister to give the impression that the retirement age for persons with disabilities cannot be extended to 65 years unless the law is amended, when he should be aware that it can be extended simply by a circular from the Office of the President?

Maj. Sugow: Mr. Speaker, Sir, I not only cited the question of the amendment to the law but also, in the last sentence of my answer, I also mentioned a policy review. That is what culminates in a circular being issued.

Mr. Mwangi: Mr. Speaker, Sir, if the Assistant Minister is not misleading the House, I got it right that the circular from the Minister says that the extension for persons with disabilities can go up to 65 years, if they wish to continue. Is he now saying that those who wish to continue are not covered by the same circular that was issued by the Minister?

Maj. Sugow: Mr. Speaker, Sir, I clearly indicated that after that statement was made, the issue of performance came up and we had to go back to the drawing board to review this matter. It is about to be concluded.

Mr. Mwangi: On a point of order, Mr. Speaker, Sir. The Assistant Minister says after the circular was issued by the Minister, something else cropped up and they issued another statement. But the statement by the Assistant Minister is that persons with disabilities would continue if they so wished. Is he in order to discriminate against persons with disabilities?

Maj. Sugow: Mr. Speaker, Sir, we are not discriminating against persons with disabilities. We are simply balancing service delivery and being able to look after the welfare of some members of the public service. Therefore, it is very important as well that service delivery or performance is key. When the statement was made, performance became an issue and I owned up to that particular mistake that happened when the statement was issued. But this issue came up and it is being seriously looked into. A review is being done on the policy issue. Now the issue is over and very soon, a circular will be issued.

Mr. Affey: On a point of order, Mr. Speaker, Sir. This is a clear case of discrimination. Is the Assistant Minister in order to mislead the House that persons with disabilities cannot perform after 60 years while those who are not disabled can perform? Is he in order to mislead the House and the country?

Maj. Sugow: Mr. Speaker, Sir, I am not saying that all the persons with disabilities cannot perform. But there are cases. It is on a case by case basis! There are cases, of course, beyond the age of 60 years which might be questionable in terms of service delivery. I am not saying that all persons with disabilities cannot perform. I did not say that!

Mr. Imanyara: On a point of order, Mr. Speaker, Sir. Since the new Constitution came into force, all laws that are inconsistent with the Constitution are not valid. If the Persons with Disabilities Act purports to enable discrimination of Kenyans on the basis

of disability, it is unconstitutional and strictly forbidden under Article 2 of the Constitution. Is he, therefore, in order to say that we are operating under a law, when we know that the law does not allow that? That can be confirmed to him by the Attorney-General who is sitting very close to him.

Mr. Ethuro: On a further point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Mr. Ethuro!

Proceed, Maj. Sugow!

Maj. Sugow: Thank you very much, Mr. Speaker, Sir. It is not the intention of the Ministry to discriminate against a section of the Kenyan society. However, the Ministry is also responsible for ensuring that service is delivered, because the other citizen who is being given service as well is entitled; he has also got the right. So, we have to balance between the---

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

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

Assistant Minister, you were challenged on a point of order by the hon. Member for Central Imenti, that if you have a law – which, in fact, you have relied on this afternoon – which is inconsistent with the Constitution, then it is to that extent null and void. To the extent of the inconsistency, it will be null and void. So, why are you relying on a law which is null and void?

Maj. Sugow: Mr. Speaker, Sir, I am not aware of the inconsistency, and I will consult the relevant Government officer; if that law is inconsistent, the issue will be reviewed.

(Several hon. Members stood up in their places)

Mr. Speaker: Order! What is it, the hon. Member for Turkana Central?

Mr. Ethuro: On a point of Order, Mr. Speaker, Sir. The Assistant Minister cannot get away with this. The hon. Member for Imenti Central has referred to Article 2 (4) in terms of the law. I was rising on a further point of order on Article 54 – Persons with Disabilities - which states:-

“(1) A person with any disability is entitled—

(a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;

(b) to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;”

Mr. Speaker, Sir, what the Assistant Minister, Ministry of State for Public Service is telling this country is that because you are disabled, you are a lesser human being; you cannot perform. He keeps on saying “It depends on the performance” and he has put performance in terms of a category of disabled persons. According to the Constitution, he is discriminating; he is not promoting the interests of the disabled persons. He needs to acquaint himself with the requirements of the new Constitution and to align his thoughts and deeds according to these requirements. Is he in order?

Mr. Speaker: Very well. Assistant Minister, just wait; hold your horses. Your point of order is valid and merely reinforces the illegality of the law *vis-a-vis* the Constitution. So, I think I will want to leave the Assistant Minister where he is; he is

going to consult the relevant arm of Government, which will be, in fact, the Attorney-General – who is his neighbour this afternoon – and rectify the position. Is that not so, Assistant Minister? I want to leave you there.

Maj. Sugow: Mr. Speaker, Sir, that was my last response to the question raised by hon. Imanyara regarding consultation.

Mr. Speaker: Very well, Assistant Minister. I want you to go on record as such. So, at the moment, I will leave you in that comfort zone, but you may not last very long.

(Laughter)

The hon. Member for Ol Kalou!

(The Prime Minister was applauded as he entered the Chamber)

Mr. Mureithi: Thank you very much, Mr. Speaker, Sir. Considering that the Government cancels circulars with other circulars, the Assistant Minister has said that after enacting this through the circular of the Minister in 2009, the issue of performance came up. Would I be in order to request that this Question be brought later, so that consultations can be undertaken, and then we are told why people with disability have been discriminated against, contrary to the Constitution as enacted last year?

Mr. Speaker: Very well, Assistant Minister, we can deal with that easily, really.

Maj. Sugow: Yes, Mr. Speaker, Sir. Of course, after consultation, we will expect to come back and bring an answer again. Therefore---

Mr. Speaker: How long do you need?

Maj. Sugow: Even next week on Thursday.

Mr. Speaker: Are you sure, Assistant Minister?

Maj. Sugow: Yes, Mr. Speaker, Sir. Next week on Thursday I will have consulted, and I can bring the answer. The other issue he raised is regarding discrimination on the issue of performance. We have already gone over the bridge regarding that issue. The other Ministry in charge of Gender, Children and Social Development is already handling that issue, and will bring the necessary amendments and a reviewed policy, so that another circular can be issued.

Mrs. Odhiambo-Mabona: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, hon. Odhiambo-Mabona?

Mrs. Odhiambo-Mabona: Mr. Speaker, Sir, I would like to request that when they are consulting with the Attorney-General, he should address the broader issues where you have laws that very clearly conflict with the Constitution. Issues keep on coming here and all the Ministers keep on responding by saying that it is provided for by law, which is inferior to the Constitution. Could the Attorney-General give that advice broadly to cover all Ministries, so that we do not have Ministers bringing answers here which are archaic?

Thank you, Mr. Speaker, Sir.

Mr. Speaker: The Attorney-General has heard, and since he does not have the Floor, I am sure he is going to take action as necessary.

We will now go back to the hon. Member for Turkana Central.

Question No. 924

NUMBER OF UNEMPLOYED PERSONS IN TURKANA COUNTY

Mr. Ethuro asked the Minister for Labour:-

- (a) how many people are unemployed in Turkana County;
- (b) what the Government is doing to alleviate unemployment in the county; and,
- (c) when the Minister will also establish a Labour office and a National Social Security Fund (NSSF) office in Lodwar in order to serve the larger Turkana County.

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

(a) There are 95,080 unemployed persons in Turkana County as per the last population count in 2009. This includes 51,665 male and 43,415 females. Turkana North has the highest number of unemployed persons in the county with 56,148. Turkana Central has 19,227 unemployed persons and Turkana South has 19,705 unemployed persons.

As for part “b,” a number of strategies have been put in place to alleviate unemployment in Turkana County. These include the Economic Stimulus Programme. Under this programme, the Department of Micro and Small Enterprise Development in my Ministry has constructed sheds within Turkana County, with two others still under construction. The traders operating from the sheds are involved in second hand clothes business and traditional handcraft making and selling. The aim of the sheds is to encourage youthful entrepreneurs to set up businesses in the sites and, in turn, create employment for the youth of Turkana County.

The second is the Youth Enterprise Development Fund and the Women Enterprise Development Fund, which aim at assisting the youth and the women to start income generating activities. The third one is the *Kazi Kwa Vijana* programme.

The fourth is that there are also a number of legislative measures that my Ministry has initiated which are aimed at expanding employment opportunities for our youth and population at large. Among these measures are the amendment of the Industrial Training Act to enhance training in the country, the formulation of the National Employment Policy and the Labour Migration Policy aimed at managing movement of labour in and out of the country.

As for part “c,” my Ministry has a fully fledged sub-branch of the National Social Security Fund (NSSF) office in Lodwar, and is in the process of establishing a Labour office there as well as in all the remaining 15 counties.

Thank you, Mr. Speaker, Sir.

Mr. Speaker: Proceed, hon. Member for Turkana Central.

Mr. Ethuro: Mr. Speaker, Sir, I want to thank the Assistant Minister for bringing an improved and better answer than the last time he appeared before us in September.

Mr. Speaker, Sir, the question still remains; with 95.080 unemployed persons, a majority being the youth, what specific measures is the Assistant Minister going to put in place to target the youth of Lodwar and other areas within the country in particular, that

will ensure you can absorb this? This is the poorest county and also it has limited economic opportunities.

Thank you.

Mr. Ojamoong: Mr. Speaker, Sir, I think the answers I gave in part “b” addressed the issues of the youth, for example, *Kazi Kwa Vijana* (KKV). It specifically addresses the issues of the youth. The initiative by the Department of Micro and Small Enterprises in my Ministry addresses the issue of the youth. The Youth Enterprise Development Fund (YEDF) has a lot of money channeled to the youth by the Government to start businesses to create employment. Therefore, most of these things target the youth.

The hon. Member is also a good investor in Turkana and we are very happy that he is creating employment in Turkana. This is an issue we are going to address in a multi-sectoral way.

Mr. Speaker: Last question, Member for Turkana Central!

Mr. Ethuro: Mr. Speaker, Sir, on part “c” of the answer, I want to thank the Assistant Minister for establishing a sub-branch of the NSSF office. However, how long will it take for you to get a labour office in the county so that you do not take this long to generate the information that we need?

Mr. Ojamoong: Mr. Speaker, Sir, in fact, it is a priority. Because the Minister for Labour comes from there, we are going to set up an office very soon. It will be done before the next financial year.

Mr. Speaker: Hon. Members, that brings us to the end of Order No.6.

Next order!

(Several hon. Members stood up in their places)

Order hon. Members! The Rt. Hon. Prime Minister is going to deal with a matter that may very well be very involving in terms of time. Therefore, we will proceed this way; we will take requests for Statements first for those Members who have already given due notice for requests. We will defer any other Statements that are due for delivery to next Tuesday and after we have taken the requests, we will then move on and go to the Prime Minister’s Time. The Prime Minister will then deliver his Statement.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. In view of what is going on in Somalia, would it be in order that the Chair considers that the session we are going to go into with the Prime Minister be held in camera because we are going to raise very important issues?

Mr. Speaker: When we get there, we will deal with that aspect, hon. Member for Ikolomani!

(Mr. Mwau stood up in his place)

What is it Member for Kilome?

Mr. Mwau: Mr. Speaker, Sir, I am seeking a Ministerial Statement.

Mr. Speaker: Proceed!

POINTS OF ORDER

DESIGNATION OF HON. MWAU AS A DRUG TRAFFICKER BY US

Mr. Mwau: Mr. Speaker, Sir, I wish to seek a Ministerial Statement from the Rt. Hon. Prime Minister with regard to the allegations of criminal activities as contained in criminal complaint marked Secret/LEL Kenya tabled before the House on February 17th 2011 and the subsequent approval that I be designated as a significant drug trafficker on June 1st 2011 by the friendly Government of the United States of America (USA).

In the Statement, the Rt. Hon. Prime Minister should clarify the following:-

(a) Whether in the year 2004, 1.1 tonnes of cocaine were seized at Pepe Inland Port.

(b) Noting that Pepe is a custom area, who is responsible for enforcement, verification, assessment, the release of goods entering and leaving the port? What are the duties and responsibilities of the Pepe employees?

(c) Whether any narcotic drugs have ever been transited through, found, intercepted or seized at Pepe Inland Depot.

(d) Whether two containers coded No.PCLU433452/4 and PCLU433252/5 were in Pepe Inland Depot in December 2004. If not, where were they?

(e) Whether a large consignment of cocaine weighing 1.1 tonnes was seized in Kenya in 2004 and if so, indicate where it was seized, who the culprits and the charges made against them, if any. Where are the drugs in question now?

(f) How many containers shipped at or transhipped from the Port of Mombasa destined for North America or Europe have been intercepted, if ever, or seized containing narcotic drugs? If any, table a list of the same indicating the amount of the drugs in weight and the date when they were seized.

(g) Whether the Moi Air Force Base in Eastleigh in Nairobi has ever been used for drug trafficking, the military vehicles, if any, used to ferry drugs and whether there are drug traffickers who are protected by the military officers as alleged in the criminal complaint marked Secret LEL Kenya.

The Prime Minister's Statement should also categorically explain whether the Kenya Government has ever investigated the criminal complaint marked Secret/LEL Kenya and, if so, state the findings and recommendations on the same and confirm the outcome of these investigations and whether they will be implemented.

The Statement should also indicate whether the allegations were foreign instigated and whether the evidence has been requested under the Mutual Legal Assistance provisions of the respective countries.

In the Statement, the Rt. Hon. Prime Minister should confirm to this House whether the Member for Kilome Constituency has ever been involved in any narcotic drug trafficking, gun running, money laundering, smuggling, tax evasion, corruption, contract killing, human trafficking and/or any other international or organized crime as alleged in the Report.

Lastly, noting that the Member, like any other person in Kenya, is entitled to enjoy his dignity, rights and freedoms as enshrined in the Constitution, the Statement should indicate what action the Government is taking to protect and ensure that the Member's constitutional rights are not infringed.

Thank you.

Mr. Speaker: Very well!

Rt. Hon. Prime Minister, when will you be ready to deliver that Statement?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, the Statement will be delivered next week.

Mr. Speaker: Very well. Next week, can we put you then on Wednesday during the Prime Minister's Time?

The Prime Minister (Mr. Raila): Mr. Speaker, Sir, I will reconsider this matter with my other Members of the Cabinet to see who is appropriate to deal with it.

Mr. Speaker: So we can record that it will be delivered next week. As soon as you are ready, you will notify the Speaker's Office and we will put the matter on the Order Paper.

The Prime Minister (Mr. Raila): Yes, Mr. Speaker, Sir.

INSECURITY IN ISIOLO

Mr. Bahari: On a point of order, Mr. Speaker, Sir. On 7th September, 2011, just a day before the House went on recess, I had requested the Minister of State for Provincial Administration and Internal Security to give a Ministerial Statement regarding the fluid security situation in Isiolo. Since then, the situation has deteriorated. This is a matter in the public realm and I would like the Minister to provide that Statement.

Mr. Speaker: Yes, indeed, there was a request yesterday pertaining to matters in Isiolo. So, I think the relevant Minister will combine yesterday's request with your request and give one Ministerial Statement.

Assistant Minister, please, note.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, you have just ruled that you will not allow me to deliver the Ministerial Statement. So, I seek the indulgence of the Chair to allow me to deliver this important Ministerial Statement on Wednesday morning along with the others.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. This matter is very urgent. The situation is deteriorating by the day. So, we cannot wait any longer. I wish we had a session tomorrow. We have requested that this Ministerial Statement be brought tomorrow. Is it in order for the Assistant Minister to issue this Statement on Tuesday rather than on Wednesday?

Mr. Speaker: Assistant Minister, can you do that on Tuesday afternoon?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, tomorrow is a public holiday.

Mr. Speaker: We know that tomorrow is a public holiday. What about Tuesday afternoon?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, it depends on whether the Chair will allow me. I have four Ministerial Statements to make. The one you postponed today will be delivered on Tuesday. I have three more, which I am going to deliver on Wednesday together with his Ministerial Statement, because of the urgency.

Mr. Speaker: Do this on Tuesday afternoon. You will do the Ministerial Statement of the Member of Isiolo South and that of the Member for Bura.

(Mr. Ruto stood up in his place)

Mr. Speaker: What is it, Member for Chepalungu?

NON-OPERATION OF THE COMMITTEE ON ADMINISTRATION
OF JUSTICE AND LEGAL AFFAIRS

Mr. Ruto: Mr. Speaker, Sir, I rise to seek a Statement from the Leader of Government Business on the non-operation of the Departmental Committee on Administration of Justice and Legal Affairs. In the Statement, the Leader of Government Business should clarify why the Committee has not been allowed to meet and perform its duties despite his assurance on 1st September, 2011.

Mr. Speaker: Fair enough! Leader of Government Business, when will you make the Statement available?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, it looks like the Leader of Government Business is not here. I want to stand in for him and, definitely, pass the message. I will prevail upon him to bring the Statement on Tuesday next week.

Mr. Speaker: Of course, we have three other Ministerial Statements from you, among others, which you said you will deliver on Tuesday. Therefore, we will take this one to Wednesday morning.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Much obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well.

Ms. Karua: On a point of order, Mr. Speaker, Sir. You were telling the Assistant Minister, Ministry of State for Provincial Administration and Internal Security, to deliver hon. Bahari's Ministerial Statement alongside that of the Member Minister for Bura. I thought you were also referring to the Ministerial Statement I requested for yesterday on the security situation in Isiolo. So, I expect that he will be responding to my request for a Ministerial Statement along with that of hon. Bahari. That is the clarification I am seeking.

Mr. Speaker: Yes, it is only logical, and we will be expecting that from the Assistant Minister.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, I mentioned to you that I have four to five Ministerial Statements to deliver. I will start with the one of hon. Simam Chepchumba on insecurity in Eldoret and re-visit that of hon. Martha Karua. I will then come to the Ministerial Statement sought by hon. Bahari and then---

Mr. Ethuro: On a point order, Mr. Speaker, Sir. Is it in order for the Assistant Minister to mislead this House? Only yesterday, while sitting where you are seated, I allowed him to deliver hon. Chepchumba's Ministerial Statement on Wednesday morning because that was the agreement between the hon. Member and the Assistant Minister. So,

how can he come to the House and say that he is going to deliver it on Tuesday? Is he in order to evade duty?

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): Mr. Speaker, Sir, hon. Ethuro was not listening to me. I said that on Wednesday morning, I will be able to deliver three Ministerial Statements, which will include, among others, the one of hon. Chepchumba. So, that is what I said. I want to confirm that I will still deliver those Ministerial Statements on Wednesday morning, apart from the one I have undertaken to deliver on Tuesday.

Mr. Speaker: Very well! Come with those Ministerial Statements that are due on Tuesday afternoon on that day. We will find time for you to deliver all of them.

The Assistant Minister, Ministry of State for Provincial Administration and Internal Security (Mr. Ojode): I am most obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well!

Next Question, the Member for Mutito!

STATEMENT ON MIGUNA MIGUNA'S COMMENTS
ON SENSITIVE NATIONAL SECURITY MATTERS

Mr. K. Kilonzo: Mr. Speaker, Sir, I rise to demand a Ministerial Statement from the Minister of State for Public Service. Could he explain what action the Government is taking against one Miguna Miguna, who made very serious allegations on *Al-Jazeera* Television on the night of 17th October, 2011, touching on sensitive security matters in the country? His pronouncements were to the effect that:-

(i) The Government of Kenya has violated Article 132(4)(e) of the Constitution of Kenya, where no approval has been sought from the Cabinet or Parliament, or from the African Union or the United Nations, to invade Somalia;

(ii) Kenya should be blamed for attacking a foreign country without due process or rule of law being followed;

(iii) The country does not have adequate military muscle to effectively deal with *Al Shabaab*; and,

(iv) The Government has reacted in desperation and has panicked in the wake of attacks which have impacted negatively on the country's economy, especially the tourism sector.

In his Ministerial Statement, the Minister should be bear in mind that one Miguna Miguna is still drawing a salary as a civil servant under a recent court ruling.

Thank you.

Mr. Speaker: Yes, Minister of State for Public Service!

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow): Mr. Speaker, Sir, I will respond to that request after consultation with other relevant Ministries, because part of the request by the hon. Member is on the statement made by Miguna Miguna, which he says touches on national security. However, I will take the responsibility of consulting the relevant Ministry on that bit as well and come with the Ministerial Statement next week on Wednesday.

Mr. Speaker: I direct that you issue that Ministerial Statement on Thursday afternoon.

The Assistant Minister, Ministry of State for Public Service (Maj. Sugow):
Thank you, Mr. Speaker, Sir.

DELAYED STATEMENT ON SECONDARY SCHOOL STUDENTS
IN DROUGHT STRICKEN AREAS

Mr. Duale: On a point of order, Mr. Speaker, Sir. On Thursday, last week, I sought a Ministerial Statement from the Minister for Education concerning secondary school students who have been chased away from school in the drought-hit areas. The Chair then directed that the matter was urgent, and the Ministerial Statement was to be issued yesterday. However, the Minister was not here yesterday. So, I need your direction.

Mr. Speaker: Can you just repeat? Which Ministry was it supposed to come from?

Mr. Duale: The Ministry of Education, Mr. Speaker, Sir.

Mr. Speaker: Minister for Education, when will that Ministerial Statement be available?

Dr. Nuh: On a point of order, Mr. Speaker, Sir. When the Ministerial Statement was sought, the Minister who took brief for the Minister for Education then made an undertaking to this House that they would give a directive to the head teachers not to chase away students from school. As you are aware, such a directive has not trickled down to the head teachers. So, could the Assistant Minister also address that concern?

Mr. Speaker: Minister, first, respond to the question by the Member of Dujis as to when the Ministerial Statement will be available and, secondly, to the concern by the Member for Bura that you gave an undertaking, which you have not honoured, with respect to giving a directive to the head teachers not to send away students.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, the Ministerial Statement will be delivered next week on Wednesday afternoon.

As regards the teacher who has sent away his students, give me the name of that school and then we shall do the needful.

Dr. Nuh: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to ask us to give him the names of the head teachers when the only honourable thing he can do to this House is to table the communication that they have sent to the head teachers?

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I simply asked for the name of the school, so that I can handle the matter.

Mr. Speaker: Order! Order! Member for Bura, when you were canvassing this matter in the House, did you refer to all schools or a particular school?

Dr. Nuh: Mr. Speaker, Sir, we referred to the schools in the ASAL areas and asked for a clear directive to all the head teachers in ASAL areas not to send children away because of non-payment of school fees.

Mr. Speaker: Very well! Minister, the matter is now clear.

The Assistant Minister for Education (Prof. Olweny): Mr. Speaker, Sir, I will look into it and give a way forward to those schools.

Mr. Speaker: Very well, Mr. Assistant Minister. Except that, please, note so that we do not make issues out of non-events, that you gave an undertaking that you will issue

a directive. So, when you come to deliver the Statement next week, you must come and confirm that you issued that directive in accordance with your undertaking. Otherwise, we will hold you responsible for default.

Mr. Ethuro: On a point of order, Mr. Speaker, Sir. This is a grave matter. Not only did the Minister issue that directive to the head teachers of secondary schools, even the Right hon. Prime Minister himself, who I am glad is here to listen to me, issued an undertaking as a Government when he made the Statement on the state of famine and drought in this country. He said the Government will look into the issue of a special bursary kitty to the students in the ASAL areas. While the head teachers will retain the students, the Government will also give them money from the same kitty. Could he inform the House what has happened since the undertaking by none other than the Right hon. Prime Minister of the Republic of Kenya?

Mr. Speaker: I am certain that the Minister has noted. We want to then move on to Prime Minister's Time.

Right hon. Prime Minister, if you have any Statement you are at liberty to issue it.

Dr. Khalwale: On a point of order, Mr. Speaker, Sir. I had risen earlier on this same point of order requesting that the Chair considers holding this session in camera in view of the fact that we do not know some of the issues that will be raised by hon. Members which could very well compromise the security of our forces in Somalia.

Mr. Speaker: Order, Member for Ikolomani. I want to believe that you have acquainted yourself with Standing Order No.214. I want to read that to you, so that you are certain that what you have said is adequate for me to proceed and take the step that I have to take under Standing Order No.214.

Hon. Members, I want to read that to you, so that we are aware. Standing Order No.214 states as follows:-

“If at any sitting of the House or in a Committee of the Whole House, any Member shall move that strangers be ordered to withdraw, the Speaker or Chairperson shall forthwith put the question, no amendment, adjournment or debate being allowed and upon such question being resolved in the affirmative, all strangers shall be ordered to withdraw from the Chamber.”

So, I am just asking of you, Member for Ikolomani, are you satisfied that you have done enough so that I proceed.

MOTION

WITHDRAWAL OF STRANGERS FROM THE CHAMBER

Dr. Khalwale: Mr. Speaker, Sir, I beg to move:-
THAT, all strangers be asked to withdraw from the Chamber.

*(Question, that all strangers do withdraw
from the Chamber, put and agreed to)*

Mr. Speaker: Hon. Members, in those circumstances, all strangers will have to withdraw from the Chamber, including the media, any guests that are in the Speaker's

Gallery, the Press and everybody who is not a Member of Parliament or a necessary member of service.

(All Strangers withdrew from the Chamber)

The microphone will stay on because the HANSARD has to record. We cannot record without the microphone being on!

Order, Members! I further and finally direct the HANSARD Department to switch off all microphones except the one with me. I have clarified that it only applies to the first part. As at where we are, if you look at the provisions of Standing Order No.214, which we have invoked, it cannot apply generally to any sitting.

Mr. Mung'aro: Hoja ya nidhamu, Bw. Spika.

Mr. Speaker: Order, hon. Member! Hon. Members, it is drawn to the attention of all Members, officers and the general public that anybody who contravenes the directions that I have made with respect to these proceedings being *in-camera* and disseminates information from these proceedings or gives out copies of the HANSARD relating to these proceedings commits an offence pursuant to the provisions of the Powers and Privileges Act and is liable upon being found guilty to a fine or imprisonment or both.

Please, note.

Mr. Mung'aro: Jambo la ya nidhamu, Bw. Spika. Swali la pili katika ratiba itakayofuata ni uteuzi wa Baraza la Mawaziri. Kama tunavyojua, Serikali yetu ni ya Mseto na kila mrengo wa Serikali hii ya Mseto huwateua Mawaziri wake. Ningetaka kupata mwongozo kutoka kwako: Tunajua kwamba, Waziri Mkuu anahusika na usimamizi wa Baraza lote la Mawaziri lakini hahusiki na uteuzi wote wa Baraza la Mawaziri. Je, atajibu maswali kuhusu suala hili kama msimamizi wa Baraza la Mawaziri ama kama mteuzi wa Baraza la Mawaziri ama katika mrengo wake wa Baraza la Mawaziri?

Mr. Speaker: Mbunge wa Malindi, hatujafikia daraja hilo. Tutakapofika hapo, tutaweza kushughulika na suala hilo.

Mr. G. Nyamweya: On a point of order, Mr. Speaker, Sir. I also rise in respect of part (b) of what the Prime Minister's Statement was going to allude to. Indeed, the general public may get the impression that this *in-camera* applies to the second part also. The Constitution requires that appointments to the Cabinet be made public and consequently, they would need subsequent approval by this House. I would want, for the record that, that particular aspect be dealt with on a separate day in public, so that there is no impression that this is also part and parcel of the security issue that we are dealing with.

Mr. Speaker: Order, hon. George Nyamweya! Order, Members! Not very long ago, as a matter of fact, just four minutes ago, I gave directions and I was clear that we will deal with any aspects pertaining to matters at paragraph (b) when we get there. We are not yet there, hon. George Nyamweya. When we do, please, raise any concerns and I will be able to deal with them appropriately.

Right Hon. Prime Minister, you may now proceed!

PRIME MINISTER'S TIME

PRIME MINISTERIAL STATEMENT

THE SECURITY SITUATION ALONG THE KENYA-SOMALI BORDER

(The entire Debate arising from the Prime Minister's Statement on "the Security Situation Along the Kenya Somali Border" was conducted In-camera)