

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday 4th October, 2016

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

WELCOME REMARKS FROM THE CHAIR AFTER RECESS

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! Hon. Senators, I have a short communication to make.

Hon. Senators, it is my pleasure to welcome you back from the long recess on this first day of the last part of this current Session which, as you are all aware, ends in December this year. Despite the numerous interruptions caused by Special Sittings, it is my sincere hope that you all had a pleasant recess.

Before we went on recess, the Senate conducted a substantial amount of business in line with its mandate as provided in the Constitution. Just to refresh your memories, some of the business transacted during the previous part of this session and during the Special Sitting was as follows:-

1. A total of 20 Bills, eight of them with constitutional deadlines of 27th August, 2016 were passed.
2. The Report of the Joint Parliamentary Select Committee on the Independent Electoral and Boundaries Commission.
3. Impeachment proceedings against the governor of Nyeri County, Hon. Nderitu Gachagua - the first proceedings to be fully conducted in Plenary.

This is just part of what the Senate achieved which indicates a marked improvement in volume and quality of business transacted over the previous sessions. Much more was achieved through respective committees as the House firmly and unequivocally took up its rightful place as the guardian of devolution. In continuing to exercise our mandate as a House of equity, it is my heartfelt expectation to see more business transacted by the House during this last part.

As we resume sittings, let us all be aware that our in-tray is full as the following business is still pending:-

1. Twenty three Bills are pending at the Committee Stage.
2. Nineteen Bills are at the Second Reading Stage

3. Five Bills are due for First Reading.

It is my sincere hope that the same zeal and dedication that you have shown in handling business before the Senate will be exhibited as we seek to fully exercise our role as the overseer of the devolved system of governance. I wish you all the best as you continue to fulfill your mandate.

Thank you.

(Applause)

POINT OF ORDER

DEMISE OF MR. AHMED SALIM BAMAHIRIZ
FOUNDER MEMBER OF FORD AND HERO OF
KENYA'S SECOND LIBERATION

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I thank you for the communiqué. I note that in your communication you have referred to the peaceful rest we had during the vacation---

The Deputy Speaker (Sen. Kembi-Gitura): I did not mention the word peaceful in my communication. That is your own word.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I will paraphrase. You mentioned that we enjoyed the recess. Allow me to point out especially to the listening public that we, as FORD-Kenya did not find it enjoyable. We lost Ahmed Salim Bamahiriz, the founder of FORD-Kenya. He died in a hospital in the United Arab Emirates (UAE) due to diabetes. The party leader of FORD-Kenya has already communicated to the country. I want to use this opportunity to send my condolences to the family and especially the families of his colleagues in the second liberation.

Young Kenyans will not know that Bamahiriz was detained in this country in the early 1960s. They will also not know that he is one of the six fathers of the second liberation that gave us multiparty democracy which we have been forced to put in the Constitution. That today, some people are thinking of one-party rule, is not an honour to Bamahiriz.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale. I join you in sending condolences to the family of the late Bamahiriz. I do not know whether you are correct in saying that he was in FORD-Kenya. However, I remember him because we were there in the original FORD. That is where I remember Ahmed Bamahiriz. When you say he was among the six originators of the second liberation, I remember him very well as a young lawyer then. I am just correcting you.

Thank you very much for bringing up that issue. It is important that we should condole with then family of the late Bamahiriz.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, in conclusion, I was just telling the country that it was a very difficult thing. Bamahiriz, Martin Shikuku, Kenneth Matiba, Jaramogi Oginga Odinga, the late Hon. Shamalla and Masinde Muliro literally used to hide---

The Deputy Speaker (Sen. Kembi-Gitura): You must put in Charles Rubia to finish the six.

Sen. (Dr.) Khalwale: Yes, and Charles Rubia, Mr. Deputy Speaker, Sir. They literally used to hide in a private office of advocate Shamalla so as to do their meetings to help Kenya achieve multiparty democracy. I send my condolences and hope that at no time will the country ever rise to amend this Constitution so as to create a one party state the way some misguided party leaders have started showing.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Is it on the same issue?

The Senate Minority Leader (Sen. Wetangula): Yes, Mr. Deputy Speaker, Sir. Thank you for recognizing me. For the record, Bamahriz was among the six who founded FORD. When Hon. Kenneth Matiba and Martin Shikuku moved away, he remained with Jaramogi Oginga Odinga and Masinde Muliro to start FORD-Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): Was I not right in saying that he was a founder of FORD?

The Senate Minority Leader (Sen. Wetangula): Absolutely, Mr. Deputy Speaker, Sir, and also a founder of FORD-Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): I cannot ascertain that one.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I join Sen. (Dr.) Khalwale in sending my condolences to the family and friends of the late Mohammed Salim Bamahriz. For those who may have forgotten, this is the man who stood with courage and said:-

“Serikali ya mzee Moi inasema kaeni hivyo hivyo. Hata kama umekalia msumari, kaeni hivyo hivyo. Hata kama mumekalia maji, kaeni hivyo hivyo. Hata kama mumekalia moto, kaeni hivyo hivyo.”

That is what opened Kenyans’ eyes to see that one could actually criticize President Moi. This made Kenyans start thinking that there is an alternative route in the politics of this country. I am proud to tell the country that his son is a distinguished Member of the FORD-Kenya party and he is playing a very critical role in nurturing and enhancing the desire and the oath of yours truly to be your fifth President.

The Deputy Speaker (Sen. Kembi-Gitura): There are two others Members seeking the Floor. I will give them two minutes each.

Sen. (Dr.) Agnes Zani!

Sen. (Dr.) Zani: Mr. Deputy Speaker, Sir, I also join my colleagues in sending condolences to the late Ahmed Bamahriz’s family. We acknowledge him as a leader who actually opened up democratic space that we sometimes take for granted. Never in Kenya should some people think that only some people can speak and others cannot. However, this is the Kenya we have and it is for all of us. We should move towards harmony, listen to each other and discern. Even if somebody is speaking not from the front that you would want them to, learn to listen and understand.

In your communication, you talked about 27 Bills that are at the National Assembly that have not been processed. Hopefully when we finish this Session, we might find a way of engaging to make sure that those Bills are processed at one time or another.

Sen. Leshore: Mr. Deputy Speaker, Sir, I also join my colleagues in sending my condolences to the family of the late Bamahriz. When they were struggling during what

they called the “second liberation”, most of us were in the Kenya African National Union (KANU). The way he used to describe the then regime in Swahili was so sweet that most of us could not even narrate what he used to say.

Just to inform you, Sen. (Dr.) Khalwale, apart from that, I also want to congratulate him because he was just recently elected as Deputy Leader of Sen. Wetangula.

Sen. Muthama: Bw. Naibu wa Spika, ninakushukuru kwa nafasi hii ili nami niungane na wenzangu kwa kutuma rambirambi kwa jamaa na marafiki wa marehemu Bamahriz. Huyu shujaa alifanya kazi ya ukombozi wa pili wa taifa letu ambao uliibua vyama kama The National Alliance (TNA), United Republican Party (URP), Jubilee na vyama vingine vyote. Ni kwa sababu ya kazi aliyofanya marehemu Bamahriz. Alikuwa shujaa.

Ninakumbuka wakati mmoja Rais Moi alisema: “Huyu Mwarabu ana lugha mbaya sana ya kusumbua watu. Ikiwezekana, anaweza kurudi kwao Yemen.” Sijui Rais Moi alijuaje kwamba marehemu Bamahriz alitoka Yemen. Hata hivyo, Marehemu Bamahriz alisema: “Mimi nataka tupande ndege moja na Rais Moi, tupitie Sudan ya Kusini, tumshushe pale na mimi niende zangu Yemen.” Kutoka siku hiyo, hakuna mtu mmoja aliyezungumzia mambo hayo.

Ni dhahiri kwamba viongozi wakiongea, tunafika pahali. Ninashangaa sasa hata waandishi wa magazeti wanasema kwamba Bamahriz ni mtu ambaye hakuogopa chochote. Enzi hizo aliposema tu chama kimoja kinakandamiza Wakenya, alisemekana analeta lugha ya chuki. Alipata tabu na kuwekwa korokoroni. Hata hivyo, mimi ninaamini kwamba hata Yesu alisulubiwa msalabani kwa sababu ya lugha ya kutomheshimu kiongozi aliyekuwa akitawala. Vile vile, Hayati Mzee Jomo Kenyatta na wenzake walienda jela sio kwa sababu ya kuiba, lakini kwa sababu ya kutetea wananchi. Tunaomba Mungu aiweke roho yake mahali pema peponi.

The Deputy Speaker (Sen. Kembi-Gitura): I do not understand how you got more than two minutes, Sen. Muthama. Somebody is not doing their work properly.

Sen. Karaba, two minutes.

Sen. Karaba: Mr. Deputy Speaker, Sir, I arise concerning your Statement. In today’s newspaper, it was reported that the National Assembly is doing a lot in trying to finalise Bills, only to realise that the Bill which was headlined in today’s *Standard* newspaper originated from this House. That is the Bill on the Kenya National Examination Council (KNEC). So, I would like to caution the newspaper reporters that they should dig further and get to know the root of some of these Bills.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, I have no idea what you are talking about partly because it is not in my communication and second, I have not seen the newspaper that you are talking about. I know ---

Sen. Karaba: Mr. Deputy Speaker, Sir, it so unfortunate ---

The Deputy Speaker (Sen. Kembi-Gitura): We do not get strength from newspaper reports unless you table it.

Sen. Karaba: Mr. Deputy Speaker, Sir, it can portray the image that we are not doing anything yet it is in the communication for ---

The Deputy Speaker (Sen. Kembi-Gitura): It is not in my communication. I have not referred to *The Standard* newspaper.

Sen. Karaba: Mr. Deputy Speaker, Sir, did you not talk about Bills?

The Deputy Speaker (Sen. Kembi-Gitura): Our Bills; the ones that we have dealt with.

Sen. Karaba: Mr. Deputy Speaker, Sir, that is our Bill but it was misquoted.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Anyang'-Nyong'o, two minutes. Sen. (Dr.) Machage will follow and then that will be it.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I think I deserve more than two minutes in this House to speak about my colleague, the late Salim Bamahriz. I know and you all know that I was a young turk. In those days, we joined together with the six elders to carry out the important task of fighting for democracy and the introduction of multi-party system in this country.

The late Bamahriz was a very charismatic man. He was one who was together with the ordinary Kenyans – the *wanyonge*. He showed extra ordinary courage to come out from the coast and join the late Jaramogi Oginga Odinga, Masinde Muliro, Martin Shikuku, George Nthenge, Phillip Gachoka and the six of us – the young turks – Raila Odinga, Sen. James Orengo, Dr. Mukhisa Kituyi, Paul Muite, Imanyara Mugambi and myself to start this multi-party journey.

The Deputy Speaker (Sen. Kembi-Gitura): For the record, Senator, it is Gitobu Imanyara.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, sorry. It was Hon. Gitobu Imanyara. You know, *uzee umeingia*.

So, we must enshrine those days in the history of this country. It should not only be when the late Bamahriz enters his last journey to heaven that this nation should remember him. I think this nation should have a tradition of celebrating men and women who have made a difference to the life of this nation.

Mr. Deputy Speaker, Sir, this nation should celebrate good leaders whom I describe as men and women who make a positive difference to the lives of their people. The late Bamahriz and the leaders in the Forum for Restoration of Democracy (FORD) made a positive difference to the lives of Kenyans. We have had other leaders, yes, but they are not good leaders and do not make a positive difference to the lives of their people. As I eulogise the late Bahmariz, I want him to enter into the annals of history as one who fought bravely as a good leader and who made a positive difference to the lives of Kenyans in the fight for the second liberation and democratization in Kenya.

I salute him.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. Finally, Sen. (Dr.) Machage. Two minutes.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, those who were old enough those days know the vibrancy with which the late Salim Bamahriz approached politics. As a voice of a minority from the coast, he could never be silenced. He spoke his mind. Some of the issues that he addressed have been addressed by the Constitution. Unfortunately, quite a few have not been addressed and especially those issues that were put forward by the first six in the creation of FORD.

It is a challenge to the current leadership. My challenge to the ruling party and the Opposition – I want one of the principals, not the “secondary school principals” but the one for the Coalition for Reforms and Democracy (CORD) to listen – as a leader of a major political party and the leadership of Uhuru, we want to hear as a minority, your position on democratic distribution of election seats in this country. We have democratic

dictatorship that is taking root in this country which must be addressed by the leadership. We want to listen to your plans on protection of the minorities of this country.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Machage, I must decry the habit because I had given leave for an extremely important situation to mourn and condole with the family of the late Salim Bamahriz. I was hoping that no political statements would be made. That is the reason I stopped Sen. (Dr.) Khalwale when he wanted to move beyond that. We all must respect the late Bamahriz whom some of us also knew was involved in the second liberation. So, I would like it to rest at that so that he can rest in peace.

Sen. (Dr.) Machage, had you finished?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, as we eulogize the late Salim, let us remember what he fought for. My condolences.

The Deputy Speaker (Sen. Kembi-Gitura): Order Senators. I have another Communication to make.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STAFF FROM VARIOUS COUNTY ASSEMBLIES

The Deputy Speaker (Sen. Kembi-Gitura): This afternoon, hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery of the visiting staff from various county assemblies. The county assembly staff are here on a ten day county staff legislative attachment program at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the usual Senate tradition.

They are:-

Baringo County Assembly

Anne Kapanat Domongole - Clerk Assistant II
Hosea Kondira Komen - Clerk Assistant II

Kilifi County Assembly

Mwalili Dickson Kachiezy - Clerk Assistant II
Safari Damaris Redson - Clerk Assistant II

Siaya County Assembly

Tobias Odhiambo - Deputy Hansard Editor
Charles Otieno - Serjeant-At-Arms

Migori County Assembly

Salome Atieno Nguka - Clerk Assistant II

Kitui County Assembly

Esther Kitavi - Research officer I
Mutetei Mutisya - Senior Communications Officer

Nyamira County Assembly

James Michael Kisesa - Administrative Assistant II

| | | |
|--------------------------------------|---|---|
| Stella Kwamboka Nyamete | - | Administrative Assistant III |
| Kajiado County Assembly | | |
| Saiyanka Richard | - | Director Legislative, Committee and Procedure |
| Ms. Lydia Makaka | - | Principal Clerk Assistant |
| West Pokot County Assembly | | |
| Daniel Lokeno Lotupot | - | Clerk Assistant II |
| Lydia Cheptoo Katialem | - | Clerk Assistant III |
| Embu County Assembly | | |
| Silas Njeru Mwaniki | - | Principal Serjeant-At-Arms |
| Doreen Mumbi Muthoni | - | Administrative Assistant I |
| Kiambu County Assembly | | |
| Faith Wanjiku David | - | Clerk Assistant II |
| Alex Njogu Wanjiku | - | Clerk Assistant II |
| Bomet County Assembly | | |
| Calvin Kibet Kitur | - | Legal Clerk |
| Veronicah Waweru | - | Clerk Assistant II |
| Tharaka Nithi County Assembly | | |
| Mary Kendi | - | Clerk Assistant I |
| Trans Nzoia County Assembly | | |
| Nicholas Nandasaba Simiyu | - | Deputy Serjeant-At-Arms |
| Joan Cherop Ngetich | - | Public Relations and Communications Officer |
| Samburu County Assembly | | |
| Lekapes Saiwan Shadrack | - | Senior Clerk Assistant |
| Leliok Lekupanae | - | Principal Clerk Assistant |
| Lekalesoi Philip | - | Senior Clerk Assistant |

I hope that they will have a fruitful programme. On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

Thank you.

MESSAGES FROM THE NATIONAL ASSEMBLY

The Deputy Speaker (Sen. Kembi-Gitura): Order Senators.

(Sen. Mositet and Sen. (Prof.) Lonyangapuo entered the Chamber)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, you may take your seats.

Sen. (Prof.) Lonyangapuo, when I indulge you and allow you to take your seat, you do not walk as if you are taking a walk in the park.

Hon. Senators, I have two messages from the National Assembly.

PASSAGE OF THE KENYA ROADS BILL
(NATIONAL ASSEMBLY BILL NO. 26 OF 2015)

I wish to report to the Senate that pursuant to Standing Order 40(3) and (5), I received the following Message from the Speaker of the National Assembly on 8th September, 2016 regarding the passage by the National Assembly of the Kenya Roads Bill (National Assembly Bill No. 26 of 2015).

Pursuant to the provisions of Standing Order 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

“WHEREAS the Kenya Roads Bill (National Assembly Bills No. 26 of 2015) was published by the Kenya Gazette Supplement No. 77 on 5th June, 2015, as a Bill concerning county governments in terms of Article 110 (1) (a) of the Constitution, seeking to give effect to the Fourth Schedule of the Constitution, as regards the roads sub-sector by reviewing, consolidating and rationalizing the legal institutional framework for management of the road network and road sub-sector and bring the Kenya Roads Board Act, 1999, the Kenya Roads Act, 2007 and the Public Roads and Roads of Access Act, 1920---

(Sen. Wangari walked into the Chamber)

Please, Sen. Wangari, have a seat. I cannot understand how you got there from the Bar if you have been following the Standing Orders.

(Laughter)

(Sen. Wangari proceeded to sit down)

WHEREAS the Nationally Assembly considered and passed the said Bill with amendments on 23rd August, 2016;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.”

Hon. Senators, the Message was received at the time when the Senate was on recess. Pursuant to the Standing Orders No. 40 (5), I transmitted the Message to every Senator.

Hon. Senators, pursuant to Standing Order No. 148 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 129, I now direct that the Bill be listed for First Reading on the Order Paper of Wednesday, 5th October, 2016.

Thank you.

PASSAGE OF THE WAREHOUSE RECEIPTS SYSTEM BILL
(NATIONAL ASSEMBLY BILL NO.12 OF 2015)

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order 40(3) and (5), I received the following Message from the Speaker of the National Assembly on 6th September, 2016 regarding the passage by the National Assembly of the Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015).

“Pursuant to the provisions of Standing Order 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

WHEREAS the Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015) was published vide the Kenya Gazette Supplement No.34 of 27th March, 2015, as a Bill concerning county governments in terms of Article 110 (1) (a) of the Constitution seeking to provide a legal framework for the development and regulation of a warehouse receipt system for agricultural commodities to address the marketing challenges associated with the cereals and grain sub-sectors in Kenya.

AND WHEREAS the National Assembly considered and passed the said Bill with amendments on Wednesday 31st August, 2016;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order No.142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration.”

Hon. Senators, this message was received at a time when the Senate was on recess and pursuant to Standing Order No.45 I transmitted it to every Senator.

Hon. Senators, pursuant to Standing No.148 which requires that a Bill which originates from the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.129, I now direct that the Bill be listed for First Reading on the Order Paper on Wednesday, 5th of October, 2016.

Thank you.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It is nice to see that the Senate is applying Article 110(4) of the Constitution to the letter. We are aware that several Bills had been taken to the National Assembly from this House. I am glad to know and notice that in respect of the two Bills that you have read to us today as well as Messages, you have ordered that they be on the Order Paper tomorrow which is immediate. Could you confirm that consultations have been going on between the Speakers of the two Houses and assure us that our Bills will receive similar treatment in the National Assembly?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I do not know what you expect me to do. I have given two Messages from the National Assembly and I have told you what they say. I do not know what else you want me to confirm because we must deal with issues as they come and as they are.

PAPER LAID

THE SENATE MONITORING FUND REGULATIONS

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, are you laying any Paper?
Sen. Sang: Thank you, Mr. Deputy Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today Tuesday, 4th October 2016:-

The Parliamentary Service Senate Monitoring and Evaluation Procedures for Management of Funds Regulation 2016.

STATEMENTSKIDNAP AND MURDER OF PETER KALAMU NYONGESA
FROM BUNGOMA COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, there are some Statements which are listed in the appendix. However, before they are issued, I assume that they are ready. I would like to start with the Senators who are seeking Statements. We start with the Senate Minority Leader.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir, for allowing me to request for a Statement from the Chairperson of the Committee on National Security and Foreign Relations on the kidnap and murder of Peter Kalamu Nyongesa.

Pursuant to Standing Order No.45 (2)(b), I rise to seek a Statement from the Chairperson of the Committee on National Security and Foreign Relations on the kidnap and subsequent murder of Peter Kalamu Nyongesa.

Mr. Deputy Speaker, Sir, the deceased was a Fourth Year student at Jomo Kenyatta University of Agriculture and Technology (JKUAT). He was on an academic trip to Mtwapa Town, Kilifi County, organised for the Fourth Year Agricultural Economics students. He was kidnapped on the 27th of September 2016 and his body found dumped on the Mtwapa Beach on 1st October, 2016.

The preliminary post-mortem results reveal that Peter's neck was broken and his body had multiple injuries inflicted by blunt objects. His body has since been transported to Bungoma County awaiting burial in Mabembe Village, Kapchai Constituency.

I can see the Vice-Chairperson of the Committee on National Security and Foreign Relations chatting away with Sen. Kivuti while I am seeking a very important Statement relating to a loss of life.

In his statement, the Chairman should address the following:-

(a) The state of security in Mtwapa Town, including the records of reported crimes and present security machinery.

(b) The steps the police took to try and rescue this student when the matter was first reported to them and the steps they are presently taking to track down the perpetrators of this and similar crimes in Mtwapa.

(c) The measures the Government and in particular the Inspector- General are taking to curb such crime and compensate the family of Peter Kalamu Nyongesa and other families who have lost their loved ones under similar circumstances.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Wetangula. Sen. Adan.

Sen. Adan: Mr. Deputy Speaker, Sir, I am requesting the Senate Minority Leader and as a Member of the same Committee, to give us two weeks because this requires a bit of investigations to be done and also collecting information from various institutions that he has mentioned.

The Deputy Speaker (Sen. Kembi-Gitura): That is efficient.

Sen. Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg that you indulge me to seek further clarification on this very important matter. As the Chairperson of the Committee on National Security and Foreign Relations contemplates bringing the Statement, I would have to also include two aspects. The first one is what measures the Government put in place in all our universities to ensure that our children are safe while at college, going home and coming back to college.

The second aspect is that the Senate Minority Leader has spoken to the issue of compensation of the family. Could he also come armed with an answer on the state of compensation to the family of the student who was similarly kidnapped and found murdered in the same manner by the name of Solomon Muruli from Shinyalu---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I am not stopping you but I want you to appreciate one thing. Sen. Wetangula has sought a specific Statement on a specific person. The danger is that if we now bring a general situation and another student, then we tend to lose focus on the exact Statement that had been sought.

What you are asking is important, but Sen. Wetangula is seeking a specific answer on a specific person and a specific situation. The trouble of riding on other people's statements is that we tend to lose focus on the original statement sought. That is my view. If you wish to have a general statement on the security of students, which is important, I would advise you to seek a specific statement on that, so that we do not dilute what the other Senator had specifically asked, having thought about it.

You can go on.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I believe that the Vice Chair has heard you. The rules of the House are that the House does not speak in vain. Therefore, it is up to her to either come when she is ready or promise when she will have the balance of my clarification.

I was just concluding by saying that in the case of Mr. Solomon Muruli who died several years ago, the Government representatives in the House told us that they would compensate the family, but the compensation has not been made to date. If the Vice Chair has an answer, as she goes through, she could tell us the state of that compensation, because the family is waiting for it somewhere in Shinyalu, in a place called Muruhu.

(Interruption of Statements)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, before we go to the next Statement, I have a short Communication.

COMMUNICATION FROM THE CHAIRVISITING DELEGATION FROM ST GEORGE'S
GIRL'S SECONDARY SCHOOL, NAIROBI COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I wish to recognize the presence of visiting students and teachers from St. George's Girls Secondary School, Nairobi County, seated in the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I welcome them.

On behalf of the Senate and my own behalf, I wish them a fruitful visit. I hope that they will learn positively from the proceedings of the Senate this afternoon.

Thank you.

(Applause)

(Sen. Wangari stood up in her place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari, do you have a Statement? If it is about the students, you have two minutes.

Sen. Wangari: Thank you, Mr. Deputy Speaker, Sir. I will actually take less time. I want to welcome St. George's Girls Secondary School to the Senate and tell them that it is time for women to rule the world. The United Kingdom (UK) has a woman Prime Minister, Ms. Theresa May, and we are headed to have a woman president in the United States of America (USA).

On behalf of the Kenya Women Parliamentarians, I encourage and tell them that the sky is not even the limit; they can sit where I am seated today in a few years.

Welcome to the Senate.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Wangari.

Sen. Sang, you may seek your Statement.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I know that we have gone past this, but I want to welcome the distinguished members in the Speaker's Gallery who have come to this House on a learning mission. We, as the Senate - the protectors of counties and their governments - welcome staff from counties and encourage them to learn and pick best practices from this House. We also encourage them to be the messengers of goodwill for the people of Kenya.

It is often said that we seem to be devolving corruption to the counties. I urge you to be the first and last lines of defence against corruption; to resist with all your might and not take any unlawful orders whose execution amounts to corruption. This House will always be available to exchange practices and views with members of the county assemblies, be they staff or Members of County Assembly (MCAs), so that they can make devolution work.

Equally important, I welcome the students in the Gallery and encourage them to be distinguished good Kenyans and walk into the future without worshipping and adoring money - like we have seen in the Jubilee regime - and be Kenyans that know that the virtue and values of life are not founded on money but on good morals.

Thank you.

(Resumption of Statements)

STATEMENT

MURDER OF MR. MUSA KOECH FROM NANDI COUNTY

Sen. Sang: Mr. Deputy Speaker, Sir, pursuant to Standing Order No. 45(2) (b), I rise to seek a Statement from the Chairperson of the Committee on National Security and Foreign Relations on the murder of Mr. Musa Koech, a resident of Chepkuny Village in Bonchoge, Aldai, Nandi County.

On 23rd September, 2016, Mr. Kirapa, a police officer from Cheptulu Police Post, allegedly shot and killed the said Musa Koech while on his way home at 9.30 p.m. The postmortem results confirmed that the shooting was the cause of the death.

In the Statement the Chairperson should address the following:-

(1) State the state of security at the border of Nandi and Vihiga counties and specifically, provide a copy of the Occurrence Book (OB) in Cheptulu Police Post and Serem Police Station for the period between 22nd and 24th September, 2016.

(2) Status of investigations into the particular incident and whether the alleged police officer has been arrested and charged for the said murder.

(3) Can the Government undertake to compensate the family of Mr. Musa Koech?

(4) What steps is the Government taking to curb the rising cases of extrajudicial killings by police in the region?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, allow me to ride on that request because we have been on recess and a lot has been happening. Extrajudicial killings by state officers who are paid by the taxpayers and employed to guard and protect lives and properties have become extremely common. When the Vice Chair brings a Statement, I want her to go beyond the Cheptulu murder and tell the Senate and the country what the Government is doing to arrest trigger-happy policemen who are shooting innocent citizens and killing them all over.

Further, she should tell this House of oversight whether what I heard this afternoon from the Cabinet Secretary in the Ministry of Interior and Coordination of National Government - deriding the public and warning people against making any statements against police who shoot and kill people because it amounts to demoralising the police - is official policy. Is it official policy that when police shoot and kill people, we should keep quiet, because when we complain and raise issues, like the distinguished Senator for Nandi has justifiably done, it is demoralising the police?

The Deputy Speaker (Sen. Kembi-Gitura): Senator Billow.

Senator Billow: Mr. Speaker, Sir, I emphasize that this is a very important issue and Parliament - not the Executive - has the mandate to protect the Constitution, and in the process ensure the lives of Kenyans are safeguarded. Where the Executive is engaged in excesses, this House has the responsibility and will be answerable to the people of Kenya in case of failure.

It was reported this week that over 220 people have been shot by police in the first six months of this year. About 220 Kenyans shot dead by police! Last year, the

actual number of people shot and killed by police surpassed the number killed by thugs and other criminals. It is a matter that we must take seriously. I want to ride on the same question to ask the Chairperson of the Committee on National Security and Foreign Relations to explain the action the Cabinet Secretary (CS) mentioned he is taking against his officers who are killing Kenyans in broad day light in whatever circumstances because these figures are available.

The Independent Policing Oversight Authority (IPOA) is reporting daily, since they carry out investigations. What action is the CS taking on IPOA reports? Not a single report by IPOA has been acted upon by that Ministry.

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Senator Kivuti.

Sen. Kivuti: Mr. Speaker, Sir, since this is a very sensitive issue, would it be in order that we require the CS in charge to come to this House and answer questions directly from the Floor?

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan.

Sen. Adan: Mr. Speaker, Sir, I request the Senator for Nandi County and other Senators who have requested additional information to give us two weeks to respond.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, are you okay with two weeks?

Sen. Sang: Mr. Speaker, Sir, this is a very important matter and the issues that I have raised are not so much. It would be more appropriate if the Chairperson of the Committee on National Security and Foreign Relations undertakes to give specific responses to this Statement within a week. She can then proceed to bring the other from the rider queries by my colleagues in two weeks' time.

The Deputy Speaker (Sen. Kembi-Gitura): It is a very important matter and I do not see why we should give it a week and then fail to get a proper answer. The most important issue would be to give it sufficient attention so that the House can get a satisfactory Statement. It is no longer your Statement but of the whole House. Therefore, we give it two weeks.

LEADERSHIP CRISIS AT MOI UNIVERSITY

Sen. Sang: Mr. Speaker, Sir, I have one final Statement. Pursuant to Standing Order 45(2) b, I rise to seek a Statement from the Chairperson of the Committee on Education on the leadership crisis at Moi University.

In the Statement, the Chairperson should state the following:

(a) Whether the CS is aware that all senior management at the university; the Vice-chancellor and his two deputies are currently serving in an acting capacity.

(b) Whether the CS can confirm that the Moi University Council undertook the recruitment process for the Vice-chancellor and forwarded its outcome to the CS.

(c) The CS to disclose the recommendations forwarded to him by the University Council, giving details of the three top candidates, their respective scores as per the interview, and why he has not acted on the same.

(d) State when we expect a substantive Vice-chancellor for Moi University to be appointed by the CS.

(e) The CS to confirm that merit is the key criteria in the appointment of Vice-chancellors in public universities.

(f) State the circumstances under which a recruitment process undertaken by the University Council can be cancelled and the process repeated.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, how long will you require?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Order. I have the screen.

Sen. Karaba: Mr. Speaker, Sir, I can take three weeks. That is a very serious issue.

The Deputy Speaker (Sen. Kembi-Gitura): I have heard you. There are many requests for the Floor. I will give you about a minute or two to seek clarification. Let us have the Senate Minority Leader.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I thank Sen. Sang for bringing this issue on the Floor. In the answer by the distinguished Senator for Kirinyaga who is the Chairperson of the Committee on Education, he should also tell this House and the country why the governors of Uasin Gishu and Elgeyo Marakwet counties, accompanied by some four or five Members of Parliament raided the University and attempted to evict the acting Vice-chancellor from his office, alleging that it was because he was not "our man".

In so doing, let me digress a little and thank the Senator for Elgeyo Marakwet and the Deputy President for telling off those ethnic bigots who displayed the most primitive and archaic behavior that one can expect in a country such as Kenya.

Finally, the chairperson should tell the House and the country whether criminal proceedings are going to be preferred against those bigots who committed the offences in broad daylight, in front of cameras. They uttered obscenities that can endanger the fragile peace that we enjoy today, particularly in an area that was the epicenter of the post-election violence.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir, is the Senate Minority Leader in order to start using strange terminologies in this House when he went ahead, named and called them governors? Why do you not just call them governors? What is this last term you are using; bigots or something?

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, what is your point of order? What are you against?

(Sen. Murkomen spoke off-record)

Order, Sen. Murkomen!

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, he is a noise maker. There is a terminology that the Senate Minority Leader used twice.

The Deputy Speaker (Sen. Kembi-Gitura): Which one is it?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, “bigots” or something like that. If you are referring to human beings that have positions and you have already talked about governors, are you now degrading them or giving them a new terminology, name or position? It is an insult. We would rather call them by the position they hold.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, I may not be able to rule because I did not get the word that is galling you so much. I will not be able to deal with that situation.

Please do not take more than two minutes. Sen. Billow.

Sen. Billow: Mr. Deputy Speaker, Sir, I have a rider on the statement sought by the Senator. It appears that this whole issue is centred around ethnicity in our public universities. This is a matter that the National Cohesion and Integration Commission (NCIC) has often talked about.

Could the Chair table in this House the ethnic composition in the public universities, councils of the senate, the lecturers and particularly the top staff of public universities because that seems to be where the issue is? Yesterday’s report by the same institution brought out that very clearly and this seems to be the genesis of these things. So, let us have that tabled, so that this House can make a decision in terms of policy and the way forward on that matter.

Sen. (Dr.) Khalwale: On a point of order.

The Deputy Speaker (Sen. Kembi-Gitura): All the requests are on point of order, unless you want to say something completely different.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, the country will remember that sometime last year, a similar problem arose at the University of Eldoret in respect of an attempt by Sen. Melly - our colleague here - trying to eject Prof. Agenga because she was a Luhya. The Chair of the Committee worked on it and we got a satisfactory answer. Could the Chair come armed with the results of the investigations into that particular incidence because my fear is that Governor Mandago, having seen Sen. Melly get away with it, thought he could apply the same standard against Prof. Ayiro? Because of the issue of ethnicity cropping up, allow me to inform the country that days after Prof. Agenga had been harassed, Governor Mandago went to the streets in Eldoret and got Luhya street children. He put them on trucks, went and dumped them in Malaba on the border with Uganda and said that he does not want them.

Mr. Deputy Speaker, Sir, we would like an update of investigations into Governor Mandago. We would like that investigation to go beyond just the person because when Mandago came from the Criminal Investigation Department (CID) headquarters after being grilled, he arrived in Eldoret Town and was received by tens of thousands of people from the villages. This mindset - primitive as it is - seems to be resonating very well with the locals. If the Government does not move in, I have no apologies to say that just like the issue of the land resource contributed to Post-Election Violence (PEV), the issue of university opportunities might contribute to violence in Eldoret.

The Deputy Speaker (Sen. Kembi-Gitura): I do not know whether the Clerks-at-the-Table took my instructions on two minutes because I had said that it will strictly be not more than two minutes.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I will not even take two minutes. I would like the Chairman to assure the people of Bomet and Gatundu that the process of universities that are being constructed under the auspice of Moi University will go on without interruption despite the turbulence that is going on in Moi University.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, in his answer, could the Chair give us a brief definition of a university?

(Laughter)

Then, could he tell this House the policy - if there is any - that governs the appointment of heads of universities in this country?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I thank the Senate Minority Leader for thanking me. It is rare for such an appreciation to come from the Senate Minority Leader. I hope it is genuine because there is nothing hidden in between.

(Laughter)

Mr. Deputy Speaker, Sir, I taught at Moi University before coming here. It is an institution that I have a lot of interest in. In finding that answer in so far as the Vice Chancellor is concerned, what efforts are being put in place to support the Acting Vice Chancellor, Prof. Ayiro, in dealing with the massive corruption that has now been established in that university? It was reported that up to a Kshs1 billion might have been misappropriated despite the fact that even most of the managers at that point might have been the so called "locals."

Secondly, could the Chairman also find out from the Ministry the real policy on dealing with appointments of all vice chancellors across the country? Remember that Prof. Serem was manhandled and ejected from Maasai Mara University on similar grounds. When someone was being appointed at the Port of Mombasa, the local politicians including Mombasa Governor said that it must be someone from that area. What are we going to do and what policies does the Ministry have to ensure that in the appointment of the university--- The Chairman should come with a list of all vice chancellors---

(Sen. Murkomen's microphone went off)

The Deputy Speaker (Sen. Kembi-Gitura): You cannot say you have to finish because I gave you two minutes. Are you requesting for time or are you saying you have two minutes? Those are two different things but you will have one minute.

Sen. Murkomen: Mr. Deputy Speaker, Sir, therefore, could he tell us whether our country is moving to the direction where Kisii University has to be headed by a Kisii, Masinde Muliro University of Science and Technology (MMUST) has to be led by a Luhya and Maseno University has to be headed by a Luo?

Finally, what assurance are we being given that when the Vice Chancellor is eventually appointed in Moi University, merit and merit alone will be used to determine the person who will be appointed?

Thank you.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, first of all, I join my colleagues in condemning the two governors who shamelessly stood before the cameras and sought the ejection of Prof. Ayiro. I think it was last year when Prof. Mbithi was being appointed the Vice Chancellor of University of Nairobi. The rejection was not outright but we knew that there were people who canvassed hard to reject it and this must be stopped. Education institutions like universities are national institutions and they must be safeguarded against one ethnic community laying claim on any university in this country. Even those of us from northern Kenya know that this is happening in other universities. As leaders, we must protect people like Prof. Ayiro.

Mr. Deputy Speaker, Sir, as I finish, could the Cabinet Secretary, through the Chair, tell us the elaborate plan he has to depoliticize the education sector in this country?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I would like to get one simple clarification. The Chairman should clarify to this House and the nation the criteria for appointing vice chancellors in the universities. Every university has a chancellor. We have the Ministry of Education and we also have university councils. Who of the three does the appointment of vice chancellors and senior officers in universities today?

Lastly, has the procedure for electing and sourcing for a vice chancellor changed where there is no tribal attachment? Even if we have 50 universities, it does not matter who is selected to head them as long as they are number one and competent. If somebody was chosen the other day based on competence, the Ministry of Education and the CS must come clean so that we do not trivialise and insult the people of Eldoret, Uasin Gishu and Nandi for seeking their rights. So, it has to come out before we make any conclusion. Let us get what happened so that we do not condemn the two governors.

The Deputy Speaker (Sen. Kembi-Gitura): Finally, Sen. (Prof.) Anyang'-Nyong'o.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, this problem is wider than universities. I think a political tendency is trending in this country whereby tribalism is taking the top most consideration in appointment of people beginning with the Government itself. If you form a government which expresses this state itself as the government of two communities---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Prof.) Anyang'-Nyong'o! You know I normally would not stop you, but I think you came in when this matter was under discussion. People are riding on the request for statement by Sen. Sang specifically on Moi University.

Sen. (Prof.) Anyang'-Nyong'o: I know, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): We are doing this to allow Sen. Karaba who is the Chairman of Education Committee to be able to give an indication of when he can give an answer.

Sen. (Prof.) Anyang'-Nyong'o: In giving that answer, Mr. Deputy Speaker, Sir, let the answer not be given out of the context in which the problem is situated. It is contextual and not isolated. If you think you are going to treat a wound by just pricking at its top, you may not succeed. I am just cautioning the House that the problem is bigger than Moi University and it is the bed of our society today.

Sen. Karaba: Mr. Deputy Speaker, Sir, listening to what you have also heard, I am likely to even add one week so that I can take one month so that I will be able to answer all those questions the way you have asked. It is very serious that this thing is

coming; and going by what we know, a university means - according to what Sen. (Dr.) Machage was asking - it is a lot. If we are not careful, we might lead to destruction of these universities. So, I need one month.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang, is one month okay with you?

Sen. Sang: Mr. Deputy Speaker, Sir, sometimes Senators seeking statements are a little bit disadvantaged because the riders that my fellow colleagues have sought with regard to my statement--- it is those riders that require some bit of time. If you look at what I am asking, it does not take more than two days for the Cabinet Secretary to indicate whether he is aware that senior management staff in a university is in acting capacity. It does not require more than two days for the Cabinet Secretary to confirm that he received communication from a council. It does not take more than two days for the Cabinet Secretary to confirm or share to this House as to when he expects to conclude the process.

Mr. Deputy Speaker, Sir, with regard to the specific issues that I have raised, two days would be enough for the Chair to come with this statement. I appreciate that the riders are wider. A number of them are policy issues. If the Chair takes two weeks or so, on those broad ones, I would appreciate. However, the statements that I sought are things that are within the knowledge of the Cabinet Secretary and they can be availed within two days. You appreciate that this matter of Moi University is a serious matter that has been in the public domain. Looking at the interest it has generated in this House, these are serious issues. I would appreciate if the Chair can provide specific answers. This is a one page response to the issues I have raised. Therefore, two days or three days, should be sufficient for the Chair.

The Deputy Speaker (Sen. Kembi-Gitura): The only problem I see with that, Sen. Sang, is that most of the issues raised by your colleagues – we call them riders - You heard my view about people riding on other people's statements earlier, but since it seems to be a norm that has been accepted, you heard what your colleagues had to say about that specific issue. A lot of what they have said is relevant and pertinent to some of the answers that you have sought. In my view, it cannot be looked at in isolation.

On the other hand, I think asking for a month is far too long because if it a matter of policy, it should be there in the Government policy. Most of the issues that have been raised are questions that if you emphasize the urgency on the relevant officer, then you should be able to get answers. So, as a compromise, two weeks would be sufficient for the whole broad spectrum for you to give an answer on the issues. The reason I say that is, speaking from where I am sitting, the issues that have been raised by your colleagues are serious issues. They pertain to a university. When you talk about Moi University, you talk about an example because there are many public universities in Kenya that may be having similar problems. So, two weeks are enough.

Sen. Karaba: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Two weeks, Sen. Sang.

Sen. Sang: Okay, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Now, that is the end of those people seeking statements. However, on those who are seeking fresh statements, in the appendix, we have three statements to be issued. Statement (a) is the one on Standing Committee on

Natural Resources. I note that Sen. Khaniri is not in. Who is the Chairman on Committee of Lands and Natural Resources? Is it Sen. Kivuti? I thought he was here.

MINING OF BALLAST BY COVEC IN SOUTH MARAGOLI

(Statement deferred)

Statement (b), Chairman on Roads and Transportation, do you have the answer ready for Sen. Obure?

Sen. Hargura: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, you can give it now.

STATUS OF MOGONGA- KENYANYA-NYANSEMBE ROAD
IN KISII COUNTY

Sen. Hargura: Thank you, Mr. Deputy Speaker, Sir. Sen. Obure sought the following Statement from the Chairperson, Standing Committee on Roads and Transportation regarding Mogonga-Kenyanya-Nyasembe Road in Kisii County:-

a) If the Chairperson is aware that various unfulfilled promises have been made by the national Government regarding improvement to the standards of Mogonga-Kenyanya-Nyasembe road in Kisii County;

b) If he is aware that failure to improve this road has rendered it impassable and severely affected the economic activities in the populous and high potential parts of Kisii;

c) What plans the Ministry of Transport, Infrastructure, Housing and Urban Development has put in place in respect of this road and when residents should expect improvement works to commence.

Mr. Deputy Speaker, Sir, the copy of the statement has been provided to the Senator. Therefore, I would like to respond as follows:-

(i) The Ministry, through the Kenya Rural Roads Authority (KERRA) is aware that during the official launch of Mogonga-Kenyanya-Riokindo-Nyabitungwa-Magenche-Mariba-Nyagancha-Eberege-Daraja/Riokindo-Kenyanya TTC to Magena roads, contract No. RW217, on 28th April, 2016, His Excellency President Uhuru Kenyatta issued a directive that the Kenyanya-Nyasembe Road section be included in the aforementioned road project.

The determination of the current project scope resulted from consultation with local representatives and the area leadership who felt the need to include the Riokindo-Magenche-Kenyanya/Mariba-Nyagancha-Eberege-Daraja/Riokindo-Kenyanya TTC-Magenya Road sections in the project.

(ii) The Ministry is fully cognizant of the significance of the Mogonga-Kenyanya-Nyansembe Road to residents of Kisii County and is further aware of its economic significance to the region. The Mogonga-Kenyanya-Etago-Nyasembe Road-Kamagambo Road that is (C883) measuring about 39.5km starts from Mogonga (Junction C17) and ends at Kamagambo (Junction A1); the C736 link however continues into Migori County to join Kisii-Migori Road (A1) at Ranen.

From this description, it is true the road is an important link to Narok County through Kilgoris on Road C17, Migori and Homa Bay Counties as Road C736 also

provides a link to Rongo-Homabay Road, joining Ogembo-Rongo-Homabay Road (C20) at Riosiri.

(iii) In line with the Presidential directive referred to in part (i) above, the Ministry allocated Kshs400 million this Financial Year 2016/2017 for the improvement of the road to bitumen standards. The tendering process for the same is expected to be completed by the end of the Second Quarter of the Financial Year (December 2016).

Further, the Ministry has also allocated funds in the budget of this Financial Year for the improvement of other roads in the area to improve mobility as indicated below.

(a) Kamagambo-Nyasembe (Phase 1) - Kshs36,802,781

(b) Keroka-Kebirigo - Kshs485,063,789

(c) Riosiri-Ensonko-Nyabigena - Kshs80million

(d) Riobonyo-Ekonaya-Ngare - Kshs10 million

(e) Ikoba-Tabaka-Riosiri - Kshs100 million

(f) Nyabitunwa-Kiango - Kshs50 million.

Sen. Obure: Thank you, Mr. Deputy Speaker, Sir. I thank the Chairman for the elaborate answer. However, I would like to raise two issues in respect to the answer given.

I would like him to indicate whether the necessary steps have been taken to include the Kenyenyee-Nyansembe Road section in the ongoing improvement programme as directed by His Excellency the President.

Secondly, the Kenyenyee-Riokindo-Magenche Road is being undertaken under the low volume road infrastructure programme. The Kenyenyee-Nyansembe section which is the subject of this question is actually of a higher classification. This is a major highway which attracts higher volumes of traffic.

Could he ensure this reality is taken into consideration at the time of implementation?

Sen. Karaba: Mr. Deputy Speaker, Sir, it is important to note that with the Department of Roads, there is a lot happening in the countryside. There is drafting and designing of the road which takes a whole year such that the cost overshoots by the time the money is allocated in the Budget.

Could the Chairman make sure that those people who are concerned, particularly the directors of the Kenya National Highways Authority (KeNHA) take a shorter time so that the roads are improved within a short time when they say that there is a necessity of improving them? The process should not be taken through a long protocol or red tape/bureaucracy before a road is done.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, please, remove your card if you have finished with your request.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, is the Chairman, in his own opinion, satisfied that the allocated fund is adequate for the quoted projects? If you look at the connection of Riosiri-Rongo Road in Migori County, its cost is approximately Kshs50 million while another road has been allocated shs80 million. What is the cost per kilometre for bitumisation of these roads?

Sen. Hargura: Thank you, Mr. Deputy Speaker, Sir. With regard to the first question on whether the necessary steps have been taken, I would like to say the presidential directive was made in April this year. By that time, funds had already been allocated. Therefore, the necessary steps have been taken because the whole issue was on

how fast funds could be allocated. The rest is just the procurement process which they have indicated that it should be through by December this year.

The other question is on the issue of the standards where we have a section of the road being covered under the low volume sealed roads while the other sections, the highway, are built to higher standards. I want to explain the difference between these two. When you talk of low volume sealed roads, it is just a matter of stage construction. My understanding as an engineer is that we do the normal pavement design to a level where it can accommodate the existing traffic. Once the traffic has reached the standard required for that low volume, then you can easily upgrade by just adding the other layers on top. It is a matter of taking into account the resource constraint. It is acceptable and it will be improved when the traffic on that road reaches the level which is required.

Sen. Karaba talked of delay in the design and procurement process. I would like to say that the issue is the funding. It is not the procurement process. So long as the funds are there, the design can be done quickly. Most of these works are improvement, so it is easy to design. What causes the problem is the availability of the funding.

Sen. (Dr.) Machage asked about the disparity in the funding, specifically for improvement. Improvement does not necessarily mean building it to bitumen standards. There are different levels of improvement. That is where the funding is also different. It is not the same kind of activity.

The Deputy Speaker (Sen. Kembi-Gitura): Are you seeking the Floor again Sen. Karaba?

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. Last time, the Vice-Chairperson told us that Kshs45 million was allocated to repair Sagana-Kagio-Kutus Road, but I disputed it because I felt it was not enough. I was told that the road was to be completed by the end of June. However, funds were spent on that road and it is still in pathetic condition. We are now in the month of October. Could he tell us what is happening? We want to know what this is all about because funds are allocated, spent and nothing to show on the ground.

The Deputy Speaker (Sen. Kembi-Gitura): You have to pursue that under Sagana-Kagio Road. I am repeating myself; this was a specific statement sought by Sen. Obure.

(Sen. Karaba spoke off record)

(Laughter)

The next Statement is by Sen. Obure and, again, to the same Committee.
Proceed, Sen. Hargura.

TRAFFIC CONGESTION ON NAIROBI-NAIVASHA-NAKURU ROAD

Sen. Hargura: Mr. Deputy Speaker, Sir, Sen. Obure sought a statement regarding persistent traffic congestion along the Nairobi- Naivasha-Nakuru Road and possible expansion of the road. Regarding the same, he sought the following:-

(1) Whether the roads authority responsible is aware that the capacity of the road as designed can no longer cope with the increasing volume of the traffic.

(2) The measures put in place to provide relief to travellers whose security and comfort is compromised by the traffic congestion between Rironi and Mai Mahiu Section.

(3) Whether the national Government has any plans to establish an alternative route for travellers, between the Capital City and the counties in the Rift Valley, Western and South Western Regions of the country, and when those plans will be actualized.

Mr. Deputy Speaker, Sir, I beg to respond as follows:-

First, the Ministry through the Kenya National Highways Authority (KeNHA) is aware that there has been an increase in traffic volume on the Naivasha-Nakuru Road, which is Road A8. To address the matter, there is an ongoing Public Private Partnership (PPP) feasibility study with the view of having a contractor to design, build and operate a dual carriage way from Rironi-Nakuru-Mau Summit because this will ease the congestion of the road.

Secondly, the ongoing PPP study also proposes to improve the Rironi-Mai Mahiu section. In addition, the heavy vehicles will be allowed to use the improved Rironi-Naivasha Section hence reduce the congestion on the Rironi-Mai Mahiu Route.

Thirdly, the alternative route for travellers between the capital city and the counties will be utilizing the improved Rironi-Naivasha-Mai Mahiu Road that is proposed to be improved through PPP. This will enable faster movement of traffic even though it will entail an additional 28 kilometers to a place like Kaplong Market where the two routes converge.

Sen. Obure: Mr. Deputy Speaker, Sir, once again, I thank Sen. Hargura for this answer. However, you have heard him inform this Senate that there is an ongoing study being carried out through PPP. I would like to know when this feasibility study is expected to be complete. If he could give an indication regarding the timelines when travellers on this route could expect to be relieved of the current difficulties?

Sen. Wangari: Mr. Deputy Speaker, Sir, I would like to get a clarification, noting that this is a road I use almost every weekend. It is not once that we have had to spend the night on the road due to the congestion. It is not limited to Naivasha, but even at the weigh bridge. You can spend the whole night there when there is crazy traffic jam. There was a Presidential decree on the opening up of the road or the extension of the Green Park Road through Eburu-Suguroi-Mastoo-Munanda-Kiptangwany to join the Elementaita-Mau Narok Road that would ease traffic and congestion on this road. What are the plans about that road? It would also help in reducing the congestion.

The other clarification is on the feasibility study on the PPP. What are the timelines? This has been said over and over for a long time. What timelines is the Ministry talking about to complete this road?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I thank Sen. Obure for seeking this statement. The Chairman has tried to answer. Although he is struggling to answer, the congestion on this road is serious. Even at midnight when you travel from Nairobi to upcountry towards western Kenya, the traffic jam is just like during the day. This road was built before Independence. It is still as narrow as it was then. The Government is ambitious. It is building the Standard Gauge Railway (SGR) which will not be used by motor vehicles.

As Sen. Obure said, all the way to Nakuru there is traffic, but through Kericho to Kisii there is less traffic. The traffic from Nakuru proceeds to Eldoret all the way to Busia

and from Eldoret all the way to Kitale to Lokichoggio through Kapenguria. Could he consult afresh with the Ministry to come up with timelines and budget to expand the road to a dual carriageway with three lanes on each side?

This is what Kenyans expect that road to be today. They should not be subjected to difficulties using a road designed in 1963 when there was only one vehicle on the road on particular times. It is serious. He should consult the Cabinet Secretary in charge to look into it. There are many potholes on the road between Eldoret and Kapenguria. We cannot reach home on time. They should be sealed.

[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]

[The Temporary Speaker (Sen. (Dr.) Machage took the Chair]

Sen. Karaba: Mr. Temporary Speaker, Sir, a similar question is still lingering in my mind. The Ministry of Roads and Infrastructure just conducts business as usual until we ask questions for them to attend to these roads. Do they not have a section that deals with inspections of these roads? This will enable them to assess increase of traffic, potholes and destroyed bridges so that they repair them immediately without Senators necessarily coming here to ask questions. This is our concern. We are not against anything. The Ministry of Roads and Infrastructure must be proactive. They should assess which sections of the roads in Kenya are congested, for instance, the one from Makutano to Wang'uru to Embu.

Every other day, there is an accident just because the road is narrow due to the unexpected development. The development rate is higher than that of the road. Why can the road constructors not assess the development of the neighbourhood so that they can enlarge the road as per the population demands?

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Proceed, Chairman.

Sen. Hargura: Mr. Temporary Speaker, Sir, the question raised has to do with timelines; when the PPP will be completed and when the construction will be done. We will have to get extra information from the Cabinet Secretary for Roads and Infrastructure. This will require time. I do not have the timelines now. There is also the issue of the presidential directive to improve the Green Park Road. I have to get more information from the Cabinet Secretary for Transport and Infrastructure.

I would like to inform Sen. (Prof.) Lonyangapuo that when we talk about a dual carriage, it means separating the traffic moving in either direction, so that each of them has its own lane. The carriage way could be three or four lanes, just like we have on Thika Road, with a minimum of two lanes in either direction. Therefore, the study will determine how many lanes we will require in either direction, based on the existing traffic and the projected one. That will be part of the study. I will ask for more information so that we can get these timelines from the CS.

Sen. Karaba: Mr. Temporary Speaker, Sir, the Chairman is avoiding my question. Could you direct him to answer?

The Temporary Speaker (Sen. (Dr.) Machage): To my knowledge, the Chairman has attempted to answer the question. Let us be fair.

Sen. Wangari: On a point of order, Mr. Temporary Speaker, Sir. I hear the Chairperson on the additional details, especially on the timelines and expansion of Green

Park Road, which would ease congestion. However, he has not given a commitment as to when that information should come to this House. Could it then come from the Chair?

The Temporary Speaker (Sen. (Dr.) Machage): Chairperson, can you give a commitment on the timelines?

Sen. Hargura: Mr. Temporary Speaker, Sir, all this information can be obtained from the Ministry. Maybe it can be done in two weeks.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, this statement is as serious as has been stated. People cannot travel at night because the road is congested. Almost 53 years after Independence we are talking about a feasibility study on the road, which is a lifeline of Kenya. Would it be appropriate that we continue asking the Chairman when you can direct the Senate Majority Leader to go and get the information from the CS? Goods perish on the highway because of congestion on the road.

The Temporary Speaker (Sen. (Dr.) Machage): You are a bit impatient. The Chairperson has indicated he will give you all that information in two weeks' time. Why do you want to declare him unable, when he has shown his ability? It is not fair.

Sen. Mositet: Mr. Temporary Speaker, Sir, I also listened to the Chairman when he was giving the statement. The Ministry is just doing a public relations exercise, when this is actually a serious issue. I used that road two weeks ago and spent about eight hours in traffic.

Other than that, I think the priorities of the same Ministry are upside down. As I talk of the feasibility studies, we should also consider the Magadi Road which runs from Bomas of Kenya to Ongata Rongai and Kiserian. In fact, many people are moving away from that area to live in other areas because of traffic congestion. Since a new CS came on board, we do not hear much about the work of that Ministry.

Sen. Wangari: Mr. Temporary Speaker, Sir, I will not overemphasize the need for expansion of this road. However, on the timelines, the issues to be clarified are quite few. I request that you direct that he gives the additional information in one week. We do not want to interrogate a new Statement and determine whether we require the CS to come to the House to answer this issue.

The Temporary Speaker (Sen. (Dr.) Machage): Chairperson, one of the concerns is that the Ministry is just carrying out a public relations exercise. Secondly, you were asked to state whether the Ministry's priorities are upside down. These are issues that might not be within your parameter of knowledge. Due to constitutional provisions we are not able to address the Ministry directly from the House. You have to go back to the Ministry and ask them whether they have their priorities set upside down.

I expect you to give those answers in two weeks' time. Let us be fair to the Chairman. If we do not get an adequate reply, we will demand that the CS avails himself. In any case we have the constitutional mandate to question the ability of a CS. That Motion can still arise from this House; it is not only a prerogative of the 'lower' House.

We will move to the next orders. However, we will defer Orders No.10, 11 and 14 on the Order Paper for reasons that are known to the Speaker.

BILLS*First Reading*

THE LOCAL CONTENT BILL
(SENATE BILL NO.13 OF 2016)

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

Second Readings

THE TREATY MAKING AND RATIFICATION (AMENDMENT)
BILL (SENATE BILL NO.5 OF 2016)

THE COUNTY GOVERNMENTS (AMENDMENT) BILL (NO.2)
BILL (SENATE BILL NO.7 OF 2016)

(Bills deferred)

The Temporary Speaker (Sen. (Dr.) Machage): I am told that the Movers of several Bills are not in the House. Therefore, we will defer Order Nos.12, 13 and 15.

Second Readings

THE NATIONAL COHESION AND INTEGRATION
(AMENDMENT) BILL (SENATE BILL NO. 6 OF 2016)

THE ASSUMPTION OF OFFICE OF GOVERNOR BILL
(SENATE BILL NO. 10 OF 2016)

THE IMPEACHMENT PROCEDURE BILL
(SENATE BILL NO. 8 OF 2016)

(Bills deferred)

Next Order!

THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL)
AMENDMENT BILL (SENATE BILL NO. 9 OF 2016)

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Due to other issues that have to be considered before the Mover moves the Bill, we will hold Order No.16 and go straight to Order No.18.

(Bill deferred)

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL
(NATIONAL ASSEMBLY BILL NO.36 OF 2014)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move:-

THAT, the Assisted Reproductive Technology Bill (National Assembly Bill No.36 of 2014) be now read a Second Time.

This is a very important Bill that has come from the National Assembly. It deals with a matter that has been covered widely in the media and public discourse for a while now; namely, how to regulate and control technology that is used to assist mothers or parties to a marriage, who are unable to have children through the natural way of sexual intercourse.

This Bill does four things. First, it regulates assisted reproductive technology, establishes the Assisted Reproductive Technology Authority (ARTA), prohibits certain practices in connection with assisted reproductive technology and makes provisions in relation to children born out of assisted reproductive technology processes. Those are the key things that this Bill does.

Mr. Temporary Speaker, Sir, I will highlight a couple of clauses. The first one is Clause 4 which establishes ARTA. The next one is Clause 5 that deals with the functions of the Authority which includes development of standards, regulations and guidelines in connection with assisted reproductive technology. Secondly, there is the issue of undertaking research on the conduct and control of assisted reproductive technology, among other functions. There are more than 10 functions. The other Clauses between Clause 6 and 11 deal with the usual parameters of running an authority, including but not limited to appointment of a director, and how the Board will conduct its activities.

Let me also highlight the provisions in Part 3 of the Bill which includes Clause 19. It provides that there will be no use of human reproductive material unless the donor of that material has given written consent. In other words, if any person wants to use material for purposes of assisted reproductive technology, then there must be a written consent from that donor. Of course, there is medical ethics that is important and will be considered when dealing with this area. It is an area that is very established in many developed countries, but one which is important in our country. We have had a few cases of surrogate mothers who carry children on behalf of married couples who are unable to have children the normal way of sexual intercourse.

Clause 20 provides that if a donor of any reproductive material is dead, there will be no removal of reproductive material for purposes of assisted reproductive technology, unless there is a written consent by that donor before death to that respect. Clause 22 provides that no person is qualified to undertake assisted reproductive technology unless certified so by a medical doctor.

Mr. Temporary Speaker, Sir, Clause 23 provides that a person shall not undertake assisted reproductive technology for any other purpose other than human procreation. It also provides that a person shall not undertake assisted reproductive technology for experimental purposes aimed at modifying the human race. This is because of, as I said,

medical ethics that prohibit modification of the human race so that we do not end up with genetically modified human beings. The purpose of assisting parties to a marriage who cannot procreate the normal way because of one challenge or the other is purely for procreation. It is not experimentation, fun or further certain outcomes that may go against medical ethics like I have cited the issue of modifying human beings. No person should also take part in assisted reproductive technology purely for speculative purposes.

I will also highlight a few other things because I do not want to talk a lot. This is an area where there are more qualified people than I am to discuss in detail. In any case, I am sure once this Bill is committed to the relevant Committee, they will help us improve on it.

Let me highlight Clauses 30 and 31 before I ask my colleague to second. Clause 30 provides that a child who is born out of assisted reproductive technology shall have the same rights under the Constitution and any other written law as the rights of a child born through sexual intercourse. In other words, a child born through the help of science will have the same rights as the child who is born the normal way. Clause 31 has two parts. Part 1 ---

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. I appreciate that this is a very technical subject. However, can the Senate Majority Leader briefly explain, especially this particular aspect of a child born out of science and a child born out of sexual intercourse? In this particular sense of being a human being, can he shed more light?

The Temporary Speaker (Sen. (Dr.) Machage): Order! Taking cognisance of your interest, you are a bit impatient. To understand the whole Bill, then you must be patient and listen to all contributors. I cannot compel the Mover to move in a way that you want. He has his way that he has outlined that he wants to execute the subject.

Proceed, Prof. Kindiki.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir, for protecting me from the vagrancies of the Senator for Nandi County.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Sang?

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. I know the Senate Majority Leader is the Mover of the Bill. It is his Bill and I am sure he wants the support of every Member. Is he in order to describe my request for further clarification on the point as “vagrancies of the Senator for Nandi?”

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Prof.) Kindiki, did you actually say so?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I said so. If there is need to modify that word, I am willing to do so. However, I said that Sen. Sang is disrupting me.

The Temporary Speaker (Sen. (Dr.) Machage): Order! What you said was not palatable with the intellect and fairness of the description of the character of Sen. Sang. Could you, therefore, withdraw and apologise?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I withdraw and apologise.

The Temporary Speaker (Sen. (Dr.) Machage): Very well, proceed then.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I was on Clause 31 which deals with surrogacy. All this business is about surrogacy where parties to a marriage are

not able to procreate. The material used from both parties or one of the parties, can be implanted in a natural woman for purposes of carrying the pregnancy until birth. After birth, the legal rights that the surrogate mother had on the child terminate immediately unless there is an agreement to the contrary.

Mr. Temporary Speaker, Sir, Clause 31 provides that a surrogate mother will not be less than 25 years of age. There must be a specific request by a party to a marriage to carry out the surrogacy.

The other provision which I wanted to highlight is Clause 31(2) which provides that:-

“The surrogate mother shall carry the child on behalf of the parties to a marriage and shall relinquish all parental rights at birth over the child unless a contrary intention is provided.”

Mr. Temporary Speaker, Sir, under Clause 32, for a surrogate mother to carry a child on behalf of the parties to a marriage, there must be a written consent in order to create parameters of rights and obligations of the parties.

In summary, this Bill, first, legalises and regulates the issue of surrogate mothers. It provides an opportunity for parents who cannot give birth to children through the normal biological way of sexual intercourse to have children scientifically by providing for a surrogate mother to carry the child, based on reproductive material donated by the parties to a marriage.

Mr. Temporary Speaker, Sir, that relationship is now being legalised because at the moment there is no legal framework for it. First, it protects surrogate mothers from abuse by parties to a marriage. Secondly, it protects the rights of the donors of the material so that once the surrogate mother fulfills her job, then the rights of the parties to a marriage are not diminished in any way. Finally, it is to equalize children who are born through surrogacy with children born through the natural way.

The Bill establishes a regulatory body that will develop standards and guidelines because there are many other issues of a scientific, ethical, medical and socio-cultural nature that will arise in the implementation of this new idea about surrogacy. It is new in the sense of the scientific aspect of it but we know that in traditional African societies, surrogacy of some sort was also permitted. It was not scientific, but more of a socio-cultural thing. The whole idea is the same. Therefore, it is my pleasure to introduce this Bill by way of Second Reading.

With those remarks, I beg to move. I request Sen. Wangari to second.

Sen. Wangari: Mr. Temporary Speaker, Sir, I congratulate the Senate Majority Leader who is the Mover of the Bill for introducing it to the House. The fertility rate in Kenya and in the world has been an interesting topic. First, culturally it was not meant to be discussed. In the African culture, normally, when a woman could not bear a child it was seen as a taboo. It was even worse for a man. In fact, few men would go for checkup because infertility was seen to be the fault of the woman.

However, the dynamics have changed because there is more medical knowledge and research and also the society has opened up to this issue. We now know that it is possible, for one reason or another, arising from sickness, food consumed and age that one is unable to bear children naturally.

Mr. Temporary Speaker, Sir, this Bill is looking at those special cases where men or women cannot bear children. The Bill looks at two issues. The first one is the assisted

reproductive technology. If you look at this Bill, you will find that the issue of Intravital-Fertilization (IVF) has been alluded to. That is where an egg is fertilized with a sperm scientifically in a laboratory and implanted in the womb of another woman.

I know we have had different views from the religious institutions that are uncomfortable with the Bill. May I make it clear that we are in 2016 and we can use technology to reduce the anguish, mental torture and the stigma that marriages have had to undergo in Africa for not bearing children.

Mr. Temporary Speaker, Sir, I have experienced an issue of a person who came to me and she was desperate. She told me that she was 42 years and that time is running out. Her biological clock is ticking and the husband has thrown her out because she cannot bear children. When I looked at the lady, all that was going through my mind---

(Sen. Adan crossed the floor without bowing at the Bar)

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Adan, it is always advisable to go to the Bar - as a senior Member of the House, I will advise you - and bow from the Bar to the House. That is the normal practice and do not forget that again.

Sen. Wangari: Mr. Temporary Speaker, Sir, you will pardon us because we have just come from a long recess. These things are happening a lot today. First of all, the cost of IVF is exorbitant in hospitals. It is not affordable to many women. In fact, the lady was telling me she had taken a loan of Kshs450,000 to get an IVF, but it was not enough. She needed an additional Kshs150,000. She told me if she does not conceive this year, her chance of carrying a pregnancy to a full term would actually be minimal. Those are the realities that we are dealing with on daily basis. We get couples that have been together for many years and are not able to conceive naturally because of one reason or another. However, this Bill comes as a reprieve to them.

Mr. Temporary Speaker, Sir, this Bill addresses the fears that some of us have. First of all, there is the fear of misuse. That has been addressed very well in Clause 5 on the establishment of the Authority. If there is no one who will oversee all the happenings in that area, then it would be prone to abuse. However, if you look at Part 3, this Bill has actually outlined all the prohibited activities; that you cannot just take an embryo and use it for any other purpose than to procreate. It expressly states so that you cannot put an embryo of any other thing apart from a human being in the womb of another woman. These are some of the fears that we are looking at. Of course, it has to be certified by a medical practitioner who has a licence from the Authority. A person must have a licence to be able carry out this process. Additionally, for someone to be able to go through an IVF, she must get the consent from the doctor.

Mr. Temporary Speaker, Sir, why the consent? First of all, they must be able to demonstrate that this woman cannot conceive naturally or this man cannot impregnate a woman naturally. With that written consent, someone can move to getting an IVF. The issue of written consent is very important because we do not want illegal harvesting of sperms or commercialisation of sperms. That is very important because we, as a country, do not want unauthorised sperm banks.

So, it would be very important that we have the legal framework under which this works. That way, we will not have issues of someone saying someone took his sperms

without his consent. The written consent is very clear. It even looks at what would happen if that person dies or what would happen if a child is born.

Mr. Temporary Speaker, Sir, Clause 23 is on circumstances under which assisted reproductive technology is precluded. It is very categorical that a person cannot use it to speculate. For example, a person cannot take sperms and open a bank for purpose of selling to other people. That cannot happen because the regulations are very clear.

This Bill addresses the issue of minors. One cannot go through an IVF if she is a minor. I know we are looking at a very interesting Bill in my Committee on Labour and Social Welfare in terms of children who have got children. The minimum age is 18 years and has to be proved. I know these issues would be discussed in the relevant Committee. Clause 25 says:-

“No person shall obtain a sperm or ovum from a donor under 18 years of age or use any sperm or ovum obtained from a donor under 18 years of age except for the future human procreation by the minor.”

That is a contentious issue from this Bill, but I know it will be interrogated in the relevant Committee. This is because we must draw up the proper legal framework that one cannot just harvest now to use in the future.

Mr. Temporary Speaker, Sir, the Bill also looks at how the Authority will issue or not issue licences. In fact, Clause 26 outlines six reasons to be followed when issuing a licence. The issue of human cloning is a very contentious issue worldwide. I am sure this has been outlawed. I would be looking to see that during, maybe, the Committee stage we would have the issue of the consequences of what happens if someone goes that way.

If you look at Part 4 of the Rights of Parents, Donors and Children, the one thing this Bill does is that it equalises the children of this country. If you remember, Chair, during the last Session, I moved the Bill that was supporting adoptive leave for mothers, in an amendment to the Employment Act and my argument was simple. If you read Article 53 (1) of the Constitution on the specific application of rights, in fact, it is very specific to children. That every child has the right to; (a) to a name and nationality from birth to free and compulsory basic education to basic nutrition all the way to (f).

Mr. Temporary Speaker, Sir, this Bill does not allow us to categorise a child as a biological child, an adopted child, an IVF child or a surrogate child. It equalises the rights of children. It gives those rights and does not segregate on how the child was born as long as they are born, whether through IVF, adoption, biological and so forth. Children must share the enjoyment of the rights as provided for under Article 53.

There is also the issue of access of information that has been dealt with by this Bill because under Article 35, any institution of Government has the right to actually release or rather any person has the right to obtain any information from a government institution. It gives the procedure of how one can access information. That is Part 33(5) and Article 33. The first one is the person applying must be over 18. A minor cannot walk into this Authority and ask.

The Temporary Speaker, Sir, children cannot walk to the Authority to find out whether they were born from IVF or not. If they do so, they would need to be accompanied by a guardian with a written application. However, if you are an adult and you want to find out how you were born, that information cannot be denied from you because it is provided under Article 33. This Authority also we will have to keep the register. It will need to know how many children have actually been born from IVF.

The other issue that I am very passionate about is surrogacy. However contentious it is, I look at the families that are going through the agony of having to go through surrogacy. I know it is happening because even in our culture, it used to happen. However, there has been no legal framework of how this should be done. In fact, if I am a surrogate mother for someone or for a couple and I decide that after birth I want to keep that child, there is no way the parents even with the prior agreement have any way of claiming that child. Secondly, for a surrogate mother even when someone carries your baby, you have to go through the adoption process to get your baby. Those are the laws that we are talking about in Kenya.

Mr. Temporary Speaker, Sir, the adoption process in Kenya is not only tedious, but it is expensive and almost impossible. First, it is a very expensive affair, you have got to engage legal help and it takes a long time. The issue of surrogacy has to be controlled in a legal framework. This is the only chance that we can do that, but the children are also protected under Articles 30 and 31. A person cannot be surrogate mother unless you are 18 years and unless you make a written consent and agree that you relinquish all parental rights at birth over the child. Of course, unless a contrary intention is proved.

That is also another issue that we will have to look at during the amendment stage to see what exactly it means that when I agree to be a surrogate, am I allowed to change my mind? The surrogacy agreements are provided. There is also need for counseling, especially for persons who want to find out whether they were born through an IVF. This has to be done keeping in mind that someone could grow up knowing that they were born in the normal way only to find out when they are 18 years that they were born through an IVF process. This might affect a person's self esteem and psyche. Such people should, therefore, go through a counseling session.

This Bill is generally a breath of fresh air. However technical it sounds, I hope that we will look at the overall good, of course, keeping in mind that we must guard that process from misuse and commercialization. We should not use it for gains only.

That takes me to the surrogate story. The Bill provides that one is not supposed to pay money for "renting" a womb. One is only supposed to do what is required because it is a voluntary agreement. Someone cannot be forced to be a surrogate; they have to agree, be over 18 years old, of sound mind and be able to consent under law.

Mr. Deputy Speaker, Sir, I beg to second and hope that we will get the support of Members on this Bill.

(Question proposed)

Sen. Mositet: Mr. Temporary Speaker, Sir, I rise to support this Bill. Technology and education have brought tremendous improvement to human life. There could be a lot of controversies concerning this Bill from the cultural and Biblical point of view for those who are believers like me. In the Bible, we are told that the mother must carry the baby for nine months and she must experience labour. In this case, the biological father and mother of the child will not be the ones to carry the child; it will be another mother. Biblically, that will bring a challenge.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mositet! Have fathers ever carried babies?

Sen. Mositet: Mr. Temporary Speaker, Sir, in Maasailand, we always believe that the father carries the baby in the legs, but the mother must carry the baby in the womb for nine months.

(Laughter)

Mr. Speaker, Sir, one of the reasons our fathers and forefathers married many wives was to ensure that they got children even if some wives were barren. With this technology all the parties - the husbands and wives - will have their part to play; they can have a chance to have children.

Therefore, this issue is encouraging, particularly for pastoralists communities which have quite a number of women who are barren. They can use this technology to increase their population, so that they can always compete politically, particularly in our country where numbers matter if one wants to be President.

I support this Bill because it is well defined. The regulations that have been put in place guard the surrogate mother and the child.

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

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, I rise to support this Bill. I will take a short time to refer to only one clause in this Bill. I will seek an amendment to this Bill to delete that clause. I am referring to Clause 26 (e) that states that the authority shall not issue a license that allows the replacing of a nucleus of a cell of an embryo with a nucleus taken from a cell of any person, embryo or subsequent development of an embryo. I will ask that this clause be deleted because it has already been overtaken by events.

Last week, a child was born in Mexico with the DNA of three parents. Technology has assisted us to fight diseases, which are carried in the genes of individuals. The management of a mental condition that is carried by a mother is able to be eliminated by manipulating the contents of the nucleus, particularly the mitochondria, to remove the genes that are involved with that particular disease carried by the mother. These are replaced by genes or material coming from a nucleus from another mother that is transferred to the fertilized embryo of a mother from a man. So, there are three individuals who are involved in the development of the embryo which will be implanted in one woman who will carry it to the end.

At the end of it, the product will be a child who is complete with the genetic material of three parents, minus the genetic material which carries the disease which is to be eliminated by technology. I think the main reason we have this kind of technology is to be fight some of these diseases that are not treatable and can be managed from the very beginning.

Last week, there was a breakthrough where a medical condition carried genetically has been managed by manipulation of the contents of the nucleus. If this clause in the Bill will remain, it will curtail the reason the Bill was introduced here in the first place; to manage conditions like this.

Mr. Temporary Speaker, Sir, I support the entire Bill, except for this particular clause, which should be amended or deleted altogether to allow technology to give the maximum benefit of its use, depending on the amount of the research knowledge that is available. We can manage these diseases using technology. Introducing such provisions

in this Bill curtails the maximum benefits. I, therefore, suggest that this Clause of the Bill be deleted, so that maximum benefits are attained.

Mr. Temporary Speaker, Sir, with those remarks, I support this Bill.

The Temporary Speaker (Sen. (Dr.) Machage): There are issues that Sen. (Prof.) Lesan proposes to move an amendment on. Otherwise, with no other interest, I would have called on the Mover to reply. In the rules of the House, I am not supposed to listen to your suggestion that you are thinking of moving an amendment. Instead, there should have been an amendment already an hour before the commencement of this discussion on my Table. I am not privy to that, unless the Secretariat gives me some information.

What is it, Sen. (Prof.) Kindiki?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, it is in connection with what you have just said. I was wondering whether the amendment comes at this stage or the Committee of the Whole.

Our practice has been that during the Second Reading, Senators can speak generally to the Bill and suggest what they think should be improved. I have been taking notes and listening to what Sen. (Prof.) Lesan has said. However, I am seeking your guidance on whether the amendments should have come now or at the Committee of the Whole.

The Temporary Speaker (Sen. (Dr.) Machage): That is an important observation. We have two levels at which you can move your amendments. I was thinking of advising Sen. (Prof.) Lesan that if he is so convinced, his amendments should be moved at the Committee Stage.

However, as you move the amendments, I know you will consider the constitutional inclinations of this country in terms of parenthood. Just because a country in Central America has three parents for a child may not be constitutionally acceptable in Kenya. However, it is your right to consider moving an amendment at that level. Otherwise you should have moved it at this level if due diligence was considered. Do you want to say something?

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, I agree with your suggestion that I can move this amendment at the Committee Stage. I feel strongly that biology has no boundaries and our country needs to move along with this technology. I would, therefore, still want to move my amendment.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. It is your constitutional right. I will, therefore, call upon the Mover to reply.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, in reply, I would like to say that in order to provide the constitutional foundation for this Bill which in my view is Article 43(1) of the Constitution which says:-

Every person has the right—

- (a) To the highest attainable standard of health, which includes the right to healthcare services including reproductive healthcare.

I believe this is the constitutional foundation of this Bill and I have taken the liberty to read it out so that as the Committee and the Senators consider this Bill, they should do so in light of Article 34(1)(a).

I want to thank all the Senators who have contributed to this debate and with those few remarks, I beg to move.

Mr. Temporary Speaker, Sir, given that we do not have the numbers to take a vote, I request you, under Standing Order 54(3), to defer the putting of the Question.

The Temporary Speaker (Sen. (Dr.) Machage): It is so granted.

(Putting of the Question on the Bill deferred)

Next Order!

Second Reading

THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL)
(AMENDMENT) BILL (SENATE BILL NO. 9 OF 2016)

Sen. Adan: Mr. Temporary Speaker, Sir, the purpose of this Bill is to amend the Public Appointment (Parliamentary Approval) Act, 2011 so as to provide for the procedure for Parliamentary approval of constitutional statutory appointees where the approval of both Houses is required.

It is important to note that the Public Appointment (Parliamentary Approval) Act, 2011 came into force on November, 2011 well before the Senate had been operationalized under the Constitution of Kenya 2010.

In the course of the implementation of the Act, it was realized that the Act does not provide for the procedure to be followed where the law requires the approval of the candidates by both Houses of Parliament. It is, therefore, to address a lacuna, which particularly became apparent last year during the approval of the nominee for the position of the Inspector-General of Police who under Article 245(2)(a) of the Constitution is required to be appointed by the President with the approval of both Houses. In that particular instance, due to the gap in the law, and taking into account the strict fourteen days timelines as stipulated in the Public Appointments Parliamentary Act, the Speakers of both Houses directed that the vetting of the nominee for appointment to the position of the Inspector-General be conducted jointly by both Houses, in particular, the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security and Foreign Relations. This posed a lot of challenge because there were very many Committee Members who sat together for very many days to go through all those procedures.

Mr. Temporary Speaker, Sir, you will recall that after several Senators raised concerns about the procedure that had been followed in the vetting of the nominee to the position of Inspector-General, you clarified that the establishment of a joint Committee of the two Houses for vetting of the nominee was an exceptional one taken out of necessity and was not intended to be the general rule or the procedure to be applied for the future.

In that case, it was further noted that it was important that the timeliness in the Public Appointments (Parliamentary Approval) Act which was replicated in Section 12 of the National Police Service Act, be scrutinized to ensure the practicality of the timelines in the context of the bicameral Parliament and, therefore, referred the matter to the Standing Committee on Legal Affairs and Human Rights for further interrogation.

Mr. Temporary Speaker, Sir, the Public Appointments (Parliamentary Approval) (Amendment) Bill, 2016 is, therefore, intended to cure that.

This Bill is therefore intended to cure the challenges I have just highlighted so as to reflect the existing bicameral structure.

Mr. Temporary Speaker, Sir, the Bill seeks to introduce amendments to Sections 2, 4, 5, 8, 9 and 13 of The Public Appointment (Parliamentary Approval) Act and Section 12 of The National Police Service Act. You will note that Clause 4 of the Bill sets out the manner in which the notification of the nomination of the position requiring the approval of both Houses should be carried. The provision makes it mandatory for appointing authorities to notify the Speakers of both Houses of Parliament in writing. We have proposed that where a nomination requires the approval of both Houses of Parliament, the process will commence in the National Assembly and end in the Senate. This is in tandem with the role of the Senate the world-over as a House of review which is a second sober thought on matters of national interest.

Clause 6 provides the timelines within which a committee of each House shall consider nomination and table its report in the relevant House of Parliament for debate. A committee shall have 14 days from the date of notification of nomination to consider the nomination and report back to the House while the House will have seven days to consider the report and make its resolution.

Mr. Temporary Speaker, Sir, to ensure that each House complies with the stipulated timelines, Clause 9 of the Bill provides that after the expiry of the period of consideration and Parliament has neither approved nor rejected the nomination of candidates, the candidates shall be deemed to have been approved for appointment. Further, if either House of Parliament has neither approved nor rejected nomination of candidate, that House shall be deemed to have approved the nomination of the candidate and the other House shall proceed accordingly.

The Bill also clarifies that a candidate shall be deemed to be approved if the nomination is approved by both Houses. Therefore, if one House rejects a candidate, that nomination is deemed to have been rejected by both Houses. As a result, the nominating panel will be required to submit a fresh name for approval.

Mr. Temporary Speaker, Sir, one of the consequences of this Bill will be the recognition of the role of the Senate in all important processes of parliamentary approval of public appointments. By entrenching the vital role of the Senate in approval, the Bill will bring clarity in the procedure to be followed in due approvals such as the approval of the Inspector General of Police (IGP) and the Governor of the Central Bank of Kenya (CBK).

Mr. Temporary Speaker, Sir, with those few remarks, I beg to move. I request Sen. Elachi who is our Majority Whip to second this particular Bill. I thank you.

Sen. Elachi: Mr. Temporary Speaker, Sir, I rise to support The Public Appointment (Parliamentary Approval) (Amendment) Bill (Senate Bill No.9 of 2016). You will realise that for the past four years, we have had different appointments that have taken place in our country. The Senate is a parliamentary institution that also works very closely with different appointees that we have today. These include the Cabinet Secretaries (CS), parastatal board members and many others. Considering the work we do, we have to relate with others and keep the relationship.

Mr. Temporary Speaker, Sir, you will realise that most of the time when you meet a CS, for example, the fear they have for Members of the National Assembly is a different from Members of the Senate. The reason is the perception that vetting is done

by the National Assembly. Therefore, they believe that what the National Assembly says is supposed to happen. If the Senate speaks, it is as if you are negotiating and lobbying. I will give a critical example of the Kenya Airways. When the Senate conducted an investigation on the challenges facing the Kenya Airways, there was a conflict with a committee in the other House because of the same. Since the appointees or those who were supposed to manage certain areas are vetted by one House of Parliament, then they discover that they are not supposed to be accountable to this House but to the National Assembly. This is something we need to work around.

Among key institutions that serve both county and national governments are the CBK and the IGPs Office. As much as we have different levels of Government, more importantly, we have national security that is central and key and it has to remain a function of the national Government. Therefore, both Houses must have an opportunity to vet the person assuming office. The CBK has a governor. We have to ensure that they respect the CBK. Maybe we do not get it right and that is why we have such problems. I believe this amendment will resolve this problem. The key object of the Bill is to provide the procedure of parliamentary approval of constitutional and statutory appointees where the approval of both Houses is required.

The other example is the National Cohesion and Integration Commission (NCIC) which is concerned with peace building in this country. When we brought in the “Kaparo Team”, it was important for them to be vetted by both Houses. That was done by a joint committee comprising of Members of both Houses. We are now headed to an election. As Parliament, we have not appreciated that we are in a bicameral system where both Houses must be embraced. The Judiciary, the Executive and other institutions must also be involved. The Constitution provides that Kenya is has a bicameral system of Parliament. It is one thing that we fought for and I believe going forward, we must ensure Kenyans see the harmony that they felt that we will embrace this. The leadership of both Houses needs to embrace this and show that we can vet appointments of public officers.

I know some Members will start complaining and say that one House wants to take the job of the other. Both Houses should know that there is nothing like the job of the other House being taken. That is why even our packages are the same. The National Assembly should appreciate that Kenyans believed in both Houses when they passed the new Constitution. That is why the word “Parliament” appears in the Constitution more than 300 times than the words “Senate” or “National Assembly.” They believed that the spirit of this Constitution will guide the country and that Kenyans will respect the three arms of Government; the Legislature (The National Assembly and the Senate), the Executive and the Judiciary.

Mr. Temporary Speaker, Sir, this problem is not confined to the appointment of the Inspector -General of Police (IG) or the Governor of the CBK. I believe that this also affects the appointments done in Ministries and other sectors. In this Chamber, we have chairpersons who give us reports about those Ministries. If you look at the Ministry of Foreign Affairs, you find that the Senate plays a very minimal role. Most of the things that are passed by this House affect counties especially the counties at the border. In terms of service delivery, you find that the Senate has a minimal role. This is something we also need to talk about. When you engage those Ministries, most of them come because when you send them a letter, the letter of the National Assembly has more weight than the letter that will come from the Senate.

The Ministries must appreciate that in the new dispensation, we have two Houses of Parliament, each with its distinct role. So, we must ensure that both Houses of Parliament pass laws which do not cause any conflict. We need to appreciate that both Houses of Parliament have to work together to support the executive in ensuring that service is delivered to Kenyans.

Mr. Temporary Speaker, Sir, I would want to ask my sister; Sen. Adan Dullo, to look at Clause 9 on the failure of Parliament to act on nominations so that we do not have a conflict where we will start blaming each other. We have to ensure that, that amendment is captured clearly where we do not have anybody who will play a selfish game. As we go forward after the elections in 2017, God willing, I hope that the next Parliament will appreciate the laws that we have more than using what we put down on paper. That is when we can respect each other. I hope we will have a crop of leaders who will ensure that what Kenyans wanted was a bicameral Parliament that respects the spirit and letter of the Constitution they passed.

Mr. Temporary Speaker, Sir, on the issue of letters, we will respect whatever comes from the two Houses of Parliament, we can debate together and ensure that we do not drag ourselves so much in looking at Article Nos.113 and 115. It is our prayer that the next Parliament will transform our country.

Mr. Temporary Speaker, Sir, as I finalize, I want to thank Sen. Adan Dullo. She was part of the team that participated in the vetting of the IG. When you see this amendment, it is an amendment that says there is a problem. Therefore, we need to ensure that we deal with the problem by bringing out a clear amendment because it is not just today. Tomorrow, we shall have a different challenge within the same sector and we will need this statutory law to support us in ensuring – whether it is the IG or the Deputy IG or any other person – if it is the vetting that is supposed to be done by both Houses so that we do not have questions.

Mr. Temporary Speaker, Sir, you realize that we are creating a wall around our turfs because we believe when we enter that turf, we bring the political shenanigans that we play outside there even within our own space where we are supposed to work without looking at which party we belong to. We must now work as a Parliament because we have an oversight role to play. That time, it did not tell us we have a role to oversee as Jubilee Party. It is us, as Parliament. How can we create a conducive environment for our people to do business and feel that they have an environment where they can deliver services to our people?

I beg to second.

(Question proposed)

Sen. Karaba: Thank you very much, Mr. Temporary Speaker, Sir, for allowing me to contribute in support of this Bill. This Bill concerns the two Houses of Parliament. Whether it is to be amended or not, we are talking about Parliament. Whereas Parliament has been referred to many times as the two Houses; bicameral Parliament, there are instances where the Senate is seen to be out of the scene when some things are done particularly in the National Assembly. Some of these things done in the National Assembly are like the ones that we have here. That is the reason why the amendment that has been moved by Sen. Adan is pertinent. Without checks and balances, which are there in the Constitution, we cannot check what might happen in the National Assembly.

Mr. Temporary Speaker, Sir, in the absence of our participation, it is seen and concluded like some of the vetting and appointments that were done even before the Senate came into place, it is like it was supposed to be done by the National Assembly. I am happy that with this kind of amendment, we are going to include the Senate as a fallback position to compare us and the National Assembly.

Mr. Temporary Speaker, Sir, I would also imagine that if somebody was to be rejected through vetting by the National Assembly and that person is known to have done well countrywide and he has sympathy from the Senate, the Senate will not have any window to express its sympathy to this person who has been rejected by the National Assembly.

Therefore, it is important for us to reconsider the position of the Senate *vis-a-vis* that of the National Assembly. Going by what we observe in other countries and in other democracies, the Senate is the final voice of any country in case of any dispute. It is so because it is the Senate which is thought to be the final one, particularly in the impeachment proceedings. It can impeach the governor; it can impeach even the President and not the National Assembly.

So, if it is so articulate in the Constitution that the Senate has that role of impeachment, oversight and ensuring that devolution is implemented in the country, it is therefore, prudent that we need to understand that aspect of the law that is missing when it comes to vetting and the appointment of some of the public officers in the Government. Some of these public officers have been vetted; some of them have been humiliated by the National Assembly by asking them questions that are not relevant to their work. That balancing act can even send shockwaves to some of these officers in the field.

Mr. Temporary Speaker, Sir, they might be demoralized if they discover that some of the panelists who are interviewing them have inferior qualifications. So, it is important that this amendment is introduced so that even the members who will be involved in the vetting should have higher qualifications or same qualifications as the interviewees. If you go down to Members of County Assemblies (MCAs), you find an MCA who does not have a degree is interviewing somebody who has a degree and he is asking them irrelevant questions. The same thing can happen in the National Assembly.

If the same happens, then you find that we might lose a very important person who could run the affairs of this country. That is why we are now trying to reintroduce the position of the Senate. Therefore, the Senate is very important and it should be seen as a fallback position for anybody who can be rejected in the National Assembly. We take it that the Senate should be the final House to decide whether what the National Assembly has done is fair or not.

Of late, we have introduced the idea of having the Bills that originate from the National Assembly passing through the Senate. That is a very important introduction. That introduction has given the Senate power that was not there before and the Senators feel that they are obligated to discuss and come up with resolutions that can differ with the National Assembly. In cases where they differ, there is the Mediation Committee. If there is a difference between what the National Assembly finds out through vetting, the difference is to be registered between that House and the Senate, then the Mediation Committee will solve the problem.

That is why it is important for us to be involved. This is because without such involvement, then the victim will be the person who, otherwise, would have passed if the

Senate had put its stamp on. That is why we are saying that the amendment through this Bill is very good. It is a very good introduction because it will act like a supreme organ such as the High Court or Supreme Court. That is how it is even in the Judiciary where somebody will seek remedy or further hearing in the Supreme Court if he will not be satisfied with the lower court. The same case should be developed in the House.

This House is called Parliament which is made up of two Houses. It is very hard for anybody else out there to know whether it is the National Assembly which has done that job or whether it is the Senate. Now that we have a bicameral Parliament, why do we not give full powers to the bicameral system instead of giving it half-way? When we allow the National Assembly to continue without involving the Senate, the bicameral aspect will, therefore, be missing in the final aspect of such a decision which will have been arrived at by the National Assembly.

I would suggest that we continue with this kind of amendment. It should be appreciated that without the Senate, not much would happen from the National Assembly. We are the people who should be saying how and what the Senate should be doing. We should be able to compare ourselves largely with what happens with the other democracies in the world. We should compare ourselves with America, India, Britain and many others. Some of us have been to these countries and have learnt a lot. The Senate should then be the final House. If anything comes from the National Assembly, it should be seen like it is coming to the final House for decision making because this is a House of records and with very serious Members.

This is a good move and the introduction should not be watered down. It is a spirit towards the right direction and it will harmonise the feeling of both Houses. It is something that should go on record for having been introduced in the first Senate of the Second Republic of Kenya. As we go for the elections, people should get to know that the National Assembly and the Senate work together and that is why we have the bicameral system. It should also be known that we have an understanding that there is nothing that can go undebated by the Senate or can escape the attention of the Senate. This is important and it should emphasize the vital role of a Senate.

We should be comparable to other democracies. If that is the case, we need to assert ourselves in the establishment and it should be entrenched totally so that nobody would be seen as being above the Senate. This is how we will entrench our power in the democracy and in the bicameral Parliament.

In this case, we hail the Senator from Isiolo for having come up with this kind of amendment. I would ask us to compare and see how other countries and democracies have progressed through this kind of introduction. We have benchmarked in other countries and have always asked ourselves why those countries are ahead of Kenya. The most important parameter is the democracy.

Now that we are talking about the legislature and a bicameral Parliament, we should, indeed, have a bicameral Parliament, bicameral activities, bicameral contribution and bicameral characteristics. We should not be seen as being shy when we talk of a bicameral Parliament. What we do should be the same as what happens in India, Korea, Japan, America and other places. When we do that, we will have a progressive country and will be seen like a destination not just in East Africa or Africa, but the world at large.

I support.

Sen. Wangari: Thank you, Mr. Temporary Speaker, Sir. I want to start by congratulating my colleague, Sen. Adan, for introducing this crucial Bill and amendment. Throughout this term, we have suffered from ego and not an issue of the letter of the constitution or the spirit. That is what has necessitated this amendment because we have had a ping-pong approach to matters between the Senate and the National Assembly that are unnecessary.

Whenever the Constitution touches on Parliament, it does not require one to be a lawyer to understand or to interpret it to mean Parliament. We have fought this war and we have even gone to the Supreme Court on several matters to seek an advisory opinion and the law has always been on our side. The issue of the vetting of the Inspector General was one issue that brought this ugly face on us. We have always believed that you permanently sit on a position which is not the case.

The treatment we have gotten from the National Assembly as a Senate has been belittling and embarrassing. It is only fair to say that this Senate has worked very hard to maintain the relationship and it has been the sober big brother. However, the nature of the relationship has also necessitated that we touch on a few issues that are of legal nature, including this Bill.

This Bill is a simple amendment. However, it has a lot of weight to the issues that are here. In the nomination of candidates, it gives clear timelines. That is one thing that I like about this Bill. If a Bill originates from the National Assembly, it has to come to the Senate within three days. That will take care of the issue of delaying where we have had cases of a Bill delaying until its time elapses or there is a crisis. It also stipulates that within three days even after rejection, the nominating authority is communicated to so that they can replace. I am happy with the timelines because sometimes we have seen it happen and cause an unnecessary crisis.

In Clause 7, the Bill provides for the issue of rejection. If you do not reject or approve, it is deemed to have been approved. Even if it is one House – that the National Assembly approves or the Senate does not approve after a few days, that nomination is deemed to have been approved. That is very crucial so that we are also aware that we cannot sit on a nomination and wait forever.

Mr. Temporary Speaker, Sir, the relationship that we have had with the National Assembly shows that we have not looked beyond our noses. We have had people who have looked just “here, at the nose level”. Of course, this has gone down after they realized their mistake. Perhaps they will find themselves in this House after the next elections. Some of us will be in the National Assembly. I say so because we must make laws that will stand the test of time; for posterity. After 50 years, people will look at the books of history and see that you made a contribution. The statistics in Parliament do not lie. More than 70 per cent of us will not come back. We must drill this into the heads of people who have made sure that they derail the cooperation between the two Houses; from the leadership to the membership.

We must realise that seven out of 10 of us will not come back. That has been proven over time. So, we must make laws considering other people who will be sitting in the positions we are occupying today. If we do that, we will not have issues that we are dealing with every day; the ping pong not only on appointments but even on the passage of Bills. For instance, with the Bill that I sponsored and was signed into law, people were congratulating me that it was signed yet it was a Bill I had authored in 2013. I had to

personally follow up to find out where it was stuck in the National Assembly. It is not supposed to be that way. Bills are supposed to have a clear timeline. When a Bill takes such a long time, it should have a self-enactment date; that it is deemed to have been passed. We have Bills that are stuck in the National Assembly, yet we here in the Senate are very good and we fast-track Bills that belong to the National Assembly. This is a very good Bill. I hope that sense has sunk into the heads of the Members of the National Assembly so that they support this amendment without being shortsighted to look at where they sit today.

[The Temporary Speaker (Sen. (Dr.) Machage) left the chair]

[The Temporary Speaker (Sen. Mositet) took the Chair]

We are just 10 months to the elections. Some of us will be going home, to other occupations, positions or portfolios. We must look at this country 20 or 30 years to come. I congratulate Sen. Adan for this very good Bill. I hope it will get the support of not only this House but the National Assembly so that we can unlock the deadlock that we have suffered for the last three years, and appointments are done in the proper way. Where Parliament is supposed to approve, it is the two Houses that should do so.

Mr. Temporary Speaker, Sir, if you look at different jurisdictions, for instance, Brazil and the United States of America (USA), the Senate is the sober House. Of course, we have acted that way but the law has not been very friendly to us. We have been treated as a second class House of Parliament. We have swallowed that for a long time. However, I hope sense has sunk. We can pass this Bill to unpackage Parliament. The framers of the Constitution were very categorical. They avoided touching on the Senate alone and the National Assembly alone. It was meant to embrace the bicameral structure of Government. Can we have that for our children who will be here 30 or 40 years to come? We should embrace this Bill and pass it.

Mr. Temporary Speaker, Sir, I congratulate Sen. Adan.

With those remarks, I beg to support.

The Temporary Speaker (Sen. Mositet): Since there is no other request, I call upon the Mover to reply.

Sen. Adan: Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to reply.

First, I congratulate my colleagues for the contribution they have made to this Bill. I believe this is an important Bill. The principal law was enacted much later after the Constitution came into force. Clearly, this shows how the National Assembly was not interested in involving the Senate in the appointment of senior citizens of this country.

The National Assembly will realise that this is important and see the need for the Senate to contribute to the nomination of the leadership in this country; especially for those who are important to the county Government, for instance, the Cabinet Secretary for Devolution and Planning. It is important for this Senate to interview the nominee for the post of Cabinet Secretary for Devolution and Planning because much of his or her mandate touches on the county government.

Apart from that, this practice is carried out all over the world. This is very important. The Senate of Kenya should not be left out in vetting senior state officers as

required by the Constitution. This especially touches on where it states that Parliament should vet. There is no reason why the Senate should be left out. I appeal to the National Assembly to see the seriousness and importance of this Bill and approve it.

Mr. Temporary Speaker, Sir, finally, I request you to defer putting the question to tomorrow, pursuant to Standing Order No.54(3).

The Temporary Speaker (Sen. Mositet): I defer putting of the question as requested by the Mover.

(Putting of the question on the Bill deferred)

Next order!

(The Temporary Speaker consulted the Clerk-at-the-Table)

Order, hon. Senators. The Clerk-at-the-Table did not realise that the Mover of Order No.17 is ready. So, can you read the next order?

Second Reading

THE SELF HELP ASSOCIATIONS BILL (SENATE BILL NO. 2 OF 2015)

Sen. Wangari: Mr. Temporary Speaker, Sir, I beg to move that the Self Help Associations Bill (Senate Bill No. 2 of 2015) be read a Second Time.

This Bill is quite critical for one reason. In our country, we have made an impact on groups and organisations; be it Community Based Organisations (CBOs), Self-Help Associations, women groups, youth groups *et cetera*. Most of the monies that come from the Government use that channel to be channeled to the communities. We have had a problem. When you register a company, it is done under the Companies Act; when you register a society, it is done under the Societies Act but when you register a self-help association, there is no law or legal framework that governs that registration. The only interaction that the Government has with the groups is when they issue, review or renew a certificate. Therefore, the main role of this Bill is to give a regulatory and registration framework that will help these groups.

Mr. Temporary Speaker, Sir, we have about 1.3 million groups in this country which is a large number. If this transformation that has been brought through the huge amounts of monies that have come through the groups can be seen, then we should see proper transformation. We should also monitor whether groups that got monies five years ago are still in existence today. That is not happening. So, the death of groups is higher than the registration. In fact, out of the 1.3 million groups, maybe about 600 are active.

We do not have a register of all the self-help groups in the country. In fact, groups just register to access *Uwezo* Fund and after that, they close shop. It then loses the meaning and the focus of what groups are supposed to do. Of course, we cannot have all of them active but we need a regulatory framework of capacity building and community development. This is because the Ministry has been charged with that mandate; that you

do not just register but you need to make a follow-up to see if that has made a difference in that community.

Monies have come through different organisations like *Uwezo* Fund which is governed by a Member of Parliament (MP). If I am an MP, I may just decide that this ward did not vote for me and so I will not pick groups from that ward. Even if I do, who will be the members of that group? I will make X the chairman of this group, Y the secretary and Z the treasurer. In another group, Y is the chairman, Z the treasurer. So, this money will revolve around these people; an elite kind of engagement. That means that the records will show that the money has gone to 30 groups but who are the members of the group? How come you can access money from different groups and no one notices? You will find me in four groups and because I can access or I am the son or daughter of the MP, I will access every *Uwezo* Fund tranche that comes every year through the four different groups that I am in. That can only be reduced or removed when we make the management of groups to be subject to regulation and scrutiny.

This Bill, therefore, looks at how this has been organised before. Of course, we have the District Social Development Officers (DSDOs) at the county level but they are not enough. We need them to act as registrars of groups. We have looked at this Bill and I have talked to stakeholders. We have also had meetings with the Ministry of Labour and Social Welfare and held many public participation retreats on this Bill. This is a concern for every person that I have talked to. The Ministry, of course, agrees that this has been lacking. However, they have also been skeptical on how we involve counties.

Mr. Temporary Speaker, Sir, my argument is very simple. These groups are not in Nairobi but at the counties. So, we must include them in the management of the groups. That is why I link County Executive Committees (CECs) and you can see the role of the CEC in charge of the county. In fact, even the Council of Governors (CoG) has given its memorandum on the role that they would like to play and which we have looked at as a Committee. I have taken the appointment of registrars to the Public Service Commission (PSC) and I have given the requirements in Part 2 on the appointment of registrars and the registration. I had limited to 40 people in a group but I have since had very interactive sessions with members of the public and they feel that there are some welfare or Community Based Organisations (CBOs) that need to have more than 40 people. So, that is one amendment that we will do and not limit the number of members in a group.

The issue of radicalization also came up during public participation to insulate the groups from misuse by different organizations in doing illegal activities, whether inside or outside the country.

Mr. Temporary Speaker, Sir, the registrar has been tasked not only to provide model documents and code of conduct for good practice for groups but also to be involved in capacity building. When we give money and we do not educate members of the public on the spending, what it translates to is that we will be in a group of 40 and when we get Kshs40 000, we share it among ourselves. At the end of the day, there is no economic empowerment which is what the groups were meant to do. That is why out of Kshs1.3 Million groups, if a group audit is done, it will be found out that out about 600 are active this year, and a similar number will be registered next year. Therefore, we continue to register new groups without monitoring what the already registered ones have achieved.

We should follow up on the group for the next five years so that we see that in their capacity building, where they were yesterday, they are not there today. Yesterday, we were in State House and I was a panelist in the State House Youth Summit. We were considering the billions of shillings that have been disbursed to groups and companies owned by the youth and women. It will shock you that few groups know that they can access Government Procurement Opportunities certificate (AGPO) and register a business.

Mr. Temporary Speaker, Sir, as we boast that we have revolutionised the issue of community development, if an audit is done, you will be surprised that these groups do not move at all from where they were. There is no meaningful development that can be seen.

Part 4 of the Bill provides for the National Steering Committee on Community Self-Help Development. This is meant to be a linkage between the Ministry and the groups because we do not have anywhere to get the groups' complaints. The Ministry was defensive that it was doing it but there is a gap. This development has not been felt. We have tried to convince the Ministry on this issue because we feel that if this is replicated at the counties, it will help the groups in terms of management, functioning and regulations.

Mr. Temporary Speaker, Sir, this Bill is simple. Some of the amendments proposed through public participation require an insertion of a new part at Third Reading. One of them is on group mobilization, development and management. This is what we borrowed from the Ministry's experience and from the stakeholders and the practitioners. When there is a conflict in a group, it should be reported in writing to the assistant registrar of the sub-county before it is received at the national level.

The role of the county cannot be over-emphasized. We cannot have groups and exclude the county government and from the Senate point of view, it is not negotiable. We have told the Ministry as much, and I have defended that. We cannot say that because we coordinate groups from Nairobi and few are in Nairobi. Every county must have a role. The County Executive Committee (CECs) members in charge of social development must be involved in that regulation and community mobilization.

Mr. Temporary Speaker, Sir, self-help association has been a contentious one. We feel that we will need to call it Group Development and Management. This Bill provides a legal framework to have the groups organised so that they are useful to the people. We cannot continue to pump billions of money without seeing any tangible improvement in terms of their lives. The sector is worth of billions of shillings and it is shocking that it is that big. It can be meaningful if we see success stories from those that have already benefited from it. We must separate the issue of the monies and politicians, I being one of them. I am one of them because when *Uwezo* Fund and Youth Development Fund are anchored in the Member of Parliament's office, that MPs will register groups of their supporters so that they can benefit from the monies and deny others who did not support them.

The Temporary Speaker, Sir, we must look at the framework of how we will deal with that issue so that we give every young person, persons with disability and women an opportunity to form a CBO or a welfare group and benefit from these funds. These are not personal monies, but Government funds. We want them to benefit, whether their MP

or governor was re-elected or not. That way we would be able to act in the interest of the members of the public.

Mr. Temporary Speaker, Sir, I request Sen. Karaba to second, and I pray that the Members support this Bill.

Sen. Karaba: Thank you, Mr. Temporary Speaker, Sir. I stand to support The Self Help Associations Bill (Senate Bill No.2 of 2015) as moved by Sen. Wangari. What the Senator has said is true. What has been happening in this Parliament is very true with regard to taking stock and audit of what we say in this House and the National Assembly. I was a Member of Parliament of the Ninth Parliament for Kerugoya/Kutus Constituency. Today, it is known as Kirinyaga Central Constituency. During that time when we were Members of Parliament, we drafted quite a number of Bills. One of them was the Constituencies Development Fund (CDF) Bill which went along to help constituencies in terms of development.

The practice has been money is allocated to a certain MP in a given area for development. The MP is supposed to come up with proposed projects which will be funded by the CDF which is established in this House or the "Lower" House. However, when that money is allocated, it belongs to the Member of that constituency. That is why you are finding it is very hard for the Senate to survive because it has no money to operate on its own. However, Members of National Assembly control CDF. Surprisingly, when it was passed, we were not allocated money in the first year of 2003. The first batch came in 2004 which was only Kshs6 million. By the time, the Ninth Parliament was dissolved, we had not even gotten more than Kshs50 million.

Today, an MP is taking to the constituency over Kshs100 million every year while on our part, we only took Kshs50 million to our constituencies in five years. They could even take more as that is the least they could take to the constituency. So, a Member could craftily say that he has Kshs100 million Fund, another one has Kshs120 million or Kshs150 million or Kshs160 million. It could go up because there are so many other funds that the MPs would like to hold like it is their funds. That money was given discriminately; it was given to whoever was in a position to influence for more money. Some constituencies are given about Kshs10 million or Kshs20 million depending on how well they negotiate, while other constituencies get nothing.

Mr. Temporary Speaker, Sir, what the Senator is articulating is true. We need to account for whatever penny that the Government gives out for any development in the country because if all the monies were to be used properly in every constituency, sub-county and county, we would be talking of a developed country. However, we have some mischievous Members who use that money for campaigns. I am sure that the money that will be allocated to some Members this year will not be used for any development. They will use it strategically to ensure that they are re-elected. They will target regions and people who are opposed to them and their competitors. In essence, this money has been 'put to waste' in the sense that it will not go to the intended projects and purpose. That calls for our intervention through this Bill.

Therefore, if this Bill is passed, it will take care of projects that have been neglected and which have stalled because a certain Member of Parliament who came after the other one was not able to complete them or he or she wants to appear like they are the ones who started, funded and completed the projects. There are so many white elephant projects all over. Some projects are half way complete and due to vagaries of

weather and climatic changes, they are reduced to nothing, leading to loss of colossal amounts of money.

We should start by introducing the audit which is already captured in the Bill because there are many incomplete projects. For example, I started quite a number of projects, but the Member of Parliament who came after me started his projects. What will happen if the current Member of Parliament is not re-elected in the coming elections? It would mean that whoever will be elected will also start his or her projects. We need to have a clear policy on what the Government should do with some of the projects that were started and are not complete.

Therefore, this Bill should be taken seriously. We should not just talk and do nothing when there is a lot of money going to waste. The custodians of this money are not serious. The Members are only interested in being re-elected on the strength of the money that they have given to these groups. They will make sure that the leaders of these groups are properly funded and compromised, so that come the next elections, they will be singing to the tune of the Member of Parliament or governor.

I would suggest that a fresh audit be conducted with regard to the money which has already been given out to various groups, whether self-help groups or various individuals. Nobody should be allowed to start another project before completing the earlier ones. If the former Member of the National Assembly, Senator or governor is not re-elected into office after his or her term, the successor should continue with the projects that were already started by the former representatives. That is what will make us not to lose more money. In some places, you will find half-done *Nyayo* wards, but nobody is bothered about them. You will find hospitals that were started by other Members of Parliament that have not been completed. In certain cases, a hospital is complete but there are no drugs or personnel. Some of the governors are not even funding dispensaries in the constituencies.

With the mood that I sense in this Bill, it is important to have an implementation policy committee. I think we have one which should tell us the number of incomplete projects in every county and constituency. This is so that if money is given for it to be completed, there must be a report on the projects that were not completed by the time the Member of Parliament left office and the incoming Member of Parliament should be given money to complete those projects. Otherwise, it will stall forever. That is what this Bill is trying to prevent.

This Bill has come at the right time, more so when we are going for elections. Members of the Senate do not enjoy this kind of monetary benefit like the governors, Members of Parliament and the women representatives who are given money to spend on the various community groups. Since the Senate has not been given anything, people should know that as we go to elections, they should not ask a lot of money from us. They should ask for accountability for the money given to the Members of Parliament, women representatives and governors.

Mr. Temporary Speaker, Sir, I ask the Senate to support this Bill by Sen. Wangari as it is. We have a serious approach to this issue, because a lot of money has gone down the drain and we are going to avert that situation. The only way to do that is through this Bill.

I beg to second the Bill.

(Question proposed)

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir I congratulate Sen. Wangari for this Bill that she has brought many years late. I do not know whether there is a Bill that she consulted that had been written on the same before. If there is none, then we lost it from the beginning because I am told that in 1963, in Uhuru Park, the late Mzee Jomo Kenyatta announced three things. He said that; from now, we will say “Harambee.” That was meant to assist and build one another and that is the motto for self-help association. We did not capture the spirit of the moment so that we translate this into a law which was to govern whatever was taking place.

Mr. Temporary Speaker, Sir, I am told that there was a time during either the Eighth or Ninth Parliament that decided to focus on harambee only. They declared that people should not be giving out money but this is what is happening every day. Even as we speak right now, there are very many groups in the villages and rural areas that deal with their own self-help groups.

There is a group called SILK - I do not know its meaning in full. It has now become like a movement. There is another one called Table Banking. It has very many youth and women groups and so on. This is the spirit because such groups put people together in rural areas found in the counties. For that reason, I will ask Sen. Wangari not to propose to anchor this in the national arena because this is a grassroots movement. Part 2 says that there shall be a registrar and deputy registrar that shall be competitively sourced by the Public Service Commission. This should now be left to County Public Service Boards (CPSB) because that is where the real business takes place. It should be removed from the national arena except for the regulations that will be used to manage and monitor these groups from the national Treasury.

Having some employee who will lord it over the people in the counties, just like we have had cases of some parastatals cannot assist. If this becomes law, we will see a lot of groups. Villages form a ward and every ward will have this type of movement. Every governor – I cannot see potential governors here – should look at this in order to create a cooperative Bill in their counties. They should set aside not less than Kshs200 million or Kshs500 million per year which will be given as loans to some of the groups because we want to eliminate poverty and make equity the strength of the nation. Because our people are associated with this and they want it to happen, this is very timely. The activity is already taking place but there is no way of managing it.

I ask the Mover to continue looking at this from the perspective of the county. When it is through, we may need to talk to the Council of Governors (CoG) to see how their input could come in. I know a number of governors will be going home next year. We have eight months to go but they would have already contributed. There will be amendments at the Committee of the Whole which will also be addressed during Third Reading.

Mr. Temporary Speaker, Sir, I support this wholeheartedly and ask my colleagues to also support it.

The Temporary Speaker (Sen. Mositet): I now ask the Mover to reply.

Sen. Wangari: Mr. Temporary Speaker, Sir, I want to start by appreciating the Secunder of the Bill, Sen. Karaba, and Sen. (Prof.) Lonyangapuo for his wisdom. The canvassing of the role of the county governments has actually been an ongoing process.

In fact, this Bill was listed on the Order Paper but on request of different stakeholders including the Ministry and the CoG, I stepped it down so that we could engage in a more constructive discussion. We have had submissions of memoranda from the CoG. I totally feel and agree with what Sen. (Prof.) Lonyangapuo has spoken about because this movement is basically at the grassroots level.

Mr. Temporary Speaker, Sir, I am very appreciative of the process. I hope that this Bill will be supported. To respond to Sen. (Prof.) Lonyangapuo, that is why I was saying this Bill is many years late. In fact, Sen. (Prof.) Lonyangapuo, if you register a company, you register it under the Companies Act but this group had no legal framework under which it is anchored. The Ministry has been developing something but we were able to convince them that this Bill has already taken care of that and that they should put their input to what we already had as a framework so that we can be able to enrich it. I think that is what has happened. We have not agreed on everything but we have reached a consensus on some of the issues that will touch on the third reading.

So, Mr. Temporary Speaker, Sir, I want to confirm that I will look at the amendments as we take it to the committee stage.

With those few remarks, I beg to move.

The Temporary Speaker (Sen. Mositet): Do you intend we vote or put the question?

Sen. Wangari: Mr. Temporary Speaker, Sir, I beg that you defer the putting of the question to tomorrow, pursuant to Standing Order No. 54 (3).

The Temporary Speaker (Sen. Mositet): Okay, I defer putting of the question.

(Putting of the question on the Bill deferred)

Honorable Senators, the next order No. 19, the owner of the Motion had requested that it can be put for debate tomorrow. For Order No. 20, we do not have Sen. Khaniri in the House. Also order No. 21; we do not have Sen. (Eng.) Muriuki in the House.

MOTIONS

RENEWAL OF THE MANDATE OF THE COMMITTEE INQUIRING INTO THE POLICY AND LEGISLATION ON THE TREATMENT OF PRISONERS AND DETAINED PERSONS IN CORRECTIONAL FACILITIES

THAT, AWARE that the Senate resolved to establish a select Committee comprising eleven (11) Senators to inquire into the policy and legislation on the treatment of prisoners and detained persons in correctional facilities in Kenya on 22nd October, 2015;

APPRECIATING, that the mandate of the Select Committee lapsed and the Senate extended the same for forty five days on 7th April, 2016;

REGRETING, that due to heavy workload and sheer magnitude of the assignment, the Committee is yet to table its report in the House and requires more time to conduct a further and thorough inquiry into the subject matter of its mandate;

NOW THEREFORE, the Senate resolves to renew the mandate of the committee by a further period of thirty (30) days to enable it conclude its work and table its report in the House.

COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS
IN ALL PUBLIC SCHOOLS

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

INSTALLATION ON CCTV CAMERAS IN ALL POLICE STATIONS
AND POLICE POSTS IN THE COUNTRY

THAT, CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to

- (a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

(Motions Deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Wednesday, 5th October, 2016, at 2.30 p.m.

The Senate rose at 6.30 p.m.