

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 9th November, 2016

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

[The Speaker (Hon. Ethuro) in the Chair]

PRAYERS

STATEMENTS

STATUS OF CASH TRANSFER PROGRAMME

The Speaker (Hon. Ethuro): If the Chair of the Committee is not around, let us have the Senate Majority Leader issue the Statement that was requested by Sen. Musila. If he is not, we will come back to it later.

(Statement deferred)

Sen. Leshore: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Leshore?

Sen. Leshore: Mr. Speaker, Sir, I would like to seek a statement from the Chairman of the Committee on National Security and Foreign Relations.

The Speaker (Hon. Ethuro): Proceed.

KILLING OF FOUR MORANS IN SAMBURU NATIONAL GAME RESERVE

Sen. Leshore: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the killing of four morans, allegedly by the Samburu County Government rangers, in the Samburu National Game Reserve.

In the statement, the Chairperson should:-

(a) Explain the circumstances under which the four morans were killed and two others injured allegedly by the Samburu County Government rangers on 27th October, 2016;

(b) Indicate if any meetings were conducted between the Samburu County Government senior officers and the Samburu Community prior to and after the incident and the outcome of the meetings.

(c) Explain the steps that the Samburu County Government has taken to ensure that peace prevails within and around the Game Reserve.

(d) State what action, if at all, has been taken against the suspects who committed the heinous crime.

(e) Clarify whether the County Government of Samburu met the funeral expenses of the deceased and other expenses incurred by the other two morans who were injured in the incident and are being treated at Isiolo County Referral Hospital.

The Speaker (Hon. Ethuro): The Chair, Sen. Haji.

Sen. Haji: Mr. Speaker, Sir, I will give a response next Thursday.

The Speaker (Hon. Ethuro): So ordered.

Let us have Statement (b) issued.

LEADERSHIP CRISIS AT MOI UNIVERSITY

The Speaker (Hon. Ethuro): Let us have the Chairman of the Committee on Education, Sen. Karaba

Sen. Karaba: Mr. Speaker, Sir, I now have the answers to the questions.

The Speaker (Hon. Ethuro): Order, Sen. Karaba, proceed to answer.

Sen. Karaba: Mr. Speaker, Sir, the first question was why two governors and some Members of Parliament (MPs) raided Moi University and whether criminal proceedings are going to be preferred against them. The answer is that the two governors and some MPs stormed Moi University to protest the appointment of Prof. Laban Ayiro as the Acting Vice Chancellor of the University who took over from Prof. Richard Mibey who has since retired. I am not aware whether criminal proceedings are going to be preferred against them as this is the work of the Director of Public Prosecutions (DPP) to decide after evaluating the evidence gathered by the investigating agencies.

The second question was about ethnic composition of staff and especially at senior management level in all public universities. The ethnic composition of senior management level comprising of Vice Chancellors, Deputy Vice Chancellors, Principals and Deputy Principals is as indicated in the table below.

Community/ Ethnic Group	Vice Chancellors	Deputy Vice Chancellors	Principals	Deputy Principals	Total
Kikuyu	3	14	1	2	20
Luhya	4	12	1	5	22
Kalenjin	1	8		2	11
Luo	5	4	1	2	12
Kisii	1	5	1	1	8
Meru	3	4	1	1	9
Kamba	3	4	1	1	9
Somali			1		1
Digo		1	1		2
Taita		1			1
Swahili	2	2			4
Giriana		1			1

Maasai		1			1
Suba		1			1
Kuria		1			1
Teso	1				1
Other		1			1
Total	23	60	8	14	105

Sen. Leshore: On a point of order, Mr. Speaker, Sir. Is the Chairman in order to say three Kisiis, five Kikuyus, five Luhyas and so on? Are they not Kenyans or were they employed based on tribalism?

Sen. Sang: On a point of order, Mr. Speaker, Sir. This is a Statement that we sought in this House and we asked for those details. Therefore, Sen. Leshore should---

The Speaker (Hon. Ethuro): Order! Sen. Sang!

Sen. Sang: Mr. Speaker, Sir, my point of order is that since the Chairman is giving us statistics, could he move a bit slowly so that we note especially the statistics that he is just releasing?

The Speaker (Hon. Ethuro): Sen. Karaba, proceed because Sen. Sang now has a copy.

Sen. Ongoro: On a point of order, Mr. Speaker, Sir. I need to be informed because I am not aware whether we have an ethnic group in this country referred to as "Ruos." Which community is this?

(Laughter)

The Speaker (Hon. Ethuro): Sen. Ongoro, I wish I could be of assistance but it is a bit difficult to change the pronunciation of a man of Sen. Karaba's stature and longevity.

Sen. Karaba: Is there another different pronunciation?

The Speaker (Hon. Ethuro): Chair, proceed.

Sen. Karaba: I was in the column of deputy principals and you can follow the table.

Sen. Haji: On a point of order, Mr. Speaker, Sir. Do we have a tribe called "Swahili?"

The Speaker (Hon. Ethuro): Retired Justice, Sen. Madzayo and the Chair of the Committee on Labour and Social Welfare, please answer that.

Sen. Madzayo: Mr. Speaker, Sir, let me confirm that there is no tribe called "Swahili."

Sen. Karaba: Mr. Speaker, Sir, I got this one from the Ministry of Education. Maybe they were referring to the Mijikenda.

Mr. Speaker, Sir, the third question was about whether there is a clear policy and criteria for appointing vice chancellors and senior staff in all public universities.

Mr. Speaker, Sir, the vice chancellors and other senior university officers are appointed through an open and competitive process that involves advertisement of the posts in the printed and electronic media of wide national circulation and in the universities' websites.

The advertisement outlines the duties and responsibilities of the advertised posts, the academic and professional qualifications of the candidates, experience and publications among other information. Once the applications are received, the shortlisting panel develops shortlisting criteria that are used to identify the candidates to be invited for all interviews for the position. The shortlisted candidates are then interviewed by the full Council and the names of the best performing three candidates are forwarded to the Cabinet Secretary for appointment for any of them in the case of the post of Vice Chancellor, the Deputy Vice Chancellor, Principal or Deputy Principal of a university and its constituents.

Mr. Speaker, Sir, in case of other positions, the Council approves the appointment of the best merited candidate.

The fourth question is about the list of all the Vice Chancellors in all the public universities. I have the list of 30 Vice Chancellors as listed below:-

No	University	Vice Chancellor	Sex	Highest Academic Qualification	County	Ethnic Affiliation
1.	University of Nairobi	Prof. Peter Mbithi	M	PhD	Machakos	Kamba
2.	Moi University	Ag. VC. Prof. Laban Airo	M	PhD		Luhya
3.	Kenyatta University	Ag. VC Paul K. Wainaina	M	PhD	Nakuru	Kikuyu
4.	Egerton University	Prof. Rose Mwonya	F	PhD	Siaya	Luo
5.	Jomo Kenyatta University of Agriculture and Technology	Prof. Mabel Imbuga	F	PhD	Vihiga	Luhya
6.	Maseno University	Prof. Juluis Nyabundi	M	PhD	Siaya	Luo
7.	MasindeMuli ro University of Science and Technology	Prof. Fred O. Otieno	M	PhD	Kakamega	Luo
8.	DedanKimat hi University of Technology	Prof. P. Ndirangu Kioni	M	PhD	Nyandarua	Kikuyu
9.	Pwani University	Prof. Mohamed S. Rajab	M	PhD	Mombasa	Swahili
10.	Technical University of	Prof. (Dr.) Ing. Francis Aduol	M	PhD	Kisumu	Luo

	Kenya					
11.	Multi-Media University of Kenya	Prof. Festus Kaberia	M	PhD	Meru	Meru
12.	University of Kabianga	Prof. Wilson Kipngeno	M	PhD	Kericho	Kalenjin
13.	Technical University of Mombasa	Ag. VC Laila U. Abubakar	F	PhD	Mombasa	Swahili
14.	Chuka University	Prof. Erastus N. Njoka	M	PhD	Tharaka-Nithi	Meru
15.	Kisii University	Prof. J.S. Akama	M	PhD	Kisii	Kisii
16.	Maasai Mara University	Prof. Mary K. Walingo	F	PhD	Kakamega	Luhya
17.	South Eastern Kenya University	Prof. G. M. Muluvi	M	PhD	Makueni	Kamba
18.	University of Eldoret	Prof. Teresa Akenga	F	PhD	Vihiga	Luhya
19.	Karatina University	Prof. Mucai Muchiri	M	PhD	Nyeri	Kikuyu
20.	Laikipia University	Prof. F. K. Lelo	M	PhD	Machakos	Kamba
21.	Jaramogi Oginga Odinga University of Science and Technology	Prof. Stephen G. Agong'	M	PhD	Siaya	Luo
22.	Meru University of Science and Technology	Prof. Japheth Magambo	M	PhD	Meru	Meru
23.	Kibabii University	Ag. VC Prof. Isaak I. Odero	M	PhD	Bungoma	Teso
24.	Embu University College	Ag. VC Prof. Daniel Mugendi Njiru	M	PhD	Tharaka-Nithi	Meru
25.	Taita Taveta University College	Ag. VC Prof. Hamadi Iddi Boga	M	PhD	Kwale	Digo
26.	Cooperative University	Ag. VC Douglas Shitanda	M	PhD	Kakamega	Luhya

	College of Kenya						
27.	Murang'a University College	Ag. VC Dickson Nyariki	M	PhD	Kisii	Kisii	
28.	Kirinyaga University College	Ag. VC Mary Ngung'u	F	PhD	Nakuru	Kikuyu	
29.	Machakos University College	Ag. Prof. VC M. Mathooko	M	PhD	Machakos	Kamba	
30.	Rongo University College	Ag. VC Samuel Gudu	M	PhD	Homa Bay	Luo	

Mr. Speaker, Sir, those are the 30 universities. I have answered as per the question.

The fifth question is when the results of appointment of the Vice Chancellor for Moi University will be disclosed. The Ministry is currently finalising the development of the regulations and guidelines to govern the recruitment and appointment of Vice Chancellors and other staff in universities and the university constituent colleges. Once the regulations are placed in the Kenya Gazette, the Ministry will advise university councils to follow the process in filling all vacant posts including Moi University.

As indicated in the Ministry letter dated 18th October, 2016, the appointment of the Vice Chancellor for Moi University will be disclosed to the public as soon as the due process which is currently going on is concluded.

Thank you.

Sen. (Dr.) Khalwale: On a point of order, Speaker, Sir. I did not want to interrupt the Chair but I thought as a matter of record, we should set the record clear.

Mr. Speaker, Sir, there has been an allegation here that there is no tribe in Kenya called Swahili. We are misleading the nation. We are misleading the nation because the proud Swahili people are defined as the first Cushitic herdsmen to settle on the East African Coast and thereafter they intermarried with Bantu tribes to form the Swahili tribe that speaks the Kiswahili Language. That is according to the dictionary.

.....(*Words expunged at the order of the Speaker*)

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! All those statements you have made, except the latter will be expunged. This is because you stood on a point of order to talk about the Swahili people. You then went to ahead talk about Kakamega, its population and its number of PhDs holders as if you are in the real business of contrasting yourself with the rest of Kakamega County residents.

With regard to the Swahili people that is not enough basis for us to accept. You need to produce another authority which is competent enough for us to accept rather than reading from your phone and claiming it is a dictionary which I have not seen and verified. That is also out of order and you know it better, Sen. (Dr.) Khalwale.

(All the debate arising from Sen. (Dr.) Khalwale's remarks on the Statement

on Leadership Crisis at Moi University was expunged from the record of the House proceedings as ordered by the Speaker)

Sen. Sang: Mr. Speaker, Sir, I want to take this opportunity to congratulate the Chairman of the Committee on Education because of the details that he has managed to give us in this particular response. However, there are a few other clarifications I would like to hear from him. First, in the previous response, the Chairperson had indicated that Moi University had two substantive Deputy Vice Chancellors. However, Prof. Laban Ayiro was not one of them. I asked him to clarify what position Prof. Ayiro held in the university and why the Cabinet Secretary for Education could not appoint any of the two who are substantive Deputy Vice-Chancellors to take over as acting Vice-chancellor. Moreover, what specific competence did Prof. Ayiro have over and above what the others who were already confirmed Deputy Vice-Chancellors had?

Secondly, the Chairperson has given us as a list of 30 Vice-Chancellors of public universities. Out of this, we see the ethnic composition of 23 Vice-Chancellors. However, he has not given us the ethnic identity of the seven Vice-Chancellors. Who are the other seven? What are their ethnic compositions?

Mr. Speaker, Sir, those are the clarifications that I would want the Chairperson to address.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker, Sir. I would like to ask the Chairperson to clarify how he established that these individuals belonged to the various tribes because I have with me my identification card. I have looked very hard to find out what tribe I belong because it is not indicated in it. So, I want him to tell us how he got this information and actually identify that these individuals belong to the various tribes.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lesan! The Government has many ways of getting information. I do not think that is a clarification.

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Speaker, Sir. Although you are ruling my neighbor out of order, Sen. (Prof.) Lesan, a county would suffice. For example, West Pokot County is indicated on my identification card. Whether I am a Pokot or I come from that county, it is indicated. So, we may have to ask the Chairperson to see how that can be done.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo! I thought you were once in the Government before in your other life. The Government of Kenya conducted a census and it had such a category.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you are right, but we are living in a new dispensation called devolution which is now five years old.

The Speaker (Hon. Ethuro): He has given both. There is a column for the county as well as the ethnic group.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, if it is true, then I want to see Pokot and Turkana here. Why has he left other tribes if they are 42 of them?

One further clarification, he has said we have 30 Vice-chancellors. Out of this, 11 of them are on acting capacity. This is a major problem. How can we have a staggering 37 per cent of all our Vice-chancellors on acting capacity? Something is exceedingly wrong in that Ministry. The Minister and his team must ask themselves why people are on acting capacity.

Lastly, Moi University conducted proper interviews following procedures to the extent of producing a candidate. At the time of declaring the candidate for the post of the Vice-Chancellor, they were bold enough to reveal to the villagers their ranking. Suddenly, they threw out that ranking and came up with a brand new name which was not supposed to be a subject of anybody. Prof. Ayiro is a very brilliant man, but he was none of those who were interviewed. That is how that problem arose. We need to correct it because there is no tribal undertone whatsoever.

If there is fire, people put it off. That is why those governors and other leaders went there because they were locally available. If any of us were near it, we would have done the same thing. So, could the Chairperson tell us why they wasted a whole two months interviewing people and then threw it out and now they want to cover it by saying there is some tribal element here?

Sen. Ndiema: Thank you, Mr. Speaker, Sir. From the list read, it is evident that by and large vice-chancellors come from the areas where the universities are located and yet we are talking about them being national universities. I would like clarification as to why this has been allowed to happen and whether this is what actually contributed to the governors in North Rift also considering that not necessarily their tribe, but a person from their own locality should also be appointed as the Vice-Chancellor of Moi University. What is the Ministry doing to correct the situation throughout the country and ensure our universities reflect the face of Kenya?

Sen. Leshore: Mr. Speaker, Sir, I would like the Chairperson to confirm whether these universities are becoming tribal enclaves. If you hear from his statement, all the vice-chancellors from Nyanza are Luos. All the vice-chancellors from Central are Kikuyus. All the vice-chancellors from Western are Luhyas and all the vice-chancellors from Coast are Swahilis. Is he confirming that these are becoming tribal enclaves?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, mine is a clarification on the list (No.17) of vice chancellors. In an attempt to demonstrate that they have balanced Makueni and Kitui counties, they have mistakenly put Prof. Muluvi as having come from Makueni. The correct position is that Prof. Muluvi is from Kitui County. The record should reflect that there is no vice chancellor from Makueni County.

The Speaker (Hon. Ethuro): Chairperson.

Sen. Karaba: Mr. Speaker, Sir, the first concern was by Sen. Sang. He sought to know the fate of the two deputies. The two deputies are covered in the answer that I gave and the process has already started. Since they are serving in acting capacity and going by the final report, they may be considered if they qualify. The process has started and it has not been completed. The disparity of 23 vice chancellors in 30 universities arises because some of the universities have just been chartered. Since the process of appointing vice chancellors is still going on, there is a disparity. The charters were issued last Friday by His Excellency the President. I am sure about this because even the acting vice chancellor of Kirinyaga University has not been confirmed.

Sen. (Prof.) Lonyangapuo asked why vice chancellors are serving in acting capacity. This is because they have not yet gone through the entire process for them to be confirmed as vice chancellors or principals. The process is long and still going on; it is not simple. The council has to sit and decide on three of them. The names are then forwarded to the Cabinet Secretary, who will decide on who will become the vice chancellor. There are so many other factors to be considered.

Sen. (Prof.) Lonyangapuo also asked why some universities have no vice chancellors. As I said earlier, some universities have just been chartered and they are yet to appoint the vice chancellors.

Regarding the question asked by Sen. Ndiema about 'localizing' universities, it is not true that all vice chancellors in the various universities have been 'localized.' There are some universities where the vice chancellor is not from the local community. For example, the Vice Chancellor of the University of Eldoret is not from the local community. Likewise, the Vice Chancellor of Kirinyaga University is not from Kirinyaga. I will allow the Senator to read the Statement so that he can ascertain the facts.

Universities are referred as such because they are supposed to be universal. They are supposed to represent the face of Kenya. According to the list that I have read, 30 universities have almost all tribes represented. The major tribes; Kamba, Luhya and Kikuyu are not well spread the way geography would require.

I wish to thank Sen. Mutula Kilonzo Jnr. for the correction. Maybe it was an oversight during printing. I have already corrected my list, which I will send to the Ministry of Education for them to correct.

(An hon. Senator consulted loudly)

Mr. Speaker, Sir, there is nothing tribal here; it is competition. All these people have PhDs, but there are other things that are considered, particularly publication.

Sen. Ndiema: On a point of order, Mr. Speaker, Sir. Sen. Karaba has read the list, which shows that by and large, the vice chancellors come from communities within which the universities are located. Is it, therefore, in order for him to say that there is wide distribution, which implies that what he has read is not true?

Sen. Karaba: Mr. Speaker, Sir, I can prove by this list. In the University of Nairobi (UoN), the Vice Chancellor is Prof. M. F. Mbithi, a male with a PhD. He is from Machakos County. Nairobi is not located in Machakos. The second one is Moi University, which is in Uasin Gishu County. The Acting Vice Chancellor is Prof. Airo, a male with a PhD. He is from the Luhya Community. The Vice Chancellor of Kenyatta University is Prof. K. Wainaina, who is serving on an acting capacity. He has a PhD and he is from the Kikuyu Community in Nakuru County. The Vice Chancellor of Egerton University is Prof. Rose Mwonya, who is a female from Siaya County, which is very far from Egerton University. The Vice Chancellor of Jomo Kenyatta University of Agriculture and Technology is Prof. Imbuga---

The Speaker (Hon. Ethuro): Order, Senator.

Sen. Karaba: Mr. Speaker, Sir, what Sen. Ndiema said is not correct.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, is it in order for the Chairperson to trivialize this issue? This came as a Statement so as to find out whether---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo. Seek clarification.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, is it in order for the Chairperson to take us round when we know that most vice chancellors come from the communities where the universities are located and speak the same vernacular languages as the villagers who neighbour the universities?

Lastly, the Chairperson says that we have acting vice chancellors because some of the universities are still new. That is not true because as soon as a council of any

university has been formed, recruitment takes place immediately. All these universities are very old; they are at least three years old. We need to know what is holding them.

The Speaker (Hon. Ethuro): Chairperson, Sen. (Prof.) Lonyangapuo asked you a very easy question: How come there are so many acting vice chancellors? The process that you have talked about cannot defeat the purpose for which it was created. The process is there for recruitment and not to keep people in abeyance or in acting capacity forever.

Sen. Sang: Mr. Speaker, Sir, one of the greatest challenges that we have in the recruitment process of vice chancellors is where you wait for the end product and the process is manipulated. Whereas the Cabinet Secretary has indicated how the process is done, it is important for the Ministry of Education to provide the progress in the process of appointing a vice chancellor. The manipulation happens at that particular point. In the case of Moi University, what I asked in the initial statement which the Ministry has avoided to give details, is for the process. The council concludes the process and forwards the names to the Minister. Because the Minister is not comfortable with the names, the answer we are getting in this House is that the process is still underway. Can we get the incremental steps? Can we get the names of the people who were shortlisted, the interview process that was done by the council and its outcome and how many names were submitted to the Minister so that we are sure of the integrity of the process?

In this case, we are seeing a situation where the Minister has decided to keep the House in the dark with regard to the process and telling us we wait until they conclude the process. We need to look at the integrity of the process. So, can the Chairperson give us the names of the persons who were shortlisted by the Moi University Council, the outcome of that process by the Council and the names that went to the Minister? The Ministry of Education is guided by the Constitution of this country. We have a right to information. Let him give us this information so that we can establish the integrity of the process instead of keeping us in the dark until the final product comes and we are told it is so-and-so. It is important that the details of the process are given because we can be sure of the integrity of the process.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lesan.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, we are aware that the appointment of these vice chancellors is done by University Councils. Could the Chair provide this House with the membership of the councils of the various universities who are concerned with the appointment of the vice chancellors?

Sen. Karaba: Mr. Speaker, Sir, I wish to tell Sen. (Prof.) Lonyangapuo that the fact that we have acting vice chancellors is as a result of there being the latest entrance of the universities last month. I was in the State House where seven universities were listed to be chartered. So, if you take seven out of 30, you are left 27. Out of this, there are some vice chancellors who have since retired like the one for Kenyatta University. Some of them have retired, some are yet to complete their tenure and some have already completed. When they do that, they are supposed to be replaced. The process is tedious and long. There are so many competitors who could be wishing to become vice chancellors. That is why the process had to take long. The advertisements also take long for them to get to the candidates. As soon as they get the adverts, they apply and the due process follows.

Mr. Speaker, Sir, as for Sen. Sang, he is talking about confidential information. To me, that is not possible. The moment we have three or six candidates qualifying to be forwarded to the CS, it is up to the CS and his committee who will sit and find out whether they qualify or merit to be appointed as vice chancellors. He can refuse them and when that happens, he pushes back and the process is repeated. So, it is the process which is complicated and it is not open to any other person to know the scores in case there could be an abuse or some people invading the office the way it was done in some places. The more we leave them open, people will get to know.

Regarding the issue raised by Sen. (Prof.) Lesan, who is a Member of the Committee on Education; he should know that normally, the councils were all disbanded by the CS when he came into power. He discovered that most of the council members in the then system were doing fishy things. That is why they were disbanded. Right now, they are recruiting others and the recruitment is also governed by the Universities Act, 2012. An amendment was made in this House sometimes back that the qualification of the council members is well spelt out in the Act and I would advice Sen. (Prof.) Lesan to go and read and see who qualifies to be a member of the council. I rest my case.

The Speaker (Hon. Ethuro): Order, Members! We have taken a lot of time on this statement. We need to make progress. What is it, Sen. Sang?

Sen. Sang: On a point of order, Mr. Speaker, Sir. You will appreciate that in responses given by the Chairman to the general issues and riders with regard to this statement that I sought, is fairly well articulated. However, the particular issue with regard to Moi University isspecific. You have heard the Chairman say that some details are confidential. What is confidential in the appointment process of a vice chancellor of a public university? The Chairman is telling us that he cannot give us the details of the persons or the candidates who were shortlisted, those who went through the interview by the council and the outcome. This is central to this question. If the Chairperson will not give us the details of the shortlisted candidates, the candidates who went through the interview by the council and the three names that were forwarded, the question would not have been answered. The reason why this is important is that it points to complaints being raised. Public universities are public institutions. Council members of the public universities are people that we live together in this society. They approach us when the universities have issues and when they need us to lobby for extra funding to these universities. Therefore, as they do recruitment processes of vice chancellors, they will in one way or another share this information.

The Speaker (Hon. Ethuro): Order, Senator. Please, conclude.

Sen. Sang: Mr. Speaker, Sir, can the Chairman with regard to this matter share the details of the persons who were shortlisted, those who went through the interview by the council and the outcome? This is for the reason that they can share details of the process for us to establish the integrity of the process. If this information is provided---

The Speaker (Hon. Ethuro): Order, Sen. Sang! That is sufficient. Sen. (Dr.) Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Is Sen. Sang he in order to insist when the Chairperson has actually confirmed what takes place in the identification of a vice chancellor? For example, professors work and sweat their way to the top. They get a Doctor of Philosophy (PhD), become tutorial fellows and they are nominated by fellow professors to become associate professors. They are then promoted

by fellow professors to become professors. Could the Senator for Nandi County be doing this country a service by limiting himself to other administrative positions like accountant, administrator, cooks, watchmen and staff like that? This is an area where the Government can possibly have no role. However, professors have their own way of going to the top and you know this

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale!

Sen. Madzayo: Asante, Bw. Spika. Sijui kama nimemuelewa vizuri Mwenyekiti aliposema kwamba hawezi kutoa matokeo au majibu ya wale waliofanyiwa mahojiano. Bunge la Seneti linahitaji kupata jawabu kikamilifu. Ni lazima Mwenyekiti atueleze kama kuna siri ambazo anaficha Bunge hili kuhusiana na uteuzi wa wakuu wa vyuo vikuu vyetu. Je, ni haki au sawa kwa Mwenyekiti kufanya hivyo? Ikiwa Bunge hili limeuliza maswali kikamilifu, ni lazima swali lijibiwe? Ni haki yeye kutuambia kuna siri fulani ambayo hawawezi kutuambia?

(Loud consultations)

The Speaker (Hon. Ethuro): Order, Senators! Let us retire this matter to the Chairperson of the Committee on Education. Let him respond to what Sen. Sang sought. What Sen. Madzayo has stated is true. All we need is information and you must give it.

For the benefit of Sen. (Dr.) Khalwale, the information that is sought will determine what you are saying. Whether it is fellow colleagues or by appointment. That is exactly what we need to know. So, both ways, the Chairperson is under obligation to furnish this House with that information.

Sen. Karaba: Mr. Speaker, Sir, I am treating this one like an examination because it goes through an examination. Once there is a vacancy as a result of retirement or retrenchment, people are invited to apply and they are shortlisted, but we cannot review all the characteristics and features of the qualities of what they will do. All that is supposed to be vetted by the Cabinet Secretary (CS) and his committee. That is what happens.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. You have pronounced your ruling from the Chair, agreeing with Sen. Madzayo and Sen. Sang that the information they sought is public information and must be provided to this House. We are entitled to it. You have given direction to the Chairperson to bring the information and he seems to be challenging your ruling. Is he in order to do so?

(Sen. Karaba spoke off record)

The Speaker (Hon. Ethuro): Order, Sen Karaba! This matter is straight forward and I have given directions. You will produce that information in one week's time. What is being sought is what has already transpired. You are not being asked to go and start a new process. It is just to give a report on the proceedings. In addition to the constitutional right of citizens to have information, there is also Article 47 on Fair Administrative Action which must be fair, expeditious and efficient.

If you are also going to fight, not just injustice, but corruption in this country, national values demand transparency and accountability. That is in Article 10.

Next is Committee on Devolved Government on Sen. Bule's Statement.

PROLONGED DROUGHT AND FAMINE IN VARIOUS COUNTIES

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise to give the Statement requested by Sen. Bule on the state of drought and famine in the country. I have the Statement with me. However, I seek your guidance because it is about 15 pages with some tables. I just want to concentrate on the first part of this Statement.

This Statement answers three questions raised in the Senate on 19th October, 2016 and communicated to the Cabinet Secretary (CS), Ministry of Devolution and Planning in a letter dated 1st November, 2016.

1. Whether the Government is aware that there is serious drought water shortage and starvation in Tana River County and other parts of the country, including Kwale, Kilifi, Taita Taveta, Kitui and Garissa counties.

The Government is aware of the drought and food security situation across the country since this is monitored closely on a monthly basis ---

Sen. Bule: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Bule?

Sen. Bule: On a point of order, Mr. Speaker, Sir. According to his list, Tana River County is not among the counties affected by this severe drought.

The Speaker (Hon. Ethuro): Order, Sen. Bule! Do you have a copy of the response?

Sen. Bule: Mr. Speaker, Sir, I have given it out to be photocopied so that Senators can have their copies.

The Speaker (Hon. Ethuro): Order, Senator! When you seek a statement on whether your county is affected or not, the response is there. If it is not affected, maybe it will not be there. So, he is perfectly in order. It is you to challenge that position.

Sen. Bule: Mr. Speaker, Sir, he said ---

The Speaker (Hon. Ethuro): Order, Sen. Bule! Let the Chairperson respond.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, indeed, Tana River County is one of the counties that is stated in the very first statement which have just read.

The Government is aware of the drought and food security situation across the country since this is monitored closely on a monthly basis. The drought monitoring system is managed by the National Drought Management Authority (NDMA) and is well established.

A brief summary of the system now follows for the information of hon. Senators.

(1) Each month, data is collected in 160 sentinel sites across 23 arid and semi-arid counties. This is complemented by information from other sources such as satellite data.

(2) Data is collected again as a constant set of indicators which when taken together, promote a comprehensive picture of the drought situation and its impacts. These indicators cover the following:-

(a) Environmental conditions (rainfall, vegetation and water sources);

(b) Livestock production (prices, body condition, milk production, migration and disease);

(c) Crop production (area planted, expected use, prices of food crops and commodities);

(d) Access to water (distance to water points for human and livestock use and water quality.

(e) Markets (supply of commodities in the markets and prices of commodities);

(f) Health and nutrition;

(g) Welfare (communities coping mechanisms, type and number of meals eaten per day);

(h) Information on other issues that affect food security such as conflict and access to education is also gathered.

(iii) For indicators, the current value is compared with the long-term average for that time of the year. This is important because it tells us whether the situation in a particular month is better or worse than might normally be expected, taking customary seasonal fluctuations into account.

(iv) The combined analysis from all the indicators that determine the drought phase. There are five phases in the Kenyan early warning system which reflect the varying severity of drought conditions such as normal, alert, alarm, emergency or recovery. Identifying the correct drought phase helps in guiding the most appropriate response.

(v) The NDMA produces a monthly drought early warning bulletin for each drought-prone county which is discussed with and validated by the County Steering Group before publication. The county bulletins are then consolidated to a national bulletin. A sample county bulletin can be found in Annex 1 to this Statement and the most recent national bulletin in Annex 2.

[The Speaker (Hon. Ethuro) left the Chair]

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

Mr. Temporary Speaker, Sir, in June, 2016, the drought early warning system started to signal emerging stress in parts of the coast and south-east, largely because of the below average performance of the 2016 long rains. Counties most at risk were those like Kilifi, where the 2015 short rains had also been poor. In the following months, conditions deteriorated in places such as Garissa, Kwale, Taita-Taveta, Lamu and Tana River.

The current classification of counties according to their drought phase is as follows, summarised in Table 1:-

- (1) Alarm drought phase: Garissa, Kilifi, Kwale, Lamu and Marsabit.
- (2) Alert drought phase: Kajiado, Isiolo, Laikipia, Makueni, Mandera, Meru North, Narok, Samburu, Taita-Taveta, Tana River, Turkana, Wajir and West Pokot.
- (3) Normal drought phase: Baringo, Embu (Mbeere), Kitui, Nyeri (Kieni) and Tharaka-Nithi.

The trend is worsening in all areas and if the onset of the rains delays, the drought phases in each county can easily change to the next level.

In areas of higher rainfall, the food security situation is generally stable except in pockets of Nyanza. The table below shows the counties and drought phases they are in.

Trend Drought status	Improving	Stable	Worsening
Normal			Embu (Mbeere) Baringo Nyeri (Kieni) Tharaka-Nithi
Alert			Kajiado Laikipia Isiolo Makueni Mandera Meru (North) Narok Samburu Taita-Taveta Tana River Turkana Wajir West Pokot
Alarm			Garissa Kilifi Kwale Lamu Marsabit
Emergency			
Recovery			

It is important to note two things. First, there are the drought phases for the county as a whole but the drought monitoring system pinpoints particular areas within a county that are at higher or lower levels of risk. For example, the drought phase for Kilifi is currently alarm, but its livestock and ranching zone has just reached the emergency phase while its cash cropping and dairy zone remains in alert. Similarly, Baringo is experiencing normal conditions for the season but its pastoral livelihood zone is in alert.

Secondly, the level of suffering witnessed in a particular area is a consequence not just of the severity of drought but of the population's underlying vulnerability. Equally, a "normal" drought phase does not mean that a county faces no food security challenges. For example, the impact of drought on access to water in Tana River is particularly severe at present because the state of the country's water infrastructure is generally poor.

This is a development problem that needs addressing through the county development plan and other mechanisms. It seems that comparatively modest drought conditions are having much bigger impacts than they did in the past because the underlying challenges of poverty and inequality are not yet being satisfactorily addressed. By focusing on drought alone, we may fail to address the root causes of the problem.

Mr. Temporary Speaker, Sir, the second question was about what the national and county governments are doing to support the people affected in the areas and to mitigate on the problem. The national Government has established an Inter-ministerial Technical

Committee to investigate and monitor the progress of the drought and its impact and to recommend the necessary interventions. One of the committee's first tasks was to meet with the representatives of the county governments to establish what is currently being done and what the gaps are.

Following these consultations, the Technical Committee estimated that an additional Kshs5 billion will be needed between November, 2016, and January, 2017, to support the estimated 1.5 million people, of whom 1.3 million are in ASALs and 200,000 are in other counties.

The Technical Committee has prepared a Cabinet Memo for Cabinet approval for the release of the funds. The national Treasury has already released the first months' funding for November to cater for relief food and other activities in sectors such as water, livestock, agriculture, health and nutrition and peace building and conflict management.

The following is a summary of actions being taken by the national and county governments.

County Governments

Annex 3 which is attached to this Statement lists activities underway in counties highlighted by the Senate. That is Garissa, Kitui, Kilifi, Kwale and Taita-Taveta. Some of these are activities from the county drought contingency plans which are implemented by the county department with the support of the NDMA including through the provision of Drought Contingency Finance (DCF).

More generally, all county governments are taking a variety of actions across a wide range of sectors including water tinkering, livestock vaccination, relief food distribution among other drought mitigating activities.

National Government

Drought Contingency Finance:

Drought contingency plans have been activated since July, 2016, triggered by the early warning system. Since then, the NDMA has disbursed Kshs145 million of drought contingency finance from the European Union to 10 counties, complementing what the counties and their partners are already doing. The table below shows the disbursements.

Table 2: DCF Disbursements, July 2016 to 3rd November, 2016

County	Coordination	Education	Health and Nutrition	Livestock	Security	Water	Total
Garissa	3,178,900	7,732,200	5,256,800	15,078,000	0	7,458,600	38,704,500
Kajiado	1,000,300	0	1,094,300	5,148,000	0	2,599,200	9,841,800
Kilifi	627,900	0	545,500	19,401,100	115,450	9,925,400	30,615,350
Kitui	931,200	0	1,076,100	4,699,600	0	1,060,300	7,767,200
Kwale	689,575	0	3,329,850	12,860,250	93,000	2,678,768	19,651,443
Lamu	333,200	0	567,800	6,410,300	253,200	2,185,800	9,750,300
Makueni	784,700	0	1,362,600	2,046,800	0	862,300	5,056,400
Narok	0	0	0	3,331,440	0	3,056,640	6,388,080
Taita-Taveta	700,100	0	188,000	2,618,900	653,100	3,572,880	7,732,980
Tana River	949,800	3,580,300	795,000	2,497,700	519,000	1,298,600	9,640,400

Total	9,195,675	11,312,500	14,215,950	74,092,090	1,633,750	34,698,488	145,148,453
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Agriculture sub-sector:

In June, 2016, the NCPB released one million bags of maize to stabilize consumer prices. The strategic reserve currently has 731,000 90 kilogramme bags of maize. The Ministry is in the process of purchasing a further two million bags to replenish it and estimates that food stocks are sufficient to last the country until June, 2017.

Livestock sub-sector:

Livestock insurance premiums have been paid in Turkana and Wajir and 333 litres of pour-on acaricides have been distributed to 13 counties to mitigate the tsetse fly infestation, while substantial numbers of doses of vaccines have been distributed to 10 counties with the support of FAO.

Water and irrigation sector:

The Ministry of Water and Irrigation has mobilised water bowsers for emergency water supply in the most affected areas. In Bura and Hola, livestock are watering from irrigation canals and water is being diverted from the water canals to the water pans.

Health sector:

In the health sector, 39,851 severely malnourished children and 58,687 moderately malnourished children have been reached with ready-to-use therapeutic and supplementary feeds. A minimum essential service package or reproductive health is being provided while mass nutrition screening for children and integrated outreach services are ongoing in arid counties.

Education sector:

The Ministry is facilitating school fees subsidies, the school feeding programme and rainwater harvesting in schools.

Social protection sector:

(i) Relief food: The State Department for Special Programmes dispatches relief food each month. In October, 2016, it dispatched 22,521 90-kilogramme bags of maize, 7982 50-kilogramme bags of beans, 12,962 50-kilogramme bags of rice and 3361 cartons of vegetable oil.

The amount of assistance is being doubled and in November, 2016, the quantities distributed will be 53,900 bags of maize, 25,650 bags of beans, 51,600 bags of rice and 6,200 cartons of oil. The monitoring system in the counties has also been strengthened to ensure that relief food reaches the intended beneficiaries.

The Temporary Speaker (Sen. Sang): Chairman of the Committee on Devolved Government, you are on Page 6 and we have 15 pages. Could you just give us the highlights?

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, I am on Page 6 and there is only one more page to read because other pages are tables. So, I will manage.

The Temporary Speaker (Sen. Sang): Okay, proceed and do it faster.

Sen. (Prof.) Lesan: Please allow me to do that without the interruption from the Senator from Tana River.

Sen. Bule: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Sang): Sen. Bule, we have one more page.

Sen. Bule: Mr. Temporary Speaker, Sir, we do not want a summary because that is corruption. So, we need details of the report so that we digest and argue where necessary.

The Temporary Speaker (Sen. Sang): Sen. Bule, you are completely out of order. On several occasions, we have had highlights and that cannot translate to corruption. What do you mean?

Sen. Bule: Mr. Temporary Speaker, Sir, we want the details of the report. Therefore, we do not want a summary of the report.

The Temporary Speaker (Sen. Sang): Sen. Bule, you already have the report, is that not so?

Sen. Bule: Yes.

The Temporary Speaker (Sen. Sang): Then you already have the details because you already have the report with you.

Chairman, proceed.

Sen. (Prof.) Lesan: Mr. Thank you, Mr. Temporary Speaker, Sir. Indeed, the people of Tana River would wish to know and follow what we are saying in the House here. This is a very detailed---

The Temporary Speaker (Sen. Sang): Chairman, proceed.

Sen. (Prof.) Lesan: Okay, Mr. Temporary Speaker, Sir.

(i) **Cash transfers:** The NDMA makes monthly transfers to Kshs96,400 of the most food insecure households in the four counties covered by Hunger Safety Net Programme. These are Turkana, Mandera, Wajir, and Marsabit. Each household receives Kshs2,700 per month, payable every two months.

Other cash transfers are made through the National Safety Net Programme to the elderly, orphans and those living with disabilities.

Policy and institutional issues:

(i) The National Drought Emergency Fund (NDEF) is provided for under the NDMA Act, 2016. The NDEF is critical to the effectiveness of the drought management system because it ensures that funds are instantly available for response, particularly in the early stages of drought before conditions deteriorate. The only alternatives at the present are to reallocate funds within the existing sector budgets or to make special requests to the national Treasury, both of which result in time being lost. The process of establishing NDEF is at an advanced stage with the regulations already drafted.

The Draft Disaster Reach Management Policy and Bill is currently with the Ministry of Interior and Coordination of National Government. The third question was whether the Government is planning to appoint a special taskforce to investigate the effects and extent of the drought in the country.

Mr. Temporary Speaker, Sir, an Inter-Ministerial Technical Committee is already in place as described in the previous section and will continue for as long as required. The committee's plans and budgetary estimates have taken into account the focus of the short rains season which is that it will start late and end early and is likely to be below normal. The Government is, therefore, prepared for the strong possibility that significant drought mitigation and response interventions will be needed at least until the middle of 2017.

It should be noted that the Inter-Ministerial Technical Committee augments an existing system of food security system, monitoring an assessment which includes the following:-

1. The county governments through their county steering groups already undertake rapid assessments with support from National Disaster and Management Authority (NDMA) which maintains an overview of the situation as a whole. These assessments are made on an ongoing basis as required. Given the responsibility of the county governments as first line respondents, it is strategically important to reinforce rather than to duplicate the system.

2. A well-established process of bi-annual food security assessment is in place. This assessment reviews the food security situation after each rainy season and using a globally endorsed methodology for food security analysis which has the backing of the United Nations (UN) and the major international agencies, all of which collaborate with this Government led process. The short rains assessment is scheduled for January, 2017. Given the above, the Government sees no need to introduce any further mechanism for investigations or assessments at this stage but of course will keep this under review.

3. The Government has a clear plan in place to address the conditions which cause and perpetuate drought vulnerability. The common programme framework for ending drought emergencies which is a joint initiative of the national and county governments and their development partners was launched in November, 2015. It is critical that the measures in this framework are integrated into the forthcoming national and county plans under the Kenya Vision 2030 Medium Term Plan through and adequately financed. Unless this is done, Kenya will continue to find herself dealing with repeated circles of crisis.

The Ministry of Devolution and Planning through the NDMA will be working closely with all sectors and counties to ensure that this integration takes place and welcomes the support of Parliament to that end.

Mr. Temporary Speaker, Sir, it appears that the recently publicised case of a child's death in Samburu County may illustrate these underlying problems. Sources in the county government confirm that the child in question had moved with the family to Marsabit sometimes ago. The family recently returned to Samburu having trekked long distances across the areas with poor infrastructure and arrived in a malnourished and dehydrated state. They live far from the nearest hospital and by the time they were admitted, it was sadly too late to save the child.

Mr. Temporary Speaker, Sir, this Statement is accompanied by two detailed annexures showing the required intervention, ongoing intervention, the locations, archived and the plan with its cost, the implementation and the intervention gaps. It has shown this in various districts. It is a detailed annexure and answers most of the other questions that might be raised by the Senators in the House. This is available, and I am sure we can all interrogate it and make further comments.

Thank you.

Sen. Bule: Thank you, Mr. Temporary Speaker, Sir. While appreciating the good job done by the Chair, what I have realised is that Kenyans are good in paperwork and framing things. As at now, the situation is getting worse in Tana River County. We appreciate the steps taken by the national Government and the county government. However, the levels and the standards of assistance are inadequate. Tana River County is

at a stage which we have never experienced before. So, the report is not up to date. The NDMA report is not valid. As I raise this problem, Tana River County is in a very bad state. The situation is alarming.

I appeal to the Ministry and the Government to ensure that the lives of the people and the livestock of Tana River County are taken seriously. We read in the newspapers that we were among the first five affected counties. However, today, the report has been changed and we are seeing some other counties being given priority over Tana River County.

The Temporary Speaker (Sen. Sang): Sen. Bule, you are supposed to be seeking a clarification.

Sen. Bule: Mr. Temporary Speaker, Sir, the clarification I am seeking is whether the report that the Chair has is valid. Is he satisfied as the Chair? Our system is what is failing us. If we had the Cabinet Secretary here, it would have been better. I am just informing my fellow Senators that the system is failing us. I want the Chair to clarify whether Tana River County is at an alarming or alert stage? Can he confirm that?

Sen. Abdirrahman: Mr. Temporary Speaker, Sir, we have listened to the Chairman of the Committee running through a long Statement on drought mitigation interventions. It is unfortunate that in this country, an ordinary herder will not understand when rainy seasons begin. Our problem as a nation is clearly indicated in the Statement that talks about the policy and institutional issues.

The only Statement we hear here is the Draft Disaster Risk Management Policy and Bill is currently with the Ministry of Interior and Coordination of National Government. It has been there for many years. This is the wrong time to run around and establish technical committees. That should have been a permanent institutional structure in terms of coordination between the various Ministries. This is the failure of this Government and the previous Governments.

By the NDMA is actually a routine piece of work. This is not what we expected. There is a delayed response for drought. Drought has become a major occurrence in almost all ASAL areas and the Government should actually have responded as early as 15th of October. We have the Meteorology Department which can share information with the Ministry of Devolution and Planning and Ministry of Interior and Coordination of National Government. They are now running around talking about Kshs5 billion. I want to ask both in the short-term and long-term since these are very short interventions, what does these Ministries or generally this Government has in terms of building drought resilience for these communities? There should be drought resilience projects and not piecemeal projects. Also, how are you coordinating much more effectively between the county governments and the national government to see that we do not have this repeated mistakes that our people have faced for many years?

Sen. Mositet: Thank you, Mr. Temporary Speaker, Sir. I also join my colleagues who have torn this report. My first question to the Chairperson of Devolution is: Did you, as a Committee, sit down and interrogate this report? Secondly, as he was reading part of this report, you could think it was written in the academia world and not the real situation. They even have time to say we have people who are trying to monitor, people who are doing a, b, c, d and a particular county is in this stage. This is a serious matter. The issue of drought, people going without food and animals dying should be treated just like security. It should be an issue where on daily basis the entire country, including the

President must know how each particular area in this country is. Committees cannot be formed simply because a particular Senator or Members of County Assembly (MCA) or a Member a Parliament (MP) or even a priest have said that the people in that area suffering.

When it comes to Kajiado County, things are worse. In fact, I heard the Chairman talking about Taita-Taveta and how things are worse and we border Taita-Taveta County. In the area of Loitoktok in Kajiado South, we have not had rains for the last two years. Yesterday, it rained and the few animals which were remaining were swept away by water. We are living---

The Temporary Speaker (Sen. Sang): What is your clarification?

Sen. Mositet: Mr. Temporary Speaker, Sir, we have a table here showing that many things have been done. This is not correct like taking water browsers. The day before yesterday, I had to call the Chief Executive Officer (CEO) of Tana Athi Water Services Board to get us a water bowser but he did not help us. The day before yesterday, some children almost died because of lack of water in a place called Ortiaseka. I doubt whether what is in this report is true. In Kajiado County, we have so many areas which are suffering. In fact, schools were forced to close early because of the drought.

We need to come up with a proper policy so that we can have the national Government represented at the county level or the ward level. This should be taken seriously so that there could be flow of information instead of waiting for somebody to sit and say an area will be categorized there is alert or alarm and all that. The Ministry of Devolution and Planning is not serious.

The Temporary Speaker (Sen. Sang): Hon. Senators, let us seek clarification on the basis of the statement given to us, or you ask for more details. Let us not make general statements yet we have a statement here that we need to interrogate.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. I rise to seek some clarifications. First, I want to echo the sentiments of Senator of Wajir County. I participated in the drafting of the Disaster Management Risk Bill. It has been sitting in the Ministry of Interior and Coordination of National Government for the last six months. Unfortunately, this country since Independence does not have a Disaster Management Policy which is an embarrassment. When will the national Government table the Bill and when will the policy which is the first in this country be activated?

Secondly, the Senator from Kajiado mentioned this, I would like to know the reason why the national Government or Ministry of Interior and Coordination of National Government in setting aside Kshs145 million, they thought the category of livestock should take 50 per cent of that amount. Without diminishing the livestock farmers, I would think that they would consider having a better budget for buying of what now appears to be a disaster already at national Government in terms of bags. There are only 731,000 90-kilogramme bags of maize in our national strategic grain reserves. When will the national Government pass the additional proposed budget of Kshs5 billion on page 4 as proposed by the technical committee?

Thirdly, what is the reason why the national Government did not use the contingency fund that is already in the budget as opposed to waiting for this Cabinet memo that is proposed here?

Lastly, according to this report, in Makueni County alone, the budget for coordination is 784,700 and the budget for water is Kshs862,000. What is the basis upon which the national Government or NDMA thinks that they should put more funds in coordination and not water? Who decided this budget and in what areas? Since national Government and some of its officials have been known to use these funds or this relief food for their own aggrandisement, what areas that are covered under Table 2 that are supposed to benefit specifically from the kitty that is proposed by the national Government on page 5?

The Temporary Speaker (Sen. Sang): Hon. Senators, if you want to seek clarifications, you put under request and not interventions.

Sen. Madzayo: Asante, Bw. Spika wa Muda. Nimehakiki hii ripoti ya Mwenyekiti vyema na imeandikwa kwa utaratibu sana. Ukweli wa mambo ni kwamba u ni urembo tu lakini hakuna jawabu lolote ambalo tumelipata kutoka kwa Mwenyekiti. Mimi nimeihakiki katika ukurasa wa nne. Mimi nimenakili katika ukurasa wa nne unaosema kwamba Serikali imepeleka magari ya maji, kudunga mifugo sindano na kupeana vyakula.

Bw. Spika wa Muda, ukienda Kilifi, utajua kwamba mambo sivyoyalivyo katika hii taarifa hii. Ni sharti wale wanaohusika na mambo kama haya waeleze vyema walivyotumia pesa hizo. Sisi ambao ni wakaazi wa Kilifi hatujaona vitu kama hivi.

Jumamosi iliyopita nilipeleka chakula kule. Katika shughuli hiyo ya ugawaji wa chakula, sikuona hata gari moja ambalo lilileta msaada wowote. Katika ukurasa wa tano, inasemekana kwamba vitu kadha vimefanywa mwaka huu na hazina ya kukabiliana na ukame. Kufikia hivi, sasa utumiaji wa pesa hizo ambazo ni Kshs19 milioni hauko kwenye hesabu za Kilifi. Sijui Mwenyekiti ataweza kutueleza vipi kuhusu jambo hilo.

Vile vile, kuna---

The Temporary Speaker (Sen. Sang): Sen. Madzayo, seek clarifications.

Sen. Madzayo: Bw. Spika wa Muda, nauliza swali kuhusu kila ukurasa. Nahitaji majibu kutokana na taarifa ya Mwenyekiti.

The Temporary Speaker (Sen. Sang): Be brief and ask your clarifications, so that we can make progress.

Sen. Madzayo: Bw. Spika wa Muda, ikiwa kuna bima ya mifugo, mbona mifugo katika Kilifi wanauzwa kwa bei ya chini kwa sababu ya ukame? Je, kwa nini hakuna bima ya mifugo katika Kaunti ya Kilifi?

Nikimalizia, taarifa ya Mwenyekiti inasema kuwa Serikali inafanya mipango ya kusaidia. Huu si wakati wa kupanga. Taarifa hii inafaa kuongea juu ya mikakati ambayo imewekwa kukabiliana na janga hili. Ahadi kama hizi zingefaa kama hatungekuwa na janga la njaa. Hivi sasa, janga la njaa limetukumba na lazima tutafute suluhisho. Watu wamekumbwa na baa la njaa na mifugo wanaendelea kufa ilhali hakuna suluhisho mwafaka kutoka kwa Serikali.

Bw. Spika wa Muda, mzungo kama huu haufai kuwachiwa serikali za kaunti pekee yake. Hivi sasa mzungo huu umewachiwa serikali ya Kaunti ya Kilifi ambayo haikutenga pesa za kukabili baa la njaa.

Je, ni mipangilio gani inaweza kufanywa hivi sasa ili kukumbana na baa la njaa linalokumba taifa nzima haswa watu na mifugo katika Kaunti ya Kilifi tukikumbuka kwamba kulingana na Katiba, maisha ya binadamu yako katika mikono ya Serikali? Serikali inafaa kuwapa watu wa Kilifi msaada mwafaka.

Sen. Kagwe: Mr. Temporary Speaker, Sir, from my understanding of the Chairperson's presentation, there are two things that are related to drought; that is, water and food. We generally do not have water to grow food or grass. The second issue is that there is no food.

In the livestock subsector, they are talking about acaricides and tsetse flies. The cows are not sick; they are hungry. These are two very different treatments. When a cow is hungry, you do not inject it with insecticides and so on. It would have been better if the Chairperson told us that in view of the fact that the cows are very hungry, they have moved several bales of hay from Eldoret or elsewhere to Kajiado or Wajir. To tell us that a hungry cow needs acaricides is an insult to this House and anybody who has got any intellectual capacity at any level. That is why the Senator for Tana River County is angry.

How many boreholes do both the county governments and the national Government intend to dig in order to mitigate drought? That is the issue. Where do both the national Government and the county government intend to get hay from, so as to save some of the cows in areas where there is drought? The idea of the Government buying the affected cows to save the situation is not working.

The clarification that I seek is basic and simple. The problem is straightforward and the solution is clear. Could the Chairperson specifically explain to us what drought mitigating measures the Government is taking?

The Temporary Speaker (Sen. Sang): Very well. Let us have two final clarifications.

Sen. Karaba: Thank you, Mr. Temporary Speaker, Sir. I believe that Tana River County is named after River Tana, which is the largest river in Kenya, rising from the water shade of Mt. Kenya all the way down through Garissa and Tana River into the Indian Ocean where it empties its water.

What the Chairperson has read us was written from a desk. Nobody went to see the river meander, where it wastes its alluvial deposits and the kind of devastation that people face during the floods. Why can we not save the water before it is emptied into the Indian Ocean? There is a lot of good water that goes to waste into the Indian Ocean. Elsewhere in the world, people who live along the rivers make sure that agriculture is influenced by the river. Why can the Ministry of Devolution and Planning not think of how to utilize rivers?

Secondly, can we not have people instead of writing all that literature to go to Tana River and other related counties along the river to start irrigation works which is easy if not boreholes because of lowering the water table? The other one is about the Meteorological Department. To me, it is a department that does not function in this country. The Meteorological Department does not tell us the truth about the pattern, distribution of rainfall in totality and precipitation.

The Temporary Speaker (Sen. Sang): What is it, Sen. Bule.

Sen. Bule: I have information about the issue of irrigation which the Government is undertaking---

The Temporary Speaker (Sen. Sang): Order, Sen. Bule!

Sen. Karaba: I think that is not right especially from him.

The Temporary Speaker (Sen. Sang): Proceed, Sen. Bule.

Sen. Bule: Bw. Spika wa Muda, natakakusema ya kwamba, Serikaliiko na uwezekano ya kusaidia watu Tana River lakini haitaki kwa sababu kuna mradi wa

kunyunyuzia maji wa Bura, Galole katika MtoTana. Kwa hivyo, iko kando yake. Mradi huo wa kunyunyuzia hauwezi kuwalisha watu wa Tana River na Bura kwa sababu Serikali imeshika mkono wa kushoto kwa watu wa Tana River. Kwa hivyo, Serikali isaidie watu wa Tana River. Pia, kuna mradi wa kunyunyuzia maji wa Galana lakini hauwasaidi watu wa Kaunti ya Mto Tana.

The Temporary Speaker (Sen. Sang): Sen. Bule, what do you mean by *kushika mkono wa kushoto*?

Sen. Bule: Bw. Spika wa Muda, kushika mkono wa kushoto nikusema *irrigation* iko, haipatiwi nguvu ya kufufua hizo *irrigations* na watu wa Tana River wako chini ya mto wa Tana na wanakufa njaa.

The Temporary Speaker (Sen. Sang): Proceed, Sen. Karaba and conclude.

Sen. Karaba: Thank you for the information. The other thing that we are having and it is not functioning is the Meteorological Department. My clarification is that can we have that department reactivated so that they can tell us the truth.

The Temporary Speaker (Sen. Sang): Sen. Ongoro.

Sen. Ongoro: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Sang): Chair, hope you have noted all these comments and clarifications.

Sen. Ongoro: Mr. Temporary Speaker, Sir, I was in the Senators' Lounge when I listened to the Chair's response to this statement. I want to state that I was not convinced that the statement should be read in the Senate because this statement that has been sought is of such enormous importance to this country because if not well addressed, we will be talking not about animals dying but ripple effects of losing human beings.

Mr. Temporary Speaker, Sir, most of these communities we are talking about that depend on livestock draw their welfare from the same livestock. So, giving us a shallow answer that indicates that the Government is trying to buy the dying animals; does the Government realize that most of these areas are referred to Arid and Semi-Arid Areas (ASAL)? That means that cattle rearing is the source of livelihood. Withdrawing the dying animals and giving them money that they cannot use to buy anything because there is nothing in the markets, has the Government ever known that people die with money in their pockets because there is nothing to buy in the markets? If a Government that cannot feed its people has no responsibility or any business being in governance.

Mr. Temporary Speaker, Sir, it is also a constitutional provision that this Government should provide security including food security. The Chairman should tell us what mitigation measures that will impact in the lives of not the animals but the people whose livelihoods depend on these animals to keep alive.

The Temporary Speaker (Sen. Sang): Finally, Sen. G.G Karuiki.

Sen. (Dr.) G.G Karuiki: Mr. Temporary Speaker, Sir, drought problem has been with us all the years. I cannot remember the year that Members of the National Assembly or the Senate have never called upon the Government to take care and think more about drought problems. It is something which is with us. It is something which we have not been able to decide which direction to follow. We deal with it in piecemeal situation but we hear of the cases of Machakos or Laikipia. So, it is a problem which is known by everybody. We do not need to employ experts. We just write and ask chiefs to give the details and the matter is over. If we cannot trust ourselves; I would like with your permission to appeal to the honourable Members that we should also consider the other

side of the drought famine and hunger. This matter has increased the number of Internally Displaced Persons (IDPs).

Mr. Temporary Speaker, Sir, when you border with people who have no water and grass for their livestock, you would want them to be assisted so that they do not disturb you. I know you are trying to look at the time but I think it is important not just to look at the hunger of the people but also the provision of water. We should ask ourselves; have we done anything to tackle this menace? The answer is no. The cry came out with the report we got from Sen. (Prof.) Lesan. I asked myself whether they sat down and talked to the county government and the people who run those counties to justify that an area has a problem. They just brought a report which is academically well written and everybody is agreeing. Can Sen. (Prof.) Lesan go back and give us in a two page letter what they have done. It should include what they have done and what they are intending to do. I am sorry if that language is not allowed.

Mr. Temporary Speaker, Sir, look at the United States (US) – if you allow me to say something about that.

The Temporary Speaker (Sen. Sang): That is not part of seeking clarification to this statement.

Sen. (Dr.) G.G Kariuki: I have already done my clarification and asked several questions and I hope they will be responded to.

Sen. (Prof.) Lesan: Thank you, Mr. Temporary Speaker, Sir. I have heard the comments and sentiments Senators have made about the serious issue of drought and famine. This is a serious issue which involves the loss of lives both human and animals. Therefore, the sentiments expressed by the Senators are valid. It is important that the Government addresses them.

As requested from this House because I have read the statement, but I admit that it has shortcomings as expressed by Senators. However, there are a few areas which have been touched. For example, on recognition of the seriousness of famine and drought in this country, the Government has actually established the NDMA which is the one that handles this. In the first place, this is in recognition of the seriousness of this issue. The body is in the process of collecting information.

In Tana River County around Galana, there is some activity that the Government has done. The water in canals is being channeled to the irrigation schemes. This has been done as a way of mitigating the lack of water in various areas. This has---

Sen. Bule: On a point of order, Mr. Speaker, Sir.

The Temporary Speaker (Sen. Sang): Sen. Bule, this is a response to your statement. The Chairperson is addressing the clarifications that you sought.

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, as part of handling the persistent drought and misuse of water in the tunnel, the Government started an irrigation scheme in Tana River County, the Galana/Kulalu Food Security Project and it produced some maize. In fact, 56, 000 bags of maize from this scheme has actually been distributed as famine relief to the people of Tana River County and part of Kilifi County. Indeed, last week, the Cabinet Secretary (CS) of the Ministry of Devolution and Planning and some Senators were in parts of Kilifi County. I know a Senator who was among the team ---

Sen. Madzayo: Hoja ya nidhamu, Bw. Spika. Bw. Waziri na wenzake walikuja kwa ndege na wakaondoka bila kugawa chakula. Walikuja tu kuangalia jinsi hali ilivyo.

Kwa hivyo, huyu Mwenyekiti asijaribu kuepusha ukweli hapa Bungeni. Hilo analosema si ukweli hata kidogo.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Temporary Speaker, Sir. Many of our colleagues have told Sen. (Prof.) Lesan that the statement is extremely academic. Sen. G.G. Kariuki has suggested that he comes with another statement. We have asked several questions that we do not need him to do public relations with. Would I be in order to suggest that since this is a serious issue, he takes it seriously, goes back to the drawing board and brings the answers as opposed to what he thinks or feels so that he does not get the sort of objections from Senators? I suggest that ---

The Temporary Speaker (Sen. Sang): Order! Sen. (Prof.) Lesan agreed that the statement he has is inadequate. He has also proceeded that there are certain areas of the clarifications that you sought that the statement has addressed. Those are the areas ---

Hon. Senators: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Sang): Order, Senators! Those are the areas that the Senator is addressing.

(Loud consultations)

Sen. Abdirahman: On a point of order, Mr. Temporary Speaker, Sir. I join my colleagues in demanding for a better response. Allow me to give just one example. He spoke about the establishment of the NDMA. It is an empty shell. They distributed Kshs146 million from the European Union (EU) to 10 counties. This was not from the Kenyan Government. What we need is a very specific response in terms of interventions in water and health. These are very generalized responses.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. How can we ask the Chairperson to bring a statement about something that does not exist? The whole idea would be for him to go and seek more information on the issues to table it here. It does not exist. Would I be in order to suggest that the CS involved ---

The Temporary Speaker (Sen. Sang): Order, Senator! What does not exist?

Sen. Kagwe: Mr. Temporary Speaker, Sir, all the things that we are asking for here like being shown how many boreholes have been dug, policy and so on, do not exist. Therefore, I am proposing that the Speaker, using his office, invite the CS concerned to sit here in a *Kamukunji* with us so that we can propose to him things that he should do. We will then be addressing the issue of drought management. Even if you send the Chairperson back, he will come with another theoretical statement.

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, when I started answering the question, I appreciated the magnitude of the issue under discussion. It is an issue of farming and to do with life. Indeed, I have gone through the statement and I know some of the shortcomings. Senators have rightfully pointed out and it will be very important to follow up this issue in order to save this country from having answers like these which do not mitigate the issues at hand.

There are some things that I thought I could just mention. For example, Sen. Mutula Kilonzo Jnr. has mentioned about things to be done. One of them is the draft Bill. I now go back to asking, how come this draft Bill is sitting in the Ministry when it is one of the vehicles that we require to use? So, these are issues that I could go back for. I am also a Senator in this country and aware of these. I know that there are places in this

country with very good weather and have lots of food. I also know some farmers are struggling with where to store the plentiful food that they have. Therefore, there are issues even about distribution capacity to save the people, which I think are not contained in this answer here.

However, I know the piecemeal places that activity has been taken, implementation is going on in certain places and I have mentioned some of them. I have clearly heard that because of the seriousness of this, we would rather have to hear these from the horse's mouth. As directed, if you would, I would very kindly and dutifully ask the CS and Senators to come to the Senate Chamber and deliberate on this issue. With the brilliance and amount of knowledge that Senators have in this House, that will, probably, activate the bureaucracy of Government to handle this issues much more seriously.

Sen. Obure: On a point of order, Mr. Temporary Speaker, Sir. I am a very disturbed person. We are talking about drought. We are being told that there is drought.

Here, we are talking about drought, water shortage and starvation. Kenyans are starving but when you read this answer, it is talking about an Inter-Ministerial Technical Committee being formed to investigate.

Mr. Temporary Speaker, Sir, I agree with the request that the Cabinet Secretary be invited so that he can give us a direct answer on what mitigation efforts are in place to help Kenyans who are starving.

Sen. Abdirrahman: Mr. Temporary Speaker, Sir, this is something for you to consider. It is not only the Cabinet Secretary for Devolution and Planning that may respond to all that we need but we have a number of areas that we require the Cabinet Secretaries (CS) of the Ministries of Interior and Coordination of National Government, the CS for Water and Irrigation and other relevant institutions. If we can have a joint session with all those relevant Ministries, it will help us; probably two or three of them

Sen. Madzayo: Thank you, Mr. Temporary Speaker, Sir. Relief food should not be used as a campaign tool. If the same thing could be put forth to the Chair, that would help him in his response.

Sen. Hassan: Mr. Temporary Speaker, Sir, I was listening to this debate in the car and I am happy the Chair has suggested that he will invite the Cabinet Secretaries here. However, we have always had a practice in the Senate where the Committee first satisfies itself about the Statement before coming to read what has come direct from the Ministry so that in future we avoid the Chairs being taken to task with such enormity.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, am I in order to request the Chair to give us the way forward? We have had this Statement for one hour and 40 minutes. It is one Statement out of about 10 Statements expected today and a lot of legislative agenda and Motions are undone. I do not think it is fair for us to dwell on one Statement for two hours. If we continue like this, we are heading in the wrong direction.

Sen. Abdirahman: On a point of order, Mr. Temporary Speaker, Sir. The discussion this afternoon is a matter that touches on the livelihoods of millions of Kenyans. Is the Senate Majority Leader in order to underestimate the gravity of this matter? This is a matter that is touching on people's lives. Unfortunately, he also comes from an arid area and he does not appreciate. The people of Tharaka-Nithi County do not understand what their Senator is saying on the Floor of the House. Is he in order to underestimate the gravity of this matter?

Sen. Obure: Mr. Temporary Speaker, Sir, I have a lot of respect for the Senate Majority Leader and the manner in which he has led us in this House. However, on this occasion, I think he has underestimated the significance of what we are talking about. We are talking about the situation where Kenyans are starving, livestock dying and there is shortage of water. This House has a right and, in fact, I take an objection that the Senate Majority Leader is trying to intimidate the Chair of this House to the extent that the Chair should rule that we should proceed to another subject. There is justification in discussing this matter for the rest of the afternoon.

Thank you.

The Temporary Speaker (Sen. Sang): Sen. Obure, the Chair can never be intimidated by anybody not even the Senate Majority Leader. Therefore, that cannot happen.

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir. I appreciate that this is a serious matter that generates a lot of emotions. However, I beg your indulgence. If I heard the Senate Majority Leader well, he asked that the Chair gives us a direction. For a Chair to give direction, it is not about making the issue light but about responding to the issues that our colleagues have been raising the whole afternoon. It does not matter how long we stay in the House and speak about the issue. I think it is in order that we get directions from the Chair on the request brought about by my colleagues. The more we stay, the more we become repetitive. Let him respond to the issues that have been raised. That is the plea we are making.

The Temporary Speaker (Sen. Sang): Hon. Senators, the point of order raised by the Senate Majority Leader was directed at the Chair. The Chair does not need any help on this matter.

The Senate Majority Leader rose on a point of order requesting that the matter has taken the better part of the afternoon and that is a fact. However, this is a serious matter. The problem is compounded when the Senate Majority Leader seems to suggest that we have taken more time when the reason is that your own Chairperson has been unable to provide a satisfactory answer to this House.

(Applause)

So, the Senate Majority Leader should spend more energy in getting this House satisfactory answer so that we spend little time on each of these Statements. However, we have to make progress on this matter. Since the Chairperson has appreciated that this Statement is inadequate, and looking at the interest that this matter has generated, I direct that the Committee invites the Cabinet Secretary to appear before the Senate. The Senators should be available to seek clarifications.

There is a request that has been made that several Cabinet Secretaries are invited. On this one, I direct that the HANSARD be availed to the Cabinet Secretary responsible so that if the Cabinet Secretary is of the view that he cannot address all those issues, he will invite his colleagues to also come along. However, the directive is that the Cabinet Secretary responsible be invited by the Committee. This should be done within the next one week.

Sen. (Prof.) Lesan: Mr. Temporary Speaker, Sir, I thank you for the direction that you have given. As we continue to find a way forward, the Government is making effort and actually carrying on some activities to mitigate---

The Temporary Speaker (Sen. Sang): Order! I have given directions. Can you proceed as directed by the Chair?

Sen. (Prof.) Lesan: Thank you, Mr. Temporary Speaker, Sir. I need to also say that the Government has just released Kshs1.6 billion to be used in mitigating drought as we are looking for a way forward. There is no politics about the use of distribution of relief food as being suggested by some Senators in the House.

The Temporary Speaker (Sen. Sang): Order, Senators! That matter is concluded. You will be free to seek those clarifications once the Cabinet Secretary appears before the Senate and that will happen within the next one week. I so direct.

Next Statement on the Status of Bills.

STATUS OF BILLS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. I will be very brief. I want to issue a statement regarding the Status of Bills.

Before I do so, just for the record, I still believe that we need to use our time well. If a matter is very important, the process is you adjourn the House and discuss about it.

The Temporary Speaker (Sen. Sang): The Senate Majority Leader, you are on the Floor to deliver Statement (i) on the Status of Bills.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, which I am delivering.

The Temporary Speaker (Sen. Sang): You will be completely out of order to go back to a matter that this House has concluded.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am not going back on anything, I am explaining why I will be brief.

The Temporary Speaker (Sen. Sang): The Senate Majority Leader, do not invite the wrath of the Chair.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, what do you want me to do?

The Temporary Speaker (Sen. Sang): Read the statement of the Majority Leader Statement on the Status of Bills.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I will read the statement briefly because I believe we need to be brief. Regarding the status of Bills, I want to summarise as follows:

(1) From the National Assembly to the Senate, we have had 44 Bills so far from April 2013 until 9th of November. Out of those 44 Bills, the Senate has concluded 33 of them. Five others are at the committee stage. Another four are at Second Reading awaiting division and three others are waiting Second Reading.

(2) Out of the 44 Bills that have been submitted to this House from the National Assembly, all of them without exception have been considered. About 75 per cent of them, that is 33 out of 44 have been completed and they have been sent to the President for Assent. Many of them have been assented while others are awaiting Presidential Assent. So, the Senate has discharged its role in that respect.

(3) With regard to Bills that have come from the Senate to the National Assembly since April 2013, the Senate has sent a total of 38 Bills. Out of which, 10 have been processed to completion either at the first instance or after a mediated version has been agreed.

(4) One Bill has been negated and it is pending negotiation. This is the Fundraising Appeals Bill (The Anyang'-Nyong'o Bill).

(5) Two Bills are at Second Reading while 18 Bills are waiting debate for Second Reading. Two Bills are due for First Reading because they were passed by the Senate and referred to the National Assembly last week.

Four other Bills were passed yesterday evening and they will be sent to the National Assembly today. Therefore, out of the Bills that have come from the Senate to the Assembly, only 10 have been concluded.

[The Temporary Speaker (Sen. Sang) left the Chair]

[The Temporary Speaker (Sen. Ongoro) took the chair]

Madam Temporary Speaker, sorry, I forgot to say that there are five Bills which the National Assembly has declined to consider alleging that they are money Bills. They are:-

- (i) The Public Finance Management (Amendment) Bill (Senate Bill No.11 of 2014)
- (ii) The National Police Service (Amendment) Bill (Senate Bill No.29 of 2014)
- (iii) The National Resources Benefit Sharing Bill (Senate Bill No.24 of 2014)
- (iv) The Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014)
- (v) The National Government Coordination (Amendment) Bill (Senate Bill No. 30 of 2014).

These ones no action has been taken.

Therefore, regarding the Bills that have come from the Senate to the National Assembly, only 25 per cent of the Bills have been concluded as opposed to 75 per cent of the Bills which have been concluded by us and which had originated from the "Lower" House.

This brings to the fore the issue of very slow pace of consideration of Bills, especially Bills that are coming from the Senate. My fear, and I said it last week, is that this term is coming to an end in a few months' time. Therefore, we will have very many Bills which are pending in the National Assembly and which according to the Standing Orders of Parliament, they are going to lapse with the lapse of the term of Parliament.

Madam Temporary Speaker, finally, and that is where the biggest problem is. I have also received a list of 111 Bills which have been passed by the National Assembly without seeking concurrence under Article 110(3).

It is now my pleasure to lay this Statement on the Table of the House including a list of the 44 Bills that have come from the National Assembly to the Senate and their status, including the list of the 38 Bills that have come from the Senate to the National Assembly and their status.

Finally, let me lay on the Table a list of 111 Bills that have been considered by one House without seeking concurrence and which have been forwarded for assent, some of them have been assented and have become law.

The way forward is that I suggest that this matter be seized by our Implementation Committee to give us a detailed report which can be deliberated at the Senate Business Committee for further action. The further action is just political pressure as we have done in the past successfully, but I still insist there is need for court action for purposes of interpretation, especially on the last issue namely the legality of the 111 Bills that have been passed without reference to the Senate and without seeking concurrence in accordance Article 110(3).

I now table this Statement and its annexes on the Table of the Senate.
Thank you.

(Sen. (Prof.) Kindiki laid document on the Table)

The Temporary Speaker (Sen. Ongoro): Thank you, the Senate Majority Leader. The proposals that you have put forward are quite in order, especially in reference to the 111 Bills that have been passed without concurrence of the Senate. That brings us to the end of Statements.

Sen. Mutula Kilonzo Jnr.: *(Spoke off record)*

The Temporary Speaker (Sen. Ongoro): Sen. Mutula Kilonzo Jnr., you have not even logged in, but I will allow you the opportunity to tell us what this very urgent issue is.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, it is not a matter of urgency, but what we agreed last week. Was this document supposed to be tabled and availed to the rest of the Senators?

The Temporary Speaker (Sen. Ongoro): Which document?

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, the document that highlights what has been done and what has not been done was supposed to be tabled here and provided to the rest of the Senators, so that we can deliberate on the issue as a House. The proposals that you have accepted were most likely not acceptable to us. This is because the Committee on Implementation cannot do anything, unless the leadership of this House goes to the root of the problem. This is a question of leadership at top level. The Committee on Implementation cannot force the other House to do anything. We know what happened last time and I can tell you from what I know that this Senate will not go to court. Therefore, it is absolute public relations to suggest that. Therefore, any political action can only be by decisions made here by all the Senators via debate.

Madam Temporary Speaker, that is why I am suggesting that the House Business Committee ought to discuss on how we will deliberate on this issue whether via a *kamukunji* or a Motion. However, it must be a collective decision of the House. All of us are politicians and we cannot leave this to the Office of the Senate Majority Leader. We have left it to them, nothing has happened and chances are that nothing will happen.

The Temporary Speaker (Sen. Ongoro): Thank you, Sen. Mutula Kilonzo Jnr.. I have just consulted with the Clerks-at-the-Table. I did not have the benefit of being here last week, but the Senate Majority Leader was in order to table the report as agreed last week. I am informed that it was also agreed that you were to circulate the report, so that all Senators could interrogate and debate it. Therefore, I wish to add that part to my earlier statement. I still agree with the report, but do the other part of printing enough copies and bringing them to the House. If the Senators could have the report tomorrow, it

will give them an ample time to interrogate it. We will then have time allocated for that discussion.

That brings us to the end of Statements. The remainder of the Statements will be deliberated upon when they next appear on the Order Paper.

We need to move to Orders Nos.8 and 9; Committee of the Whole.

COMMITTEE OF THE WHOLE

(Order of Committee read)

[The Temporary Speaker (Sen. Ongoro) left the Chair]

IN THE COMMITTEE

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

THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

The Temporary Chairperson (Sen. Mositet): Senators, we are in the Committee of the Whole to consider The Physical Planning Bill (National Assembly Bill No. 46 of 2015).

Clause 3

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 3 of the Bill be amended –

(a) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;

(b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;

(c) in paragraph (c) by deleting the words “physical planning and” appearing immediately after the words “the regulation of”;

(d) in paragraph (g) by deleting the words “planning authorities” appearing immediately after the words “the relationship between” authorities responsible for regulating land use in Kenya”.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Mositet): The Division will be at the end.

Clause 4

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 4 of the Bill be amended in the introductory clause by deleting the words “physical planning or” appearing immediately after the words “engaged in”.

Mr. Temporary Chairman, Sir, this amendment is similar to the rest of the amendments in terms of definitions. I am fortified by my proposal to the extent that in the new Constitution, the word “physical planning” does not appear. It reads: “Land use planning”. In the Land Policy Paper passed by the Grand Coalition Government, in particular, by Sen. Orengo when he was the Minister for Lands, the words “land use” are the ones that are proposed in the land policy.

Lastly, under Article 67 of the Constitution, the mandate on land use planning has been given to the National Land Commission (NLC) and the words used are “land use planning”. Therefore, the objective in most of the amendments is to delete the words “physical planning,” which are not part of the law.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Mositet): The Division will be at the end.

Clause 5

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 5.

Mr. Temporary Chairman, Sir, the reason for deleting Clause 5 is that the new Bill proposes to establish something called “The National Physical Planning Consultative Forum.” The justification for deleting this clause and the other two Clauses 6 and 7 is that the Cabinet Secretary, as I mentioned before, is proposing to usurp the work of the NLC under Article 67 (2) (h) by setting up a national platform, which is not necessary in view of the fact that, in the Constitution, the duty of land use planning is left entirely to the NLC.

(Question of amendment proposed)

The Temporary Chairperson (Sen. Mositet): The Division will be at the end.

Clause 6

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:
THAT Clause 6 be deleted.

Similarly the deletion of Clause 6 is *mutatis mutandis* on the applications of Clause 5. It is not necessary to set up that forum as this is the work of the National Land Commission.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 7

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT the Bill be amended by deleting Clause 7.

Similarly Mr. Temporary Chairman, Sir, I propose that Clause 7 be deleted in similar terms as Clause 6 on the set up of the national platform which is superfluous under Article 67 (h) of the Constitution.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 8

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT the Bill be amended by deleting Clause 8 and substituting therefor the following new clause –

The National Land Commission shall, in relation to the matters set out in this Act –

(a) pursuant to Article 67(2)(h) of the Constitution, monitor and have oversight responsibilities over land use planning throughout the country;

(b) prepare and submit to Parliament, reports on the status of land use planning;

(c) prepare general principles and guidelines on land use planning and coordinate planning by counties;

(d) recommend a national land use policy to the cabinet secretary;

(e) publish and publicize the status of national land use planning report pursuant to Article 35(3) of the Constitution;

(f) encourage use of traditional dispute resolution mechanisms in land use planning; and

(g) conduct research related to land use planning and natural resources.

This will set up the work of the National Land Commission in as far as Article 67 (2) (h) of the Constitution is concerned. The amendments are stipulated in the Order Paper.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 9

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:-

THAT Clause 9 of the Bill be amended –

(a) by deleting paragraph (c) and substituting therefor the following new paragraph-

(c) approval of national physical development plans on recommendation of Parliament; and

(b) in paragraph (e) by inserting the words “in consultation with National Land Commission and county governments.” Immediately after the words “levels of planning”.

The purpose of this amendment is to ensure proper division of roles. The function of the Cabinet Secretary shall be to formulate a national policy on physical planning while the approval function over the same should be done by Parliament.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end. Sen. Mutula Kilonzo Jnr, could you move your amendment on the same clause?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 9 of the Bill be amended-

- (a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “national policy” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “specific aspects of” and substituting therefor the words “land use”;

This is in order to make the work of the National Land Commission as proposed clearer. But in (a) and (b), it is in terms of consistency to remove the words “physical” and replace it with “land use” so that they are in conformity with the Constitution of Kenya.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 10

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT the Bill be amended by deleting Clause 10.

This clause seeks to establish the Office of the National Director of Physical Planning and National Director of Physical Planning to advise the Cabinet Secretary. The same will interfere with the work of the National Land Commission. It is absolutely not necessary. That is the reason why the law has suggested to amend the existing practice which seeks to leave this work at the national yet it has been devolved and it is the work of the National Land Commission.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 11

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT the Bill be amended by deleting Clause 11.

By proposing to delete Clause 10, then the functions of the National Director of Physical Planning do not apply and the same will apply to any other clause that has the National Director of Physical Planning for the reasons stated herein before.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 12

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 12 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(c) advising the Cabinet Secretary on formulating national physical planning policies, guidelines and standards.

This amendment rectifies the duplication of roles that existed between the Office of the Cabinet Secretary and that of the National Director of Physical Planning.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT the Bill be amended by deleting Clause 12.

In view of the deletion in Clause 10, the role of the National Director of Physical Planning will not apply. I propose to delete it.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 13

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:-

THAT Clause 13 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) approving county physical development plans on recommendation of the county assembly;

The justification for this amendment is to clarify the role of the county assembly in approval of plans as envisaged under Article 185 (3) of the Constitution and section 110(3) of the County Governments Act, 2012. The county assemblies have a role to play prior to approval of any plan.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end. Let us go to the amendment by Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:

THAT the Bill be amended at Clause 13 by-

- (a) deleting the word “physical” appearing immediately after the words “policy on” in paragraph (a);
- (b) deleting paragraph (b); and
- (c) deleting paragraph (c).

In view of the amendment to Clause 13 (b) as proposed by the Chair, I would seek to drop the amendment to Clause 13 (b). Deleting paragraph (b) is not necessary now that they have amended it to be in conformity with the law.

(Question of the amendment dropped)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 14

(Question that Clause 14 be part of the Bill proposed)

Clause 15

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:- THAT, the Bill be amended by deleting Clause 15.

Mr. Temporary Chairman, Sir, Clause 15 repeats Clause 10 insofar as it puts the qualifications as the same as that of the National Director of Physical Planning. I propose to delete it in its entirety.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 16

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I propose to drop the amendment to Clause 16 because we have established it under Clause 14 of the Bill.

The Temporary Chairperson (Sen. Mositet): Did you say you are dropping the amendment?

Sen. Mutula Kilonzo Jnr.: Yes, Mr. Temporary Chairman, Sir.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

The Temporary Chairperson (Sen. Mositet): So, there are no amendments on Clause 16.

Sen. Mutula Kilonzo Jnr.: Yes, Mr. Temporary Chairman, Sir.

(Question, that Clause 16 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 17

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:- THAT, Clause 17 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause-

(1) The Cabinet Secretary (CS) shall be responsible for the preparation of the National Land Use Plan.

(b) in sub-clause (2) by deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 18

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 18 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by –

(i) deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(ii) deleting the words “physical development” appearing immediately after the words “of national” in paragraph (e) and substituting therefor the words “land use”.

Mr. Temporary Chairman, Sir, this is in conformity with Article 67 of the Constitution and the Land Policy signed by Sen. Orengo when he was the Minister for Lands.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 19

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 19 of the Bill be amended in sub-clause (1) by –

(a) deleting the introductory clause and substituting therefor the following new clause –

In preparing a National Land Use Plan, the Cabinet Secretary shall –

(b) deleting paragraph (c).

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 20

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT Clause 20 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) A Land Use Plan shall include –

- (a) an objective of the plan;
- (b) situation analysis including
 - (i) an analysis of the state of land development in Kenya; and
 - (ii) the relevant studies and reports concerning land use in Kenya;
- (c) policies, strategies and measures necessary to optimize opportunities and potentials and resolve challenges relating to land use planning in Kenya;
- (d) maps and plans showing current and anticipated land use patterns;
- (e) an implementation framework; (f) a monitoring and evaluation strategy; and
- (g) such other information as may be necessary.

(b) in sub-clause (2) by deleting the words “National Director of Physical Planning” appearing at the beginning of the sub-clause and substituting therefor the words “Cabinet Secretary”;

(c) in sub-clause (3) by deleting the words “Physical Development” appearing immediately after the words “preparation of the” and substituting therefor the words “Land Use”;

(d) in sub-clause (4) by deleting the words “Physical Development” appearing immediately after the words “within which a” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 21

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 21 be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” wherever they appear in the sub-clause and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the words “Physical Development” appearing immediately after the words “about the National” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 22

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 22 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “National Physical Planning Consultative Forum for comments” appearing immediately after the words “Plan to the” and substituting therefor the word “Cabinet for approval”.

(b) by deleting sub-clause (2);

(c) by deleting sub-clause (3);

(d) by inserting the following new sub-clause immediately after sub-clause (3) –

(3A) The Cabinet Secretary shall, within thirty days of approval by the Cabinet, submit the land use plans to Parliament for consideration and approval.

(e) by deleting the sub-clause appearing immediately after sub-clause (3) and substituting therefor the following new sub-clause –

(4) The Cabinet Secretary shall, within fourteen days of approval of the plan by Parliament, publish the approved plan in the Gazette and in at least two newspapers of national circulation.

Mr. Temporary Chairman, Sir, this is so that it is in conformity and consistent with my previous amendments in a, b, c, d and e. The proposal to amend sub-clause 3 is similar to the ones proposed by the Chairperson. So, either way, we are in agreement.

The Temporary Chairperson (Sen. Mositet): Sen Obure, it is your turn now.

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:

THAT Clause 22 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause-

- (3) Upon incorporation of the proposed changes by the National Physical Planning Consultative Forum, the plan shall be submitted to the Cabinet Secretary who shall cause it to be placed before Parliament for approval.

The amendment is intended to correct an error that led the approval of the National Physical Development Plan to the Cabinet. The proposal was not in line with the approval procedures for public policies vide in the entire nation. It is the Cabinet who endorses the plan and its approval should rest with Parliament in furtherance of separation of powers.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 23

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 23 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The national government and county governments shall base the preparation of inter-county land use plans, integrated county land use plans, city land use plans, urban area land use plans and sectoral plans on the National Land Use Plan.

(b) In sub-clause (2) by deleting the words “Physical Development” appearing immediately after the words “lack of a National” and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 24

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 24 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” appearing immediately after the words “implementation of a National” and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the words “Physical Development” wherever they appear in the sub-clause and substituting therefor the words “Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 25

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT clause 25 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “regional physical development appearing immediately after the words “formulate a regional” and substituting therefor the words “an inter-county land use”.

(b) in sub-clause (2) by deleting the words “Regional Physical” appearing immediately after the words “shall form a” and substituting therefor the words “Inter-County Land Use”. (c) in sub-clause (3) by-

(i) deleting paragraph (a) and substituting therefor the following new paragraph-

(a) A person nominated by the Cabinet Secretary with knowledge and experience in matters relating to land use planning.;

(ii) deleting the word “physical” appearing immediately after the words “responsible for” and substituting therefor the words “land use”.

(d) by inserting the following new paragraph immediately after clause (4)-

(4A) The members of the Inter-County Land Use Development Committee shall elect a chairperson from amongst themselves.

(e) in sub-clause (4) by deleting the words “regional joint physical” appearing immediately after the word “the” and substituting therefor the words “inter-county land use”.

(f) in sub-clause (5) by deleting the words “The National Director of Physical Planning” appearing at the beginning of the sub-clause and substituting therefor the words “The Cabinet Secretary”.

Mr. Temporary Chairman, Sir, this is in line with the previous amendments to follow the Constitution and the Land Policy 2009.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 26

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 26 of the Bill be amended by deleting the words “A Regional Physical Development” appearing in the introductory clause and substituting therefor the words “Inter-County Land Use”.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 27

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 27 of the Bill be amended by –
(a) deleting sub-clause (1) and substituting therefor the following new sub-clause

–
(1) The Inter-County Land Use Planning Committee preparing an intercounty land use plan shall publish a notice of intention to prepare a plan in the gazette and in at least two newspapers of national circulation.

(b) deleting the words “Regional Physical Planning Joint” appearing immediately after the words “constitution of the” in sub-clause (2) and substituting therefor the words “Inter-County Land Use;

(c) deleting the words “Regional Physical Development” appearing immediately after the words “complete the” in sub-clause (3) and substituting therefor the words “Inter-County Land Use;

(d) deleting the words “Regional Physical Development” appearing immediately after the words “preparation of the” in sub-clause (4) and substituting therefor the words “Inter-County Land Use.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 28

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, I beg to move:-
THAT Clause 28 of the Bill be amended by-
(a) Deleting sub-clause (1) and substituting therefor the following new sub-clause–

(1) Within 30 days of the completion of an inter-county land use plan, the inter-county land use committee shall publish a notice in the gazette and in at least two

newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that any interested person may comment on the content of the plan

(b) In sub-clause (2) by deleting the words “Regional Physical Planning Joint” appearing immediately after the words “constitution of the” in sub-clause (2) and substituting therefor the words “Inter-County Land Use;

(c) Deleting sub-clause (3); and

(d) In sub-clause (4) by deleting the words “National Physical Planning Liaison Committee” appearing immediately after the words “decision of the” and substituting therefor the words “Inter-County Land Use Committee”.

Mr. Temporary Chairperson, this is in line with the proposals in Clause 27.

(Question of the amendment proposed)

The Temporary Chairman (Sen. Mositet): Division will be at the end.

Clause 29

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT Clause 29 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –
 (1)The County Executive Committee members of all counties participating in the inter-county land use plan shall separately approve the plan and submit the same to the respective county assemblies.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) Within thirty days of the approval of the Inter-County Land Use Plan by the respective county assemblies, the Governors of the relevant counties shall jointly publish the approved Inter-County Land Use Plan in the *Gazette*;

(c) by deleting sub-clause (3); and

(d) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) The published Inter-County Land Use Plan shall be deposited with the relevant County Executive Committee Member.

Mr. Temporary Speaker, Sir, this is to introduce the work of the county executive members in charge of the counties in participating in the Inter-County Land Use Plan and to approve separate plans and submit the same to their respective county assemblies.

The Temporary Chairperson (Sen. Mositet): Before I propose the Question, the amendment you want to make and the Chairperson’s seems to be conflicting. You may need to reconcile before we proceed.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I had sent these proposals to the Committee but they did not agree with them. That is the reason why some of my proposals appear on the Order Paper. So, we have a disparity.

The Temporary Chairperson (Sen. Mositet): So, you cannot reconcile?

Sen. Obure: Mr. Temporary Chairman, Sir, what Sen. Mutula Kilonzo Jnr., is saying is correct. There was a disagreement and we have not reconciled the amendment. So, we do not know what to do in the circumstances.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, from the beginning, I said that it will be a contradiction to have a National Director of Physical Planning while this is the role of the National Land Commission. Therefore, to attempt to reconcile their proposal with mine will be in conflict with the amendments I have proposed because physical planning is now a devolved function.

This Bill is attempting to take away the role of the planners at the county level and set up a national structure which appears that every time you are in Kajiado County, you will have to seek approval at the National Land Commission Director of Physical Planning in Nairobi. That is a contradiction of the fact that this is a devolved function. It will not only set up a conflict but it will also rob the counties of the physical planning role, a jurisdiction that they have under the Constitution. That is where we have a disparity but the Senate will determine.

The Temporary Chairperson (Sen. Mositet): Both of you are agreed on deleting apart from what you are proposing to delete. Since both of you are Senators who are the protectors of counties, why can you not reconcile? You can drop your amendment and allow him to continue.

Sen. M. Kajwang: Mr. Temporary Chairman, Sir, I have heard the argument advanced by Sen. Mutula Kilonzo Jnr., but Standing Order No. 138 gives us guidance on this.

It provides that:-

“No amendment shall be moved which is inconsistent with any part of the Bill already agreed to or any decision already made by the Committee and the Chairperson may, at any time during the debate of a proposed amendment withdraw it from the consideration of the Committee if, in the opinion of the Chairperson, the debate has shown that the amendment contravenes this paragraph.”

If the Committee had made a decision, which is contrary to what Sen. Mutula Kilonzo Jnr. proposes, then at any given time during the debate, you have the power to withdraw it from the consideration of the Committee if in your view the amendment contravenes the paragraphs. In other words, the decision of the Committee on this would take force.

The Temporary Chairperson (Sen. Mositet): It is the Committee of the Whole and not the Standing Committee on Land and Natural resources. So, you are completely out of order. You need to take some coffee.

I propose that I put the questions for both the amendments but during division stage, we will allow each of you to make a presentation before we take a vote.

(Question of the amendment proposed)

The Division will come at the end and each one of you would be given a chance to highlight why we should vote for the amendments.

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:-

THAT Clause 29 of the Bill be amended by deleting sub-clause(1) and substituting therefor the following new sub-clause—

- (1) The National Director of Physical Planning shall, with the approval of the Cabinet Secretary and in consultation with the county governments prepare regional plans and part development plans for national projects and programmes.

This amendment has been moved to clarify the distinct role of the National Director of Physical Planning, the Cabinet Secretary and the counties in so far as approval of regional physical development plans is concerned.

Approval in this case is to be done by the Cabinet Secretary and not the National Director of Physical Planning. Counties have also an independent role to comply before the submission of plans to the national level.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): The Division will come at the end. As I said, each of you will be given some minutes to show why we should vote for your amendments.

Clause 30

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairperson, Sir, I beg to move:-

THAT the Bill be amended by deleting Clause 30 and substituting therefor the following new clause—

(1) In addition to the national land use plan, the inter-county land use plan shall inform the preparation of a county land use plan or urban area plan for the county governments within the planning area covered by the inter-county land use plan.

(2) Where the National Land Use Plan and an Inter-County Land Use plan have not been approved, county governments may prepare other land use plans which will be incorporated into the National Land Use Plan or the relevant Inter-County Land Use Plan after they have been prepared and approved.

(Question of the amendment proposed)

Clause 31

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 31 and substituting therefor the following new clause –

31. At least three months before the end of a financial year, every county executive committee member responsible for land use planning in a county covered by an inter-county land use plan shall submit a report on the implementation of the inter-county land use plan to the National Land Commission and the Cabinet Secretary for their purposes.

(Question of the amendment proposed)

Clause 32

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 32 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “physical development” appearing immediately after the words “prepare a county” and substituting therefor the words “land use”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) Each county land use plan shall be in conformity with the National Land Use Plan and any relevant Inter-County Land Use plan.

(c) in sub-clause (3) by deleting the words “physical development” appearing immediately after the words “in charge of” and substituting therefor the words “land use”;

(d) in sub-clause (4) by deleting the words “physical development” appearing immediately after the words “the county” and substituting therefor the words “land use”

(Question of the amendment proposed)

Clause 33

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 33.

(Question of the amendment proposed)

Clause 34

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:
THAT, the Bill be amended by deleting Clause 34.

(Question of the amendment proposed)

Clause 35

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 35.

(Question of the amendment proposed)

Clause 36

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:
THAT, the Bill be amended by deleting Clause 36.

(Question of the amendment proposed)

Clause 37

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:
THAT, the Bill be amended by deleting Clause 37.

Mr. Temporary Chairman, Sir, the reason I have proposed to delete sections 33 to 47 is because this is a duplication of the County Governments Act. Therefore, any further work on development plans should actually have regulations in the County Governments Act as opposed to the Physical Land Use Planning Act which ideally should just provide the framework

Sen. Obure: Mr. Temporary Chairman, Sir, that Committee does not need division of Clause 37 all together. Instead, we are proposing an amendment on the basis shown on the Order Paper and this amendment was proposed merely to correct the typographical error.

(Question of the amendment proposed)

The Temporary Chairman (Sen. Mositet): The two of you will have to be there during division to help the House.

Clause 38

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 38.

(Question of the amendment proposed)

Clause 39

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting clause 39.

(Question of the amendment proposed)

Clause 40

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 40.

(Question of the amendment proposed)

Clause 41

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting clause 41.

Mr. Temporary Chairman, under Section (110) of the County Governments Act, the law has proposed what they are calling Counties Partial Plans and a detailed way of redoing it at county level is already proposed. This is a duplication and superfluous.

(Question of the amendment proposed)

Clause 42

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 42.

(Question of the amendment proposed)

Clause 43

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 43.

(Question of the amendment proposed)

Clause 44

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting Clause 44.

(Question of the amendment proposed)

Clause 45

The Temporary Chairman (Sen. Mositet): This clause is the same as Clause 37. So, after I propose, Sen. Mutula Kilonzo Jnr. will take over and when we will be voting, we will allow each of you to explain to the House why you want your amendment to be adopted.

Clause 45

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-
THAT, the Bill be amended by deleting clause 45.

The Justification is duplication under Section 110 of the County Governments Act and Sections 38 to 41 of the Urban and Cities Act.

(Question of the amendment proposed)

Clause 45

Sen. Obure: Mr. Temporary Chairman, Sir, I beg to move:-
THAT the Bill be amended in Clause 45 by-

- (a) numbering the existing clause as sub-clause (1); and
- (b) Inserting the following new sub-clause immediately after the new sub-clause (1)-

The county executive committee member in charge of physical planning immediately to the National Land Commission for their record.

Mr. Temporary Chairman, Sir, The amendment was proposed with respect to the important oversight role of the National Land Commission (NLC) and the need to notify them of all important planning information for effective performance of their roles.

(Question of the amendment proposed)

Clause 46

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, the Bill be amended by deleting Clause 46.

Mr. Temporary Chairman, Sir, the justification is as previously stated in Clauses 41,42,43,44 and 45.

(Question of the amendment proposed)

Clause 47

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 47 of the Bill be amended-

(a) in sub-clause (1) by deleting the words “or the National Physical Planning Consultative Forum” appearing immediately after the words “National Government”;

(b) in sub-clause (2) by deleting the words “physical development” appearing immediately after the words “area until a” and substituting therefor the words “land use”;

(c) in sub-clause (3) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”;

(d) in sub-clause (4) by deleting the word “planning” wherever it appears in the sub clause and substituting therefor the words “land use”;

(e) by deleting sub-clause (6) and substituting therefor the following new sub-clause -

(6) A land use plan prepared for special land use area shall undergo the process of approval in accordance with section 112 of the County Governments Act”

Clause 48

(Question, that Clause 48 be part of the Bill, proposed)

Clause 49

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 49 of the Bill be amended—

(a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “ensure orderly” and substituting therefor the words “land use”;

(b) in paragraph (e) by deleting the word “physical” appearing immediately after the words “participation in” and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 50

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 50 of the Bill be amended—
(a) in paragraph (d) by deleting the word “physical development” appearing immediately after the words “of approved” and substituting therefor the words “land use”;
(b) in paragraph (f) by deleting the word “physical development” appearing immediately after the words “the approved” and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 51

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 51 of the Bill be amended—
(a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;
(b) in sub-clause (3) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
(c) in sub-clause (4) by deleting the word “planning” appearing immediately after the words “sub-section (3) the” and substituting therefor the words “land use”;
(d) in sub-clause (5) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
(e) in sub-clause (6) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;

(Question of the amendment proposed)

Clause 52

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 52 of the Bill be amended—
(a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;
(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “required by the” and substituting therefor the words “land use”;
(c) in sub-clause (4) by deleting the word “planning” appearing immediately after the words “consent to the” and substituting therefor the words “land use”;
(d) in sub-clause (5) by deleting the word “planning” appearing immediately after the words “granted by” and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 53

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 53 of the Bill be amended in –
(a) in sub-clause (1) by deleting the word “planning” appearing immediately after the words “provided to the” and substituting therefor the words “land use”;
(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “so by the” and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 54

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 54 of the Bill be amended in sub-clause (2) by deleting the word “planning” appearing immediately after the words “permission from the” and substituting therefor the words “land use”;

(Question of the amendment proposed)

Clause 55

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 55 of the Bill be amended in –
(a) in sub-clause (1) by –
(i) deleting the word “planning” appearing immediately after the words “development permission a” appearing in the introductory clause and substituting therefor the words “land use”;
(ii) deleting the words “physical development” appearing immediately after the words “relevant approved” in paragraph (a) and substituting therefor the words “land use”;
(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “development permission the” appearing in the introductory clause and substituting therefor the words “land use”; by deleting sub-clause (3) and substituting therefor the following new subclause–
(1) An applicant or an interested party that is aggrieved by the decision of the land use authority regarding an application for development permission may appeal to the Environment and Land Court.

(Question of the amendment proposed)

Clause 56

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 56 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “planning” appearing immediately after the word “a” at the beginning of the sub-clause and substituting therefor the words “land use”;

(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the “a” at the beginning of the sub-clause and substituting therefor the words “land use”;

(c) in sub-clause (3) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 57

(Question, that Clause 57 be part of the Bill, proposed)

Clause 58

(Question, that Clause 58 be part of the Bill, proposed)

Clause 59

(Question, that Clause 59 be part of the Bill, proposed)

Clause 60

(Question, that Clause 60 be part of the Bill, proposed)

Clause 61

(Question, that Clause 61 be part of the Bill, proposed)

Clause 62

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 62 of the Bill be amended in sub-clause (1) by deleting the words “physical development” appearing immediately after the words” by the relevant” and substituting therefor the words “land use”;

(Question of the amendment proposed)

Clause 63

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 63 of the Bill be amended in sub-clause (2) by deleting the words “physical development” appearing immediately after the words” any regional” and substituting therefor the words “land use”;

(Question of the amendment proposed)

Clause 64

Sen. Mutula Kilonzo Jnr. Mr. Temporary Chairman, Sir, I beg to move:-
THAT, Clause 64 of the Bill be amended in sub-clause (2) by deleting the words “physical development” appearing immediately after the word ”All“ at the beginning of the sub-clause and substituting therefor the words “land use”.

(Question of the amendment proposed)

Clause 65

(Question, that Clause 65 be part of the Bill, proposed)

Clause 66

(Question, that Clause 66 be part of the Bill, proposed)

Clause 67

(Question, that Clause 67 be part of the Bill, proposed)

The Temporary Chairperson (Sen. Mositet): Sen. Mutula Kilonzo Jnr. intends to delete Clauses 68-83 under Part VI of the Bill, while the Chairperson wants to come up with some amendments. You will have to explain to the House before we go to the division. I will allow you to move the amendments and the Division will come later and at that time, each of you will be given time to explain.

Clause 67 Part VI

Sen. Mutula Kilonzo Jnr.:Mr. Temporary Speaker, Sir, Clause 68 is part of Part VI in its entirety. It begins at Clause 67 VI. That is the reason I had suggested to amend the whole of part VI which sets up a National Physical Planning Liaison Committee. The whole of Part VI speaks to the committee, its functions and work. If you allow, there is no reason for me to go clause by clause. In view of the deletion of the National Physical Forum Committee at the beginning and its role, it will be a contradiction to leave this one because it falls in the same category as it is unnecessary bureaucracy when a matter is devolved function and as the National Land Commission to set up another Physical Planning Liaison Committee with National Environmental Management Authority (NEMA), Director General of Kenya National Highway Authority, Chief of Defense and Council of Governors; it is absolutely unnecessary.

The Temporary Chairperson (Sen. Mositet): Senator, because the Chair will also be having amendments, we will have to read every clause. We are now on Clause 67 Part VI.

(Question of the amendment proposed)

The Temporary Chairperson (Sen. Mositet): Division will be at the end.

Clause 68

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Chairman, Sir, that is why I suggested that we should read Clause 67 to the end because in the Order Paper, it appears as Clause 6. So, it is going to be technical when we come to explaining if we go clause by clause.

The Temporary Chairperson (Sen. Mositet): When we talk of Clause 67, it will mean the entire clause.

Sen. Mutula Kilonzo Jnr.: The whole part which is from Clause 67 to the end.

The Temporary Chairperson (Sen. Mositet): You want us to be specific?

Sen. Mutula Kilonzo Jnr.: I propose that Part VI which begins at Clause 67 to the end of Part VI speaks about the same thing. From the way we have put it in the Order Paper, if we go clause by clause, we will end up having a problem.

The Order Paper reads: "That the Bill be amended by deleting Clause 6". We are now reading Clauses 67, 68 and 69. That is the part that I do not understand.

The Temporary Chairperson (Sen. Mositet): I am told it is a typo.

Sen. Mutula Kilonzo Jnr.: If it was a typo, then I beg to move:-

THAT Clause 68 of the Bill be amended by inserting the following new paragraph (1)-

(m) National Director of Physical Planning.

The Temporary Chairperson (Sen. Mositet): Senator, I agree with you, instead of reading each clause, I will read all the clauses together so that we can propose and put the question. What is your point of order, Sen. Obure?

Sen. Obure: On a point of order, Mr. Temporary Chairman, Sir. This does not look tidy at all. In fact, it is going to be messy at the end of the day and it is not going to be a good reflection on us, as Senators, and the Committee I represent. We consulted with Sen. Mutula Kilonzo Jnr. and agreed that we can stop at this point, do more consultations as a Committee, invite the Senators and see if we can sort this out in a manner which will be amicable and bring dignity to the proceedings of this House.

Sen. Ongoro: Mr. Temporary Chairman, Sir, I agree with the Chair because the amendments seem to be so numerous. Now that with the proposed amendments – the proposer and the Chair are both in the House and they have agreed to refer it back to the Committee, we should go by their decision and move to the next Order.

The Temporary Chairperson (Sen. Mositet): Chair, you want us to say we have done the amendment until Clause 66 and then you will consult for the rest as a Committee with the Senator?

Sen. Obure: Mr. Temporary Chairman, Sir, that is my proposal after consulting with Sen. Mutula Kilonzo Jnr..

The Temporary Chairperson (Sen. Mositet): Senator, can you second?

Sen. Mutula Kilonzo Jnr.: It is important to agree that the reason I sent the amendments in advance was for us to synchronize but I believe wisdom comes at a time

like this. I agree with Sen. Obure, being my senior, that it is better if we sort it out at the Committee level.

PROGRESS REPORTED

THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL No.46 OF 2015)

Sen. Obure: Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee do report progress on its consideration of The Physical Planning Bill (National Assembly Bill No.46 of 2015) and seek leave to sit again tomorrow.

The Temporary Chairperson (Sen. Mositet): So, how much time will you need to consult? Mr. Chairperson, make sure that you really adhere to Article 96 of the Constitution and we hope that you are all reading from the same script.

Sen. Obure: Mr. Temporary Chairman, Sir, it is very difficult to estimate the time that we will require.

The Temporary Chairperson (Sen. Mositet): Two weeks?

Sen. Obure: Mr. Temporary Chairman, Sir, maybe three weeks.

The Temporary Chairperson (Sen. Mositet): Three weeks to think through?

Sen. Obure: Mr. Temporary Chairman, Sir, okay. Let us try two weeks.

The Temporary Chairperson (Sen. Mositet): Okay. You just need to consult and even one week is enough.

Sen. Obure: Mr. Temporary Chairman, Sir, give us two weeks, please.

The Temporary Chairperson (Sen. Mositet): Okay.

I am told that we are just about to go on recess again. So, one week is enough. The Chair has ruled.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Speaker (Sen. Ongoro) in the Chair]

REPORT

THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL No.46 OF 2015)

Sen. Mositet: Madam Temporary Speaker, I beg to report progress; that the Committee of the Whole has considered the Physical Planning Bill (National Assembly Bill No.46 of 2015) and seeks leave to sit again tomorrow.

Sen. Obure: Madam Temporary Speaker, I beg to move that the House do agree with the Committee on the said report.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Ongoro): Next, Order.

BILLS

Second Readings

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

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

THE COUNTY STATISTICS BILL
(SENATE BILL NO. 11 OF 2016)

THE CYBER SECURITY AND PROTECTION BILL
(SENATE BILL NO. 12 OF 2016)

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

(Bills deferred)

MOTIONS

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.

CREATION OF THE OFFICE OF AN AUDITOR TO SPECIFICALLY
AUDIT THE BASIC EDUCATION INSTITUTIONS' FUNDS

THAT, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

(Motion deferred)

INSTALLATION OF CCTV CAMERAS IN
ALL POLICE STATIONS AND POLICE POSTS

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.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Thursday, 10th November, 2016, at 2.30 p.m.

The Senate rose at 6.20 p.m.