

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 15<sup>th</sup> September, 2015

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

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

#### PRAYERS

#### PETITION

#### BUDGET CRISIS IN BOMET COUNTY

**Sen. (Prof.) Lesan:** Mr. Speaker Sir, I stand to present a petition by the petitioners in my county for the quick resolution of the budget crisis currently obtaining in Bomet County.

The undersigned citizens of Kenya, citizens of Bomet County, pursuant to Article 96 and 119 of the Constitution, draw the attention of the Senate to the following:

THAT, there is currently a stalemate between Bomet County Assembly and Bomet Governor, Hon. Isaac Rutto, on the county budget of 2015/2016 Financial Year which threatens to become a major crisis if urgent action is not taken to avert it. The particulars of the budget crisis are:

(1)THAT, the County Assembly passed the Bomet County Appropriation Bill 2015 on 30<sup>th</sup> June 2015 and forwarded the same for assent to the Governor who subsequently returned the Bill to the Assembly with a memorandum.

(2)THAT, from our perusal of the assembly HANSARD, some members of the county assembly raised issues regarding the legality of the governor's memorandum necessitating that the county assembly speaker gives a considered ruling on the same.

(3)THAT, on 16<sup>th</sup> of July, the Speaker of the county assembly of Bomet, Hon. Geoffrey Kipng'etich, gave a ruling on the Governor's memorandum whose effect was a finding that the memorandum was invalid and thus inadmissible for consideration by the Assembly.

(4)THAT, in his ruling the Speaker observed that the Appropriation Bill is a unique Bill built on budget planning documents and resolutions of the Assembly on the budget process, and as such, thus the Governor's memorandum to be valid, it had to address only issues related to those resolutions and budget planning documents made prior to the passage of the Appropriation Bill.

(5)THAT, the Speaker's ruling observed that the Governor could not singlehandedly attempt to revise resolutions and approve budget documents which are required on the

budget process, as it would defeat the whole purpose of the budget process contemplated under the Public Finance Management Act, that took almost 10 months to culminate into the Appropriation Bill.

(6) THAT, the Governor has subsequently rejected the County Assembly's position on his memorandum and has appeared on a vernacular station indicating that he will not sign the warrant required to release funds to Bomet County unless the Assembly considers and passes the changes proposed by his memorandum.

(7) THAT, the Speaker has also appeared in local radio stations insisting that the Assembly's position is that the Bomet County Appropriation Bill 2015 has become law.

(8) THAT, the tone of the conversation around the budget issue, particularly on the Governor's side, is becoming more combative and hostile. In fact, the Governor has resorted to lambasting Members of the County Assembly for the budget stalemate.

(9) THAT, the Governor is deliberately misrepresenting the facts of the budget as passed by the Assembly in a manner that borders on inciting the public against the County Assembly; for example, the Governor is reported to have stated that the County Assembly wants to spend Ksh.113 million for the palatial home for the Speaker; funds which were meant for roads when, in fact, this is not the position as per the budget estimates passed by the Assembly.

(10) THAT, it appears that neither the County Assembly nor the Governor will cede the hardline positions on the budget.

(11) THAT, many people in the county are anxious about the budget particularly county staff who are worried as to timely remittances of the salaries for July, as most have taken loan facilities.

(12) THAT, the general mood in Bomet is bound to get tense especially after the Governor's decision to embark on holding several rallies across the county, heaping blame on the County Assembly for the budget process by telling the people that the Assembly wants to use the money for its own selfish gain.

(13) THAT, both arms for the Bomet Government seem to have dug in their heels on the budget issues.

(14) THAT, this is not the first time that the budget process is contentious and in fact, a court found the Bomet budget process for 2014/15 flawed in the case of Tyson Ng'etich and another *versus* the Governor of Bomet County and others in Nairobi High Court, Constitutional Petition No.145/2014.

(15) THAT, pursuant to Article 96 of the Constitution, the Senate is the relevant body to address this matter; that to the best of our knowledge the issues in respect of this petition is made are not pending before any court or constitution or legal body.

Therefore your humble petitioners pray that the Senate:-

(i) Summons the Speaker and the Governor of Bomet County to inquire into the cause of the stalemate and find a solution; and,

(ii) clearly defines what is meant by separation of power in terms of the autonomy and independence of the County Assembly in performance of its function.

(iii) to establish whether some Members of Bomet County Assembly ran away from attending the sittings during the deliberations of the said memorandum and whether they were hidden in Naivasha hence failing to protect the interests of the different groups which they were elected or nominated to represent and sanction them; and,

(iv) review the Public Finance Management Act with the view of elaborating on the issues of amendments on the Appropriation Bill including the role of governors in the budget making process; with the signed petitioners named.

Thank you.

**The Temporary Speaker** (Sen. Mositet): I direct that the Petition be committed to the Committee on Finance, Commerce and Budget.

Any Member of the Committee present?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I confirm that I am a Member of the Committee, and I have heard you. I will communicate to the Chairman and the Vice Chair who I know is around somewhere here, when I meet them.

**The Temporary Speaker** (Sen. Mositet): Any comment on the Petition? Please, proceed, Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, the mischief of the budget making process at the county level has thrown many counties into problems; examples are Makueni County; we have an issue in Migori, where the budget was actually made and discussed by Migori County Assembly and it was actually changed and delivered to the relevant places with those changes without any ratification by the Assembly. Indeed, there is need to relook at the Standing Orders and the Act that governs the budget making process so that mandatory signatories, and letters of confirmation as demanded by the Senate on this budget making *vis-a-vis* the National Assembly because this problem, will continue. Bomet County will not be the last.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. I would like to welcome my colleagues after a well deserved working holiday where they were very busy working in committees.

Mr., Speaker, Sir, I must congratulate, the Senator for Bomet, Sen. (Prof) Lesan, for having seen the wisdom of pursuing this route of bringing this matter to Senate. We would like Kenyans to appreciate the one institution in this country which remains professional in sorting out these kinds of disputes is the Senate. Members of the public should be encouraged to pursue this route, because those of us who have been following events in Makueni, a similar problem like what is brewing in Bomet took place in Makueni, and for all the trouble that the people took looking for signatures and *blah blah blah* but it has ended up back to square one.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. (Dr) Machage?

**Sen. (Dr) Machage:** Mr. Temporary Speaker, Sir. You heard the honorable Senator talk of *blah blah*. What is the meaning of *blah blah*?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I am glad to confirm that *blah blah* is not unparliamentary. However, I simply meant that it is neither here nor there. It has come with a lot of disappointments to many Kenyans, that after all that effort in Makueni, after millions of shillings were spent in that particular commission, it has come to naught. We want to encourage the public to approach the Senate because it is quite clear that the executive is too busy with matters of implementation of the budget they are not able to arbitrate. The real brains here to arbitrate on financial issues are the great leaders of this great Republic like Sen. Billow Kerrow, a renowned professional in this area.

With those remarks, I support.

**The Temporary Speaker** (Sen. Mositet): Sen. Billow, is it an intervention or do you want to contribute?

**Sen. Billow:** Mr. Temporary Speaker, Sir, let me also join my colleagues in welcoming everyone from recess and thank them for the good job that the Committees have been doing.

Mr. Speaker, Sir, on this Petition, I thank the Senator for Bomet, because we have been alive to this issue of Bomet budget-making process and I think it is important that it came here. I just want to point out two things regarding the budget process. That any budget that is approved by the County Assembly when it is being forwarded to the Controller of Budget, it must be accompanied by a letter signed by both the Clerk to the County Assembly and the County Executive Committee (CEC) Member for finance. That is the only way the Controller of Budget accepts any budget from a county government.

Nonetheless, one of the things we need to be very clear about is the amount of money provided for in the budget for the County Assembly. These amounts have been approved by this House in the County Allocation of Revenue Bill - what we were calling the limits for the County Assemblies. This is not negotiable because it is a law passed by both Houses of the Parliament of Kenya. That is one of the issues of contention which has no basis. If governors start creating their own figures, it is not acceptable. I want to encourage members that where there is a challenge regarding the budget-making process, there are very clear processes in the law on what needs to be done and how that process is conducted; so if there are any issues we want to encourage members to bring them to our attention so that we can deal with them. Thank you.

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, pursuant to Standing Order 227 (1), the Petition stands committed to the Standing Committee on Finance, Commerce and Budget as earlier directed. In terms of Standing Order No.227(2), the Committee will be required in not more than 60 days from the time of reading the prayer to respond to the Petition by way of a report addressed to the petitioner and laid on the Table of the Senate.

Next Order!

## PAPERS LAID

### REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTIES

**The Temporary Speaker** (Sen. Mositet): As per the Order Paper, we have quite a number of them.

**Sen. (Dr) Khalwale:** Mr. Temporary Speaker, Sir, I beg to lay the following Papers on the table of the Senate today, 15<sup>th</sup> Tuesday September, 2015.

Report of the Auditor-General on the Financial Statement of the County Government of Turkana for the sixteen months period ended 30<sup>th</sup> June 2014;

Report of the Auditor-General on the Financial Statement of the County Government of Baringo for the sixteen months period ended 30<sup>th</sup> June 2014;

Report of the Auditor-General on the Financial Statement of the County Government of Tharaka Nithi for the sixteen months period ended 30<sup>th</sup> June 2014;

Report of the Auditor-General on the Financial Statement of the County Government of Marsabit for the sixteen months period ended 30<sup>th</sup> June 2014;

Report of the Auditor-General on the Financial Statement of the County Government of Trans Nzoia for the sixteen months period ended 30<sup>th</sup> June 2014;

Report of the Auditor-General on the Financial Operations of the County Government of Nakuru County Assembly for the period from 1<sup>st</sup> July 2013 to 30<sup>th</sup> July 2014;

Report of the Auditor-General on the Financial Operations of the Narok County executive for the period from 1<sup>st</sup> July 2013 to 30<sup>th</sup> July 2014;

Report of the Auditor-General on the Financial Operations of the Narok County executive for the period of 1<sup>st</sup> of July, 2013 to 30<sup>th</sup> July 2014.

Report of the Auditor-General on the Financial Operations of Kericho County Executive for the period from 1<sup>st</sup> July 2013 to 30<sup>th</sup> July 2014

Report of the Auditor-General on the Financial Operations of Nyandarua County Assembly for the period from 1<sup>st</sup> July 2013 to 30<sup>th</sup> 2014

Thank you.

*(Sen. (Dr.) Khalwale laid the documents on the Table)*

**Sen. Billow:** Mr. Temporary Speaker, Sir, if you noted carefully, the papers that were tabled, there is need for the Member to clarify three or four items. When he was laying the one for Marsabit and Turkana counties, he was laying financial statements for county governments. For Marsabit, it is for a year and a year means 12 months, ended 2014. For Turkana, it is 16 months period ending 2014. Why is there a disparity that it ends 12 months and another one 16 months, yet the audits for the four months of 2013 were concluded last year?

The second point, for example, in Nakuru, you talk about the financial operations and not the financial statements. I want to know what the difference is. Why is one an audit on financial operations and the other one on financial statements?

Lastly, in some of them, it is the financial statement of the county government and in others, for the Assembly and the Executive, they are separate. Is the government meaning both the Executive and the Assembly combined? I will imagine that it is so but you need to clarify on the two points.

**The Temporary Deputy Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, could you clarify?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I hear the distinguished Senator. In the reports where they are talking of 16 months, they are including the period that is so called the transition period when the governors came in and the whole financial year and it adds up to 16 months. There are those four months. But in those particular counties where e have a report covering 16 moths, it means that the auditor, in the interim audit reports that were tabled - the respective counties had not been reported on. So he decided to combine them and give them in one report.

The second one, the ones of July 2013 to July 2014, are the ones which the interim reports had already been sorted out and had been tabled in the House and now he is giving the respective financial year. I want to inform the House that there are some interim reports that we ran into problems with, when the governors ran to court and got

an injunction and unfortunately it was quashed; now it is mandatory that they must appear before us.

I was worried that you were going to challenge me on how the Committee is going to deal with those interim reports because we had not dealt with all of them. I will not answer that one because looking at the respective accounts with the Committee, we will then make a decision whether we want to start with the interim or we set them aside for the reason that, even if we set them aside, the reports in the interim usually do not die. They are carried into the next financial year. Audit queries do not die until they are adequately responded to.

On the issue of county assembly accounts being separated from executive accounts, I had a conversation with the Auditor-General, Dr. Edward Ouko and he confirmed to me and as a Committee, we have agreed with him, that it is tidier to deal with these accounts as much as they are under one government separately because we want to encourage the clerk who is the accounting officer of the county assembly to enjoy financial autonomy.

Thank you.

**The Temporary Deputy Speaker** (Sen. Mositet): Senator, I think there was one where you were to differentiate between financial statements and financial operations.

**Sen. (Dr.) Khalwale:** Can you point to the specific ones so that I speak to them.

**The Temporary Deputy Speaker** (Sen. Mositet): If you look at (e), the report of the Auditor-General on financial operations of Nakuru and (d), just compare the two. One is a financial statement and the other is financial operations. Can we give you some time?

**Sen. (Dr.) Khalwale:** Yes Mr. Temporary Speaker, Sir, because there is an issue of records and I come from a professional background. I would like that whatever I utter is factual.

**The Temporary Deputy Speaker** (Sen. Mositet): Ok, you can do it tomorrow. What is your point of order, Sen. (Prof.) Lesan?

**Sen. (Prof.) Lesan:** On a point of order, Mr. Temporary Deputy "Chairman", Sir. I noticed that several reports have been submitted already. I think more than three quarters of the counties have been reported. But the report for Bomet county is not forthcoming and yet the Governor of Bomet was the Chairman of the Council of Governors. I want to say that the report for Bomet is awaited very eagerly by the residents and voters of Bomet. Since there are worries that something could be cooking in the pot for the accounts of Bomet, we really want to ask that the report for Bomet be made immediately available like all the others remaining so that we can remove the apprehension of the voters of Bomet as regards to what could be happening with this report---

**Sen. (Dr.) Machage:** On a point of order. Mr. Temporary Speaker, Sir, Sen. (Prof.) Lesan has persistently referred to you as Mr. Chairman despite you being the Speaker of this session. Is he in order?

**The Temporary Deputy Speaker:** He is completely out of order. You must respect this House.

**Sen. (Prof.) Lesan:** My apologies Mr. Temporary Speaker, Sir. This could be as a result of the long duration we have been away from the House but I do not mean any lesser. I know you are the Speaker of the House.

Secondly, should there be any findings that point to foul play or misuse of resources in the counties, we want to ask that the CPAIC refers these cases immediately to the relevant authorities that can deal with them. I am sure the office of the prosecutor is waiting to deal with some of the misuse of the country's resources. We want this to be dealt with expeditiously so that *wananchi* start enjoying the benefits of the devolved systems of government.

Thank you.

**Sen. Billow:** Thank you, Mr. Temporary Speaker, Sir. I would like to seek clarification because the Constitution is very clear that the accounts were supposed to be audited after every 12 months. Here, we have a situation where some accounts are being audited after 16 months. What is the reason for the delay in not auditing that interim period during the last financial year and what is the chance that the kind of delay that we have already seen in Bomet County and other counties will not happen, so that we also do not end up next year with some counties having two years audit pending? The Constitution is very clear on that.

**The Temporary Speaker** (Sen. Mositet): Sen. Billow, you are the Chairperson of the Committee on Finance, Commerce and Budget. I believe that the Auditor-General has appeared before your Committee several times and told you the dilemma he has had. It is upon you ---

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, allow me to start with the clarification sought by the Senator for Mandera County. Yes, the Constitution speaks to this; that six months after the end of every financial year, the Auditor-General should have completed the audit and the audited reports tabled in this House. The law further provides that within six months from the time the reports are tabled here, this House should have made a decision on those particular audited accounts, by either approving them with or without amendments or rejecting them. I agree with you.

We have pursued this matter with the Auditor-General as a Committee and he has only found one bush in which he was hiding. He claims he does not have the human resource to audit all the 47 county governments and the national Government. Fortunately, for this House and the country, when I recently talked to the Auditor-General specifically on this one, he confirmed that he had received an additional Kshs1 billion in the current financial year to procure more human resource. I hope that now that our universities are awash with young professionals who are qualified in this area, he will bring them on board. In fact, we are merely bending backwards to accommodate the Auditor-General. Seriously, he has fallen short of the glory in the specifications set out in the Constitution of Kenya.

Mr. Temporary Speaker, Sir, my second comment is on the Senator for Bomet. Briefly on the first question, you are bordering on casting aspersions on the Office of the Auditor-General. You are worried about the accounts of Bomet County; that since they were the accounts of the most "powerful" Governor who was the Chair of the Council of Governors (CoG), some monkey tricks might be played. I take this opportunity to assure the people of Bomet County, through you, that the Senate Committee on Public Accounts and Investments is not composed of robots. We are human beings who are alive and our ears are open to what is going on in the counties. We conduct our proceedings in public. If work is done in a shoddy way, I assure them that we will get to the bottom of it and nobody will run away with it.

Let me give you an example. During the recess, we were looking at the accounts of Homa Bay County and it was very exciting that we were doing it in public. Unfortunately, that day the television was airing it live to the public and somebody sent me a rebuffal from the ground. When I put it to the Governor, I saw him break into a sweat suddenly. So, we are up to it and I have no doubt that we will succeed.

Mr. Temporary Speaker, Sir, my last response is actually to just join him in lamentation. We have realised that this is a very humbling Committee at the moment and the expectations of the public are so high. Governors are messing left, right and centre all over the country, to the extent that we are now seeing a wheelbarrow that costs Kshs8,000 in the supermarket going for Kshs190,000. The problem is very serious. We are seeing a governor who activates a *Facebook* page for the county expending Kshs1.2 million. Something is wrong. In fact, I was with the Deputy Speaker far away and I told him that I was getting afraid because it looks like you literally cannot know where to start and stop in this amount of responsibility. Not to mention a gate in Nyamira that costs Kshs7 million. So, bear with us---

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. The normal procedure is to go through the orders on the Order Paper. Order no. 5 just meant tabling of the Papers. No motion has been moved for us to discuss any of these Papers. Is the “tabler” of the Paper in order to put us through a debate?

**The Temporary Speaker** (Sen. Mositet): I think he was just trying to answer some points of order, particularly the ones that Sen. (Prof.) Lesan had mentioned. It is not really debating.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, thank you for protecting me. The Senator for Migori, a distinguished senior doctor in this country, knows that a chair of a committee is under obligation to respond to all points of order, so long as they have been found admissible by the Chair.

In conclusion, I assure the public that the answers might not come immediately but they sure will. To speak to the issue of rapid release of results and bringing them to this House, we cannot take shortcuts. The law expects that every governor must be heard on every audit query. You cannot allow the process not to be judicial and in the process end up challenged in court by the governor. So, we will go through it painstakingly. Every governor is given an opportunity to speak. If he asks for time, we will give him time. However, we have developed a little model where for every county that we finish with, we write the report immediately, table it here and once the House approves that report, action is taken. We have since completed the report of Homa Bay County, and I believe I will table it tomorrow, so that this House can debate quickly for one hour or so, since it is a short document and action to be taken.

Thank you.

**The Temporary Speaker** (Sen. Mositet): Sen. Leshore, do you have a Paper?

**Sen. Leshore:** Mr. Temporary Speaker, Sir, I would like to inform the Chairman that I have not seen the Auditor-General’s report on Samburu County. I do not know how many other counties he has not laid here.

Lastly, I would like to welcome and thank all my colleagues for coming after the long holiday. Welcome back, Senators.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, it is true that the Samburu County accounts have not been tabled. However, as the House will recall, before we went



on recess, I confirmed to you that 35 accounts of county executives had been concluded and endorsed by the Auditor-General. I also confirmed that 34 accounts of county assemblies were also complete. Now, in the intervening period of one month or so that we have been away, this is when the reports are now coming. All I have to do is do a follow-up and indicate to you in the coming days how soon the balances of the accounts are going to be before us.

**The Temporary Speaker** (Sen. Mositet): Sen. Ndiema, I think that the Chairperson has put it clearly that for those counties that have not received their reports yet, they are making every effort to submit their reports to the Auditor-General.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, my question is slightly different although it is still on the audit.

**The Temporary Speaker** (Sen. Mositet): Please, proceed.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, I want the Chairperson to clarify whether special audit reports done by the Auditor-General are also submitted to him for tabling in this House. I say so because I am aware of some counties where special audit reports have been done and in one case, I have not seen the special audit report tabled here. Since we are oversighting counties, is it not in order, therefore, that any special audit report done by the Auditor-General is mandatorily laid before this House?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, it is true that amongst others, there is a special audit report that was requested for by our Committee on Public Accounts and Investments on the County Government of Trans Nzoia after the members of the public petitioned us. The procedure is that as soon as the Auditor-General is through with that special audit, he will not table it in this House because it is not this House that asked for it. We asked for a special audit as a Committee to help us report back to this House on the Petition that was tabled by the members of the public from Trans Nzoia. Therefore, as soon as that special report of audit comes to us, we will then make recommendations and conclusions as a Committee that will then be tabled in this House and if the House agrees with the Committee, it will be adopted and then action will be taken.

**The Temporary Speaker** (Sen. Mositet): Sen. Kittony, you have Papers to table?

DISAPPEARANCE OF TWIN BABIES AT  
PUMWANI MATERNITY HOSPITAL

**Sen. Kittony:** Thank you, Mr. Temporary Speaker, Sir. I beg to lay the following report on the Table of the Senate today, 15<sup>th</sup> September, 2015.

Report of the Standing Committee on Health on the Statement sought by Sen. Mugo on the circumstances that led to the disappearance of twin babies who were delivered at the Pumwani Maternity Hospital on 6<sup>th</sup> January, 2015.

The Committee has deliberated and we have completed our report. I now lay it on the Table of the House.

*(Sen. Kittony laid the documents on the Table)*

**NOTICES OF MOTION****ESTABLISHMENT OF SELECT COMMITTEE TO INQUIRE  
INTO POLICY AND LEGISLATION ON THE TREATMENT OF  
DETAINED PERSONS IN CORRECTIONAL FACILITIES**

**Sen. Adan:** Thank you, Mr. Temporary Speaker, Sir. I wish to give notice of the following Motion:-

WHEREAS Article 51 of the Constitution of Kenya protects the rights of detained persons, persons held in custody and other imprisoned persons under the law, and requires Parliament to enact legislation to provide for the humane treatment of such persons with due regard to the relevant international human rights instruments;

OBSERVING that international instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Basic Principles for the Treatment of Prisoners set standards on the treatment of persons, including the right to be treated with respect; protection from discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth of other status;

AWARE of the deplorable state of correctional services throughout the country including poor living conditions in the institutions of both officers and prisoners, the poor state of sanitation and nutrition, overcrowding, lack of proper medical attention, frequent outbreak of communicable diseases and frequent reports of deaths of inmates leading to a high rate of recidivism and the inability of former inmates to reintegrate into society;

APPRECIATING the urgent need to align the Prisons Act and Borstal Institutions Act with the Constitution of Kenya and the international instruments on the rights of detained persons;

NOW THEREFORE, the Senate resolves to establish a Select Committee to undertake an inquiry into the policy and legislation pertaining to the treatment of detained persons as well as the state of correctional institutions in Kenya, including prisons and Borstal institutions, and to submit a Report to the Senate within three months, with recommendations on such policy and legislative interventions as may be necessary to align the existing legislation on correctional services with the Constitution of Kenya and in compliance with international standards on the rights of detained persons and such other recommendations as may be necessary;

AND FURTHER that the Members of the Select Committee are-

1. Sen. Fatuma Dullo
2. Sen. (Dr.) Zipporah Kittony
3. Sen. (Dr.) Boni Khalwale
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Stewart Madzayo
6. Sen. Liza Chelule
7. Sen. Judith Sijeny
8. Sen. Mutula Kilonzo Jr.
9. Sen. Stephen Sang

10. Sen. Joy Gwendu  
11. Sen. Moses Kajwang  
**The Temporary Speaker** (Sen. Mositet): Next Order!

### STATEMENTS

**The Temporary Speaker** (Sen. Mositet): Please, proceed, Sen. Musila.

#### STATUS OF CASH TRANSFER PROGRAMME

**Sen. Musila:** Thank you, Mr. Temporary Speaker, Sir. I would like to remind the Chair and the House that as we were going on recess, there were two matters that remained pending, and the Chair ruled that after we resumed, Cabinet Secretaries responsible would come to meet the whole House and give their positions on the issues raised. One is on the issue of cash transfers, the Cabinet Secretary, Ministry of Labour Social Security and Services was to come and respond to some questions from Members.

#### KILLINGS IN KITUI COUNTY

Mr. Temporary Speaker, Sir, the second request was about the security between Mwingi and Tana River border. The Cabinet Secretary, Ministry of Interior and Coordination of National Government was to come and address the issue.

I, therefore, stand on a point of order to ask that we get the dates when Cabinet Secretaries are going to appear before the Senate so that we can deal with the matters since we have now resumed.

#### COLLAPSE OF MUMIAS SUGAR COMPANY IN KAKAMEGA COUNTY

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. Before we went on recess, I had brought to the attention of the Chair of the Committee on Legal Affairs and Human Rights - and I am glad to see that he is here - about a pending Statement on the issue of Mumias Sugar Company, sugar cane growing and the sugar cane sector. It has taken too long and this is costing me because the public at home is starting to lose confidence in me because they are not seeing action on Mumias Sugar Company and the sugar sector.

Mr. Temporary Speaker, Sir, could the Chairperson be allowed to respond especially in view of the fact that I am now the subject of rebuke from sugar barons; people who looted Mumias Sugar Company and my desperate political competitors who are suggesting that “Boni Mtetezi” can be compromised with Kshs12 million. My pockets are very deep such that even if you give me Kshs1 billion for corruption, I would not take it. The things that I eat are very cheap. Therefore, I do not need that dirty wealth.

Mr. Temporary Speaker, Sir, could the Chairman quickly answer that, so that those people shut up once and for all?

**The Temporary Speaker** (Sen. Mositet): Sen. Musila, allow me to give time to the Chairmen of the Committee on National Security and Foreign Relations and the Committee on Labour and Social Welfare to consult regarding statements that you sought

from them. As early as Thursday, they should then tell us the appropriate dates that the Cabinet Secretaries (CS) should appear in the Committee of the Whole.

Regarding the second one, Sen. Wako is in. Therefore, he can respond to that.

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. Sen. (Dr.) Khalwale has made a very important statement here on an issue of defamation by the Gutter Press of a Member of this House. Whether that is true or not, it is a subject of discussion and imagination. However, it is not sweet to the concerned Senator. Would it, therefore, be in order that a select committee from this House is established to actually investigate the activities and sponsors of Citizen's "Ghetto Newspaper" or whatever it is called?

*(Applause)*

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Machage, if you want a select committee to be formed, you know the process to follow. You can start it and you will be heard.

Sen. Wako, you had not responded to the point of order raised regarding a statement which was supposed to be issued by your Committee.

**Sen. Wako:** Mr. Temporary Speaker, Sir, this is the first day we are sitting after recess. I promise that the response to the Statement will be forthcoming next week, if not this Thursday.

However, I believe that the defamatory statements and actions by opponents of Sen. (Dr.) Khalwale do not emanate from the fact that a statement has not been made in this House. It emanates elsewhere. Therefore, he had better struggled at the right and appropriate place and take appropriate legal action. If he wants to take an appropriate legal action, I am a lawyer and he knows what he must do for me to take up his case before the courts of law. However, as a matter of fact, if I may inform him, since he asked the question – I think he is aware – my Committee summoned the Director of Public Prosecution (DPP) to appear before us regarding the issue. The DPP undertook to take some actions. In fact, he preferred charges on one of the directors who was removed from some statutory corporation which he sat. However, a substantive case has yet to be reported to us. I am just informing him because I know---

**The Temporary Speaker** (Sen. Mositet): Sen. Wako, I thought you said that you would respond to that on Thursday or next week. It appears as if you are already answering him from whatever you are explaining. You should just stick to Thursday so that we save on time.

Sen. Ntutu, do you have a point of order?

*(Sen. (Dr.) Khalwale stood up in his place)*

Order, Sen. (Dr.) Khalwale!

#### STATUS OF VARIOUS PROJECTS IN NAROK COUNTY GOVERNMENT

**Sen. Ntutu:** Mr. Temporary Speaker, Sir, before we went on recess, I had demanded for a statement from the Chairperson of the County Public Accounts and

Investments Committee (CPAIC) concerning some constructions in Narok. I have been waiting for an answer for a very long time. The people and the contractors are still suffering. Some of them are still admitted in hospitals because of the pressure and their properties are being auctioned. When will I have the answer so that the people of Narok can be free?

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, as per the documents that I have, your response was due today. Could you, therefore, respond to that?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, my response was due today. However, as you know, the Chairman and the Committee can only wait to be given an answer using the internal system of how the Senate operates.

Mr. Temporary Speaker, Sir, we met today at 10.00 a.m. to, among other things, look at the answer before it is read here. However, as at the time we sat, the answer had not come from the line department in Government. I have already explained that to Sen. Ntutu and asked him to be patient until tomorrow when I will tell him whether or not the Jubilee Government is interested in responding to the issues raised by the people of Narok County. If it is not, then, I will hand that particular response to you. If they provide the response, I will read it. Unlike some of the Chairmen who have certain access to departmental offices, in my case if certain officers saw me knocking at the door, they would run away.

*(Laughter)*

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. You heard the hon. Senator for Kakamega County who is the Chairman of the CPAIC, courtesy of Members of this prestigious House, alluding to the fact that he is a lesser Chairman than others on this side. Is he in order to play down the respect and dignity of the position that we gave him as the Chairman of the Committee? He has the same powers and privileges that every other Chairman on this side of the House has. Is he suggesting that he is failing in his duties as the Chairman?

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, you are completely out of order. We know that you are a very serious Chairman. At least, all Senators have access to information they want. In case you are not getting it, you can seek for it through the Chair.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, it was Speaker Humphrey Slade who said in this Chamber where we are now that the beauty of debate in the House should also be accompanied with flower and humour. We all know that all Chairmen are equal. However, because we needed flower and humour in the House, we wanted to live to the high standard set by none other than Humphrey Slade.

Thank you, Mr. Temporary Speaker, Sir. I apologise if I have offended my brother from Mandera.

**The Temporary Speaker** (Sen. Mositet): There are quite a number of statements which were meant to be responded to today as per the Order Paper. Chairman of the Standing Committee on Education, Sen. Karaba, do you have any?

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**Sen. Karaba:** No, Mr. Temporary Speaker, Sir. I do not even see my friend Sen. (Prof.) Lonyangapuo. This Statement has just come and I am seeing it now. Therefore, I need some time.

**The Temporary Speaker** (Sen. Mositet): The seeker of the Statement is also not in. Let us move to the next statement. Is the Chairperson of the Standing Committee on Health around?

Where is the Chairperson of the Standing Committee on Information and Technology?

*(Sen. Karaba consulted loudly)*

Order, Sen. Karaba!

FREEZING/HANGING OF SAMSUNG ANDROID  
MOBILE PHONES IN KENYA

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, on behalf of the Chairperson, Sen. Kagwe, whom I have now learnt that he is bereaved - he lost his father - we have the response but the Member who requested for the Statement, Sen. Njoroge, is not in the House. I request that we defer this either to tomorrow or to a date that is convenient to the House.

**The Temporary Speaker** (Sen. Mositet): It is deferred

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, to which date?

**The Temporary Speaker** (Sen. Mositet): It is deferred to Thursday this week.

*(Statement deferred)*

Proceed, Sen. Haji.

STATUS OF REGISTRATION AND ISSUANCE  
OF NATIONAL IDENTITY CARDS

**Sen. Haji:** Mr. Temporary Speaker, Sir, I have a Statement regarding the status of registration of persons and issuance of national identification cards (IDs). Sen. M. Kajwang requested for a statement regarding the status of registration of persons and issuance of IDs. He particularly sought to be informed on:-

(1) The measures that the Government has taken to decentralize the processing and issuance of IDs to counties considering that delay in issuance of documents locks out applicants who are mainly women and youth from economic opportunities.

(2) Detail per county breakdown of all the applications received, processed and issued between 1<sup>st</sup> July, 2014 and 30<sup>th</sup> June, 2015 and indicate the number of applicants rejected per county.

(3) Explain the budgetary allocations for registration and issuance of IDs on 2014/2015 and 2015/2016 financial years and provide per county breakdown of the disbursement.

(4) State the targets of IDs registration in 2014/2015 and 2015/2016 financial years and provide per county breakdown.

(5) Provide per county breakdown of uncollected IDs and explain what strategies are being employed to ensure that the documents are collected by or delivered to the owners.

(6) Explain the current status of the ongoing digital IDs project.

Mr. Temporary Speaker, Sir, I wish to state as follows:-

The processing of IDs application is decentralized up to the division and ward level. There are over 600 registration officers across the country where the processing of these applications is being done. However, processing of the IDs is centralized in Nairobi for security reasons. The centralized system includes an automated fingerprint information system that matches fingerprints of the applicant with those of all registered persons. This eliminates cheating that was hitherto too rampant when the process was decentralized.

I wish to table the list of all the applications received, rejected, processed and issued between 1<sup>st</sup> July, 2014 and 30<sup>th</sup> June, 2015 per county and the Diaspora.

The budgetary allocations for registration and issuance of IDs in Financial Years 2014/2015 and 2015/2016 are Kshs143,391,115 and Kshs132,343,000 respectively. I wish to table a list of the breakdown of budgetary allocation per county.

Mr. Temporary Speaker, Sir, the targets of IDs registration in the Financial Years 2014/2015 and 2015/2016 were 963,857 and 1,029,060 respectively. I wish to table per county breakdown of the same.

The total number of uncollected IDs in the country is 284,450. The department of National Registration Bureau is currently giving the uncollected IDs to chiefs and assistant chiefs to trace the owners for collection.

In addition, applicants can send their serial number to 20031 or use the department's website; [www.identity.go.ke](http://www.identity.go.ke) base query to find out the status of their applications. I wish to table per county breakdown of the uncollected IDs as at 30<sup>th</sup> June, 2015.

Lastly, the Department has not been allocated funds for the implementation of the digital national identity card project during the current Financial Year 2015/2016.

*(Sen. Haji laid the documents on the Table)*

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I thank the Chairperson of the Committee for the detailed response and for the data that has been laid on the Table of this House.

One of the questions that I sought a clarification on was the status of the new generation IDs project. I did not ask about the budgetary allocation but the status and update on this project. If we are not careful about this project, it might end up being like the Biometric Voter Registration (BVR) issue that confronted this nation prior to the last general election where Kenyans were confronted with a new technological identification solution and given very limited time to register. That disenfranchised voters from certain parts of this country. It is important that this Senate and Parliament as a whole has its fingertips on the progress of this project.

I, therefore, request if the Committee could go back and just provide this House with an update on that project. There is a body established by an Act of Parliament called the Kenya Citizens and Foreign Nationals Management Service. It updated the nation sometime last year that in February of this year, Kenyans would be expected to take new generation IDs. If this body has not been given any budgetary allocation for this financial year, we do not want a situation where they are given it close to the next election so that they can do tendering that is rife with corruption and end up registering people from only certain parts of this nation yet we all know that the ID is the first step towards getting a voter's card.

I, therefore, beg that the Chairperson of the Committee goes back and give us much more detailed update on this project.

**The Temporary Speaker** (Sen. Mositet): What is the point of order, Sen. Billow?

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir, I also want to seek a clarification. Well, my apologies, I was seeking a clarification. Maybe I pressed the wrong button. After a long recess, one is bound to forget the numbers.

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. If you listened to Sen. M. Kajwang, he expressed his thinking loudly about the dangers of the late introduction of the new ID card registration machines. Would I be in order to demand that the Chair denies or accepts that, that is actually the plan of the Government to use the introduction of the new IDs as a rigging method? Confirm or deny.

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Machage, the Chair is not the Government. You are completely out of order! The point made by Sen. M. Kajwang was very clear. The Chairman and his Committee will try to intervene and interrogate the Report so that he can get the correct answer.

**Sen. Abdirahman:** On a point of order, Mr. Temporary Speaker, Sir. I thank the Chair of the Committee for the response. Unfortunately, we come from the same disadvantaged region. The issue of National Identity Cards (IDs) is a national concern. The two things that you get to hear constantly as feedback from the headquarters is that particular applicants go through some vetting process when the ID is being processed. The earliest they can get their IDs is from six to nine months. I want the Chairman to tell us whether the importance of this Statement was decentralization of issuance of IDs. If they cannot decentralize the process in bits, how fast can we reduce the other bottlenecks because there is too much delay and people are getting frustrated, students are missing university placement and people are not being recruited?

Mr. Temporary Speaker, Sir, I want the Chair to tell us what the Ministry will do to reduce the waiting period, if they cannot decentralize it to one or two months. It is a nightmare if we cannot solve the decentralization bit which they have kept on telling us. Could the Chairman tell us what the Government will do to reduce the waiting period?

**Sen. Khaniri:** Mr. Temporary Speaker, Sir, I want to join my colleagues in thanking the Chairman for the elaborate Statement that he has delivered to the House. The first clarification that I wanted to seek is what Sen. Abdirahman has asked. The second is whether the Chairman is aware that there is a lot of discrimination in issuance of these IDs. In some areas, youth apply for IDs and get them within a maximum of five weeks. Areas where some of us come from are perceived to be anti-Jubilee Government and youth wait for their IDs for a whole year and six months. Is he aware that there is



discrimination in the issuance of IDs? If he is, what is the Government doing to ensure that all youths in Kenya are treated equally in terms of issuance of identity cards?

As Sen. M. Kajwang said, they are disenfranchising some areas so that our youths are disadvantaged when it comes to employment because they cannot get employment without the IDs, they cannot register as voters and join universities.

**The Temporary Speaker** (Sen. Mositet): What Sen. Khaniri has raised is very serious. Chairman, I hope you have noted it.

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I want to thank the Chair of the Committee on National Security and Foreign Relations for the answer that he has given. I want to seek a clarification from him because these are supposed to be new generation IDs. I do not see anything new about these cards because they are not responsive to the current technology where we have reached. I would like to ask the Chair whether these cards are truly new generation in having sim cards incorporated in them so that they can carry more information which could be sought from anywhere.

For example, the new generation ID cards should probably have a sim card that has a driving license (DL) number or any other licences that I have, so that I can renew them using my sim card without going through the current rigorous process. We have seen technology in many countries. We visited Estonia with a Committee of this House to look at how to register citizens of a country in the best way possible with the current technology. This new generation IDs should encompass that. Has the Chair considered this kind of registration of new generation documents?

**Sen. Billow:** Mr. Temporary Speaker, Sir, I want to thank the Chair and find out whether there is indeed a different set of policy for issuance of IDs in north eastern Kenya from those policies that are used in the rest of the country. I want the Chairman to clarify because if you want an ID today; the process used in north eastern Kenya, some of which are areas of Jubilee unlike what my colleagues said, you literally go there with your parents and they should demonstrate that they are your parents and their fingerprints are required.

There are so many requirements which are not enforced elsewhere in this country. Could he clarify because this is causing a lot of resentment and disenfranchisement by Kenyans and people are getting to other things because of lack of IDs? Could he clarify why we have discrimination in the issuance of IDs when the Government through the Criminal Investigation Department (CID) officers, intelligent officers, chiefs and other people who sit in the vetting committees can address issues of security like in the rest of the country?

**The Temporary Speaker** (Sen. Mositet): Sen. Billow, I know the Chair has heard your concerns. The north eastern part of Kenya borders with Somalia and it will be difficult for people from the other side of the boundary. So, it is good if there could be a process to make sure that we protect our Kenyan Somalis. Therefore, the Chair will have to look into that.

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. With all due respect to the Chair, I think it would be unfair for the Speaker to give that kind of view because north eastern is in Kenya. There is no country without a border in this world yet they are examined in the same way the rest are examined and they are not discriminated against. We would not expect the Speaker of this House to allude to the fact that there should be a possibility of discriminating because people are on the border.

**The Temporary Speaker** (Sen. Mositet): Sen. Billow, you never got me correctly. Please, note that I never said that people from north eastern are not Kenyans or they should be discriminated. I said that may be that is why the process takes long. There should be no discrimination; they should be treated just like any other Kenyans.

**Sen. Haji:** Mr. Temporary Speaker, Sir, I go back to the observation made by Sen. M. Kajwang, I want to---

**Sen. Omondi:** Mr. Temporary Speaker, Sir, before the Chair responds, I had requested an intervention over the same--

**The Temporary Speaker** (Sen. Mositet): Okay. I give you the Floor.

**Sen. Omondi:** Mr. Temporary Speaker, Sir, I also want to add my voice on the issue of IDs. There is an outcry because IDs are produced with errors, either one number missing or an error in the names. Could the Chair also tell us what will happen during election time if Kenyans are locked out because there are errors in their IDs? There is carelessness in officers who are registering applicants and issuing IDs or there is a hidden agenda to sabotage and make sure that some areas do not vote or register as voters. I request the Chair to answer the House what will happen if this menace will continue. It has been identified through banks whereby Kenyans are not able to open bank accounts or benefit by borrowing loans because their IDs have errors.

**The Temporary Speaker** (Sen. Mositet): Sen. Karaba, do you have a point of order or an intervention?

**Sen. Karaba:** Mr. Temporary Speaker, Sir, it is apparent that some of the identity cards issued to citizens have not been collected from the District Commissioners' offices. Could the Chair of the Committee find out why they have not been collected by the applicants?

**Sen. Murungi:** Mr. Temporary Speaker, Sir, as the Chairman of this Committee responds, we should know why the issue of identity cards keeps on coming up every now and then. It is not the ideas *per se* which cause problems but discrimination in the issuance of identity cards where some areas feel that they have not been issued with identity cards in the same spirit as in other areas. Other areas are given identity cards with speed and in bigger numbers more than in other areas for political purposes. As we go into elections, this issue will keep on coming up. I would like to give the Chairman some ideas because this issue arose in Sierra Leone and I happened to participate in the elections as part of the United Nations (UN) Monitoring Team. Within one week, we registered 97 per cent of the people for purposes of voting through a census system. Could the Chairman consider advising the Government to use the census system where you move from house to house to make sure that every person has an identity card for purposes of elections so that we stop coming here to address the issue in piecemeal each time elections come nearer?

**Sen. Haji:** Mr. Temporary Speaker, Sir, I will start with the person who requested for the Statement, Sen. M. Kajwang. He wanted to know about the status and update of the new generation documents. I want to tell the House that in the next two weeks, we will give an update as requested. I am saying so because I will be out of the country for some time.

**The Temporary Speaker** (Sen. Mositet): Two weeks are sufficient. Is it okay, Senator?

**Sen. M. Kajwang:** That is okay.

**The Temporary Speaker** (Sen. Mositet): Mr. Chairman, I thought you need two weeks so that you can respond to all of them.

**Sen. Haji:** That would be fine. I will respond to all of them.

**The Temporary Speaker** (Sen. Mositet): There was a Statement from the Committee on Health on the selection and placement of students in medical training centres. Is Sen. Kittony here? Sen. (Prof.) Lesan and Sen. (Dr.) Machage are here and they are Members of that Committee. The Statement is here but the Senator has gone out; the Vice Chair can issue it.

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Mr. Temporary Speaker, Sir, I am not privy to any information on the Statement but I will endeavour to make sure that we get it. Sen. Kittony has been here but it would be very naïve for us to pick any document from a lady's bag.

*(Laughter)*

**The Temporary Speaker** (Sen. Mositet): I direct that it be issued tomorrow afternoon.

Sen. Abdirahman is seeking a Statement.

#### CIRCUMSTANCES SURROUNDING THE TEACHERS' STRIKE IN KENYA

**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.45 (2) (b) to seek a Statement from the Chairperson of the Standing Committee on Education regarding the ongoing teacher's strike. In the Statement, the Chairperson should explain the circumstances that have led to the strike. He should also explain what the Government is doing to address the demands of teachers to remedy the situation. He should also inform the House when learning will resume in schools.

**The Temporary Speaker** (Sen. Mositet): Is Sen. Karaba here?

What is your point of order, Sen. Billow?

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. Since this is a very important Statement being sought regarding education and learning in our schools, I wanted to ride on that by seeking an additional Statement regarding learning in schools in north eastern Kenya which have literally been paralyzed for the last eight months. What action is the Government taking to address the crisis of learning in Mandera, Wajir and Garissa counties which is peculiar and different from the situation that the other parts of the country are facing?

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, my Chairman was out of the House when that important statement was sought and since we want to get to the bottom of that issue, I would suggest that the Chairman be made very familiar with the request so that we can deal with it.

**Sen. Wangari:** On a point of order, Mr. Temporary Speaker, Sir. Whereas I appreciate the importance of the matter and knowing the procedures of this House, is it in order for Sen. Billow to ask a totally different Statement from what has been asked?

**The Temporary Speaker** (Sen. Mositet): Since it is a Statement related to education matters, it is in order. It is Sen. Wangari who is completely out of order.

*(Laughter)*

**Sen. Omondi:** On a point of order, Mr. Temporary Speaker, Sir. Is Sen. Billow in order to request for a Statement touching on only two counties when the education sector in this country is in a crisis and most public schools are not running? Is he in order to select only two counties?

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, while I really appreciate the importance of this question, I want to also state that Sen. Billow is completely in order to ask the question that he has asked. This is because we are all aware that while we now are talking about the rest of the country because of the delayed learning process, some parts of this country; namely, Mandera, Wajir and Garissa counties, have been suffering this consequence for almost a year, and they are part of this nation. So, I believe that he is totally in order. Could the Chairman while giving an answer on what is happening to the rest of the country, also give an appendage on what the Government is doing to correct the situation that has been obtaining in these three counties? He is totally in order.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I apologise for not being in the House at the time my friend, Sen. Hassan, requested for the Statement. I was answering a call outside. But all the same, I will endeavour to make sure that the Statement is given in two weeks time. This matter is very weighty and there is need for more consultations.

**Sen. Ongoro:** On a point of order, Mr. Temporary Speaker, Sir. With due respect to the Chairman, this scenario has been obtaining for quite some time. Our children are out of school and we have candidates who are supposed to be preparing for examinations. The Government states that it needs two more weeks. Which further consultations do we need? The grandstanding between the two sides is not helping the Government, nation or our students. Would I be in order to compel the Chairman, who I believe has been on top of things, to give a comprehensive answer to this House, so that we know how to contain the situation? Two weeks is too long and the situation is already out of hand. Would I be in order to plead with you to compel the Chair to give us the answer today?

**Sen. Wangari:** Mr. Temporary Speaker, Sir, I am in agreement with Sen. Ongoro. Two weeks is such a long time since it is a crisis. We are in the third term and examinations are expected to be undertaken any time soon. Two weeks is, therefore, really unacceptable.

**Sen. Billow:** Mr. Temporary Speaker, Sir, I am surprised that the Chairman of the Committee on Education in this august House is oblivious of the fact that we have got a national emergency. In fact, the Government ought to be the burning midnight oil to resolve the teachers' crisis. This matter should not be left to an occasional Press statement by the Government officials. How can we leave 10 million Kenyan children to stay at home in this day and age, in a country that has a huge budget, including Kshs35 billion annually for the Constituencies Development Fund (CDF) that is being mismanaged according to the newspapers? How can the Chairman say that he needs two weeks? That is completely unacceptable. In fact, he should give us the answer tomorrow, if the Government is, in fact, concerned about the lives of 10 million children in this country.

**The Temporary Speaker** (Sen. Mositet): Sen. Karaba, I direct that you bring the Statement tomorrow afternoon.

Next Order!

## BILLS

### *First Readings*

THE KENYA NATIONAL EXAMINATIONS COUNCIL  
(AMENDMENT) (NO.2) BILL (SENATE BILL NO.14 OF 2015)

THE NATIONAL CEREALS AND PRODUCE BOARD  
(AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)

THE CONSTITUTION OF KENYA (AMENDMENT)  
BILL (SENATE BILL NO.16 OF 2015)

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

**The Temporary Speaker** (Sen. Mositet): Sen. Mutula Kilonzo Jnr., I understand that the Bill under Order No.11 has a lot of errors.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the schedules for two counties have been omitted from the attachment and we have agreed that the correct version be republished for First Reading. So, it should be deferred.

THE COUNTY BOUNDARIES BILL (SENATE BILL NO.17 OF 2015)

*(Bill deferred)*

**The Temporary Speaker** (Sen. Mositet): I think we need requisite numbers to transact Order Nos.12, 13, 14 and 15. We will, therefore, defer them and go to the next Order.

## COMMITTEE OF THE WHOLE

THE COMMUNITY LAND BILL (SENATE BILL NO.38 OF 2014)

THE MINING BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2014)

THE FOOD SECURITY BILL (SENATE BILL NO.23 OF 2014)

THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO.1 OF 2014)

*(Committee of the Whole deferred)*

**POINT OF ORDER****REPORT ON THE PETITION SEEKING THE  
DISSOLUTION OF MAKUENI COUNTY**

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Temporary Speaker, Sir. I rise to seek directions from the Chair on a matter that happened last week concerning Makueni County.

Several months ago, the President, through a petition signed by 50,000 residents of Makueni County, allowed a Commission to investigate the Petition seeking for the dissolution of Makueni County Government. That report was presented to His Excellency the President with several recommendations. The Report is circulating in the print media and the recommendations that are appearing in the Press ought to come to this Senate. This is because other than the proposal or recommendation to suspend Makueni County Government, the Nyaoga Commission had 21 other recommendations which are legislative. Some are audit queries, discrepancies and many other issues that lie squarely within the mandate of the Senate under Article 96 of the Constitution.

Mr. Temporary Speaker, Sir, the people of Makueni have waited for a year for a solution. The fact alone that the President, in his own wisdom, thought that the Senate should not be given that Report cannot stop this Senate from seeking for that report to be tabled in this House, not just for Makueni but the rest of the country to understand. By doing that, we can set precedent as to what should happen when there is a dispute between a county executive and a county assembly. I am pleading with you to issue directions not only to this Senate, but so that this country can benefit from a 200 page document issued by very eminent persons of this Republic, led by a very good lawyer, Mr. Mohamed Nyaoga.

I seek your directions and ruling on the tabling of that Report.

**Sen. Billow:** Mr. Temporary Speaker, Sir, I want to add my voice to the statement by the Senator for Makueni. Indeed, Makueni has been our Achilles heel as an institution that is mandated to protect the interests of counties.

Mr. Temporary Speaker, Sir, as much as the President has exercised his powers in law to determine the matter the way he did, it would be in the interest of this nation, and particularly this institution which is the custodian of the devolution, to benefit from that report. We can have an appropriate discussion on it so that we use some of its recommendations to address some of the challenges facing this country. Therefore, I want to support what the Senator for Makueni has said in this regard.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I want to applaud Sen. Mutula Kilonzo Jnr., because Article 35 of the Constitution provides that every Kenyan has the right of access to information. All Senators must have the right of access to information as contained in the Makueni Commission Report. Therefore, it is unconstitutional for the Executive to attempt to shield that report from finding its way into this House.

Mr. Temporary Speaker, Sir, Article 192 of the Constitution provides that the President may suspend a county government during an emergency or in any other any exceptional circumstances. When you read further, sub Article (2) says:-

“A county government shall not be suspended under clause (1) unless an independent commission of inquiry has investigated allegations against the county

government, the President is satisfied that the allegations are justified and the Senate has authorized the suspension”.

Mr. Temporary Speaker, Sir, since we are now in the process of having a review of this Constitution and maybe this particular Article is wrong - I believe it was not fair to ask the President to use public resources, form a very expensive commission, it goes through the due process and then ask the same President who wanted to be helped as an individual to be satisfied with the findings of the commission to suspend the County Government of Makueni. He should have been satisfied in the first place, so that he could form the commission and when they recommend that he suspends, he could have done so, awaiting for this Senate to agree. This is a bad law. The drafters of this Constitution were wrong. They put too much power in the hands of the President and we are not making progress in terms of the imperial presidency that we wanted to kill in this country.

I support.

**Sen. Wangari:** Mr. Temporary Speaker, Sir, I also want to thank Sen. Mutula Kilonzo Jnr. for bringing this matter to this House. We may not blame the President the way he acted this time round because it is the law. If you read the County Governments Act on the way dissolution or a suspension is supposed to happen, he was not bound by the law to bring that Report here as it is right now unless we were to go for a suspension or dissolution of the county.

We are the first Senate under this Constitution. Therefore, we will be doing this for posterity. Ten to 50 years down the line, we want it to be said this Senate acted in accordance with its constitutional mandate. Therefore, it is in order that we have that report here because we need to have legislative interventions. Some of these provisions like those in the County Government Act do not need a referendum to be amended.

We should pick out these issues from the Nyaoga Commission. Otherwise, it will be a waste of public resources. We must use this as a benchmark for other counties. This is because it has brought out issues that many other counties have not been able to bring out. Therefore, it is in order that we have that report brought here so that we can deliberate on it and know how we can intervene in terms of policy and legislation for future generations.

Thank you.

**The Temporary Speaker** (Sen. Mositet): Sen. Mutula Kilonzo Jnr., you were very clear and many Senators have supported you. I will try to see whether there was any communication from the appointing authority of the Commission to the Senate. If so, the Chair will communicate to the House tomorrow afternoon.

Next Order!

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. You had pronounced that Order No.12 on the Community Land Bill (Senate Bill No.38 of 2014) be also skipped. I have read a number of concerns being raised on this issue by the Executive, the Council of Governors and even the Speaker of this august House. I thought it would be withdrawn for further consultations. That was my understanding. However, I can see it on the Order Paper and it will come up for a Division. I want your guidance on this matter; whether this Bill is still before this House for Division or whether there will be some further processes to look at this Bill.

**The Temporary Speaker** (Sen. Mositet): Sen. Billow, the process of the Bill has been going on. Even if there were some talks behind the scene that it be withdrawn, it

must also follow due process. So, if you wish to go that way, then the best thing is to quote the relevant Standing Orders and you request the Mover to withdraw. As of now, it will go through the process until we get a Senator who will request the Mover to withdraw it. We deferred it, but you will have time to request the Mover to withdraw it.

Next Order!

## BILL

### *Second Reading*

#### THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO.7 OF 2014)

**Sen. (Eng.) Muriuki:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to move this Bill. I rise to move that The County Industrial Development Bill (Senate Bill No.7 of 2014) be read a Second time.

I wish now to give an overview of the Bill. It would suffice if I draw the attention of the House to Clause No.3 of the Bill. It gives the objectives of this Bill. In my view, it summarizes what this Bill is all about.

- (a) Promote and facilitate industrial development in the counties.
- (b) To establish viable industries in the counties that add value to the produce of the counties.
- (c) To enhance the economies of the counties, and;
- (d) Create employment opportunities within the counties through industrialization.

Mr. Temporary Speaker, Sir, each of the 47 counties produces one or more raw materials. The only disaster we have is that we are all virtually selling these raw materials in raw form. We are doing no value adding and even where we are doing so, it is in very little quantities.

We are selling raw materials and we are losing a lot. For example, Kisii County produces a lot of bananas, but they are selling them between Kshs2 or Kshs3 per piece. When we are doing so, Italy is busy importing bananas from Venezuela and other places to make wine. Why are we not doing so in our country? This is what this Bill intends to provoke so that it can happen.

Mr. Temporary Speaker, Sir, we are dealing with raw materials, the kind of situation we have, for example, a county producing a common product like potatoes, I must admit that is one of my pet subjects, but you will find that a kilogramme will cost Kshs20. However, I have been to some countries where the same potatoes are converted or used to produce starch. A kilogramme of starch from the same potatoes, for example, will cost US\$5 or thereabout, which is equivalent to Kshs500 per kilogramme. If the county producing that product is the one producing starch, even if the farmers do not get all the Kshs500 because there are also traders and other people in between, instead of selling for Kshs20 it should be Kshs100. This is the aim of this Bill.

There are countries which produce livestock, for example, goats and sheep for meat. About two years ago, I was with two gentlemen from France. They were from Botswana. They gave us a story about their business in leather. According to them, if you



rear your goats and you produce leather the way it should be, the value of that leather is five times more than the value of the meat from the same goat. When we are talking about value-addition here we are talking about the meat. To those two gentlemen from France, the meat was actually a by-product. They were after only the skin.

It goes a long way to show that unless we industrialize we will not go anywhere. The moment you start value adding, commonly known as manufacturing, you will also attract all manner of other services. For example, you will have people for transport, people to do packaging, technicians to work in the factories, accountants, ICT officers, those who do sales and promotion, those who do advertisement and so on.

Mr. Temporary Speaker, Sir, the multiple effect of an attempt to manufacture goods is endless. Most importantly, following what the bill proposes, we shall industrialize our agricultural products and in the process, convert our subsistence agriculture into a business.

Mr. Temporary Speaker, Sir, at the moment, farmers in this country constitute a majority because they contribute over 70 percent of income for our population, although farming itself is subsistence. If you go to the rural areas or most of the counties, you will see a farmer who you think is doing very well because he has a child who has attained Form Four education. However, he will tell you in Kiswahili language *mtoto hajapata kazi*. He has a big chunk of land or *shamba*, but it is not producing enough to provide employment for his son. This is because instead of investing in the farming business, they think their son can only work in an office. The reason is that the income from farming is consistently very low.

Under-employment has gone wild in the country. I believe if nothing is done, it will remain like that. We are going to have higher rates of unemployment. Look at the number of students leaving universities, secondary schools or Standard Eight. It seems unemployment will be around until Jesus comes back. In my view, industrialization is the answer. Industrialization may not have all the answers to unemployment, but it will go long way in addressing it.

Mr. Temporary Speaker, Sir, I do listen to BBC, a programme called Economic Analyst. They bring a renowned economist each time. In one of the shows, about a month ago, he was analyzing what is happening per continent starting with Europe, Africa, Asia and so on. He made an observation that whereas the population of Africa is 15 per cent of the total population in the world, Africa was participating only to the extent of 1.8 per cent in the world trade. At the same time, trade between African countries is very low. First of all, the African trade is less than 2 per cent. The reason is that we are all producing and selling raw materials. If we all sell oranges, no person will buy oranges from the other because the product is the same. However, the same oranges are used to produce jam or juice. Even if you are an orange farmer, you will buy the juice or the marmalade. So according to him, the only way Africa can enhance its trade portfolio in the world arena is to do value-addition on what it is producing. A case in point is the tea export.

Mr. Temporary Speaker, Sir, Kenya produces a lot of tea. In fact, it is chief exporter of tea in the whole world. Britain does not produce tea. Therefore, it does not feature anywhere among the countries that export raw tea in the world. However, when we talk about the countries that export tea with value addition, Britain becomes number three exporter of tea in the world and yet they do not have a single plantation of tea. They

import tea from Kenya, Sri Lanka and other places and they do value addition. They blend it. Therefore, they become the main exporters of tea in Europe and not Kenya or other country with huge tea plantations.

This demonstrates the value and strength of value addition of what you are producing. I am not suggesting that it will be a walk-over to industrialize our country through the counties, but a lot of serious effort is needed. You will need investors, both local and external to assist us to do so. We may need a lot of bench-marking because we are coming in very late. There are many countries that have done what I am proposing like in South Asia and Brazil. They took up those industries and made agriculture a business. Therefore, bench-marking to some of these places will be necessary for Kenyans to enable us move forward.

It is also necessary to mobilize *wananchi* to invest in industries. It is very easy for Kenyans to buy shares in Safaricom or in East Africa Breweries Limited. However, it is not easy for them to buy shares in an upcoming industry like agri-business venture. Therefore, I am suggesting that the Government should do what it does with capital projects like development of roads and installation of electricity. Take an example of a place like Oloitokitok. A few years ago we did not have the road from Emali to Oloitokitok. The place was like an island. The moment the road was built the number of vehicles increased. This means that economic activities will increase if the Government constructs roads and other amenities.

If you get people who will use that road to invest in its construction, they will not agree. They would rather go where there is a road already. The Government takes a risk of investing public funds in construction of such a road with the hope that it will boost the economy.

Mr. Speaker, Sir, in order to industrialize this country, somebody somewhere must take a risk. It can be done the way the Government starts a water scheme, construction of a road or installation of electricity across the country, but not knowing who the users will be. So, the same Government must be the one to take the risk and start funding the counties for industrialization.

The Government should take the risk on behalf of all of us. This is because if no one takes the risk, we will continue importing. Importation is what we have been doing all around. In fact, if you look in this Chamber virtually everything is imported. For example, clothes which we are wearing, carpets, the public address system, among others. What really is not imported here? When you go to our houses, it is even worse. Literally every item is imported; be it an appliance, a simple thermos or hammers, they are all imported. Even the shoes, mobile phones and eye glasses are all imported. However, that does not mean that we do not have the raw materials to make these things. It is only that we have not taken the cue.

We are so brainwashed that if you look at an agricultural produce like oranges or mangoes in a supermarket, we always buy the imported ones. I can guarantee you that the imported oranges will sell faster than the ones which are local because we have been brainwashed to an extent of believing that imported items are better than what we have locally. What is the problem? Is it the manpower that we do not have in order for us to add value to our produce? Is it the raw materials we do not have? Is it the innovation we do not have or is it the money or, perhaps we do not have the courage to do so?

Many of those South Asian countries stayed the way we are for decades until some leaders or rather leadership comes in the country and they take the courage or the cue to move on. May be in our country we have simply resigned. We have something called “resignation syndrome”. This is where you have given up, and accepted importation as a way of life, accepted that you can only get Kshs20 for your potatoes and that is the end of it. You have accepted that instead of making leather from your goats, in fact, nobody wants you to sell it for Kshs10 or Kshs20.

Mr. Temporary Speaker, Sir, it is about time that leaders, including Senators, took the cue to make this country great. I am appealing that we pass this Bill so that we can take the first step.

On the Bill itself, we have proposed that there be a County Industrial Development Board. Leaders will sit and discuss, the Members of Parliament, the governor, the Speaker, the Members of County Assembly *et cetera*, so that they can agree which direction industrialization will take because this will cost money and a lot of investment will be incurred. So, some kind of leadership will be needed to take the county forward.

The Bill also encourages the county to embark on value addition process. The national Government must facilitate and encourage the counties to start value adding on whatever produce they have. We must mobilize and encourage members of the public to move along in this process.

Mr. Temporary Speaker, Sir, in the Bill, there is the issue of industrialization using public funds. In the scheme of things in the Bill, the implementer is the county government headed by the governor. I am proposing that whether the money comes from the county government or the national Government, the county governments should form county corporations which will, on behalf of the *wananchi*, be able to handle these things. I am aware there is discomfort towards public bodies doing this kind of thing. However, we only look at the negative side. We forget famous corporations like Safaricom, Kenya Commercial Bank (KCB) and Kenya-Reinsurance. All corporations started off as state corporations. I am proposing we form county corporations for the purpose of promoting value adding to our produce.

Private investors are being encouraged in the Bill. The national Government must encourage private investors to come on board. There is also the issue of public-private partnership. Investors may wish to come to the county whether privately or in partnership with the Government or the people.

Mr. Temporary Speaker, Sir, the Bill also proposes an Industrial Development Fund. At the moment, we enjoy reasonably good rapport with various industrialized nations and capitals around the world. If all we are looking for in industrializing our county is to get money for roads, water and other things, I believe it is not a big job convincing our development partners to help us come out of the raw material to at least some level of value adding, if not finished goods.

Mr. Temporary Speaker, Sir, in Clause 17, the Bill proposes the type of industries we are talking about. These are industries for processing and adding value to the produce of the county, manufacturing goods from produce of the county, projects which have potential to create employment within a county and, finally, projects that enhance the economy of the county, including service industries.

When the Bill was read a first time, it was committed to the Committee on Finance and Budget. Hon. Members of Parliament (MPs) had some comments on the Bill. Among the issues they raised was that MPs be members of the County Industrial Development Committee (CIDC) in their respective counties. Initially, the Committee was against the Senators or any elected Members, taking part in anything which looked executive, and I agreed with them. It was not my intention that MPs do executive work, but I strongly believe we should have the County Development Boards (CDBs) in counties. Some forum like this should be encouraged in order to provide leadership. They must be involved in making decisions on which direction the county takes as far as industrialization is concerned.

At the moment, I am aware that the CDB is in doldrums. My intention was to remove that committee and use the CDB because all I was looking for was a forum where some discussion happens on which direction we are taking as a county. While proposing this, at that moment, I had in mind that the county government would have a five year mandate. The governor and his government have a five year mandate, but the industrialization will go beyond the five years. It has to do with aspirations of people in that county on which direction they want to take.

The Bill also proposes some way of getting views from the public. To that extent, I propose that there should be at least once every two years, some forums within the ward where people do say what kind of industrialization they want. Those views will be taken to the constituency and onwards to the county. The Committee had a lot of reservations about that. We never quite agreed because I had suggested that the elected people pick the views. I am not bothered who gets the views, all I am saying is that; let us get all the ideas the people have.

My experience with *wananchi* is that sometimes they may not give you properly crystallized ideas. Some of the ideas got from the ordinary people can be very valuable. I would like to pursue with the Committee through my speech that let us maintain all people giving their views on this.

Mr. Temporary Speaker, Sir, the Committee also had an issue with private investors. In the first place, the Bill had only looked at how we could have public officers in the county government leaving out the private initiatives. However, through the comments from the Committee on Finance, Commerce and Budgeting, I initiated the re-publishing of the Bill so that the private initiative could be accommodated in the Bill. Quite often, in Europe and other places, most industries do not belong to the government as such. The Government may have a share, but in most of the foreign industries which we have in this country, like Unilever and others, you will find that the core ownership of the so called owners may not be more than 30 or 40 per cent. The rest is owned by ordinary people who buy shares in it. To me, it will not matter who will start the initiative so long as private investors are accommodated. In the fund that I am suggesting, it is not only county governments who can access the funds, but even private sector people so long as they can convince the leadership in that county that what they are doing is worthwhile.

Mr. Temporary Speaker, Sir, I urge the House to pass the Bill. I will be more than willing to bend over backwards, if need be, to accommodate the amendments which will be introduced at the Committee Stage, to pass the Bill. If there are any of those accommodations which leave the main principle intact, I will be more than willing that

we go ahead and do the amendments that we can. However, for heaven's sake, let us assist our people to do value addition to their products.

There were a few other national concerns. For example, there is a serious imbalance between counties at the moment. I do not know how true it is, but during the last election, the people who were looking for votes in Nairobi County were saying that the Gross Domestic Product (GDP) in Nairobi County is 60 or 70 per cent. Even if they were wrong and it is 50 per cent, for example, even that is totally wrong. If you look at all countries all over the world, even federal ones like India and Germany, there is no country among the 50 or 20 which normally has 2 or 3 per cent above the others. They are more or less equal.

Mr. Temporary Speaker, Sir, we have such serious disparities in this country. For example, if you consider Nairobi County, its GDP is between 60 or 70 per cent while some counties have very little. That is the reason school leavers from all corners of the Republic come to Nairobi County to seek for employment and other opportunities. Someone did some statistics that within three years of every student finishing the Form Four examinations, 70 per cent will have found their way to Nairobi County. This is because they believe that is where employment opportunities are. It could be very true because this is where we have most of the industries, employment opportunities and the GDP is high. We must undo this kind of situation.

I know there has been some outcry of too much rural-urban migration in Kenya, but I am not very much worried about it. In fact, we should be urbanised. The problem in Kenya is that we do not have rural-urban migration, but "rural-Nairobi" migration. We must undo and try to equalize so that one does not have to leave their county just because any job is found in Nairobi.

Mr. Temporary Speaker, Sir, the Fourth Schedule does not mention industrialization specifically. I tried to look for it, but it is not there. The Jubilee Government has taken the initiative for industrialization. However, I am not satisfied that the industrialization that the Government is doing is enough. Apart from maybe generally at the micro level in the counties, we are yet to see any movement in industrialization. To that extent, I do wish and hope that the Government will support this initiative. The Senate is here to protect the interests of counties and their governments. In a wider sense of that definition in Article 96 of the Constitution, it is our job as the Senate to also help facilitate the enhancement of the economy of those counties.

For economies of those counties to flourish and increase income of our people living there, we need to start valuing statistics. For example, the GDP used to be US\$34 billion, but we have revalued our assets and found it to be US\$50. I do not know how valid it is, but let us assume it is US\$50. However, when you work with that figure, you will find that the Per Capita Income (PCI), which is very important when you are evaluating economic status of people and states, is about US\$1500. If that is the PCI on average, we should ask ourselves what is the PCI in Siaya, Tana River and Migori counties? Chances are that this PCI is an average which may comprise that of Nairobi, Mombasa and Kisumu counties. This is about 90 per cent of for the whole country. However, for other counties, it might be about US\$150.

Mr. Temporary Speaker, Sir, this is the kind of situation which make as say our economy is growing between 3 or 6 per cent. This year, it is envisaged to grow between 6 and 7 per cent. However, it is a pity that the desperation of our people looking for school

fees and putting food on the table, is the same as it was many years ago. The only way we can undo this kind of situation is to put a bit more money in their pockets.

I would urge hon. Senators to find out from the people who come up with these statistics of the PCI and GDP, how much of these US\$50 billion go to Kakamega, Nyandarua and other counties. If the Senate does not take part to equalize resources in all counties, then we will not develop as a country. We will continue to say our economy is growing between 6 or 7 per cent which will translate to about US\$50 to US\$60 billion. However, the person who could not pay school fees at the time of their father and grandfather would still not do so. Somewhere along the way, we must all be reasonably equal.

Mr. Temporary Speaker, Sir, on this note, as I finish my presentation, I would like to call upon Senators to start this process of value addition to our products as suggested in this Bill because it is long overdue. It is our job as the present day leaders to do what should have been done a long time ago.

With those few words, I beg to move. It is now my pleasure to ask Sen. Ongoro to second the Bill.

**Sen. Ongoro:** Thank you, Mr. Temporary, Speaker, Sir. After such an eloquent and elaborate contribution by the Mover, I was tempted to simply bow and sit down, but allow me to say a few things. I remember when I was in kindergarten there were many attempts this country went through trying to industrialise. All of us here can remember the Nyayo Pioneer Car and many other attempts. However, we have always gotten it wrong because of the approach. This country cannot develop in any manner if we remain a consumer economy.

All you need to do is to station yourself in one of our airports just for one day and see what Kenyans carry coming back into the country. They are heavy laden with all manner of goods from abroad. On the other hand, when foreigners are leaving our country, they carry small bags containing curving of an elephant or a lion. So, we are really just a consumer economy. This is the most lethal kind of poverty. It has a way of creating a vicious circle of a consumer mentality that makes us to just keep consuming and importing. It is a pity that we export our raw materials at almost one per cent of the price of whatever we import back.

Mr. Temporary Speaker, Sir, the Mover has already given us statistics. I will not belabour on them. The fun of consuming tea labeled English tea has always really annoyed me. It is simply Kenyan tea which is exported to England, repackaged, exported all over the world, and sold to us at a hundred times more the price of our own tea. This is because over the years, we have not laid a lot of emphasis and resources into attempting to turn this economy into an industrialized economy.

Mr. Temporary Speaker, Sir, Clause 3 is on the objectives and intent of this Bill. It talks about promoting and facilitating industrial development in our counties. Now that the attempt to have a national approach has failed over the years, this synthesized approach is the best because it goes further to promote and facilitate industrial development in the counties. It goes further to decentralize this approach, not just at the county level, but also at the constituency and ward level. It is very interesting. This is a winning approach because I believe that every county in this nation has raw material. If we properly managed our resources and did the necessary research, every county would have something to export. The fallacy of selling or exporting our raw materials almost for

free and then importing the finished product of the same, at almost a hundred times more, cannot help our economy to flourish. This is actually turning this nation into a beggar nation.

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

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

Mr. Temporary Speaker, Sir, Clause 4 talks about the manner in which the County Industrial Development Board will be established and managed. Clause 10 is on the establishment of the County Industrial Development Committee. Clauses 12 and 14 are on the Ward Committee. You will realize that Sen. (Eng.) Muriuki, in his hype manner, and now with a lot of wisdom and experience, like what he did in the Ninth Parliament when he introduced the Constituencies Development Fund (CDF), has now put in place at the very onset what was put in place five years later after the introduction of CDF into one piece of legislation.

If we pass this piece of legislation and if this format that is laid here in this Bill is strictly followed, then we can now allow counties to compete with other nations that are industrializing and also allow counties to start competing even among themselves. In fact, this approach will even encourage counties to start importing and exporting among themselves. In my opinion, what is missing here, and I believe that the Mover is listening, after having read through all this, is that then we will have a small coordinating platform at the national level. This platform will coordinate the counties so that whatever else comes from there; the exports and imports within the counties we now have, a national platform of engagement with other nations rather than have 30 counties exporting the same thing in their own different ways to the same way and competing among themselves.

Mr. Temporary Speaker, Sir, without belabouring, I will allow Members to give their contributions.

I beg to second this Bill.

**The Temporary Speaker** (Sen. (Dr) Machage): Order Senator! You do not allow Members to contribute. It is the Chair who does so.

*(Question proposed)*

**Sen. (Prof.) Lesan:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Bill. I would also like to sincerely thank the Senator for Nyandarua County, Sen. (Eng) Muriuki for coming up with this Bill. Further, I would like to congratulate him because this is not the first time that he is coming up with a very useful Bill that is brilliant and visionary. I am aware he was involved with the design and presentation of the CDF Act which brought tremendous changes in the development of our country, particularly our counties. I believe this is such a Bill that will, probably, do the same thing in the years to come.

I congratulate Sen. (Eng.) Muriuki for coming up with this Bill which I support. I urge my colleagues to critically analyse this Bill and support it. This country will be an industrialized nation as envisaged in Vision 2030. At the moment, what is lacking is the

roadmap towards attaining industrial development as envisaged in Vision 2030. This Bill will provide that roadmap for us to be an industrialized nation by the year 2030 and beyond. This Bill is timely. We, as a country, have moved from the production of 1,300 megawatts to about 3,000 megawatts. I am sure that in the next two or three years, we will attain 5,000 megawatts of power.

Mr. Temporary Speaker, Sir, we are aware that we cannot store power. So, it is very important that the power that is produced at that level of 5,000 megawatts be consumed immediately. The only way that we can prove that this country has planned to produce and is already producing is to set up industries in order to maximize and use that kind of power. Therefore, we need to start industries in all our counties because very soon we will have a lot of power. We would like to put it to good use.

Mr. Temporary Speaker, Sir, this Bill is timely because our counties have a lot to offer in terms of development of industries. One of the things that are readily available for the development of industries in the counties is land. It is, perhaps, one of the most important incentives in terms of industrial development within the counties. Counties can now use land which is available to give incentives to entrepreneurs who are likely to develop these industries within their counties. This Bill touches on how that can be done. It talks about remission of taxes, availability of land with concessions and all the other things that are important to effect and develop industries in the counties.

Mr. Temporary Speaker, Sir, industries require hardware to be established in this country. We know the entertainment industry does not require hardware yet it is one of the viable industries that can be developed in the counties. For example, American Hollywood is one of the huge per capita generators in the United States of America (USA). In some of the West African countries like Nigeria and Ghana, the entertainment industry is already making a significant impact to their economies. We have very rich cultures in this country. We have been witnessing our rich cultures during schools and colleges drama festivals. We are capable of developing a huge entertainment industry. I am sure that there are varied cultures in the many counties that we have. This is one area that we can as well look at. It is one of the areas that have enormous raw material that we can develop.

Mr. Temporary Speaker, Sir, our laws and regulations allow counties to borrow externally, perhaps to venture in industrial development. It will be important to partner with external financiers to establish industries in counties. So, this Bill is timely because it will allow counties borrow money externally to develop industries.

Mr. Temporary Speaker, Sir, this Bill will help us to do value addition to our raw material. We will gain more from our industries because they will provide job opportunities to our people in the counties.

Mr. Temporary Speaker, Sir, I strongly support this Bill. I hope that Members of the Senate will also support it in order to make a landmark in terms of industrial development in this country.

With those remarks, I beg to support.

**Sen. Omondi:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to contribute.

Mr. Temporary Speaker, Sir, I support the County Industrial Development Bill (Senate Bill No.7 of 2014). I thank Sen. (Eng.) Muriuki of Nyandarua County for coming up with this very important Bill that touches on the development of our counties. As



custodians of devolution, this is the roadmap because a county is a government on its own. It must sustain itself and offer quality services to the people within the county. If there is industrialisation, I believe that we will have more development within counties. Counties will sustain themselves because a lot of activities happen in industries which are commonly referred to as the *Jua Kali* sector.

Mr. Temporary Speaker, Sir, the *Jua Kali* sector is very important when it comes to matters of development. From my understanding, I believe this is an area where a lot of activities like training take place for those who cannot pursue academic studies because of some reasons. They normally join the *Jua Kali* sector so that they get some skills that could make them sustain their lives.

Mr. Temporary Speaker, Sir, I also support this Bill because industrialisation will create job opportunities to Kenyans. When people are trained and gain knowledge, at the end of the day, they seek employment in areas where they have been trained. If we devolve industrialisation and every county supports it, we will produce well trained Kenyans within counties who will support the economy of those particular counties rather than having everybody coming to Nairobi to seek for training and employment. Finally, they end up spending their earnings in Nairobi County.

Mr. Temporary Speaker, Sir, industrialisation will also reduce disasters in this country. For example, sometime back, many people lost their lives at Sachang'wan Town when they were siphoning oil from a tanker. Such disasters occur simply because of transporting crude oil or unfinished products for long distances.

Counties should support industrialisation in order to reduce risks and ensure that there would be no transportation of unfinished products to come up with refined and finished products since that would be done within counties. If that happened, it would also improve the economy of a county since raw materials produced within a county would be sold within the county. Therefore, long distance transportation of raw materials for people looking for ready market will be reduced. There will be ready market within the county since farmers or people possessing certain raw materials will sell them within the county. Money obtained from the sale of raw materials will be used to develop the same county.

Mr. Temporary Speaker, Sir, industrialisation could also provide an opportunity for benchmarking visits where counties will benchmark from one another. Counties will be known for producing quality products that can be sold and consumed not only within a county, but also in the country and outside.

Mr. Temporary Speaker, Sir, the issue of industrialisation is well thought. Indeed, it will help our counties that are struggling to ensure that they give quality services to the people. Counties that are trying to sustain themselves will manage and create job opportunities. This will nurture talents of young Kenyans because services and industries will be closer to the people. Each person will be trained according to the capacity, knowledge and their understanding. It will also reduce the distance to training centres and the problem of paying rent to those young Kenyans and persons with disabilities who may find it difficult to train in *Jua Kali* or in the industrial areas where they will have to seek accommodation. The training condition will not allow them to maintain consistency in their training. However, if it is within the county, we will have day scholars whereby they train and go back to the homes to the living standards that they are used to. This will ensure that Kenyans within their counties can support themselves and make the economy

of their counties grow. At the end of the day, our economy will flourish throughout the country.

Mr. Temporary Speaker, Sir, with those remarks, I beg to support.

**Sen. Wangari:** Mr. Temporary Speaker, Sir, I congratulate the Mover of this Bill. Knowing the history of the kind of Bills that Sen. (Eng.) Muriuki brings to Parliament, there is no way that we can fail to support what he has brought on the Floor. He is known for very progressive and revolutionary Bills. The County Industrial Development Bill (Senate Bill No. 7 of 2014) fits that description.

Mr. Temporary Speaker, Sir, it is a pity for us to be importing everything. For example, even toothpicks that we use in our houses are imported from China. We also import many other things that we definitely should not be importing, that is just to affirm what was referred to as a consumer mentality. We should not make our country a dumping ground for all manner of things.

Mr. Temporary Speaker, Sir, last week, a Chinese shop was raided for having counterfeit goods that were not even labelled or approved for our market. Some of these cases are what drives me to think that we are sitting on a goldmine. This is something we should have done immediately we attained Independence in 1963. It is sad that we are discussing about putting it in a legal framework in 2015. However, it is better late than never. It is a good start that we are having this discussion. We are having it when we have serious dynamics in terms of population. We have thousands of young people that we churn from our universities every year. Every year, we have thousands who are released to the job market, but where do they go if we do not develop industries. Where will they be employed? We are dealing with millions that are now actually getting desperate in terms of getting jobs. Just recently, the Kenya Ports Authority (KPA) had a problem with the dock workers and they advertised some 28 positions. They received more than 3,000 applications. That is how serious it is.

The Judiciary Service Commission (JSC) advertised for about 1,000 positions, but more than 80,000 Kenyans applied. Even the short listing for them is a nightmare. They are now looking for companies to assist them do short listing. It is that serious. We are staring at a crisis because we are not creating employment opportunities for our youth.

Mr. Temporary Speaker, Sir, industrialization can create employment, wealth and put money in our peoples' pockets. However much we want to sit in hotels in Nairobi and say that we are now a middle level income country, it does not mean much to *wananchi*. Can they afford three meals a day? I sit in the Committee on Labour and Social Welfare. Right now, we are dealing with the cash transfers to the elderly, persons with disabilities and orphans to the tune of Kshs18 billion this year. In Nakuru County, for example, last week, they were doing identification. We, as a country, cannot afford to reach all the elderly people. People who cannot afford a meal a day are many. It is that serious.

So, even if we broadcast to the nation that our economy is doing well, what does it mean to ordinary Kenyans? Yes, ours is a middle level income economy. If this does not translate to money in the pockets of Kenyans, it has no meaning to us. We want an economy that will help us sustain our families, take our children to good schools and afford healthcare, among other amenities. Those are the things that concern Kenyans.

Mr. Temporary Speaker, Sir, we are now in 2015. We are dealing with post Millennium Development Goals (MDGs). As we now transit MDGs to sustainable goals, we are looking at a time when we are doing an evaluation. Have we made any steps in

terms of eradication of disease, making universal health and education affordable and compulsory for everyone? We cannot make these steps if Kenyans cannot afford a meal a day. This is a basic need.

When we talk about industrialization and put it in the context of the Constitution of Kenya, 2010, it gives us a perfect opportunity in terms of growing our areas by tailor-made industries. Let us not just talk of the nyayo car and the numerical machining complex. We have always sung about it. Let us not talk about Export Processing Zone (EPZ) in Athi River. We are now talking of what is available in Nyandarua. When you hear Sen. (Eng.) Muriuki talking about potatoes, it is because he knows potatoes drive local politics. His people are big producers of that commodity. We must now have these tailor made industries. If you to semi-arid areas like mine in Gilgil Constituency, we have very good weather for sunflower.

We used to produce a lot of sunflower, but we abandoned it because there was no market for it. We need these industries that resonate with what is on the ground. The fact that it will involve counties means that every county will create industries that are relevant to the people, making life of the residents better and improving their living standards. The benefits of industrialization have been enumerated by the Mover, Secunder and many other Senators here.

Last week, there was a report on how many Kenyans are facing starvation. Even in my county, we need relief food because we are anticipating poor harvest. Crops have dried because of the bad weather. I am very sure we will be appealing for relief food from the Government. If we had a market for other drought resistant crops, we could have sensitized our farmers on what to grow. We do not want to continue growing maize only. We need to grow other drought resistant crops. Our farmers can grow sunflower and other crops if we have industries for value addition in Naivasha, Gilgil and Bahati. We do not have to get corn oil from outside. We do not have to import some of these things. In terms of contribution to food security, industrialization is key. We will be food secure and compete internationally. Enough food will become affordable because we will enjoy large-scale production and economies of scale. We should have more efficient running systems in the counties and get lower prices and quicker production.

Mr. Temporary Speaker, Sir, I want to support this Bill. As we move to the next level of passing it, I want to laud the fact that the Senator has considered very seriously the people's participation. The ward forums that have been provided for will ensure that the Constitution and the principles of togetherness and cohesion and public participation are taken care of. Residents can give suggestions through the established mechanisms and the structure that has been provided so that no one comes from Nairobi to decide what people in Mandera will do. People in Mandera will tell you how they do it. People in Marsabit will prescribe what fits them at that time. It is very key that we make sure that the people's participation is protected in every law that we pass in this House.

Mr. Temporary Speaker, Sir, in that breadth, I know that some amendments will be made at the Committee Stage. In terms of streamlining the membership of the different bodies that have been established, it is important that we bring on board people with disabilities. It is not an option, they should be included in the different committees that have been established because they are in different sectors in this country. Therefore, we must bring them on board.

We should look into the future with hope in terms of industrialization. We should make sure that our children have a place to go after they are out of school. We should guarantee that if we take this seriously. Cooperation at different levels of Government must be emphasized as articulated in Article 189. There are no people that belong to the national Government and others to the county governments. We must work in unison and bring the more than 70 per cent of the budget that we leave in the national Government to benefit people in the counties. This conjunction and meeting point has to be provided for in a legal framework so that these two levels of Government realize that they do not have a choice, but to work together. That way, *wananchi* can get maximum benefits of these laws that we are talking about.

Having done that, in 20 or 30 years to come, we should remember the moment of moving this Bill because it will revolutionize how we look at industries and how our children and our children's children will say; were it not for those that were before us having done what we have, we would have had a bigger problem.

I want to support Sen. (Eng.) Muriuki and hope that we will enact this Bill into law and champion it. At the end of the day, any position is as good as the people sitting in it. Any law that we make, is as good as the people sitting in it. We must deal with bad manners in terms of forgetting the people and remember that Article 1 of the Constitution bestows the sovereignty that we only exercise on behalf of the people. We should not forget them even as we put that leadership in this Bill. They are the people who will receive these complaints and the memoranda. We always act for their benefit or their interests.

I support.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, before I speak to this Motion allow me to make two remarks, the first one; I want to use this opportunity to pass my heartfelt condolences to the family and friends of *Mzee* Ali Wamukoya, the last remaining paramount Chief in my county who died today at the age of 103. He is a Muslim and he is being interred right away. I will not be able to attend and so I take this opportunity to send my condolences.

Second, I would like the President to pay our teachers so that the children of the poor can go to school. All the children of the members of the Executive, Senators, Governors, Members of County Assemblies (MCAs) and Members of the National Assembly are in academies and private schools. Therefore, it does not look urgent, but we want our children to go to schools. We are creating a serious injustice to the children of the poor. The Auditor-General whose books this House looks at, has confirmed that Ksh67 billion was wasted on foreign travel, trips, flowers in offices, entertainment, teas and coffees by the Executive. This is the wastage that should be harnessed so that people earn their salaries and live a decent life.

Mr. Temporary Speaker, Sir, I want to thank my brother and friend Sen. (Eng.) Muriuki, who we cannot help, but remember the gift of the CDF, never mind that a few unscrupulous MPs are abusing it. Sen. (Eng.) Muriuki, you might very well be remembered in this current cycle for this Bill.

Mr. Temporary Speaker, Sir, I have come here to speak to this Bill and support it. I believe that our governors who have hitherto remained completely rudderless when it comes to the issue of industrialization will now think outside the box, guided by this piece of legislation so that they move away from the CDF mentality.

Most of the governors, especially the ones who had served in the Ninth and Tenth Parliaments are stuck in the CDF mentality. You would hear of a governor moving around with Kshs10 million to a secondary school or Kshs5 million to a primary school. That is CDF. We would like big thinking so that devolved funds can be used to unlock the economic potential of our regions. I am glad that most governors have started coming together in economic blocs. We are hearing of the lake region bloc in my place that has 13 counties. There are these blocs which are pointing out to the realization that to open up the hidden economic potential of the former 8 provinces of Kenya, we need to industrialize.

Mr. Temporary Speaker, Sir, it is also nice to hear that when I led the County Public Accounts and Investment Committee (CPAIC) where the distinguished Senator of Nyandarua sits, in our visit to Homa Bay County, something is happening. Senator Awiti is doing something. He has put up an animal feeds factory. What is more interesting about it is that--

**The Temporary Speaker** (Sen. (Dr.) Machage): Who is Senator Awiti?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I am sorry; it is Mr. Awiti, the Governor for Homa Bay County who is in the process of constructing an animal feeds factory. It might not be a grandiose thing, but it answers one very sad thing, that *omena* that is used in animal feeds used to be sold outside Homa Bay so that animal feeds could be fixed, now the local *mama* and the local fisherman who deals in *omena* can actually deliver her produce to this factory.

In Kisii County, for example, the governor has started an ambitious Kshs250 million small factory for processing fruits. This is the thinking that I believe Sen. (Eng.) Muriuki is pushing the country into. Before we think about these factories, let us also remind the national Government to support the existing factories. Sugar factories in the former western region, the former Nyanza region, in Trans-Mara and in Kwale are endangered. We would like the government to support these factories by protecting the local market.

A few days ago, I was in Brussels, it coincided with a complete shutdown of Brussels. It was shut down by farmers who had come to the capital to protest to the European Union (EU) that their farm products are being choked by cheap imports. The EU secretariat created special traffic arrangements to ensure that those farmers are heard and protected. Why can President Uhuru not protect sugarcane farmers and desist from this nonsense of exchanging the welfare of our children in the sugarcane growing areas with his milk from the so called Brookside? He must stop it. We want his milk to grow just as much as our sugar should thrive. We will not keep quiet. Butali, West Kenya, Mumias and Nzoia factories will never close down. We will not keep quiet, but we are saying that the issue of sugar should never have taken a back-banner. Unfortunately, it has been overtaken by the teachers' crisis.

I would like to inform Sen. (Eng.) Muriuki that; Members of the National Assembly and Senators from outside the sugarcane growing areas support farmers. All over the world farmers are supported by their parliaments. They are also supported by their presidents and prime ministers. The ginnery that we had in Malakisi used to employ hundreds of people, but it closed down because of lack of support on infrastructure and other aspects of policy in processing of tobacco in Bungoma. I normally see a big building in Kisumu around 50 to 100 metres called Kikomi. The textile factories need to

be revived. How can a Government pump Kshs800 million to support Rivatex and Raymond textile companies and leave out others?

That is a good thing. They need to invest in those other textile companies like Kikomi in Kisumu. Must every region be politically-correct for it to get its entitlement? No. The President is wrong and the Deputy President, Hon. Ruto is also wrong. May be, this is why the gods and the spirits of our ancestors and our forefathers are unhappy with them. That is why they are limping from crisis to crisis because they are offending the spirits of our ancestors.

The late Martin Shikuku who spoke here, today he cries in his grave, so does Masinde Muliro, Robert Ouko who died because of believing in the small person, Josiah Mwangi Kariuki, the father of Kenneth Matiba who in his grave sees his son having been crippled because he was fighting for Kenyans and so on. They cry because they want Uhuru to serve Kenyans and not a section of Kenyans.

Mr. Temporary Speaker, Sir, I now want to look at the Bill itself. Clause 10(f) suggests that the speaker of the county assembly should be a member. The question is; what for? Who is he? The person who should replace him is the leader of majority or leader of the minority, elected by the people and who can send him to the assembly to make proposals.

I would like to propose that we delete Clause 12. This is the establishment of Constituencies Industrial Committee (CIC). You will convert a big thing that was supposed to open up economic blocs into a clamour for every ward and constituency. The governor will actually be held hostage by many demands. Let the committee that you have formed to be the one to drive and have a global view of the county. If they want that particular factory or industry to go to Matungu in Kakamega, the leaders of Matungu will be there. If it is in Ikolomani, the leaders of that place must be there. In both cases, a vote will be taken. These are the constituencies of Kakamega County. We do not want to make it look very small. I also request that sub-clause 14 be deleted for the same arguments. I also suggest that Clause 16 should be deleted for the same reason.

Clause 21 is establishing an annual industrial conference. Public interest will be competing with private interests in the community. This will create an automatic bottleneck so that somebody who wants to invest would be told to wait for the annual conference which will take almost one year to decide. If the same person goes to Rwanda, within a period of ten days, his factory will be registered and accepted; he will have everything stamped while waiting for land to buy and start building.

Mr. Temporary Speaker, Sir, Clause 37 is dealing with engagements with the banks. This is okay, but we need to think about it. We must align this clause with the constitutional provisions on borrowing. You know county governments where these people will be operating under cannot borrow. For them to borrow, they must have a guarantee from the government. So, let us graft it nicely so that it blends well with the Constitution.

Mr. Temporary Speaker, Sir, having said all those things I think today is such a nice day because I have mourned my paramount chief and I want to say something nice about Moi. I have never said anything nice about Moi ever since I came to Parliament. Moi decided to launch the manufacture of the nyayo car. Had we allowed that thing to continue, we would be having a Kenyan model. That is how India started. Some of us who are older in this Parliament will remember that Indian cars were small and ugly. We

used to laugh at them. Now, they have sleek saloon cars. We must start somewhere. I insist that we must start doing our own motor vehicles so that even after it comes to mature in the next 50 years, my children and grand-children will be there. We will have nothing to lose. We would be proud to be the ones who drove Kenya into the industrial age.

Sen. (Eng) Muriuki, you know how committed I am on this poor man stuff. I want us to sit together and listen to views from members of the public before we come to the Committee of the Whole. I know that there are professors at the university who have special expertise in industrialization and who will give us ideas that will make it easy for this noble idea to take off. This clamour of tribalism is because the cake is too small. The President of Kenya is the one who needs to expand the cake, just like Sen. (Eng.) Muriuki is doing through industrialization. How can Kenyans have a 20-billion dollar budget as opposed to Belgium which has 37.8 billion dollar budget with a population of about 3.6 million people? Belgium has no resources, but they make their billions from innovation. They are honest people and when taxes are collected, they are converted into services. In Kenya, when taxes are collected, Mrs. Ann Waiguru is waiting to abuse them.

I support.

**Sen. M. Kajwang:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to contribute to this Bill. I would like to thank and congratulate the Mover of the Bill, Sen. (Eng.) Muriuki for being visionary and having the foresight to see that industrialization is what will revolutionize the economies of our counties and this nation.

Mr. Temporary Speaker, Sir, standing here on a day that teachers are on strike and when our pupils and students are at home for the last three weeks, I would like to take this opportunity to express solidarity with the teaching fraternity in this nation. I am the son of a teacher. Unlike what Sen. (Dr.) Khalwale said, I am one Senator who has a child and has children I sponsor in public schools who are now at home. So, I am directly affected. I am a former teacher. In 1997, I was a teacher in Waondo Secondary School. Therefore, I know the problems and the sacrifices that teachers make. Teachers of this nation deserve to be paid what the competent courts have declared that they should be paid. For those who have been asking where the money will come from, because that has become the popular phrase whenever we do not want to do anything. Remember, when this Senate sought Kshs1 billion to execute its oversight mandate, the question was where the money would come from.

Last week, this country was supposed to host a NEPAD Conference which was supposed to draw more than 35 heads of States. However, this conference never took place. There are billboards all over the country, there are adverts in the papers, a lot of money was spent on a conference that did not take place. The same week when teachers are on strike so that they can just be given a little bit of more money---. This increment translates to about Kshs4,000 per teacher, yet we went ahead and publicized, made plans and put up billboards all over.....

**Sen. (Dr.) Khalwale:** On a point of information, Mr. Temporary Speaker, Sir.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I agree to be informed.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, allow me to inform the distinguished Senator from Homa Bay that the reason the conference collapsed is because the 37 heads of States who had been invited decided to sent representatives because they did not want to be subjected to the Public Relations (PR) of the Jubilee Government - that

the 37 Presidents have come and have made the President to be the number one President of Africa.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Let us not turn this House into a joking den. Let us be serious. Senator, ignore that information. Continue.

**Sen. M. Kajwang:** Thank you, Mr. Temporary Speaker, Sir, I will ignore that information because I have better information that the heads of States stayed away in solidarity with the teachers. But allow me to proceed.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! May be you should read your Standing Orders very well and understand what it means to talk about foreign presidents and international dignitaries. I need not to remind you. Start from Standing Order No.90 all through. Inform yourself on some of these things. Avoid semantics. You were good. You better hit the point on Sen. (Eng.) Muriuki's Bill. We need that.

**Sen. M. Kajwang:** Thank you, Mr. Temporary Speaker, Sir, for the guidance. I will hit the point on the Bill before us, but the teachers of this nation deserve to be paid what the court has awarded them. This Bill by the Sen. (Eng.) Muriuki tries to do some noble things. It wants to bring industrialization to the county level and to the wards. I saw mention of Constituency Industrialization Committees and I agree with my colleague Sen. (Dr.) Khalwale that that could be at superficial level. We need to look at it at the county level. This Bill wants to focus on the produce of respective counties; it wants to establish county Industrial Development Boards and county Industrial Development Funds.

Mr. Temporary Speaker, Sir, as we debate this particular matter, it is doubtful whether we have a national industrialization policy that is approved. Through it, we have got an industrialization framework. Even if you talk to the people from the Ministry of Industrialization, and Enterprise Development, they will tell you that there is a roadmap to the finalization of the national industrialization policy.

We, as a nation, need a coherent industrialization policy. The Ministry has been talking of coming up with an industrial development Bill. I am not aware and I have looked at the Bills tracker, I have gone to the Kenya Law Reform Commission and the status of this Industrial Development Bill still remains unclear. This country needs a binding policy and an overriding law that will guide us as we go about industrialization at the county level and at the micro level.

Mr. Temporary Speaker, Sir, when we want to put up industrialization units at the county levels, it is also important that we do not let go off the thinking of economies of scale. It is important that counties come together to exploit the produce that is common to them. Homa Bay, Siaya, Migori, Kisumu and Busia counties share a resource called Lake Victoria. We must ask ourselves, is it better to set up individual fish industrialization units at the county level or shall we take advantage of our economies of scale and come up with something big, significant that will have far reaching implications on the economies of this area?

Despite neglect by previous governments, I want to tell you that if we were to form blocs in some of these areas, we will go far in terms of development. The other day, we went to Homa Bay and we saw an airstrip which benefitted from a 1.3 kilometre extension of the runway. That airstrip is fairly idle because there is really nothing to be extracted from that county to be sent to other areas. We can take advantage of some of



these tokens that these regions got from previous governments to tap, exploit, industrialize and start looking at other counties as ultimate export destinations.

Mr. Temporary Speaker, Sir, the Agriculture, Livestock and Fisheries Committee of which I am a Member visited Costa Rica just to understand how Costa Rica has succeeded in differentiating its coffee in the world. What we were told is that coffee roasting and brewing is a basic process. You do not need very sophisticated machines, a degree or you do not need to be a specialist to be able to come up with a mill that can do coffee. The reason we still end up exporting raw coffee and not exploiting the coffee that we have is because we have not had an industrial thinking. We still think of doing raw materials.

In this Bill, I like Clause 36 which talks about funding of industrial projects and the good Senator proposes that in the determination of revenue allocation, Parliament shall allow an amount equal to 1 per cent of the total amount allocated to counties to be divided equally by all counties to be used in facilitating industrialization process. This is new, clever and it is good. It is one of the noble proposals out of this Bill which I believe if we were to allocate 1 per cent of national revenues just to industrialization, then in a period of five years we should start seeing the fruits of that investment.

The Bill also proposes an annual industrialization conference and even though there would be competing interests between public and private players; it is still a good thing to have this anchored somewhere in law because right now the counties that attempt to do anything similar to this, you find the governors are using it as a campaign tool. When they have been hit by their opponents, that is when they quickly think of doing an industrialization conference or when they hear that some of their sons who are presidents in other countries are coming back home, that is when they mobilize money to do some industrial conference. In the process, a lot of money is lost.

Mr. Temporary Speaker, Sir, there are certain areas that we need to look at. Personally, I feel uncomfortable with the idea of a County Industrial Development Committee (CIDC) that is chaired by the Senator. I can predict that this is a provision that will meet the same fate as the County Development Board (CDB) because this Bill has proposed that the CDC shall be chaired by the Senator, membership of the governor, Members of National Assembly and other elected leaders. The CIDC is also required to shape and direct industrialization policy. If I was a governor, I would say that it is my job together with my government to define and shape industrialization policy and not another body. So, this again can be seen as taking away some of the powers and duties of governors through the back door.

The Public Finance Management Act (PFMA) has made it mandatory for counties to have what they call budget and economic fora. In as much as the role of these county budget and economic fora are not very clear, they are required to look at the matters relating to budgeting, the economy and financial management at the county level. One could argue that we could expand the scope of the County Budget and Economic Forum to include definition and shaping of industrialization policy within the county. Probably that could be the level that we need to strengthen them, so that there is a clear industrialization policy at the county level.

Mr. Temporary Speaker, Sir, I will support this Bill because it encourages industrialization, which is important for us to achieve our aspirations as a country. It provides funds for industrialization and proposes at least 1 per cent of the national Budget

to be set aside for industrialization. I wish that it could be much more clear and detailed on the means of overseeing the funds that have been allocated for industrialization.

This Senate has had the unenviable problem of being an oversight institution, but the modalities, mechanism and the framework has been left to imagination. I wish this Bill could be very clear on how this 1 per cent for industrialization would be overseen. Of course, that oversight will be driven by the Senator. Where the Senator is driving the oversight, then he cannot be involved in the implementation or execution. So, we need to divorce our role as Senators from the management of the fund vis-à-vis overseeing the implementation of the fund and ensuring that true industrialization takes place in these counties.

If we focus on industrialization and taking care of our human resource, in which case, I am talking about our teachers, doctors and nurses---. This country cannot go far if we disregard and look down upon the people who have shaped us to be where we are. There are some of our colleagues who have argued that teachers refused to sign performance contracts. I want to remind them that even in this Senate, there is no Senator or Member of the National Assembly who has signed a performance contract. This does not stop the State from paying us salaries in excess of Kshs1 million when teachers are just asking for a Kshs4,000 minimum increment to their salary.

Mr. Temporary Speaker, Sir, industrialization alone without looking at the human resource will not take us far. Therefore, let us industrialize, but let us also respect and treat well the people who mentor and nurture us. Let us treat our teachers, nurses and doctors much better.

**The Temporary Speaker** (Sen. (Dr.) Machage): Since I see no other Member ready to contribute to this Bill, I call on the Mover to reply.

**Sen. (Eng.) Muriuki:** Thank you, Mr. Temporary Speaker, Sir. First, let me take this opportunity to thank the Seconder and Senators who contributed to this Bill. I am delighted to see the kind of interest there is. Unfortunately, there seems to be some kind of tradition in this House that after a certain hour, Members become fairly few, but be that as it may, that is a discussion for another day.

There are quite a number of issues raised here and there by various Members and I will try to summarise them by way of responding to various cardinal issues. One of them is the idea that there should be some kind of a coordination body or forum between counties on the basis that they may implement the Bill in good faith and then end up with a lot of duplication between counties and so on. It is a good idea. Of course, we do have county forums from the CoG *etcetera*, where they can compare notes and so on. However, human beings being what they are, there may be undue and unnecessary competition. If everyone has his own industry in a corner and may be the economies of scale, as put by various Members more so, Sen. M. Kajwang, I think it would be important that we look for the best way of looking at this at the Committee Stage.

Mr. Temporary Speaker, Sir, the other issue is that there are many opportunities which could come from land which we have in plenty. The Bill does not necessarily mean manufacturing in terms of metal or just goods which are here. Even industries which are starting from scratch would be accommodated. This week I spent quite a bit of time with a team in the *Ad hoc* Committee looking at the county headquarters in the north eastern and coast regions and so on. Although we use the word “semi-arid”, it is not that arid. With irrigation and other systems, those areas can produce quite a lot. In most of

those places if you just produce goods, but then fail to add value for the end benefit to the producer to be significant, then the encouragement to further investment to the area will be very difficult.

The other issue raised by Senators is that we do a lot of blind training as it were. You will send some students to go and undertake a mechanical course or whatever it is. However, sometimes because you are just training blindly, they are not focused on the training. If this Bill were to be implemented properly, as suggested by various speakers, it would help in many ways.

Mr. Temporary Speaker, Sir, one Member also talked about entertainment. I am not suggesting a Bill for goods only. In fact, one of the Clauses in the Bill does say that services are also an important industry which should be nursed. Again, we must guard against things which could have been done jointly, that every county starts trying to do one on their own. I am impressed by the economic bloc in the western part of this country which I think is really the way to go. If you process fish or cotton on your own, it is better if money, time and effort could be put together. Other countries do the same. Even economies like the United States of America (USA) and India have a National Industrial Committee, such that when you want to do something – although it is a free world and economy – the Government guides that you do not over do something which is already being done. They guide you because they have the statistics. Unless you convince them that it is for export and that you have a market, they will try to persuade you to do it this way and not that way.

I was shocked to hear that even the tooth picks we use in our homes comes from China. Looking at the number of cypress trees at my place, it is really a shame. Another Member also raised an issue that even when you advertise for a small job and you expect may be 100 applicants, you end up with 3,000 or even 10,000. In one particular case, a Senator suggested that there could be 80,000. I felt shy of believing that. However, looking at the level of unemployment that we have, it is quite possible that, that is happening.

Mr. Temporary Speaker, Sir, I may look for a way to bring an amendment so that it specifically includes future industries. For example, in this country we import a lot of palm oil. I am informed that palm and coconut oil are sisters and yet in our coastal region, although we have coconut trees, we are making *mnazi*, but not even planting new coconut trees. So, a county which wants to industrialise through coconut trees, for example, should be assisted in a 20-year programme to ensure that the country will not import palm oil from South East Asia and other places 20 years from today.

Mr. Temporary Speaker, Sir, there was also a Member who talked about existing factories, and I could not agree with him more. If we are going to industrialize, the first thing that we must do is support existing industries. We must emulate other countries so that we do not engage in careless importation of goods. I do not know whether this has been done or what has happened, but we must make sure that we support our industries. The Executive must use the facilities of Parliament. That is why Parliament and their representatives are there so that some of these things are discussed properly.

I am happy to hear that the governors and their executives in Homa Bay and Kisii counties are already doing something towards the kind of things that the Bill envisages. There were also quite a number of suggestions on the kind of membership that we may have at the County Industrial Development Board. I know that one Member here is

thinking that we should not even have it, which I do not quite buy. We should have some kind of forum. What we need from this Bill is the word “executive”. This is because in my view, the Governor – I said this when moving the Bill – has a mandate of five years. The aspirations of a county last from generation to generation.

In my view, it is not something that should be left to one person. We should look at it wholesomely so that even if the views are picked once in five years, let us start by hearing what members have to say and let it not be left to one person. These are the aspirations that we are talking about in a county. Let us give the opportunity to members to contribute. If in a way, by having a ward forum, we may get parochial and, perhaps, defeat the good intentions that we may have, then let us look for a way around it so that whether it is the leadership in there, let us not leave it to one person. I know that the urge would be there if you are a governor to decide on your own and for everyone else to step aside. However, in my view, it is a good idea to involve the “leadership” in that county. Let us define the word “leadership” and go ahead with it.

Mr. Temporary Speaker, Sir, as I said earlier, there was the issue of the Senator chairing the committee at the county level. I do not insist that we must have the Senator as such. The only thing is that under the circumstances, when drafting the Bill, the most neutral person according to me, who does not have money to spend and, therefore, not compromised is the Senator. Let us discuss this and I propose that a sitting be done with the Committee on Finance, Commerce and Budget because that is where it belongs. Let them look at some of these suggestions again and come up with amendments which will help in achieving the intentions of the Bill without doing away with the good that we have in the Bill.

The Bill proposes that there may be some financial implication. Because I did not want to come up with a money Bill per se, I did not include the one, five or any other percentage. What I said is that at their discretion, the Executive through the Cabinet Secretary in charge of Finance should allocate some money. It is not a forced allocation. Therefore, it should not be a money Bill according to me.

Mr. Temporary Speaker, Sir, more importantly, at the moment, unless we squander it, the country has very goodwill from around the world from various development partners, including donors. Therefore, we can achieve what we are talking about here without having to set aside the 1 per cent. When I drafted the Bill, I gave sample copies to a few Members of the Senate and the National Assembly. Quite a number of the Members of National Assembly said that when it comes to them, the section dealing with the source of the fund, they would move that 1 per cent. I can, therefore, confirm to Sen. M. Kajwang that I have been consulting with the National Assembly. They are the ones who came up with that amount. It is a good idea, but we cannot do it here because the law does not allow that.

Last but not least is on the annual industrial conference. I agree that it may be done in good faith, but what I had in mind was that I would like to have an industrial index for counties. The same way I would like the Kenya National Bureau of Statistics (KNBS) - When they say Kshs50 billion GDP, they should tell us how much Nyandarua, Kwale and other counties have. We would also like to know once industrialization has set in our country, every two or five years, we should check to see which county is doing what. The conference should be made for that and not an approval process. I will revisit the wording so that it does not become a handicap in itself.

My intention was - and it is important for Members to look into it - that when you do not have competition, for instance, if you think that you are a very good runner, but you are not competing with anyone, you will always be number one. However, when there is a conference where notes are compared and counties compete with one another, it is a good idea in my view.

Mr. Temporary Speaker, Sir, once again, let me thank all the Members who have contributed towards this Bill. With those few words, I beg to move.

I propose under the Standing Orders 54 that the Question be put another day.

**The Temporary Speaker** (Sen. (Dr) Machage): Hon. Senator! Execute that request properly. Say that you are requesting the Chair, under Standing Order No. 54.

**Sen. (Eng.) Muriuki:** Thank you, Mr. Temporary Speaker, Sir. I am very well guided.

I now request the Chair, under the Standing Order No. 54, that the Question be put another day.

**The Temporary Speaker** (Sen. (Dr) Machage): Very well, the request has been accepted.

*(Putting of the Question deferred)*

**The Temporary Speaker** (Sen. (Dr) Machage): Next order, please.

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL  
(SENATE BILL NO. 35 OF 2014)

**The Temporary Speaker** (Sen. (Dr) Machage): I see that the Mover is not around for good reasons. The Chair is privy as to why he is absent. Order No.17 is, therefore, deferred to another day.

*(Bill deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, it is now time for interruption of the business of the Senate. Therefore, the Senate stands adjourned until tomorrow, 16<sup>th</sup> September, 2015, at 2.30 p.m.

The Senate rose at 6.10 p.m.