

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 1<sup>st</sup> July, 2015

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

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

### PRAYERS

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, are you seeking a point of order?

**Sen. Sang:** Yes, Mr. Deputy Speaker, Sir. I am standing on a point of order. I noticed that after the prayers, you nodded instead of bowing. I seek your guidance on whether the Speaker should bow or nod after the prayers.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is the problem? I did not get you.

**Sen. Sang:** Mr. Deputy Speaker, Sir, as it has appeared to me, the tradition is that when the Speaker is done with the prayer, he bows to both sides of the House. I noticed that you nodded towards our side first although you were a bit stiff and then you bowed to the other side.

**The Deputy Speaker** (Sen. Kembi-Gitura): How do you define bowing? What is your understanding of bowing? What did I do that I should not have done? Could you, please, demonstrate?

*(Sen. Sang demonstrated to the House)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Sang! What did you read in that?

**Sen. Sang:** Mr. Deputy Speaker, Sir, I was wondering why there was disparity in engaging the head.

*(Laughter)*

**Sen. Obure:** On a point of order, Mr. Deputy Speaker, Sir. I clearly saw you bow to both sides. I do not know which Deputy Speaker the Senator for Nandi was observing.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, you are completely out of order.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I recall that a few seconds ago, you did exactly what Sen. Sang has said. Would I be in order to make use of this opportunity to thank you profusely for bowing yourself into the future Government?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Khalwale! You are also completely out of order.

**Sen. (Dr.) Machage:** On a point of order, Mr. Deputy Speaker, Sir. According to the provisions of the Standing Order Nos.110(b) and 110(2), we all noticed the Deputy Speaker bow to both sides of the House. However, Sen. Sang breached Standing Order No.110(b). Could you, please, use Standing Order 110(2)(a) to teach him a lesson?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, do you know what Sen. (Dr.) Machage is asking me to do? He wants me to ask you to withdraw from the precincts of Parliament because you are in *per a delicto* as we would say in law.

I do not believe, however, that you have gone as far as breaching Standing Order 110(2)(a). Therefore, I will rule Sen. (Dr.) Machage out of order.

Could we now move to the business of the House now?

**Hon. Senators:** Yes, Mr. Deputy Speaker, Sir.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION OF MEMBERS OF KITALE WEST CULTURAL COUNCIL OF ELDERS, TRANS NZOIA COUNTY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make. This afternoon, I am pleased to acknowledge and welcome to the Senate, members of the Kitale West Cultural Council of Elders who are seated in the Speaker's Gallery.

I request that when their names are called out, that they stand up so that they are acknowledged in our usual Senate tradition.

- (1) Peter Masinde – Chairperson;
- (2) Mr. Boniface Mwibada;
- (3) Mr. George Wekesa;
- (4) Mr. David Nabwera;
- (5) Mr. Vincent Wafula;
- (6) Mr. Moris Tembe; and,
- (7) Mr. David Maboga.

Hon. Senators, on behalf of the Senate, and on my own behalf, I take this opportunity to wish the members of the Kitale Cultural Council of Elders a happy and fruitful visit. I also note the Senator from the county they have come from is present in the House.

Thank you.

(Applause)

Sen. Ndiema, I would like to assume that your intervention has something to do with the elders in the Speaker's Gallery.

Please, proceed but make it very brief.

**Sen. Ndiema:** Thank you, Mr. Deputy Speaker, Sir. I thank you for welcoming the Kitale West Cultural Council of Elders from Trans Nzoia County. I appreciate the role of all the elders from the county for the manner in which they have conducted themselves in ensuring that there is peace, unity and cohesion in Trans Nzoia County. It could not have been possible without the council of Elders.

I also acknowledge that they have appreciated and made their way here to the Senate to see us in action. They appreciate our work. This morning, the Committee on Labour and Social Welfare, held a meeting on issues concerning the cash transfers to elders. This has been a matter of great concern that they have always raised with me, as to why some elders are paid while others are not paid. I appreciate this morning, the Cabinet Secretary for the Ministry of Labour, Social Security and Services was here to address that concern. I am sure that they are anxiously waiting for the final results, so that all elders in this country can benefit as envisaged.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much, Sen. Ndiema.

Do I take it that all the other Senators seeking the Floor are on this issue? If you are not on this issue, please, log out.

Please, proceed Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Thank you, Mr. Deputy Speaker, Sir. As we appreciate the visit to this House by the Kitale West Cultural Council of Elders from Trans Nzoia County, it reminds me of the laws that are archaic that we still use in this House. More often than not, they are suspended in certain occasions.

When a new Parliament is inaugurated, we usually have elders give traditional prayers dressed in their traditional regalia. I see no reason a council of traditional elders from our communities visiting this House, should not visit us in their traditional regalia to give this House the respect that their sanctuaries have. We have to relook into our rules and to remove the British sort of mentality on what type of dressing is supposed to be called decent.

**The Deputy Speaker** (Sen. Kembi-Gitura): I am not sure that I got the very last statement.

**Sen. (Dr.) Machage:** I said "decent dressing."

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, of course, you know that the Standing Orders allow us to dress in the national dress or other recognized attires. You do not have to be in suit and tie always.

**Sen. Kanainza:** Thank you, Mr. Deputy Speaker, Sir. I join my fellow Senators in appreciating the visit by this team. It is a great honour to have the Kitale West Cultural Council of Elders from Trans Nzoia County visit the Senate. This is the first cultural

group of elders that has visited the Senate. So, it is a great honour to the “Upper House” of this Republic. We really appreciate the role that councils of elders have continued to play in this country, especially in ensuring that we maintain peace, order and unity among our people. We congratulate them and the Senate, being the “Upper House”, will not disappoint. We are up to the task to ensure that devolution works.

**The Deputy Speaker** (Sen.Kembi-Gitura): Order, Senators! There is a lot of interest on this issue. I obviously allowed Sen. Ndiema because these are elders from his county. However, I do not want to stop you from contributing to it, but I must limit your time because all that you need to do is welcome them to the Senate. I, therefore, direct that contributions be limited to only one minute for anybody who wants to speak to this matter.

Please, proceed the Senate minority Leader, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. Please, indulge me for my poor voice because of a cold.

I have had an opportunity to meet those elders. In my recollection, this is the first visit by a council of elders to this House. We recognize and encourage such visits because this is a country that has reverence to leaders. I welcome them.

For the record, Trans Nzoia County is a county under the government of FORD Kenya; the party that I lead. I am delighted to see these elders come to the House to see how the “Upper House” works. I am sure that they will learn something.

**Sen. Nabwala:** Thank you, Mr. Deputy Speaker, Sir. I would also like to appreciate the visit by the council of elders from Trans Nzoia County. We are honoured today because we know that these are old men of honour who have played a key role in mapping the politics in Trans Nzoia and in bringing about peace. I, therefore, congratulate them and hope that they will enjoy their stay as they watch us deliberate in this House.

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir. I thank Sen. Ndiema for enabling the elders to come here. They are my neighbours and I can confirm to this House that the peace that we have between West Pokot, Turkana and Trans Nzoia counties as well as Uganda, has been primarily driven and maintained by such elders. It is, therefore, an honour to have them. It is my opinion and advice that other counties that have problems should engage and use their elders, including some of the leaders, like those in the “Lower House” who have problems. They should be advised frequently by such elders.

Thank you.

**Sen. Omondi:** Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to welcome the elders who have visited this House. I feel so proud to see elders take the initiative of learning what is happening in the current management of the country. This will help them match how culture and the Constitution can help nurture the young people of this country.

I remember that I used to be taught by my grandfather on how to behave, obey the rule of law and respect the elders. They are going to give us a way forward on how to

engage the youth to respect everybody in this county. This will bring peace in the country.

I congratulate the elders and urge them to enjoy their stay in Nairobi. I believe what they are going to learn will assist them in promoting unity in this country.

Thank you.

**The Deputy Speaker** (Sen.Kembi-Gitura): Hon. Members, that brings us to the end of the interventions.

I urge the elders to feel very welcome and enjoy the session of the Senate this afternoon or for the time that they will be here.

Next Order!

### MESSAGE FROM KILIFI COUNTY ASSEMBLY

#### INVESTIGATION OF THE IMPLICATIONS OF CRA RECOMMENDATIONS ON THE KILIFI COUNTY ASSEMBLY BUDGET

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short message to give.

Pursuant to Standing Order No. 42(1) and (4) of the Senate, I wish to report that I have received the following message from Kilifi County Assembly.

Pursuant to the provisions of Standing Order No.38 of the Kilifi County Assembly Standing Orders, I hereby convey the following message from Kilifi County Assembly:

WHEREAS, the Commission on Revenue Allocation (CRA) is mandated by the Constitution to make recommendations on financing and financial management by county governments and to encourage fiscal responsibility by county governments, and;

WHEREAS, the said circular attached indicates that construction of new county assemblies and construction of new executive offices are non-priority capital projects in the first five years of devolution, the construction of office block to accommodate offices for MCAs as well as provide for committee rooms for the county assembly is an essential capital project that has been factored in both 2014/2015 and 2015/2016 Kilifi County Assembly budgets.

NOW, therefore, in accordance with Standing Order No.38 of the Kilifi County Assembly Standing Orders, I hereby convey this Message, the object of which is to seek the Senate's intervention to direct one of its committees to urgently investigate and deliberate on the issues raised in the attached circular and come up with appropriate recommendations to address the issues raised.

Hon. Senators, in accordance with Standing Order No.42(6) of the Senate, I now direct that the Message be committed to the Standing Committee on Finance, Commerce and Budget for consideration and, of course, report back to the House.

Thank you.

*(The Message was committed to the Standing Committee on Finance, Commerce and Budget Committee for consideration)*

Hon. Senators, let us move on to the next Order.

**An hon. Senator:** On a point of order.

**The Deputy Speaker** (Sen. Kembi-Gitura): Am I hearing somebody seeking a point of order? There is no request on my screen, except Sen. Billow's. Make use of your electronic gadgets and if you want to be assisted, you should say so. I do not want to see hands raised in this House.

**Sen. Billow:** On a point of order, Mr. Deputy Speaker, Sir. I appreciate your ruling on the Message. However, I am seeking your indulgence on this matter because under Article 216 of the Constitution, the CRA is among other things, empowered to make recommendations on matters of financial management regarding counties. That particular circular issued by the CRA is one such recommendation among many that they often issue to county governments to help improve the way counties use their money.

I am seeking your guidance in terms of the Statement being sought by the county assembly. Are they challenging that CRA is interfering with their work? I do not understand because CRA is simply giving recommendations in accordance with the Constitution. I do not know what this assembly is concerned about with regard to that circular. I come from a county where in the first year of operation ---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! I have referred this to your Committee as a matter of fact. What you are telling us now may be what you will tell us when you have considered this issue. Standing Order No. 42(1) states:-

“The Speaker of the Senate shall read to the Senate any message from a County Assembly to the Senate and such message shall be in writing and shall be signed by the Speaker of the County Assembly.”

To me, it is mandatory. I have done my work. It is now up to you and your Committee to sit and consider that Message. Should you find it is in contravention of any law or the powers that are given to the CRA or any other statutory body, then that is what you are going to report to us? We will then convey that Message to Kilifi County Assembly. That will be the end of the matter.

I will be negating my duties if I receive this Message and sit on it because I am mandated by our own Standing Orders to mandatorily give it to the House and commit it to the relevant committee which in this case, fortunately, is yours. Please, consider it and answer the questions that you have raised and give us the answers in due course.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, we thank you for whatever you have read ---

**The Deputy Speaker** (Sen. Kembi-Gitura): What do you mean whatever? It is a message.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, it is a Message that has come, yes ---

(Laughter)

The substance of the matter contained will affect the function of counties. It is important that we raise and tell county executives that the circular that was sent to them is valid. They are doing a lot of constructions ---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! If you listened to my response to Sen. Billow, I do not want us to pre-empt the Message. I have referred it to a committee of the Senate. Let it tell us the things you are now seeing. Remember that all these committees are open to anybody. Should any Senator feel like they want to give some information to the Committee, they are quite welcome to do it. We cannot debate the merits and demerits of the Message at this point. That is the point I am trying to make.

Sen. (Dr.) Khalwale, if that is the same point that you want to make, you may want to hold your peace.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir, for this Message. I would like to urge the Committee to give it the seriousness it deserves because I have personally been to Kilifi County Assembly. I know for a fact that if those ceilings are going to be applied, then a very noble project will stall. This also applies to several county assemblies.

It will, therefore, be important for this Committee to come up with an answer that will respond to the needs of development of various county assemblies. In fact, when Sen. (Prof.) Lonyangapuo was a Permanent Secretary (PS), he gave us a model design of a model county assembly across the 47 counties. This Committee should come up with a recommendation that should push the Jubilee Government to release more money as conditional grants purely for purposes of constructing county assemblies, if we are really committed to making devolution succeed.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Khalwale. Sen. Billow, you will report back to the Senate in due course.

Next Order!

## STATEMENTS

**The Deputy Speaker** (Sen. Kembi-Gitura): There are several Statements on the Order Paper to be issued. At the same time, there are also several Statements that are being sought. However, I want to deal with the Statements being sought first.

Proceed, Sen. (Prof.) Lonyangapuo.

### KILLINGS IN MT. ELGON CONSTITUENCY IN BUNGOMA COUNTY

**Sen. Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir. I wish to seek a Statement from the Chairperson of the standing Committee on National Security and

Foreign Relations. The Statement relates to the killings in Mt. Elgon Constituency in Bungoma County.

I would like the Chairperson to state:-

(a) Whether he is aware that Isaac Kibet Kikwei, 27 years old and Silas Chepkech Mangumi, 20 years old, were killed on their way home from grazing their animals in Chebyuk Location, Kopsiro Division in Bungoma County by KWS officers on 16<sup>th</sup> April, 2015.

(b) State whether he is aware that the matter was reported at Kapsokwony Police by the KWS officers purportedly to have killed bandits and managed to recover a bullet magazine and;

(c) State what action has been taken to establish the truth in this matter?

**The Deputy Speaker** (Sen. Kembi-Gitura): Could you repeat part “b”.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, it reads:-

(b) State whether he is aware that the matter was reported at Kapsokwony Police Station by the said killers; KWS officers---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, your statement does not have the word “the said killers”. Could you expunge that for my statement? You should read what was approved by the Speaker.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, it reads:-

(b) State whether he is aware that the matter was reported at Kapsokwony Police by the KWS officers, purportedly to have killed bandits and managed to recover a bullet magazine.

**The Senate Majority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, the event happened in my county. The facts are that KWS officers killed unarmed helpless herders.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula!

**The Senate Majority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am asking a further question.

**The Deputy Speaker** (Sen. Kembi-Gitura) If you start by saying that they killed harmless unarmed helpless persons, you are pre-empting the answer that you are going to get. Could I hear what you want to say without any pre-emptions?

**The Senate Majority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, could the Statement further tell this House and the country what the Ministry of Environment, headed by Prof. Judy Wakhungu, is doing in order to rein in wayward and trigger happy KWS officers who shoot unarmed, helpless citizens on sight, plant ammunition on them and make entries of false OBs in police stations calling them bandits? This happened in my county. I thank Sen. (Prof.) Lonyangapuo for bringing up this matter which had already been brought to my attention. If I was not unwell in the last couple of days I was going to bring it myself.

I hope the answer will be comprehensive, not just in the case of Mt. Elgon, but these senseless killings are going on all over the country where KWS operates.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, I also want to seek further clarification. The killing of these two boys happened in a gazetted forest area and not in a national



park. The other day, it was in Kinna, in Isiolo County. It is happening in all national parks. Is there a policy in KWS to shoot innocent people on sight? This is contrary to the Constitution which guarantees life. If there is any criminal, he should be arrested and arraigned in a court of law and not to be executed.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Haji, that relates to your Committee. When will you be able to give an answer?

**Sen. Haji:** Mr. Deputy Speaker, Sir, first of all, my condolences to the bereaved family. We will give the answer on Wednesday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Haji.  
Sen. Melly, what are you seeking the Floor for?

**Sen. Melly:** Mr. Deputy Speaker, Sir, I want to make a very small contribution on the same.

**The Deputy Speaker** (Sen. Kembi-Gitura): Too late. We have moved on.

#### UP-SCALING OF MINIMUM CAPITAL FOR COMMERCIAL BANKS

**The Senate Majority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, pursuant to Standing Order No.41(2)(b), I wish to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the recent up-scaling of minimum capital for commercial banks. In the Statement, the Chairperson should address the following:-

(1) What informed the policy announcement by the Cabinet Secretary for the National Treasury to upscale the minimum capital for banks to Kshs5 billion.

(2) Was this policy statement subjected to public and sector participation?

(3) What is the effective date of this policy?

(4) Is the Cabinet Secretary for Treasury aware that this Statement serves to bolster and perfect the dominance of foreign and established local capital and cartels or effectively kills competition and the emergence of new local players in the banking sector?

(5) Is the Cabinet Secretary aware that small and emerging financial institutions and banks are established to serve specific niche markets and special interests compared to the major established banks, some of which are out of reach for local entrepreneurs, especially women and the youth?

(6) Is the Cabinet Secretary for Treasury aware that this policy announcement violates the provisions of the law against monopolies?

(7) For the foregoing reasons, could the Cabinet Secretary vacate this policy to allow the banking sector develop with the dynamism of a free market economy that the Kenya Government embraces?

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I recall that in the Parliament of 2002 to 2008, there was a similar attempt and the entire National Assembly stood against it. President Kibaki intervened because the then Minister was now succumbing to the wishes of a small cartel made of a group of people who currently have interest in banking and who do not want competition.

Finally, could the Chairperson of the Committee explain to the Committee whether this cartel is now robust because former President Kibaki is no longer in power?

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you talking about President Kibaki?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, the former President Kibaki has now exited State House. This powerful cartel has finally gotten hold of the Jubilee Government and they now want to control the business environment to the extent that the small people who want to do their own type of banking and eventually grow to become big have no chance. Who are these people?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! I have actually given you a lot of leverage.

Sen. Mutula Kilonzo Jnr., are you on the same?

**Sen. Mutula Kilonzo Jnr.:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, go on.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, perhaps, we should seek further clarification. We should also get a list of banks that are below Kshs5 billion so that we can understand – as the Senate and leaders in this country – the mischief that the Cabinet Secretary is trying to cure or alternatively the persons who the Cabinet Secretary or the policy is targeting to swallow.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, Sen. Melly.

*(Sen. Melly spoke off record)*

If you have no issue, please, do not log in. If you are not seeking a chance to speak, please, do not log in.

Sen. Billow, how long do you require for this? There are those two further extensions to the Statement.

**Sen. Billow:** Mr. Deputy Speaker, Sir, I thank the hon. Member because that is a good question; a topical matter. The issue of raising the minimum capital to more than double is a matter that needs to be looked into. That is a very important matter on the economy. However, like the Senator for Kakamega County has said, he needs not to worry---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Billow, you just need to tell me when you will give an answer or statement.

**Sen. Billow:** Mr. Deputy Speaker, Sir, I will tell you. However, I just wanted to assure him that since he is not in big businesses like banking, he needs not to worry. I will give an answer in a couple of weeks.

*(Laughter)*

**The Deputy Speaker** (Sen. Kembi-Gitura): No, Sen. Billow. I want a definite date on which you will give an answer.

**Sen. Billow:** Mr. Deputy Speaker, Sir, I need two weeks from today.

**The Deputy Speaker** (Sen. Kembi-Gitura): Two weeks from today. Is that okay with you, Sen. Wetangula?

*(Sen. Wetangula nodded)*

Okay, next Wednesday but one.

RAMPANT CASES OF CHILD SEXUAL ABUSE BY  
TEACHERS IN KENYAN SCHOOLS

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, I rise to seek a Statement on the rise in cases of sexual molestation in schools. Pursuant to Standing Order No.45(2)(b), I wish to seek a Statement from the Chairperson of the Committee on Education regarding the rampant cases of child abuse and molestation by teachers in Kenyan schools.

In the Statement, the Chairperson should address the following issues:-

(1) Is the Chairperson aware of the ever increasing incidences of sexual abuse and molestation by teachers in Kenyan schools? If so, what are the reasons for such escalation?

(2) Could the Chairperson provide the details of such cases which have been reported to the Teachers Service Commission (TSC) or other agencies in the last five years and indicate the action taken in each of the cases?

(3) Could the Chairperson confirm that some of the cases have been settled out of court? If so, what has the Government done in such instances to ensure that the culprits are apprehended and disciplined appropriately?

(4) What other measures has the TSC taken to ensure that the menace of sexual offenses against students in schools is completely eradicated and ensure that disciplinary measures are taken against the teachers involved?

Thank you, Mr. Deputy Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I have a further question.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, be brief.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I thank the Senator. This is a very important issue. You may recall that last year in Mt. Elgon which is in my County, over 10 young girls were made pregnant by one teacher. You saw in the media yesterday, that in Kilifi, nine young girls have been made pregnant reportedly by one teacher. That is dangerous.

Mr. Deputy Speaker, Sir, in the Statement, could the Chairperson of the Committee assure this House and the Country that any teacher found molesting, impregnating or, in any way, compromising the dignity of young girls in schools will summarily be dismissed from the teaching profession and prosecuted? If convicted, send to jail for a long time as a deterrent?

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Let me make this clear. I had mentioned it to Sen. Wetangula before. I do not know why he decided to transgress again. The reason a Statement like this one is sought is so that we know about both policy and the action being taken. However, when Sen. Wetangula wants to mete out even the punishment to be given, then what is the point of seeking the Statement?

If you want to seek a further clarification or to ride on the Statement so that you enrich it, please, do it to that extent only. Do not pre-empt or give us the answer that the Chairperson of the Committee is expected to give us when the Statement is finally issued in the House.

Sen. Kanainza, please, one minute.

**Sen. Kanainza:** Mr. Deputy Speaker, Sir, I would also wish that the Chairperson of the Committee on Education to clarify what measures will be taken to ensure that the lives of both girls and boys are taken care of in such a case. What is the outcome of sexual molestation? We are aware that when children go through sexual molestation, after the case has been settled, or the teacher has been taken to court, the education of the child is interfered with. Nothing happens to ensure that the child either goes on with his or her education. They do not also go through counselling sessions and all that. The Chairperson should clarify about measures that are taken to ensure that the lives of the victims are safeguarded.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, that is, probably, what I wanted to say?

*(Sen. Wetangula spoke off record)*

I need protection. I am being attacked by Sen. Wetangula.

Mr. Deputy Speaker, Sir, this House passed a Motion by Sen. Ongoro. It was about the aftercare of the young children once they have been impregnated while still in school. I would like to know the roadmap that the relevant Ministry has taken.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, when will you give an answer?

*(Sen. (Dr.) Machage spoke off record)*

I have not seen your request, Sen. (Dr.) Machage. You have just made your request after I had called Sen. Karaba. What is it that you would like to say?

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, could the Chairperson also enlighten this House on regional distribution of this funny behaviour per county for the past five years?

**The Deputy Speaker** (Sen. Kembi-Gitura): I am not sure that your question has anything to do with the Statement. You are talking about “funny behavior” yet we are talking about sexual molestation. You need to call it what it is.

Okay, Sen. Karaba.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I need enough time.

**The Deputy Speaker** (Sen. Kembi-Gitura): How much time?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, about three weeks so that I come up with true data on whether it is the girls, boys or the teachers who are on the wrong.

*(Laughter)*

I need time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Karaba!

**The Senate Minority Leader** (Sen. Wetangula): Point of order, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula. You have already said what you had to say. I know you want to raise issues about the three weeks' time that Sen. Karaba has requested. Allow me to rule on it.

Sen. Karaba, the only reason I will allow you three weeks is because the Statement is extremely important. Secondly, there are some riders on the Statement; the one by Sen. (Dr.) Machage, Sen. Sijeny and all the other Senators. The last that has been raised by Sen. (Dr.) Machage is about the prevalence of the cases. So, you need to go into the depth of it. It is a very serious situation which is very prevalent. We hear about it every day. That is the only reason I will allow you three weeks. However, I expect you to give us a very comprehensive Statement on this issue.

*(Several Senators stood up at their places)*

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

**The Deputy Speaker** (Sen. Kembi-Gitura): You see, we will now go into problems. You know, there are about 10 requests of points of order on this one. There are about ten requests for points of order on this issue. Maybe, it speaks then to the importance of it.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I do not know if you heard what the Chairperson said. He said that he needed three weeks to check whether it is the boys, girls or the teacher in the wrong. In the molestation of a child who cannot in law give consent to sexual intercourse, how can you talk of going to check whether the boy, girl or teacher is wrong? Being a consummate lawyer yourself who is witty and very sharp, I expected you to pick up that and tell him that he is grossly wrong. This is because children cannot consent to any sexual activities.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, what do you want me to do?

*(Loud consultations)*

Order, hon. Senators!

Sen. Karaba, I must apologize to the House because I did not hear you clearly. Is what Sen. Wetangula has said what you said?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I am involved in some of these cases. In the past, I have been involved in investigations. What I found is that even the students do those things. So, I have to come up with a true record on what should happen to the boys, girls and even teachers when they are victims.

*(Loud consultations)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senators! I want us to move on.

Sen. Karaba, I hear where you are coming from. However, the point raised by Sen. Wetangula is extremely important. Even in law, there is an age below which neither a boy nor a girl can consent to sexual conduct. So, when you say that you want to go and check whether it is the boys or girls who are wrong, *vis-à-vis* the teacher, I believe the point made by Sen. Wetangula is valid. It cannot be a relationship because a relationship is by consent.

However, if there is an overture by a teacher and the child is below 16 years, then there cannot be a relationship. So, you need to appreciate that below a certain age, you cannot consent. So, even if you do your own research and investigation, you will find that child is still innocent of consent. This is because children have no capacity to consent. That is the point being made.

Sen. Karaba, if that is what you said, then, of course, it will not be expunged, but it is a wrong statement to make. It will be out of order on the face of it. That is a matter of law and I will let it rest at that.

Hon. Senators, if all of you wanted to raise the issue with Sen. Karaba, I think Sen. Wetangula has done it on your behalf. So, we shall proceed.

Sen. Khaniri, are you seeking a Statement?

#### OUTBREAK OF MALARIA IN THE WESTERN REGION

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, pursuant to the provisions of Standing Order 45(2)(b), I wish to seek a Statement from the Chairperson of the Standing Committee on Health concerning an outbreak of Malaria in Western region, in particular, Kakamega and Vihiga counties.

In the Statement, the Chairperson should explain:-

- (1) If the Cabinet Secretary for Health is aware of this outbreak.
- (2) What the Government has done so far to contain the outbreak?
- (3) What support the national Government has offered to complement the county governments of Vihiga and Kakamega in the effort to fight Malaria in the counties?

**The Deputy Speaker** (Sen. Kembi-Gitura): Where is the Chairperson of the Committee on Health?

Sen. Kittony, when are you going to give that Statement?

**Sen. Kittony:** Mr. Deputy Speaker, Sir, since the issue has now come to our Committee, we will respond in two weeks' time.

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, we are talking of an outbreak of Malaria. When the Senators talks about two weeks, I wonder whether we are really serious about this issue. We expect a statement in two or three days and not two weeks.

**Sen. Kittony:** Mr. Deputy Speaker, Sir, tomorrow is a Thursday. Even if I went to the Ministry tomorrow, I may not get that Statement this week. We will issue it on Thursday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Did you say on Tuesday next week?

**Sen. Kittony:** Yes, on Thursday, next week, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): I will order that you give even a holding Statement on Tuesday, next week. You can work on it as a Committee tomorrow, Friday and Monday.

IMPLEMENTATION STATUS OF THE REPORT OF THE  
PRESIDENTIAL TASKFORCE ON PARASTATALS REFORMS

**Sen. Gwendo:** Mr. Deputy Speaker, Sir, I am following up on my Statement with regard to the Presidential taskforce on the reforms in the Tourism Authority that I had requested a while back from the Committee on Finance, Commerce and Budget. I understand that the Chairperson of the Committee on Finance, Commerce and Budget was ready with the Statement yesterday, but I was not available.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why were you not available?

**Sen. Gwendo:** Mr. Deputy Speaker, Sir, I was indisposed.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Billow has been carrying that Statement and has been ready to issue it since March. Yesterday, he actually asked me to direct that it be dropped. The reason I refused to drop it, is because it is the property of the House. So, it is not sufficient for you to tell us that you were not available. But if you have a better reason maybe you can tell us and I can direct that we extend time for you.

**Sen. Gwendo:** Mr. Deputy Speaker, Sir, I was unwell. I apologize.

*(Laughter)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senators! Sen. Gwendo, let me indulge you. Will you be in the House tomorrow?

**Sen. Gwendo:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Billow, may I request that you issue the Statement tomorrow afternoon.

**Sen. Billow:** That is okay, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much. Who is "Temporary 2"?

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I am "Temporary 2."

**The Deputy Speaker** (Sen. Kembi-Gitura): Do you have a point of order?

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I was on the Chair yesterday when Sen. Gwendo walked into the House. Is she in order to misinform this House that she was unwell when a day before yesterday she was live on television and looked very well?

When I was on the Chair yesterday, she actually came to the House? Is she in order to misinform this House?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senators! It would be an extremely unfortunate situation if a Senator would mislead the House. Unfortunately, I have already dealt with that issue. Therefore, I am *functus officio* as pertains to it. If I was seized of the information that now a Member of the Speaker's Panel is giving, that she was sitting here when the Senator came in---

**Sen. Musila:** Looking very hot!

(Laughter)

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Musila! Maybe I would have made a different ruling on it. As I said, now I am *functus officio* and I will not go back to it.

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STUDENTS  
FROM LUKENYA BOYS HIGH SCHOOL, MACHAKOS COUNTY

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

Hon. Senators, I wish to recognise the presence of students and teachers from Lukenya Boys High School, Machakos County, seated in the Public Gallery who are visiting the Senate today.

Hon. Senators, as you all know, the tradition of receiving and welcoming visitors to Parliament is a long time tradition and one we shall endeavour to continue upholding.

On behalf of the Senate, and on my own behalf, I extend a warm welcome to the students and teachers of Lukenya Boys High School and hope that their visit to the Senate will be fruitful.

Thank you.

(Applause)

(Resumption of Statements)

Sen. Sang, is it a point of order?

**Sen. Sang:** Mr. Deputy Speaker, Sir, it would be really unfortunate if we leave the issue raised by Sen. Ongoro at the level we left it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, you are lawyer. When I said that I am *functus officio*, I meant that it is a matter that is now closed. I will not reopen it. So, I will not deal with it now.



REPORT ON THE STATUS OF THE REPORTS OF AUDITED  
ACCOUNTS OF THE 47 COUNTIES

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, yesterday you directed that I give this House a Report on the Status of the Reports of Audited Accounts of all the 47 Counties.

The first question which I raised this morning with the Auditor-General was the issue of the delays in the release of the reports. He said that when those reports came from the field and were brought to his table, he found that they were not satisfactory. He told me that they were prepared in the traditional way that reports have been done under the old Constitution.

Further, he said that using the best international practices, he redirected them to create two centres; one for the county assembly and the other one for the county executive. This has been done.

He told me that a second cause of the delay was the shortage of staff. He is forced to audit these accounts, not in the counties, but in hubs. He has created nine hubs.

The first hub is in Nairobi which deals with Kajiado, Machakos and Nairobi counties.

The second one is in Nakuru dealing with Bomet, Kericho, Narok, Samburu and Nakuru counties.

The third hub is in Nyeri dealing with Kirinyaga, Laikipia, Murang'a, Kiambu, Nyandarua and Nyeri counties.

The fourth hub is in Kisumu which deals with Homa Bay, Kisii, Kisumu, Migori, Nyamira and Siaya counties.

The fifth hub is in Mombasa which deals with Kilifi, Kwale, Lamu, Mombasa, Taita-Taveta and Tana River counties.

The sixth hub is in Kakamega dealing with Bungoma, Busia, Vihiga and Kakamega counties.

The seventh hub is in Eldoret dealing with Baringo, Elgeyo-Marakwet, Nandi, Trans-Nzoia, Uasin Gishu and West Pokot counties.

The eighth hub is in Embu dealing with Embu, Isiolo, Kitui, Makueni, Marsabit, Meru and Tharaka-Nithi counties.

Finally, the ninth hub is in Garissa dealing with Garissa, Mandera and Wajir counties.

Mr. Deputy Speaker, Sir, the second issue was when the reports will be available in this House. He told me that so far, as of this morning, he has signed a total of 35 reports for county executives and 34 reports for county assemblies, respectively. He told me that these reports are on their way because there is an element of bureaucracy right from the registry before they land here.

He disclosed that he received 35 reports from the executives and 34 from the county assemblies, respectively. However, the reports of the following counties will be late by three weeks. These are Kirinyaga, Laikipia, Murang'a, Kiambu, Nyandarua, Kilifi, Meru, Samburu, Nakuru, Narok, Kajiado, Kericho and Bomet.

Mr. Deputy Speaker, Sir, the Auditor-General has, in spite of these delays, given me his assurance to this House; that there can be no interference whatsoever on those reports whether at his office or while in the field. He has vouched for the integrity of the entire audit process.

The third and last question was the issue of the process of submitting of the reports of the Auditor-General. After long consultations in his office, he has conceded that pursuant to Article 96(3) and Article 229(7) of the Constitution of Kenya; he will henceforth direct his reports as follows:

(1) Reports on both the county executive and county assembly will be directed to this Senate.

(2) Reports of the county executive will be directed to respective county assemblies.

Finally, but not least, the he has confirmed that the additional Kshs1 billion in the current budget will enable him to recruit more graduates from the university so as to overcome the human resource challenge his office faces.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I thank you most sincerely for what I consider to be a job very well done because the direction was given yesterday. I am happy to note that the Auditor-General appreciates the importance of furnishing the Senate with information, in the first instance, under Article 96(3) of the Constitution and not making the Senate an appendage of other institutions by copying these reports to the Senate.

I want to believe that will happen. What is not clear and you did not explain is why the reports of some counties, including Murang'a, will be delayed for three weeks. You did not say the reasons he gave for that delay. I heard you say that he assured you that there will be no interference with those reports, whether in his office or in the field. However, you did not say the reason for the delay.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I can answer it now.

**The Deputy Speaker** (Sen. Kembi-Gitura): Yes, could you, please, do so because the HANSARD has to be completed.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, as I said, due to shortage of personnel, the Auditor-General has created nine hubs. This means that in a particular hub, he has instructed a maximum of four and a minimum of two officers. When they are in a hub and they descend on a particular county, they are supposed to exhaust it completely, return to Nairobi, make reports and go back to the next county. This ends up taking a long process. No county will be given priority; it is just like picking from a bag. That is how those twelve counties have been left out.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Khaniri, is it on the same?

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, just a small follow up. My Chairperson stated that the Auditor-General indicated to him that he has received 35 reports from the executives and 34 from the county assemblies. Could he indicate to us when we are likely to get the remaining reports?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I want to repeat that he confirms that the reports will be ready within three weeks.

**The Deputy Speaker** (Sen. Kembi-Gitura): I thought you said that already.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, I want to thank the Chairperson of the County Public Accounts and Investments Committee (CPAIC) for that detailed report. He said the Auditor-General deals with one county before moving on to the next one. Could he go back to him and impress upon him to complete one and bring it first? I would like him to start with Nyandarua County.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, it is disturbing to hear reasons given by the Auditor-General on delays on giving us reports on audited accounts of certain counties. I have Narok County in mind because it has been in the news for misappropriation of resources and yet it is given less priority for submission of reports. Allow me to show dissatisfaction on the work of the Auditor-General in handling his duties. I am not satisfied.

**Sen. Billow:** Mr. Deputy Speaker, Sir, noting that these reports are coming exactly one year after the end of the financial year; they were for 30<sup>th</sup> June, 2014 and we are now in July, 2015, could the Chairperson tell us when these clusters will end and every county to have its own team of auditors? What time-frame is he looking at now that he was allocated additional money?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I would like to request the Chairperson to tell us exactly what would happen if a county is found to have embezzled money. What steps should the Auditor-General take when it is one year after the event has taken place?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you now appreciate the importance of this issue. It is one of the instruments upon which we are able to exercise our mandate under Article 96 of the Constitution. The issues raised, including the one raised by Sen. Karaba, is that it may end up making the Senate just morticians because we are not able to deal with real issues. We are dealing with an issue long after mistakes have been committed.

I am sure you have heard the sentiments by Members and you do know the timelines you have given us. However, I hope we will get these reports so that your Committee can get to work and give us the necessary reports as your mandate requires.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I will do exactly that. I would like to respond to the Senators as follows:

Regarding the question raised by the Senator for Nyandarua County, I will impress upon him that there is need for him to expedite the process and give Nyandarua County priority.

May I clarify something to the Senator for Narok County. We can bear with the Auditor-General on the issue of Narok because the audits that were in the newspapers necessitated a special audit for a special project. That was done conclusively and cannot be the reason he is assumed not to have completed his work in Narok. That was a different project and a special audit.

Regarding the issue of the Senator for Mandera County, I alluded to the answer that fortunately there is Kshs1 billion in the current Budget. He is going to use this

money to recruit more human resource and he hopes that he will either eliminate the clusters completely or make them much smaller than they are now.

Finally, the House has almost answered the concerns of the Senator for Kirinyaga County, namely, delayed reports. It is true that we will be unhappy, but you cannot run away from the law. Even if it means we have confirmation, just at the end of the term of the Senator, that this Senate has an opportunity to recommend that the person be barred from running from any public office in future---. We have that opportunity and the opportunity to surcharge. So, it will never be too late.

According to the Senator who missed by a whisker to be a judge, he would rather that they are also sentenced to many years in prison.

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, we still have Statements to be issued, but as you can see, it is already going to 4.00 p.m. I have consulted with the leadership of the House and we have agreed that I alter the Order Paper a little. I want to stand down Statements for a moment so that we can handle Orders No.8 and 9 which are Division. After voting, we shall go back to Statements. We have about five or six Statements to be issued.

It is so ordered. I am standing down the issuance of Statement.

*(Seeking and Issuing of Statements interrupted)*

Next Order!

The Division Bell is going to be rung once and then we vote on both of those Bills, but the results will be announced separately. Ring the Bell for two minutes so that we can give the people in the lounge time to come.

*(The Division Bell was rung)*

## **BILLS**

### Second Reading

THE COUNTY EARLY CHILDHOOD EDUCATION BILL  
(SENATE BILL NO. 32 OF 2014)

*(Sen. (Dr.) Zani on 25.6.2015)*

*(Resumption of Debate interrupted on 30.6.2015)*

## **DIVISION**

### ELECTRONIC VOTING

*(Question, that the County Early Childhood Education*

*Bill (Senate Bill No 32 of 2014) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Adan, Isiolo County; Sen. Billow; Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Elachi, Nairobi County; Sen. Haji, Garissa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. Kembi-Gitura, Muranga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Musila, Kitui County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon Senators, the results of the Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 25 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

*Second Reading*

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)  
BILL (SENATE BILL NO. 20 OF 2014)

*(Sen. M. Kajwang on 30.6.2015)*

*(Resumption of Debate interrupted on 30.6.2015)*

## **DIVISION**

ELECTRONIC VOTING

*(Question, that the Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Adan, Isiolo County; Sen. Billow; Mandera County; Sen. Bule, Tana River County; Sen. Chalule, Nakuru County; Sen. Elachi, Nairobi County; Sen. Haji, Garissa County; Sen. Kagwe, Nyeri County; Sen. Karaba, Kirinyaga County; Sen. G.G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Muranga County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Mohamud, Wajir County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Mutula Kilonzo Jnr., Makeni County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Okong'o, Nyamira County; Sen. Sang, Nandi County and Sen. Wetangula, Bungoma County.

**NOES:** Nil.

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon Senators, the results of the Division are as follows:-

**AYES:** 25

**NOES:** Nil

**ABSENTIONS:** Nil

*(Question carried by 25 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

**The Deputy Speaker** (Sen. Kembi-Gitura): The Bar and the door may now be opened.

*(The Bar was drawn and the door opened)*

That marks the end of Division.

## STATEMENTS

Hon. Senators, if you go to the appendix, you will see that there are six Statements to be issued.

Sen. Karaba, do you have an answer for Sen. Obure on Statement (a)?

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well. Go ahead and issue it.

## CONTINUED CLOSURE OF GARISSA TTC

**Sen. Karaba:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to give additional information on Garissa Teachers Training College, following the request for more information regarding the predicament of the students of

Garissa Training College. The Senate raised the following supplementary questions after I had given an earlier Statement:-

(1) State the specific measures that the national Government is undertaking in terms of enhancing surveillance in learning institutions.

(2) Explain the fate of students who were not willing to go back to Garissa Teachers Training College.

(3) Explain if the Government is receiving the necessary cooperation from the political leaders in the region in addressing these concerns.

(4) State what the Ministry has done to ensure that all other learning institutions that were closed due to security concerns are reopened.

I beg to reply that the national Government is working closely with the security organs in all counties to ensure that all learning institutions are provided with adequate security day and night. The county security teams have been addressing students where threats have been reported and assuring them of security. The Ministry has also advised learning institutions to initiate basic security arrangements such as fencing, reinforcing the gates, employing watchmen and hiring security guards from private security firms and convening parents' and stakeholders' meetings so as to device ways of assisting the institutions address the security concerns.

Secondly, the Ministry is compiling a list of students who are not willing to go back to Garissa Teachers Training College. Consultations will be held with stakeholders and decisions made by the Ministry on the way forward. So far, 16 students have registered and are categorical that they will not go back to the college.

By Tuesday, 26<sup>th</sup> May, 2015, there were 200 students and 10 teachers in the college and learning was going on. However, many students started leaving the college following renewed tension in the county. The situation was aggravated by leaflets circulating in the college, warning of an impending terrorist attack on the institution by 27<sup>th</sup> May, 2015, seen to be targeting non-Muslims. Those who left on 26<sup>th</sup> May, 2015, have not yet reported to the Ministry.

Mr. Deputy Speaker, Sir, on the third concern, the Government has received support and cooperation from the political leaders in the region. For example, some stakeholders' meetings have been held in the different counties in the north eastern region counties to address security concerns which have, not only affected education, but other sectors as well. In some of those meetings, they came up with recommendations and resolutions on how to address the problem affecting the education sector as a result of the security threat in the region.

In answering the fourth concern, further to my response, to questions (1) and (3) above, the Ministry will continue liaising with the national Government, county commissioners and other security organs in the counties to ensure security in all learning institutions. The Ministry has also issued a circular letter dated, April 2015 to all principals and head teachers to make adequate security arrangements in their schools.

They should have the contacts of the county commissioners and county security commanders within their respective counties to reach them anytime that there is need for consultation or reporting cases of security scare.

At the same time, county and sub-county directors of education have been instructed to co-operate with security organs, so that schools in areas where security has improved can arrange to open and restore learning.

Mr. Deputy Speaker, Sir, finally, this calls for concerted effort by leaders, parents, administrators and other stake-holders in the affected areas to work closely, by holding regular consultations and organizing public forums to sensitize and assure students of security.

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

Please, proceed Sen. Obure.

**Sen. Obure:** Thank you, Mr. Deputy Speaker, Sir. I thank the Chairperson for those clarifications. As you have heard, the Chairperson of the Committee on Education has said that there are a number of students who have given a firm indication that they do not wish to go back to Garissa TTC due to fear for their lives. He has also said that the Ministry will be considering what action to take in regard to those students. We are now coming to the end of the second term and it would appear that considerable time has been wasted. Will these students catch up? Why can the Ministry of Education, Science and Technology not make an immediate decision so that these students can resume studies and complete their courses? That is what we really need to hear from the Ministry.

Mr. Deputy Speaker, Sir, the second point is about security in learning institutions which is an issue of great concern in the country. What we wanted to know is what specific measures the Cabinet Secretary (CS), in conjunction with the national Government, is taking to enhance security in all learning institutions in the country. He has not been specific.

**Sen. Billow:** Thank you, Mr. Deputy Speaker, Sir. The Chairperson of the Committee on Education has been repeating these answers for the last few weeks, regarding the safety and security of students and teachers in the north eastern region. The Chairperson has repeated his usual statement that security will be provided. The reality is that education institutions in the north eastern region have collapsed. There is no single teacher from outside that region who is teaching in all the schools in Mandera and Garissa counties.

This is the only tertiary institution in the whole region. It is also facing closure because students are leaving for lack of security. What exactly is the Ministry doing about the education crisis in that region, as a matter of Government policy? The Government is not the Ministry of Education, Science and Technology only. What is the Government doing, through this Ministry, to address the issue of the crisis in education in that region that is affecting students, residents and locals whose schools have all been shut down?

If we shut down every school and college in the north eastern region, we will play into the hands of terrorists. What do you expect to do with the people from those regions? Has the Government surrendered? Could this Cabinet Secretary (CS) be serious in the response he is giving on this matter?

**Sen. Musila:** Thank you, Mr. Deputy Speaker, Sir. I raised a similar matter to Sen. Billow's. First, you heard the Chairperson say that they have advised people to



employ watchmen. To me, it appears that the Ministry and the Government do not realise the gravity of this matter. You cannot ask people to employ watchmen to face terrorists who are armed with the most lethal weapons. More importantly, you also heard the Chairperson talking about moving out of the region because of insecurity and people are fleeing.

It is a very serious precedent. We are sending a very wrong signal, not only to the north eastern area, but also to other areas. I gave an example, because of that attitude, in other areas like my county, students are running away from school over a small thing, like hearing a dog bark. They feel that the Government is not protecting them.

Could the Chairperson assure this House that measures will be put in place to ensure that institutions which are exposed to danger are adequately policed? It should not be by watchmen, but properly armed personnel.

**Sen. Kagwe:** Thank you, Mr. Deputy Speaker, Sir. I support my friends. I do not believe that we have realised the gravity of the closure of the schools in north eastern region. The cause of Al Shabaab is being enhanced by the closure of those institutions. The real determination of how to defeat Al Shabaab is through education. If we close the institutions that are supposed to educate people to stop joining an evil institution such as Al Shabaab, then where is the answer for the future?

What we would have liked to hear from my Chairperson is that there will now be 40 or 50 individuals from the Administration Police Unit who will be stationed in that institution. There will be a garrison that will be constructed near the University of Garissa. Transport will be provided to students and staff. An additional funding such as an equivalent of so much money has been given to provide the walls that the institutions have been asked to build to enhance security.

Mr. Deputy Speaker, Sir, honestly, I believe that the Chairperson must emphasize that. If necessary, let us call the Cabinet Secretary for Education, Science and Technology to this House to discuss security in our education institutions. I do not think we will get sufficient answers at this point from the Chairperson of the Committee on Education.

**The Deputy Speaker** (Sen. Kembi-Gitura): Chairperson of the Committee, do you have the same feeling that we may not get sufficient answers and that we may need the Cabinet Secretary to come and be interrogated by the House?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, exactly. I was also thinking that we should have the Cabinet Secretary for Ministry of Interior and Co-ordination of National Government.

**The Deputy Speaker** (Sen. Kembi-Gitura): The reason I asked you is because there is so much interest in this issue and I like your candidness. If you seriously feel that there are some areas that you are unable to delve into, then Sen. Kagwe's proposal might be the best way out. Let us have the Cabinet Secretary here to tell us what action has been taken to ensure that Garissa TTC and other institutions are opened.

**Sen. Haji:** Thank you, Mr. Deputy Speaker, Sir. The issue of education in the northern part of Kenya is not given the serious attention that it requires. A generation of young people has now lost completely in education in the country.

The Statement given by my colleague is not encouraging at all. I do not think the coming here of Cabinet Secretary will give us any concrete answer to deal with the question. This is a national issue and it requires the national Government to resolve it. The money being used to build a wall could have been used to recruit more teachers for these schools and provide them with adequate security.

In the same classrooms, radicalization can be discussed with the students. Religious leaders can be brought on board and political leaders can go and address students in order to warn them against radicalization. This is not being done.

Just before he gave the Statement, my brother, the Chairperson, told me that in the Statement, he will say that leaders from the region should state their commitment. That is absurd, negative and an insult to our integrity.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Haji! Your private discussions with Sen. Karaba were just that.

**Sen. Haji:** Mr. Deputy Speaker, Sir, I will leave it, but I have made my point.

The Government should not pass the buck. It is its responsibility to make sure that all Kenyans wherever they are, are given security. As Sen. Kagwe said, we are playing into the hands of Al Shabaab when we continue talking and doing nothing. Are we saying that we, as a country, are not capable of giving our children the education they need because Al Shabaab is causing insecurity in the country? We should face them, deal with them and allow our children to get the necessary education.

**Sen. Mohamud:** Mr. Deputy Speaker, Sir, surely, there is a serious crisis in the education system in the north eastern part of Kenya. I support what my former Chairperson has indicated. I would like to also urge that we call both the Cabinet Secretaries for Education and the Minister in charge of security so that they can give us an in-depth into this issue.

As you know, we are already in the month of July and students from the north eastern part of Kenya are supposed to take the same examinations with the other students in the nation. Surely that is unfair.

We, as a House of integrity, must find a solution to this system. As a matter of priority, we need to pass the Motion that the Deputy Minority Leader has already tabled in this House. We should prioritize it, so that we can introduce the untrained teachers in the education sector so that the students can be kept in schools for the time being.

For information purposes, I called the Principal of Garissa Teachers College. He informed me that at least 427 students have reported and almost all 42 lecturers have reported. They have provided 20 security officers in the institution. Again, I plead with the House that we prioritize the Motion brought by Sen. Abdirahman, so that we at least find a solution to this problem.

**Sen. Elachi:** Mr. Deputy Speaker, Sir, this is a very sad issue. I hope and I am praying that the teachers who decided not to go back to north eastern part of Kenya are not, at the moment, earning a salary. It would be very sad if they are earning a salary and yet they are at home doing their own businesses. We have students who are supposed to start their mock examinations in July and are supposed to be assessed like any other student in the country.

After we pass this Motion, we should ask ourselves whether the Ministry will implement it. I support the idea that we call the Cabinet Secretary for Interior and the Cabinet Secretary for Education, Science and Technology to confirm to us, that they will move the issue with speed.

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, most of the issues that I wanted to raise have been raised by my colleagues. When this attack happened, the first call that I got was from an international caller. That tells you how widely it was covered both nationally and internationally. The whole community, globally, is waiting to see what Kenya will do in reaction to what happened.

Our brothers and sisters in the north eastern part of Kenya are actually bearing this brunt on behalf of all of us because of their proximity to Somalia.

It is known that idle minds are a fertile breeding ground for just about anything. The more we allow these students not to be integrated back to the system and to be positively engaged, we are actually risking giving them more opportunity to even now then, in apathy, cross over to join the other side.

I want to plead with the Chairperson of the Education Committee that I have listened to him make a suggestion which is really good that we also should involve the Cabinet Secretary in charge of security. However, as a Committee, they are mandated even before we reach that stagnation and stalemate to have thought it wise to seek any other Ministry that has some relevance to this issue. This is not just a matter that we should seclude to north eastern; it is a matter that is affecting all of us.

Al Shabaab is now waiting to see how long and whatever else we put in place before they, probably, cross over to attack the University of Nairobi or Bondo University.

I plead with the Chairperson of this Committee, on behalf of this nation, that this is, probably, the most important matter that has been brought to their Committee and we want to see very serious undertakings through your Committee by the national Government on the matters and process, complete with timelines, that it is doing to ensure that we do not experience this kind of attack again, not just in north eastern, but in any other institution.

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, it is a very serious matter that some students in this country are not going to school because of attacks by criminals. What is the effect of that? Al Shabaab are considering themselves winners because they have managed to stop the entire education system in the former North Eastern Province, where my good friends come from. This means they have succeeded that far. If we do not arrest the situation now, these people will make sure that in another county there is no schooling.

We must understand that this is not a matter of the northern part of Kenya alone, but the entire country is affected. These people can attack anybody because, in their records, they know they have won the war in Kenya. By not attacking Nairobi or Mombasa, it does not mean that we have achieved anything. The Chairperson of the Committee should understand the implications of this matter in terms of the students. If my child cannot go to school because there are thugs around my house, can I claim to be a free person or a prisoner of militia?

It is upon Sen. Karaba to look at this matter critically and see how far he wants this House to take him seriously.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, I would like to believe that the Chairperson of the Education Committee has listened to you carefully with the appeal that we have the two Cabinet Secretaries to address this issue, especially so, on the way forward in the north eastern part of Kenya. Two days ago, we saw in the media, the Vice Chancellor of Garissa University ordering all the staff to report back to the institution. Whether that was a good sign that there was security or it was just semantics, nobody knows.

Some of the questions we want answered are; first, what is the designed pattern of education henceforth in the north eastern part of Kenya, taking cognizance of the fact that there is that interruption? Secondly, what plans does the Ministry have to solve the problem of shortage of teachers in that area? Additionally, we need more information so that we know what will happen to the child of the north eastern region in terms of education.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Obure, do you want to add to this?

**Sen. Obure:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): One minute, please.

**Sen. Obure:** Mr. Deputy Speaker, Sir, I was initially worried about the few students who have not gone back. However, much more fundamental issues have emerged; the fact that all learning institutions in the north eastern counties are closed. This is a very serious matter. We are denying children their fundamental right.

Mr. Deputy Speaker, Sir, I agree with the suggestion made by the Senator for Nyeri County, Sen. Kagwe, that the Cabinet Secretary (CS) should be invited here so that we discuss with him and avoid giving the impression that we are giving in to terrorists. We should put our foot down as a country and ensure that people enjoy their rights. I think that is the best way to handle this matter.

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

Sen. Karaba, you are the Chairman of the Committee.

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Leshore, you have made your request rather late.

**Sen. Leshore:** Mr. Deputy Speaker, Sir, I also want to add my voice to this very grave issue happening in north eastern Kenya. However, this is not only affecting north eastern Kenya but also Baragoi which is in my county. Three secondary schools have been closed down because of cattle rustling. I would like the Chairman to include all the schools which have been closed down in the north rift and the former North Eastern Province and come up with a solution which will ensure that all schools are given enough security.

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

Sen. Karaba, as the Chairman of the Committee, obviously, I will give you a right of reply. However, you must have noticed that I have done something unusual.

Appreciating that this is Statement Time, I have allowed a lot of time for Members to ventilate on this issue. This is because it is a very serious issue; an issue touching on the security and education of our own children.

As you give your last words on this, you have heard the sentiments of Members. They would like the CS to come here and answer the questions directly. They have gone further to state that the CS in charge of Interior and Coordination of National Government should also be here because this is a matter touching on both education and security. That, to me, sounds like a reasonable request. However, you are the Chairman of the Committee. If you feel that you can completely deal with the issue by yourself and your Committee once and for all, you can indicate that. However, the inclination is that you have heard what your colleagues had to say about this very important issue. Could we hear from you?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, Members, who are my colleagues, should understand that I am equally concerned as they are. Having been a teacher and a principal, I know what it means for a child not to be in class that long. I am aware of the kind of examinations that students are supposed to sit by the end of the year. I am wondering about what kind of substance they are supposed to present in the papers given the questions. So, I am equally concerned.

My Committee can summon both the CS for Education and the one for Interior and Coordination of National Government. However, they too might not give us the answers. So, I am of the opinion that we make it an open sitting for all of us. We can even include the Office of the President because this issue does not only affect education. We have other officers including those offering health services like the doctors who have not reported. Of late, we have had the same Al-Shabaab attacking our barracks. This is something that is unusual and unheard of. If they could do that, what can they not attack?

It is my prayer – given the gravity of the issue – that I can use my office, as the Chairman, to invite the CS for Education. I will ask him to be accompanied by the relevant Ministers to the House at a time we will agree with the Office of the Speaker.

**The Deputy Speaker (Sen. Kembi-Gitura):** Very well.

So, I will make a direction on this issue. This morning, we had the CS in charge of Labour, Social Security and Services meet the Committee on Labour and Social Welfare – as a Committee of the Whole – to inform Members on what is happening about cash transfer programme.

In the same manner, the Office of the Speaker will make arrangements for the CS for Education together with his colleague in charge of Interior and Coordination of National Government to appear before both Committees. All Members who would like to be here will be invited so that we interrogate the two of them on these very important two issues; the issue of education and that of security in the north eastern part of this country so that the questions that Members have asked here can be raised to them.

I heard you say that they may not be able to answer the questions. I think that will be a very sad day. However, I do not want us to pre-empt or get there now. That is the direction that I will give. I am sure that there will be a communication very shortly for the

two CSs to be invited to this Senate to discuss those issues with the Members. I think that will be the right way to move and I so direct.

*(Applause)*

There is one more Statement, I believe. This is the Statement sought by Sen. Kagwe from the Chairman of the Committee on Finance, Commerce and Budget. After that, there will be the one by Sen. Musila and then the one from Sen. Ong'era.

Sen. Melly, do you have instructions to answer that one? I am talking about Statement "d" on the Order Paper.

**Sen. Melly:** Yes, Mr. Deputy Speaker, Sir, I have instructions to answer on behalf of the Chairman of the Committee. However, the Member who sought for the Statement is not in.

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you talking about "d"?

**Sen. Melly:** I am not talking about "d".

**The Deputy Speaker** (Sen. Kembi-Gitura): Which one do you have instructions on? Is it "d"?

**Sen. Melly:** Mr. Deputy Speaker, Sir, I have instructions on Statement "e". The Statement was directed to the Standing Committee on Land and Natural Resources.

**The Deputy Speaker** (Sen. Kembi-Gitura): If it is "e", that is fine. I know that Sen. Khaniri has indicated--- Are you also answering about Statement "d"?

*(Sen. Melly gestured)*

Your gestures cannot be captured by the HANSARD.

**Sen. Melly:** I do not have answers on "d", Mr. Deputy Speaker, Sir. I only have answers on Statement "e".

**The Deputy Speaker** (Sen. Kembi-Gitura): Fine.

#### DEPRECIATION OF THE KENYAN SHILLING AGAINST OTHER MAJOR CURRENCIES

**The Deputy Speaker** (Sen. Kembi-Gitura): Let us listen to Sen. Billow.

**Sen. Billow:** Mr. Deputy Speaker, Sir, the Senator for Nyeri County had sought for a Statement on the depreciation of the Kenyan shilling against other major currencies. In particular, he wanted to know about the following four issues:-

- (1) the cause of depreciation of the Kenyan shilling;
- (2) the mitigating measures taken by the Government to address the issue;
- (3) the impact of the depreciation on the foreign loans repayment programme; and,
- (4) whether the Government has any plans to hedge our foreign borrowings against adverse exchange rates.

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

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

There is an elaborate answer and the Senator has a copy. But I will very briefly mention the responses.

Mr. Temporary Speaker, Sir, on the cause of the depreciation, first, I want to inform the House that the depreciation of the currency is not unique to Kenya only. In the last few months, literally most of the major currencies have had challenges in terms of depreciation. The Kenya shilling, for example, lost about 7.7 per cent of its value between January and May this year. But if you look at some of the other currencies, starting from Ghana going down to many other countries, you will find that the range is between 3 to 28 per cent.

Specifically, with regard to the cause of the depreciation of the Kenya shilling, there are a number of reasons. One, the United States (US) dollar has strengthened in the global currency market, due to the strong recovery of the US economy and the weak Euro-zone growth recovery, among other things. Secondly, the supply of the US dollars from our traditional sources has also declined. I will give an example. There is low supply of foreign exchange from tea and tourism. The amount of money that comes in from that has declined significantly. There has also been a reduction in the foreign exchange earnings from other areas like tourism, because of the adverse travel warnings. However, at least, there has been some mitigation from the remittances that we get from the diaspora.

Thirdly, the demand for the US dollars to finance imports of capital goods has also increased significantly in the country. There is a higher demand for dollars, as a consequence of increased economic activity, for example, import of machinery and equipment from mid-2014, mainly towards infrastructure development and fleet modernization by Kenya Airways. There have also been imports of capital goods to enhance economic growth in the short-term. For example, there has been a lot of investment in infrastructure in roads, railways and so forth. All these require a lot of dollars for imports. However, again, there has been mitigation from the lower international oil prices. So, the amount of money that we are spending on oil has also been lower but the demand for dollars has gone up.

The fourth reason of the cause of depreciation is that there has been a stable gradual weakening trend over the years. The Kenya shilling generally has been going down over the years. The reason for this is that whereas our imports have been increasing, our exports have either been stagnant or declining. This is reflected clearly in the current account deficit that we have seen in our economy in the last few years. If we do not export, then the foreign exchange that comes in declines significantly, yet because of the expansion of our economy, the imports have been increasing significantly over the years. Those four major reasons are the cause of the depreciation.

Mr. Temporary Speaker, Sir, the Member also wanted to know what measures the Government is taking to address this issue. The policy measures adopted by the Central

Bank of Kenya (CBK) to support the exchange rate stability include, for example, maintaining the inflation rate, which was at 6.8 per cent as at May this year. It also includes a tight monetary policy. The CBK has been adopting that policy to make sure that the CBK rate remains at between 8.5 to 9 per cent as at June this year. The idea of this is to ensure that there is less likelihood of more liquidity, so that it encourages more inflation.

Mr. Temporary Speaker, Sir, there are also other policy measures by the CBK. For example, there has been direct sale of dollars to try and also mitigate against the falling of the currency. In the last six months – between January and June this year – the CBK has sold US\$734 million to try and reduce the pressure on the shilling. At the same time, the CBK has also built up the usable falling exchange reserves to cushion against short-term shocks. For example, the foreign exchange reserves currently stand at US\$6.745 billion. This is at least four-and-a-half months import cover. Those are some of the measures that the CBK is taking. Many of the other measures are listed and the Member has a copy.

Mr. Temporary Speaker, Sir, the Senator also sought to know the impact of depreciation on the foreign loans repayment programme. The Government Medium Term Debt Management Strategy ensures that the budget for external debt repayments considers unforeseen risks in the international environment, which could have implications. Consequently, the moderate level of depreciation is factored in the projections when developing the external debt repayment schedule. In general, that means that with regard to the foreign exchange, there are provisions to guard against significant fluctuations. This is already factored in the loan programme.

Mr. Temporary Speaker, Sir, the Senator wanted to know what plans the Government has to hedge our foreign borrowings against adverse exchange rates in future. The Government Medium Term Debt Strategy ensures that external finances are used only to finance development expenditure. This is one of the things that the Government has developed as a policy. For example, the loans that have been taken externally have been used strictly to finance infrastructure development, like the railway and so forth, which enhances the capacity of the country for the future.

Mr. Temporary Speaker, Sir, the Government Medium Term Debt Strategy also ensures that the public debt is maintained at sustainable levels. Therefore, external debt is contracted strictly on concessionary terms from the bilateral organizations like International Monetary Fund (IMF) and so forth, to ensure that we are not exposed to these shocks on the foreign exchange.

I will stop there and see whether the Member is satisfied.

**The Temporary Speaker** (Sen. (Dr.) Machage): There are some interventions from “Temporary 2,” Sen. Elachi and Sen. Kagwe.

Proceed, Sen. Kagwe.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I thank the Chairman for the answer that he has given, but wish to point out the following: He has just said that the depreciation of the Kenya shilling has been consistent over the years. Going by that trend then, I presume that he is also saying that we can expect that to continue. To say that we



are going to protect future repayments by virtue of allowing budgetary measures that include inflation is a defeatist position.

I would have wanted to hear the Chairman say that the monetary system and policy that the Government is going to adopt is going to be such that the value of our exports is going to be enhanced and the market in Kenya is going to be enhanced, as far as tourism is concerned. Even though they say that they have added a bit of money, when you compare the Kenyan budget on tourism with that of the neighbouring countries, ours is dismal.

Mr. Temporary Speaker, Sir, the only way we can ensure that the shilling remains strong and does not depreciate further is to ensure we add value to our exports. It has so far depreciated by more than 7.7 per cent. We are still exporting coffee in a bag and importing bananas in the same way. Until we put the coffee in a packet, then we will still be earning less. We will still buy at a higher cost.

As much as the Chairman has given a seemingly impressive answer, the real problem of the depreciation of the Kenyan shilling against the US dollar will continue unless we make stronger effective measures. We must never forget that this will have a serious impact on food and the livelihoods of people. So, I would have liked the Chairman to address long-term measures that include, import substitution, so that we can decrease our imports and mitigate against the demand of the US dollar in the country. Those are the kind of measures that I would have liked him to express so that in the long-term, business can be stable because the Kenyan shilling would be stable.

**The Temporary Speaker** (Sen. (Dr.) Machage): As you intervene on Sen. Kagwe's concern, let us know whether the Cabinet Secretary or the Ministry intends to have a free fall of the Kenyan shilling or they intend the depreciation to go to a certain level and then mitigate. So, let us have that clarified. I think Sen. Kagwe's question will be more complete with that.

Proceed, Sen. Obure.

**Sen. Obure:** Mr. Temporary Speaker, Sir, I also want to thank the Chairman for a very elaborate answer. However, in the face of increasing volumes of imports, what specific measures is the Government taking to stem this trend?

Secondly, what strategy or incentives are being offered to promote exports of goods and services in order to mitigate the decline in the balance of payments? In my opinion, that is urgent and we need to come up with that strategy.

**The Temporary Speaker** (Sen. (Dr.) Machage): Remember that the Senator for Migori put an agendum wanting to know a comparison of the depreciation of the Kenyan shilling to other currencies of the East African Community (EAC). Is the depreciation the same or how has it fared on with the local East African currencies?

Please, continue, Mr. Chairman.

Hold on, please. Sen. Wamatangi, do you want to say something?

**Sen. Wamatangi:** No, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Machage): Proceed, Mr. Chairman.

**Sen. Billow:** Mr. Temporary Speaker, Sir, let me start with the question you asked on the comparative. In the answer, there is a comparison with almost ten or twelve

countries, including those in East and West Africa. For instance, in the major international currencies, the Euro, the Pound and the Dollar, when you compare with the regional ones, the South African Rand, the Ugandan and Tanzanian shilling, they have displayed much more volatility compared with the Kenyan shilling. The rates are even much higher. For example, West Africa, in the last six months, January to June, when the Kenyan shilling depreciated by 7.7 per cent or about 8 per cent, in Ghana, it depreciated by 28 per cent and the Tanzanian shilling by 26 per cent. In Brazil, it has depreciated significantly. In Zambia, it has depreciated by 13 to 14 per cent. In many countries, they have experienced much higher depreciation than ours.

I do not think that it is the intention of the Government to have a free fall of the Kenyan shilling. This is why one of the Government's reactions in the last six months has been to intervene directly in the market by selling dollars to stem the slide. In the last six months, for example, the Government sold US\$734 million in the market to reduce the pressure on the shilling. The Government thinks that the shilling should not go below that point.

On the point of how to ensure stability in the long-term; I did not go through all of them, but the Government has very strong proposals to address the long-term stability of the shilling. One of them is to address the issue of security. If you look at the flow of the Foreign Direct Investment (FDI) into the country, for instance, tourism has suffered because of the problem of insecurity. The Government in the last Budget allocated over Kshs223 billion precisely to deal with that issue of insecurity so that it does not affect investments in the country, including tourism and visitors.

Secondly, there are a number of policies in this year's Budget to address or increase the competitiveness of Kenya's exports as well as promote consumption of locally produced goods. There are specific tax measures in this year's Budget that were addressed to ensure that imports of goods that are available locally will be at a price. The idea is to discourage those imports so that Kenyans can consume locally manufactured products. This is effected through a number of the taxation of imports in the Budget recently.

I agree with the Senator that in the long-term, we have to remain competitive and enhance value addition in our exports. These are things that the Government has been trying to deal with, particularly in the East African region. This is why regional integration is also one of the main focus of this Government so that we can export more.

Tea is one of our key areas of production. Tea prices declined significantly. However, despite all the efforts that the Government put in place, it was not possible to intervene on price decline. You have seen the challenges that we have in marketing coffee. I agree with the Senator. Those are some of the key issues the Government is trying to grapple with and address the inflows of the forex into the country so that the shilling remains stable in the long-term.

There are a number of other measures to address macro-economic stability so that we can enhance confidence in the economy. I think that the Senator has the details of all that. The most important one is the global US dollar challenge. As the Euro-zone

collapsed, in fact, even now with this Greece problem, it is likely that the impact again will be felt more in this country and many of the other countries in the region.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well.

Next Statement. Where is the Chairperson of the Sessional Committee on Devolved Government?

Proceed, Sen. Elachi.

#### RELOCATION OF THE HEADQUARTERS OF KIAMBU COUNTY GOVERNMENT

**Sen. Elach:** Mr. Temporary Speaker, Sir, this is a Statement that was requested by the Senator for Kiambu, Sen. Wamatangi.

The Senator wanted to know why the Governor relocated the headquarters of Kiambu County to Thika. The answer is as follows:-

The Transition Authority was established to facilitate and coordinate the transition to devolved systems of government as provided under Section 15 of the Sixth Schedule to the Constitution. In response, I would like to state as follows:-

The designated headquarters of Kiambu County Government is Kiambu Town. After touring and inspecting the infrastructure and facilities available in all the 47 counties prior to the general election of 2013, the Transition Authority identified the following to serve as county government offices for Kiambu County: The former County Council of Kiambu offices in Kiambu Town to be used as the county assembly. The former Municipal Council offices to house the county executive and the county treasury to be housed at the former Municipal Council of Kiambu offices. All the three identified premises are in Kiambu Town and hence the County Government of Kiambu headquarters is Kiambu Town.

As per the attached advisory published in all the daily newspapers on Tuesday, 17<sup>th</sup> January, 2013, the Transition Authority has continued to give advisories to the county governments as per their mandate of facilitating and coordinating transition to devolved system of county government. However, some counties have ignored some of the advisories, not only such a case but on such issues as recruitment of human resources.

The Transition Authority is requesting that the Senate intervene and the County Government of Kiambu to immediately relocate back to its offices in Kiambu Town and an advisory be given on the same so that the Senate and the Senator to know when they will be going back to Kiambu Town. Before any decision is made to transfer the headquarters of the county, it is important for all the stakeholders of the county, the leaders, *wananchi* and the Transition Authority to be consulted in a manner to ensure smooth transition, efficient and effective services delivery.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I thank the Chairperson of the Committee on Devolution for that answer. This has been a long outstanding matter in Kiambu. In the response the Transition Authority has requested the Senate to intervene and ensure that this is done. For the last two-and-a-half years, the Governor of Kiambu County has been playing hide and seek; a cat and mouse game on the location of Kiambu

Headquarters. In the absence of a direct intervention and directive from this House to give effect to this answer as requested by the Transition Authority, the cat and mouse game is likely to continue.

I would like to request the Chair to give direction in order to give effect to this answer such that it is ordered that this information or directive by the Transition Authority be followed and facilitated by the Senate to ensure that the Governor of Kiambu County moves the county headquarters to Kiambu Town immediately, and he should specifically go and occupy the former municipal council offices which is the building that was designated for the county executive.

The people of Kiambu had to content with a very difficult service delivery system. We have old ladies who live in the far end of the county like Lari, Gatundu North, Kabete and Kikuyu. Therefore, to get service, the old lady has to change public transport three times to access services. For example, one has to take a vehicle from Lari to Nairobi, then to Ruiru and then to Thika. This has happened for two years and in spite of the complaints by members of the public, nothing has changed. It is my humble request that you give direction so that this order can be effected immediately.

The Governor of Kiambu is in the habit of taking the Senate to court every time. If an express instruction is not given on this, I have no doubt he will be in court tomorrow to sue the Senate. He sued the Senate today because the Committee on Finance, Commerce and Budget took its obligation as directed by the Speaker to hear a petition---

**The Temporary Speaker** (Sen. (Dr.) Machage): May I remind you that you are supposed to be seeking for a clarification. I have been a little bit patient because of your concern but my patience is running out.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, my concern is for the people of Kiambu so that they can finally get the justice they deserve. The effect and authority of this House should be respected. That is why I took time to request the Chair to give direction that this directive be obeyed. I would like the Chairperson to clarify when this is going to be done.

**The Temporary Speaker** (Sen. (Dr.) Machage): I am being put in a very difficult position. Chairperson, let us hear you.

**Sen. Elachi:** I think it is an issue of the House now. It is a very direct issue and should be dealt by the House to assist the people of Kiambu. Therefore, I request the Chair to give directions.

**The Temporary Speaker** (Sen. (Dr.) Machage): I have listened carefully to the Statement read to this House by the Chair of the Committee. I have a copy of the same Statement but in a summarized manner. It is signed by the chief executive officer, Mr. Stephen K. Makori. I will not give direction on this prayer now, but I will want to study it as tabled in this House, through the HANSARD and also authenticate the powers of Mr. Stephen K. Makori in such a direction before I make my decision on Thursday next week.

Next, the Chair of the Committee on security.

## KILLINGS IN KITUI COUNTY

**Sen. Adan:** Mr. Temporary Speaker, Sir, let me confirm to this House that yesterday I promised to issue a Statement requested by Sen. Musila but unfortunately this morning, I was in the Cabinet Secretary's office by 8.30 a.m. and the Statement was not adequately addressing the question. I managed to call the Inspector-General of Police to facilitate a proper answer and also fast track the process. In view of that, I request Sen. Musila to give us time until Tuesday so that we can get a comprehensive answer.

**Sen. Musila:** Mr. Temporary Speaker, Sir, this question was asked three weeks ago after my people were killed by people who had crossed into my county. I am told every other time that the Statement will be coming tomorrow. I want to say that I have a lot of respect for the Vice Chair because she has done a lot of work. Yesterday, she committed herself to this House that the Statement was ready only that it lacked the signature of the Cabinet Secretary.

You have heard what she has said. I do appreciate her position but this is happening when our people continue to be murdered by herdsmen from another county and the Government is doing nothing. Every other day, there are incidences of people being killed by people armed with AK 47 rifles. Could I be in order to tell the Vice Chair that tomorrow should be the final day to reply to the Statement because it has been postponed so many times?

Mr. Temporary Speaker, Sir, I want to be on record to condemn, in the strongest terms possible, my disappointment with the manner in which the Ministry of Interior and Coordination of National Government is dealing with the matter of security at the border between Kitui and Tana River counties.

**The Temporary Speaker (Sen. (Dr.) Machage):** Very well. I think your concern has been noted by the Vice Chair of the Committee. In view of her answer, there is nothing more we can do. Tuesday is not too far. I hope the same will be executed effectively on Tuesday.

Next Order!

Hold on, Sen. Ong'era, you have an intervention?

## HAZARDS POSED BY NAIROBI DAM

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity. Sometime in May, I sought a statement with regard to the hazards caused by the Nairobi Dam. This answer was supposed to be submitted to the House by 20<sup>th</sup> May, 2015. Today, it is over six weeks and no answer is forthcoming from the Chair of the Committee on Lands and Natural Resources with regard to this very sensitive and important question. As I indicated last time, the hazards caused by Nairobi Dam have killed very many people including my bodyguard's son. I thought that this matter should have been given the due urgency it deserves.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well, that is quite a legitimate concern. I order that this Statement be issued on Tuesday. I hope the questioner will be in the House so that we do not have time wasted.

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, I am most obliged.

**The Temporary Speaker** (Sen. (Dr.) Machage): Next Order.

## BILL

### *Second reading*

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

*(Sen. Elachi on 30.6.2015)*

*(Resumption of Debate interrupted on 30.6.2015)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Ong'era, you had 13 minutes.

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to conclude my contribution to this Bill. As I indicated yesterday, this is a very good Bill which, for the first time in the history of our country, brings a law to regulate issues of food security, particularly to give effect to Articles 21, 43 and 53 of the Constitution. This Bill seeks to ensure that there is adequate food in this country and not only adequate food but also good quality food. The food must also be nutritious.

Mr. Temporary Speaker, Sir, these are some of the issues with regard to food security that we have sought for a very long time and we did not get legislations that translated into law. However, I have some concerns which I hope the Mover will address. I hope that by formulating this Bill and eventually enacting it will not be another way of using the back door to bring back the principle of the management of food in this country by the national Government.

As you are aware, the Ministry of Agriculture, Livestock and Fisheries was devolved to the counties and with that, the issues of food security were also devolved. I want to particularly look at Part 3, Clause 11 of the Bill. I did not expect a national authority to be formulated. I expected to see a county food security authority which is specific to the needs of each county.

Mr. Temporary Speaker, Sir, as you are aware, concerns of food security differ from one county to another. For example, I feel that the situation in Marsabit County will not be the same in Kisii County. Therefore, there was need of forming a county food security authority, so that we get people who are experts and tailored for that county's specific needs, as opposed to having a national authority, whereby there is a chairperson appointed by the President, a Principal Secretary for the designated Ministry for Devolution and Planning, the Ministry of Agriculture, Livestock and Fisheries and the

Ministry of Health. This is returning us back to the national Government when we have devolved this function.

I would also like the Mover to look at Clause 15 of this Bill with regard to the appointment of the chairman. We all know that when the chairmen of public bodies are appointed, they do not have to be people who are highly educated. The Director-General could have a master's degree but I do not see why a chairman must have a master's degree from a university which is recognized in Kenya. We have had many chairmen who are equally competent and not many of them had masters degrees yet they excelled in the jobs they were given.

I specifically think that the chairman should not necessarily be a person who is knowledgeable in issues of food security because that would be the work of the secretariat led by the Director-General. The chairman should be an all rounder who understands any issue that is presented before the board. Unless the Mover could tell us whether they have a particular person in mind, I think the threshold or the criterion of having such a chairman is very high.

Mr. Temporary Speaker, Sir, I finally want to ask the Mover to ---

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

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

**Sen. Elachi:** Mr. Temporary Speaker, Sir, I agree with the sentiments of my sister but it would be important to tell the country that we do not have in mind whoever will be the chair. I would have replied to the issues that she is raising during the time for reply---

**The Temporary Speaker** (Sen. (Dr.) Machage): You stood up on a point of order. So what is not in order?

**Sen. Elachi:** Mr. Temporary Speaker, Sir, what is not in order is that we have no idea who will be the chair. This is an issue that was brought with 21 memoranda in that Committee.

**The Temporary Speaker** (Sen. (Dr.) Machage): Maybe you did not execute it well. You should have said that, is Sen. Ong'era in order to--- You have to execute it properly for it to sound like a point of order.

**Sen. Elachi:** Mr. Mr. Temporary Speaker, Sir, is the Senate Minority Whip in order to say that we, as the Committee on Agriculture, Livestock and Fisheries, know whoever will be the Chairperson of this Committee?

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Ong'era, can you substantiate that?

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, I had asked a question and I am very happy to hear the Mover say that they have nobody in mind. I was worried by the manner in which the criterion was set. It is normally a criterion that is not set for Chairmen. I have been a drafter of Bills, having worked for a long time in the Attorney General's Chamber, and I know that when you are presenting the qualifications of Chairmen, you do not get into such details, unless it is for the post of a director general or a managing director. I am very happy that the Mover has indicated otherwise.

Clause 5(g) is with regard to having special food programmes for food poor persons. The Mover could consider making some amendments to provide for concrete

programmes for food poor people in this country. I have in mind situations like what happens in the United States of America (USA) and to an extent South Africa, where such people are provided with specific programmes, not like welfare but programmes where such people are provided with actual food.

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Ong'era, I suggest that you move the amendments, because Sen. Elachi is the drafter of the Bill and that is what is in her mind. She may also not be very interested in making that amendment. So, if you feel that there is a necessary amendment, then you are at the mercy of the House to accept your amendment or not and not the Mover.

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, I stand guided. I shall definitely be doing so at the relevant time. Otherwise, I would like to congratulate the Mover once again for coming up with such a Bill, because food security is an issue that especially we, as women, are very passionate about because we are the ones who know the pain of a child sleeping hungry in a home.

I beg to support this Bill.

**Sen. Sang:** Mr. Temporary Speaker, Sir, I join a number of the Members who have contributed to this Bill. I support this Bill and congratulate the Mover. We have had a lot of amendment Bills in this House and quite a few concrete Bills of this nature. A country that is not food secure cannot claim to be proud of being a nation. The responsibility of every Government and leadership is to ensure that their citizens are food secure.

A lot of the challenges that this country has faced in terms of the governance structures and poverty issues, have contributed to food insecurity. When this country decided to go into a devolved system of Government, and this has been highlighted by Sen. Ong'era; that we now have two Governments; the national and county Government. The wisdom behind our country agreeing that we need to devolve agriculture was because we needed to find a mechanism of ensuring that we have a governance structure at the local level that would respond to a number of issues, look at the environmental situations within the county, identify the food crops that could survive well within the local areas and identify the priority areas that they need to support to ensure that the citizens within our counties are food secure.

Mr. Temporary Speaker, Sir, as much as agriculture and issues of food production in this country are largely a devolved function, the President and the national Government still have the responsibility in terms of policy formulation, which I think is being addressed in this Bill. If you look at the national budget that was considered by the National Assembly just the other day, it saddens to see that even with the fact that this country ratified and was part and parcel of the Maputo Declaration that requested countries in Africa to allocate at least 15 per cent of their national budget to agriculture, this country is still way behind at about 6 per cent. We must decide as a country that food security is a priority and therefore, this should be seen even in the national budget that is being considered.

If you look at the national budget, a lot of resources were given to some sectors that may not merit the amount of resources that were given to them, while the agricultural



sector was ignored. It is important to note that if we want to increase food production in this country, we have to ask ourselves what the inhibiting factors are. One of the critical ones within the agricultural sector would be the prohibitive costs of farm inputs. In this country, buying fertilizer, seeds, farm machinery and fuel for the farm machinery need to be relooked into. I appreciate that in the last three years or so, the national Government has directed its efforts in subsidizing the cost of fertilizer in this country. However, the Government needs to do a little more than that

Mr. Temporary Speaker, Sir, in the last harvesting season, maize coming from Uganda and Tanzania was retailing at a cost of about Kshs1,200 while the cost of production of the same amount of maize in this country was about Kshs1,600. That leaves the question: How is it possible that farmers in Uganda and Tanzania are able to produce their maize at such a cheaper cost? These are issues that the national Government has to address itself to and in doing so; it should be seen within the budgetary allocation process, by directing the necessary resources to the agricultural sector so that we bring down the cost.

I come from a region that focuses on tea, maize and wheat production. Within the maize sector, in the last two years, we have the challenge of some of the diseases affecting the grains in our region. We need to allocate adequate resources in this country to the agricultural research institutions so that they can do adequate research and identify some of the varieties of seeds within the grain sector that will be able to withstand some of these diseases.

Therefore, I think that there is need for collaboration between county and national Governments in addressing some of the issues of food security in this country. When the Senate was in Mombasa the other week, we agreed that there is need for us to audit the national budget and look at some of the aspects within the budget that we devolved but resources remained at the national Government. I think that agriculture would be one area that we need to focus on and ask ourselves how much of the resources that are supposed to have gone to county governments were retained within this sector. We can then free them to county governments for them to budget for those resources and allocate them to specific areas that require the interventions of county governments to ensure that we have a food secure country.

Mr. Temporary Speaker, Sir, I must say that I am a disappointed legislator. In most county governments where agriculture is one of the critical sectors of their economies, you will find that their budgets are not focusing on agriculture. The Government has undertaken measures to subsidize fertilizer. We need to see the same approaches by county governments subsidizing agriculture further – subsidies on fertilizer, seeds and ensuring agricultural extension officers are available to serve farmers – so that we increase productivity within our regions.

This is critical to ensure that citizens in our counties are well fed. Some counties produce food in surplus while in others, people have challenges accessing food. Why are county governments not getting into some agreements? One county can agree with another that we are producing maize and another one will produce a different type of food. The two counties can then engage in contract farming. We want county

governments to be innovative. For example, Nandi County should not just look at itself, but they should ask themselves how they can cooperate with a county like Mandera and engage in some co-operation. We should see some sort of commodity exchange where production of some items in other counties can be subsidized, while ensuring there is exchange within counties to ensure food security.

Mr. Temporary Speaker, Sir, this country has some of the most strategic food reserves. Being a leader from the green area, a strategic food grain reserve, we are advised that we have maize that was stored in the strategic grain reserve for the last seven years. The National Cereals and Produce Board (NCPB) was unable to purchase more grains last year because the stores are full of maize that was bought seven years ago. We need to have a proper management system that ensures we do not keep grain for seven years, while some people in many parts of this country continue to die of hunger. I hope that the authority that will be established under this Bill will address some of these challenges so that we do not look like a country that does not understand what it is engaged in; that your own citizens are dying in one county while food is rotting in Government stores in another county.

We need to address issues of infrastructure to ensure that there is movement of food from one region that produces in excess to others that need this food. It is shocking that you will find farmers pouring milk in one part of this country or unable to find a market for their cabbages and potatoes. In the same country, may be 150 kilometres away, there is a county where people are suffering from hunger. We must ensure good logistics to facilitate transport of food from one region to another.

I hope when we get to the Second Reading, a number of issues that were pointed out by Sen. Ong'era and other Senators will be looked into to ensure that we have a Bill that conclusively addresses issues of food security in this country. We hope that once we pass this Bill, it will not have contestation with Members of the National Assembly. It is critical that we have a legal framework that ensures that national and county governments, relevant institutions and stakeholders can participate in the process of ensuring our country is food secure.

With those few remarks, I wish to support this Bill and congratulate the Mover.

**Sen. Obure:** Thank you, Mr. Temporary Speaker, Sir. First, the initiative by Sen. Elachi to bring this Bill at this opportune time is a big step in the right direction. Food is life and this Bill is, therefore, very important. I congratulate her for this initiative and urge my colleagues to support the Bill.

In accordance with Article 210 of the Constitution, every Kenyan has the right to be free from hunger and, in fact, the right to access good quality food and in the right quantities. This places a requirement for both the national and county governments to work together in matters related to food and coordinate their activities in a manner to ensure that all Kenyans are guaranteed access to quality food wherever they live in this country.

Mr. Temporary Speaker, Sir, it is also the duty of both levels of government to provide an environment which enables Kenyans to access food. It is their duty to put in place mechanisms that guarantee availability of farm inputs such as equipment and other

implements like fertilizer which are necessary to facilitate food production. It is the duty of both levels of government to improve infrastructure such as storage facilities to ensure preservation of food and build good roads for easy transportation of food from food surplus to food deficit regions.

Most importantly, is that both levels of government need to protect the environment and guarantee sustainability in matters of food production. This is the reason why I feel this Bill is important. The objective of this Bill is to provide a framework through which we can achieve our desire as a country to free ourselves from hunger and have access to quality and quantity food. In this Bill, both the county governments and the national Government will be compelled to put in place policies, measures, mechanisms and programmes to address the nagging question of food insecurity which has been a perennial challenge for us as a country.

This Bill will make it possible for both levels of government to fulfill their obligations to every Kenyan in matters relating to matters security. I want to agree with Sen. Ong'era on one aspect. The function of agriculture is devolved. It was devolved for good reason; so that there would be flexibility at the lowest levels possible, so that individual counties can deal with the unique challenges that they face on a day to day basis in matters relating to food production. I, therefore, do not agree with the proposal to establish a National Food Authority. I do not think that is a wise thing. What we need instead are committees at county level. These committees should deal with food issues at that level. If there is any shortage of food in any particular section of the county, those committees will then come up with measures to handle that and where necessary to coordinate with other organs of the national Government in dealing with that particular situation.

Mr. Temporary Speaker, Sir, one other thing I want to mention in my contribution is that, I am aware that there are many communities in this country who are hard working and willing to be self-sufficient in food supply. There are communities which also occupy areas which have potential for food production but they cannot produce any food despite their willingness to do so because they have no access to water. These communities require assistance from their governments. In some of these areas where these communities live, we should invest in irrigation schemes to provide water which would free these communities from hunger and which will enable them access food.

One time I served in the Ministry of Agriculture and I visited an area in Narok North Constituency called Mosiro. I visited that area because Kenya Agricultural Research Institution (KARI) was undertaking an irrigation project in that area on an experimental basis. They were investing little amounts of capital for that irrigation scheme. For the little investment in that area, the results were amazing. They were, for example, using the little water which they had been able to find through the irrigation initiative. They were growing maize and teaching the Maasai Community in that area how to grow maize. They had selected 32 women to participate in that programme. For these women, it was a complete transformation. Their lives were changed and they were able to produce food, not just for their families, but for the larger community within that

area. It was done within a very short time just because KARI was able to irrigate the farms in that area.

Mr. Temporary Speaker, Sir, in respect to breeding of livestock, KARI was cross breeding the local cattle breed with hybrid cattle. The product of that was again amazing; the quality of livestock improved so that the old men were now determined to look after the high quality cattle. This can be done because I saw it happening within a very short span of time just because of water. I will urge the county governments to put emphasis on irrigation. I will also urge the national Government to assist county governments to come up with irrigation programmes because that will change the whole scenario on food requirements.

Finally, I want to mention something on the need to diversify our eating habits. I know you come from an area close to where I come from. In Kisii County, we produce maize, bananas, sweet potatoes and modern type of potatoes, beans and other foodstuffs. All this food is served at family level in the evenings but even after eating all these food, we will not go to sleep unless *ugali* is served. We are putting a lot of pressure on the little stocks of maize available. For this reason, I think these habits can be changed. It is all a question of habits. I strongly feel that a mechanism should be established through which we can change our habits and attitudes so that we do not have to talk about food shortage just because there is a shortage of maize in our stores.

I think this is an important question and the challenge goes to all of us as a country so that we can diversify our eating habits. I feel that will help in dealing with the question of food insecurity.

Thank you.

**Sen. Kittony:** Thank you Mr. Temporary Speaker, Sir, for the opportunity to thank the Mover of this Bill and to support it. This Bill has come at a very appropriate time. In fact, it should have come yesterday. I am saying this because 50 years down the line, we have been a country governing itself, but we have not been able to manage the hunger that our people experience. There is no business seeing people going hungry simply because we have not managed our food resources very well.

Establishment of a Food Security Authority will be of great help. I would like the Mover to go into the details and amend some of her proposals and make sure that food storage becomes a priority. If we have food and we do not have the proper storage, then we shall still be talking of the same story and people will continue going hungry.

Mr. Temporary Speaker, Sir, God gave Kenya very fertile soil. We have enough food but we have not been able to manage it. As I said, this Bill has come at an appropriate time, but unfortunately I have just seen it now. I have not had enough time to go through it. However, as an experienced farmer, if the food that we produce is managed properly, Kenyans will no longer go hungry. It is a shame that sometimes people starve to death because of lack of food as a result of drought and other reasons.

In Article 53 of the Constitution, every person has a right to basic nutrition. Article 21 talks of the implementation of the rights to fundamental freedoms under the Constitution and the connected purposes to make sure that it is a right for every Kenyan to access food. Every household should get food at the right time. Therefore, Mr.

Temporary Speaker, Sir, adequacy and availability of food, its quality and quantity is a necessity for a human being. This Bill is very appropriate and I support it. The Mover has done the right thing at the right time.

Thank you, Mr. Temporary Speaker, Sir, I beg to support.

**The Temporary Speaker** (Sen. (Dr.) Machage): Yes, Temporary Card No.2.

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, as I give my contribution in support of the Bill, I am skeptical. However, I believe that this time round, this kind of a Bill which is timely and appropriate will not suffer the gap that has existed in this country between policy formulation and implementation. We pass very good Bills; we have very good policies passed in this nation but implementation is the problem. I hope that this time round, just with a little bit of strategy, focus and facilitation including adequate budgetary allocation, we will ensure that this kind of a Bill is implemented.

It is, indeed, a shame that 50 years down the line, a nation like Kenya is still discussing food security. We really do not have any reason to pride in being an independent nation when we cannot feed ourselves.

Mr. Temporary Speaker, Sir, I have always been shocked to find, for example, processed fish on our counters when our own lakes and rivers produce a lot of fish. We have not just had the strength and the mental focus to put just a little bit of budgetary allocation in the right Ministry at the right time with the right emphasis to process our own fish. I was a Member of the Tenth Parliament which proposed an allocation to encourage people to start fish farming. However, there was no subsequent allocation to build or construct a processing plant that would encourage the finished product to be harvested and taken to a national plant for processing.

Mr. Temporary Speaker, Sir, it is really shocking that every year in this nation, we suffer drought. You will see pastoral communities losing thousands of cattle. We know that it will happen every year. Why would this Government – the Jubilee Administration – not find it reasonable to put aside some money to buy cattle in good time and construct a meat processing plant in the pastoral areas so that they can be slaughtered in time, processed and stored for redistribution to Kenyans in need? I do not understand why, for example, we do not have a fruit processing plant. We produce very many mangoes and other fruits in all parts of this country. Why are we not processing, for example, fruits from the former Eastern Province so that the issue of nutrition that we suffer every other time is sorted out?

Mr. Temporary Speaker, Sir, as long as this nation will not take it seriously to put enough resources towards the harvesting of water in other parts of this country that experience a lot of rain and even in other parts that experience drought and rain in equal measure so that we store the water and use it for irrigation, then this kind of food insecurity will persist. I do not understand, for example, why we still do not even have budgetary allocation for urban agriculture which is something practiced globally.

Mr. Temporary Speaker, Sir, sometime earlier this year, I was on a foreign trip and I found myself in a library over the weekend. It was very interesting to know that the relationship between poverty eradication – which we always put a lot of money into – slum upgrading, insecurity, cattle rustling, environmental degradation and many other items

for which we put a lot of money have got their direct interlink and origin in the issue of food security. For as long as there is no food security in this nation, we will always deal with the issue of slums and put a lot of money into slum upgrading.

If you put enough food in the rural areas, nobody will leave rural areas to come to urban centres in search of a better life because they will be leading a better life there. By extension, we will not have the issue of housing problem in urban centres. The money that we put into slum upgrading and research on how to eradicate poverty will be a thing of the past. It just takes a little bit of strategy – as I said at the beginning – focus and support from the Executive to sort out this perennial problem.

As I conclude, I want to differ a little bit with my colleagues who find fault with the creation of the national authority. In my opinion, this is a very important matter. I support devolution to the core. I believe that the devolved units must have their own devolved functions and systems on how to feed the counties. However, there must be a national authority. What happens in case one county is not running an adequate programme to feed its populace? In such event, the function will be transferred to the national Government because the Government is still mandated and has an obligation to feed its people.

So, I support the creation of a national authority but with a decentralised system in all the 47 counties that liaise just in the same manner that we have created the 47 devolved units so that we have an oversight authority; the National Authority working closely with the different 47 authorities in the counties that will have tailor-made policies specific to those counties in respect of the climatic conditions and other issues. However, the National Authority will be called upon in case there is a deficit in any part of the country.

Mr. Temporary Speaker, Sir, we have discussed before the need to re-direct certain rivers to provide water in some counties. In the absence of this kind of a national authority, we will not have a platform to implement such policies.

Mr. Temporary Speaker, Sir, in conclusion, I would like the Mover even as we present this – of course, at the Committee level, we will present the various issues we want to be tackled – to ensure that the Bill has got a very strong component of budgetary allocation with it; probably a specific percentage. Sen. Sang has reminded us that Kenya is a signatory to certain protocols that have put a limit at 15 per cent.

It is really shocking that even after being a signatory to those kinds of agreements, we still come back home and contravene whatever we have agreed on and reduce the allocation to 6 per cent. Honestly, we can come up with policies, conduct research and do everything possible. But if we are not going to have the seriousness to allocate adequate resources towards such an important cause as feeding the nation, which also has interconnections with all other issues that affect this nation, because we are not able to feed ourselves, then this is going to be an effort in futility.

Mr. Temporary Speaker, Sir, my last point is on civic education. I think we take certain things for granted. I want to support and plead with the Mover to also have that aspect of civic education included. We take it for granted that Kenyans are aware of good eating habits, but the public should be encouraged. We have a lot of foodstuffs even

growing wildly. As a young girl I remember eating all manner of fruits. Whenever I visit certain supermarkets nowadays, I am shocked at the prices of those fruits on the shelves. We have so much in this country, but sometimes people just do not know what comprises foodstuffs. Why do we not conduct research and expose people to certain foodstuffs which are very healthy? We should also encourage our populations to introduce certain varieties and staple foods that take shorter time to mature and yield more in terms of quality and quantity.

I have visited other communities where whatever we take for granted here is really considered delicacies. I visited a country in the West recently and was shocked that what we take here for granted – the snail – is considered such a delicacy. In fact, I am thinking of starting a snail farming business, because they are actually looking for snails all over the place. You can hardly afford a snail in that country.

I talked to some people and they told me that it is one of the most nutritious foods. In fact, the family of every pregnant woman in that country must collectively try to find a way of ensuring that she takes, at least, three snails per week. It is very good for the baby in terms of brain development and everything else; no wonder they are really terrorizing us in terms of mental capacity all over the place. I will not mention that nation. I know that Rome was not built in a day, but we need to reintroduce certain staple foods, open our eyes also to certain possibilities worldwide and encourage, especially the young generation to be more innovative and adventurous in our eating habits. We should also be a little bit disciplined even in whatever we are already practicing and our eating habits.

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

**Sen. Chelule:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to also contribute to this Bill. First, I want to congratulate and thank the Mover for bringing this very important Bill.

I want to talk about marketing. Today, many farmers are suffering because of lack of good marketing strategies. We have farmers who practice horticulture and also people who come from Arid and Semi Arid Lands (ASALs), for example, Turkana and other areas. In Nakuru County, for example, we grow a lot of potatoes, cabbages and other vegetables. I hope that the issue of inter-county business will be addressed in this Bill, so that potatoes and other horticultural produce grown in some counties can be sold in other counties.

We know that many farmers suffer today because they cannot take their produce to the market due to poor road networks. I hope that this Bill will enable farmers to easily take their produce to the market. I also support the formation of authorities at the county and national Government levels. This will address the various problems that we go through as a country. At times, we face famine which cannot be addressed at the county level, but the national level.

When we begin adding value to our produce, the farmer will benefit from it. I hope that this Bill will promote value addition and storage. I am specifically referring to potatoes and other perishable produce. With value addition, farmers will have time to market their produce, as opposed to the case now where farmers are forced to sell their produce at throwaway prices because they do not have storage facilities. Also, the

farmers who grow fruits in this country are not given enough support. I hope that this Bill will put in place measures to support such farmers.

In addition to the formation of authorities at the two levels of Government, I encourage the Mover to ensure that the farmers are also encouraged by the Government to form co-operative societies through which they will sell their produce and buy farm inputs.

It is not common for the Government to promote farming among the youth in our country. I hope that this Bill will empower the youth to do farming because of unemployment. They must be empowered. I am not talking about civic education alone, but they must be funded to undertake any kind of farming.

Mr. Temporary Speaker, Sir, there is a policy in our country that 30 per cent of tenders must be allocated to the youth, women and persons with disabilities. Unfortunately, when they get these tenders, they cannot implement them because of lack of funds. So, I hope this Bill will empower youth to undertake farming activities.

With those few remarks, I beg to support.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. I see no other Member interested in contributing. I, therefore, call upon the Mover to reply.

**Sen. Elachi:** Thank you, Mr. Temporary Speaker, Sir. First of all---

**The Temporary Speaker** (Sen. (Dr.) Machage): It is always good to speak from the dispatch box when you are moving or replying to a Bill.

*(Sen. Elachi moved to the Dispatch Box)*

**Sen. Elachi:** Mr. Temporary Speaker, Sir, first, I thank all the Senators who have contributed and appreciate their input in ensuring that we enhance the Bill as we go to the Committee Stage.

The key object and purpose of this Bill is to provide a framework that promotes the realization of the right to freedom from hunger and access to food of acceptable quality as a fundamental human right. The Bill is anchored in the Ministry of Devolution and Planning. The Government will always call upon the Cabinet Secretary of this Ministry to ensure that food supplies are taken to the counties where there is hunger or emergencies.

I have listened to most of the contributors with regard to the establishment of the authority. We had wide consultations in the Committee stage with regard to this authority. It is important to note that the President is the Head of State and is obligated to ensure that this country is food secure. It is his responsibility to ensure that no Kenyan sleeps hungry.

The Bill also ensures that when we have an emergency and wish to seek assistance from international donors, it will be the responsibility of the Head of State to do so. If we leave it to the 47 counties to seek assistance, it will be difficult for the donors to come to our support.

To ensure inclusiveness in the composition of the authority, we have three members from the Council of Governors. We also have committees which have many



functions that they need to undertake at the county level. They would be the first whistle blowers to prevent any Kenyan from dying from hunger.

Mr. Temporary Speaker, Sir, for the first time in this country, this Bill introduces penalties for people who will sell relief food. The penalty for this offence is eight years imprisonment or a fine ranging from Kshs3 million to Kshs5 million.

I thank the Senate because this Bill will bring the realization of Articles 43(c)(1) and 53(1) which gives every child the right to have nutritious food. Also, we are trying to take our country back to the past to ensure that the traditional and non-traditional foods are cultivated and ensure that Kenyans appreciate the food that we used to eat in the past. That is why diseases that we suffer from today were not there at that time.

With those remarks, I thank you and request that we defer the putting of the question under Standing Order No. 54(3) because we do not have the numbers to proceed.

**The Temporary Speaker** (Sen. (Dr.) Machage): Can you say, I beg to move.

**Sen. Elachi:** Mr. Temporary Speaker, Sir, I beg to move

*(Putting of the Question on the Bill deferred)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Very good. Next order!

## COMMITTEE OF THE WHOLE

THE NATIONAL GOVERNMENT COORDINATION (AMENDMENT) BILL  
(SENATE BILL NO. 30 OF 2014)

THE NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL  
(NATIONAL ASSEMBLY BILL NO. 42 OF 2013)

*(Committee of the Whole deferred)*

## BILLS

### *Second Readings*

THE COUNTY RETIREMENT SCHEME BILL  
(SENATE BILL NO. 25 OF 2014)

*(Bill Deferred)*

THE COUNTY ASSEMBLY SERVICES BILL  
(SENATE BILL NO. 27 OF 2014)

*(Bill Deferred)*

THE UNIVERSITIES (AMENDMENT) BILL  
(SENATE BILL NO. 31 OF 2014)

*(Bill Deferred)*

*Second reading*

THE COUNTY HALL OF FAME BILL  
(SENATE BILL NO. 33 OF 2014)

**Sen. Sang:** Mr. Temporary Speaker, Sir, I beg to move this Bill. In doing so, I thank the Members of the Committee on Legal Affairs and Human Rights for the work we did.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Read the Bill.

**Sen. Sang:** Mr. Temporary Speaker, Sir, I stand guided. I beg to move that the County Hall of Fame Bill (Senate Bill No. 33 of 2014) be read a Second Time.

Mr. Temporary Speaker, Sir, this Bill provides for a platform through which county governments can recognise and honour exceptional persons within the county who have in one way or another made significant contribution to the county and the State.

The Bill seeks to provide county governments with a legal framework through which they can preserve their history, culture and heritage of the county. In so doing, we can provide a basis through which future generations can be educated about the history and culture of the county.

The Bill seeks to address a gap which has been identified with regard to the operation of the National Honours Act (2013). The Act provides for a mechanism for the conferment of honours by the President on the recommendation of the National and County Government Honours Advisory Committee, the Parliamentary Honours Advisory Committee and the Judiciary Honours Advisory Committee.

However, within the National and County Government Honours Advisory Committee, the Committee would only make the recommendations relating to state officers serving within the national and county governments. That means that the provisions of the Act do not support a situation whereby you have some people who have done exceptionally well for the counties, but are unable to be recognised within that advisory committee.

Mr. Temporary Speaker, Sir, the Bill proposes to establish a mechanism through which the county government can honour their own who may not necessarily be persons serving in national or county governments.

The county should honour those who have brought fame and honour to the county but who may not necessarily have been recognized by the President pursuant to the National Honours Act. In providing for the establishment of the County Hall of Fame, the Bill would enable counties to have a place, a repository of information and knowledge pertaining to the history and culture of the county. The Bill further allows for the

governor to either erect a county hall of fame or designate an existing permanent public site or building as a county hall of fame. The Bill further provides for the establishment of a county hall of fame committee consisting of the deputy governor, the CEC members in charge of culture and the county public service. There will also be one person nominated by the governor to represent the women, the youth and persons with disabilities. There will also be a representative from the civil society.

Mr. Temporary Speaker, Sir, I appreciate that when this Bill underwent the First Reading, it was committed to the Committee on Labour and Social Welfare. I am aware that there are certain provisions that the Committee has proposed for amendment. As it is within the Bill, we are proposing for the establishment of a committee called the County Hall of Fame Select Committee that will receive and consider representations from any person for induction to the county hall of fame. They will also consider and make recommendations for the induction of such persons to the hall of fame and make proposals regarding the types, classes and the categories of inductees into the county of hall.

The Bill also provides for the process through which a person may be inducted into the county hall of fame. The process begins by the making of the recommendation by the management committee to the governor for consideration. What we are saying is that we have this committee that will receive presentations from members of the public, from any concerned party within the county and ensure that they are processed to ensure that people who will be inducted into the county hall of fame merit that kind of honour.

The Bill sets out categories of persons who would qualify for such induction and they include persons who have made exemplary contribution for the betterment of the county and the country. We have to ensure that even as we provide counties with the platform for them to recognise their heroes and heroines, we should set some minimum standards so that we only allow the county an opportunity to honour people who are deserving of such honours. We have to ensure that this framework does not allow unscrupulous characters to find their way into the hall of fame. That is why the minimum threshold is already provided for in the Bill.

The Bill sets out the process of consideration of a petition by the Committee and requires that the Committee shall undertake public participation through the publication of any proposal for induction in a newspaper with wide circulation within the county. There will be invitation of views from members of the public within the county for the intended induction.

We have to ensure that these provisions are not misused by county executives and members of the committee to honour their own friends, associates and people who may not merit. Therefore, there has always been a temptation to address this particular mischief. It is possible that in the first county hall of fame induction, the governor, the deputy governor, all the County Executive Committee ((CEC) members will be coercing the Committee members and succeeding to have themselves inducted into the county hall of fame. We have to ensure that such misuse of these provisions is curtailed. This can only be done by ensuring that the views of the public matter in terms of identification of the people to be honoured and inducted into the county hall of fame.

Mr. Temporary Speaker, Sir, the Bill also provides for the keeping of a county hall of fame register of persons who have been inducted into the county hall of fame. With the coming into effect of this Bill, once we pass it into law, we must have a record so that 50 years from now, we will know that in the year 2015 or 2016, this county government inducted these people into the county hall of fame as part and parcel of the history and heritage of the counties. That is already provided for in this Bill. The Bill also provide for the circumstances under which a governor may suspend or revoke the induction of a person from the county hall of fame, including where an inductee engages in conduct that is incompatible with the status of a person who has been inducted in the county hall of fame.

Mr. Temporary Speaker, Sir, if institutions are given the mandate and the power to honour, they should also retain the power to take away that honour if that person behaves in a manner that is not compatible with the reasons behind the honour that was given. Therefore, once an individual has been inducted into the county hall of fame, that person has to be a person of integrity and live it through his/her life. If in mid-stream, the person behaves in a manner that is incompatible with the honour that he was given, the county governments reserve the right to take away that honour. Therefore, somebody has to remain as a person of integrity all the way. The Bill also allows for the induction or removal of a person from the county hall of fame posthumously.

We have many heroes and individuals in our country who played critical roles in the history, development and prosperity of their counties or regions. Most of them have gone ahead of us. The Bill provides for a mechanism where we can honour such people posthumously. The Bill also empowers the management committee to receive historical items and artifacts with the approval of the CEC member for preservation within the county hall of fame.

Mr. Temporary Speaker, Sir, once the county hall of fame has been set up, the law provides that they can admit artifacts and historical items. In my county of Nandi, we already have Koitalel Samoei Mausoleum. Some of the items that were used by this legendary leader in Nandi had been taken by the colonialists all the way to Britain. We worked so hard in ensuring that some of those artifacts and items are brought back. The provisions in this Bill allow the county to preserve some of these historical items and artifacts within the county hall of fame as a way of preserving our history.

Mr. Temporary Speaker, Sir, the county hall of fame will also serve as a repository of information regarding the inductees and also relating to the culture, history and heritage of the county. That is why it is important to go to certain regions in this country. They have a great history and interesting culture. We should preserve this for ourselves and for the future generation. The Bill also creates offences in the case of persons who falsely represent themselves as inductees into the county hall of fame or who solicit or offers to give bribe for induction into the county hall of fame. We want to ensure that anybody who gets to succeed to be inducted into the county hall of fame merits it.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order Sen. Sang, you will have 45 minutes when this Bill is next scheduled.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, it is now 6.30 p.m., time to adjourn this House. The Senate, therefore, stands adjourned until tomorrow, Thursday 2<sup>nd</sup> July, 2015 at 2.30 p.m.

The Senate rose at 6.30 p.m.