

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 6<sup>th</sup> May, 2015

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

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

### PRAYERS

### POINT OF ORDER

#### THE DESIGNATED COMMENCEMENT TIME FOR SENATE PROCEEDINGS

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I rise under Standing Order No.30 (1). In view of the provisions of this Standing Order, I would like you to guide us whether you think we are properly instituted and commenced on the business of this House since we are starting way behind after the time that is provided for under the Standing Orders.

Standing Order No.30(1) reads:-

“Unless the Speaker for the convenience of the Senate otherwise directs, the Senate shall meet at 2.30 p.m. on Tuesday, Wednesday and Thursday but more than one sitting may be directed during the same day.”

Mr. Speaker, Sir, do you think we can transact business today in view of the fact that we have failed to comply with Standing Order No.30(1).

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. While I appreciate the concern raised by Sen. (Dr.) Khalwale, according to my watch, it is actually 2.30 p.m. Which watch is the Senator using?

**The Speaker** (Hon. Ethuro): Sen. Sang has raised an important issue. What time is it by your wrist watch, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I am guided by the wall clock which as of the time I rose, was 36 minutes past two o'clock. By the time the procession of the Speaker came in, it was 35 minutes after two o'clock.

**The Speaker** (Hon. Ethuro): At least you have made reference to the procession. When it says, “it shall start at 2.30 p.m. that is starting from my office. The bell is rung five minutes to 2.30 p.m. then I start the procession from my office. Therefore, depending

on the speed with which the Speaker walks, our estimation and practice, so far, is that the speaker's walk takes five minutes.

We have always done it that way. I have been with you in this Parliament for a while now so it does not invalidate our starting.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. A strict reading of the Standing Order under reference is very clear. It says that "the Senate shall meet" and not "shall start the procession" at 2.30 p.m. on Tuesday, Wednesday and Thursday.

So, if usage has been taking over the Speaker's office at 2.30 p.m. then we have been flouting this Standing Order.

I used to sit in the Speaker's panel in the Seventh Parliament. The bell always stopped ringing at three minutes to 2.30 p.m. to give the Speaker three minutes to walk from his office to the Chamber. That we have been doing the wrong thing does not make it right. We request the Chair to direct all those that support you in the discharge of your duties that 2.30 p.m. means just that and nothing less.

**The Speaker** (Hon. Ethuro): Order, hon. Senators! I am actually surprised that a mundane matter like this one is preoccupying us. I want to make it extremely and abundantly clear that you may have served in the Seventh Parliament in the same capacity as I served in both the Ninth and Tenth Parliaments and the practice was the same. Since we began the Senate in 2013, the practice has been the same. So, the tradition is not just a matter of the tradition or convenience; it is a tradition that has already been factored. For five minutes the bell is rang; by 2.30 p.m. you are expected to be inside the Chamber yourselves. You do not expect the Speaker to arrive before you have arrived. So, that is already one other consideration that you must put into account. The rest is a balance of convenience.

In any event, the Standing Order No.1 allows the Speaker to follow where it is not provided for. It is not because it is not provided for. When it is not provided for, a tradition is something great that can be part and parcel of how we conduct business. If you really need to challenge me, then I will refer you to the same order. Unless the Speaker so directs, I am going to direct then, but I do not think it is necessary.

*(Laughter)*

### COMMUNICATIONS FROM THE CHAIR

**The Speaker** (Hon. Ethuro): Order, Senators! I have a number of Communications to make today, you will bear with me.

#### SENATORS' *KAMUKUNJI*

I wish to inform you that there will be a *Kamukunji* for all Senators tomorrow, Thursday 7<sup>th</sup> May, 2015, in the Senate Chambers, main Parliament buildings at 11 a.m. The agenda will be circulated during the meeting, but it is important that you attend. *Kamukunjis* are usually for all Senators.

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THE PUBLIC PROCUREMENT AND ASSETS DISPOSAL BILL  
(NATIONAL ASSEMBLY BILL NO. 40 OF 2014)

Hon. Senators, The Public Procurement and Assets Disposal Bill (National Assembly Bill No.40 of 2014), which has just been read the First Time now, was published on 8<sup>th</sup> December, 2014, as a Bill originating in the National Assembly. It was passed by the National Assembly--- I do not think we have read it.

MEDIATION COMMITTEE TO CONSIDER THE ENVIRONMENTAL  
MANAGEMENT AND CO-ORDINATION BILL  
(NATIONAL ASSEMBLY BILL NO.31 OF 2014)

Hon. Senators, as you may recall on Wednesday 29<sup>th</sup> April, 2015, I delivered a message from the National Assembly regarding the rejection of the Assembly of some of the Senate's amendments to Clauses 10, 20, 23 and 25 of The Environmental Management and Co-ordination Bill (National Assembly Bill No.31 of 2014), the effect of which is to refer the Bill to a Mediation Committee.

In my communication on Wednesday, 29<sup>th</sup> April, I informed you that the Speaker of the National Assembly had nominated the following Members to the Mediation Committee:

1. Hon. Amina Abdalla, MP
2. Hon. Ronald Tonui, MP
3. Hon. Mwamkale William Kamoti, MP

In this regard, I also hereby appoint the following Senators to represent the Senate in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass.

1. Sen. Lenny Kivuti
2. Sen. George Khaniri
3. Sen. Liza Chelule

Hon. Senators, I wish to draw your attention that the two Houses will have 30 days from the date of the formation of the Mediation Committee from today to dispose of the Bill. However, the Bill is subject to a constitutional time line of 27<sup>th</sup> May, 2015. The deadline was initially of the 27<sup>th</sup> August, 2014, but was extended by a period of nine months by the National Assembly, pursuant to the provisions of Article 261(2) of the Constitution. I, therefore, urge the Mediation Committee to expedite the deliberation of the four Clauses in contention, with the aim of having the Bill passed before 27<sup>th</sup> May, 2015 deadline.

HEIGHTENED SECURITY IN ALL GOVERNMENT  
INSTALLATIONS INCLUDING PARLIAMENT

As you may be aware, hon. Senators, there have been heightened security checks around all critical Government installations, including the Parliament of the Republic of Kenya. The Parliamentary Service Commission (PSC) is currently

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implementing meticulous measures aimed at enhancing the security of all persons and facilities within and around the precincts of Parliament.

From now on, the Speaker's rules on admittance of strangers will be strictly enforced, including the requirement that a Member will not be allowed to have more than two visitors at any one time. Visitors will also not be allowed access to the precincts of Parliament without dully authorized visitors' cards.

Further, no Member of Parliament will be allowed to bring in visitors aboard the Member's vehicle, except a driver and the official bodyguards. All other passengers will be required to alight from the vehicle at the gates for screening and scrutiny of the invitation cards.

Hon. Senators, you may also be aware that a member of staff of the PSC is being questioned by security agencies on security related issues. I wish to assure you that the PSC is keenly following up on this matter to its logical conclusion.

Finally, I also wish to assure all Members, parliamentary staff and the public at large, that stringent security measures have been put in place to secure all of you and all our parliamentary facilities as you discharge your duties within the precincts of Parliament. You will be called upon to also support the enforcement of some of those measures that I have outlined.

**Sen. Abdirahman:** On a point of order Mr. Speaker, Sir. We have received your message very well and understood its contents. We are not under-estimating your wisdom with regard to the management of this House. However, it is always important for us as the leadership from all the sides to know how many or who is going to serve in a particular committee or in an opportunity like this one. It is just to help us take stock of who served where so that we can have our entire membership serving in one way or another. However, we have no objection to our representation by my brother, Sen. Khaniri, into what you proposed.

Thank you.

**The Speaker** (Hon. Ethuro): The Deputy Minority Leader, you may wish to appreciate that I have not taken away that power because when you nominate names to committees, it is you who does it. I have only picked the membership from the relevant Committee that is dealing with the Bill.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I thank you for the last Communication. I would like to bring to you attention, not that you might not be knowing, but because we are the ones using the gates. Our experience is that until around four months ago, the Senate gate was very orderly because it was only us, Senators, who were going through. However, for some strange reasons, the gate is full of Members of the National Assembly. They even use our parking space and we get stuck. This prolongs the security checks. I would like you to consider that.

Mr. Speaker, Sir, I have also noticed that---

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, I do not want to cut you short. However, that is a matter that could be best canvassed in tomorrow's *Kamukunji*, if you do not mind, in terms of our own management.

**Sen. (Dr.) Khalwale:** Yes, Mr. Speaker, Sir.

There is one last point which I would like to bring to your attention. In view of the fact that you have said and we are aware that a current member of staff is being held on suspicion of involvement or being a sympathizer of the Al Shabaab, maybe, this could be the time for the Senate and the National Assembly to reconsider such that all the employees, especially the new ones, are screened afresh.

(Applause)

They should be thoroughly screened so that we know where they came from before they were employed, where they have worked before, whether they have ever left the country and how they associate back home. Parliament cannot be threatened and we think that it is business as usual.

Mr. Speaker, Sir, on social media today---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! I had advised that since these are more in-House issues, I could give you an opportunity tomorrow to raise them at the *Kamukunji*.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, could I conclude on the social media?

**The Speaker** (Hon. Ethuro): Yes, conclude.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, on the social media today, there is a---

**Sen. Abdirahman:** On a point of order, Mr. Speaker, Sir. Is it in order for the membership of this House, all the time, to be subjected to discussions on issues that are not the core business of the Senate? The issue raised by Sen. (Dr.) Khalwale, in fact, is a role that belongs to the security agents in this country. If we convert the secretariat of the National Assembly or that of the Senate into a government agency that screens employees, we may be heading the wrong direction as an institution.

As much as we support general measures with regard to security in this country, I do not think we will be heading in the right direction if we adopt such kind of measures. However, I seek your guidance on that.

**The Speaker** (Hon. Ethuro): My guidance was very clear. Definitely, the issues are very important. Security of the nation, an institution and the individuals working in those institutions is of paramount importance. We should ask ourselves whether we wish to discuss some of the issues in the plenary or in a closed session. Sen. (Dr.) Khalwale is perfectly in order to raise the issues. That is why I invited him to raise them in a better forum, but not this one.

Sen. (Dr.) Khalwale, these are the kind of responses I did not wish to have in the plenary. However, we would like to have them during the *Kamukunji*. Please, reserve whatever else that includes social media because we will deal with them in the *Kamukunji*.

Order Members, let us just exhaust Sen. (Dr.) Khalwale's issues.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, on social media today---

**The Speaker** (Hon. Ethuro): Order, Senator! I have appealed to you thrice now.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I thought that because you had opened it, I should conclude. I am guided.

**The Speaker** (Hon. Ethuro): I was hoping that your conclusion would be guided. That is what I expected, but not to continue prosecuting the same matter. I have said that I will give you an opportunity to do so, tomorrow.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I will make full disclosure tomorrow.

**The Speaker** (Hon. Ethuro): My advice to Sen. (Dr.) Khalwale cuts across.

**Sen. Murkomen:** Mr. Speaker, Sir, I just have a further suggestion. This concerns the nation, but not just this building. Our Commissioners in the PSC should also consider working with the County Government of Nairobi County and the Ministry of Transport and Infrastructure. The Parliament Road should be blocked from the Intercontinental---

**The Speaker** (Hon. Ethuro): Order, Sen. Murkomen! The advice that I gave to Sen. (Dr.) Khalwale was not personal. It was for all of us. I will give you an opportunity to raise that suggestion tomorrow. That is also a good suggestion; I am not refusing it. However, you know the mood of the House and you are actually participating in contributing to that good mood that some of these things could be dealt with tomorrow.

**Sen. Murkomen:** Mr. Speaker, Sir, I thought that some of the things that we prosecute in the House have national policy decision and we do them publicly. I thought that welfare issues are the ones we deal with privately. I want to suggest something that has national policy decision. It is something which the people of Elgeyo-Marakwet and Nairobi County should follow. However, the ones that we will prosecute tomorrow in our *Kamukunji* are for us and they are welfare related issues.

**The Speaker** (Hon. Ethuro): Since they are related, why should you not prosecute them tomorrow? I will still give you an opportunity if you feel that they should be prosecuted in the plenary.

**Sen. Murkomen:** It is okay, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Thank you.  
Next Order!

## NOTICE OF MOTION

### RE-INTRODUCTION OF UNTRAINED TEACHER PROGRAMME IN NORTH EASTERN REGION

**Sen. Abdirahman:** Mr. Speaker, Sir, I beg to give a notice of Motion regarding the Department of Education:-

THAT, aware that the country in general and the north-eastern region in particular currently faces an acute shortage of teachers; noting that the problem in schools in north-eastern region counties has been exacerbated by the recent refusal of teachers to report to their duty stations in the region, and; concerned that the national Government has no plans to overturn the current freeze on regular recruitment of teachers, the Senate calls upon the national Government to immediately reintroduce untrained teacher programme as well as in-service training for the untrained teachers

in the north-eastern region as a measure to bridge the shortage of teachers in the region.

Thank you, Mr. Speaker, Sir.

### COMMUNICATION FROM THE CHAIR

#### VISITING PUPILS AND TEACHERS FROM ST. THERESA'S TARTAR GIRLS HIGH SCHOOL

**The Speaker** (Hon. Ethuro): Order, hon. Senators. Before we take statements, I wish to recognise the presence of the pupils and teachers from St. Theresa's Tartar Girls High School from West Pokot County seated in the Public Gallery who are visiting the Senate this afternoon. As you all know, hon. Senators, the tradition of receiving and welcoming visitors to Parliament is a long time tradition and one we shall endeavor to continue upholding. Of course, they come from a county neighbouring my home county. On behalf of the Senate and on my own behalf, I extend a warm welcome to the pupils and teachers of St. Theresa's Tartar Girls High School.

Thank you.

*(Applause)*

**Sen. (Prof.) Lonyangapuo:** On a point of order, Mr. Speaker, Sir. I expected you to tell the young girls that their Senator is here seated and they are fully welcome to come and watch the proceedings.

**The Speaker** (Hon. Ethuro): You are right, but I thought that it is better coming from you.

*(Laughter)*

Let us now take Statements.

Sen. Obure.

### STATEMENTS

#### CONTINUED CLOSURE OF GARISSA TTC

**Sen. Obure:** Thank you, Mr. Speaker, Sir, for this opportunity. I stand to seek an urgent Statement from the Chairperson of the Senate Committee on Education regarding the predicament of students of Garissa Teachers Training College in Garissa.

We all remember the extraordinary security challenges that the country faced last month in which a big number of Kenyans, many of them students at Garissa University College, lost their lives. We also know that these challenges have not been overcome, although we appreciate that various measures have been put in place by the Government. Could the Chairperson, in his Statement, address the following specific issues:-

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(1) Whether the Cabinet Secretary is aware that many of the students of Garissa Teachers Training College, a stone throw away from Garissa University which remains closed, have not reported to college this May term fearing for their lives.

(2) Has the Cabinet Secretary considered other options in the meantime, such as transferring the students to other training institutions to enable them continue with their studies?

(3) Could the students, their parents and guardians be assured that this temporary setback will not in any way affect the studies and future of the students?

(4) Will the national Government, through the Cabinet Secretary, take appropriate measures to ensure adequate security in all institutions of learning in the country?

**The Speaker** (Hon. Ethuro): Chairperson, Committee on Education.

**Sen. Karaba:** Mr. Speaker, Sir, I undertake to give an answer in two weeks' time.

**The Speaker** (Hon. Ethuro): Order, Senator! This is a matter of students who are supposed to be reporting. Two weeks is a long time. Why do you not undertake to give a Statement in one week?

**Sen. Karaba:** Mr. Speaker, Sir, it is because this issue involves also security agencies and not only the Ministry of Education, Science and Technology, but also several other Ministries. So, we have to liaise with the relevant Ministries to arrive to an amicable answer.

**The Speaker** (Hon. Ethuro): It does not matter, Chairperson. It is the expectation of this House and country that all the officers responsible knew of the situation - this is just basically a reminder - and have already done something about it. Therefore, a sense of urgency must be there. Give it a shot.

**Sen. Karaba:** Mr. Speaker, Sir, the shot is two weeks.

**The Speaker** (Hon. Ethuro): I am directing that you give the Statement next Tuesday.

**Sen. Karaba:** I will struggle, Mr. Speaker, Sir.

#### HAZARDS POSED BY NAIROBI DAM

**Sen. Ong'era:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the hazards posed by the Nairobi Dam, especially during the rainy seasons.

In the Statement the Chairperson should:-

(1) Explain the steps that the Nairobi City County Government has taken to clean up and rehabilitate the Nairobi Dam, as it has become a health hazard with water hyacinth, toxic materials and effluent from the neighbouring Kibera slums and estates.

(2) Explain the measures that the Nairobi County Government has put in place to deal with garbage in slums and the effluent and toxic material, finding its way into the streams and resulting in foam that covers Mbagathi Road after rains, posing a grave danger to people using the road and living in the surrounding areas.

(3) Explain why despite many requests to attend to the degradation of the environment by the Nairobi Dam, the Nairobi City County Government has failed and/or



neglected to implement any of the several proposals made by stakeholders and the donor community.

(4) Explain why footbridges have not been constructed across the dam.

(5) Explain the steps, if any, that the county government is taking to ensure the safety of citizens, particularly those in the Prisons Department in Langata and Highrise estates, when the dam rivers are flooded, to avoid losses of lives as has happened severally. The latest death was that of my bodyguard's son that occurred on Friday 24<sup>th</sup> April, 2015.

**Hon. Senators:** *Pole! Pole!*

**The Speaker** (Hon. Ethuro): Vice-Chairperson, Committee on Land and Natural Resources.

**Sen. Khaniri:** Mr. Speaker, Sir, although the Statement is directed to my Committee, there are so many aspects of the Statement that the hon. Senator has sought that do not fall under my Committee. There are issues of garbage disposal and collection and health that fall under different Committees. I do not know what you will direct in this particular case because most of the issues actually do not fall under my Committee.

**The Speaker** (Hon. Ethuro): Let me have a copy of that request for the Statement.

*(The Clerk handed over a copy of the request  
for the Statement to the Speaker)*

Vice-Chairperson, maybe you need to have a copy of the request for the Statement. Part 1 of the request reads:-

“Explain the steps that the Nairobi City County Government has taken to clean up and rehabilitate the Nairobi Dam as it has become a health hazard with water hyacinth, toxic materials and effluent from the neighbouring Kibera slums and estates.”

That is in your docket. The other part reads:-

“Explain the measures that the Nairobi County Government has put in place to deal with garbage in slums and the effluent and toxic material, finding its way into the streams and resulting in foam that covers Mbagathi Road after rains, posing a grave danger to people using the road and living in the surrounding areas.”

That is in your docket, because it talks about effluent and toxic material finding its way into the streams. Everybody remembers the cleaning of Nairobi River.

The other part reads:-

“Explain why despite many requests to attend to the degradation of the environment by the Nairobi Dam, the Nairobi City County Government has failed and/or neglected to implement any of the several proposals made by stakeholders and the donor community.”

That is still your docket.

The other part talks about footbridges across the dam.

The last part reads:-

“Explain the steps, if any, that the county government is taking to ensure the safety of citizens, particularly those in the Prisons Department in Langata and Highrise estates, when the dam rivers are flooded, to avoid losses of lives as has happened severally. The latest death was that of my bodyguard’s son that occurred on Friday 24<sup>th</sup> April, 2015.”

I think that basically you will provide the leadership. If there is need for participation by other Committees, you should be at liberty. They are all Committees of the House, to serve the House.

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir. I stand guided. Since there are some aspects that we may require to get information from other departments, I will ask for three weeks.

**The Speaker** (Hon. Ethuro): Let us establish a good practice of two weeks. If by that time you will feel that you have difficulties in accessing some information, I am sure that, that is a request that we can entertain.

Hon. Senators, on those two, especially the one on education and environment, I think you need to appreciate Article 42 of the Constitution on environment and that every person has a right to a clean and healthy environment.

For purposes of the Chair on Education, Article 43(f) on economic and social rights in particular states that:-

“Every person has a right to education”.

Article 47, which is one Article that I am appreciating of late is on fair administrative action. Article 47(1) states that:-

“Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair”

So, if you underline the words expeditious and efficient, you will have a sense of why we should do things in the quickest time possible.

Under Statements that are in the appendix, we still have 2(a) which deals with the Chairperson of Lands and Natural Resources on a Statement that was supposed to have been issued yesterday. We agreed that I was to give a decision and my direction is that the Chair will do it as a Statement and not as a report. As requested by Sen. Kembigitura, that Statement will be made tomorrow afternoon.

Is that okay with you Chair?

**Sen. Kivuti:** Mr. Speaker, Sir, I oblige. It is ready.

**The Speaker** (Hon. Ethuro): Statement 2(b) for the Chair of the Committee on Labour and Social Welfare?

#### STATUS OF CASH TRANSFER PROGRAMME

**Sen. Madzayo:** Mr. Speaker, Sir, this is a Statement in response to an inquiry or to a question raised by the distinguished Senator for Kitui, Sen. Musila on Thursday 19<sup>th</sup> February, 2015. The distinguished Senator for Kitui County requested the Committee to provide information regarding the status of cash transfer programmes and most specifically the number of senior citizens receiving cash transfers and the names of the recipients in each of the eight constituencies in Kitui County.

The National Safety Net Programmes includes cash transfers to orphans, vulnerable children, persons with severe disabilities and old persons together with Urban Foods Subsidy Cash Transfer programme with a total goal of alleviating the state of poverty in which approximately half of Kenyans exist. There are approximately 1.4 million persons over the age of 65 years in the country and they are disproportionately susceptible to the devastating effects of poverty due to their disadvantaged position in society. Therefore, the cash transfer provides regular and predictable cash to such vulnerable persons to ensure that there are at least segments of the population able to meet their basic needs and live with dignity.

In response to Sen. Musila's inquiry, as of 2014/2015 Financial Year, there are 210,00 beneficiaries already receiving older persons cash transfers in Kenya. This is a significant increase from 164,000 beneficiaries in 2013/2014 Financial Year and a monumental increase from a mere 200 beneficiaries when the programme was launched in 2007/2008 Financial Year. I have provided the entire list detailing the number of recipients of the cash transfer of each county to my colleague Sen. Musila.

As of August 2014, Kakamega, Kiambu and Nairobi counties had the most beneficiaries with over 7,000, while Isiolo, Lamu and Tana River were among the counties with the least beneficiaries with just 1,000. The allocation of funds is based on a targeting process whereby 30 per cent of the potential beneficiaries are distributed equally in 290 constituencies, while 70 per cent is distributed on the basis of poverty indexes from the Kenya National Bureau of Statistics (KNBS) Report.

Mr. Speaker, Sir, I would like to emphasize that the cash transfers to older persons does not cover every senior citizens in the county. The beneficiaries are determined based on specific criteria. This criteria is:-

- (1) A person who is over 65 years of age and above among the poor of the poor
- (2) A person who is not a pensioner,
- (3) A person who is a resident of a targeted area for a minimum of 12 months
- (4) A person who is not registered in any other cash transfer programme, namely the cash transfer to orphans and vulnerable children, persons with severe disabilities or urban food subsidy cash transfer programmes.

According to the Ministry of Labour, Social Security and Services, the total number of beneficiaries of the older persons cash transfer programme in Kitui County right now stands at 4,407.

**The Speaker** (Hon. Ethuro): Order, Chair! If you have copies of the responses to the Statements, I would appreciate it if you hand over to the Member who sought it as well as a copy to the Clerks-at-the-Table

**Sen. Musila:** Mr. Speaker, Sir, first and foremost, I want to thank the Chair for providing the information, though it is being provided three months since it was requested. This is a very important matter concerning all counties of this Republic. The matter of cash transfers to the under privileged, including the senior citizens is of major concern to the people of this country.

As you can see, I am holding a huge book that has been handed over to me by the Chair. Though I have been waiting for it seriously, I must request the indulgence of the Chair to give me more time to peruse this document and also share it with my colleagues,

so that we interrogate it properly and substantively come up with clarifications. I am asking for Tuesday, next week, by which time I would have read, scrutinized and shared this list with my colleagues.

**The Speaker** (Hon. Ethuro): Proceed, Chairperson. That sounds like a reasonable request.

**Sen. Madzayo:** I oblige, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): When do we slot it?

**Sen. Madzayo:** Tuesday, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): It is so ordered, Tuesday, next week.

**Sen. Madzayo:** Mr. Speaker, Sir, I also have another Statement to give sought by---

**The Speaker** (Hon. Ethuro): Order! Just look at your Order Paper on the appendix, the last page. Your Statement is there. However, before your Statement there is another one. Just to give a break to your voice, it would be good to get the Chairperson of the Committee on National Security and Foreign Relations first.

Proceed, Sen. Adan.

#### INSECURITY IN SAMBURU NORTH, SAMBURU COUNTY

**Sen. Adan:** Mr. Speaker, Sir, I have a Statement which was requested by Sen. Leshore on insecurity in Samburu North, Samburu County. The hon. Member sought to be informed on whether the Government is aware of an incident where two people were killed and livestock stolen in Sujane area of Samburu North in Baragoi by suspected cattle rustlers on 9<sup>th</sup> March, 2015.

Secondly, he wanted to know the action being taken to recover the stolen livestock and extend support to victims of the said incident.

Lastly, explain the long term measures that the Government is taking to stop recurrent conflict in Baragoi in Samburu North, Baringo North and Turkana South regions to bring to an end the problem of cattle rustling.

I wish to state as follows:-

The Government is aware that on 9<sup>th</sup> March, 2015, suspected Turkana bandits attacked Sujane area and killed two people; Lepasi Lemetila, who was 14 years old and Legishi Lorikai, who was 30 years old.

The attackers made away with unknown number of animals and disappeared into Suguta valley which is not accessible due to poor communication, visibility and network. However, plans are underway to provide aerial support to track the bandits. It is suspected that the attackers were on a revenge mission following the previous attack on 1<sup>st</sup> and 6<sup>th</sup> January, 2015, which is suspected to have been perpetuated by the Samburus, where three Turkana tribesmen were killed as follows; Lorwatan Lorisia, who was 25 years old, Losiria Akorot, 26 years and Ng'ilimo-Ng'irikale, 45years.

Mr. Speaker, Sir, the following measures have been put in place to promote peaceful co-existence amongst the area residents:-

(1) Security camps have been set up in Merti, Kambi Nyoka and Tum areas. Establishment of an army camp in Baragoi is underway, which will go a long way in supplementing police security operations in the area.

(2) Samburu County Government has been requested to open up the area by improving the road network which will enhance response by the security agencies.

(3) Sensitization of the youth and local community on the negative effect of cattle rustling and importance of peaceful co-existence.

(4) Plans are underway to carry out simultaneous disarmament in all communities in the banditry prone areas.

(5) Re-training security personnel to improve their ability to deal with banditry in the area.

(6) Implementation of community policing initiative and,

(7) Enhancing collection of intelligence.

**The Speaker** (Hon. Ethuro): Proceed, Sen. Leshore.

**Sen. Leshore:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to ask the Chairperson of the Committee on National Security and Foreign Relations, on the issue of cattle rustling and insecurity in particularly Samburu North, Baringo East, West Pokot, Turkana South and Turkana East.

I have asked this question since March. Had the Government taken the opportune moment to bring peace and to see that cattle rustlers are apprehended and stolen cattle are returned to the owners, the recent weekend incidents between West Pokot and Turkana, Baringo East and Turkana, Samburu North and Turkana or even Sarima in the border of Marsabit would not have happened. Could the Chairperson tell us whether this Jubilee Government is serious about the pastoralists who are fighting day in and day out, just because of all drought stricken animals known as cattle, camels and goats, and leaving her own citizens to die just like wild animals?

I remember that when we took over the Government, the Deputy President, Hon. William Ruto stated that “we want to issue an ultimatum to cattle rustlers, that after the 4<sup>th</sup> March, 2013, elections, they will have nowhere to live in. They should either move out or end their way of living.” Then immediately the Cabinet Secretary (CS) for---

**The Speaker** (Hon. Ethuro): Order, Senator! I do not want to cut you short, but this is not a debate, you need to ask for clarifications.

**Sen. Leshore:** Mr. Speaker, Sir, is this Jubilee Government serious because what they have stated that they are going to do to make that a peaceful area is not satisfactory?

*(Applause)*

**Sen. Musila:** Mr. Speaker, Sir, the Statement that has been read by the Vice Chairperson of the Committee has nothing new. It is a replica of many statements that are being made day after day when we ask about security issues in these areas.

*(Applause)*

**An hon. Senator:** Shame! Shame!

**Sen. Musila:** Mr. Speaker, Sir, as I speak, a large number of Kenyans have died in Turkana and West Pokot areas; over 100, I understand. Only two weeks ago, we were decrying the killing of innocent Kenyans by the Al-Shabaab, but this recent killing of Kenyans by Kenyans appears to be taken as usual or normal by the Government. Can we get concrete information and reasons why Kenyans continue to kill each other in these areas of Samburu, Turkana, West Pokot and so on and so forth? They do not need to go to the files and get us statements that were read last year and come and read them on the Floor of the House as the Vice Chairperson has just done.

**An hon. Senator:** Bure kabisa!

**Sen. Karaba:** Mr. Speaker, Sir, what my former Provincial Commissioner (PC) and District Commissioner (DC) is telling us, is true. The facts are here. Even the Chairperson of the Committee was a PC in Rift Valley where some of these problems are coming from. Could the Government not seek better methods of combating the menace by even putting up some military barracks in that notorious Suguta valley instead of just blaming the valley for nothing?

**An hon. Senator:** Put up a wall!

*(Applause)*

**Sen. Karaba:** Mr. Speaker, Sir, not a wall. They should put up a military barracks in the valley to ward off the warriors. I think that is something that can be negotiated by the Government.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, further to the question asked by Sen. Leshore, I concur with Sen. Musila, that the responses we have been getting from this Committee are being plucked from a famous template from which the same answer is being printed. It resembles exactly what was read last week on the question that I had asked.

The Suguta Valley--- I heard that sometimes they call it the “valley of death”. Why is it that to date, 51 years after independence, it remains unopened, no road goes in. The Vice Chair is now being generous to tell us that Samburu County will be requested to open the road. This is a security nightmare. It is an area where a PC and a DC died at one time. Is the Government unable to contain this cattle rustling? Today’s headlines read; “Over Hundred People Slaughtered by Bandits in Suguta Valley.”

We should ask the Chairperson to go back and bring us a good answer. However, if they cannot deal with the issue of insecurity, they should also tell us.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, could the Chairperson assure the nation, given the fact that when Arachi was the Acting Inspector General, the country was calm and quiet and there were no incidences, that this is not deliberate sabotage by over 400 senior police officers who were bypassed to pave way for Boinnet to become the Inspector General?

The second assurance you must give Kenyans because we are very angry--- Now that the area concerned has been found to be rich in minerals, could it be that politically, highly connected, correct business people and warlords are deliberately chasing away locals so that they do not partake of the shares of the new discoveries?

**Sen. Obure:** On a point of order, Mr. Speaker, Sir. I have listened to the Chairperson giving the answer and I have become very curious about Suguta. She said that cattle rustlers drove livestock into Suguta Valley which is inaccessible. How did they drive the animals into Suguta Valley if it is inaccessible? How are the security forces in this country unable to access Suguta if the animals were driven into the same valley? I have heard of Suguta Valley. I lost a very prominent person who was a former District Commissioner in Suguta. I would like to understand whether the Government has the capacity to handle the security situation or not. That must be made clear.

**The Speaker** (Hon. Ethuro): Sen. Obure has raised a very fundamental point. If the bandits can access the Suguta Valley with animals, how would Government officers fail to access the same?

**Sen. Ong'era:** On a point of order, Mr. Speaker, Sir. Further to what my colleagues, distinguished Senators have raised, I want to concur that the report is inadequate, bureaucratic and does not address the issues we are concerned about in Pokot and Turkana. In fact, this is a cut and paste report.

Further, this report does not even address the plight of many women and vulnerable children in that region. Today, I read that almost 90 per cent of the people hurt in the incident that just occurred were women and children. We know that regarding the incident raised by the distinguished Senator for Samburu, in that incident, women and children were the majority of the victims. If this Government does not address the plight of children and women, especially in security issues, very soon, the women of Kenya will say no. We want answers. We cannot sit as women legislators and see our mothers, daughters and our own children being maimed and killed. We know that in any country, a good government protects women because we are the ones who give birth. Otherwise, this country will have no population or citizens.

I support what my colleagues have been saying.

**Sen. Hassan:** On a point of order, Mr. Speaker, Sir. I would like to enquire from the Chairperson whether the Government as a consequence of the constant attacks by bandits or raiders has put permanent patrols in these areas. If yes, why are they being overwhelmed?

Second, coming from the human rights domain, the duty to protect is a fundamental responsibility of any State. In fact, it touches on the very legitimacy of a government. There have been constant and repeated instances of almost mass deaths of Kenyans, and this touches on the core issue; to protect. Could the Chairperson assure us that the Jubilee Government has the capacity to undertake its duty to protect the citizens of Kenya from terrorists and other incidences of insecurity, including banditry?

**Sen. Nabwala:** Thank you, Mr. Speaker, Sir. I would like to share my concern with my colleagues regarding the insecurity that is taking place in Samburu, Turkana and West Pokot.

**The Speaker** (Hon. Ethuro): Order, hon. Senator. Seek a clarification.

**Sen. Nabwala:** Mr. Speaker, Sir, I would like to seek a clarification over my concerns. I would like to know why every time the question of insecurity is brought to the Floor of this House, we are given repeated answers and yet no action is taken.

**Sen. Kanainza:** Mr. Speaker, Sir, I would like to add my voice on the same. While we were in Kisumu with the Committee on Devolved Government, we expected the Cabinet Secretary for Interior and National Coordination to be present so that he could have responded on a number of issues that were raised by the participants; both from the county and national governments.

One major concern was that the national Government should come up with a working MOU to enable the county Governments to sit in the security committees so that we tackle these issues. Up to today, we have not got any response.

Another concern is that we lost young people in Garissa. Those were students, young people and the leaders we need in this country. However, up to today, nothing substantial has been given to the parents so that other people in primary and secondary schools can see that it is okay to attend school in any county and be comfortable. I will expect the Chairperson of the Committee on National Security and Foreign Affairs to participate in giving a response concerning what happened. We are all aware that the information about the attack was reported to the police stations, but no action was taken.

Lastly, there is a saying; *usalama unaanza na mimi*. As Kenyans, we are tired of what the Government of today is doing. We pay taxes. It is the responsibility of the Government to take care of our security as it is stipulated in the Constitution of Kenya.

**Sen. Hassan:** Mr. Speaker, Sir. I want to bring to the attention of this House that even as we discuss Turkana, there is breaking news that 13 Kenyans have been killed in Marsabit following attacks between herders from two communities at Loiyangalani. At least 13 herders have been killed in two separate attacks in Sirima and Mt. Kulal in Marsabit County. This is the latest update by the *Nation* online, just about five minutes ago.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Senators! You had bombarded the Chairperson with a lot of clarifications. Now she wants to respond yet you do not want to listen to her.

**Sen. Adan:** Thank you, Mr. Speaker, Sir. I would like to respond by saying this: First, as regards the Statement, on the issue of cut and paste, with all due respect to my colleagues, the Committee does not do so. The question has been clearly answered according to the way it was asked. So, I cannot answer on the issue of cutting and pasting. However, according to the answer that I gave, it responded to the question that was asked by Sen. Leshore.

Secondly, on the issue of sabotage that was raised by Sen. (Dr.) Khalwale, I do not think that is right and I do not want to give a confirmation that the police officers are sabotaging Mr. Boinett. So, the issue of sabotage is not there.

On the issue of minerals that are found in those areas, we do not have a clarification on that. I do not want to respond to it because we require an investigation in that. This concern was also raised when we went to Kapedo over the killing that happened there. That matter will be handled by the Committee when we give our report.



Mr. Speaker, Sir, the Committee went to Suguta Valley. For those who are giving comments about it, where the bandits can access yet the Government cannot, it is really important for them to go and see that valley. It is a very dangerous place. We, as a Committee, visited it. We have recommendations on that particular area.

On vulnerable people; children and women, I think that with due respect to my colleagues, sometime Members ask issues that are not relevant to the Statement that was sought. All Kenyans are affected; not just women and children. The Statement does not address the issue of women and children. All Kenyans need to be secured, be they women or children. Everyone is important. We, as a country and Government, have a right to protect everyone.

Finally, the fundamental responsibility of the Government is to make sure that all Kenyans are secured. Security is a matter that is affecting the whole country. However, I would request the House to bear with us. We will be able to write to the relevant security agencies to appear before our Committee. We will invite all Members to raise the concerns that they have raised on the Floor of the House. I repeat that sometimes when we invite these people yet some of us do not attend---. Once we get an appointment, we will communicate to the whole House. When that time comes, please, come and clarify on the issues that you have raised.

Thank you.

**Sen. Leshore:** Thank you, Mr. Speaker, Sir. I request the Chairperson, you in particular, Sen. (Prof.) Lonyangapuo, Sen. Munyes and I to spearhead peace meetings in our areas, because it is our people who are suffering. I am ashamed to come to your office and share whatever it is when I come there, yet when I go out there, I say that Turkanas are our enemies. I am ashamed to share with Sen. (Prof.) Lonyangapuo tea, yet when I go out there; I say that Pokots are our enemies. It is time now for the Committee, you, Sen. (Prof.) Lonyangapuo and I, to spearhead peace. I want and cry for peace for our people.

**The Speaker** (Hon. Ethuro): Next Statement.

#### STATUS OF CASH TRANSFER PROGRAMME TO PERSONS WITH SEVERE DISABILITY

**Sen. Madzayo:** Thank you, Mr. Speaker, Sir. This is in response to a Statement that was raised by Sen. Omondi. The distinguished Senator, requested for information regarding the cash transfer of funds to persons with severe disability. More specifically, she sought information on why despite the requirement of cash transfer disbursement to persons with severe disability to be done every two months, it is now taking six months for the payment of the same to beneficiaries.

Secondly, she asked whether the Government is aware that the delay greatly inconveniences this category of Kenyans who are unable to fend for themselves.

Lastly, she sought to know what the Government is doing to rectify this anomaly.

Mr. Speaker, Sir, the beneficiaries of the persons with severe disabilities cash transfer programme are entitled to receive a monthly stipend of Kshs2000 in order to

enhance the capabilities of their care givers to improve their standards of living, thus lessening the difficulties arising from their disability. This gives effect to the rights of persons with disabilities and equality, the freedom from discrimination as set out in the Constitution of Kenya, as well as the Persons with Disabilities Act. The cash transfer programme currently targets 27,200 beneficiaries nationwide.

The Ministry of Labour, Social Security and Services has a schedule of distribution of funds to all relevant clearance and service points in the relevant areas. However, in some cases, the schedule may change due to delay in approval of funds at various points. The beneficiaries have complained that the transfers of funds are inconsistent and they are not provided with information regarding the changes in the bi-monthly payment schedules. Delays have been noted to be ranging from one to four months from the expected payment dates. Incidentally, some beneficiaries receive the transfers in bulk that is equivalent to one year of payment. Considering that all beneficiaries are living in poverty, planning for such huge amounts is overwhelming. Some spend the money on unnecessary items in the hope of receiving the same amount in the next transfer.

Mr. Speaker, Sir, these inconsistencies are associated with gaps and challenges such as inadequate training on the management of cash transfers, inadequate budget for administration, few officers responsible for expansive geographical areas and inadequate monitoring of the programme by designated committees. It is evident that the deviation of the scheduled transfer interferes with the budgeting within households. This can result into food insecurity, lack of access to health care needs, school drop outs, begging on the streets, eviction from residences and an overall loss of dignity and quality of life.

In light of these anomalies, the Ministry of Labour, social Security and Services has initiated the establishment of a single registry and more robust management information system that will consolidate key information on the cash transfer programmes with respect to registration, enrolment, payments, complaints and grievances. This is expected to diminish incorrect, irregular, delayed payment and insufficient monitoring and evaluation measures.

Furthermore, the Ministry has signed contracts with a new pay service provider for cash transfers, that is, the Kenya Commercial Bank (KCB) which has the potential to improve the coordination of cash transfers to beneficiaries by enhancing convenience, security, accessibility, efficiency and accountability. These were elements that were previously lacking.

Moving forward, the Ministry will also continue to engage the national Treasury and development partners for increased funding to the programme with the ultimate goal of attaining universal coverage for all deserving citizens by 2017/2018 Financial Year.

**Sen. Omondi:** Mr. Speaker, Sir, I want to thank the Chair for the Committee on Labour and Social Welfare because he has also gone an extra mile to add some of the challenges that the group of severely disabled people is facing. I expected that after giving us a number of issues and challenges, he should also give us an equal number of plans or strategies that the Government will use to alleviate these challenges.

The issue of signing a contract with the new pay service provider, is raising a lot of issues because the beneficiaries are complaining because of only one service provider,

that is, KCB. I want to use the example of Kakamega County, specifically Mumias and Butere. Butere does not have a KCB branch. Therefore, it is going to be so difficult for beneficiaries from Butere to access KCB in Mumias due to high transport costs. For example, to get Kshs2,000, one has to use almost a half of it as transport.

The issue of delay in payment is also giving them a challenge and the answer given is not satisfactory. The Chair agreed that there are delays, but what remedies are there? The remedies given by the Chair do not alleviate the challenges of the disabled people. Giving us a new service provider is not going to make the payment prompt. From my understanding, it is the challenges between the National Council for Persons with Disabilities and the Ministry for Labour that causes the delay. I expected the answer to say how this issue will be addressed.

Mr. Speaker, Sir, the issue of cash transfer and a service provider is a big problem. Also the issue of lack of clear dates for payments makes these people come to and fro until they get tired and the money is then returned. I also want to say that there should be a plan on how the Government is going to do monitoring and evaluation to find out how the money can benefit those intended.

I heard the Chair say that the money given is diverted to other uses. That is an outcry from the ground where the service providers are not using that money for the right purpose, especially where the beneficiary is severely disabled that he cannot make a decision. Which mechanisms does the Government have to help in monitoring and evaluation to see that this money is put into proper use on the intended beneficiary? I also want to say that the answer given cannot help to solve the challenges experienced.

**Sen. Madzayo:** Mr. Speaker, Sir, as I indicated earlier, the Ministry has signed a new contract with the service provider for cash transfer, that is, KCB. I think it is important that we learn to be a bit patient and see how the new service provider will perform. It is too early to start judging them. I would kindly urge my colleague to be patient and give the Ministry and the service provider an opportunity and see whether they will be in a position to reach those people with severe disabilities wherever they are.

**The Speaker** (Hon. Ethuro): Chair, in summary what undertaking did you give?

**Sen. Madzayo:** Mr. Speaker, Sir, I have indicated that it is important that the distinguished Senator accords the Government and this new service provider an opportunity to prove whether it is going to work. I would urge for some patience because there are a number of people in distant places who cannot be reached for the time being. I urge patience in this matter.

**The Speaker** (Hon. Ethuro): What time frames are we talking about?

**Sen. Madzayo:** We are looking at about six months.

**The Speaker** (Hon. Ethuro): In your own Statements, you admitted that there were delays.

**Sen. Madzayo:** Yes, initially there were delays, but with the new payment service provider, we hope service will improve and that is why I am urging my colleague to be a bit patient and see whether the new service provider will fulfill the conditions.

**The Speaker** (Hon. Ethuro): Let me direct that if the disbursements are on a monthly basis, you may wish to update the House on the quarter so that instead of the six months, you can come and give us the status of things as per that time.

That is the end of Statements, but before we move to the next Order, I have two Petitions that I want to read.

## PETITIONS

### REVIEW OF THE PROCEDURE AND TIMELINES FOR ADVERTISEMENTS AND RECEIPT OF VIEWS ON BILLS AND OTHER MATTERS UNDER CONSIDERATION BY THE SENATE

Hon. Senators, there is a petition made to the Senate pursuant to Article 119 of the Constitution of Kenya and Part (XXIV) of the Senate Standing Orders by the Institute for Social Accountability concerning public participation on the Public Finance Management Regulations and other matters before the Senate.

Pursuant to Standing Orders No.220 Paragraph 1(a) and No.225 Paragraph 2(b), I hereby report to the Senate that a Petition has been submitted by a civil society initiative known as The Institute for Social Accountability (TISA), through the Clerk requesting the Senate to review the procedure and timelines for advertisements and receipt of views from the public on Bills and other matters under consideration by the Senate.

Under Article 119(1) of the Constitution:

“Every person has a right to petition Parliament to consider any matter within his authority, including enacting, amending or repealing any legislation.”

The petitioner is a civil society registered in Kenya and the petition is signed by Ms.Wanjiru Gikonyo, the National Coordinator of the initiative.

Hon. Senators, in this Petition, the petitioner wishes to bring to the attention of the Senate the following issues for consideration, and to take the necessary measure to address the same:

(i) That information on Bills and other matters under consideration by the Senate and invitations thereof to the public to submit views and memoranda are only placed in national newspapers. This limits public participation on such matters to the small minority that has access to the newspapers.

(ii) That the timelines given to the public to review the matter under consideration, to prepare memoranda and to submit the same before the relevant Senate committee is too short to allow sufficiently informed participation.

(iii) Further to (ii) above, instances arise where the documents under review are unavailable on the Senate Website as stated in the advert, thus further limiting public participation on the same.

In reference to the Public Finance Management Regulations (2015), the petitioner prays that the Senate Sessional Committee on Delegated Legislation defers consideration of the same until the public has been well informed of the proposed regulations through advertisements in all the 47 counties, and allowed sufficient time to interrogate and give their input on the draft Regulations.

Hon. Senators, pursuant to Standing Order No. 226, I shall now allow comments, observations or clarifications related to the petition for not more than 30 minutes.

Hon. Senators, since I do not see any interest – as you are aware and as most of you have already mentioned – public participation is a right which is enshrined in our Constitution and particularly in our case, Article 118 of the Constitution requires that we:

“Facilitate public participation and involvement in the legislative and other business of the parliament and its committees.”

Article 96 of the Constitution further provides that:

“The Senate represents the counties and serves to protect the interest of the counties and their governments.

I, therefore, direct that the relevant Committee in this case, the Standing Committee on Legal Affairs and Human Rights thoroughly examines this matter and comes up with proposals, including legislative proposals on how the Senate can best discharge its role of facilitating public participation and involvement in the legislative and other business of the Senate.

In terms of Standing Order No.227(2), the Committee will be required, in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a Report addressed to the petitioner and laid on the Table of the Senate.

Thank you.

*(Sen. Ongoro walked from her seat towards the door)*

**The Speaker** (Hon. Ethuro): Order, Sen. Ongoro!

There is another petition to the Senate by Maj.(Rtd.) Joel Kiprono Rop, concerning the state of the tea industry in Kenya.

#### THE STATE OF THE TEA INDUSTRY IN KENYA

Hon. Senators, pursuant to Standing Orders No. 220(1)(a) and 225(2)(b), I hereby report to the Senate that a petition has been received from one Maj.(Rtd.) Joel Kiprono Rop, a citizen of Kenya and a resident of Bomet County, concerning the state of the tea industry in Kenya.

As you are aware, under Article 119(1) of the Constitution:

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said petition are as follows:

(1) The systematic and brutal acquisition of previously communal ancestral lands in the Kenyan highland by the British colonial government to pave way for white settlers to cultivate tea on large scale.

(2) The subsequent transformation of the said lands from communal ancestral lands to, firstly, Government land and later to private land in the hands of multinational companies and individual private owners.

(3) The domination of the tea sector in Kenya by the said large scale tea estates and multinationals to the detriment of small scale farmers who have been unable to fully benefit from the sector.

(4) The lack of reparations and restitutions in respect of the communities from which these lands were forcibly taken.

The petitioner, therefore, requests the Senate to exhaustively investigate these injustices and come up with appropriate interventions, including legislative measures to correct this dire situation of the tea sector in Kenya.

Hon. Senators, pursuant to Standing Order No.226, I shall now allow comments, observations or clarifications in relation to the petition for not more than 30 minutes.

**Sen. (Prof.) Lesan:** Thank you, Mr. Speaker, Sir. I stand to support the petition that has been raised by one of my constituents, whom I am aware is raising it from a personal point of view because I know this is one of the tea growers in the industry.

The issues raised by the petitioner are issues of a long lasting duration and, of course, affecting the citizens of this country, particularly the tea growers, not for a short time, but for a long time to come. This is so because of particularly one of the petition issues which has been raised and has to do with land. As you are aware, land is one of those things that have affected the way we live in this country and is going to do so for years to come.

Indeed, most areas of land that was community land where the Kalenjins or Kipsigis lived years past, was annexed by the colonial Government between 1905 to 1916 and people brutally evicted from these lands without any compensation. The land was eventually used by her Majesty the Queen and, through her orders, it was eventually used by the multinational companies to grow the tea.

Mr. Speaker, Sir, the people of the area still feel they belong there and that this land rightfully belongs to them. It is important that this issue is addressed, not only as a matter of tea alone, but also ownership of the land where the tea is.

I suggest that this petition that has been raised by one Mr. Rop, be placed before this House and be considered seriously as it affects the lives of close to 2 million people, particularly as it deals with land.

Mr. Speaker, Sir, there is a whole issue about reparation of the land. This is one of the issues that have been raised because it is something that is possible. It is possible for some form of compensation to be done for the people who were forcibly evicted, some of whom are still alive and have children. Some form of compensation can be given to the inhabitants of the area so that they feel a sense of belonging and ownership of the land which they truly believe is theirs, but was taken away from them.

Mr. Speaker, Sir, I support that the petition be put before this House and matters which have been raised be considered seriously.

Thank you, Mr. Speaker, Sir.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, I also stand to support the petition and call the attention of the House to the grave situation existing in the agricultural sector as a whole, tea just being one of them.

Mr. Speaker, Sir, we live at a point when agriculture has been devolved to counties. It is also a time when agriculture as a whole is facing a very serious crisis within the international economy which has been highly globalised. As a country that exports agricultural commodities like tea, coffee and sugar, we are in a position where

our past misdeeds are catching up with us in terms of not investing effectively in agriculture to make the cost of production competitive internationally for export.

Mr. Speaker, Sir, the history of tea is that it was a success in the 1960s and 1970s when the Kenya Tea Development Authority (KTDA) was at its ascendance. Indeed, the KTDA has been a global example of how small-hold agriculture can exist side by side with large scale commercial farming with both sides benefitting from the management to such an economy. It is no wonder that people are waking up in Bomet to realise that communal land was taken away by multinational corporations some time ago. When the KTDA was successful, those kinds of sentiments were not there. The sentiments are an expression of the kind of crisis we have in agriculture.

Mr. Speaker, Sir, the sugar industry is even worse. We who come from sugarcane growing counties know that where people grow sugarcane, there is a high level of poverty in the counties. Mumias Sugar Company was previously successful. If you go to Mumias, you will find that people are much poorer than they were in the 1960s. It is important, as we debate this petition and look at it, for this Senate to realise that the Constitution gives us the responsibility to look after the affairs and interests of counties.

One of the interests of counties is agricultural production. Let us know that we have a crisis on our hands in the counties; that counties have taken up agriculture at a most difficult time. For example, what will we do with the factories and industries in agriculture when land is under the counties, but the industries are no longer economical? For counties to take over the industries, they need substantial capital to make them run economically.

Mr. Speaker, Sir, this is a debate that this Senate must engage in. I propose that we need a meeting between this Senate and the Privatization Commission. This is because what the hon. Member is talking about in Bomet regarding the relationship between the small-scale tea holders and multinational corporations that own the large scale farms in the private sector---. Nonetheless, it is the private sector which should look very carefully into its relationship with the small-scale holders. The perception of small-scale holders, as far as they are concerned, is that the multinational corporations are in cohort with the State.

For the small-scale holders, the farms should be privatised as far as they are concerned so that they are participants in the wealth bearing. However, that is another different version of privatisation from the perspective of small-scale holders.

Mr. Speaker, Sir, I will propose that while we debate this Petition---

**The Speaker** (Hon. Ethuro): Order, Professor! You should be concluding.

**Sen. (Prof.) Anyang'-Nyong'o**: Mr. Speaker, Sir, allow me to conclude. While we are debate this petition, it is very important that this Senate urgently meets with the Privatisation Commission to find out how we shall deal with agricultural production which is a function of the counties and now facing a major crisis.

Thank you, Mr. Speaker, Sir.

**Sen. Murungi**: Mr. Speaker, Sir, this is a very important Petition. Indeed, it goes to the root of the economy of this country. We sympathise with the petitioner and the Kipsigis Community which he comes from. This raises a fundamental issue of what is now generally called "historical injustices".

Mr. Speaker, Sir, the colonial Government established its economy in this country through looting and plunder of land and other native resources. That is a very complex situation because we also face the same in our county where there are huge tracks of European land which was forcibly taken away from the Meru community to settle settlers.

Mr. Speaker, Sir, it will require a broad action by the Government either to compensate the natives who lost their land and take care of the interests of those who have invested in the land. In this case, tea being the pillar of agriculture in our economy – because all the other sectors have collapsed, including coffee, sugarcane and others – if it is disrupted, this country will see worse economic times. Therefore, we need very careful handling of this petition.

I was once in Canada. The native Indians said that the Canadian Government was illegal. They also said that cities established there are illegal because the real owners were deprived of their land and they have never been compensated. Their case was going on. It is in terms of compensation of the native interests that we should be looking at otherwise, we could cause a lot of chaos in this country.

Mr. Speaker, Sir, my issue with the petition which I fully sympathise with is that I have been following the real case statements from the Governor of Kericho County. I know that he also raised this issue with the KTDA. He has gone to court demanding compensation in similar terms with regard to this petition. Is this Senate in a position to proceed with this petition when there is a similar matter being handled through a case against the KTDA and the Government in court? Otherwise, we have no problem with it if the procedural hurdles are considered as the matter is referred to the committees.

Thank you, Mr. Speaker, Sir.

**Sen. Haji:** Mr. Speaker, Sir, it is quite in order for the petitioner to petition the Senate. However, we should consider the larger interest of Kenya as a country. We know that tea is one of the major exports which earn this country foreign exchange. We know, from experience, that we used to have large farms where livestock was being reared particularly beef animals. We used to export beef to Yemen, Saudi Arabia, Egypt and Mauritius. Those farms have been acquired by the indigenous people and subdivided, some of them into one, two and three acres, which is not even economical for them to produce enough food. Some of the multinationals which have been driving these large tea farms have been in this country for over 120 years. I presume that many of the investors are also Kenyan citizens today.

Besides disrupting the economy of this country, we do not want to run into a situation similar to what is happening in Zimbabwe. Because of forcible takeover of farms, that country is totally ruined economically and it is now a banana republic. Because of those happenings in some parts of Africa, I think the idea of removing these investors so that people can subdivide these farms into half-an-acre or one acre portions will not even be useful to the people. Therefore, since this matter is already in court, maybe we should wait for the wisdom of the courts; to decide whether these people should be compensated or not.

Thank you, Mr. Speaker, Sir.



**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, listening to Sen. Kiraitu and Sen. Haji, it reminds me of the need for us to approach this matter with a lot of care and greater sobriety. This is because the situation on the ground in Bomet and Kericho is that the leases are just about to expire. So, unless we allow the National Land Commission to be completely in control and completely block politicians from the unfolding events in Kericho and Bomet, we can destroy the economy of this country.

I come from one of the areas in this country where we had the Agricultural Development Corporation (ADC) farms. Those ADC farms had made the Kenya Cooperative Creameries (KCC) and the former Kenya Farmers Association (KFA) stable, but as soon as they were divided into small portions, we have become food insecure. Therefore, we will need to be very sober. On Monday, I had an opportunity to sit in the morning for a cup of tea at Ray's Hotel in Kericho. It is so beautiful and when you look across, you will see the former home of the current Governor of Kericho. Given that he also normally has an opportunity to sit there, one can understand very well why he has gone to court. We should, in the interest of protecting Kericho County, stand behind the Governor, but persuade him that they should not be looking forward to repossess the land, but get some form of compensation.

Mr. Speaker, Sir, my last point, as I congratulate Mr. Rop, is that he has spoken for many. He has spoken for the tea farmers in Vihiga, Kakamega South and Kakamega East. We have all been saddled with debts that we have been paying and special cartels that sit at the tea auction at the end of the year just arbitrarily decide that the farmers of the regions that I have mentioned will get a bonus of Kshs8 per kilogramme, but the farmers in other areas where members of this cartels come from, get Kshs39 per kilogramme. You do not understand what it is that the tea from Limuru and Kirinyaga has that can make a difference of Kshs31 by way of bonus. We will need to be very sober. Tea was initially one of the highest contributors to the foreign exchange that we earn in this country. Since we see where we are going in terms of the Gross Domestic Product (GDP) of this country, we must protect the tea industry.

Mr. Speaker, Sir, I support this Petition.

**Sen. Ndiema:** Mr. Speaker, Sir, I would like to join my colleagues in contributing to this Petition. It is the right of the petitioner and, indeed, the people of that county to feel that the manner in which they were dispossessed of the land was not just. In view of the coming expiry of the leases, it is now time that they took back their land. It is a feeling that is natural because that, indeed, is their land.

Mr. Speaker, Sir, you can talk about the same elsewhere. In Trans Nzoia County when the British came some indigenous communities were dispossessed 100 per cent and still remain so. Even when the land was taken by the Government---

**Sen. (Prof.) Lesan:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. Ndiema, do you wish to be informed by Sen. (Prof.) Lesan?

**Sen. Ndiema:** Yes, Mr. Speaker, Sir.

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, the leases for the land which is referred to by the petitioner were for 999 years. With the coming into effect of the new Constitution,

those leases have actually started now for the count of 99 years. So, they still have 97 years to go.

**Sen. Ndiema:** Mr. Speaker, Sir, whatever the case, even when the land was repossessed by the Government in some counties like Trans Nzoia, the losers did not benefit. This is subject to the issue of historical injustices that have been discussed. I think that the solution will finally come out of the action on the report on historical injustices.

As I speak now, in Trans Nzoia County, we still have land on leases, for example, the ADC farms and the original owners still exist. Perhaps, it is time that the Government took bold action to ensure that if they are not returnable to the owners, then they be compensated adequately, as communities and individuals.

I would seek the indulgence that this Petition be discussed on a broader perspective, knowing that it is not only in Kericho that we have such matters, but it is a national issue. Trans Nzoia has so many squatters and each one of them would want to see some justice done, so that they are settled finally.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. Karaba, just to indicate that you may have only one minute or so.

**Sen. Karaba:** Thank you very much, Mr. Speaker, Sir. I find it fit that I contribute towards this private Petition coming from one Mr. Rop from Kericho.

Mr. Speaker, Sir, you reckon that tea farming, like many other plantation crops, is selectively for that area. So, it is a natural selection for the given area. When a crop has already been adopted through natural selection, it has to grow in that area. There being no other crop, it is important for us to think about what would happen if that community growing that crop will cease to grow the same.

**The Speaker** (Hon. Ethuro): Please, conclude because the time allocated is over.

**Sen. Karaba:** Mr. Speaker, Sir, the Government, therefore, should be up in arms. Let it realize that the farmers, particularly in tea growing areas, including Kirinyaga, are suffering and need redress.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Hon. Senators, pursuant to Standing Order No. 227(1), the Petition therefore stands committed to the relevant Standing Committee. In this case, it is the Standing Committee on Agriculture, Livestock and Fisheries. In terms of Standing Order No.227(2), the Committee will be required to, not more than 60 days of their time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

The Chairman of the Agriculture, Livestock and Fisheries Committee raised the issue of the Governor of Kericho and quite a number of Senators have spoken to it including Sen. (Dr.) Khalwale. Having raised the same matters in court, the petitioner claims that none of the issues raised in this Petition is pending in any court of law, constitutional or any other legal body. When you look at our Standing Order No. 223(g), it states that:-

“The petitioner is required to indicate whether the issues in respect of which the Petition is made are pending in any court of law or other constitutional or legal body”

There is no requirement that if the issues are before court, they should not come to Parliament. We have our own issues about *sub judice*, so, it will be the responsibility of the Committee to verify the issues that are live in court, so that they are not subjected to commentary from Parliament but in terms of processing the issues, the petitioner is quite right to bring the issues to the Senate.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. For avoidance of doubt, do I understand you to mean that if a determination is made within the Committee, that there is an active matter concerning what this Petition is mentioning in court, they will still do the investigation, bring the report but we shall only be prevented from debate, so that Mr. Rop can still be served with the answers to his concerns?

*(The Speaker (Hon. Ethuro) consulted the Clerk-at-the-Table)*

**The Speaker (Hon. Ethuro):** I am persuaded to agree with you. The report should be comprehensive to address the issues that the petitioner has requested. The Committee should also take into account any issues that are *sub judice* and state as much. You will also remember what our Standing Orders say on the issue of *sub judice*, we have to petition on the Floor of the House and convince the House that these issues are already active before the courts and that decision still has to be taken by the Speaker, whether to sustain or not. In terms of the deliberations of the Committee, nothing should restrict them from proceeding, so that the petitioner can get full information on the issues raised. He may also wish to remember that we do not debate petitions, it is a report to the petitioner through the House and you will only be allowed commentaries of not more than five minutes, so, it is not a full debate in the normal way.

The issue Sen. (Dr.) Khalwale is raising is whether in commenting within those five minutes the rules of *sub judice* apply. We will deal with it at that moment when the Committee has given us the findings of the issues that are *sub judice*.

**Sen. Murungi:** Mr. Speaker, Sir, by way of seeking further clarification, mainly because this matter might end up in my Committee, I assume---

**The Speaker (Hon. Ethuro):** Order, Chair. My body language has been very persuasive. Even before then, I had directed that it is going to your Committee.

**Sen. Murungi:** Mr. Speaker, Sir, then I am right in seeking this clarification because in my own view, the proceedings before a committees are governed by the same rules of procedure as the proceedings before the House. When I sit as the Chairman of the committee, I sit as an equivalent of the Speaker in the Committee. I assume it is for the Chairman of the Committee to look at the issues brought before the Committee and deal with this issue of *sub judice*. If we verify and get information which confirms that the matter is actually *sub judicium*, the Committee can make a finding that we cannot proceed with that line because the matter is before the court and we bring that finding to the House as part of our report. I just wanted to seek whether that is the correct way to go.

**The Speaker (Hon. Ethuro):** That is the correct way; the Chair of the Committee has the same powers at the committee level with the Chair of the House. So, the rules of *sub judice* still operate in terms of our Standing Orders.

Next Order!

**BILL***First Reading*THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL  
(NATIONAL ASSEMBLY BILL No.40 OF 2014)

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

**COMMUNICATION FROM THE CHAIR**THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL  
(NATIONAL ASSEMBLY BILL No.40 OF 2014)

**The Speaker** (Hon. Ethuro): Hon. Members, as I had earlier indicated, I will be making a communication after this Bill has been read the first time.

The Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014) which has just been read a first time now, was published on the 8<sup>th</sup> December 2014 as a Bill originating in the National Assembly. It was passed by the National Assembly on 30<sup>th</sup> April, 2015. The Bill is subject to a constitutional timeline of 27<sup>th</sup> May, 2015. The deadline was initially 27<sup>th</sup> August 2014 but it was extended for a period of nine months by the National Assembly pursuant to the provisions of Article 261(2) of the Constitution.

Therefore, I direct that the Bill be committed to the Standing Committee on Finance, Commerce and Budget for scrutiny and public participation and that the Bill be listed for Second Reading on Tuesday 12<sup>th</sup> May 2015 and its deliberations be expedited with the aim of having the Bill passed before 27<sup>th</sup> May, 2015.

Proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, just to use your own words, this Bill is time bound. I would like you to recall that this Bill and the Bill in Order No.9 were the subject of a press release by the Speaker of the National Assembly where he informed the country that we are sitting on Bills that are time bound and that he was asking the Senate to ensure that these Bills are passed timeously. Now, given that the National Assembly extended that period by nine months and they have waited from the first month up to the eighth, only coming now, would I be wrong in requesting you that before we go into the Second Reading, you come and read to us an apology from the Speaker of the National Assembly for imputing improper motives on our Senate and its membership collectively?

Also, would I not be in order to request that in reading that apology, you also communicate to the country that should there be any threat of failure to meet that timeline, we, as the Senate, will not be to blame because they could have even given us that Bill in the second month after the adjournment, third and fourth month and so on and so forth?

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, apparently nothing passes you. That is a correct observation. Unfortunately, I think the correct position is that the country now knows that we have been seized of the Bill as per today, 6<sup>th</sup> May, 2015 and not before that particular time. Our Standing Orders do not allow us to deal with what happens in the other House. So, I will not proceed on the way of seeking an apology. The truth is out there; it does not require rocket science to know who is on the right and who is at fault. Let the jury determine that on our behalf and history will judge the Senate favourably.

Let us proceed with the next order.

*First Reading*

THE FAIR ADMINISTRATIVE ACTION BILL  
(NATIONAL ASSEMBLY BILL NO. 10 OF 2015)

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

**COMMUNICATION FROM THE CHAIR**

THE FAIR ADMINISTRATIVE ACTION BILL  
(NATIONAL ASSEMBLY BILL NO. 10 OF 2015)

**The Speaker** (Hon. Ethuro): Order, Senators. This is one of such Bills again which is time bound. The Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015) was published on 13<sup>th</sup> March, 2015 as a Bill originating in the National Assembly. It was passed by the National Assembly on 23<sup>rd</sup> April, 2015. The Bill is subject to a constitutional timeline of 27<sup>th</sup> May, 2015. The deadline was initially on the 27<sup>th</sup> August, 2014 but it was extended by a period of nine months by the National Assembly pursuant to the provisions of Article 261(2) of the Constitution. I, therefore, direct that the Bill be committed to the Standing Committee on Legal Affairs and Human Rights for scrutiny and public participation and that the Bill be listed for Second Reading on Tuesday, 12<sup>th</sup> May, 2015 and its deliberations be expedited with the aim of having the Bill passed way before 27<sup>th</sup> May, 2015.

Thank you.

*(The Bill was committed to the Standing Committee on Legal Affairs and Human Rights)*

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

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, so that it does not look like it is Sen. (Dr.) Khalwale who is complaining about these stringent deadlines that are coming at a wrong time, and you being given a narrative as to when we should finish, we are also capable of reading the deadlines stipulated. It makes sense that the two Houses work

together but when somebody speaks outside the House like a headmaster, it does not augur very well that Kenyans are being given a drama to show that the Speaker of the Senate, Hon. Ethuro, whom we know how capable he is, that it is as though he is unable to manage his program here. I think it is good that we let this one be known, that as the “Upper House”, we are not happy.

**The Speaker** (Hon. Ethuro): As Pilate said; when Jesus was responding to the question from Pontius Pilate; “you have said it.”

*(Applause)*

What is it, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I know that this is a dangerous area to go but judging by your pronouncements in the recent past and now, could it be that you have become born again?

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, matters of faith are personal, they cannot be subject to plenary deliberations.

*(Laughter)*

Next Order!

### THIRD READING

#### THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)

**The Speaker** (Hon. Ethuro): Order, Members, we must go on a division on this. I do not think that we have the numbers. So, we can postpone it to tomorrow.

Next order.

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

Sorry, I have been advised by the Clerk. We still need to ring the Division Bell, just in case the Members are within the building. Let us ring the Division Bell for two minutes.

*(The Division Bell was rung)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators. We are unable to raise the requisite number for the division to take place. Therefore, I direct that Orders No.10 and 11 be pushed to tomorrow afternoon. We will now take Order No.12.

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

## COMMITTEE OF THE WHOLE

*(Order for Committee read)*

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

## IN THE COMMITTEE

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

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL  
(SENATE BILL NO.5 OF 2014)

**The Temporary Chairperson** (Sen. Ongoro): When we last considered this Bill, we went up to Clause 36. Today, we will pick up from where we left and proceed from Clause 40 onwards.

*New Clause 40A*

The Mover is not in the House. Has anyone been delegated the responsibility to undertake?

Hon. Senators, we are in some kind of situation. Without the Mover and the Secunder, we may lose this and we do not want to lose it. Therefore we are working around it to see how to save the Bill. Otherwise, if it is dropped that means that it will take another six months for it to be brought back.

**Sen. Khalwale:** Madam Temporary Chair, Sir, previous debate on the same Bill passed through contributions from Members. There was a deliberate effort to kill this Bill. In fact, one Member moved to suggest as much. Could the Chair guide us on whether the Mover of the Bill has deliberately refused to be present so as to help his Bill to die? **The Temporary Chairperson** (Sen. Ongoro): That is a good observation, Senator. I was in the House when that matter was raised by the Majority Chief Whip. However, we want to be optimistic and give it some benefit of doubt. We will carry out consultations and talk to the whips so that we give it one last chance. So, we will save it but according to the Standing Orders as we move to the next.

**Sen. (Dr.) Khalwale:** On a point of order, Madam Temporary Chairlady. Does that mean that you have made an undertaking that before we commence an undertaking on this Bill, you will make a formal communication regarding the response to my concern in respect of a deliberate effort by the Mover so as to help his own Bill to die?

**The Temporary Chairperson** (Sen. Ongoro): Quite definitely, Senator. That is why we will save it and have extensive consultations from the Mover, Secunder and other Senators including both Majority and Minority leaders and the Chief Whips.

**PROGRESS REPORTED**ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL  
(SENATE BILL NO.5 OF 2014)

**Sen. (Prof.) Lonyangapuo:** Madam Temporary Chairperson, pursuant to Standing Order No. 139, I beg to move that the Committee of the whole do report progress on its consideration of the Alcoholic Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014) and seek leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The Temporary Chairperson (Sen. Ongoro)  
and Senators stood up in their places)*

**Sen. (Dr.) Khalwale:** Madam Temporary Chairperson, I have two points of order. First, when you stood up, you only bowed to the Government side. You did not bow to the Opposition side. Are you being partisan?

**The Temporary Chairperson (Sen. Ongoro):** If my memory serves me well, I bowed to both sides. We could even request for the clip to be played. I really do not have to bend over for you to see me bowing. Bowing can be as simple as that which I did.

**Sen. (Dr.) Khalwale:** Madam Temporary Chairperson, my second point of order is; why are we standing? We have been standing for the last seven minutes.

**The Temporary Chairperson (Sen. Ongoro):** Senator, we are waiting for the Speaker who has just walked in to assume the Chair. Since we already stood, according to procedure, we are not allowed to sit again before the Speaker assumes his Chair.

*(The House resumed)*

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

**REPORT**ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL  
(SENATE BILL NO.5 OF 2014)

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I beg to report progress; that the Committee of the Whole has considered the Alcoholic Drinks Control (Amendment) Bill (Senate Bill No.5 of 2014) and seeks leave to sit again tomorrow.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I beg to move that the House doth agree with the committee in the said report.

**Sen. (Dr.) Khalwale** seconded.

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*(Question proposed)*

*(Question put and agreed to)*

*Second Reading*

THE PARLIAMENTARY SERVICE (AMENDMENT) BILL  
(SENATE BILL NO.21 OF 2014)

*(By Sen. Murungi on 5.5.2015)*

*(Resumption of Debate interrupted on 5.5.2015)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, this is a resumed debate. Sen. Wetangula had Seconded and spoken on the issue. The Floor is now open.

Please, proceed, Sen. (Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir. I rise to contribute to this Bill; The Parliamentary Service (Amendment) Bill (Senate Bill No.21 of 2014). From the outset, I want to thank Sen. Murungi who is the originator of this Bill for a job well done in addressing and looking at the holistic status of Parliament, which is now no longer unicameral. It is a bicameral legislature.

If you look at the Act that established the Parliamentary Service Commission, it only talks of Parliament as strictly the National Assembly. It does not take into account existence of the Senate. Prior to the year 2013, before the enactment of the new Constitution, there existed a Parliamentary Service Commission and the Act was in place but it has not been aligned to the current status of Parliament for which it should be noted that we have a Speaker of the Senate and the Speaker of the Nation Assembly. Hence, the duties of the Members that serve Kenyans in those two distinct Houses; the Senate and the National Assembly, are clearly spelt out in the Constitution.

It, therefore, follows that attention was supposed to be paid to the Senate just like it is paid to the National Assembly. This Bill specifically seeks to establish two service committees that fall under the Parliamentary Service Commission. It is mentioned here; the National Assembly Service Committee and the Senate Service Committee. This way, we may end up removing some of the hiccups and problems between the two Houses. When the Constitution was being written, the Parliamentary Service Act was supposed to be rewritten but since it was not done, it necessitated that an amendment is supposed to be introduced and that has now come. This is to align it with the Constitution. The functions of the Senate and those of the National Assembly are very clear.

Article 96 is very clear and Kenyans need to be taken through. We hear many theories being advanced that the Senate has no powers. When the Constitution says the Senate represents counties, what does that mean? It means that the Parliamentary Service Commission (PSC) is supposed to know and give the necessary support for every Senator to represent their counties appropriately. The Constitution also says that the Senate serves

to protect the interests of the counties. How do we do that if PSC has not been aligned to make sure that Senators do that purpose? How do you protect the interests of counties without appropriate support? For example, all the national revenue given to every county is supposed to be oversighted by the Senator. You can qualify to say that the revenue collected within the county is oversighted by the Member of County Assemblies because it is not indicated here.

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

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

Madam Temporary Speaker, the PSC went to an immediate slumber instead of realizing that the status of Parliament is no longer the same. I do not know whether it required that we were supposed to have a complete overhaul of the staff and have new people coming to serve the PSC. It seems that most of them came from the original National Assembly. You can see even the way they have branded the cups, plates and cutlery. They are still reading “National Assembly”. Even vouchers are still reading “National Assembly”. Some of these things needed to be realigned. I do not know what we were waiting for. We chose Senators to represent the Senate in the PSC and waited for them to point out these anomalies because it was supposed to be their first job but they did not do it.

Madam Temporary Speaker, even for the staff of the Senate, some of them were sent here on disciplinary grounds. I do not think this is Siberia, where you send people who are unable to be “repaired”. Even the perceived struggle between the Senate and the National Assembly, the PSC is the root cause of that. The Act that was supposed to make the Senate functional and have teeth was not amended. It went further to give power to the Speaker of the National Assembly as the Chairman of the PSC. Naturally, you cannot want to see power moving away from you.

We also have support commissions that were introduced for devolution to take shape, like the Commission on Implementation of the Constitution (CIC), which should have looked into this. Most of the commissions that we have like that one for the coordination of the Governments should have addressed this so that when the Budget cycle comes, it becomes automatic that the issue of representation of counties is assigned resources.

Madam Temporary Speaker, yesterday there was a massacre in Baringo and Turkana counties. The Senators for Turkana and Baringo counties are supposed to go there. The Senator should have gone by now but how do you go? I have to use my private car which is supposed to take me home. Even the mileage we are given is up to the house and the question is; how do you go round the county? I have a county that is above 9000 square kilometres. This is a very unique and peculiar county because it has many hills. I make fun of the people from Mt. Kenya that they have only one mountain which is 17,000 feet above sea level and the second tallest one in Kenya is found in my county, that is, Mt. Mutelo which is 14,000 feet above sea level and there are other small ones. If you go round, you cannot even manage.

During the recess, if I make an attempt to go round the county to see how my people are doing, I have to buy new tyres for the car. If that is the status of things, you can imagine what would happen. This was overlooked by PSC. Three weeks ago, I was visited by a Senator from South Dakota, in the United States of America (USA) and he was very surprised to see how Senators are here. He expected me to have a fully functional office that has researchers, lawyers, engineers and so on. It is a pity.

Madam Temporary Speaker, for devolution to succeed and for us to enjoy the fruits of devolution, it is essential that we empower the Senator. We hope that the Committee that is going to be formed under PSC, that is, The Senate Services Committee, will handle most of the things that we are lacking. A lot of resources have already gone to the counties; in my county, we got almost Kshs3 billion but I cannot tell you how that money has been spent because I have not been able to go round to check. The following year, we got almost Kshs3.5 billion and this year it is moving to almost Kshs4.7 billion. Money is just flying around and we can only see new buildings coming up.

Devolution is not an individual agenda and it is supposed to be all inclusive of the leadership of that county; even if the execution part of it remains with the county government, the decision-making is supposed to be done by all the leaders. You will find that some counties have a very strange number of people; 150 drivers against 30 vehicles. Then you ask yourself which one comes first? Do you need a car or a driver? If you have somebody there, it means that he or she will have to be paid. What does he drive? No wonder we get some of those vehicles being driven 24 hours because somebody has to exercise his or her skills every day and the drivers keep changing themselves.

Madam Temporary Speaker, I do not know whether my colleagues have noted that we have new buildings that have come up, including some called “planning office” in wards or sub-counties. Planning what? I thought the planning office – Sen. (Prof.) Anyang’-Nyong’o who was the Minister for Planning and National Development can tell you – is supposed to be centralized in one place particularly where the governor sits. As a result of this, we end up losing a lot of money, things being done because the person who is doing oversight is not fully enabled.

There is an erroneous thought that we found people practicing in the counties where they are saying that the Senator is not supposed to oversight county money. That county money they are talking about is in two forms; the money we send from here which is the national bit and the second part of it is the one they collect, which is locally generated funds. That type of approach is the one some governors and some local leaders in the counties are using to block Senators from oversighting and querying how funds are being utilized. To me, it is the key thing that brought us here. Other than sitting and saying: “This amount is approved to go to Kisumu and this to West Pokot”, it should be what the money is supposed to do – the key things that are supposed to be done.

You may find that some of the functions that were devolved in Schedule Four have now come to the level where the money is being used to build primary schools or many other things which are not devolved.

**The Temporary Speaker** (Sen. Ongoro): Sen. (Prof.) Anyang’-Nyong’o.

**Sen. (Prof.) Anyang'-Nyong'o:** Madam Temporary Speaker, I rise to support this Bill by my colleague, Sen. Murungi; amending the Parliamentary Service Commission and establishing new structures and institutions that will better help manage Parliament. I listened very carefully to my colleague, Sen. (Prof.) Lonyangapuo, contributing to this Motion and citing Article 96 of the Constitution which establishes the role of the Senate as a House of Parliament. This is an article in the Constitution that is highly misunderstood or very unfortunately unappreciated in terms of its importance in the Constitution. If you read that article, you will find that this House has an enormous task to this nation, especially when the same Constitution establishes the two levels of Government. One of those levels of government is county governments. Therefore, an institution established at the national level to represent the counties and to serve to protect their interests and their governments is an extremely important institution.

Madam Temporary Speaker, the next thing that we must ask ourselves as the Senate – this is very important – is that to what extent have we passed laws that will help us implement that article of the Constitution? A Constitution is usually written to establish general principles and values that govern or give sense to a nation. The general principles and values are found in the various chapters and articles of the Constitution. It is then left to the law-making agencies, the legislature, to pass laws that will bring to life those general principles, values and prescriptions.

We have not yet passed enough laws in this House that will help implement Article 96 of the Constitution. We have laws like the County Governments Act which mainly concentrates on how county governments will be governed and various other laws establishing how the Senate will be involved in the budgeting system. That is not enough. We now need to sit down and carefully look at Article 96 and say that in the final analysis, how is this article going to be implemented?

Sen. Murungi is now the first to attempt this by saying that the first thing that we should do is to make sure that as a House of Parliament, there is a way in which we shall manage ourselves within the framework of the Parliamentary Service Commission that will make this House effective. This is a very important step forward. I would like us as we continue – I think we should have this dialogue very seriously – on what other laws we want to pass in this House to make our role as representing the counties, serving and protecting their interests, meaningful.

Madam Temporary Speaker, when you come to the other aspects of that article dealing with the debating on the monies going to the counties, these are pretty clear but the role of representation, oversight and protection of the counties and so on, we have not done very well. We had the Sen. Sang' Bill which, unfortunately, was grossly misunderstood by governors. They thought that we were going to be around nosing into their affairs. Of course, oversight is a form of nosing, really. However, it is a nosing that increases transparency and accountability and you cannot keep yourself accountable all the time.

You need other institutions and agencies to keep you accountable. Even in a family – God himself knew this – that man and woman are made complementary to each other as wife and husband. In that union, they account to each other and keep each other in check. Indeed when in the Christian religion people are getting married, the whole

exercise is an acceptance of responsibility and accountability. People swear to certain forms of responsibility that the other one will also observe that they do their part.

Madam Temporary Speaker, the Sen. Sang' Law is one of those areas which can really help our role in protecting the interest of county governments. He said that we know in reality that there are all kinds of resources going to the counties and all kinds of players in the governance and development of a county. If we are going to protect these players and defend their interest, we should be in a position to discuss with them and find out what is going on *surplus*, as the French would say, where it happens so that way we do not wait and always do postmortem work. Postmortem work is good in the sense of people presenting books of account at the end of an exercise or period. However, we have committees in this House that deal with that.

When it comes to the overall responsibility of the Senate protecting and promoting the interests of the counties, we need many more institutions and more laws and regulations that will bring this alive. This is one of the reasons why I think this particular initiative by my colleague, Sen. Murungi, is so important.

Madam Temporary Speaker, we, Senators, educate the nation in trying to explain to the nation what our role is. Most people in this House are very senior; they have performed various roles and functions in this society, they have been Members of Parliament, civil servants or academicians for long periods of time. So, they have reached a position where they are not looking for self-fortunes.

Madam Temporary Speaker, that is the last of our concerns. We are looking for bequeathing to this nation something that will help it develop. We have been given this onerous responsibility of doing something which is very noble and novel in this Constitution of creating this level of Government with enormous powers and responsibilities and resources, that needs a national institution like the Senate to look after it. So, when we explain to the nation that we need to do something thoroughly, perfectly and effectively, it should not be looked at as a way of trying to advance self-interest. Instead, it should be looked at as a way of trying to ensure that there is institutional capacity and capability of this House to perform its functions.

Indeed, it is extremely short-sighted for anybody in this nation to think that the Senate is not necessary or a time will come when the Senate will be done away with as it was the case in 1966. If you do away with the Senate, you will dismantle the whole Constitution. This is because it is not just in Article 96 where the role of the Senate is explained but also in Article 94 where the role of Parliament as a whole is explained. The Senate and the National Assembly constitute Parliament. When we say that the legislative authority of the Republic is derived from the people and at the national level is vested in and exercised by Parliament, we are talking about two Houses.

Madam Temporary Speaker, in performing the legislative role, the Constitution goes further in various articles to explain the various responsibilities of legislation assigned to the two Houses. If anybody thinks, in their wildest moments of thinking, that this nation could be served better without this House, the whole edifice of the Constitution will come down because the two levels of government cannot function without this House. It does not matter whether Sen. Ndiema, Sen. Keter, Sen. (Dr.) Khalwale, Sen. (Prof.) Lonyangapuo or Sen. Sijeny is here. They may not be here but the

institution will stay. However, while we are here, we must build this institution so that those who come after us find a much more capable and stronger institution.

At the moment, the strength of this Senate is undermined by positive laws. We do not have enough laws to implement the principles and values of this Constitution. A law like the one coming in today paves the way for more laws to come. Sen. Sang was the first to come up with a law and this one has followed. Many more laws should come to make sure that the idea of protecting the interests of counties and promoting those interests is done in an institutional way and that there are capacities of doing so.

Madam Temporary Speaker, we have another issue in our Standing Orders which says that we should be addressive. We can address because we have the responsibility to do so to our county assemblies from time to time. That one should also be backed by much more capacity to tell people that they can address. Addressing does not just mean talking. It means having a way of sitting down with people and discussing. If you are the person initiating the agenda, you should have the means to implement that agenda. You cannot go to a county assembly and create the agenda but you do not have the instruments of implementing it. These are some of the things that this House should look into. We cannot put things in our Standing Orders and fail to develop the institutional capacity of realising them.

One of the biggest problems we have in this Senate is having the responsibilities without the institutional capacity for exercising those responsibilities. We have accepted the responsibilities honourably. All the time that we have been here, we have been very civil and noble and saying that we shall try our best and implement the responsibilities that we have been given. However, quite honestly, you need a capacity to do so.

**The Temporary Chairperson** (Sen. Ongoro): Senator, you have two and a half minutes.

**Sen. (Prof.) Anyang'-Nyong'o**: Yes, Madam Temporary Speaker. I will use the two and a half minutes effectively.

Madam Temporary Speaker, you must have the capacity to do so. For example, my friend, Sen. (Prof.) Lonyangapuo, mentioned something very interesting. He said that in his county, there are many mountains. Therefore, you cannot travel from point "A" to point "B" in a straight line. You will have to "break mountains" in the process which is a much more expensive exercise. You need a four-wheeled car to go round them because the terrain is also very rough. The roads are not that good either. You need to experience that to know how much resources we need in West Pokot County to improve infrastructure.

In the meantime, you cannot use your personal vehicle to do public works. That is a form of corruption. In other words, the public would be getting from you what they should not be getting. The public should give you the instruments for serving it so that you do not sacrifice your own personal resources doing so. That is a form of exploitation that we should end. You could be tempting Senators, in that regard, to begin seeking favours from quarters that they should be overlooking. For example, you may have to go to a governor who may wish to allow you to use a public vehicle to do something. However, you should not do that because you are supposed to be overlooking that institution which may be giving you services.

Therefore, Madam Temporary Speaker, these contradictions make it very important for the Committee coming up to look into the specific affairs of the Senate to look at these things. We are prepared to work with such a committee so that we develop certain laws that will help the Senate perform her responsibility. Let not anybody in this House look at that committee as a sinecure; a new committee in which we shall struggle tooth and nail to get into just because we want to sit in a committee. That mentality would be betraying our noble mission as Senators. The example that we have shown so far, that we are ready to serve even when the capacity and resources for doing so are very limited, will be tainted. We should not continue doing that forever because if we do not improve, people who come after us will suffer. It is our role, as elders, to make sure that we leave this world a better place than we found it. I must say that we must leave this Senate a better Senate than we found it.

Madam Temporary Speaker, I beg to support.

**The Temporary Chairperson** (Sen. Ongoro): Thank you, Sen. (Prof.) Anyang'-Nyong'o.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, having read this Amendment Bill very carefully, I confess that I cannot help admiring the ingenuity and industry of the Senator for Meru County, Sen. Murungi. This is because, had he not put serious thought into this, the only cure to what he has attempted to achieve through this piece of legislation would have been to amend the Constitution. Now that he has managed not to amend the Constitution and achieved what that amendment would have required, kudos to him.

Madam Temporary Speaker, I was thinking about this Bill last night. I was wondering; when political expediency led to the killing of the Senate in 1966 - give the devil his due - I do not think killing of the Senate in the present day Kenya would be because of political expediency. To me, it will be because of this Senate itself. If we refuse to assert ourselves, then we are dismissed by Members of the National Assembly, Members of County Assemblies (MCAs), members of the public, the Commission on Revenue Allocation (CRA), the National Treasury and whoever it may be that will dismiss us, we will have ourselves to blame. We must assert ourselves. Any cent spent in this country in enabling us to assert ourselves - so that devolution works - is a cent well spent.

Madam Temporary Speaker, I am lucky that I saw the red flag very early on in the day. I remember Governor Oparanya offered me an office at the Kakamega County Headquarters and I refused. When they renovated the old building in the former Kakamega County Council to be the County Assembly of Kakamega, I was also offered an office, and I refused. This is because it occurred to me that for me to effectively ask questions of oversight from both the Governor and the Clerk of the Assembly, I would have to detach myself from them. I did it and I think that we have worked fairly well to that extent.

Madam Temporary Speaker, speaking about the Parliamentary Service Commission as presently constituted, it is completely ill-equipped to serve the Senators in defending county governments. As constituted, we have sent there three very senior Members of this House, but they have nothing to write home about. This is because

simple things that should have been dealt with by the Parliamentary Service Commission, including facilitation of Senators to oversight and defend county government, have failed. They have failed so much that I do not know what our three commissioners are still doing there.

They are, as I speak today, unable to see the difference between a county office and a constituency office, to the extent that the 12 constituency offices that are there in Kakamega County are facilitated to equal measure with the county office itself. So, whereas I am supposed to run the affairs of 12 constituencies and 60 wards, I am facilitated in equal measure to a Member of the National Assembly who is supposed to run and oversight the affairs of one constituency, which on the average, has got one Member of the National Assembly and four wards. We would like this new Senate Service Committee to come to grasps with these issues and sort them out once and for all.

Madam Temporary Speaker, Sen. (Prof.) Lonyangapuo raised the issue of what has unfortunately befallen his county. But it should not be lost to this country and Senate that similar things are happening in many other counties. Just two days ago, 750 people were moved from Uganda by buses and crossed the Malaba border. They are now in a makeshift camp set in Busia County. Some of them might be Kenyans and others Ugandans. For all we care to know, even some of them could be Members of *Al Shabaab*. The Senator for Busia and the Senators who have the DNA that forces them to be concerned about that particular county, I being one of them, do not have the facilities to quickly go in and establish exactly how the arrival of these 750 “foreigners” have come. Who are they? They are former refugees who were living in Uganda, when they moved out after the post election violence. The girls aged 14 years who went to Uganda at that time are now women and have given birth. The boys have married Ugandans. Screening must be done so that we establish who are the *bona fide* people who should be admitted back into Kenya and, therefore, the County of Busia.

Madam Temporary Speaker, I would like to urge the Senate Services Committee to be very serious with its work. We do not want them to be petty; to give the impression that we are creating this particular service committee for us to get a salary increment. I would appreciate if I got a salary increment, because I do my job, just like Sen. Muthama and Sen. Ongoro do their job. I saw Sen. Muthama in Kathiani over the weekend and Sen. Ongoro in Mukuru Kwa Reuben eight days ago spending her resources. When you hosted us there, I was wondering how unlucky you are, but you had not solicited for any funding from us.

These are the challenges that Nominated Senators have, that we, the elected Senators, do not have. This is because I do not have to set up any meeting in any other county the way you did. Since you are nominated Senator, you have a national constituency. The women in Siaya expect you to do for them just as much as you do for the women in Nairobi. That is not to imply that the Senator for Siaya himself is not up to it. But it is because you have a better connection to the women of Siaya than Sen. Orengo. Of course, when I say “connection” and I will be forgiven by the Senator, I do not mean connection in biological terms.

Madam Temporary Speaker, we want to put pressure. We would like to the Senate Services Committee to now have a structured meeting with the Salaries and



Remuneration Commission. Madam Sarah Serem was actually reported at one time to say that she does not know the work of Senators. Surely, if she does not know the work of Senators, how possibly would she be able to comprehend the kind of facilitation that a Senator would require to discharge his duties effectively? We would like them to meet the Parliamentary Service Commission and sort out, once and for all, the issue of the budget of the county office. If constituency offices have got Constituencies Development Fund (CDF) Land Rovers, how can a county office not have a similar vehicle, unless you do not want us to function?

In fact, if we are really committed to this, a county like Marsabit should have a helicopter or facilitated to have helicopter facilities. This is because moving in that vast area is unbelievable. So that it does not appear like Kakamega does not have similar challenges, from the county headquarters in Kakamega to Likuyani, the furthest part of the county on the northern end, I do 120 kilometres. To go to Luanda Doho, near Siaya Town, from Kakamega Town, I have to do another 100 kilometers. It is not a joke. So, we need to be realistic and have this Senate Services Committee sort us out.

Madam Temporary Speaker, very recently, I had the honour and privilege to hold a candid discussion with one of the few performing governors in this country. He opened up to me because this was a candid discussion amongst senior leaders of the country, who have gone to school properly. He opened up and told me that he regrets – and he was saying it on behalf of many other governors – the amount of time and money they have wasted in courts, hiring lawyers on issues which it has now become apparent that had they just bonded well with the Senators, those issues would have been sorted out by this particular Senate.

On the other hand, I also opened up to him and told him that I am sending out a delegation of the County Public Accounts and Investments Committee to Nigeria to see how that country dealt with the first generation governors on the kind of challenges that we are seeing today; the same opulence, abuse of power and privilege and impunity that we are seeing today was also experienced by Nigerians from the first generation governors. I want to see how they dealt with this problem through this delegation that I am sending from my committee. I believe that it will be ably led by my Vice Chair.

We can see how Nigerians dealt with it because we read that many governors lost re-election, others were surcharged and others went to jail. I will feel a lot of pain to have any of our governors go to jail. I will equally feel pain if they have to be surcharged when they can avoid pain. I will equally feel pain if they lose, unless, of course, they lose to one or two of my colleagues here. If I heard that an underperforming governor like Governor Kabogo lost to Sen. Wamatangi, I will be the happiest man because the man has refused to honour summons to come to this Senate, and there is another one called Governor Mutua. I was there the other day and a Mkamba man has coined a very good song called “*mundu wa cinema*”. The song is very popular in pubs there. I usually sit in pubs across the Republic, so when I was enjoying my beer, I could not help enjoying the song.

Madam Temporary Speaker, with those many remarks, I want to thank you for giving me this chance. I support this amendment Bill.

**Sen. Sijeny:** Madam Temporary Speaker, thank you for giving me the chance to contribute to this Bill. I wish to state from the word go that I support the amendment of the Parliamentary Service Act. This is because it will definitely enhance efficiency within our mandate, the entire Parliamentary Service Commission (PSC), the National Assembly and the Senate. We know that the Constitution has given us unique roles, the oversight roles of the counties is not an easy thing. Many people still do not understand what our functions are. I know Kenyans do not have a culture of reading and they have not read the Constitution very well, so, there is need for sensitizing them on many issues.

As it is, many Kenyans do not appreciate what the drafters of the Constitution had in mind. No sooner had the Constitution passed and promulgated than they already wanted to flush away the gains especially for the women. I am talking about the affirmative action. I am a nominated Senator and I am here on the strength of the Constitution. When we went to Kisumu for a devolution conference, our badges bore our names with the title “nominated women” Our constituency is definitely women.

How do we oversight within the counties to ensure that women issues are protected? We have to oversight the gender policies and their implementation. They are unique and very delicate. There are many spheres which need our roles and participation as Senators and more particularly as nominated Senators. I will highlight on this because when I look at this Bill, I see an opportunity where the work of the nominated Senators can be seen. They can be facilitated and prepare their agenda through the various committees. As we have seen, committees within the Senate are very efficient. That is the most efficient way of performing our duties to monitor and account for everything. We have seen within the society and all over the country that there is need to protect the women.

There is still a lot of discomfort and violence within the family, we have just seen a 16 year old girl who was brutally burnt, harassed and hidden by the husband. Nobody could reach them- as much as marriage is prohibited amongst children, it is still being practiced

Madam Temporary Speaker, I am happy to report that with the help of the network of women leaders within this nation, they helped the woman and this is because of facilitation and networking. What programmes can we come up with? There are many other gender issues which, with the implementation and passing of this Bill, will enable the nominated women Senators to reach out to their clientele. We know that there is still need of gender mainstreaming within many aspects. There are many issues in education, we must ensure from the basic early childhood education to the highest institution within the universities that there is gender mainstreaming, we have accounted for our actions, followed up and protected them.

In agriculture, women are the majority agriculturalists; they do a lot of farming. Are they protected or do they have some unique issues that need to be tackled? We know that we have our colleagues of the opposite gender but as Sen. (Dr.) Khalwale has just said, we have a way of bonding with them and finding out ways of how they can help. We can help them to open up to others and the way we relate to them is different.

With the enactment of this Bill once it has been passed, we will have a very good platform which will enable us to reach our constituents. When we talk about a woman, the youth and the children are part of it. There are many areas which need to be exploited.

Madam Temporary Speaker, you had passed a Motion that should help the teenagers who have had babies and have to go back to school. I have also tabled a Bill that will also take care of the adolescence amongst others, with reproductive rights of all the adults. How are we going to monitor the implementations and see what needs to be done and adjusted? It is through the work and help of this committee. When there is easy facilitation and coordination, it is easier to perform. By the end of the day, the work of the women in Parliament and the Senate more specifically, shall be seen and appreciated. The drafters of the Constitution were alive to other stakeholders but it was felt that we still need the women to be partners within this noble duty of legislation and oversight within the county assemblies or county governments.

Madam Temporary Speaker, we have other aspects of the human rights that we must protect and more particularly the women rights. It is still a patriarchal society; we have a long way to go. When we sit down as Senate and delegate our responsibilities all the way from the Senate to the county and to the women as a whole- because we know that when a woman screams, they call upon us they do not care whether we are elected, nominated, which party you represent or your colour, they want to know that you are a woman leader. The women leaders were brought in to safeguard the gains of the women.

That is why we are here and we are saying “finally we are seeing light at the end of the tunnel.” We shall have a forum and our full potential shall be felt. We have been handicapped. If the elected Senators, even though they are more facilitated than us are crying and saying that they feel handicapped, what about us? We are also marginalized and we need to be protected. With this, we shall have a larger forum of ventilating our issues so that we can perform our oversight role, which is very important.

We know, and our sisters within the county assemblies have reached to us and told us that we need capacity building. I am talking about the nominated Members of County Assemblies (MCAs) who have approached the nominated women Senators, that they need capacity building. How do we reach out to them? How do we even find access to all these facilities that we can partner with, together with our colleagues because we are all one? It is only that we have a unique constituency. If we work together as a team, we will uplift the rights of women, protect them and provide proper and good leadership that will improve not only the economy and the health of this nation, but will put Kenya where it is supposed to be.

So far, Kenya has been acknowledged and I am glad, you were in New York in March and you are aware that Kenya was acknowledged for the legislative gains it has achieved on women issues. If we have done that, why not implement? Implementation will only come when we have facilitation, proper programmes, policies and plans that will enable us to do so. We have seen that just in the same month of March, the President of the Republic of Kenya was awarded for being in the forefront championing for the women’s gains. How do we protect, oversight and make sure that they are well protected? We have the Beyond Zero mobile clinics by the First Lady; it is our responsibility and

duty to help the national Government to ensure that all things which have been provided in the county governments are well taken care of and nothing is abused.

Madam Temporary Speaker, I am mentioning all these things because when I look at this Bill, it is so far the only way that will help us and ease our way of implementation and oversight. By the end of the day, once we have done all this and we go to the drawing board and tell Kenyans: “You gave us the mandate, this and that is what we have done. You gave us this facilitation; this is how we have utilized all the space you have given us.” As women we cannot choose, you can go to Turkana or Tseikuru. When you are called upon to go to Siaya where Sen. Orengo comes from and where I was born, you cannot tell them “you have a Senator, I cannot come there” because every place in this country belongs to a county.

That is why we are being told that there has to be teamwork. When the women of Kiambu call upon us to go and help them in whichever way, we must reach there. This is the only channel because we know that we have not been remunerated well. We cannot use our meagre resources that so far we have been using to move from point “A” to “B”, which should not be the case. When you need to build the capacity of women, there are other minimum things that you have to do; you should be able to transport them. Even putting them in one place requires a lot.

With those few remarks, I support this Bill.

**The Temporary Speaker** (Sen. Ongoro): Thank you, Senator. Proceed, Sen. Keter.

**Sen. Keter:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this very important Bill. From the outset, I thank the Mover, Sen. Murungi, for coming up with this Bill. If we look at the history of this country, we have really come a long way especially the Kenyan Parliament. I listened very keenly when the mover was moving this Bill yesterday, giving the events of what exactly happened. It was not easy to get to where we are. It was a fight. I want to thank the people who were there before me; Sen. Orengo and Hon. Castro Peter Oloo Aringo for spearheading the reforms of parliamentary democracy in this country.

Parliament was just part of the Executive; they could not do anything without the sanction of the Executive hence independence was not there. I was told that before, people used to run to the Office of the President to be paid their allowances, where sometimes you were kicked out or queue with other members of staff. I was also told that people used to queue to see the President on a Friday to be given some money to go home, make political statements and shout so much because of the pay they had been given. I thank God for our colleagues, brothers and sisters who fought such that today, as Parliament we are happy.

When we joined this Parliament, I remember very well that offices at Continental House had not been taken over. Members of Parliament did not have offices. They used to work from Parliament, their cars, hotels and everywhere else. It was chaotic. They were also not facilitated very well. They did not even have cars to drive to their constituencies where they represented people; to have a decent home in Nairobi. They were subjected to the market in terms of getting the loans, hence Members of Parliament were a condemned lot of the society despite the fact that they are very important in their

constituencies. They are representing thousands of voices in making laws which also govern those millions of people.

Therefore, the creation of the Parliamentary Service Commission (PSC) was a relief to that because through that, we were able to buy cars, houses and to reason as Members of Parliament regardless of whether one was in the Government or the Opposition. When it came to parliamentary issues, reasoning was the same. That really made even the debate in Parliament objective and people recognized that being a Member of Parliament is a career. I remember very well when some of us were young and decided to run for a parliamentary seat, I was told: "That is reserved for retired people, those people who are around 60 or 70 years of age." I remember I asked my father: "Why do you think so?" He said, "because of history." You need to have worked very well, your children have gone through school because this one, if you go in you just become poor and your children will not go to school." Then I said: "But this is like employment, I have been employed by 60,000 people of Belgut Constituency to work for them and in return, I have to be paid. We should treat politics as any other job." I remember very well after that, we have seen a lot of evolution and generational change; people going in not for money but to work like people even applying for jobs in Safaricom or any other company; they will take the best for the productivity of that organization. Therefore, we have seen also the best in terms of productivity.

When the new Constitution came into place, it created this House, the Senate and the National Assembly. The Parliamentary Service Commission is one of the Commissions which are entrenched in the Constitution. There is a way of changing that. These amendments are meant to review the Parliamentary Service Act which drives the Parliamentary Service Commission. Therefore, the notion that the Senate is trying to change the Parliamentary Service Commission should be put to rest because we are not. The Parliamentary Service Commission is still there.

If you look at the Memorandum of Objects and Reason, you will see that the principal objective of the Bill is to amend the Parliamentary Service Act to provide for the establishment of committees; the Senate Service Committee and the National Assembly Service Committee. It says that these Committees will enhance the efficiency of the Commission in terms of the performance. So, nobody is challenging the Parliamentary Service Commission. However, to make it more effective, considering that we have two Houses, the Senate and the National Assembly, let us create a Committee that deals with Senate issues and another one that deals with the National Assembly issues. All these committees will work to improve the work of the Parliamentary Service Commission. In the functions of this Committee, it is well articulated that they will, at the end, take their reports to the Parliamentary Service Commission.

Madam Temporary Speaker, Sir, this Bill is coming at the right time because we, as Senators, have been complaining. We appropriate a lot of money to our counties. The Governor for Kericho is given Kshs4 billion to run, has a very big office, he has advisers, personal secretary, a chain of staff, a fleet of vehicles and wherever he goes, he talks as a Governor representing the wishes of the people of Kericho. The Governor has resources and, therefore, you cannot run an institution or a constituency without resources. That is why we created offices here so that we make Parliament more efficient. That is why the

CDF was created, thank God, by a Member who is now our colleague, Sen. (Eng.) Muriuki Karue.

As a Member of Parliament, how do you run a constituency if you have no resources? If you go somewhere and you are told that a certain road is bad or a certain school needs to be constructed, how do you do all these things without money? There are very few people who can access the President. When the President visits Kericho before elections, he visits one place and conducts one rally and concludes that he has already covered the region. When he goes to Kisumu, he also concludes that he has covered the region.

We will not be effective as Senators if we do not have resources. It is good to be honest. The Constitution is very clear. It gives us mandate under Article 96, that we are the people to oversee devolution. We cannot be effective to oversee devolution if we do not have resources. I remember I used to run a rural office in a market place where I used to pay Kshs5,000. Those were the rates of that constituency. I now have a county and the headquarters are in Kericho Town which is very big. The rents in Kericho cannot be compared to the ones charged in Sossion. You cannot compare the rates. You cannot also compare the rent in Nairobi with other areas. Supposing you are the Senator for Nairobi, you cannot go rent an office in Embakasi when you are supposed to be overseeing more than ten constituencies. This is very important. I do not mind earning the same salary as a Member of Parliament but at least, I should be given enough resources to run around. If need be, let me have offices within the six constituencies. I should have resources to employ people so that I know what is happening.

When a Governor says that he has done a road of 15 kilometres and spent Kshs500 million in the road network in that county, how do we know that the money has been spent in the right way? This Bill is very timely that we all need to support it. Nobody should be worried because these are only committees. We have always worked in committees both in the National Assembly and the Senate. I call upon my colleagues to know that this Bill will empower Senators. Otherwise, come the next election, not very many people will run for the Senate seat. We will have few people going for that seat and not very strong Senators to oversee devolution. We will have very weak people and devolution may fail. We should pass this Bill, implement it and move on for the remaining time before elections to see changes in terms of development in our counties. If we leave things to remain as they are, we will be saying that we have appropriated Kshs5 billion which will not be reflecting on the ground.

In the first year, we gave Kericho Kshs3.2 billion. Out of the Kshs3.2 billion, Kshs2.2 billion went into recurrent expenses; salaries and operational maintenance. You will find a Governor using Kshs800 million servicing his fleet of vehicles; you will hear an MCA saying that his office is better than that of James Orengo. Let us restore the glory of this Senate.

With those few remarks, I beg to support.

**Sen. Muthama:** Thank you Madam Temporary Speaker. I also rise to support this Bill. According to the Constitution, this is the “Upper House.” However, we are not viewed by Kenyans and by the people we represent as Members of the “Upper House.” Just to add on what Sen. Keter said, I campaigned in a county of eight constituencies. The

Governor of Machakos County campaigned in the same area. I had more votes than the Governor of Machakos. However, today, the Governor has a flag on his car, he can change vehicles as he wishes; he has *askaris* behind him wherever he goes, he has money to hire tents whenever he needs them and even the public address system. On top of that, the same Governor can entertain any number of people from Machakos County.

Madam Temporary Speaker, when I open my mouth to say that I am the Senator for Machakos County, sitting in the “Upper House”, they tell me: “Excuse us, Sir, we elected you but we actually do not know why we did it. This is because, despite the fact that the Governor is not performing, he has all the powers in the county. He carries the instruments of power with him. So, you are there as a Senator, just to sit in that House called the Senate but you can do nothing.”

When I remember the work that I did, and the way we are being treated here by our colleagues in the National Assembly, who have called us names--- If you look at the representation of the Parliamentary Service Commission, the number of Members of the National Assembly in that Commission and the number that is from the Senate, it is very clear that even if we try to tell our representatives there what we want, whatever agenda that will be taken there by the Senate will never see the light of day in that Commission.

Madam Temporary Speaker, time has come when we need to create the Committee of the Senate. Our clerks here work in the ‘Upper House’ of Kenya and not any other House. The Senators here represent 47 counties of this country while Members of the National Assembly represent 290 constituencies of this country. A clerk in this House should be treated differently from the clerks in the National Assembly with regard to terms of service. A Member of the National Assembly has an office in Nairobi and another one in the constituency, yet an elected Senator, who represents eight constituencies, is given the same amount of money to open an office. When you step into your county, you are expected to make a difference, but the Governor will not even allow you to see the people who elected.

Time has come for us to say that the Senate Committee must be constituted to deal with the affairs and issues to do with this House also known as the “Upper House”. I would like to give a very good illustration of how money is passed in this House, taken to the counties and how it is spent. To start with, despite getting more votes than my Governor, he is referred to as “His Excellency” and I am referred to as Senator Muthama. In terms of experience, I am more experienced in politics than him. I want to give an example of the money that is given to the counties. The Governors have no room for the Senators.

It is hard for the Governor to even say that he will fund civic education at a particular corner of the county and ask the Senator to go to talk to the people there. There is absolutely nothing like that. The only talk that you hear in the counties is that Senators are not doing anything. Whenever I go to the different constituencies in my county to attend functions, I am told by the local people that the Governor – not the county government - was there and told them that he is going to build for them a school, college and many more.

Madam Temporary Speaker, when I tell my people that my responsibility according to the Constitution is different from putting up buildings and development

projects, they do not understand. The question is: As the Senator for Machakos County, Senator for Siaya County or the Senator for Kiambu County, can we not be funded at least to open constituency offices because it is extremely difficult for us? I live in Machakos and I have people coming from Masinga which is 115 kilometers to Machakos. Those people are expected to go and see their Senator and present their needs. We are torturing the people who elected us. They woke up very early in the morning to go and vote for us but they do not see the benefits of electing us.

I have one car just as a Member of the National Assembly, yet I am supposed to go round eight constituencies. I have to fuel that car with the same amount of money that is allocated to a Member of the National Assembly. The mileage claim is based on the distance between my home and the office here which is about 68 kilometers. However, I need to cover between 250 to 300 kilometers every weekend and nobody is compensating me for that.

Madam Temporary Speaker, Sen. Keter said here that he was told by his father that to be elected as a people's representative is a way of becoming a poor person. It is true and I believe in that theory. In 1992, President Moi wanted me to vie and represent the people of Kangundo then but I said "No" because I was scared. I did not want to get into what would turn me into a poor person. In 1997, President Moi requested me again to vie but I said "No". Sen. Orendo is here and can attest that if I had vied for Kangundo Constituency in 2002, I would have won with a landslide, but I said that I would not vie because I did not want to be poor. I had to work first. I delayed and denied the people who told me that I qualified to represent them a chance. I waited so as not to get into leadership to be poor.

Madam Temporary Speaker, today, not a single Senator here, even the nominated ones---. You are a politician yourself. You vied here in Nairobi and would still want to vie. You were nominated because of the people who voted for you in Nairobi and you would want to maintain that tempo. However, when you look at what is being allocated to you – and we are not asking for a salary increment – it is absolutely impossible for you to perform. If the Constitution says that the Senate represents the counties and serves to protect the interests of the counties and their governments; how will Sen. Orendo tour the whole of Siaya County in his single vehicle?

**The Temporary Speaker** (Sen. Orendo): Sen. Muthama you have seven minutes left to continue with your contribution when this debate resumes tomorrow.

## ADJOURNMENT

**The Temporary Speaker** (Sen. Orendo): Hon. Senators, it is now time to interrupt the business of the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 7<sup>th</sup> May, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.