

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 23rd November, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

SUMMIT ON PEACEFUL ELECTIONS, NATIONAL COHESION AND UNITY FOR SOCIO-ECONOMIC DEVELOPMENT

The Speaker (Hon. Ethuro): Order, Senators. I have a Communication to make on the Summit for Peaceful Elections, National Cohesion and Unity for Socio-Economic Development.

I wish to inform you that the Kenya Private Sector Alliance (KEPSA) has organized and invited all Senators to a leaders' summit on peaceful elections, national cohesion for socio-economic development.

KEPSA's key focus areas are:-

(i) Conducting high level advocacy on cost-cutting law and policy-related issues and ensuring Kenya is globally competitive while doing business.

(ii) Coordinating the private sector in Kenya through various mechanisms and engagement advocacy that promotes economic growth.

(iii) Developing and building capacity of Business Membership Organizations (BMOs) to strengthen, grow and represent their sectors adequately.

It is in line with these areas that KEPSA has organized the leadership summit which will bring together all national leaders including all parliamentarians of both Houses. The summit is scheduled to take place from 2nd to 3rd December, 2016, at Leisure Lodge Resort in Mombasa County. Senators should depart for Mombasa on the evening of Thursday, 1st December, 2016.

This is, therefore, to invite all of you to this very important meeting and to urge you to attend and participate effectively. You are requested to forward your preferred travel times to the office of the Clerk of the Senate for planning purposes.

Thank you.

Next Order!

MESSAGE FROM THE NATIONAL ASSEMBLY**DECISION ON THE SENATE MONITORING AND
EVALUATION FUND REGULATIONS 2016**

Hon. Members, there is a Message from the National Assembly on the decision of the National Assembly on the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016.

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the annulment of the Parliamentary (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016.

Pursuant to the provisions of Standing Order No.41 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

“WHEREAS, the Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016 were submitted to the National Assembly on 16th October, 2016 in accordance with the provisions of Section 11 of the Statutory Instruments Act, 2013;

WHEREAS, the National Assembly considered the said regulations and pursuant to the provisions of Sections 8 and 19 of the Statutory Instruments Act, 2013, annulled the regulations entirely on 17th November, 2016;

NOW, THEREFORE, in accordance with the provisions of Standing Order Nos.41 and 211 of the National Assembly Standing Orders, I hereby convey the National Assembly’s decision to the Senate.

Hon. Senators, Standing Order No. 215(1) provides that whenever the Senate receives a Message from the National Assembly seeking concurrence with a resolution of the National Assembly on a statutory instrument, the National Assembly’s resolution shall stand referred to the Committee on Delegated Legislation. The Committee shall consider the resolution together with the statutory instruments and report to the Senate within 21 days of the referral.

The Parliamentary Service (Senate Monitoring and Evaluation) (Procedure for Management of Funds) Regulations, 2016 were published on 27th September, 2016 and tabled in the Senate on 4th October, 2016 by the Chairperson of the Sessional Committee on Delegated Legislation. The Committee considered the regulations on 1st November, 2016 and resolved to accede to the said regulations.

Upon the approval of the regulations by the Sessional Committee on Delegated Legislation and pursuant to Standing Order No.214(4)(a) of the Senate Standing Orders, the decision of the Senate Committee was conveyed to the Chairperson of the Parliamentary Service Commission who had published the said regulations and were supposed to be in force on the day of publication.

Arising from the above, I direct that pursuant to Standing Order No.215(3)(b), the resolution by the National Assembly be referred to a Joint Committee to be established under Standing Order No.216 to consider the matter and report back to the Houses of Parliament.

Thank you.

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. When a matter is being referred to a Joint Committee, you normally read out the names of the Membership of the Committee. Secondly, this rejection comes at a very unique time when levels of corruption in our counties are now unprecedented.

Everywhere you go there is corruption. For example, in Bungoma, a governor took Kshs304 million and put into an account of some girl who was working in the county office. In Kakamega, Bukhungu Stadium worth Kshs1 billion collapsed. There are also many cases in Kilifi among other many counties. Only posterity will find that we were right when we wanted the Senate to be capacitated to have a more proactive role in pre-empting corruption rather than just wailing and crying about it.

Sen. Wako: Mr. Speaker, Sir, I followed the debate on this matter in the National Assembly. The committee which is looking into the matter should also look into the issues of the interpretation of the law because the argument was that we had used the wrong procedure to promulgate those regulations. The Chairman of the sister Committee to the Committee chaired by the Senator for Nandi explained that one or two Members opposed that interpretation but the Senate Majority Leader agreed with the interpretation of the law. It made me to think of how everybody could have gone wrong on the application of the law in this regard.

So, they should look into it carefully because it appears to me that therein lies our way forward; that the interpretation put on it was not made in good faith. It was merely to scuttle what we are trying to do and that should come out very clearly. They are using an interpretation of the law to scuttle what everybody had agreed on. So, the Committee should look into that.

The Speaker (Hon. Ethuro): Before I forget to respond to the one of Sen. (Dr.) Khalwale, I agree with the second one in its entirety because until some issues are seen in the context, then there will be those saboteurs. But on the specific one of naming names to the Committee---

(Sen. (Dr.) Khalwale spoke off record)

I appreciate that Sen. (Dr.) Khalwale's new party leader is in the House but I am here for now. When you addressed me, I listened to you attentively and now I am addressing you also.

We invoked Standing Order No.215, which I quoted *in extenso*, that it shall be referred to a delegated committee and it is this committee and the other delegated committee of the National Assembly.

This is a statutory instrument. We made a special consideration for it under that particular Standing Order but ordinarily, we are right because that is the way we have always proceeded. So, after I give the directions, the Senate Majority Leader will come with a Motion to form a joint committee. That is where the names will be and we will approve them.

Sen. Billow: Mr. Speaker, Sir, this issue has been a matter of concern for the Senate for many years. It is about building the capacity of the Senate so that we can execute our mandate of exercising oversight over the county governments effectively.

Mr. Speaker, Sir, I want to raise three issues which are fundamental. It is important that we discuss this matter critically. First, we have been let down by the

leadership of this House. The Kenya National Assembly is known to all and sundry in this country to take instructions from the Executive. If the President of this country and his Deputy want to empower the Senate by giving Kshs1 billion, that directive will go to that House and the Bill will be passed in minutes. It has happened and it can happen. However, if the Executive is not keen, we will make a thousand regulations and send them to the National Assembly but they will never be passed.

I think Members of the National Assembly are clear in their minds. They do not want the Senate to be empowered. I think the reason is because they take instructions from the Executive which does not seem to take this House seriously. Therefore, it is time we now ask the hard questions. What exactly is the leadership of this House doing with regard to facing the Executive on this matter of empowerment of this House?

We are not asking for the National Government Constituency Development Fund (NGCDF) to build roads but we are asking for money to exercise oversight. They allocate Kshs300 billion to counties but the Auditor-General said counties cannot account for half of that money. This is a case of what the British call being pennywise and pound foolish. You cannot deny people to spend Kshs1 billion to look after Kshs300 billion but you are ready to lose Kshs150 billion.

Yesterday, governors issued a statement. They said that the Integrated Financial Management Information System (IFMIS) is responsible for the theft. How can the IFMIS be responsible for stealing money? It is individuals who manipulate the system. You cannot buy a bottle of water in any county in this country without the approval from the county governor and that is known. There is no County Executive Committee (CEC) member for finance or any Ministry that can buy a bottle of water without the governor knowing where the invoice is going to. There is no way you can approve any transaction in the IFMIS. In fact, even the signatories themselves said that they do not know who appoints signatories. Each CEC is required, through the governor, to submit in writing to the IFMIS Director Accountant General two names of the signatories.

Yesterday, they said that they do not know how that thing works and how money is stolen. They do not believe and trust the Auditor-General. They rubbish what the Controller of Budget and Senators say. They call Members of County Assemblies (MCAs) names. They now want the IFMIS scrapped. They are given Kshs300 billion but they transfer the money to their accounts.

Mr. Speaker, Sir, the President should be committed on this matter. If he wants us to save this country money, he must empower this House. The National Assembly takes instructions from only one person. Last time when they wanted to refuse to pass the Budget because of the NGCDF, they were called over lunch for a half an hour, just five minutes to time, and told to go and pass it or else they should know where they would go. They rushed to the House and passed the Budget. Therefore, if the President wants to save this country a hundreds of billions being stolen in the counties, he should empower the Senate. It has come to haunt us since money has disappeared.

Lastly, it is time our leadership played hard ball with the National Assembly. Some of us have suggested many times to go to court. Let us not have mercy on anybody. Let us go and stop the NGCDF. Let us go and stop all the money being put aside. In spite of the existence of devolved governments, a lot of money is set aside for MPs. This makes them proud because they have got money that totals to almost Kshs500 million. They get the NGCDF, road money and other monies and they literally control every

penny of national Government which goes to the constituencies. It is time we exercised our muscles and see who will lose. We should leave a legacy for this House. Otherwise, we shall put this House in the basket.

Mr. Speaker, Sir, thank you very much.

Sen. Ndiema: Mr. Speaker, Sir, this House has always played a fair game. We recognise that we have a bicameral Parliament and we have always acceded to and processed any Bills or business that comes from the National Assembly with the seriousness and urgency that it deserves. However, there has not been any reciprocity; not that we are asking for it as a favour but the Constitution says that institutions of Government must consult and cooperate. However, what is happening is total non-cooperation. The Constitution gives this House the responsibility to oversight counties and a function that has been given must be followed with resources. Resources follow functions. For the time that we have been here, this Senate has never been resourced enough. Instead, resources have been cut.

When the Senate started, we had adequate resources for the Committees for benchmarking, but that has also been reduced. We are asking for money to safeguard and oversight the counties; it is not to increase our salaries or remuneration. If we are denied this money, it means that devolution is at stake. Devolution cannot work unless there is oversight. That is what is in the Constitution.

Whatever is being done by the National Assembly is unconstitutional. It is unfortunate that the Constitution says that the Senate should not be involved in money Bills. That is where the problem started. We have to relook at the Constitution to ensure that the Senate participates in all legislations, including the so-called money Bills.

Mr. Speaker, Sir, it is time we asserted ourselves. We should not just amend the Bills that come from the National Assembly, but reject them. Some Bills that come to the Senate are subject to rejection, but we have taken time to amend and negotiate. Instead of the National Assembly asking us to sit together to amend anything that is not proper, they reject and use the words 'rejected in totality,' as you have read. The language is non-cooperative and provoking. It is time that we use the same comb whenever there are Bills that emanate from the National Assembly. We have to show that we have the authority in law to do whatever we do.

The National Assembly has been using the budgeting process to arm twist the Government to allocate them National Government Constituencies Development Fund (NGCDF). I am not advocating that the Senate should take the same route, but it is time we looked at all opportunities, whether through the courts or other avenues, to ensure that the Constitution is adhered to. The NGCDF is an area that we should look at. We know that the Constituencies Development Fund (CDF) has assisted people and it is not the wish of the Senate to curtail it. However, we know that it is not in accordance with the Constitution. If these mere regulations are deemed not to be in accordance with the law; how about the NGCDF? This House should assert itself and not give up. We should pursue this matter now and in the future.

Thank you, Mr. Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, as I listened to you read the Message from the National Assembly, I could vision a dark cloud descending upon this House.

The Senator for Mandera County has said it all; that there is a grand conspiracy to frustrate this House, eventually kill it and destroy devolution. The conduct of the Executive towards Parliament starts from the issue of Women Representatives. We have distinguished women in this House like Sen. Zipporah Kittony. The Executive buys every Woman Representative in the National Assembly two four-wheel-drive cars, but does nothing for the distinguished women in this House who cover even larger areas and do greater work in the country.

Mr. Speaker, Sir, as they continue to belittle this House, we hear a lot of lip-service about fighting corruption. The Budget and Appropriations Committee in the National Assembly, chaired by a man called Hon. Mutava Musyimi, whom I always call the wrong reverend because he does the wrong things, sat down and allocated themselves - 52 Members of the Budget and Appropriations Committee - Kshs100 million each to take to their constituencies. If that is not corruption, then the word 'corruption' has no meaning. The Executive acquiesces to that and does absolutely nothing. Some were just hawking money in their constituencies. That is where we are.

We asked for a small fund and you personally called me to your office and requested me to sit on that Committee, which I agreed so as to give it the credence that it deserved. We did a lot of work and looked at everything. However, when the matter went to the National Assembly, they not only poured scorn on it, but rubbished it and insulted the Senate; that they are giving money to Senators to put into their pockets.

Mr. Speaker, Sir, I know the membership of this House. Sen. Karaba from Kirinyaga can be equated to Caesar's wife in terms of probity, and so are other Senators. There is no single Senator who wants this money to put in his pocket. You preside over a House which has no comparables. North Horr Constituency in Marsabit County, which is represented by Sen. Hargura, is physically larger than the former Western, Nyanza and Central provinces put together. Sen. Hargura is supposed to go round the county and even educate the people on what devolution is all about and how money must be accounted for. Instead of him being given a partly Kshs20 million, which he would have probably used to buy one four-wheel-drive vehicle and use the rest on fuel, we are told that Senators want to pocket the money. All this is happening because the Executive is not interested in this House. We are an appendage to an institution called Parliament.

Mr. Speaker, Sir, sometimes I feel for you as the leader of this House. We have over 25 Bills pending and gathering dust in the National Assembly on the shelves of a man called Hon. Duale. We have our representatives in the House Business Committee (HBS) in the National Assembly. However, when any matter comes from the Senate, he simply tells them to throw it away and that is where it ends.

This frustration is what causes lethargy in this House. Every time, we say Members must come and vote. I have no business whipping my Members to come and vote for Bills that will go to gather dust in the office of Hon. Duale. We pass Bills here. The only Bill that we pass that was going to give meaning to devolution brought by the distinguished Senator for Nandi County, it went to the National Assembly, they procrastinated with it, you pushed them, they passed it but another institution that is anti-devolution, the Judiciary, was waiting.

Mr. Speaker, Sir, the Bill goes there and I am sure the judge who struck down that Bill did not read it. I have no doubt because if that judge took time to read through the Sang Bill and the Sang Act as it was, he would never have shot it down because that Bill

was not unconstitutional. If there is anything unconstitutional, it is an act called the National Constituencies Development Fund. It completely runs contrary to the principles of devolution. It is there and money is allocated.

Mr. Speaker, Sir, we have now reached a level where we have to ask – and I am happy that my brother who is the Senator for Tharaka-Nithi has walked in - he leads the troops on the side of the institution that is anti-devolution. I want to encourage him, when Sen. Billow said the leadership has failed us, he omitted to say that the leadership on the side I sit – I have nothing to do with the Jubilee leadership. They are the ones who are pressing buttons and the National Assembly jumps. When he comes here---

The Speaker (Hon. Ethuro): What is your point of order, Sen. Billow?

Sen. Billow: On a point of order, Mr. Speaker, Sir. The minority leadership cannot escape that responsibility because the Members of Parliament who vehemently opposed the Kshs1 billion are from the Coalition for Reforms and Democracy (CORD). Many a time, we have asked him to engage their own leadership in that House. So, you have some responsibility and a role to play.

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

Sen. Hassan: On a point of order, Mr. Speaker, Sir. We have watched the proceedings in the National Assembly and some of the Members vehemently supported. Members like Hon. Wandayi and Hon. Midiwo who are members of CORD. The responsibility in the National Assembly is that they are people who refuse to grow up to see what this Senate is supposed to do.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, to that extent, Sen. Billow's information may be right but the voting majority in the National Assembly, the so called "tyranny of numbers" coined by a man who has now disappeared from the national stage because of probity, is with Jubilee. Even if Hon. Wandayi and Hon. Midiwo or whoever spoke with vitriol, if the Jubilee side wants to vote in anything, they will. We are in a position – I implore my brother Sen. (Prof.) Kindiki, and I have no doubt he is an effective leader in this House – if those people who caused you to be in this seat listen to you, I want to encourage you to talk to them and tell them we did not create devolution for governors to steal public resources. Devolution and the Senate were created to make sure that we oversight them so that they do not steal money.

Mr. Speaker, Sir, yesterday, in a petition in the Committee chaired by Sen. Billow, I could see the horror on his face when the statement was brought that a governor has wired Kshs314 million which is public money to an account of a girl. What we are saying is that we want to enable the Senator for Bomet County to go and find out what is happening. We want to enable the Senator for Kakamega County to go and check why a governor would put Kshs1 billion in a stadium and as soon as they finish welding, it all comes down. We want to enable the Senator for Tharaka-Nithi County to go and check why his governor starts naming streets at night. We want to enable the Senator for Nandi County to go and check a billboard showing that you are now entering Nandi County which can cost Kshs1 million, cost Kshs27 million.

All these things are a catalogue. I want to urge this House now more than ever before, in unison and in a bipartisan manner, to stand and defend the integrity of this House, the future of this House and in the process, you will be defending devolution.

Mr. Speaker, Sir, as I finish, I would like to say that some of our governors out there think they want to have responsibility without accountability. That is not possible in

a democracy. Responsibility carries accountability. You give them public funds but when you want to oversight them, they behave like rogue buffaloes, like we saw the Governor of Murang'a County. Sen. (Prof.) Anyang'-Nyong'o sometimes uses hard language but he never insults people. I think we all know this. Those of you who studied humanities must have been students of, or read books written by Sen. (Prof.) Anyang'-Nyong'o. This rogue governor comes and throws his little weight around the room.

In the animal kingdom, the most decent and polite animal is the elephant and yet it is the largest. When you find some paper tigers roaring around and telling everybody who they are; it is a sad day for this country. We must stand up to be counted, we must act in unison and as our Speaker, you must take the lead. You have a duty to face the executive and tell them the Senate is not a rubber stamp, the Senate is not a nuisance, the Senate is not an appendage and the Senate is an institution that is here to stay because the people of Kenya believe in the Senate.

Thank you, Mr. Speaker, Sir.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I have listened to your directions and the first direction is that the Delegated Legislation Committee will have 21 days under Standing Order No. 215 to report to the Senate whether they agree or disagree with the resolution of the National Assembly. I do not expect the Delegated Legislation Committee of the Senate to disagree with themselves about their recommendations.

Mr. Speaker, Sir, this is my proposal; you have given them 21 days which goes beyond the period within which we will be sitting as a Senate. I thought you would use your Standing Order No. 1 and discretion available to you to ask the Committee led by Sen. Sang to have a report here on Tuesday next week which will cause the Joint Committee to start sitting under Standing Order No. 216. Otherwise, we risk that this is going to become an academic exercise in February. What will be the point of having a Joint Committee sitting in February, 2017?

What is worse, Mr. Speaker, Sir, there was a public display of mockery of this Senate. It is not possible that this House of review, of eminent legal scholars can make the sort of mistakes they purported we were making. Therefore, just like Sen. Billow has said, I would suggest that there is failure somewhere. That was an excuse to deny the Senate those funds and I am aware that there were consultations that were done before those rules were tabled in the National Assembly. The wisdom of the Supreme Court - for you to appoint three persons who would seek to sit with the National Assembly cannot be overstated. We have lamented so much about our problems.

Sometimes I think as we sit here every day, we are signing our death warrants and wishing this Senate away just like the first Senate of this Republic. It would be a bad history if that were to happen. For once, I know you have pleaded and said that you are a gentleman. If somebody slaps you, you do not slap them back. However, these are politics of finishing this Senate and devolution generally. This is because the largesse we are seeing in the counties cannot continue unabated. You and I will be at the centre of history; the infamous history of being the Senators who will be recognised for having supervised the death of devolution in this country.

Sen. Sang: Mr. Speaker, Sir, looking at the Communication that you made, I have no doubt that my Committee will not take more than three days to report to this House. The Standing Order No.215 indicates this must be done within 21 days. I am sure by Tuesday next week, we will be able to have that report.

However, it is important to refresh ourselves on the journey that we have taken on these regulations so that we appreciate that this is not a matter of legality, but it is about politics. You will remember that the first Kshs1 billion that was allocated to us courtesy of negotiations between this House and Parliamentary Service Commission (PSC) was taken away by the National Assembly when we undertook our constitutional responsibility of increasing resources to counties. That is where the rain started beating us.

Subsequently, we had protracted discussions and negotiations with the National Assembly to the extent that we agreed that we publish regulations pursuant to the Parliamentary Service Commission Act. This was a recommendation by them. We did exactly that only for them to reject the same regulations and tell us that we needed to publish them under the Public Finance Management Act. Again, we considered, worked together with them, they rejected it and they took us back to the PSC.

Further, they told us that we needed to discuss with the National Treasury. I remember, led by Sen. Kiraitu, we went and met the Cabinet Secretary for National Treasury, Mr. Henry Rotich, who agreed and allocated resources. The National Assembly again rejected this.

I chair the Delegated Legislation Committee. When we sit down to consider regulations, we have never had an opportunity to even annul a single regulation in this House. This is because where we have issues with regulations we invite the regulation making authority and tell them that we have issues with “x”, “y” and “z” and they agree to review and we proceed on. When there are issues with one or two of the regulations that were published, they had the opportunity to invite the Kiraitu Murungi led Committee and tell them we have issues with “x”, “y” and “z”, but they refused to do that. They went ahead and annulled the entire regulations in totality. It has nothing to do with the law because they even broke the procedure.

We, as House, would be naïve to imagine that it is anything to do with the Public Finance Management Act or that there is a problem with the law. The problem that we have between us and the National Assembly is a political question.

(Applause)

Mr. Speaker, Sir, even as you refer these things, we would do what we need to do as a Delegated Legislation Committee. However, I want to inform the House that this has nothing to do with the law. It has everything to do with politics. It is on both sides of the political divide because we have seen those who have proposed for the allocation of resources to the Senate for oversight, we have in the National Assembly both the CORD and Jubilee Members. However, I know as a matter of fact that if we were to exercise the tyranny of numbers that we have used on several occasions, we would pass these regulations. So, whereas the responsibility lies on both sides of the divide, the Jubilee side definitely has a higher responsibility to ensure that this House is supported.

(Applause)

I want to call upon the leadership of this Senate, especially Sen. Wetangula and Sen. (Prof.) Kindiki to act more aggressively on this matter of empowering Senators

because this is the only way we can rein in the runaway corruption in this counties. It is our responsibility to protect devolution against external and internal threats. Unfortunately, as I speak right now, devolution is facing the greatest internal threat. The pilferage of resources and the kind of runaway corruption we are seeing in our counties are enormous. Therefore, we cannot expect the county assemblies to carry out the oversight alone without our input.

The Constitution has given the legal infrastructure to the county assemblies to carry out oversight in our counties. However, they do not have the political muscle to do so. This House has been given a very weak legal infrastructure, but we have the political clout. If we had these resources the kind of runaway corruption in our counties would be checked.

I commit as the Chair of Delegated Legislation that by Tuesday, next week, we will have a report so that we trigger the other processes. However, we want to ask the leadership of this House to continue engaging. Sen. (Prof.) Kindiki being my lecturer, my senior and my leader in this House, together with Sen. Moi, who access State House every often, should use that opportunity to whisper to the President and the Deputy President that the Senate needs the resources to move on.

(Laughter)

With those remarks, I thank you.

Sen. Hassan: Mr. Speaker, Sir, thank you for this opportunity. I want to add my voice to this very important debate. When all these issues started, we were told time and again that this is sibling rivalry. We accepted it at the very beginning that it was sibling rivalry because all of us either we were being born or reborn in the framework of a new Constitution. We are at a situation where one of the siblings continues to refuse to grow up. It cannot be sibling rivalry throughout. There is a point at which you must cut these issues and start to internalize the Constitution and its mechanics.

Consistent and persistent denial of the fact that there is a House called the Senate and no Member of the National Assembly or any other State agency, can do anything against it is to deny that there is new a Constitution that is in existence. The Senate is here to stay. Nobody would be able to undermine the authority of this Senate. Despite all these challenges, this Senate has done so well.

Today, Senators individually are themselves a one-man army when it comes to oversight. When Sen. (Prof.) Kindiki speaks in Tharaka-Nithi County, the county and the nation listen. With or without the oversight funds, we have shown the National Assembly that we are men and women of grip and power. When Sen. (Dr.) Khalwale speaks, Kakamega County comes to a standstill.

(Applause)

When Sen. Kembi-Gitura speaks, the whole county is thrown into disarray to audit what the governor has done. When the Senator of Bungoma speaks, the whole county is at a standstill. When the Senator of Nandi and everybody else here speaks against the ills committed in their counties, everything comes to a standstill. When Sen. Mutula Kilonzo Jnr. speaks, the county almost dissolves. When Sen. Mwazo speaks, the county listens.

Therefore, they cannot consistently undermine the authority of people who have been given responsibilities to oversight funds. This spillage and pilferage at the county level is largely because there is no monitoring. There is no monitoring infrastructure whatsoever.

Today, I was in a talk-show with a Member of the National Assembly who says that it is the failure of the Senate. The Senator cannot do all these analysis by himself; he needs a certain framework, a certain capacity to monitor and budget track. It is about budget tracking. It is about looking at how contracts are awarded. It is about looking at how payments are made. Today Gov. Munya blamed the entire Integrated Financial Management Information System (IFMIS). Probably, if we were there, we would have said we have detected and deterred public theft. It is about looking at how payments are made. Corruption is happening everywhere in this country in both CORD and Jubilee counties.

Sen. Wetangula, pronounce yourself on corruption in CORD counties. People are pillaging a Kshs1 billion out of Kshs4 billion allocated to them. That is almost 25 per cent.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. The ink is not even dry. I just spoke here and said that a stadium in Kakamega County, a CORD county, where they have sunk in a Kshs1 billion just collapsed and the Governor has said nothing. If probity was an issue in our public life, that Governor should be answering charges in a court of law.

Sen. Hassan: Mr. Speaker, Sir, initially, he had blamed the stadium and now he has blamed the Governor.

(Laughter)

Today, I also listened to former---

The Speaker (Hon. Ethuro): Order, Sen. Hassan! The challenge was that your party leader should speak against corruption in CORD counties. It was not to blame a person.

Proceed, Sen. Hassan.

Sen. Hassan: Mr. Speaker, Sir, thank you for that clarity. Some of us have tracked some of these issues and some of them have come to reality. Today, just to inform Sen. Wetangula, there has been a Committee on County Public Accounts and Investments reports for 2014/2015. The same queries that were raised in 2013/2014 are appearing again in 2014/2015.

Today, I was quite disappointed to listen to a press conference in Mombasa where the former Prime Minister said these audit reports are merely opinions. They are not. We also at times question the suitability of Jubilee Government based on reports of the Auditor-General. These are not mere opinions. If it is bad in Jubilee, it has to be bad in CORD. If it is bad in CORD counties, it is bad in Jubilee counties. It is not right. So, when the Auditor-General has written something and CORD---

Sen. Billow: On a point of information, Mr. Speaker, Sir.

Sen. Hassan: Okay, inform me.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Hassan! You have to wait for me to allow him. That is equally corruption.

Sen. Billow: Mr. Speaker, Sir, let me inform the Senator that in that press statement by Hon. Raila Odinga, he actually rubbished the Auditor-General and accused him of being biased against CORD counties in publishing the audit reports. It is in the newspapers now.

Sen. Hassan: Mr. Speaker, Sir, I can say with sadness that that is not the position of the Wiper Democratic Movement (WDM) which is guided by the audit of the Auditor-General. That is why we want Gov. Mutua to pay for his crimes. We also want any other governor that has been adversely mentioned in the Auditor-General's report to surrender to audit and arms of investigation so that they can be prosecuted.

I hope this oversight fund will help us to lift this country out of corruption.

The Speaker (Hon. Ethuro): Sen. Hassan, conclude.

Sen. Hassan: Mr. Speaker, Sir, let me conclude with what I said in our retreat although some of you were not there. Just because the National Assembly has allegedly nullified these regulations, that is not the end of it. Even if we do not enjoy this Fund, we must do everything reasonable and possible to ensure that the next batch of Senators enjoy this fund. The Fund is not only about Sen. Hassan, Sen. (Dr.) Khalwale or Sen. Khaniri because they serve at this point in time. It will be for Senators across the board and then for posterity. Therefore, even if we have lost this first little tussle, we should not drop the ball to ensure that every Senator is given the benefit of and capacity to oversight.

May God bless Kenya.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Did you hear Sen. Hassan say that CORD is just as much to blame for corruption for doing nothing as is Jubilee? Is he in order to mislead the country when the country knows very well that the county assemblies of Jubilee have done a sterling job? All the impeachments that have taken place in this House are from the Jubilee county assemblies. It is time Sen. Wetangula, hon. Musyoka and hon. Odinga also demonstrated that their governors will not continue holding their Members of County Assemblies (MCAs) captive. Is he in order to mislead the House?

(Laughter)

Sen. Hassan: Mr. Speaker, Sir, since I have been challenged, I agree with you.

The Speaker (Hon. Ethuro): Order, Members. On that good note where the one who has been challenged agrees with the challenger, allow me to interrupt these very interesting interventions in order to introduce a distinguished delegation from the Republic of Poland led by none other than the Marshal of the Senate of the Republic of Poland, Mr. Stanislaw Karczewski.

COMMUNICATION FROM THE CHAIRVISITING DELEGATION FROM THE SENATE OF
THE REPUBLIC OF POLAND

Hon. Senators, this afternoon, I would like us to acknowledge the presence of the visiting delegates from the Republic of Poland in the Speaker's Gallery. This is a reciprocal visit following my visit to Poland as the Chairman of the Committee on Liaison in 2015.

During the visit, we had an understanding for support between the Senate of the Republic of Poland and the Senate of Kenya. Already, three of our staffers have been trained in Poland on legislative programmes.

(Applause)

I request each Member of the delegation to stand up when called out so that they may be acknowledged in the Senate tradition. They are:-

- (1) Mr. Stanislaw Karczewski, Marshal of the Senate of the Republic of Poland. I hope we are learning something. Next time you can also refer to me as "Marshal".

(Laughter)

- (2) Mr. Marek Martynowski, Senator, Chairman of the Law and Justice Senate Caucus, Member of the Human Rights, the Rule of Law and Petitions Committee and a Member of Legislation Committee (Law and Justice).
- (3) Mr. Andrzej Pajak, Senator, Deputy Chairman of the Local Government and State Administration Committee, Member of the Emigration Affairs and Contacts with Poles Abroad Committee (Law and Justice).
- (4) Ms. Margareta Budner, Member of the Agriculture and Rural Development Committee and Member of Health Committee.
- (5) Mr. Andrzej Misiolek, Senator, Member of the Human Rights, the Rule of Law and Petitions Committee and a Member of the Infrastructure Committee.
- (6) Ms. Wioletta Wieclawik, Director of the Office of the Senate Marshal.
- (7) Mr. Leszek Kieniewicz, Director of the Office for International and EU Affairs.
- (8) Mr. Przemyslaw Cebula, Office for Citizen Relations, Press Unit.
- (9) Ms. Agata Wojcik, Office for International and EU Affairs, Secretary to the delegation.
- (10) Mr. Aleksander Jakimowicz, Interpreter.

On behalf of the Senate and my own behalf, I welcome you to the Senate of the Republic of Kenya and wish you well for the remainder of your stay.

I thank you.

The Senate Minority Leader (Sen. Wetangula): On behalf of the Minority side and the Senate as a whole, I take this opportunity to welcome our guests from Poland. Poland is a country with a rich and admirable history, starting with the revolution that

swept a dock workers' leader, Lech Wałęsa, to the leadership that changed and affected the cause of change in parts of Eastern Europe.

Poland is a country, if any of you who was a student of history can remember, that stood up to Bismarck as he conquered the rest to unite Germany. Poland is a country that has produced fantastic footballers, including Lewandowski, the current mercurial player in one of the teams in Germany, and many others. As Catholics, we are proud that Poland produced a Pope, who introduced reforms in the Catholic Church, which are now carried on by my namesake Pope Francis.

Mr. Speaker, Sir, Poland has supported the cause of democracy globally. As they visit us, I encourage our colleagues who are in interaction with our visitors to share experiences, good practices and things that can enhance the wellbeing of this House and our nation.

I wish them well and a happy stay for the remainder of their time in our country.

Thank you.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. On behalf of the Government side, I welcome the Senators from the Republic of Poland. I also thank the Marshal of the Senate of the Republic of Poland for marshalling his troops to Kenya and this Senate. We are honoured with your visit.

Poland is a country with a long history of friendship with our country. Therefore, their being here goes a long way in cementing that history and deepening the friendship between the two countries. I take this opportunity to wish them well in their stay in Nairobi and hope that there will be more of these visits. Perhaps, one of the lessons learnt would be to amend our Standing Orders, so that we refer to our Speaker as the 'Field Marshal' of Senate of the Republic of Kenya.

Thank you, Mr. Speaker, Sir.

(Laughter)

(Resumption of Debate on Message from the National Assembly)

The Speaker (Hon. Ethuro): Let us continue with the points of order on the earlier Communication.

Sen. (Dr.) Machage: Bw. Spika, mbiu ya mgambo ikilia, kuna jambo. Seneti hii imelia kwa miaka minne. Tumewaeleza wananchi wa Kenya vile mambo yalivyo. Bunge la Kitaifa linataka kuua ugatuzi na faida yote iliyotokana na ugatuzi.

Bw. Spika, stakabadhi ambazo zimetolewa na Bw. Ouko zinaonyesha kuwa Kaunti ya Migori hutumia Ksh2 milioni kwa mishahara ya ziada na Kaunti ya Kisumu hutumia karibu Kshs600 milioni kwa mishahara ya ziada. Hiyo ni kulingana na ripoti ya mwaka mmoja tu wa 2014/2015. Bado hatujapata ripoti ya matumizi ya pesa za mwaka unaofuata wa 2015/2016.

Seneti hii inahitaji pesa za kuwapa uwezo maseneta kuzuru kaunti zao ili kuthibitisha ikiwa maendeleo yaliopo yanalingana na pesa ambazo zimetumika. Hata hivyo, kwa sababu ambazo hatuelewi, Bunge la Kitaifa limekataa kata kata kutenga pesa hizo. Tunajua kwamba kupitia Kipengele cha 96 cha Katiba, Seneti hii imepewa majukumu ambayo lazima yaambatane na pesa.

Wakati Bunge la Kitaifa wanafanya hivyo, Wabunge wamejitengea mamilioni ya pesa kupitia Hazina ya National Government Constituencies Development Fund. Wametoa sababu zisizotosha za kukataa kututengea pesa. Sio lazima tuwe na tabia kama yao, kama vile ilipendekezwa na mwenzetu awali. Sio lazima uwe mshenzi ili ukabiliane na mshenzi. Ni lazima uwe na utu na hekima. Labda hatua ya kwenda mahakamani inafaa. Lakini bado tuna nafasi ya kuteua kikundi kingine ili kishiriki kwenye majadiliano.

Viongozi katika Seneti hii, hasa Kiongozi wa Wengi na wale ambao wako na nafasi ya kumwona Rais wa nchi, wanafaa kutumia wakati huu kumwueleza Rais kwamba iwapo Seneti itashindwa kutekeleza wajibu wake katika nchi hii, basi yeye pia atapata lawama kutoka kwa wananchi. Hii ni kwa sababu Wakenya wanajua matunda ya ugatuzi.

Seneti inapigwa vita kwa sababu tuliamua kuongeza pesa zinazoenda mashinani kupitia ugatuzi. Kule Migori ilisemekana kwamba mimi kama Seneta sionekani. Siku moja nililazimika kusema kwamba mimi sikuchaguliwa kama Seneta ili niwe nikienda kuhudhuria mazishi kila mwisho wa juma. Siwezi hata kwenda kuangalia maendeleo yanayofanyika mashinani kwa sababu sijatengewa pesa za kufanya hiyo kazi. Hicho ndicho kilio cha Seneti. Wananchi wanafaa kuelewa kwamba Seneta hajapewa uwezo wa kuzuru Kaunti kila wakati; sio ulaghai wala uzembe. Tumenyimwa uwezo huo na Bunge la Kitaifa. Huo ndio ukweli ambao wananchi wanafaa kujua.

Imebaki chini ya mwaka mmoja kabla ya uchaguzi mwingine. Wabunge na magavana wamejificha kwa ulafi, ufidhuli kwa kutumia hela za umma vibaya. Sisi hatuna uwezo hata wa kumuajiri karani mtendaji anayeweza kuangalia stakabadhi za hesabu vijijini. Ndicho kilio kilichoko katika Bunge hili la Seneti. Nawasihi wale tutakaoteuliwa kuenda huko, waangalie sheria kwa undani sana wasije wakatumia sababu kwamba sheria haikuundwa wala kuandikwa vizuri ilhali siku zinayoyoma.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Machage! You may conclude.

Sen. (Dr.) Machage: Bw. Spika, ninashukuru.

The Speaker (Hon. Ethuro): Sen. Cheruiyot, I will give you two minutes. I will then allow Sen. (Prof.) Kindiki to conclude.

Sen. Cheruiyot: Mr. Speaker, Sir, this is a very interesting day in the Senate. When you see CORD Senators party hierarchy speak and the Jubilee Senators speak to the executive and tell them that they are wrong on this, then it tells you that there is great hope for this country. Political expediency is what has gotten us into this problem. We have had opportunities to engage Members of the National Assembly and ask them why they are doing this to Senators. Sometimes I am embarrassed especially when those of us from the Jubilee side imagine that when Kshs1 billion goes to the Senate, they imagine Sen. (Dr.) Khalwale with Kshs30 million and Sen. Mutula Kilonzo Jnr. with Kshs20 million and that they will use the same money to hit out at the Presidency of the Jubilee Government. This is ---. I was about to use a very un-parliamentary word. Forgive me, Mr. Speaker, Sir.

(Laughter)

This is embarrassing because Sen. (Dr.) Khalwale is asking for this money so that he can protect the poor children of Kakamega. Sen. Mutula Kilonzo Jnr. wants this

money for the kids suffering in Makueni because of a governor who has gone berserk with funds of the people. He wants an opportunity to go and speak out. This is really embarrassing. I am saddened but still happy because as a House, we have taken a decision.

I propose a very radical decision because I do not believe in just making noise. We need to suspend the business of the House. We are not voting machines for all these Bills that we are being called and sent messages to come and vote on. We need to do away with them until they address us. If the executive wants us to pass laws so that we promote whatever business is ongoing, let them listen to our demands.

The Speaker (Hon. Ethuro): Sen. Melly, I will give you one minute.

Sen. Melly: Mr. Speaker, Sir, a minute is not enough but I will try. I want to point out two issues. First, the public is watching. It is now very clear who is promoting corruption in this country. It is saddening and unfortunate that this Committee of the Senate having struggled all this time to ensure that we have money to oversight, has lost it. I encourage them to move forward because we still have time. My worry is about the Senate that is coming after this Senate. If we are unable to fix this problem as at now, then the subsequent Senate will face the same problem. It might take time and effort, but I encourage Members not to rest until this matter is concluded.

Lastly, I do not see the reason why this House keeps on allocating billions of money to counties yet we cannot account for even 5 percent through oversight. I suggest another radical decision; that if possible, from the same money that is allocated to counties, the Senate should be given a percentage to oversight the same funds, otherwise we will continue grumbling here without a solution or a way forward as a Senate.

The Speaker (Hon. Ethuro): Sen. (Prof.) Kindiki, conclude.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I wish to donate one minute of my time to Sen. Haji.

The Speaker (Hon. Ethuro): That is okay.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, what the National Assembly has done is a criminal act.

(Applause)

It is an act of subversion of the law and the Constitution. It is an act that borders on juvenile delinquency. We have talked enough. I do not want to add more than my colleagues have done. I propose we do a *kamukunji* on Tuesday. We are not going to consider any other business from the National Assembly or from the executive until the Senate is given money to oversight counties.

(Applause)

For the last three or so days, newspapers are inundated with a serialization of the horrors of corruption during the second year of the devolution system, 2014/15. If we thought 2013/14 was anything, 2014 and 2015 is just like a horror movie. We cannot continue like this. The Senate cannot continue to be taken like trash to be used when it is convenient. As a Senator for Tharaka-Nithi, I cannot continue to see plunder of public resources.

Two weeks ago, the Deputy Governor of my county was caught carrying money in sacks in his car. Part of that money was stolen by his own bodyguard. We cannot continue like this. In short, my proposal is that we suspend all businesses. We should not introduce party politics here. This is about devolution, the future of the Senate and the future of our country.

(Applause)

Sen. Haji: Mr. Speaker, Sir, there was Kshs1 billion which was allocated to this House. That money has been squandered by Members of the National Assembly. These people are thieves.

(Applause)

Members of the National Assembly are very irresponsible. They are criminals. If Kenyans are mindful of their welfare, they should take these people to court. Where is the civil society? I plead with the reporters in the Public Gallery to report what I am saying.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Haji! You are completely out of order. Finally, Sen. Kembi-Gitura!

Sen. Kembi-Gitura: Mr. Speaker, Sir, first of all, thank you for giving this debate ample time for the Senators to express themselves. It is a very serious issue. I had the privilege of sitting in the committee that was negotiating the rules and regulations. I am a bit saddened that Sen. Murungi is not here because I know the amount of work and time he has put into this issue with a view to bringing it to fruition.

The last meeting we had with the Members of the National Assembly, they agreed with us that all the regulations were in order after we had sat and changed them to suit the requirements that they had in line with the law, including taking it to the Parliamentary Service Commission.

I, therefore, agree with my colleagues here in the Senate who say that this has absolutely nothing to do with the law. We are lawyers. We sat there with the other lawyers from the counterpart committee and went through each and every legal aspect of the regulations and agreed that everything was in place. Where these things changed later, we can only leave that to conjecture. It has nothing to do with the law. It has everything to do with protecting impunity on the part of governors so that we are not able to do what is right.

It is only yesterday that we were discussing the behavior of my governor in a committee of the Senate. Governors have become violent. We have to bring that impunity to a close. I thought this was only in Murang'a but it is virtually everywhere now, there are large big billboards which are campaign tools. Governors advertise their counties every day on radio stations and on national television. When this is happening, the local hospitals are closed because doctors are on strike for lack of pay, some mortuaries are not working and yet we are spending so much public money on advertising.

Senators are not able to raise these issues all the time---

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

Sen. Sang: On a point of information, Mr. Speaker, Sir. It is not just about the billboards, we see adverts by governors telling owners of properties in counties that they have provided a waiver as governors. How is it possible that a governor can provide a waiver for payment of rates and rents to individual owners of properties? Of course, it is the county government that provides waivers not the governor himself. Therefore, these campaigns are beyond the billboards.

Sen. Kembi-Gitura: Mr. Speaker, Sir, that is very useful information. That is the point; these billboards and those waiver things all bear the picture of the governor and contain campaign slogans within them. These are the issues that even the committee that investigated the impeachment of the Governor of Murang'a County made clear. They said that no governor has the right to put his image or campaign slogan on any billboard or other material that uses public financing. It is going on with impunity.

The reason why these things are happening is because the Senate has been rendered so impotent that we are unable to deal with every aspect of oversight that Article 96 bestows upon us. Therefore, this is important. I do not know what a joint committee will achieve. However, out of self-worth, we must go beyond that point and do what is right. We have elections next year. Come the next Parliament, we must have a Senate that is able to deal with matters of oversight much better than we have been able to.

I plead with my fellow Senators who want to become governors. They must remember that we passed the Bill by Sen. Sang into law. They do not have to be reminded once they become governors that we do not need the law to actualize the tenets of what the Sang Bill meant. They can still run their counties when they become governors using the tenets and the ambience that we put into that Bill. That way, we can have oversight even without the law because the National Assembly will make every effort to frustrate what they will do once they become governors.

We have a role to play. We have learnt in the last four years and we will learn, going forward to the elections, that it is for this country that we say the things we say and pass the regulations that we pass. Our aim is having oversight as part and parcel of devolution. Devolution is the future of this country. We must, therefore, nurture it to the best of our knowledge and ability rather than destroy it.

Thank you.

PETITIONS

POOR WORKING CONDITIONS IN NAIVASHA FLOWER FARMS

Sen. Wangari: Mr. Speaker, Sir, I rise to table a petition to the Senate on behalf of residents and flower farms in Naivasha Sub-county of Nakuru County on poor working conditions in flower farms.

Mr. Speaker, Sir, this Petition touches on critical issues.

- (1) Handling of harmful substances

- (a) THAT, hundreds of Kenyans are trying to make a living in flower farms and are languishing in poverty, weakened health status and facing untimely deaths as a result of exposure to hazardous substances in flower farms within Naivasha, Nakuru County.
 - (b) THAT the employers are blatantly flouting provisions of the Occupational Safety and Health Act which mandates them with the responsibility of providing protective clothing to employees within the zones that have hazardous substances.
 - (c) THAT the employers have resorted to cutting operational costs relating to provision of protective clothing by forcing employees to use torn clothing, recycling of worn out clothes, purchase of substandard clothing from China that offers no protection even when new and offering sizes of protective clothing that do not fit the employees.
 - (d) THAT the employers do not educate the employees on the expected side effects of handling each chemical and in all cases, employees are never given choices to evaluate which chemicals do not compromise further their already weakened health status.
 - (e) THAT each chemical sprayed on flowers inside the greenhouses has an indicated period of time within which a greenhouse should remain tightly sealed and within which no human being should enter. Normally, it is 30 days. The employers have been forcing employees to enter such greenhouses before the 30 days are over to do pruning or spraying. This happens all the time and constitutes over 50 per cent of casualties in the flower sector.
- (2) Labour Remuneration and Welfare.
- (a) THAT the gross pay of a flower farm employee is Kshs7,500, which includes a basis pay of Kshs5,500 and other Kshs2,000 as housing allowance. This is standard pay that is never raised and is below the recommended minimum wage.
 - (b) THAT the employees work for eight hours a day, six days a week.
 - (c) THAT the flower farms do not provide healthcare in the form of medical allowance, pay sick leave and well equipped dispensaries with the capacity to handle health complications arising from exposure to hazardous substances.
 - (d) THAT there is no career growth in the flower farms such as an employee who joined 10 years ago and the one joining today are paid the same salary.
 - (e) That the employers do not provide any form of empowerment trainings in handling hazardous substances even when the manufacturers are willing.
 - (f) That a form of slavery thrives in the flower farms where employees have no say and are fired instantly whenever they attempt to raise a concern.
 - (g) Gratuity is only available if you have a contract of more than five years and you have served a minimum of five years. Most of the employees in this category who are exposed to hazardous substances fall under casuals who are hired on short term.
 - (h) THAT employers have crafted another way of escaping responsibility whereby they are issuing one month only contracts so as to avoid awarding employees benefits such as house allowances.
 - (i) THAT sexual harassment against female employees is rife. This is especially so when a female employee has spent a few days or weeks away from work due to personal or health problems and want to continue with the contract.
- (3) They have made best efforts to have these matters addressed by the relevant authorities, all of which have failed to give a satisfactory response.
- (4) None of these issues raised in this Petition are pending in any court of law, constitutional or any other legal body.

Mr. Speaker, Sir, the petitioners, therefore, humbly pray that the Senate:-

- (1) Urgently investigates the matters raised herein and prepare a report on the labour and social welfare concerns of the employees in flower farms.
- (2) Investigates the social welfare related impacts of the uncontrolled use of chemical on the host community, especially children.
- (3) That the Senate takes measures aimed at protecting Kenyans working in flower farms.

Mr. Speaker, Sir, this Petition is on behalf of employees of Homegrown Flamingo Holdings Flower Farm and Aquila Flower Farm. They are petitioning on behalf of their colleagues. Their prayer is that the Senate should conceal their identity for fear of reprisal and victimisation.

Mr. Speaker, Sir, I thank you.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What is it, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, in view of the numbers that we have, I propose, under Standing Order No.39, that you order that we do the six divisions before Senators leave. I have done a rough calculation and established that we have numbers.

The Speaker (Hon. Ethuro): Order, Members, I direct that we put that particular matter in abeyance and proceed to division because we have a feel for the numbers.

(Interruption of Petitions)

Let the Division Bell be rung for a minute.

(The Division Bell was rung)

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

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

(Sen. Mositet spoke off record)

Order, Senator! You can only approach me because the Division Bell is already ringing.

Sen. Mositet: Mr. Speaker, Sir, from the contribution of the Senate Majority Leader, we had agreed to suspend anything to do with voting for the Bills and all that.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Mositet! Both of us were in the House and I heard the Senate Majority Leader clearly. He said after the *Kamukunji* and this is not a *kamukunji*.

Order, Senators, obviously, Sen. Mutula Kilonzo Jnr. did not do his arithmetic well. We are unable to raise the numbers. So, I will not invoke Standing Order No.39 but we will go back to where we were. That is Order No.4 which is Petitions.

(Resumption of Petitions)

Order, Members, Sen. Wangari presented a petition. Under Standing Order No.2, I will allow comments, clarifications and observations on the same.

(Sen. Moi spoke off record)

Order, Sen. Moi!

Hon. Senators, pursuant to Standing Order No. 227(1), the Petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Labour and Social Welfare. In terms of Standing Order No. 227(2), the Committee will be required in not more 60 days from the time of reading the report, which is today, to respond to the petitioners by way of a report addressed to the petitioners and laid on the Table of the Senate.

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. You have ordered that the Petition, through Sen. Wangari, be brought to the House in 60 days. That is exactly what you have ruled in more than a 100 petitions that are still pending one or two years later. The people who make these petitions, like the flowers pickers in Naivasha, must have a good reason why they seek the intervention of the Senate to deal with their case. They believe and trust that we will come up with a solution for them. It is, therefore, frustrating when it takes two years or goes beyond the Session and nothing happens.

I kindly and humbly request you to make a ruling to the committees that are dealing with the petitions to adhere to the Constitution and our own Standing Orders, to make sure that the reports on the petitions are laid on the Table of the Senate in good time or give a reason for not tabling the reports and then seek an extension, assuming that it is possible to give an extension under the Standing Orders. It is frustrating to the people who seek answers from us and not get them.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, would I be in order to suggest, the same way we suggested to the Senate Majority Leader and he partially complied, that a tracker on the pending petitions be presented on Thursday? I am aware that the Committee on Legal Affairs and Human Rights has cleared its deck on all petitions.

The Speaker (Hon. Ethuro): Order, Members. Obviously, that has nothing to do with this particular Petition because it has already been committed. However, for purposes of the way we deal with petitions, I will take the suggestion by Sen. Mutula Kilonzo Jnr., so that we have a record of the correct position. On that basis, we will interrogate, but suffice to say that we have already raised the same concern that has been raised by the Deputy Speaker with all the committees that have the business of petitions pending for far too long. I am also aware that there are more petitions than we had anticipated, and because of workload concerns, they have not been able to prosecute them.

It is true that the country looks up to you when they bring the petitions; they are looking for remedies. We should not delay them because justice delayed is justice denied. I appeal to the committees to take petitions seriously and device mechanisms to expedite them, like the Committee on Legal Affairs and Human Rights. I want to commend the Committee on Legal Affairs and Human Rights for that assurance and expediting all the petitions before them. That should apply to all the other committees, in particular, the Committee on Labour and Social Welfare.

Order, Members! I also have two other petitions.

ABUSE OF OFFICE ALLEGATIONS AGAINST THE CLERK OF BUSIA
COUNTY ASSEMBLY AND MEMBERS OF THE BUSIA COUNTY
ASSEMBLY SERVICE BOARD

The Speaker (Hon. Ethuro): Hon. Senators, pursuant to Standing Order No.220 (1) (a) and Standing Order No.225 (2) (b), I hereby report to the Senate that a petition has been submitted to the Senate, through the Clerk, by members of Busia County Kengele Forum concerning the abuse of office allegations against the Clerk of Busia County Assembly and Members of the Busia County Assembly Service Board (CASB).

Among the allegations set out by the petitioners are:-

(a) that the Clerk and Members of the Busia County Assembly Service Board, against the advice of three committees of the county assembly, recruited staff far above the number required by the Assembly and above the staffing caps set by Salaries and Remuneration Commission (SRC);

(b) that the employment, promotion and remuneration of staff at the Assembly is based on tribalism and nepotism as opposed to merit;

(c) the County Assembly Service Board (CASB) engaged in corrupt tendencies and abuse of office when it single-sourced a contractor to renovate the Assembly Chamber and in varying the cost of the tender; and,

(d) that the Speaker and the Clerk of the Assembly erred in committing to the Assembly to a fraudulent insurance scheme for staff, where the provider was paid for eight months without having rendered any services to the staff of the Assembly.

Consequently, the petitioners pray that the Senate investigates these matters and makes appropriate recommendations thereof.

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

Hon. Senators, allow me to read the next Petition and then you can chose to make your interventions.

NON-PAYMENT OF MONIES OWED TO
EMPLOYEES OF PREMIER OIL MILL LIMITED

The Speaker (Hon. Ethuro): Hon. Senators pursuant to Standing Order No.220 (1) (a) and Standing Order No.225 (2) (b), I hereby report to the Senate that a Petition has been submitted, through the Clerk, by 33 former employees of the Premier Oil Mills Limited regarding the non-payment by the company of redundancy dues, statutory deductions and other monies owed to them.

In their Petition, the petitioners state:-

(a)that in June 2016, the employees of Premier Oil Mills Limited were served with redundancy notice and were to paid their final dues by 23rd August 2016;

(b) the former employees further discovered that the company had not been remitting statutory deductions to the National Social Security Fund (NSSF), the National Health Insurance Fund (NHIF), as well as Sacco deposits deducted from their salaries; and,

(c) that the company is yet to effect payment of the said redundancy, statutory and other dues owed to the former employees despite their best efforts to have their dues paid.

Consequently, the petitioners pray that the Senate investigates this matter and intervenes to have the said payments effected by the company.

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 combined for both petitions.

The Petition by Sen. Wangari is already committed to the Committee.

Sen. Obure: Mr. Speaker, Sir, I may be late, but I want to make some comments on the Petition by Sen. Wangari.

The Speaker (Hon. Ethuro): Order, Sen. Obure! I wish to confirm that it is not just 'may be'; you are too late. This is not a forum for shopping for what to say. You must have the intention to do so.

Hon. Members, the Petition by Busia County Kengele Forum concerning abuse of office allegations against the Clerk of Busia County Assembly and the Members of the Busia County Service Board stands committed to the relevant Standing Committee, in this case, the Standing Committee on Labour and Social Welfare.

The Petition by former employees of Premier Oil Mills Limited stands committed to the same Committee on Labour and Social Welfare. In terms of Standing Order No.227 (2), the Committee has not more than 60 days to report to the petitioners and to lay the report on the Table of the House.

Next Order!

STATEMENTS

MURDER OF MR. MUSA KOECH FROM NANDI COUNTY

The Speaker (Hon. Ethuro): Order Members! On statement (a), there was an understanding with Sen. Sang that it should come tomorrow. Sen. Sang, we need to save time.

Sen. Sang: Mr. Speaker, Sir, I was informed of the unfortunate situation where some pages of the statement are missing. I hope it was not an attempt to scuttle the issuance of that statement.

The Speaker (Hon. Ethuro): Order, Sen. Sang! That statement (a) will be issued tomorrow afternoon.

(Statement deferred)

COLLAPSE OF A SECTION OF BUKHUNGU STADIUM IN KAKAMEGA COUNTY

The Speaker (Hon. Ethuro): Next statement! Sen. Sang, I do recall my yesterday's directives.

Sen. Sang: Mr. Speaker, Sir, I informed the Chair but I tried to look for the Majority Leader and I did not find him.

The Speaker (Hon. Ethuro): Order, Sen. Sang! Is your search and rescue mission not extending up to now? Your neighbour is confirmed to be the Senate Majority Leader.

Sen. Sang: Mr. Speaker, Sir, I kindly request for two minutes to inform the Majority Leader over the same.

(Laughter)

The Speaker (Hon. Ethuro): Let us go to statement (c) as they consult although they have been here for the last three hours. Both the Chair and Sen. Khaniri are not there. We push it to tomorrow.

REGISTRATION OF PERSONS WITH DISABILITIES

(Statement deferred)

The next statement is (d) but both the Chair and Sen. (Prof.) Lonyangapuo are not there. We push it to Tuesday next week.

CIRCUMSTANCES THAT LED TO INJURING OF GOVERNOR ISAAC RUTTO

(Statement deferred)

Let us go back to statement (b).

COLLAPSE OF A SECTION OF BUKHUNGU STADIUM IN KAKAMEGA COUNTY

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I have been updated on the direction which the Chair had given yesterday on statement (b). I undertake to inform the Chair of the Committee and in case he has any difficulties; I also undertake to support him so that we can issue the statement on Tuesday next week.

(Statement deferred)

The Speaker (Hon. Ethuro): It is so ordered.

Next order! What is it Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Speaker, Sir, I want to seek a statement.

The Speaker (Hon. Ethuro): Proceed.

INCREASED NUMBER OF POLICE CHECK POINTS ON MAU-SUMMIT-SOTIK ROAD, KERICHO COUNTY

Sen. Cheruiyot: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 45 (2) to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations on the increased number of police check points along Mau

Summit-Sotik road in Kericho County. In the statement, the Chairperson should address the following:-

(a) Why is it that for a distance of less than 80 kilometers, there are more than 15 check points which are inhibiting the free flow of goods and services?

(b) Could the Chairperson also confirm if they are aware that the said officers are contravening Section 69 (a) of the Traffic Act by mounting the check points on non-gazetted zones?

(c) Is the Chairperson aware that these check points have been turned to corruption zones where traffic officers are collecting bribes in broad daylight without even inspecting the said vehicles?

(d) Is the Chairperson aware that tea farmers are bearing the greatest loss of crop rejection by factories since the vehicles transporting their products get stuck in these unnecessary check points and are not allowed to move until they have paid a bribe on a daily basis?

(e) Could the Chair also supply the list of the gazetted check points within the county?

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

Sen. Sang: Mr. Speaker, Sir, this problem in Kericho County goes all the way to Nandi County, and I believe a number of the counties have the same problem. As a rider, could the Chairperson indicate all the gazetted check points with regard to Nandi County?

The Speaker (Hon. Ethuro): Chair! The Senate Majority Leader!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, we can issue the statement on Wednesday next week.

The Speaker (Hon. Ethuro): It is so ordered.

Members, you will notice that Order Nos.8-22 are divisions. For Order No.20, there are still consultations going on the proposed amendments. Therefore, the Committee has requested it to be deferred. This matter must be concluded by Tuesday. This Bill must be disposed of on Tuesday. We cannot enter inconclusive discussions. The Orders I have read from No.8 to 19 will appear in tomorrow's Order Paper.

BILLS

Second Readings

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

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

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

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

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 26 OF 2013)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.2 OF 2015)

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

(Bills deferred)

COMMITTEES OF THE WHOLE

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL
NO. 13 OF 2015)

THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL
No. 35 OF 2014)

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

THE COUNTY STATUTORY INSTRUMENTS BILL
(SENATE BILL NO. 10 OF 2015)

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

(Committee of the Whole deferred)

Second Readings

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

(Sen. Moi on 22.11.2016)

(Resumption of Debate interrupted on 22.11.2016)

The Speaker (Hon. Ethuro): Sen. Wetangula was on the Floor and had a balance of 55 minutes. With the indulgence of the Speaker, we have agreed that he will defer his contribution to the next available opportunity. So, this is open for any other Member to start contributing.

Order, Members! This matter will still come back next week. Sen. Sang, you have to perform some other functions. You are feted with the title to the order of the Minority Leader.

(Bill deferred)

Second Readings

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

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

(Bills deferred)

MOTIONS

INSTALLATION OF CCTV CAMERAS IN ALL
POLICE STATIONS AND POLICE POSTS

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

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

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

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

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

NOW THEREFORE the Senate calls upon the National Government to-

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

COUNTRYWIDE AUDIT ON THE DISTRIBUTION
OF TEACHERS IN ALL PUBLIC SCHOOLS

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

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

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

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

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

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

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

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

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

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

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

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the

respective county there by leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for

Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

INQUIRY IN THE IMPLEMENTATION OF THE POLICY STATEMENTS
AND STRATEGIES MADE IN THE NATIONAL SPECIAL NEEDS
EDUCATION POLICY FRAMEWORK, 2009

AWARE that Article 43 (1) (f) of the Constitution of Kenya provides that every person has the right to education and that Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education;

COGNIZANT that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

RECOGNIZING that education in Kenya is a shared function of both the county and national governments;

CONCERNED that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

NOW THEREFORE the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

(Motions deferred)

ADOPTION OF ROADS COMMITTEE REPORT ON THE STAKEHOLDERS
FORUM HELD AT SAFARI PARK HOTEL, NAIROBI

Sen. Sijeny: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, the Senate do adopt the report of the Standing Committee On Roads and Transportation on a Stakeholders' Forum held on 3rd February 2016 at Safari Park Hotel, Nairobi and laid on the table of the House on 14th April 2016.

The report was as a result of the Committee performing its mandate. As per the Standing Order No.208 of the Senate, the Committee is mandated to consider all matters relating to transportation and roads, public works, construction and maintenance of roads, rails, buildings, air, seaports, housing and communication. It was due to this mandate

given to us, as a Committee, that the Committee resolved on 9th July, 2015, to hold the said forum. This was after visiting various counties to oversee the work plans and everything that was being done by the various stakeholders dealing with our mandate. A general observation was that many stakeholders within the counties faced the same challenges and that is why we agreed to bring them together to avoid duplication of work and cut down on cost so that we forge the way forward.

At the forum, we observed that the national Government through the Cabinet Secretary for Transport and Infrastructure had spearheaded the classification of roads which resulted into various issues. There are various complaints that consultation was not done properly. The classification was not done in accordance with the Constitution thus it violated some of the provisions of the Constitution. The matter culminated to a suit at the High Court where the then Transition Authority (TA) was instructed to implement the findings of the High Court case so that they could deal with the road classifications properly and prepare a register which was to be handed over to the Ministry of Transport and Infrastructure.

Mr. Speaker, Sir, in a nutshell, this had not been done completely. There was also a dispute on the delay at the National Assembly of the passing of The Kenya Roads Bill (National Assembly Bill No.26 of 2015) and the prolonged litigation and disruption of delivery of services. We also observed that there was failure by the Ministry of Transport and Infrastructure to honour agreements which were agreed through consensus by the Ministry and the Council of Governors (CoGs) regarding the roads functions. This is still a contentious issue. Even though The Kenya Roads Bill (National Assembly Bill No.26 of 2015) has been passed by the National Assembly and submitted to the Senate, we have still been engaging the various stakeholders, including the Council of Governors and other authorities like the Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURRA) and the rest which according to the classifications, there is a dispute on which these authorities should be retained and which should be done away with and who takes care of which road. We have seen the classification according to The Kenya Roads Bill (National Assembly Bill No.26 of 2015) has gone up to the national Government.

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

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

Mr. Temporary Speaker, Sir, the recommendations at the stakeholders forum was that there was need for further consultative engagements for the reclassification of roads. This is still a tall order even though we have tried our best and we have held several meetings at the Senate Roads Committee to try and build consensus on this. We have succeeded in a few, but there is yet some to be finalised. However, the transfer of the roads function to the counties which did not appeal to the Senate has to be done. There are other counties who had appealed. There are 18 county governments who had not appealed to the Senate and this is the reason why we intervened as a Committee of the Senate. The inter-governmental agreements between the Council of Governors and the other stakeholders were also to be implemented as agreed on.

Mr. Temporary Speaker Sir, with those few remarks, I beg to move and request Sen. Mukiite to second.

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

I second the Motion.

(Question proposed)

Sen. Omondi: Mr. Temporary Speaker, Sir, thank you for giving me the opportunity to support the Report. The Committee has done a good job. This will draw a clear line between Members of Parliament (MPs) or the people in leadership who are entrusted with public funds to construct roads in this country. As it is now, it is confusing whereby you cannot understand who is to be held accountable for which road. When doing monitoring and evaluation in your oversight role as a Senator, you do not know who to hold accountable for a particular road.

If this report is adopted, it will help us come to out of queries that go unanswered. It will also help in terms of decentralising County Roads Management Offices (CRMOs) to reduce the long distance that may affect people who want services. It will also enable legislation work in terms of roads management to be done in an efficient manner and promote further decentralisation of services as we implement the new Constitution.

Mr. Temporary Speaker, Sir, this will allow allocation of resources. It will also give the Senate power to allocate resources that will help to fund county governments to improve on road functions for the remaining or coming years. When we talk of giving access to persons with disabilities (PWDs), it is clear and the disability movement will know where to ask queries when it comes to giving access to PWDs. The manner in which roads are constructed in our counties and localities leave PWDs in a pathetic situation not knowing whom to complain to. This re-classification of roads will also improve on the type, quality and standards of roads within counties and reduce the push and buck within those entrusted with resources to give services.

It will also give us the standard of roads that is required within counties.

With those remarks, I support.

Sen. Karaba: Mr. Temporary Speaker, Sir, thank you for giving me this chance to contribute in support of the Motion on the infrastructural development, particularly in roads. My support is drawn from my vast experience in development, any kind of population expansion, urbanisation and industrialisation.

A road is a very important component of development. There is no way that we can do without roads and think of development. Roads are the inter-linking way of connecting either one town to another or a county to another. This can even be drawn in the parallel experience in the United States of America (USA) where you will find inter-state roads which connect one state to another. There are others called inter-continental roads which connect maybe USA and Canada. The roads are maintained by various governments responsible for them. In a state, you will find state roads. That is what should be happening here in Kenya, but it is not. Some roads are meant to be Class A roads like A1 from Namanga to Moyale and Addis Ababa, hence called the Great North Road. Others are in Category B and C. You realise that some areas have C roads which are more developed than B-roads in other counties.

Mr. Temporary Speaker, Sir, this Motion is trying to seek a way of upgrading roads. So, if it is an A road, all of them in Kenya must be tarmacked. If it is a B road, there is no way that we can tarmac C roads and leave B-roads. There must be a very good reason for that to happen. In Kenya, that is not happening. The Motion is very good because it will tell us which road will be tarmacked after the first one has been done. If it is A road to be done, B road will be done after that.

Feeder roads should also be classified on their own because they connect villages and they should be left to either county governments, MCAs or MPs. There must also be distinct classification so that we get to know which roads are supposed to be repaired and maintained by the area MPs, which ones are supposed to be done by the governor and the national Government in this case, the Senator. We should also make sure that the Senator has a role to play. Where anything reaches the national Government, let it be dedicated to the Senator because there is a Senator who looks and solicits for the funds of that county.

Today, you will find that a Senator is not responsible for any road anywhere in a county. The governor will claim that the road is in his county or docket and any repair, even if it is one lorry of murrum, will be dedicated to the governor. If it is a road passing through a constituency and is supposed to be maintained by the governor, the MP will also claim responsibility for that road. However, that is when it comes to payment of money, but not improvement. In the end, the roads are left without being improved. In fact, the MCA will claim that it is not his responsibility. The governor will say the same, but when it comes to national Government improvement of this the same road, everybody will claim responsibility and credit that they are in charge of those roads.

This classification is wonderful and people should be made to know that a certain road classification belongs to the MCA or the governor up to the national classification where the roads belong to the national Government, the Senator is supposed to be responsible.

Mr. Temporary Speaker, Sir, are we able to oversight what is in the counties? We cannot do so because we do not have the necessary funds. We cannot, therefore, even tell the people the difference between a path and a feeder road or a C road and an A road. Because of that we are losing a lot of money through embezzlement. The governor could claim to be in charge of a 'C' road, yet roads classified 'C' and above are national. A governor may also claim that he is responsible for maintaining a road that is supposed to be maintained by a ward representative. The effect will be cases of double payment or overpayment when it comes to the construction of some roads. To check on such incidents, roads should be clearly labelled, for example, "A Road, National – Senator is responsible."

It is the mandate of the national Government to look for contractors, whenever there is road construction. However, we now have some crafty engineers who have registered companies. They go round and obtain tenders to construct roads in the counties. Since they have connections, they know the roads whose tenders will be floated. There is a vicious circle of corruption. The measures that have been raised in the Motion can minimise corruption on road improvement.

Mr. Temporary Speaker, Sir, there are specified areas that need good roads. For example, we have roads that lead to tea estates, which is a perishable commodity. The tea leaves need to reach the factory within the shortest time possible. That can only happen if the roads are well done. Therefore, we should give priority to areas that grow tea,

coffee and flowers. There are areas which do not have good roads yet they produce a lot of goods. The inter-territorial roads like the one linking Kenya and Ethiopia, Kenya and Tanzania should be maintained by the Government for other purposes apart from commercial purposes.

There are cases where a road is constructed and certified as completed, and after a month you will see potholes on it. The Ministry will not attend to that road until there is another construction works to be done. That is extravagance and misuse of funds. If there is a pothole, it should be filled within one season, like what happens in developed countries. During winter, it is a known fact that roads will be covered by ice. During the following season, all the cracks that will have developed are sealed. That will ensure perfect maintenance of the road. In this country you have to wait until the tender is awarded. The tendering process may take one year before it is approved. Before it is awarded to a contractor, it takes another one year. By the time the construction will be starting, it will be three years.

Mr. Temporary Speaker, Sir, this procurement process, particularly with regard to roads, should be reviewed. We do not require all the procurement processes to repair a road. It should be done without further ado. There should be a fund reserved for repairs particularly during emergency times. Whenever a bridge is broken, we do not have to wait for one year for a procurement process to take effect. We should have ready money for repairs. We have cases where it takes up to a year to erect bumps. Is it difficult to reserve money for road repairs?

Marking of the road is another important aspect of the road construction. After the road is constructed, it should be marked to show the edges of the road. When they are not marked and the road is black, the motorists will veer off the road and cause accidents. The issue of people vandalising road signs should also be addressed, so that motorists can be guided when they are approaching a curve or areas populated with animals.

Mr. Temporary Speaker, Sir, lastly, some developed countries have restricted construction of houses along the roads. There should be few houses constructed along the roads. There should also be points where the drivers can rest. That way, we will not have drivers who sleep while driving. Such drivers cause accidents because of driving for many hours without resting.

Kirinyaga County is enjoying good road construction works. I thank the Ministry for the tarmacking of Kianjege-Gatwe Road. The other road being tarmacked starts from Sagana all the way to Karatina. The other one is from Kutus all the way to Kianyaga, Kithure up to Embu. I thank the Government for that, and I hope that they will continue with the others.

I support.

Sen. Hargura: Mr. Temporary Speaker, Sir, I would like to support the Motion for adoption of this Report of the Standing Committee on Roads and Transportation. As a Member of the Committee, I attended the workshop during the Road Stakeholders Forum which was held at The Safari Park Hotel on 3rd February, 2016.

The Forum was convened to address a very serious issue because as we know, for any country to develop, the infrastructure has to be in place. One of the infrastructures which have to be in place is the roads. In this case, we had to get the stakeholders together. These were the State departments concerned and the Council of Governors

(CoG) which is the second level of government. The CoG has a stake in this because in the Fourth Schedule of the Constitution, the roads function is shared between the counties and the national Government and the Constitution defines roads in Kenya as national trunk roads and county roads. If I could remember, counties had agitated to have the roads function transferred to them.

We got 39 counties which asked that the roads function be transferred to them and the Senate instructed the Transition Authority (TA) to do the same. The TA had asked the Attorney-General to ensure that but since it was not done, the CoG ended up in court and the court instructed the same to be done. The TA has gazetted roads stating very clearly what county roads and national trunk roads are. The Gazette Notice states that Classes A, B, and others such as H and J are national trunk roads while D, E and below are county roads.

There was also an issue of who does what. It was a case of county governments going to court because the Kenya National Highways Authority (KeNHA) had put an advert concerning management of road reserves and it was very clear that some functions on any road--- Because they went to court and there is a court ruling to the effect that when it comes to street lighting, outdoor advertising and parking, even if it is a national trunk road within a county, it is the responsibility of the county government. So, it was very clear.

So, we got the stakeholders together to discuss how to move forward in the sector. One of the issues was the classification of roads because you will find that when the TA gazettes roads, a county government has issues because what is gazetted is a new classification. It was not what used to exist when the new Constitution was passed. That is an issue which we had to discuss and the Kenya Roads Board gave us a history of how that classification was done. It was a process which started way back in 2006. They were just giving us a new classification which I think is being introduced because by the time the Constitution was being passed, that classification was not in use. Right now, the new classification of roads is in place.

The issue of roads is contentious because in that forum, the stakeholders felt that The Kenya Roads Bill (National Assembly Bill No.26 of 2015) is being delayed unnecessarily and this could have sorted some of the issues. I do not want to pre-empt any debate because The Kenya Roads Bill (National Assembly Bill No.26 of 2015) is with the Committee and it is ready for tabling. That is why it was listed on today's Order Paper.

Mr. Temporary Speaker, Sir, the roads sector is very important in this country and the players have to take it seriously. The national Government has to take into account that for Kenya to develop because we talk of the Vision 2030, this is one sector which has to be taken seriously because right now, more than 80 or 90 per cent of goods and persons are carried on our roads. One may wonder why a road like from Nairobi to Mombasa is still a single carriage 50 years down the line. We always have hold ups on that road. A vehicle will take eight hours from Nairobi to Mombasa, a distance of less than 500 kilometres. This country has never seen it as an urgent issue to widen that road to have a dual carriage so that we can move goods and persons from the Port of Mombasa which is not only used by Kenyans but also by our neighbours in the East African region. That is why our neighbours like Uganda and Rwanda who have been using the port are

now moving to Tanzania. They are now opening up routes to use the Tanzanian ports because we did not open up the road.

We also have another road which leads us to our neighbour Uganda. We know that Uganda is our most important trading partner but look at the road to Uganda, it is a nightmare to move from here to Nakuru because 50 years down the line, we have not seen where our priorities are. That is the road from Mombasa-Nairobi-Nakuru-Eldoret to Uganda. If we are seriously targeting that market, we should have made it a dual carriage a long time but we have not done that. That shows we do not have our priorities right.

We talk about the Standard Gauge Railway (SGR). We should have widen that road all the way from Mombasa to Malaba using less amount than the cost of doing the SGR. It could have cost a fraction of the cost of the SGR but we do not want to go that way. We like experimenting things and that is why that road is still in that condition. Kenyans are still experiencing the kind of nightmares they used to experience. So, we need to have our priorities right at the national level.

Mr. Temporary Speaker, Sir, county governments also need to be serious. We have been having a lot of engagements from the CoG. The whole issue is that they want to exercise their function over all the roads minus those that are basically under the national Government. We need to develop and build roads. What is being seen here mostly is the money for maintenance. What Kenyans are being charged through fuel levy is what is seen by most Kenyans to be going directly to the roads; that is Kshs60 billion or so which is being handled by the Kenya Roads Board and that is what everybody is targeting.

That is why county governments want all Class C roads and below to be under their control and several authorities disbanded. At the end of the day, we will end up with the same issues we are in. They want to carry out functions yet they are not ready to be oversighted. We will end up with the same issues that we are in. Someone is given functions, but he or she is not ready to be oversighted. When audit reports come out, they rubbish them and blame the systems. We have to gradually develop our counties in terms of capacity, but also make sure that the monies allocated to the counties are used properly, especially this important sector.

Mr. Temporary Speaker, Sir, in the case of the national Government that gives the construction money, counties are expected to set aside money for construction of roads from the Kshs3 billion allocated to them. However, the national Government has a budget of about Kshs100 billion which is supposed to be used equitably to construct roads throughout the country. The re-classified of roads is futuristic. Roads and links that are missing are planned and classified accordingly. A non-existent road is given Class 'A' because of the function it is expected to perform. That is futuristic planning, but we expect them to develop the roads equitably across the country.

I will not miss to thank the national Government for opening up the northern part of the country. It has expended some substantial amount of money, not less than Kshs40 billion, to construct the road from Isiolo to Moyale, which now is fully constructed. Just last week, the last mile connectivity was launched. I would like to thank the national Government on behalf of the residents of Marsabit County and beyond because that road opens up a big market in Ethiopia to all Kenyans. In the same breath, I urge the national Government to develop similar links, for example, from Isiolo, Modogashe, Wajir, Mandera and Garissa-Liboi. These roads will provide for quick movement of goods and

persons within the country. God willing, if a country like Somalia stabilizes, that road will be of international importance. It will link us to other ports, for example, in Mogadishu and Kismayu. We will be able to import goods from other countries through such ports.

I would also like the Government to implement some concepts like the Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) project which is an idea that has existed for some time. I do not know whether it will take off because countries like Ethiopia have already decided to construct their own rail system through Djibouti. Rwanda is constructing hers through Tanzania while South Sudan is not interested in doing any development; they are busy fighting. We do not know whether the LAPSSET project will take off. Therefore, we should implement the component of LAPSSET, which is of use to us. Oil is being produced in Turkana, but there is no infrastructure. It is not cost effective to give tenders to persons who own oil tankers to transport that fuel. We should have our pipelines in place so that we can have the part of the programme which targets the Kenyan economy.

Mr. Temporary Speaker, Sir, I would like to stop there and urge my colleagues to go through the report and adopt it, because we need to interrogate the sectors we oversight to make sure that we move in the right direction.

Thank you.

Sen. (Dr.) G.G Kariuki: Thank you, Mr. Temporary Speaker, Sir. I have looked at the Report which the hon. Member has presented to this House and it is encouraging, and so are the last remarks by the Member of the Committee who has spoken before me.

Everyone is aware that we need roads in various places. The people who did projections did not envisage population growth. The roads that were tarmarcked by the Europeans who owned coffee estates are now dilapidated. At that time, the elites were settled at the central and traditional districts like Nyeri, Murang'a, Embu and Kiambu. All these areas are traditional districts which benefited a little. The black people could not enjoy good roads because most of them did not have cars. A good number of Kenyans are now educated. We should deal with the affairs and problems that we have based on international standards. There is comparative advantage for tourists and investors who visit our country. We need to construct good roads so that people can easily transport their produce to the market.

I found some ladies harvesting in their small *shambas* and they told me that they could not sell their produce because they cannot access the market. They also told me that middlemen buy their maize at Kshs2,100 per bag, which is less than the Kshs3000 per bag that they would get if they took it to the market. Our people are making losses yet they elected leaders to represent them in the National Assembly and the Senate.

Mr. Temporary Speaker, Sir, the things that are important to the people who elected us always take the back seat. It is so unfortunate and we should blame ourselves as Members of these powerful institutions because the people gave us the power to represent and defend them through these institutions. As a leader, you should help your people through good and bad situations. Therefore, the philosophy of road making did not just happen. It came about because of population growth. We need to construct good roads so that the local people are able to access the markets and sell their products.

In 2014 there was a problem between the county governments and the national Government on who should manage the construction of roads. In some areas, county

governments pretend to have done some roads which were already done by the Kenya Roads Board (KRB). The Committee on Roads and Transportation needs to investigate to make sure that county governments perform the roles that are set out for them.

County governments like Kakamega and Turkana which get about Kshs10 billion can afford to tarmac roads. However, counties like Laikipia, that get less than Kshs8 billion are not able to construct good roads. What kind of road can you tarmac with such a small amount? What kind of road can you open up other than following what you found? If you are following what you found, you assume this district remains stagnant and it should not go beyond where it is. So, it is high time that we all talk without fear because everyone knows infrastructure development and the philosophy behind it is clear to all of us.

Even my own mother knows why she needs roads. She does not need to be explained that this road is good. She is the one who carries the biggest burden. Our level is when you get stuck with your car that is when you start talking English asking why those concerned do not do much. Were you elected to build those roads? You were elected to find out why you have been stuck and the road has not been done and you have been told there was no money. My road has become a political gimmick. When you go to a certain district, you tell them they will tarmac the road as from the next year. The road is not surveyed and not clear but you are told it will be done.

Mr. Temporary Speaker, Sir, I have been with Kenyans when they did not know it was politics. Now, they know you are talking about road making. They see right inside you that you are playing games with them. So, as we move on – I will not complain because that is why we are called developing countries - all countries developed the way we are developing. So, we should not blame ourselves. We are going through the main challenges that others went through. During our time, we have something to compare. We have produced things which cannot be consumed in Kenya but can be consumed out of the country. We have done so many things which should be an indicator that we are in the right direction.

Even if we are heading in the right direction, let us be fair to ourselves and make sure that our people will enjoy the roads which we have constructed. In 2014, everybody was asking who is going to do this and that. I told them that the Constitution is clear; feeder roads are for the county government but the roads which cut across the district, two or three county councils with the money we get here, we cannot make. So, they should not pretend that they are going to do anything concerning roads. Let them do the feeder roads and start new ones which will go direct to where people stay.

Mr. Temporary Speaker, Sir, we are now talking about security roads. It is not just roads between Isiolo and Moyale. Security roads should be considered critically because the small road you are talking about is the one that can help the ordinary person at home. It is the one which can assist ordinary farmers sell their produce where they want. It is the only way you can get a *matatu* coming to your place and pick a sick person to the hospital. All these roads are equally important. What should come first is what can promote your people to understand how the road between Nairobi and Kakamega works.

Mr. Temporary Speaker, Sir, I think the committee which produced this should make sure that our people do not get a raw deal in the construction of roads. When I talk about our people, I mean your mother and sister at home. Let your area become passable during the rainy and sunny seasons. For example, I have a road in a place called Kinamba

which is only eight kilometers. The Government has sung about it for the last 10 years that they are going to make it. Until the person who is in charge of it will find something left in his pocket, that road will be made. But being too small that it will go for a Kshs1 million and you know Kenyans like to work for more than that, Kshs1 million is a peanut to a Kenyan especially those in high positions. They will want to make that small road with Kshs20 million.

Mr. Temporary Speaker, Sir, trunk roads are good. We get other businesses from Uganda and many other places. If we do not give them facilities, they will look for alternatives. They have looked for the alternatives already because of the cost of transportation. Let us remain the way we used to be that we take care of our country and we shall be joined by others. Countries like Malaysia and Philippines used to get aid from Kenya in 1974. When Kenya realized how stealing and bribery works, everything disappeared. That is why we were left behind because the countries that I have mentioned have nobody that cannot be taken to court. They have done a lot of work. That is why you see situations have changed. We are now crying to them to give us technical advice.

Thank you, Mr. Temporary Speaker, Sir, I am much obliged.

The Temporary Speaker (Sen. Sang): Very well. May the Mover now reply since we have no other interest to contribute on this matter?

Sen. Sijeny: Mr. Temporary Speaker, Sir, I wish to thank my colleagues who have contributed and supported this Motion. We, as a Committee, appreciate that infrastructure is very important because it opens up many opportunities for our people. Definitely, an effective infrastructure will help us to improve our economic and social status. The Government is currently implementing devolution as it is anchored in the Constitution. Therefore, it is imperative that everything must be done and nothing should be left to chance. However, we have seen the duplication of roles that leads to wastage of resources in this country. For example, we have many authorities and bodies dealing with classification of the same roads. We saw it the first time we visited Makueni County. This happens also with the national Government. We have the Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA) and Kenya Rural Roads Authority (KERRA). These authorities duplicate their roles when dealing with roads in the counties and also at the national level.

Mr. Temporary Speaker, Sir, we had the famous Sang Bill which did not see the light of the day. Probably, this Bill would have dealt with those issues. These are the issues that we have to be clear with when dealing with stakeholders on the roads sector to ensure that there is harmonization in their duties. Therefore, we encourage having consensus other than having litigation as this wastes time. The stakeholders also proposed alternative dispute resolutions to assist them in handling some of these petty issues that may arise.

The real bone of contention is devolving road services from the national Government to the county governments. We want more resources devolved at the county level so that county governments can do roads. We should not accuse them of failing to do their job of improving infrastructure in their counties. It is a pity that the national Government advises them to take one step at a time. Those are the things we are grappling with. We have held stakeholders' meetings across the counties and we shall be reporting the progress in due course. We are moving in the right direction. Where we have failed to agree, we shall bring it to the Plenary so that more brains can help us.

With those few remarks, I beg to reply.

Mr. Temporary Speaker (Sen. Sang): Hon. Senators, in accordance with Standing Orders No.72, I determine that this is a matter not affecting counties because it is a Committee report.

(Question put and agreed to)

ADOPTION OF REPORT ON EALA REPORTS AND RESOLUTIONS
PURSUANT TO STANDING ORDER NO.235

THAT, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to standing order 235 laid on the Table of the House on Tuesday, 19th April, 2016.

(Motion deferred)

NOTING OF THE REPORT OF THE 113RD AND 134TH ASSEMBLIES OF THE
INTER-PARLIAMENTARY UNION AND RELATED MEETINGS

Sen. Nabwala: Mr. Temporary Speaker, Sir, I beg to move the following Motion:-

THAT, the Senate notes the Report of the 133rd and 134th Assemblies of the Inter-parliamentary Union and Related Meetings held between 15th to 21st October 2015 in Geneva Switzerland and 17th to 23rd March 2016 in Lusaka, Zambia, respectively, laid on the table of the House on Wednesday, 8th June 2016.

The Temporary Speaker, Sir, I would like to give the highlights of Inter-Parliamentary Union (IPU), the world organization of Parliaments. It is a global forum for parliamentary dialogue, cooperation and action. The IPU advances democracy and assists Parliaments and parliamentarians throughout the world to fulfill their mandates. The IPU facilitates parliamentary debate, dialogue and cooperation and also promotes and defends democracy and the rule of the law while assisting parliaments in coping with an ever growing international agenda relevant to their duties.

As a focal point for worldwide parliamentary since 1889, the IPU works towards peace, cooperation among peoples and for the solid establishment of representative institutions. Specifically, the IPU aims at-

- (i) Fostering contacts, coordination and exchange of experience among Parliaments and Parliamentarians of all countries.
- (ii) Considering questions of international interest and express its views on such issues with the aim of bringing about action by Parliaments and their Members.

- (iii) Contributing to the defence and promotion of human rights which are universal in scope and respect for which is an essential factor of Parliamentary democracy and development.
- (iv) Contributing to better knowledge of the working of the representative institutions and to the strengthening and development of their means of action.

We have about 170 Members who subscribed to IPU and we have 11 Associate Members.

The IPU Assembly is a principal statutory body that expresses the views of the Inter-parliamentary Union on political issues. It brings together parliamentarians to study international problems and make recommendations for the parliamentary and governmental actions. The Assembly meets twice a year and is held each time in a different country providing participants with an opportunity to see various national realities.

Other statutory organs of the IPU are the Governing Council where our Speaker, who is the leader of delegation, sits. We have the Executive Committee (EXCOM) where our Hon. Speaker Ethuro sits. We also have the meeting of Women Parliamentarians, the Forum for Younger Parliamentarians and the IPU Secretariat.

The IPU works through committees, Working Groups and Special Purpose *ad hoc* bodies. The following bodies are currently in place. These are the committees which have been set up by the IPU. When the delegation of Kenya goes to Geneva, we all spread and everybody has a chance to sit in a committee and participate. We have the following Committees:-

- (i) The Standing Committee on Peace and International Security.
- (ii) The Standing Committee on Sustainable Development, Finance and Trade.
- (iii) The Standing Committee on Democracy and Human Rights where we have Hon. Poksin who is a permanent Member.
- (iv) The Standing Committee on United Nations Affairs where I am a Member.
 - (v) Committee on Human Rights of Parliamentarians,
 - (vi) Committee on Middle East Questions,
 - (vii) Group of facilitators for Cyprus,
 - (viii) Committee to Promote Respect for International Humanitarian Law.
 - (ix) Advisory Group on HIV/AIDS and Maternal, Newborn and Child Health.
 - (x) Committee on Women Parliamentarians,
 - (xi) Gender partnership group; and
 - (xii) The Forum for Young Parliamentarians.

Mr. Temporary Speaker, Sir, the IPU supports efforts of the United Nations (UN) whose objectives it shares and works in close co-operation with it. The Union also co-operates with regional inter-parliamentary organisations, as well as with international inter-governmental and non-governmental organisations which are motivated by the same ideals.

The 134th IPU Assembly and related meetings were held in Lusaka, Zambia, from March 17th to 23rd 2015. The Kenyan Delegation comprised the Members listed below from both Houses. The Senate takes the lead because we have our Speaker who is the Head of Delegation.

- (1) Hon. David Ekwere Ethuro, EGH, MP;

- (2) Hon. David Pkosing Losiakou, MP;
- (3) Sen. Catherine Nabwala Mukiite, MP;
- (4) Sen. Mutula Kilonzo Jnr., MP, Rapporteur;
- (5) Hon. Sarah Paulata Korere, MP;
- (6) Hon. Stephen Kariuki, MP;
- (7) Sen. Naisula Lesuuda, OGW, MP;
- (8) Hon. Joe Nyagah Muchiri, MP;
- (9) Hon. Racheal Ameso Amolo, MP; and
- (10) Mr. Jeremiah Nyegenye, Clerk of the Senate.

The Parliament of Kenya is well represented in the IPU. During the 133rd IPU Assembly, the Speaker of the Senate of Kenya, Hon. Ethuro, was elected to the Executive Committee for a term of four years. That was a big achievement for Kenya as a country because it lifts our profile. The Executive Committee is a 15-member Committee that oversees the programmes of IPU. Hon. David Pkosing is a member of the Standing Committee on Democracy and Human Rights. I, Sen. Nabwala, is a member of the Standing Committee on the United Nations Affairs.

In addition, Sen. Mutula Kilonzo Jnr. was selected to the position of Co-Rapporteur to the Standing Committee on Democracy and Human Rights on the topic: *The freedom of women to participate in political processes fully, safely and without interference: breeding partnerships between men and women to achieve these objectives.*

The Committee will debate and submit a resolution to the IPU at its 135th Assembly. I think this is a high profile position for Sen. Mutula Kilonzo Jnr. and we were very proud as Kenyans to have the Kenyan Delegation taking top positions led by our Speaker. Normally when we go to these meetings, we split up and Members participate in debates. Solutions come out of the debates and resolutions are then adopted at the General Assembly.

Mr. Temporary Speaker, Sir, meetings of the 134th Assembly included:-

- (1) The Assembly: *General Debate*: where members were provided with an opportunity to exchange views on ways of reviving the interests of the younger generation in the functioning of parliaments.
- (2) The Standing Committee on Peace and International Security, where members deliberated on a draft resolution under the topic, *Terrorism: The need to enhance global cooperation against threat to democracy and individual rights*;
- (3) The Standing Committee on Democracy and Human Rights, where the Committee deliberated in an interactive debate, the subject of its next resolution: *The freedom of women to participate in political processes fully, safely and without interference. Building partnerships between men and women to achieve this objective.*
- (4) The Standing Committee on the UN Affairs, where the Committee commented on the new process of electing the new UN Secretary General. This position has not yet been filled because the elections have not been held and institutional arrangements have not been made for the implementation of the Sustainable Development Goals (SDGs). We know that the world today is focusing on SDGs. These are issues which they have picked up like climate change, poverty and many others. SDGs were transited from the MDGs which were unfinished business for most of the countries. However, we had a country like Korea which made a record in eradicating maternal and child mortality.

- (5) The Standing Committee Sustainable Development, Finance and Trade, where the committee deliberated on its resolution entitled: *Ensuring Lasting Protection Against Destruction and Deterioration for the Tangible and Intangible Cultural Heritage of Humanity*.

On behalf of the Kenyan delegation, I wish to take this opportunity to thank you for bestowing upon us the important task of representing Kenya in one of the most important fora in the association of Parliaments.

Article 7 of the IPU Statutes mandates member Parliaments to submit those resolutions of the IPU within the respective Parliaments in the most appropriate form; communicate them to the Government; stimulate their implementation and inform the IPU secretariat as often and fully as possible, particularly in its annual reports of the steps taken and results obtained.

In this respect, we, as a Parliament, have been asked to adopt a resolution on the SDGs and in our next meeting as Parliaments, we are expected to state what exactly we have done towards advancing those goals. I know that our mandate involves budgetary allocations and formulation of policies. So, we can do those two plus leading the oversight to help or assist the Government to achieve the SDGs.

In accordance with the Statutes of the IPU, it is my pleasure and humble duty to submit this report highlighting the proceedings and resolutions of Parliament for debate and necessary action.

Since each Committee had their own report, there are resolutions that we adopted arising from each committee. Maybe I will just touch on that so that we know what took place. Otherwise, the report was tabled and it was available to all Senators. Take time to read it so that we can know what IPU stands for as well as the outcome documents of the General Debate on rejuvenating democracy and giving voice to the youth. This was the main thing when we attended the IPU Conference in Zambia. As an international organisation as national Parliaments and as individual representatives of the people, we are driven by our belief in democracy. We understand democracy as both a set of values and as a system of institutions that puts those values into practice.

At the most fundamental level, we believe that everyone has the right to be heard and that all voices carry equal weight. Our primary responsibility as parliamentarians is to serve the people and deliver policies and legislation that address their needs and interests. I think that is of importance to us as parliamentarians because we formulate policies which should favour the marginalised groups. These are youth and women. At the IPU, they feel that women and youth are underrepresented. So, we should make more effort to support the two-thirds gender principle so that we can measure up to other African countries like Rwanda who are leading with 69 per cent women representation in Parliament.

Mr. Temporary Speaker, Sir, we understand that there is no single model of democracy. A country's institutions evolve from its particular history, culture and traditions. Equally, we equivocally re-affirm that the principles of democracy are universal or we reaffirm the core values of democratic Parliaments. Those values are about seeking to be representative of the country's social and political diversity, being open to our citizens and transparent in the conduct of parliamentary business, ensuring accessibility and accountability to our citizens and performing our work effectively. I will not go on with that outcome as it is clear in the copies that you have.

Mr. Temporary Speaker Sir, I have made the main point about women and the youth that we must have their voice in our agenda. These are the drivers of our development. If we leave them behind, then our country will not achieve the development agenda.

There were other resolutions which were adopted. These resolutions once adopted cannot be changed because they are global. Every country is supposed to obey so that we speak with one voice and all people have the same playing field. Rejuvenating democracy is about modernising the functions of our institutions. Opening up to new technologies makes it possible to usher in a new era of democracy.

The exponential increase is the use of modern technologies and social media and access to information which has changed the way citizens participate. Our parliaments must open up to the online world in the structures and mechanisms so as to adapt to the expanded space and time of modern communication, interaction and participation.

Mr. Temporary Speaker, Sir, you see what technology has done for us. It has made the world look like a village. You can communicate without having to take a month or a year to reach somebody. You only need to make a phone call or go online and you will communicate and exchange ideas with other people. I think that resolution was a good one. There are more resolutions but I think they are too many and because of time, I will request all Senators to take time to read these resolutions so that we can have your responses about Sustainable Development Goals (SDGs) so that we can take back a positive response.

I also request that the Ministry on a quarterly or half-yearly basis should update Parliament about the development in counties. These SDGs have been limited to 15 years. So, within that time, we are supposed to achieve these developments. As Members, we should allocate money and assist in the formulation of ideas. If we cannot formulate an idea and implement it, then it means we are not doing a lot of what the expects from us.

Thank you. I request Sen. Karaba to Second.

Sen. Karaba: Thank you, Mr. Temporary Speaker, Sir, for allowing me to second this comprehensive Report taken by our well educated Members led by the Speaker, Hon. Ethuro.

The volume speaks for itself. This is a document rich in ideas and what was discussed in Geneva and Lusaka. The reason why Geneva was picked as one of the venues for IPU meetings is the significance given to the town and the country. That tells us a lot about how Kenya should be respected. Geneva is in Switzerland. According to what is known internationally, Switzerland is a no conflict country. It is neutral. During the two world wars, Switzerland never participated in any war. That is the reason why you find most meetings and conventions are held in Geneva, Zurich and Baan because of its neutral nature.

Mr. Temporary Speaker, Sir, Parliament was represented by a powerful delegation led by the Speaker of the Senate. I have read the Report. It is pleasing to note that all those who attended the conference were elected to various positions. Some were elected to be executive members, members of the various committees and rapporteurs. That tells you that even the world has a lot to admire from Kenya. That is why it is easy for us that once we get to those conventions, they are easily elected and respected from the global observers. I laud the team which represented us. I also thank those who drafted

this Report. I also thank the participants for not letting us down. I congratulate those who were elected.

This Convention is one of the high profiled conventions in the world in the Inter-parliamentary Union. Various parliaments have to gather to a consortium to discuss about parliaments of the world and come up with a way forward. If a parliament likes ours and others can gather, I am sure what they will come up with an important document, hence its significance. We are talking of the global brains having gathered in Lusaka and Geneva under the umbrella of the IPU.

Mr. Temporary Speaker, Sir, this is an important document. Since it has been sung to us- I have read it partially- I have seen the kind of deliberations which these members discussed. These deliberations are global. They aim at improving and strengthening democracy. They discussed issues like terrorism. Unfortunately, while they were meeting in Geneva, there was terrorism in Brussels and Belgium. So, you realise that this is something that is trying to give a warning to terrorist groups. It is a meeting which is held to discuss the benefits of peace and what the world should be.

In the absence of this meeting, we find the world facing doom. More so, the IPU founded in 1880s and coming almost 100 years after the American War of Independence of 4th July, 1776 and the French Revolution of 1889, this tries to capture the problems that we have in the world. These are things that can ail any country because they caused those countries to go to war and eventually led to revolutions. So, this is a warning by international communities. We should keep off some of the bad things and maintain true democracy as spelt out clearly in this document. Therefore, I support this document and the people who attended the meeting on our behalf. It is important for us to find out what we can do as a country. We need to know what particular issues that we need to observe in this document so that we fit into the global perspective.

Mr. Temporary Speaker, Sir, I need to stress that if we were do what this document is asking us to do, we will revert to the position we were in 1974 as we were told by Sen. (Dr.) G. G. Kariuki, the Senator for Laikipia. He said that when he was a Minister, Kenya was giving out loans to Malaysia and Philippines, and that is true. However, due to many other factors which are condemned in this document, Kenya cannot be compared with Malaysia.

I have been to Malaysia, Philippines and Korea. Some of the countries that are said to have been very backward in South-East Asia now tell a different story from what we can tell. We are backward because of the problems that we face and create in this country. The problems are compounded to the extent that we cannot move. Our democracy does not allow us to be steady or do what we are supposed to do. It also does not allow us to be industrial because we are faced with problems that are spelt out here.

Terrorism is well documented in this document. They addressed the problem of terrorism and said that it is here to stay. In fact, we have many problems. Our hotel industry in the coast region and even in the whole Republic is in ruins because of increased acts of terrorism. We can solve the problems facing us as set in the global conventions in Geneva and Lusaka. This is what Kenya should aim at. I am, therefore, convinced that the meeting itself was not a waste of time but it was a wake-up call for most Kenyans. Let us embrace democracy and exercise what is important as spelt out in this Report, and I am sure we will see the results.

Mr. Temporary Speaker, Sir, Kenya is well-located. It is a rich country and it is in the spotlight of Africa. The strategic position of Kenya both in East and Central Africa can tell it all. That is the reason most people come to see what is it. We have been hosting quite a number of people. They have been coming and promising to help us but sometimes, our democratic rights fail us. You will find people opposing ideas which are pragmatic and saying that they cannot work. That is called retrogression. The country will not move ahead. Whereas we have the opportunity of being the leading African country, apart from South Africa and Northern part of Africa, we should be given time and space to grow.

Mr. Temporary Speaker, Sir, the Standard Gauge Railway (SGR) is a key example. If we can broadly hold on to it and own it, we will be able to transport goods with ease from the Kenyan coast to our neighbours like Uganda and Tanzania. This will increase our *per capita* income and the Gross Domestic Product (GDP). This Motion touches on the World Trade Organisations (WTO), inter-territorial trade cartels, various treaty organisations and how we can enter into treaty organisations with other neighbouring countries like the East Africa Community (EAC) which was first founded in 1967. Therefore, we will move on just like the developed countries. If we embrace the recommendations and resolutions that have been passed by the international conventions in Geneva and Lusaka, we will be a country to reckon with in Africa and in the world.

Mr. Temporary Speaker, Sir, countries like Bulgaria, Hungary, Spain and Portugal in Europe are also struggling. They cannot be compared to South Africa which is rated number 10 in the leading countries in the world. We can also become powerful if we go by the recommendations that have been made in this Report. These are great ideas that we should adopt. We should study and practice the recommendations that have been stated in the Report so that we can be more developed than the South East Asia 'tigers'.

With those few remarks, I second.

(Question proposed)

Sen. Omondi: Mr. Temporary Speaker, Sir, I support the Report of the Inter-Parliamentary Union (IPU). As I support, I want to register my concerns that I have identified some gaps within the Report that should be taken seriously. I tried to lobby while I attended the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) for persons with disabilities in Geneva so as to know why persons with disabilities are not part and parcel of the IPU.

There is a letter that came from Inter-Parliamentary Union (IPU) to the Senate requesting information on how far the Kenyan Senate and other member countries have reached. The reason why I want to raise this - and want to be part of the issues that can be taken back - is that when you talk about the Sustainable Development Goals (SDGs), initially Millennium Development Goals (MDGs) left out persons with disabilities leaving them in poverty. Now, SDGs mention persons with disabilities 11 times showing there is some seriousness in including persons with disabilities in SDGs.

Recently, I was a panelist in Geneva talking about the role of Parliament in ensuring the implementation on the convention on the rights of persons with disabilities in connection with SDGs, is put into consideration. If IPU is not going to include persons with disabilities, it shows that even if we are mentioned there, we are not going to

achieve the issues to be dealt with. We have a committee on women and youth. Issues affecting women and youth are triple for persons with disabilities. I wish to request that we have a committee on disabilities.

The slogan goes, “nothing about us without us”. When they are discussing issues and persons with disabilities are affected both socio-economically and politically, we are not going to achieve anything. Nobody can speak on our behalf. You can see from the Report that nothing is coming out on behalf of persons with disabilities because we are never mentioned or represented. I want this to be given consideration because it matters a lot as far as the inclusion is concerned. Kenya is one state party that ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). It is an international instrument that guides the involvement and inclusion of persons with disabilities.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Sang): Very well. Sen. Sijeny!

Sen. Sijeny: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to comment on this Motion. I wish to commend the team that went to the IPU Conference. This is a good practice and we should encourage it. When we send people to represent us, to engage, to learn and share the experiences with other like-minded countries, it is good they come and disseminate the information to us because all of us cannot travel.

I am happy that the team that went took leadership positions. They were not there for joyride but they became active and participated properly. The forum found it fit to elect one of our own, Sen. Mutula Kilonzo Jnr., who is the Vice President in the Wiper Democratic Movement, where I am a Member. He was elected as a co-rapporteur. That shows that they have faith in him. He showed skilled leadership and expertise. This helps me because we have been fighting for gender parity which is now being championed by one of our own and a man of the opposite gender. This means when I bring the Gender Bill or anything about women reproductive healthcare, people should not think I come from a different atmosphere. I am talking about the international discourse. These are things that are done by other nations. This will ensure we are not left behind.

Mr. Temporary Speaker, Sir, I wish to commend the people who represented us at the IPU Conference. I have gone through the Report, and I support it. Thank you.

The Temporary Speaker (Sen. Sang): Since there are no more interests, I call upon the Mover to reply.

Sen. Nabwala: Mr. Temporary Speaker, Sir, I must say I am proud because you have been part of the delegation to Geneva and you know what happens there. When we get there, we have to work hard to represent our country so that we give our country a good image. About the question of disability; we shall take it on board when we go to the IPU Conference next time and it will be among the proposed items that Kenya will take to IPU. Each time we go for the Convention, you propose an emergency item that you think is very serious. For example, last time we had terrorism, cyber-crime and many other issues that we have discussed. However, I can promise you, my sister, that we are going to propose that and the next meeting, maybe, we shall have someone representing people with disability from Kenya.

Mr. Temporary Speaker (Sen. Sang): Hon. Senators, in accordance with Standing Orders No.72, I determine that this is not a matter affecting counties.

(Question put and agreed to)

ADJOURNMENT

Mr. Temporary Speaker (Sen. Sang): Hon. Senators, there being no other business, the Senate now stands adjourned until Thursday, 24th November, 2016, at 2.30 p.m.

The House rose at 6.20 p.m.