

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 10th March, 2016

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

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

PRAYERS

PETITIONS

ENACTMENT OF LEGISLATION ON THE EXCLUSIVE USE OF INTEREST FREE ISLAMIC BONDS IN BORROWING FROM THE DOMESTIC AND INTERNATIONAL FINANCIAL MARKETS

The Speaker (Hon. Ethuro): Hon. Senators, I have two petitions to present. The first one is a Petition by Mr. David O. Gesicho for enactment of legislation to confine the National and county governments to the exclusive use of interest free Islamic bonds, Sukuk, in borrowing from the domestic and international financial markets.

Hon. Senators, pursuant to Standing Orders No.220(1) (a) and 225(2) (b), I hereby report to the Senate that a petition has been submitted, through the Clerk, by Mr. David O. Gesicho, a resident of Kakamega County, proposing the enactment of legislation to confine the National and county governments to the exclusive use of interest free Islamic bonds known as Sukuk in borrowing from the domestic and international financial markets.

In summary, the petitioner states:-

(a) That, Kenya has over the years been operating an unbalanced annual budget, which has resulted in a budget deficit that keeps growing;

(b) That, the National Treasury has been borrowing from the domestic and international financial markets to plug these deficits, and this has had an unhealthy effect of increasing and sustaining high interest rates in the domestic financial markets;

(c) That, Islamic banking is also known as interest free banking system, as the Sharia disallows the acceptance of *riba* or interest for the acceptance of and lending of money;

(d) That, one of the ways of taming the high interest rates in the country is by way of sovereign borrowing from the domestic and international financial markets using instruments that adhere to the Islamic Sharia known as Sukuk; and,

(e) That, even non-Muslim majority countries can issue a sovereign Sukuk, an example being Singapore which was the first non-Muslim majority country to issue a sovereign Sukuk in 2009.

The petitioner, therefore, prays that the Senate considers enacting legislation to:-

(1) Confine the National and county governments to the exclusive use of interest free Islamic bonds, known as Sukuk, in borrowing from the domestic and international financial markets;

(2) Provide for the distribution of the national budget deficit between the National and county governments, in like manner as the division and allocation of revenue between the two levels of Government and among the counties; and,

(3) Cap borrowing by the national and county governments to not exceed 5 per cent of the National Domestic Product.

Hon. Senators, pursuant to Standing Order No.226, I will allow comments, observations or clarifications in relation to the Petition for not more than thirty minutes. I will do this after I read the second petition.

(The Speaker (Hon. Ethuro) resumed his seat to allow Members to enter the Chamber)

Order, Senate Majority Leader! When the Chair makes special consideration of you, you need to appreciate it by walking faster than normal.

Let us proceed.

REMUNERATION OF ECDE TEACHERS AND DEVELOPMENT
OF ECDE INFRASTRUCTURE BY LAIKIPIA
COUNTY GOVERNMENT

Hon. Senators, pursuant to Standing Orders No.220(1)(a) and 225(2)(b), I hereby report to the Senate that a petition has been submitted, through the Clerk by Mr. Samuel A. Opiyo, regarding the remuneration of Early Childhood Education (ECDE) teachers and the development of ECDE infrastructure by the Laikipia County Government.

In summary, the Petitioner states:-

(a) That, the County Government of Laikipia has, since 2013, not been providing the necessary infrastructure needed in the ECDE centres, including learning materials, mattresses for the learners to have an afternoon nap, playing materials, classroom facilities and toilets which are friendly for use by children;

(b) That, the County Government of Laikipia has not been remunerating ECDE teachers in the county, despite funds for the same being set aside every financial year; and,

(c) That the ECDE sector in the county is not well managed, and the County Government has failed to employ supervisors to oversee the quality of services rendered by ECDE teachers.

The petitioner, therefore, prays that the Senate investigates this matter and makes appropriate recommendations on how the same may be addressed.

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

Sen. Karaba: Mr. Speaker, Sir, I wish to contribute to the last petition. Is that in order or should I do so based on how you have read them?

The Speaker (Hon. Ethuro): Pick your preference.

Sen. Karaba: Mr. Speaker, Sir, I prefer that I speak on the issue of the ECDE teachers from Laikipia County. The Committee on Education has already proposed and discussed a Bill on this issue. According to the Bill, the ECDE teachers will be paid by the Teachers Service Commission (TSC). In our deliberations, we realized that a teacher is defined as somebody who discharges the teaching activity in a classroom. Since the ECDE pupils are seated in a classroom designed for teaching purposes, the person who teaches, therefore, is referred to as a teacher. That is one of the mandates of the TSC, to make sure that all those teaching in the country are employed. The TSC is supposed to recruit and define remuneration. In this case, therefore, the petitioner should wait for the Bill to see what will happen after it is assented to. After that, the TSC will be mandated to pay the ECDE teachers.

Likewise, Mr. Speaker, Sir, the definition of a classroom, which is the infrastructure that the petitioner is complaining about is also well defined in the Bill. The Bill states that a classroom should be the best classroom model in a public school. We have stated that the moment you get to any school, the best classroom that you should get to see is the ECDE class. I am, therefore, imploring on the county governments to make sure that they come up with the best classrooms which will accommodate the ECDE pupils. My Committee has toured several number of counties and we have seen that effort has been made---

The Speaker (Hon. Ethuro): Order, Senator. Can you conclude?

Sen. Karaba: Mr. Speaker, Sir, I conclude by saying that this issue is well defined in the Bill. We should wait to see what is contained ---

The Speaker (Hon. Ethuro): Order, Senator. You are being repetitive.

I see interest in this issue is quite immense. I will allow a maximum of two minutes per contribution.

Sen. Murkomen: Mr. Speaker, Sir, make it four minutes because we have two petitions. That is my request.

The Speaker (Hon. Ethuro): Life is a matter of priorities. Speak on the one you think you need to.

Sen. Murkomen: Mr. Speaker, Sir, I will make quick comments on the two starting with the petition by Mr. Gesicho.

The Speaker (Hon. Ethuro): Maybe in appreciation of your new role of being the Deputy Majority Leader, three minutes shall be granted.

Sen. Murkomen: Thank you, Mr. Speaker, Sir. On the petition on prudence on financial management and particularly on borrowing, the message the petitioner is trying to pass, and I know the Committee will have to look at it is prudence in terms of borrowing. I do not want us to look at the details at this point in time in terms of whether we will use Islamic or non-Islamic ways of borrowing. However, as a country, we need to

look at the question of living within our means in terms of borrowing by the national and county governments.

The petitioner is fed up with the manner in which we are dealing with so much debt at both levels of government. Therefore, the Committee, when looking at his suggestion, must not focus so much on the argument that he is saying that we use the Islamic banking system but more of whether we can get mechanisms that will be put in place to ensure that borrowing is regulated to the extent that we can live within our means for the protection of future generations.

The ECD issue is an important factor. As the Committee looks at it, they must also look at the decision by the TSC that county governments cannot employ ECD teachers. Has that hampered provision of education services to our children?

Again, looking at the infrastructure of that particular county, they must look at it from a perspective that it has only been three years of devolved governments. The objective should not be to punish county government, but rather to see how they have been handling that challenge. I know a few counties, including mine, that have built a few ECD classes.

However, going forward when they will be investigating this matter, they must look at it from a perspective of the challenges that the county governments are facing, including Laikipia County for that matter. Finally, the number of petitions coming to this House is the faith that the nation has in you as the Speaker of this House and the institution of Senate as a whole. Therefore, as our Committee look into these issues, they must keep that confidence levels high because Kenyans have faith in us.

The Speaker (Hon. Ethuro): Thank you for keeping within your time with a balance of 12 seconds.

Sen. Okong'o: Mr. Speaker, Sir, mine is to comment on the petition from Laikipia County. When I was serving in ICT and the Committee on Education, we visited Laikipia County. The Governor of Laikipia and his Executive Committee Member (CEC) in charge of education looked very ambitious. They took us to places and there was a lot of preparedness. As it were, we created a concept and a policy of the best classroom policy whereby the kindergarten should be the best class.

As I have said earlier in this House, the role of assemblies, especially committees of assemblies, which are supposed to pick up policies that we have passed here, seems not to have taken root. Therefore, it will be interesting for me to watch and then critic that. County assemblies also need to follow up from the mother House, the policies we pass here to interrogate the work of the county governments. That is the only interest I had on that. We will look at it further.

Sen. Kagwe: Mr. Speaker, Sir, I also wish to add on the two minutes of each of the Senators. I will save some time.

The Speaker (Hon. Ethuro): Order, Senator! I granted Sen. Murkomen three minutes and I qualified my action. However, you are nowhere nearer.

Sen. Kagwe: Mr. Speaker, Sir, I oblige. I was not in Kericho. I did not manage to do what my brother did. He deserved three minutes. I will only take two minutes in that case.

(Laughter)

Mr. Speaker, Sir, the issue of borrowing by counties is very clearly spelt out in Article 212 of the Constitution. Counties cannot borrow without the approval of the national Government. However, they have abused this. In some cases, banks have extended loans, particularly loans to cover salaries when money is late from the Treasury.

First, they cannot borrow by the Constitution. Secondly, even if they were to borrow, that matter would be brought here or the National Assembly. Again, banks are risking themselves when they extend that facility.

On the issue of teachers, as a Senate, it is important for us to appreciate that ECD as well as village polytechnics is the only aspect of education that is actually devolved to the county governments. It is, therefore, very important for the county governments to establish that they can handle only if they can handle ECDs, should we consider any further devolvement of education down the counties.

In terms of infrastructure, some counties are doing very well. We have visited 32 counties. For instance, Baringo County is building 100 ECD classrooms per year. Some other counties have totally ignored the issue of children. Other are stealing the money that is supposed to be used by our children,

The petitioner has a point, but I do not know the situation currently in Laikipia but---

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, thank you.

On the borrowing, I encourage the Committee that will look at the petition to engineer a change in the law and the Constitution. This is for the reason that while the National Assembly approves external borrowing by the National Government, the Senate should be mandated to approve the borrowing by the county governments. That is our primary responsibility. We should protect counties and their governments, including their interests.

The second is on ECD classrooms. When the Constitution was crafted, something must have been omitted. To just have moved pre-primary education to counties without taking care of standardization, curriculum development and so on, was wrong. The petition should also be given attention by the Standing Committee on Education and the Bill that the Chairman of the Committee on Education talked about though it is yet to reach in this House.

This will ensure that when we deal with ECD infrastructure, the counties can build the basic infrastructure, say, classrooms and so on. However, teachers remain teachers. They must be teachers hired for, disciplined, prompted and paid for by the TSC. This should include teachers of villager polytechnics. It is part of education. That way, we can maintain national standards across the country. Otherwise, some counties which have been marginalized and oppressed since Independence will be hiring standard seven pupils, who are not even trained to teach ECD classrooms and others will hire surplus-trained teachers to teach ECD classrooms. That way, we will distort the standards.

Finally, I congratulate Sen. Bule of Tana River for keeping away from Malindi during the by-elections.

(Loud Consultations)

The Speaker (Hon. Ethuro): Order, Sen. Bule! If you wanted to confirm that you kept away, you do not do it by approaching the microphone on your own Motion.

Proceed, Sen. Wangari!

Sen. Wangari: Asante sana, Bw. Spika. Nataka kutoa maoni yangu kuhusu dua la pili kutoka Kaunti ya Laikipia kuhusu elimu ya chekechea. Ni jambo la kusitikisha kwamba kuna mtafaruku sana kuhusu elimu hii. Hii ndio inawapa watoto wetu kama ilivyofanya kwetu msingi ambao unatuongoza maishani. Kaunti zingine zimetoa tangazo kwenye magazeti kwamba watu waombe hizi kazi. Ni lazima tutatie mtafaruku huu kwa haraka ili watoto hawa wapate masomo.

Jambo la pili ni lazima kamati ya Seneti inayoshughulikia masuala ya elimu izingatie madarasa watoto hawa wanasomea. Ukizuru shule nyingi utaona darasa mbovu ndilo watoto hawa husomea. Madarasa mengi huwa ni ya matope. Hawana vyoo bora na hupatwa na magonjwa ya kila aina. Kila asubuhi, watoto hawa hulika kwa sababu hawataki kwenda shuleni. Hakuna jambo linalowavutia kwa shule. Elimu hii ni muhimu sana. Ni lazima tuhakikishe kuwa madarasa yao ni ya hadhi ya juu na ya kuwavutia watoto wetu.

Mwisho, natumai kwamba Mswada wa Elimu ambao uko mbele ya Bunge la Kitaifa utaletwa hapa ili tujadili na kuipitisha ili tutapate suluhisho ya mambo haya.

The Speaker (Hon. Ethuro): Maseneta waheshimiwa, kama hatujawahi kutambua Lugha ya Kiswahili, tuitambue leo. Pongezi sana, Sen. Wangari, kwa ufasaha wako wa lugha hii ya taifa.

(Applause)

Sen. Lesuada: Mr. Speaker, Sir, I cannot attempt to speak in Kiswahili Language like Sen. Wangari.

(Laughter)

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

Sen. Bule: Jambo la nidhamu, Bw. Spika. Yangu ni kuhusu *leader* ya wadogo---

(Laughter)

Yaani kiongozi wa wachache ambaye hakunitambua nikiwa Malindi. Ninamhakikishia kwamba nilileta kura 3,000 kutoka kwa muungano wa CORD na kujiunga na muungano wa Jubilee. Kwa hivyo, wanachama wa CORD wanafaa kujua kwamba huko si kwao tena. Ninawapongeza kwa kunishinda kwanza. Lakini, wajue kwamba tunakula kwa sahani moja. Wametushinda leo, kesho tutawashinda.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, you will appreciate that the proceedings of this Senate are covered live. In fact, some times in the Gallery, we have students like we do now. We cannot send the message that a point of order can be permissible against a Member who left the Floor and paved way for another Member to proceed articulating his own business. The point of order came belatedly. Is the Member in order to raise a point of order against a Member who spoke two Members away from the time he is asking? Is this the message we want to send to the country?

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! That is a good observation. However, you will appreciate the Member for Tana River, after being mentioned by your leader, decided to make a contribution out of turn. I had to instruct him on the right procedure. The fact that he followed the right procedure was a good opportunity for him to start learning and acquire the good practices of the House. The particular matter had not been concluded. If we were out of that particular order, then you would be perfectly in order.

However, for the benefit of all of you, what Sen. (Dr.) Khalwale has mentioned is the proper procedure. You should make your interventions during that particular time. Although Sen. (Dr.) Khalwale, you will also appreciate that that was the parting shot of your leader. Therefore, you can only do it after him.

Proceed, Sen. Lesuuda!

Sen. Lesuuda: Mr. Speaker, Sir, I add my voice on then petition from Laikipia County. The ECDs were devolved, but not for the sake of it. The first formative years of children are very important, especially on education matters. Having listened to the Chairperson of the Committee on Education, even as we wait for the Bill that is before the National Assembly, some of the issues raised here are pertinent. The Committee can look at them before the Bill comes to the Senate.

It is also important for county governments to focus on the functions devolved to them. We are aware of counties which are going ahead to build primary, secondary schools or police posts while they have not exhausted their functions like Early Childhood Development and Education (ECDE). I believe that the Committee can look at the issues of Laikipia even as we wait for the Bill.

Regarding the issue of borrowing and interest rates, this is a concern for all Kenyans. Our counties should not find themselves at crossroads where they have borrowed heavily in a way that cannot be sustainable. This could definitely weigh on the counties and they would not deliver on the functions they have.

The Speaker (Hon. Ethuro): Hon. Senators, time is expiring, so I will allow one minute each because I see the interest is quite huge.

Sen. Kanainza: Mr. Speaker, Sir, I also want to add my voice. My major concern is on the petition concerning ECDE. I sit in the Committee on Education and we have met the County Executive Committee Members (CECs) from all the 47 counties and other stakeholders in charge of education. We have deliberated on a number of issues thereby enabling us to generate the ECDE Bill. The Senate dealt with it and it is now with the National Assembly. I urge the leadership of the Senate to look into it so that it can be fast-tracked. In the Bill, we are dealing with setting of standards that touches on infrastructure. The Kenya Curriculum Development, which replaced the KIE, has dealt

with the issue of the curriculum for the ECDE. This is not about teaching only but also about other activities that the children are supposed to do.

I want to appreciate some counties that have been doing well. I will mention my county, Kakamega County which has employed 900 teachers. However, there is still an issue with the Teachers' Service Commission (TSC) whereby they believe they are ones who are in charge of training, recruitment and employment. If that is the case, they are the ones who are supposed to pay. I will request the courts to fast track the issue of TSC, the Kenya National Union of Teachers (KNUT) and county governments so that ECDE, being a fully devolved function, is dealt with.

As a Committee, we will deliberate on the issue of Laikipia---

The Speaker (Hon. Ethuro): Order, Senator. Your time is up.

Sen. Kembi-Gitura: Mr. Speaker, Sir, the issue of ECDE is so important and I am happy it has been brought to the Senate. ECDE is the foundation of education. This is the time when children are so impressionable that if they are not interested in education because the facilities are not good or that they are not getting good teaching, they lose interest in education for the rest of their lives. We appreciate those counties which have taken ECDE very seriously. My view is that since ECDE is important, that is where the child should commence being taught the values of nationalism, the national anthem, the importance of a nation and so on. This is to enable them appreciate what it means to be a citizen of this great country.

The Speaker (Hon. Ethuro): Order. Your time is up.

Sen. Kembi-Gitura: There must be a mistake.

The Speaker (Hon. Ethuro): Sen. Kembi-Gitura, there is no mistake. If you want additional time, do not minimize the one you have used.

I will allow you another minute.

Sen. Kembi-Gitura: In my very considered opinion, the kindergarten or ECDEs classes are so important. Therefore, the basics of the Constitution and the importance of having a nation should be taught so that they grow appreciating what it is to be a citizen of a country as great as this one.

Sen. Ndiema: Mr. Speaker, Sir, regarding the petition concerning ECDEs, we appreciate that counties have invested in construction of classrooms for ECDEs but unfortunately, there are no standards. In my county now, every ward has two new classrooms. I have toured some wards where classrooms have been completed, but there are no desks and sanitary provisions.

Regarding the issue of teachers, I think counties should be allowed to play some part in the recruitment of ECD teachers. I think that the teachers who have been there before---

The Speaker (Hon. Ethuro): Your time is up.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I rise to say that the residents of Laikipia have done well to bring this petition. This is a replica of what is taking place in most counties, but they forgot to read what is devolved as function No.9. Pre-primary education, village polytechnics, home craft and childcare facilities are fully devolved. The governors and the CECs have concentrated on a wrong function. They are dealing with primary schools because they have many parents and also secondary schools which

have potential voters but they have forgotten their duty. Sometimes, they buy very queer and exaggerated facilities---

Sen. Ongoro: Mr. Speaker, Sir, it is very sad that while all the students sit the same exam nationally, some students are given a solid foundation while others encounter what you can refer to as real learning in class three or four. This is a very important petition from Laikipia County that I believe speaks for all Kenyans from all counties. The rough example of Nairobi is that a child in Lavington will have the benefit of getting proper ECDE but a child in Korogocho, Mathare or elsewhere, will not even know what a library or a textbook look like. These two children will be expected to sit for the same examination in Class Eight or Form Four. This is a good petition that if we consider appropriately, it is going to help many Kenyans especially from poor backgrounds and rural areas.

Sen. Khaniri: Mr. Speaker, Sir, the narrative we have heard about Laikipia is happening in almost all the 47 counties. We have the same problem in Vihiga. It has been said that ECDE is the foundation and it is of paramount importance that we build strong foundation for our children. I want to fully support the idea of placing the ECDE tutors under TSC. When you refer this petition to the relevant committee, I want them to make very strong recommendation that ECDE teachers must be paid by TSC.

Mr. Speaker, Sir, I have been pushing for a Bill where I wanted us to give extra responsibilities to the county governments, for example, infrastructure development in schools.

Sen. M. Kajwang: Mr. Speaker, Sir, I want to talk about the petition by David Gesicho on the issue of Sukuk and Islamic bonds. It is very painful to pay interest on a loan that has been used improperly. We need to look at the depth and root of this petition. If as a country or a county, you borrow US\$1 billion which cannot be traced or Kshs791 million is traced to the political class, it becomes very painful to repay that interest. I pray that the Committee will use the Eurobond as a case study of how Government borrowing should not be done. I also hope that the Committee will come up with solid and very actionable proposals on how money borrowed by the governments should be used properly and not on amorphous items like we saw in the Ministry for Devolution.

Sen. Omondi: Mr. Speaker, Sir, thank you for this opportunity. Let me add my voice by raising some concerns. As we wait for the ECDE Bill, I would like the Committee to look into the issues of accessibility of ECDE centres that are being developed by county governments. Secondly, they should look into the employment of special ECDE teachers. When county governments employ ECD teachers, they should also employ special needs ECD teachers. They should also look into the issue of programming and having special needs curriculum that will take care of early childhood with special needs.

I commend my county, Kakamega. I have been moving from ward to ward and I have seen the standard of ECDE that have been ---

The Speaker (Hon. Ethuro): Order, Senator! Your time is up.

That is the end of that particular Order.

Hon. Senators, pursuant to Standing Order No. 227(1), the petition for enactment of legislation to confine the national and county governments to the exclusive use of

interest free Islamic bonds stands committed to the relevant Committee; in this case, the Committee on Finance, Commerce and Budget.

On the Petition on the Remuneration of ECDE Teachers and Development of ECDE Infrastructure, the Petition stands committed to the relevant Committee; in this case, the Committee on Education.

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

Hon. Senators, maybe a false impression was created. The County Early Childhood Education Bill which the Chairperson of the Committee on Education talked about, is a Bill that you originated as a House; Senate Bill No.32 of 2014. The Bill is in the National Assembly for deliberation.

(Sen. Wetangula spoke off record)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF TEACHERS AND STUDENTS FROM NGUUTANI SECONDARY SCHOOL

Order, Senators! Before we proceed to the next Order, I wish to recognise the presence for the students and teachers from Nguutani Secondary School from Kitui County. They are seated in the Public Gallery.

They have come at the right time when we are discussing about their needs or rather the earlier stage as they progress to where they have reached. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

(The Speaker (Hon. Ethuro) posed)

I am waiting for the applause.

(Applause)

I thank you.

VISITING DELEGATION OF MCAs AND STAFF FROM KILIFI COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery, this afternoon of visiting Members and staff from Kilifi County Assembly Energy Committee. The Members of the County Assembly (MCAs) and staff are here on a one-day benchmarking visit with the Committee on Energy at the Senate.

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

- | | | |
|------------------------------|---|------------------|
| 1. Jared Kaunda Barns Chokwe | - | Chairperson |
| 2. Tecler Naomi Muye | - | Vice Chairperson |
| 3. Kahindi Geofrey Muhambi | - | Member |
| 4. Japheth Katana Nzaro | - | Member |
| 5. Esther Ndidza Albert | - | Member |
| 6. Hamza Hamisi Hussein | - | Member |
| 7. Grace Kwekwe Mwangome | - | Member |
| 8. Charity Mnyazi Mwarumba | - | Clerk Assistant |
| 9. Matilda Mwendwa | - | Hansard Reporter |
| 10. Omar Chuphi | - | Sergeant-at-arms |

I hope that they have a fruitful programme as they sojourn at the Senate.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.

Sen. Mutula Kilonzo Jnr.: Point of order.

The Speaker (Hon. Ethuro): What is it about?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I wanted to welcome the school from Kitui County on behalf of my Chairman, Sen. Musila. Unfortunately, the school is not in the Gallery. So, this is the first time that we are going to acknowledge people who are not here.

The Speaker (Hon. Ethuro): Acknowledge for the record and then you can share with them.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, okay. For the record, on behalf of Sen. Musila, my Chairman, I would like to acknowledge the school from Kitui and wish them a fruitful stay at the Senate.

Sen. Boy Juma Boy: Bw. Speaker, ningependa kukaribisha Kamati ya *Energy* iliyotoka Kaunti ya Kilifi. Kama unavyojua, Kaunti ya Kilifi ndiko kuna mji wa Malindi. Sina haja ya kusema sana lakini unajua jinsi mambo ya Malindi yalivyokuwa. Kwa hivyo, nina furaha sana kuwakaribisha hapa. Ningependa kuwaambia watakaporudi huko, waendeleo kama walivyofanya.

(Applause)

Sen. Madzayo: Asante, Bw. Spika, kwa kuwakaribisha wenzangu kutoka huko nyumbani, Kaunti ya Kilifi. Ninafikiri katika matembezi yao hapa, watajifunza mengi kuhusiana na jinsi ambavyo sisi tunaendelea hapa katika Bunge la Seneti na hasa katika Kamati yao ya *Energy*.

The Senate Minority Leader (Sen. Wetangula): Bw. Spika, ninashukuru sana. Nami pia ninachukua nafasi hii kuwakaribisha ndugu zetu kutoka Kaunti ya Kilifi. Wamekuja kujumuika na Bunge la Seneti ili kusoma yale tunayofanya hapa. La muhimu

zaidi ni kuwashukuru na kuwapongeza kwa kusimama upande wa Wakenya walio wengi na wanaopenda haki na ukweli. Ninawashukuru pia kwa kuwaaibisha wale walioenda Kaunti ya Kilifi huku wamebeba mifuko ya pesa za wananchi na kujaribu kuvuruga demokrasia katika nchi yetu. Hongera, Wanakilifi.

(Applause)

The Speaker(Hon. Ethuro): Sen. Wetangula, ninajua unajaribu kuzungumza kile Kiswahili cha Sen. Wangari.

(Laughter)

Sen. Bule: Bw. Spika, langu nikupongeza ndugu na jirani zangu wa Kaunti ya Kilifi. Ninawakaribisha hapa na ninawapongeza kwa kufanya uchaguzi wa maana wa kuunga Serikali mkono na kuchagua kiongozi mliyependa. Ninafikiri mlichagua kiongozi mliyependa.

Hata hivyo, kuvurugana sio tabia yetu watu wa Kaunti ya Kilifi au watu wa Pwani. Kwa hivyo, mmechagua Serikali na pia yule tuliyeenda. Kilichobaki ni kwamba ninawakaribisha kwa Serikali, muunge Serikali mkono mkirudi nyumbani.

The Speaker (Hon. Ethuro): Next Order.

PAPERS LAID

REPORT OF THE JOINT COMMITTEE ON BROADCASTING AND LIBRARY ON REGULATION OF MEDIA ACTIVITIES WITHIN PARLIAMENT

Sen. Lesuuda: Mr. Speaker, Sir, I beg to lay the following Paper on the table of the Senate today, 10th March, 2016:-

Report of the Joint Parliamentary Committee on Broadcasting and Library on the Proposed Amendments to the Standing Orders of Parliament to regulate media related activities within the precincts of Parliament.

The Speaker (Hon. Ethuro): Next Order.

STATEMENTS

STATUS OF INTERNALLY DISPLACED PERSONS

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. I rise to give a statement that was requested about one month ago regarding the position of the Government on the status of internally displaced persons (IDPs). This statement was requested by the Senate Minority Leader but a few other Senators asked for supplementary information to accompany the response.

By way of introduction, we all know that following the disputed presidential elections of 2007, widespread violence erupted initially in the northern parts of the then Rift Valley Province near Eldoret, then Burnt Forest areas of Uasin Gishu District and spread rapidly to include the former Nairobi, Western, Eastern, Coast, Central and Nyanza provinces. Arising out of these, 245,416 IDPs households made up of 663,921 individuals were profiled as IDPs by the deadline of 31st December, 2008.

Mr. Speaker, Sir, given that IDPs were faced with different situations and needs, various interventions were adopted and included the following:-

1. “Rudi Nyumbani” Operation where IDPs were persuaded to voluntarily return to their farms.
2. Resettlement on Government procured land.
3. Cash transfers and payments.

Mr. Speaker, Sir, in order to mitigate the effects of the post-election violence, the Government established the National Humanitarian Fund through Legal Notice No. 11/2008 dated 30th January, 2008 followed by the appointment of the Advisory Board through Legal Notice No. 1038 of 15th February, 2008.

On 18th January, 2013, the prevention, protection and assistance to Internally Displaced Persons and Affected Communities Act of 2012 came into effect. The Act provides procedures and the manner in which resettlement of IDPs is to be carried out and provides for the creation of an all inclusive National Consultative Coordination Committee (NCCC) on IDPs to steer the resettlement programmes. The (NCCC) has now been constituted and the Act is in operation.

Hon. Members, it is worth noting that the Government is committed to assisting all genuine IDPs. However, the assistance the Government is extending to IDPs is limited to the facilitation of the affected persons to start rebuilding their lives. First, on the issue of the IDPs to be settled with the Kshs1 billion kitty, this amount is being used in the ongoing resettlement exercise of the last group of IDPs or forest evictees who have been living in camps numbering 5,261 from 35 camps given in Annex I which I am going to table together with this statement.

Mr. Speaker, Sir, secondly, on the status of IDPs especially in the former provinces of Nyanza, Western, Trans Nzoia, Turkana, Coast and particularly those called integrated IDPs from Bungoma, Kakamega, Busia and Kisii counties. The Government is aware of the existence of approximately 75,118 integrated IDPs in the country who are yet to be resettled. Their distribution is per attached list which is in Annex 2 which I will also table. The numbers of the integrated IDPs as captured by the set deadline of 31st December, 2008 are summarized as follows:-

Region	Number of IDPs
Western	7,000
Rift Valley	44,000
Larger Nyanza	10,000
North Eastern	22
Nairobi	4,000
Eastern	958

Coast	1,137
Central	6,139
Total	75,118

Mr. Speaker, Sir, the Ministry of Devolution and National Planning has now completed the resettlement of IDPs and forest evictees living in camps and has embarked on profiling and subsequent resettlement of integrated IDPs in a comprehensive manner. The Ministry is appealing to Parliament and the Treasury to set aside adequate funds to enable the Government to assist the integrated IDPs once profiling is completed. It was worth noting that there have been petitions for assistance from those affected or evicted prior to the 1992 and 1997 elections.

Thirdly, Mr. Speaker, Sir, on the question of how many IDPs will be catered for by the Kshs1 billion that has been set aside, who they are and how they have been selected, the distribution of those to benefit from the Kshs1 billion has already been covered in No. 1 above. However, the Government also wishes to add that those groups of IDPs were selected for this programme because they were still living in camps and the Government wanted to close all the camps once and for all before embarking on settling integrated IDPs.

Fourth, Mr. Speaker, Sir, on the number of IDPs who opted not to stay in the camps but went to stay with their relatives, and want the Government to resettle them, the official number of profiled integrated IDPs as at 31st December, 2008 was 170,416 households. These IDPs opted not to stay in camps but instead opted to stay with friends, relatives and well-wishers. Out of these, 95,728 households have been paid start-up capital of Kshs10,000 while the remaining 75,118 households are yet to be assisted.

Fifth, Mr. Speaker, Sir, on the number of IDPs who have been settled and how they were compensated given that the Kshs1 billion being rolled out was said to be the last payment ever to IDPs and the camps: In the past, IDPs and forest evictees have been settled through various programmes as follows:-

1. “*Rudi Nyumbani*”. Through Operation “*Rudi Nyumbani*”, 74,847 households were successfully persuaded to voluntarily return to their previous farms. All of them were paid start-up capital of Kshs10, 000. In addition, 37,843 household among them were paid Kshs25,000 each to reconstruct their partially damaged houses while a total of 71,473 low cost houses were constructed for those whose house were totally destroyed.
2. On land resettlement, in totality,---

Sen. Wangari: On a point of order, Mr. Speaker, Sir. I rise regarding the Statement that is being issued by the Senate Majority Leader and I am seeking direction because I remember when this issue came to the Floor, we deliberated on it in terms of if it is in the Standing Orders that you can seek a Statement from the Leader of Majority and he took it because the Sessional Committee on Devolved Government had not been constituted.

As Standing Order No. 45 (2) reads, you ask from a chairperson of a committee. Is it in order for the Senate Majority Leader to issue this Statement? We are a House of records, will it go on record that it is proper now to get a statement from the Senate Majority Leader?

Thank you.

The Speaker (Hon. Ethuro): Order, Sen. Wangari! I want to appreciate that particular intervention and for your consistency, nobody should take that away from you. But as we said last time, the Senate Majority Leader in this House has always acted as an agent of necessity. So, in that capacity, we assigned him this Statement. It is only fair that we let him proceed with it and he represents the totality of Government in the House.

The Senate Majority Leader (Sen. (Prof) Kindiki): Thank you, Mr. Speaker, Sir. There was a question regarding the number of Internally Displaced Persons (IDPs) who opted not to stay in camps and went to stay with their relatives and what the Government is doing to resettle them. The official number of profiled integrated IDPS as at 31st December, 2008 was 170,416 households. These IDPs opted not to stay in camps and stayed with their relatives and friends. Out of this, 95,000 households have been paid Kshs10,000 each. The remaining 75,118 households are yet to be assisted because of shortage of funds.

Through the “Operation *Rudi Nyumbani*” 74,847 households were successfully persuaded to voluntarily return to their previous farms. All of them were paid a start-up capital of Kshs10,000. Another 37,843 households among them were paid Kshs25,000 to reconstruct their partially damaged houses, while a total of 71,473 low-cost houses were constructed for those whose houses were totally destroyed.

Regarding the issue of land resettlement, in total 8,754 IDPs’ households, including 2,593 IDPs from Turkana County and 1,437 forest evictees’ households including 613 host communities, were settled on Government procured land measuring 20,631 acres and 4,741 acres respectively. Each household was provided with 2.25 acres and a low-cost house.

The other intervention has been through cash payments. A total of 8,409 households were resettled through cash payments of Kshs400,000 each in cash, in Phase One, in 2013. They included IDPs from Gilgil, Mai Mahiu, 934; Mau Forest evictees, 1,896; Kieni Forest evictees, 805; Teldet Forest evictees, 392; Embobut Forest evictees 2,874; Kipkurere Forest evictees, 1,192 and Mau additional evictees, 316. In addition, the National Consultative Coordination Committee (NCCC) on IDPs repatriated 246 Kenyan IDPs that were living in Uganda as refugees. Each was paid between Kshs100,000 and Kshs150,000, depending on family size.

In the second phase of cash payments, there were 5,387 IDPs and forest evictees. Each was paid Kshs200,000 in lieu of land. This included 2,127 Nandi Forest evictees, 425 Konoin Forest evictees, 357 Sambalat landslide victims, 1,077 Mauche Forest evictees and 1,401 IDPs from 26 various camps. A total of Kshs1.077 billion was used in this exercise.

In Phase Three of the cash payment, 5,261 IDPs and forest evictees were covered, as shown in the table in Annex 1, which will be tabled together with this Statement. Each of these will get Kshs200,000, as proposed.

Regarding the integrated IDPs, there were a total of 170,416 households categorized as integrated IDPs living among the various communities in the country. The integrated IDPs were all to be paid Kshs10,000 as start-up capital. To date, 95,298

households have been paid the start-up capital, while the balance of 75,118 houses is yet to be paid.

Regarding the fate of five acres piece of land in Trans-Nzoia owned by Mr. Mwilitsa, who was displaced and then compensated, in the current state of things, the land still belongs to Mr. Mwilitsa even if he was compensated. The Government has not yet devised a framework to deal with such matters. In most cases, no IDP declares their property, including when seeking resettlement. Possibly, a law should be put in place to reposes the land and hand it over to the Government.

On whether there have been new IDPs after the 2007/2008 post election violence and how much money has been paid to which IDPs, since 2007/2008 post election violence, a number of requests to resettle IDPs have been received and included in the resettlement programme. This includes mainly forest evictees from Mau, Kieni, Teldet. Marakwet, Kipkurere and Nandi. In addition, requests for resettlement have been received from Tana Delta, Baringo, Marsabit, Moyale, Mpeketoni and other areas, following recent internal conflicts. However, most of latter cases were later resolved and those affected returned to their original homes. The Ministry has offered various forms of assistance to those affected in form of food and non-food items.

On the definition of IDPs, The Prevention, Protection and Assistance of IDPs and Affected Communities Act, 2012 defines “IDP” as a person or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, large-scale development projects, situations of generalized violence, violations of human rights, natural or human-made disasters and who have not crossed an internationally recognized state border.

The other issue was when the case of historical IDPs will be considered. The problem of internal displacement in Kenya is complex and precedes the colonial era. Until 2012, there was no legal framework to address internal displacement issues. Issues relating to internal displacement were often handled in the context of humanitarian assistance. In light of the foregoing, a comprehensive data and information for displacement that occurred prior to 2007/2008 post election violence is very scanty. However, several petitions have been launched by groups that were affected prior to post election violence, 2007/2008. The Government realised that some of the cases of historical IDPs are so old and lacking in documentation that tracing their details will be extremely difficult and would open up the process for abuse.

In addition, the cases are many and varied in nature and it would not be viable to pursue them leave alone to compensate the victims. However, there are some genuine historical cases that need to be considered. This include victims of the 1992 and 1997 elections-related violence, specifically in Molo and the Enoosupukia victims and colonial village evictees of 1988 and 1998 who have been engaged in the *shamba* farming system since the colonial days. Some of these records are held in the county commissioners’ offices. In addition, many of the cases brought to our attention relate to civil eviction of squatters. Some are out of land transactions gone bad, which should ideally be handled by the Ministry of Lands, Housing and Urban Development, under the Settlement Fund Trustee or through civil litigation.

It is worth noting that squatters do not qualify to be IDPs, as defined in the Act which I have just quoted. Following this realization and the numerous requests for assistance by persons and groups claiming to have been displaced in periods dating as far back as pre-independence, NCCC sought legal advice from the Attorney-General regarding the interpretation of The Prevention, Protection and Assistance to IDPs and Affected Communities Act 2012 *vis-à-vis* historical displacement, with a view to determining the cut-off dates for the mandate.

The hon. Attorney-General, through his letter, which is also tabled alongside this Statement dated 14th December, 2015, advised that the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, in spirit and letter, only provides for resettlement of the 2007/2008 Post-Election Violence (PEV) victims and those affected after that period. A copy of this letter is attached as Annex 4. The resettlement of historical IDPs and forest evictees, therefore, does not fall under the purview of the National Consultative Coordination Committee (NCCC) on IDPs.

On the fate of the integrated IDPs in Nyamira County as stated above, the integrated IDPs of Nyamira County will shortly be profiled together with others from different parts of the country after which appropriate assistance will be extended to them.

On the fate of IDPs of 1992 still living in centres, particularly the over 5,000 who meet weekly at St. Immaculate in Trans Nzoia County, as mentioned above, the settlement of IDPs and forest evictees relating to periods before 2007/2008 does not fall under the scope provided for in the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act. Unless the policy changes and adequate budgetary provision is given, these historical cases will be left out of the resettlement programme.

On the IDP problem at the Muhoroni-Nandi Border where fresh IDPs emerged on new year's week and whether the Government has moved in to secure the people in the area to avoid further insecurity and killing of the people in that area, the Government has made efforts to restore peace and security in the area. Indeed, for this reason, we are not aware of any IDPs that resulted from the Muhoroni-Nandi Border skirmishes. None has been reported to our offices and it is assumed that all those affected returned to their normal lives after the situation was put under control.

Finally, is whether we are ready for such occurrences in future and whether the Government is prepared to avert such occurrences. The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012 makes it mandatory for the national Government, through the Ministry of Devolution and Planning, to promote public awareness about the causes, impact and consequences of internal displacement as well as on means of prevention, protection and assistance of the IDPs through a comprehensive nationwide education and information campaign in order to prevent future instances of internal displacement in Kenya with the involvement and participation of various stakeholders such as various communities, IDPs leaders, the National Cohesion and Integration Commission (NCIC), the Kenya National Human Rights Commission (KNHRC) and non-state actors. Plans are underway to roll out the programmes before the next elections as well as areas prone to internal conflict.

With regard to the issue of how many IDPs from Migori County have been paid, Migori in particular had 760 integrated IDPs households who were each paid Kshs10,000 start-up capital and has another 127 integrated households who are yet to be assisted. No IDP camp existed in Migori County. Therefore, none can be included in the current list. However, the county will be covered in the on-going profiling of the integrated IDPs.

Next is the issue of whether the registered integrated IDPs in Murang'a County have been paid, who has been paid, how much money, the fate of the land that was owned by the people of Murang'a who are now integrated IDPs and whether they can go back to their land. Annexed to this statement is a list of IDPs in Murang'a who are integrated, those that were paid and the amounts and also those that have not been paid. Further, I wish to state that the land which was once owned by the integrated IDPs still belongs to them. The owners are free to return to their farms whenever they feel safe. The Government will facilitate their return through the *Rudi Nyumbani* Programme. If they cannot return because they feel threatened, the Government is ready to provide security to ensure their safety.

Mr. Speaker, Sir, the last paragraph is in Kiswahili and I need your guidance because it was asked in Kiswahili.

Swali lilikuwa; kama wakimbizi wa ndani waliokimbia kutoka Tana River miaka 13 iliyopita wakati wa vita walishughulikiwa, pahali waliko kwa sasa na mbinu za kuwarejesha au kuwapa makao. Wizara haina habari kuhusu hao wakimbizi wa ndani wa miaka hiyo kutoka Tana River. Hatujapata habari yoyote kutoka kwa wakuu wa kaunti wala waathiriwa wenyewe kwamba wanahitaji msaada wetu. Hata hivyo, kama vile nilivyosema hapo awali, Mkuu wa Sheria ametoa mwongozo wa kisheria kuhusu wanaotakikana kushughulikiwa chini ya Sheria ya Wakimbizi ya Mwaka 2012. Watakaoshughulikiwa ni wale walioathiriwa miaka ya 2007/2008 na baadaye. Kwa hivyo, kikundi cha wakimbizi hao hakitahudumiwa kulingana na mwongozo uliotolewa.

Mr. Speaker, Sir, this statement is signed by hon. Mwangi Kiunjuri, the Cabinet Secretary for Devolution and Planning. For the benefit of the distinguished Senator for Bungoma who had asked this question, the CS's foreword – because he was also following the proceedings – assures this House that he will remain enthusiastic and ready to engage the Senate.

Thank you, Mr. Speaker, Sir. I now beg to lay this Statement and the annexure on the Table of the Senate. Sorry I have taken a lot of time.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki)
laid the document on the Table)*

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I wish my colleague and brother had furnished me with a copy of the statement before he read it so that we can interrogate it properly. Be that as it may, if you followed the statement carefully, you will find several things. First, that the Government has not been fair in handling the issues of IDPs. Some IDPs have been paid Kshs200,000, others Kshs400,000, others a paltry Kshs10,000 and others nothing. Even the idea of classifying the IDPs as integrated, so that they do not benefit from Government support is

wrong because an IDP is an internally displaced person whether they live with a relative or in a tent.

Mr. Speaker, Sir, we would like to get clarification. Since the resettlement of IDPs started, how much money has been expended on the IDPs? Who has been paid, where and how much? We would like to know how many IDPs were bought land and resettled because we have seen some areas where IDPs were bought land, houses built for them and resettled. Above all, we would like to know from the Senate Majority Leader, on behalf of Government, how much more do we have to budget to pay and resettle IDPs.

From the records he has read, the Government seems to have concentrated on people who have been evicted by the Government from forests but not victims of actual violence arising out of the mismanagement of elections and the inability of the Government to provide security for its own people. Why would the Government spend money paying its victims that it removed from forests and ignore those who have suffered with their families because it was unable to provide security?

More gratifying, there is a Motion coming under Order No.18 that will probably deal with this matter much better than the answer we are getting. I want to encourage the House that we agree to set up a select committee to go to Murang'a, Meru, Pokot and everywhere and establish what the issues of the IDPs and how we resettle them.

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

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir, for being generous to me. This is a very emotive issue.

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

The Senate Minority Leader (Sen. Wetangula): When I sit here and listen to my brother saying that in 1993---

The Speaker (Hon. Ethuro): Order, Senator. There is something called anticipating debate.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, forgive me because I am not going that direction. When Sen. (Prof.) Kindiki read the victims of 1992/1997 violence, he did not mention the Kiliku Report of the National Assembly or Parliament which identified that the highest victims of that time were from Trans Nzoia, Kipkaren, Bungoma and Lugari. He did not mention any one of those areas. This is a selective application that is not good.

Mr. Speaker, Sir, finally, Kshs22 billion, that has led to Sen. Khaniri's request that was said to have been paid to Internally Displaced Persons (IDPs). This House will be interested in knowing who the beneficiaries were and at what quantum.

Sen. Kembi-Gitura: Mr. Speaker, Sir, this issue is of such paramount importance because it is completely bipartisan. It touches on everybody in all the 47 counties. I am happy to hear the Senate Majority Leader singling out Murang'a County which has several pages in Annex No.3 (a) showing how many people were affected and how much they were paid. However, I do not know what somebody who had a farm with his own dairy cows can do with Kshs10,000 as startup capital. To say the least, it is ridiculous.

This matter is very important to us. Maybe subject to your guidance, it is not a matter we should be debating off the cuff having listened to what the Senate Majority

Leader has said. I thank him for a job well done. I suggest the report he has tabled together with annexes be circulated to all of us.

I would like to look at the list and confirm whether these people mentioned as coming from Murang'a County are, indeed, from Murang'a and they were actually paid. Some of them came to my office in Murang'a County and they told me they were never paid anything. They are anxious to go back to their pieces of land if there is adequate security. For those that are so much traumatized and do not want to go back to their land, they want Government to compensate them adequately to buy land somewhere else and settle, but not with Kshs10,000.

Mr. Speaker, Sir, my proposal is that we suspend this debate. Give us time to look at the report and counter check it against the people we know are integrated IDPs, then you can set a date when we can interrogate it further. If we do not do so, we will make nonsense of this very important report. It will go on HANSARD, but it would not have sorted out anything at all in dealing with this delicate issue. All these people were wealthy and lived decently but now they are pauperized living with their relatives in Murang'a and other places. It is a pity that they are expected to live decently with a paltry Kshs10,000. I do not believe a good number of them have received this money.

If you allow my request, I will be grateful. However, if you say that we must debate it now then I request that you give me time to come back on it by way of a point of order.

The Speaker (Hon. Ethuro): Who sought the statement?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! The Deputy Speaker is, in fact, agreeing with your initial proposal. You put me in serious trouble because both of you put the request and then went ahead to interrogate the statement. Therefore, which is which? The Senate Majority Leader, please, speak to the point of deferment.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I would like to assist in the thought being offered by both the Senate Minority Leader and the Deputy Speaker. The issue of IDPs is so critical in this country. It is very emotive. It has been with us for many years. Therefore, I support a situation where we handle this issue comprehensively. If there is one thing that the Senate can help this country heal and move forward, it is to address this issue comprehensively.

I am more than happy to even engage the Ministry further. The Cabinet Secretary has been very cooperative, especially with the clarification sought on how much money has been spent in total and who has benefitted and where they come from. However, a comprehensive position of the Government on how to deal with the IDPs from whatever time to eternity is critical so that we deal with this problem once and for all. Therefore, more time is encouraged.

I beg to support.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, before you make a ruling on whether to step down this matter in accordance to the request, allow us to raise one or two issues that will enrich the statement. This is obviously a good answer, but it could have been better--

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! Let us decide on whether we need time to raise those issues or proceed. That is what is before us now.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I support the request that the matter be stood down. However, it will help us if before we interrogate the statement, you will have given us in advance the full list of all the integrated IDPs in the same manner that you have done for Murang'a County. It is also important that you give us the list of the pieces of land which the IDPs left and are now being compensated for. It should also be indicating who the current occupants of the said land are. Leaving this issue unaddressed means that we are allowing somebody to occupy another Kenyan's property for nothing.

We also want that list to inform Kenyans whether the continuous payment of billions upon billions in every financial year is being given to *bona fide* IDPs or people who had small hawking business at the market places and when hell broke loose, they went to camps and started claiming that they lost their land. That must be documented because we need to know.

Finally, we need to insist that a Kenyan IDP is an IDP irrespective of what caused them to be displaced. To focus on IDPs of post-election violence and leave out the IDPs of post-tribal clashes of 1992 and 1997 is not fair. Which other Government do we expect to settle those clash victims? Give us the full set of all IDPs in Kenya so that we settle the matter once and for all.

The Speaker (Hon. Ethuro): That was helpful intervention, Sen. (Dr.) Khalwale.

Sen. Munyes: Mr. Speaker, Sir, I am persuaded by comments from the Deputy Speaker and the Senate Minority Leader that we suspend this statement until we have enough information. However, I request that on the issue of shelter and construction of houses, we need to know how many have been occupied and the various stages that they are at; whether they have been completed or not. I say this because in Turkana County, half of those houses have not been completed.

The statement might imply that we have secured houses and people have occupied them yet I know that half of those houses have not been completed. So, he should issue a statement to show the various stages; whether you are starting them, how many have been completed and how many have been occupied. That might help.

Sen. Obure: Mr. Speaker, Sir, while I support the Senator for Murang'a that we stand this matter down until we get an opportunity to look at it comprehensively, this House needs to record the fact that the whole issue of IDPs has been handled poorly and unsatisfactorily. While some IDPs in certain regions have been assisted, others including those from Kisii have so far been totally neglected.

The Senate Majority Leader acknowledges that there are up to 75,000 households which have so far not received any support whatsoever. How does the Government expect these people to live and support their families all this period; eight years after the violence erupted? Precisely, when will they receive assistance from the national Government? More importantly, we need to register our dissatisfaction with the manner in which this matter has been handled. This is a House of records. That should go on record even as I support the proposal by the Senator for Murang'a, the Deputy Speaker, to have this matter debated more comprehensively at an appropriate time.

The Speaker (Hon. Ethuro): Let us have the last contribution before I dispose the matter. Proceed, Sen. Wamatangi.

Sen. Wamatangi: Mr. Speaker, Sir, as I also support the request by the Senator for Murang'a, our Deputy Speaker, just as a follow up to what the Senator for Kakamega has said, which is good and important. When the decision was made to compensate IDPs with monetary value against what they lost in land, it is also true that all the assets that the IDPs lost was not only land.

With your permission, I could just give an example of amongst many, one IDP whom I knew personally. He was a resident and a wholesaler in Kakamega. His name was Mr. Stanley Mungai. He was killed in Kakamega and his five lorries burnt. His wife was evicted and now she lives in a "10x 10" room in Rongai. Although such an IDP lost the land they had, they also lost all their life time investment entirely to the extent that somebody who was a wholesaler now is a peasant and a beggar in Rongai Town.

As we address this question, how will we consider the true value of the loss of the IDPs as we talk about resettlement and compensation? It is important for this question to be answered in line with the other questions.

The Speaker (Hon. Ethuro): Proceed, Sen. Okong'o. You have one minute.

Sen. Okong'o: Mr. Speaker, Sir, this is a time bomb for the nation. All leaders must rise and engage. In Nyamira, there are over 10,000 integrated IDPs who left behind their property. They were given a meagre Kshs10,000. I, therefore, support the proposal by the Deputy Speaker that we stand down this response then we interrogate it extensively. This matter affects the nation of Kenya.

Sen. Murungi: Mr. Speaker, Sir, I rise to support the request by the Deputy Speaker for this matter to be deferred so that it can be addressed in a more comprehensive manner. I was in Sirisia in 1992 with hon. Musikari Kombo, hon. (Dr.) Kituyi and others and we visited an IDP camp that was occasioned by political violence of those days. We have never heard about compensation for those IDPs yet they were many.

The focus of compensation for post-election violence victims seems to be almost exclusively focused on the 2007/2008 victims. However, that violence has been in this country for some time. We have many integrated IDPs in Meru but since they did not go to any camp, they have not been considered and compensated. As we go back, let all those other areas where integrated IDPs have not been identified or chronicled be looked at. The Senate Majority Leader has not spoken about it but we had some political violence and 3,000 people from Tharaka-Nithi were displaced during hon. Kalweo's time.

The Senate Minority Leader (Sen. Wetangula): He is defending the Government!

Sen. Murungi: Mr. Speaker, Sir, time has come for those ones to be compensated. We are calling for the areas which have not been included in Government records, even if it means taking another two or three months, it is important to consider them so that this issue is dealt with once and for all in a just manner.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I listened keenly to the response given by the Senate Majority Leader. I support the direction which has been suggested by

the Senator for Murang'a in conjunction with Sen. Wetangula and Sen. Munyes who has just walked out.

We have a peculiar problem which has not been addressed here. In the post-election violence, people lost their homes, property and life as a result of political disputes. However, we also have another problem, cattle rustling, in which many people died. This problem has been there since 1992 up to May last year affecting all the stretch from Nauyopong, Lorengippi in Turkana to Samburu. Those are not lesser Kenyans but by the grace of God, today, we have peace but life, property and houses were destroyed. These people should also be profiled. The Government should take advantage, now that we have sufficient grace of God; there is peace now, no livestock or life lost, to step in and provide them with houses.

The cases that Sen. Munyes talked about are few. The Turkana people who were resettled were from Naivasha and Eldoret. What about those from Nadome and Kapedo? Lastly, I see houses being built on the land in Burnt Forest from where people were displaced. Since some of those who were displaced were compensated, I wonder who the owner of that land is today. We need to address this issue thoroughly.

I support.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, in Rongai there is portion of land that is very controversial. It was supposedly purchased by the Government to resettle the Internally Displaced Persons (IDPs.) However, only a few people were settled on that land. This issue has been very controversial for the people who have farms around the area, because the IDPs are cultivating other people's land. How much land did the Government buy, if at all? How many people were supposed to be settled and are currently on that piece of land next to Gicheha Farm in Rongai?

Sen. Hassan: Mr. Speaker, Sir, in Kenya's post-independence history, all human rights bodies are in concurrence that there has never been a massacre or crimes against humanity that were committed blatantly like those in northern Kenya. In fact, it is our only modern-day genocide; the Wagalla and others. This occasioned massive suffering in northern Kenya.

In fact, the issue of IDPs in northern Kenya has been there since the time I was in the Kenya National Commission for Human Rights (KNCHR). While I appreciate the personal thought of the Coast region, I also wanted to broaden it so that we include the whole of Kenya rather than be very specific to four or five areas.

We need to know what consultations usually take place in the processes of integration. I had to travel to Taita-Taveta because there was belief at that time that some of the IDPs would be settled there and the Taita community was up in arms. Therefore, even in terms of settlement strategies, the Government needs to inform us what broad mechanisms they engage with local stakeholders to ensure that they cool down the embers of ethnicity, because part of these conflicts were created largely due to the ethnic character of our country.

Communities need to be reassured that even as people are being resettled, they will not pose any particular ethnic animosity. The counties of northern Kenya have equally been hit very hard and it will be important for us to also determine the status of resettlement of those IDPs.

The Speaker (Hon. Ethuro): Order, Senators. I wonder which words to use. How do I step down what has already been stepped up? Every Senator has stood to say: “I wish to support the deferment,” and then goes ahead to contribute. Be that as it may, I order that this Statement comes one week from today, that is, on Thursday. It shall be the only Statement on that day. I have allowed seven days so that the Senate Majority Leader can use the intervening period to look for the additional information that the Senators have sought.

What is it, Sen. Kembi-Gitura?

Sen. Kembi-Gitura: Mr. Speaker, Sir, may I humbly request that you grant us a little bit more time, say, two weeks. I am lucky in the sense that there are Annexes 3 and 3 (a), which has to do with only Murang’a. I do not know about the other places. I would like to do a little bit of verification from Murang’a office, so that I find out whether it tallies with truth on the ground. Since one week may be too short a time, I kindly request you to grant us even three weeks, if it is possible. One Member even said that a month would be better so that they can look at all these issues.

That is my humble request.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, in light of what Sen. Kembi-Gitura has said, this matter is very complex and important for our national cohesion and going forward together as a country. The reason Murang’a was isolated is because the Senator for Murang’a had asked specific questions. The reason West Pokot was not included is because the Senator for West Pokot was not here on that day and so, there was no particular question on West Pokot.

We could now address the matter if possible, county by county. My own county, Tharaka-Nithi, has cases of over 3,000 IDPs and I requested my brother to ask about it on my behalf. However, he did not say so and instead, talked as if I am ignorant of the matter. I am a good lawyer and Sen. Wetangula and Sen. Murungi will tell you that no man can be a judge in his own course. Since I was issuing the Statement, I could not have raised the Tharaka-Nithi issue.

I plead with you that we give this matter time - three weeks is good time - so that I can get all the information possible. On that day we should set aside all other statements, so that we give it one or two hours and come up with a comprehensive way forward. If after that it will be necessary, we can even ask the Cabinet Secretary and his team to come and engage with the Senate, so that we can have a framework for addressing this issue once and for all.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Listening to the Senate Majority Leader, the Deputy Speaker and all other presenters, am in order to even go further and request that prior to re-issuing this Statement on the Floor of the House an open session, we usually call *Kamukunji*, or an official session be convened by the relevant Committee inviting all the Senators and Cabinet Secretary?

Each one of us can then ask all those questions and then we return the statement to the Floor of the House, considering what the Cabinet Secretary will have said. On the Floor of the House we will then make decisions as to whether it might be necessary to escalate it to the position of having an inquiry across the country.

Sen. Khaniri: Mr. Speaker, Sir, the reason I did not rise up to ask a supplementary question is because I have a Motion on the same that is listed on the Order Paper. My Motion seeks to establish a select committee to comprehensively look into this issue. In view of the developments now, I seek your guidance. Should we proceed with the Motion first or wait until the statement is dealt with before we can set up the select committee, if the House will so resolve? I need your guidance on that.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, first I want to thank the Senate Majority Leader for the candour that he has displayed in dealing with this matter. More importantly, I thank colleagues for showing tremendous interest in a matter of grave national importance, touching virtually on every county.

Mr. Speaker, Sir, my suggestion to the House is that it is unlikely that each one of us will have the opportunity to pick the materials from our respective counties in good time and bring it to the House. If this Motion under Order No. 18 goes through and a select committee is set up - given the opportunity to visit every county - to assess the situation and bring a comprehensive report that will finally address this matter, it will be helpful.

I stand guided by the Chair but it is a matter that needs serious in-depth approach and a select committee will be the only choice.

The Speaker (Hon. Ethuro): Order Senators. The issue before me is time to interrogate the statement. I directed that it should be done in one week. Sen. Kembigitura petitioned that we need more time and a Special Sitting or a *Kamukunji* to consider it. We may also need the CSs presence.

Sen. Khaniri brought to the attention of the House that there is a proposal for a Select Committee. Now, which one do you want to come first?

My directive is that we interrogate the matter before us because by interrogating, we will find a way of disposing the Motion. I am sure if it will be satisfactory, there might be no need for a Select Committee. If we find it otherwise, then a case for a Select Committee will be established. The issue that is in contention is the period that I will allow the Report to be brought to the House. Three weeks seems to be adequate. It is so ordered.

(Statement deferred)

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

WORKSHOP ON THE COUNTY MONITORING, EVALUATION AND IMPACT ASSESSMENT FUND

Hon. Senators, as you are aware, on Wednesday, 2nd December, 2015, the Senate established a Sessional Committee on County Monetary and Impact Assessment Fund. Subsequently, the Parliamentary Service Commission prepared and gazetted the

regulations governing the County Monetary and Impact Assessment Fund via Legal Notice No. 251 of 3rd December, 2015.

The regulations among others mandate the Committee to:-

1. Consider the bi-annual disbursements out of the Fund.
2. Receive reports on the performance of the Fund from the administrator.
3. Examine the monitoring programmes being undertaken by the recipients of the Fund.
4. Prepare and submit to the Senate an annual Report on the operations and performance of the Fund.
5. Perform any other function as the Senate may approve.

On 10th February, 2016 the Committee held its first sitting and elected its leadership.

The Committee has convened a half a day workshop to sensitise all the Senators on the operationalisation and implementation of the regulations of the Fund. The workshop will be held on Thursday, 17th March, 2016 at the Hotel Intercontinental, Nairobi starting at 8. 30 a.m. Therefore, I take this opportunity to urge all of you to attend to this important workshop to deliberate on this important matter.

Thank you.

(Resumption of Statements)

BUSINESS FOR THE WEEK COMMENCING
TUESDAY 15TH, MARCH, 2016

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I rise under Standing Order No. 45 to present the Business of the Senate for the coming week as follows:-

On Tuesday, there shall be a Rules and Business Committee (RBC) meeting at noon to schedule the business of the week and will direct the business that will be on the Order Paper that day.

On Wednesday, the Senate is expected to continue with Business that will not be concluded on Tuesday especially the following Bills which are at the Second Reading and at the Committee stage:-

1. The Kenya National Examinations (Amendment) Bill (Senate Bill No. 7 of 2015).
2. The Office of the County Attorney Bill (Senate Bill No.37 of 2014).
3. The Office of the County Printer Bill (Senate Bill No. 42 of 2014).
4. The Water Bill (National Assembly Bill No.7 of 2014).
5. The Universities (Amendment) Bill (Senate Bill No.31 of 2014).
6. The County Assembly Services Bill (Senate Bill No.27 of 2014).
7. The County Hall of Fame Bill (Senate Bill No.27 of 2014).

On Thursday, the Senate will continue with business that will not be concluded on Wednesday especially the Bills.

Mr. Speaker, Sir, I encourage attendance because we have limited period left and the session is busy. We must do whatever we can to make sure that we pass as many Bills as possible. I also thank the Members for work done so far and appeal to all of them to turn up next week so that we dispose the legislative agenda before us.

I hereby lay this Statement on the Table of the Senate. I thank you.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki)
laid the document on the Table)*

SENATORS' GENERAL STATEMENT

WITHDRAWAL OF SECURITY DETAIL OF MOMBASA COUNTY GOVERNOR ALI HASSAN JOHO

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am raising a matter under Standing Order No. 45 (2) (a). It is a matter on an issue of topical concern and it is touching on a county.

We have seen newsflashes that the Government has withdrawn the security detail of the Governor of Mombasa County, one, Ali Hassan Joho. His bodyguards and residential guards have been withdrawn. This does not augur well for the politics of this country. Everybody knows that we just came from a bruising by-election contest in Malindi where Governor Hassan Joho was the team leader of the Coalition for Reforms and Democracy (CORD) troops. In the process, he received several threats from the Coast Regional Commissioner, a Mr. Nelson Marwa.

[The Speaker (Hon. Ethuro) left Chair]

[The Deputy Speaker (Sen. Kembi-Gitura) took Chair]

Mr. Deputy Speaker, Sir, coming as it does, immediately after the by-election and with all that we have seen around Governor Hassan Joho, his family business was closed and the police raided his business, I stand here on behalf of CORD fraternity and state as follows:-

1. That we will hold the Government and its security organs liable and responsible if anything happens to Governor Ali Hassan Joho.
2. Secondly, we demand that the provision of security to a governor for his personal safety and security and his residence is not a privilege, it is a right. A governor is the political head of a county.
3. Thirdly, that, the security detail of Governor Joho be restored and reinstated forthwith unconditionally.

The dark days when people were punished because of the political positions they took are long gone. We are in a new dispensation. The Government of Jubilee must learn how to be tolerant and appreciative of different shapes of opinions. We do not want to get to a situation where the Government is driving citizens to start thinking of alternative

mechanism of self-protection. That can undermine the security structure of the country and comprise the cohesion that we have. Everybody, even the meek, the lowly and those who have no access to Government facilities have options in life. People should not be driven to exercise those options.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members! I will allow the points of order that you seek. Sen. Wetangula I have confirmed from the Speaker that he allowed you to raise that point of order under Standing Order 45(2)(a) and I have listened to you. However, I want to make one caution even as you raise the point of order. Sen. Wetangula at the beginning said that we have all seen from the newsflashes and newspapers. The Senate and Parliament does not ordinarily rely on newspaper reports. I caution Members to observe the limits. You have nothing to lay on the Table of the Senate because Sen. Wetangula did not.

There are a few points of order coming. Is anyone using Sen. Lesuuda's card? I can see her name on the intervention list, but I cannot see her in the House. Maybe that seat has become so accustomed to her that it reads her name.

Sen. Elachi: Mr. Deputy Speaker, Sir, I thank the Senate Minority Leader for bringing this issue. It will be absolutely wrong for this Senate to start debating about Governor Joho's security when we know very well that the deputy governor for Mombasa's security was withdrawn and her vehicle taken away, yet we never made it an issue. We want to defend the same governor now.

I have a video here. I have given it to *Citizen TV* and the IEBC observers. A female Member of the County Assembly (MCA) was stripped naked. The police were there, the governor stood there, but did nothing. At the same time, he went ahead and pointed at a police woman in uniform and insulted her. Today, this Senate is saying that we have someone who is very important in this country and we have women who are not important. Not in this political dispensation. He must, first of all, be ashamed to bring such an issue here.

Anyway, the Governor has always said that he does not need security. That they are nothing and do not need to be in his county. Why does he want security personnel now and yet he said he does not need them?

(Loud Consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Elachi! Order Members! All of us must show respect for each other. Sen. Elachi, two wrongs do not make a right.

(Applause)

I am not passing judgement. I am not saying that anybody is right or wrong. However, we must always remember that.

Sen. Hassan: Mr. Deputy Speaker, Sir, I am the Senator of Mombasa County. Therefore, the Governor is a constituent of Mombasa County. I take great reservations with what Sen. Elachi has said. However, our security is provided by virtue of our positions. Every Senator, every Governor and every public official of a certain position is

required to be provided with security. I take great exception with anybody intimidating either the Governor of Mombasa or any other governor for that matter on account of his political position or account of petty political differences.

As Senator of Mombasa, I can tell you without contradiction that we will hold the Government of Kenya directly responsible for any harm that will befall Governor Joho. In the same line, we need immediate reinstatement of any security that is due to any governor in this country. It has come to time that we need to summon the Provincial Administration here so that we can hold them to account for some of the excesses and transgressions of the law.

The Deputy Speaker (Sen. Kembi-Gitura): In the statement made by Sen. Wetangula, he was not seeking any remedy. He was making a statement of fact. Whether or not he can stand with it under Standing Order No.94 is a different thing. Therefore, we are not going to protract this matter too much.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I plead with my younger sister Sen. Elachi to kindly pay attention to Article 96(1) which says:-

“The Senate represents the counties and serves to protect the interests of the counties and their Governments.”

The head of a county Government is called a governor. Therefore, if according to her it is right to remove the security of the head of a county Government, you should also advance the misguided theory that it would also be right to remove the security of the head of the Government of Kenya. That is how contradictory you are. The Inspector-General (IG) or the deputy IG, whoever is in charge of the former Provincial Administration should know that they are breaching this Constitution, particularly Article 96(1).

Secondly, we insist that Governor Joho be given full security, in fact, enhanced security at this rate. Kenyans witnessed a few weeks ago, when the family business was being closed. Maybe Kenyans got confused---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! I warned you, did I not? Sen. Wetangula talked about security. That is the issue. Kindly stick to the issue.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, what I intended to say in bold is that this is harassment and intimidation. This is coming shortly after a few weeks ago when the same Governor had his own businesses being closed. Kenyans will be forgiven if through propaganda, they thought that that closure was justified. For the information of Kenyans, a CFS means Container Freight Station at the port. There are many such CFSs and its work is to handle loading and offloading ---

The Deputy Speaker (Sen. Kembi-Gitura): You will stick to the statement that Sen. Wetangula gave or I will stop you. It is a very small margin because this is Statement Time and I will not allow you to introduce new issues that were not in the statement that Sen. Wetangula issued under Standing Order No. 45(2)(a).

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I will not go further than that. The point that I also wanted to make was that even that closure was illegal and intimidation. Therefore, this intimidation should stop at this stage. If the intention of withdrawing security is to make us in the Opposition submissive, we are not going to be. We will

oppose and oversight the Government. When there will be a by-election, we will be in the Opposition and we will defeat them the way we did in Malindi, Nyangores, Bungoma and Makueni Counties, Mathare ---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale!

Sen. Elachi: On a point of order, Mr. Deputy Speaker, Sir. I said I appreciated what the Senate Minority Leader has done. I think it will be very wrong for this Senate to discuss about security when the Deputy Governor of Mombasa County underwent the same with the same Governor. How come we did not make it an issue? She is a governor and in a position that she should be protected. She was intimidated and told that she is a mole campaigning for another party and that is why they did that to her. So, today, the Governor becomes superior to his own deputy governor. They are together. It is one office. That is why I am disputing on this Floor.

Sen. Orendo: On a point of order, Mr. Deputy Speaker, Sir. Just allow me to react a little bit to what the Government Whip has said. The position is that the deputy governor of Mombasa County is working very well with the governor. We were with her during the campaign, sat with her at a venue and had a meal together with my leader here. What you have been seeing in the media is nothing but a figment of your imagination. She is a lady that I have known for a very long time and had no basis to lie to me.

If you recall, whenever national leaders have had their security withdrawn wittingly or unwittingly, something always happens. Sen. Wetangula and I were involved in the trial and inquiries around the murder and disappearance of the late Dr. Robert Ouko. The first thing that happened was that his security was withdrawn. Subsequently, everybody knows what happened.

When the late Mr. Tom Mboya was assassinated on the streets of Nairobi, he wittingly or unwittingly did not have his bodyguards. In fact, one of them was left crying around the then New Stanley Hotel. The rest is history. One can go on and on. If you look at the circumstances surrounding the assassination of Mr. J.M. Kariuki, the first thing that disappeared around him was security. So, this is not a light matter.

Mr. Deputy Speaker, Sir, the second issue why this matter is serious is that it is not just Governor Joho but other Government leaders have been killed, including very senior police officers particularly in the Criminal Investigations Department (CID) and religious leaders. To have a person the calibre of a governor without security for whatever reason is something that the Government should try to look into as quickly as possible. In any case, I believe that that is not happening by accident or coincidence. There is a whole political project around it to try and intimidate Governor Joho.

Let me finish by saying that this is something which should be of concern to us. We have lost so many leaders in this country and it is not just those three people that I talked about. Even the very first time that I came to Parliament, we lost Members of Parliament (MPs). That is why when President Kibaki came to power - more than any other President, he had been there for a long time - everybody was opposed to MPs having security, he came out openly and said that, yes, he supports the idea of MPs having their security. As Senators, we are even luckier because we get more security as compared to other MPs in the National Assembly.

Therefore, what has happened to Governor Joho is a serious matter of concern. It is a bipartisan issue. I was very happy when the same thing happened to Sen. Muthama, the House came together and it is through the Office of the Speaker that Sen. Muthama's security was restored. As the Senator of Kakamega has pointed out, the issue is about a governor. I think if the truth of the matter comes out concretely---

I have talked to the office of the Governor and it is true that if the Speaker needs more evidence, this is one case where, through the Office of the Speaker, we can make an intervention on behalf of the Governor of Mombasa County.

Sen. Elachi, we have heard your comments. However, please, I was sitting next to the Secretary-General of the new party. It is called the Jubilee Alliance Party (JAP)

An hon. Member: Jipu.

Sen. Orengo: Whatever the name. I sat next to her in the counting hall. She showed me those videos on her phone about that lady that you are talking about. We had a good conversation about it but I think now to link that to Governor Joho is most unfortunate.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, Sen. Wetangula came up with a Statement here relating to a very serious matter. When security is withdrawn, we have to take it seriously and address it as such. My leader, Sen. Elachi, has also mentioned a case where the deputy governor is purported to have suffered the same fate. Whether it is true or not, Sen. Wetangula and Sen. Elachi, you better stop what you are doing here. This is a serious matter. If you have that issue, raise it appropriately. I think the Speaker will assist in that because we should not lose track of what we are asking. We want to address what has come up.

Indeed, any governor of any political side in this Republic qualifies for protection and indicated here and we need to address this matter. The only place to address it is here. As the Senator of West Pokot, anything touching on my governor, whether we are in agreement politically or not, by law, I am supposed to represent him and that county government. So, I support that we need to address this and raise our concerns that as the Senate, we do not want to believe. The Speaker has put it correctly that whatever we have seen, whether it is true or not, then we need to condemn that behaviour.

The Governor did not pick those people from the bush. He was given by the Inspector-General (IG) and that office as such. So, we demand that he and any other person who has suffered the same fate should also be given back his or her security. We do not want to relate it to the just ended politics of Malindi. If it has anything to do with that, then we condemn it. If not, we need to investigate and say that he should be given back his security.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, what is your point of order?

Sen. Elachi: On a point of order Mr. Deputy Speaker, Sir. I do not want us to lose my line of thought. There is no way in the institution of the Senate we can come here and say that within a county, where we have a governor and a deputy governor, one can have better privileges over the other. When somebody stands and says it was on the media, even this was directly on the media. So, my bone of contention is that we cannot look at what women are doing and say because it is female gender,---

The Deputy Speaker (Sen. Kembi-Gitura): Order Senator. What is your point of order, Sen. (Prof.) Lonyangapuo?

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. The other side of the House is empty. Are we properly constituted now as we are or we have to send some of us across?

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): You are completely out of order. The House is properly constituted.

Sen. Elachi: Mr. Deputy Speaker, Sir, this Senate must be fair to both persons. My bone of contention is that you cannot bring one mistake and say the other one was not a mistake, since it was in the media and yet you have just told us that the issue was breaking news in the media. Even the other news was in the media and the Senator for Siaya cannot tell us that we have policemen who have been killed because of issues they have seen. People will also say the bodyguard of Sen. Mbuvi was killed. Was it because of the issues of the Kshs200 million or because of taking other people to the Ethics and Anti-Corruption Commission (EACC)?

Mr. Deputy Speaker, Sir, we cannot use that on the Floor of the Senate. It will be wrong. Let us treat both as issues that the Government must look at. If they are returning the bodyguards for Governor Joho, let them also bring back the bodyguards of the deputy governor.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, but like I had noted, coming from your own contribution Sen. Elachi, it looks like there is an admission on your part that the guards were removed from both the governor and his deputy. That is I was saying that we cannot have an argument which makes it appear like two wrongs make a right because they do not. At least, that is not, in my view. I think that is the end of that matter and we must move on to the next order.

There were two Statements that have not been dealt with. What is it Sen. Mositet? You had not sought the Floor?

Sen. Mositet: Mr. Deputy Speaker, Sir, I had indicated that I wanted to---

The Deputy Speaker (Sen. Kembi-Gitura): You had not sought the Floor. Your name has just come on now and then went out.

Sen. Mositet: No, it was there.

The Deputy Speaker (Sen. Kembi-Gitura): Well, I am the one in control of this screen, you can say that you had pressed the button and it was not showing here. What can I do for you?

Sen. Mositet: Mr. Deputy Speaker, Sir, I wanted to also contribute on the same.

The Deputy Speaker (Sen. Kembi-Gitura): Go on.

Sen. Mositet: Thank you Mr. Deputy Speaker, Sir. I have listened to both the Senate Majority Whip and also from the Senate Minority Leader, and I think leaders need to sober up and cool their tempers. Just as you had advised, two wrongs cannot make a right. I think whatever Sen. Elachi is trying to prove, maybe to the other side, does not

augur well because she is trying to demonstrate that whatever was done to the deputy governor was wrong and now whatever is being done to Governor Joho is right and that he should not complain or take it as something bad.

Mr. Deputy Speaker, Sir, if that has happened to both leaders I think as the Senate, we can demand for the two leaders to be given security to make sure they are safe. I know there could be an issue of gender because I can see Sen. Wangari smiling about it but I believe for them to execute their jobs properly and continue with their daily work, they require that security.

For security to be achieved at the county level, the National Government and the county government need to work jointly. The National Government should not overstep the county government and withdraw their security at will. It would be in order for this Senate to come out strongly and tell the Ministry of Interior and Coordination of National Government to make sure that those leaders are given proper security.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. The only other statement I can see is the one for Sen. (Prof.) Lonyangapuo and the Chairman of the Committee, Sen. Karaba is here. Where does Sen. (Prof.) Lesan come in?

Sen. (Prof.) Lonyangapuo: On Statement (c) Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): That is Sen. (Prof.) Lonyangapuo's. Sen. (Prof.) Lesan are you ready?

Sen. (Prof.) Lesan: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Then you can issue Statement (c).

ALLOWANCES AND FACILITIES PROVIDED TO NOMINATED MCAs

Sen. (Prof.) Lesan: Thank you Mr. Deputy Speaker, Sir. I wish to issue a Statement requested by my colleague; Sen. (Prof.) Lonyangapuo. This was a request for a Statement on the allowances and the facilities provided for the nominated Members of the County Assemblies (MCAs). I have a letter from the Secretary, Salaries and Remuneration Commission (SRC).

Pursuant to its mandate under Article 230 of the Constitution 2010, the Commission advised on the remuneration and benefits of MCAs following a job evaluation and a copy of a circular attached. In sending mileage for nominated MCAs, the Commission limited their mileage allowances to Kshs39, 528 per month. This decision was informed by the fact that nominated MCAs represent a defined populace like minorities and special interest groups whose geographical representation is not defined unlike that of elected MCAs whose areas of representation is distinct.

Mr. Deputy Speaker, Sir, the purpose of of this letter is to convey the Commission's clarifications on your request. Attached to this answer is a circular that was issued on 27th November, 2013 to all county governors and it is about the review, remuneration and benefits for MCAs.

I do not know whether I should read the whole of this circular but I think I can just mention with your permission that this circular indicates the various benefits

accruing to all MCAs both elected and nominated. It includes benefits of the mileage, sitting allowances, special assembly, duty allowances, car loan facility, mortgage facility, medical cover, airtime facility and it shows at the bottom table the actual earnings of each of the MCAs countrywide.

Mr. Deputy Speaker, Sir, at the bottom of this circular, it says the review shall be implemented as stated below and one of the things that is stated here is the effective date of review of monthly salary remuneration which is 1st December, 2013.

Thank you.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I am satisfied with the response from my able colleague. I want to congratulate him because this was his first assignment and duty as the new Chair. However, my further request is that the Clerk or the responsible office should send this circular to every county assembly. You will be surprised that even in your own county, nominated MCAs do not qualify for mileage, yet it is indicated here.

In West Pokot County none of them gets their dully accepted rate of Kshs39,528 per month. My request is that they should get this money, backdated to the date when they started duty. I also wonder why the speakers and clerks disregard circulars that are even copied to high offices in Kenya, including the Principal Secretary, National Treasury, Mr. Kamau Thugge; the Controller of Budget, Mrs. Agnes Odhiambo and Auditor-General, Mr. Edward Ouko.

The Deputy Speaker (Sen. Kembi-Gitura): What are you asking me to do? Are you satisfied with the answer?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I am satisfied with the answer, but asking for your directive.

The Deputy Speaker (Sen. Kembi-Gitura): The circular is copied to all speakers of the county assemblies and all county clerks. Do you want to burden the Clerk here by doing the same job?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I want you to give a directive and write to them that we have the document that they have ignored. Article 96 of the Constitution states that we represent the interests of the people. We have noted that there is some discrimination in some counties where some members are denied their opportunities to benefit from their positions.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have the document with you? Can you see that it is copied to all the people that you want it be copied to? It is copied to the speakers of the county assemblies and all county clerks. What you need to do is to confirm with the assembly - through which you raised the issue - that they have received their copy.

When we were studying law, we were taught that the law assists the vigilant. This thing has a monetary value to it. If any clerk sits on the rights of his members then how do you assist the vigilant? The point I am making is that copies are in all the 47 county assemblies.

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. According to what I have heard from the Chairman of Committee on Devolved Government - whom I

congratulate for delivering the first Statement upon election - is that there was no payment to the nominated Members until we got this Statement.

If that is true, could he undertake to ensure that those payments are backdated, as my friend Sen. (Prof.) Lonyangapuo requested, from the date the nominated Members were appointed? It is important that we hear that.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, do you have the authority to make that commitment?

Sen. (Prof.) Lesan: No, Mr. Deputy Speaker, Sir. I want to point out that this circular was born of a complaint that was made earlier on when the county assemblies were set up. A job evaluation was done and a circular to address the same issue was released on 27th November, 2013. In fact, this circular states clearly that it will be effective on a date which they have indicated, that is, 1st December, 2013. This directive has been there for a fairly long time and it addressed an issue that was raised earlier on.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, we represent the people and some officers have disobeyed orders. This issue has found its way to the Floor of the House and we have been told that there is a circular. What decree can we give having discovered that this is true?

I thought that the Committee could give a decree to force them to read the circular or summon them to come here. Particularly, the speaker and clerk of West Pokot should be summoned here and we read to them this circular. It looks like they do not know how to read and write or they close their eyes when it comes to reading some of these documents.

The Deputy Speaker (Sen. Kembi-Gitura): We have an answer. Sen. (Prof.) Lonyangapuo, the circular is dated 27th November, 2013. It is a public document and that is the point I was trying to make. Now that everybody knows - everybody is assumed or presumed to know the law - it is now up to the affected MCAs to follow up. If they need the assistance of the relevant Committee of the Senate, they will make a specific request to the Committee.

The Committee will then follow-up with the Commission on Revenue Allocation (CRA) and determine how to go on with the matter. It is not in the place of the Senate to order. A Statement has been issued and it is up to the affected parties to follow it up. It is good that the information has come out because it will help many nominated MCAs who have not benefited from their mileage claims. The Senate cannot decree and make an order to that effect, when there is no Motion before it. At least a statement has been delivered and tabled. We can only deliberate on it for what it is worth. If you want to bring a Motion, it has to be specific to those assemblies that have not complied with the circular of 27th November, 2013.

(Sen. (Prof.) Lonyangapuo stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, unless you want to argue, I am sure you know that what I am saying is the correct position in terms of procedure.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. Now that we have discovered this is the true position, procedurally, what is the next step? I expect that the Chair will formally write to every Senator indicating that this document exists and they can liaise with their respective counties to confirm whether they got it. That is what I expected to hear from you.

The Deputy Speaker (Sen. Kembi-Gitura): The point I made to you was that the circular is copied to everybody that matters. It is copied to Mr. Kinuthia Wamwangi, the Chairman of Transitional Authority (TA) all speakers of the county assemblies and all county clerks. It is not that they did not know unless they want to say that they did not receive the circular. It is not a question of them having not known that the circular existed, but a question of either not having followed it up or their relevant assemblies defying the circular and not paying. I am sure you know that in as much as you have this committee in the Senate, there is a relevant committee in the county assemblies that should enforce an issue like this one. It is like when the Parliamentary Service Commission (PSC) does not pay us allowances when we attend meetings or even our mileage claims. How will you do it? I believe it is the same manner that county assemblies can enforce their legal rights to mileage claims.

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. If you followed the discussion seriously, you find that there is a mislink somewhere between the Council of Governors (CoG), the Ministry of Devolution and Planning and the Chairman of the Committee in the Senate. There is something wrong because the Chairman here should have told us that the information he has, has already been relayed to the county governments. We do not know whether these people have been paid. If they have not been paid and the circular backdates to 2013, surely, what went wrong between 2013 and today? There must have been something sinister. That is what my friend, Sen. (Prof.) Lonyangapuo, is trying to attest. We ask the Chairman to come out clear on this and tell us what might have gone wrong. If something went wrong, who is to blame because this is the year of laying blames to others, especially, when it comes to scandals?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, the circular which has been issued here is self-explanatory, especially, the footnotes which have been given. Unless West Pokot County is different from all the other counties, the question that was asked by my colleague Senator here applies to West Pokot only because we have not received any other similar complaint.

The third footnote on the circular says:-

“The funding of the reviewed remuneration to be accommodated with the County Budgetary Provision of 2013/2014 Financial Year---

The Deputy Speaker (Sen. Kembi-Gitura): What are you reading?

Sen. (Prof.) Lesan: I am reading the circular.

The Deputy Speaker (Sen. Kembi-Gitura): What page?

Sen. (Prof.) Lesan: The very last page. It states exactly when this should be implemented. There are four bullets there, but I am reading the third bullet. It states exactly when this should have been done and I believe it has been done.

The Deputy Speaker (Sen. Kembi-Gitura): Is that on page three?

Sen. (Prof.) Lesan: Yes. There are four bullets there, but I am reading the third one.

The Deputy Speaker (Sen. Kembi-Gitura): It says: “The review shall be implemented as follows;” Is that where you are reading?

Sen. (Prof.) Lesan: Yes. They have given four factors there. The third factor is very relevant as whether this has been implemented or not.

If the county did the County Budgetary Provision; if they did their budget for 2013 and it is stated here very clearly that this is where funding will come from, then I am sure every county has this circular and has done that.

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

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. One point that comes out clearly here, using the case of my county, is that there are some officers in authority who ignore every law given to them to the extent that some of the things that are supposed to have been done under a certain law have been ignored. It is a point that has come out clearly. I do not know how many such circulars from the national Government touch on the activity and the life of Kenyans in the law structures have been ignored. So, it is a point that I find very heavy because I do not know how many others fall in the same category.

The Deputy Speaker (Sen. Kembi-Gitura): Very well. You have done your job well. The answer is satisfactory in the sense that it sets out the circular. The failing in the relevant county assembly can only be visited upon that specific county assembly for its failure to follow-up what is clearly set out in the law. Maybe you may wish to follow it up at that level.

Sen. (Prof.) Lesan, do you have another statement to issue or is that all?

(Sen. (Prof.) Lesan nodded)

Sen. Karaba is not here. Therefore, call out the next Order.

Hon. Senators: **Sen. Karaba** is here.

*(The Deputy Speaker (Sen. Kembi-Gitura)
consulted with the Clerk-at-the-Table)*

Sen. Karaba, are you ready to give the statement?

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

SHORTAGE OF TEACHERS IN WEST POKOT COUNTY

Sen. Karaba: Mr. Deputy Speaker, Sir, **Sen. (Prof.) Lonyangapuo** wanted to know whether the Teachers Service Commission (TSC) is aware that schools in West Pokot County have a shortage of 2,023 teachers in primary schools, which translates to a shortage of 46 per cent of the required number and 532 teachers in secondary schools, translating to a shortage of 48 per cent of the required number.

The answer is as follows:-

(1) The TSC is aware of the teacher shortage in West Pokot County as it is part of the current national teacher shortage which stands at 87,164 teachers. Out this, 39,912 are in primary and 47,252 in post-primary institutions.

(2) The teacher shortage in West Pokot County as at March, 2016 stands at 1,644 teachers in primary schools and 523 teachers in post-primary institutions.

(3) The current teacher shortage has been exacerbated by increase in enrolment resulting from expansion of existing schools and opening of new schools. This juxtaposed to the recruitment of only 5,000 additional teachers per annum as stipulated in the Medium-Term Plan II, 2013 to 2017.

Secondly, Sen. (Prof.) Lonyangapuo wanted an explanation why the children in West Pokot are being denied their right to education contrary to Article 53(1)(b) of the Constitution of Kenya. The answer is that the TSC is determined to ensure all children access quality teaching through the provision of teachers. However, due to budgetary constraints, the TSC has not been able to employ and deploy all the required teachers. The shortage in West Pokot is a reflection of a countrywide shortage.

In the year 2015, the TSC provided the county with a total of 261 teachers in primary schools and 144 teachers in post-primary institutions.

The third question required me to explain when teachers will be deployed and/or employed to cater for the shortage. The TSC will endeavour to reduce this teacher shortage once a budget to employ an additional 5,000 teachers in the next financial year is approved.

Lastly, he wanted me to explain the immediate remedial measures that the Government will take to deal with the current situation. The TSC will strive to address the staffing gaps in the county by replacing teachers who exit from service and through continuous staff balancing and rationalisation.

Mr. Deputy Speaker, Sir, I rest.

(Sen. Karaba laid the document on the Table)

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I thank my colleague, Sen. Karaba, the Chairperson of the Committee on Education. From his figures, there is a confession by the TSC and by extension the national Government, that there is a staggering shortage of 87,000 teachers in the whole Republic. Out of which, 39,000 are in the primary section while 47,000 in the post-primary institutions. In fact, there is an acute shortage of teachers in secondary schools because we have few secondary schools than primary schools in Kenya. The TSC needs to tell us the truth. According to these figures, there is a good staffing level for the primary schools. Is this staffing evenly deployed throughout the country?

Secondly, the figures that the Chairperson has given as data on West Pokot County has revealed a lot. He said that as at March, there was a shortage of 1,654 teachers in primary schools and 523 in post-primary schools. That is not the true position. The TSC does not update their data. No wonder they do not know how many teachers they need to employ. The Director of TSC in West Pokot County, Mr. Lesewa, has this information. Primary schools teachers on duty are 2,961---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen.(Prof.) Lonyangapuo! Where are you getting the figures? Is it on *Google*?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I have the data on my fingertips.

The Deputy Speaker (Sen. Kembi-Gitura): That is contentious. Do you have something to table? If you are relying on your data as you say---

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I gave you the information that the TSC is ignoring. The real shortage is 2,961 teachers and not 1,600.

Can I proceed?

The Deputy Speaker (Sen. Kembi-Gitura): You can proceed, but do not rely on data which we do not have?

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, you have it---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen.(Prof.) Lonyangapuo! You can argue your case as you are doing now, but do not refer me or Sen. Karaba to data that he does not have. He has read data from the TSC.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, my question was very clear. I wrote that there is a shortage of 2,230. However, the Chairperson has given me response with a very low figure to what I asked. That clearly shows that the data at the TSC is not updated. No wonder I am complaining that we have a shortage of teachers.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point of order, Sen. Sang?

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir. Am I in order to ask Sen. (Prof.) Lonyangapuo to give us the source of the information that he reading from? The TSC which is the official body has given the figures, but he keeps on quoting some figures that we have no idea of their source. What is the source of the information that he is sharing with us?

The Deputy Speaker (Sen. Kembi-Gitura): I am not asking Sen. (Prof.) Lonyangapuo not to refer to his figures. He can say that he does not agree with Sen. Karaba, but if he has figures that he wants to table on the Table of the Senate, he can do so. However, if he is relying on his phone of which I have no control over, it is very difficult for me to deal with that situation.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, my question was very clear. I am a teacher by profession. There is a TSC office in my county that gave me the right data. However, at the national level, the TSC has different data. That may also be reflected in your various counties. The fact that I have discovered there are some discrepancies of these figures from county level and the national level, could assist the TSC to come up with the right figures. As a result, there is a gap because the two files are not tallying.

Secondly, the TSC has talked about the medium term plan of term two 2013-2017 where there will be an additional 5,000 teachers. There is contention because the plan says that we should have sufficient teachers so that every child of Kenya is taught. We need a better figure than the 5,000 that we have been given to address the shortage of teachers in this county.

I deliberately asked why a child in West Pokot County is denied his right to education. Here we are told they employed additional 261 primary school teachers and 144 teachers in secondary schools, respectively. That was like a drop in the sea. They did not do much yet they are not stating the steps that they are taking solve this problem. This is a violation of our right and it needs to be addressed immediately. When I asked how many teachers they will employ this year, they gave me a vague answer. They said that out of the 5,000 teachers who will be employed in the whole country, some of them will be deployed to West Pokot County. However, now with our acute problem, could they give specific number of teachers who will be deployed in my county?

Mr. Deputy Speaker, Sir, I also asked for immediate measures such as employment of teachers by the Board of Management (BoM) and the Board of Governors (BoG). I expected them to say that, in the mean time, the TSC will give schools some money to employ those teachers as we wait.

In a school like Chewoiyet---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen.(Prof.) Lonyangapuo! You were seeking a clarification.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, my clarification is that there are schools with many teachers while others are understaffed in this county. For example, Chewoiyet High School has 1,400 students against 38 teachers while Alliance Girls has 1,400 students with 84 teachers employed by the TSC. My argument is that we can balance the existing number of teachers even as we continue to sort out the issue of shortage. I know that is not an issue of West Pokot alone, it could be reflected in other counties.

Sen. Gwendu: Mr. Deputy Speaker, Sir, to add to what Sen.(Prof.) Lonyangapuo has said, it is not only in West Pokot County that there is shortage of teachers. We have several people in this county who have trained as teachers, but have no jobs. However, if you go to TSC to seek clarification on whether they can be employed, you meet problems on that end. As the Chairperson is answering these clarifications, he should tell us whether it is possible to include trained teachers who have registered with them but are not employed. Do they have that data? Could they be taken to counties like West Pokot and others that have shortage of teachers?

Sen. Sang: Mr. Deputy Speaker, Sir, the challenge of shortage of teachers in schools is nationwide. However, what is more problematic is a situation as has been raised by Sen.(Prof.) Lonyangapuo where you have one school or schools in particular regions which are overstaffed while others schools in other parts of this country are greatly understaffed. What is the Government doing to ensure that they narrow down the gap to ensure that there is equity? If a school has 1,400 students with an average number of 50 teachers, that should be reflected across the country. What is the Ministry doing in terms of addressing this disparity?

Mr. Deputy Speaker, Sir, part of the shortage of teachers as indicated by the Chairperson in his response is the expansion and opening up of new schools. What is the Governments' policy with regard to opening up of new schools? You will find that, in one school, in a class there are 40 students and in another one, a class has 12 or 13 students. What is the Government's position with regard to opening of new schools?

Would it not be more important and practical to staff existing schools instead of opening new schools without looking at this particular problem?

Mr. Deputy Speaker, Sir, finally, we have situations where the Government allows new schools to be opened. Three, four or five years down the line, the schools are trying to be registered, then, it rejects. What is the Government's position with regard to licensing of new schools? Does it issue a licence after carefully assessing the viability of the school or it allows it to open and operate; then, two or three years down the line, it denies it a licence yet it has operated for the last two or three years? Could the Chairman address those issues?

Sen. Karaba: Mr. Deputy Speaker, Sir, first of all, regarding the case in West Pokot, in my statement, I said that the shortage is not only in West Pokot, it is in the entire country. It stands at 87,000 teachers. The problem is shortage. The key word is "shortage." So, if the shortage were to be generalized, it would affect West Pokot, Murang'a and everywhere else because we do not have enough teachers.

Concerning the disparity in figures, it could be as a result of different matrix systems and the time when they are received at the TSC. If professor has a different figure from what I have, I am sure what I have should be upheld as true because I am reading a statement from the TSC. So, anything else can be included or excluded as time goes by.

On the issue of shortage of secondary schools, Sen. Sang has answered Sen. (Prof.) Lonyangapuo. When new secondary schools are opened, information between the county offices and the TSC might take some time. So, at the county level, there are some new schools and that information has not been relayed to the TSC because it has to go through the Ministry of Education in Jogoo House. In that case, you may find that there is a disparity between the number of teachers who are to be posted to post-primary institutions and the figures that we might have in the county offices. However, we are asking the County Director of Education, the TSC and the Ministry of Education to make sure that new schools - and this is what is happening today - they have already regularized the registration of schools such that if a school is opened in a county, that information is relayed to the TSC immediately. It is not like before where some secondary schools were opened through the Ministry of Education and it took too long for TSC to note. That has already been rectified.

Mr. Deputy Speaker, Sir, concerning the 5,000 additional teachers, this is the policy. The other day, my Committee had asked the Cabinet Secretary for Education to state whether that figure is enough. He stated that, that was the figure the Government would provide. It is on the lower side, but it is according to the Medium Term Plan II. That is the system. So, in this case, we had requested more than 20,000 teachers to be employed, but the Cabinet Secretary stated that 5,000 were to be recruited.

The other thing is about rationalization. It is true that there is a big problem in some schools. They even continued adding classes. Some schools are registered to have two streams, but within short time they increase them to three, four or five streams. That is due to more students joining the schools. In such a situation, head teachers have to inform the TSC immediately that they have new streams, which takes time. So, by the

time the whole thing is addressed, that is when you realise that some schools will lack teachers. This is normal. It is happening in most schools in Kenya.

In addition, there is the issue of the wage bill which is too high. That could be the reason the Ministry of Education is advising various schools to engage teachers through their economic activities if they have any in the schools so that they can pay the wages of some of these teachers. This problem has also been solved through multiple teaching. This is encouraged where there is shortage of teachers. Classes are combined. For example, Class I and II can be taught together if the shortage is serious and if the students are not many. That is a solution.

The other issue is about new schools. There is a new policy that they should not be registered. For them to be registered, the county education board has to agree that it is necessary and urgent. That one must get permission from the Ministry of Education and the TSC for supply of teachers. Otherwise, if this is not regulated, it means that so many schools will be registered against the shortage of teachers which would continue biting.

Mr. Deputy Speaker, I think I have satisfied all the Senators who asked questions.

The Deputy Speaker (Sen. Kembi-Gitura): That brings us to the end.

(Sen. (Prof.) Lonyangapuo spoke off record)

Sen. (Prof.) Lonyangapuo, do you want to reopen the issue?

This cannot go on forever.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, the Chairperson has said that there is a shortage of 87,000 teachers in the whole nation; of which 39,000 concerns secondary schools. In order to understand the scenario I am referring to, he should kindly pick a county in the Nyanza region, give us the total number of teachers for the primary and secondary schools; take another one in western region; about four or five in total; then you will understand my worry when you convert the figures to percentage. Then, this House may appreciate what I am referring to.

Mr. Deputy Speaker, Sir, you will appreciate that for the first time, people who have never gone to school are discovering it is time to do so. Other Kenyans will not understand that these fellows have been fighting and stealing cows. Even grown-ups as old as I am are now deciding to go to school. So, the Ministry has understood and waived the policy for the sake of opening a class for those ones. Therefore, I request the Chairperson to give us the data for comparison, as a supplementary.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, the trouble with your final intervention is that your request for the statement was very specific. In fact, it was precise. In the first one, you asked whether they are aware that there is a shortage and the exact figures. I noticed that you disputed them. If you want the Ministry to give you the whole data - I heard you mention Nyanza and other counties - it will be a completely new statement that you will be seeking. That is why I said that it cannot go *ad infinitum*. This must come to an end at some point.

If you want to have a nationwide situation, you will have to be specific and seek a statement specific to that. Otherwise, it will go on forever. That is my direction in the circumstances.

Hon. Senators, I will have to stand down Order Nos. 8, 9, 10 and 11. Could we go to the next Order?

BILLS

Second Readings

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

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILL NO. 6 OF 2015)

THE ORDER OF PRECEDENCE AND TITLES BILL
(NATIONAL ASSEMBLY NO. 11 OF 2014)

THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL
(SENATE BILL NO. 12 OF 2015)

(Bills deferred)

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

Sen. Sang: Thank you, Mr. Deputy Speaker, Sir. I beg to move that the County Statutory Instruments Bill (Senate Bill No. 10 of 2015) be read a Second Time.

This is a Committee Bill drafted by the Sessional Committee on Delegated Legislation. I am happy that two Members of the Committee, namely, Sen. Gwendu and Sen. Karaba are present. The Bill makes provision for the procedure of the consideration of statutory instruments by the county assemblies. At the national level, there is an Act of Parliament that guides and provides the procedure for consideration of statutory instruments. The Act was enacted about four years ago. The counties are developing legislations which must be supported by subsidiary legislations or otherwise regulations.

Mr. Deputy Speaker, Sir, currently, the county assemblies are applying the provisions of The Statutory Instruments Act with modifications. Therefore, it is important to enact this legislation. The Sessional Committee had deliberations with the county assembly counterparts. In the last two sessions, over 20 counterparts were invited. The Committee also visited 16 county assemblies. Our responsibilities include mentoring them and that is why the Committee reached out to them in order to enhance their capacities.

Some of the common mistakes in the counties are the confusions with regard to the mandate of the Committee on Delegated Legislation and the Committee on Legal Affairs and Foreign Relations. Almost all the Members of the county assemblies in Kenya are not lawyers. Therefore, the technical matters are complex and, therefore, they

do not understand their mandate. We are, therefore, trying to mentor them to understand the specific responsibilities of each of the said committees.

The Chair is a Member and is aware of the nature of the committees on Legal Affairs of the county assemblies. Our objective is to bring clear their mandate. However, their Standing Orders do not provide for a clear framework and procedure in considering the delegated legislations. This Bill will specifically address the problem.

Mr. Deputy Speaker, Sir, the quality of legislations in the counties is wanting. The County Assembly Members draft bulky legislations which have details that would otherwise be regulations. Both the private and the Member's Bills are bulky because they want to capture every detail. We hope that with the passage of this Bill, the county assemblies will be clear on how to enact subsidiary legislations.

The Bill provides for the establishment of the County Delegated Legislation Committee. It also provides a clear procedure on how to scrutinise the subsidiary legislations. The Parliament of Kenya too is experiencing a problem in the provision of subsidiary legislations. The challenge is addressed by the Bill so that it does not cascade to the county assemblies. Since these delegated legislations are from the executive arm - the county executive committee members, the county public service boards and any other body with delegated responsibility - they will forward such by-laws to the county assembly committee on delegated legislations to be tabled in the assembly. Once that is forwarded to the Committee, they will table it just like we do at the Senate and those regulations or subsidiary legislations will be forwarded to the Committee.

Mr. Deputy Speaker, Sir, we have provided the criteria that will be followed by the county assemblies in terms of scrutinizing legislations. It will include asking themselves whether the legislation actually conforms to the Constitution. Many issues have been raised with regard to some of the Bills that have been passed in county assemblies and they do not even conform to the Constitution of Kenya. We know that there exists a clear dichotomy in terms of the functions of national and county governments. We have witnessed situations where county assemblies legislate on a matter which does not fall within their mandate. Therefore, it is important that they must ensure that they conform to the provisions of the Constitution whether we are talking about subsidiary legislation or the actual county legislation.

The other one is to ensure that those subsidiary legislations do not infringe on the fundamental rights and freedoms of the public. We have seen county assemblies developing legislations that are very weird. One county assembly in this country sat and tried to enact a legislation describing how people should dress. For example, the length of skirts that women should wear. That kind of legislation, obviously, infringes on fundamental rights and freedoms of the public. Therefore, we have put that as part of the criteria that as county assemblies scrutinize these assemblies, they should ascertain whether those legislations infringe on fundamental rights and freedoms.

The other criterion is to ascertain whether the contents of the Bill, in the opinion of the Committee, should have been properly dealt with within the subsidiary legislations or the Act. There is always a danger where you have an Act of Parliament – this is a problem at the national level – and many provisions. However, at the stage of making

regulations, some of the regulations making authorities introduce new provisions whose impacts are so profound that they should have been captured within the Act itself.

Mr. Deputy Speaker, Sir, we will ask our counterpart committees to ensure that as they scrutinize these regulations, they should ask themselves whether the contents of that regulation ought to have been carried within the main Act of Parliament or fit to be carried as regulations. That way, we will know the role of Parliament under the national level and that of the county assembly at the county level is principally to make legislations. That role should not be usurped by any other institution. Therefore, any regulation making authority, whether at the national or county level, must ensure that that principal role of making regulations remains at the county assemblies and the Parliament at the national level. So, in the process of scrutinizing, the committee should satisfy itself that the contents of the regulations must be those that need to be in the regulations. They should also ensure that there is no introduction of new sections or issues that should have been carried under an Act of Parliament.

No regulation should impose taxes and this is a constitutional principle. You can only impose taxes through an Act of Parliament at the county level, for example, through a Finance Bill. Therefore, imposition of new taxes should not be done through regulations. We have seen situations where counties make regulations that impose licence fees and other forms of taxes and yet these are done through regulations. Therefore, it is important that it is clear that regulations do not impose taxes. If they want to do so, it can only be done through an Act of the county assembly.

In the process of scrutinizing regulation, no regulation should directly or indirectly bar the jurisdiction of courts. Every person has the inherent right to approach the courts. The courts have unlimited jurisdiction as provided for within the Constitution to handle matters. I think that is one other major consideration.

The other consideration is that it should be clear. Section 12 of the Bill all through clearly indicates some of the considerations. The other obvious one is that county assemblies must ensure general proper drafting of regulations. Regulations are secondary to laws. Therefore, in terms of drafting, they should conform to the proper standards of drafting statutory instruments. Therefore, the work of the committee should address these particular concerns.

The committee should also ascertain and satisfy itself that the delegated legislative powers that have been granted to the governor, County Executive Committee (CEC) and other subsidiary legislation making authorities is not abused. Once a CEC in charge of Environment, for example, has been given authority to make regulations with regard to proper implementation of an Act of the county assembly and the environment, the CEC must not abuse that power. They should be able to exercise that power in accordance with the Act. It is the work of the committee to ensure that, that is adhered to.

Mr. Deputy Speaker, Sir, we know the procedures of passing Acts in the county assemblies. Since there is inadequate drafting personnel in the county assemblies, the procedure to be followed has not been mastered very well by county assemblies. Sometimes it takes a very long time to pass legislations in counties. Once county assemblies master the process and procedure of scrutinizing regulation, these should help fast-track the process of implementation of Bills and Acts that have been passed in

county assemblies. Currently, if you went to county assemblies, you will find Finance Bills that have been enacted and sometimes it takes a whole six months before some of these Bills are processed. You have county assemblies passing the Bursary Bill into an Act.

This takes a whole one year or so before the County Executive Committee Members (CECs) in charge of education are able to generate regulations. Sometimes they pass Acts of the county assembly establishing the Youth and Enterprise funds within the county assemblies. Because of the slow pace of developing and scrutinizing these regulations by the county assemblies and the CECs, a county like ours has passed the Education Bill into law. However, there are no regulations so they are not able to disburse the bursaries to the needy students.

Mr. Deputy Speaker, Sir, this law will help fast-track that process, clear up and ensure there is clarity in terms of procedure. I hope our county assemblies - especially our counterpart committee, the Delegated Legislation Committee in the counties - will fast-track the passage of the scrutiny of these regulations because the procedure is now clearly captured within the Act of Parliament.

I want to thank the various county assemblies whom we invited to give views on this Bill. This is really a Bill that has been conceptualized through a consultative process. We hope that we can fast-track this as a House so that in not so long a time, we are able to give our county assemblies the opportunity to fast-track the process of scrutinizing regulations pursuant to the various Acts of Parliament that they have passed in their counties.

I do not want to take much more time. I wish to ask Sen. Karaba to second.

Sen. Karaba: Thank you, Mr. Deputy Speaker, Sir. I stand to second the Bill. First, I want to thank my Chairman of the Committee on Delegated Legislation for coming up with this idea. This is an idea that we mooted as a Committee as a whole. We agreed that it is necessary that we come up with a Bill and, at long last, we have now seen the Bill on the Floor of this Senate.

Mr. Deputy Speaker, Sir, this is a Bill which will guide of all policies, announcements and regulations from the counties. What we have heard from the Chairman is true that going by what we have seen in the field and what we hear from the Commission on Implementation Committee (CIC) when they come to us and even to an extent of them coming to meet us here in the assembly, tells you that there is a lot of misinformation flowing to the county government.

This misinformation is not to the thought of these committee Members. It is just because according to what the Chairman has said, this is a very technical Committee in the sense that it stipulates what kind of subsidiary legislation is to be applied, what kind of statutes to be involved when drafting some opinion issues and it is a technicality for that matter.

Mr. Deputy Speaker, Sir, when this comes out as a Bill, we feel that Members will be making it as a referral point that they will be able to read and they will be guided by the contents of the same. This will be seen like something which will guide, not only the Members of the assembly, but even the governors. You also noted that when it comes to who the executive in the county assemblies is there are many Members who might not

know their roles. There are some who might not know how to go about in coming up with an instrument or a policy. There are many who might not know how to constitute a committee and to give its role to what is contained in the Bill.

This Bill will ensure that we have county governments with some background information on how they operate. They will no longer have an ignorant approach to issues. Most of the county assemblies argue from a point of unknown to known. As a result, they land into problems. They do not approach issues the way it is stipulated in this Bill.

As a result of that, MCAs will always have problems or be at loggerheads with the executive. The executive will also be at loggerheads with the governors. There will be very little work going on in the county assemblies and county governments. Therefore, this is an important document. It will be followed by the MCAs, we will have it easy. There will be clarity of mind as the MCAs discuss issues in the county assemblies.

Reading through this Bill you will realise that the Committee has some background information, having visited more than 20 counties in the country. We have also invited a number of them to come and interact with the Committee. We realised that they are still ignorant. Many of them do not know how Bills and subsidiary legislations are done.

Once this important Bill is passed, it will be an eye-opener to many counties. Our counties will be able to discuss and come to understand how matters are passed for their own good.

With those few remarks, I beg to second.

(Question proposed)

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, first, the Mover of this Bill, Sen. Sang, hardly surprises me because he is very hardworking. This is an important Bill in terms of the work of county governments.

This Senate has come up with innovative Bills to strengthen the work of county governments. Unfortunately, only two amendment Bills have been signed into law. As I make my contribution, I hope this will not end up in the litany of Bills which Senators have put in so much work, yet somebody somewhere down the line does not wish to concur, thinks it is not important and ignores it. As a result, perpetuates the notion that the Senate of this Republic is not important.

For the avoidance of doubt, Article 185 of Constitution is very clear on the work of the county assemblies. If we have to preach this gospel to the county assemblies of Kenya, we must continue to do so every day we sit here. I have seen disputes in counties about the Ward Development Fund. I have not seen disputes in counties about Bills because there is a confusion perpetuated by the old mentality of the Constituencies Development Fund (CDF) that all leaders are elected to build roads, put up sanitary facilities or any other infrastructural development. We must continue to state into the next general elections that the work of county assemblies is primarily to legislate. For the record, Article 185 is clear that the legislative authority of a county is vested in and exercised by its county assembly.

Mr. Deputy Speaker, Sir, we do not even have a similar legislation for the Senate to the extent that Article 185 as structured appears to anchor a county assembly more in terms of the power it has been given. Article 185(2) states that:-

“A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.”

The gospel that county assemblies will spell doom to our county governments must continue to be told. This is because they are the ones who make the necessary laws for the performance of the work of county governments. If we do not do what Sen. Sang is proposing here, we will not demonstrate their legislative authority under Article 185(1) or their power to make any laws. That is why, again, I thank the industry of Sen. Sang in anchoring this position.

Secondly, Mr. Deputy Speaker, Sir, the County Governments Act is very clear. It states that in the absence of law at counties, the applicable law will be the national law, as long as it is not inconsistent with the Constitution. We have the Statutory Instruments Act at the national level. Therefore, this is what we, Senators, are supposed to do in so far as ensuring that national law is cascaded to the counties.

I am extremely impressed by the definitions given in Clause 2 of the Bill. There is one of them that I would like to mention. Tariff of costs or fees is a statutory instrument for purposes of saying to the public that there will be a method and the tariff that you will get from your county government will be part of the statutory instruments. Clause 4 answers how that will be done. It will require comprehensive consultations, high level drafting, enhanced public participation, a mechanism for scrutiny of these instruments by the assemblies and periodic review.

Mr. Deputy Speaker, Sir, one of the Articles in the Constitution that has been abused the most by the counties assemblies is Article 10 on public participation. In as many as seven or eight cases, the court said that public participation is not window dressing. It is not walking into a room and walking out. It is not about publishing a notice in the Kenya Gazette. I hope that the Public Participation Bill will come to the Senate as quickly as possible so that Article 10 is not violated.

Sen. Sang mentioned a Bill about dressing. I had the occasion to interact with the County Assembly of Taita-Taveta. At that time, there was an interesting topic; the topic was that the County Majority Leader had proposed a Bill to punish rapists and pedophiles in the most inhumane manner which is in violation of every law that we know of and every standard under the human rights. However, the topic was exciting. I seemed like it was the panacea for the sort of people who do not have the decency of protecting women and girls. When I told them that they cannot make a law that is inconsistent with the Constitution and international standards; that their laws must confer with Article 2 of the United Nations where we have signed treaties, they were in shock.

Mr. Deputy Speaker, Sir, the part where we have said that there must be high standards is important. Sen. Sang and his Committee on Delegated Legislation should work on this issue. Fortunately, the Chair and I sit in this the Committee on Legal Affairs and Human Rights. It is headed by Sen. (Prof.) Lesan. One of the things that I would like to see us do is to come up with a list or an inventory of the laws that have been passed by

the counties. I am not talking about the Finance Bills or the Budget. Do we know how many Bills have passed? Who does the quality control on the Bills?

Other than this Bill, the County Statutory Instrument Bill (Senate Bill No.10 of 2015), we have the Office of the County Attorney Bill (Senate Bill No.37 of 2014) that is coming up for Third Reading. Is there a way that we can ensure that those two Bills and the one that was proposed by Sen. Sang, but is still pending in the bureaucracy of Parliament called the County Printers Bill which has been quoted here extensively get assented to? Sen. Sang in ensuring that his Bill is not lost in the woodwork has included it here although it has not been passed. It has been mentioned here in conformity with Article 191 where we have said that county legislation will come into force when it is published in the Kenya Gazette or any other method under Article 191(2). Therefore, this is the way to go

Mr. Deputy Speaker, Sir, I must express my disappointment that while Sen. Sang, in his usual self and his Committee, has put industry to this Bill, together with Sen. Sijeny whom he sits with in that Committee. Is it time that we take Bills concerning counties straight to His Excellency the President for assent then face the legal challenges after that? This is because the reverse applies. The Constituency Development Fund (CDF) law did not come to the Senate, but it is now an Act of Parliament that was passed in record speed yet nobody is complaining. As we approach the next General Elections, which will take place in the next 17 months, going by the record of what we have done, and the Bills that are pending and the time that we have taken, if we do not move faster and take drastic action, this will be Bill No.19 and if it is to follow chronological order in terms of time, then it will not be signed into law during the tenure of this Government. It will have to wait for somebody else to sign it.

Sen. Sang has proposed several Bills which put together would anchor Article 185(1)(2) and (3) and our work under Article 96 in perfect, all falls with the Constitution; so that we will remind the next Members of County Assembly (MCAs) who will be elected using these Bills and Acts, that their work is legislation, to make county governments effective, not to procure wheelbarrows like the ones for Kakamega; carcinogenic wheelbarrows that cost so much money. An attempt to engage in development is not their work. We can only do that---

The Deputy Speaker (Sen. Kembi-Gitura): Was it Kakamega or Bungoma?

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, it was Bungoma. Then, as we go back to our counties, we will arm the public with these Bills and tell them, "elect the person who understands what the County Statutory Instruments Bill is." Otherwise, you will elect people who will not understand paragraph one, two, the end of this or the memorandum on objects. Therefore, the effort of this Senate would be lost.

Mr. Deputy Speaker, I support this Bill and the efforts made by Sen. Sang in ensuring that we have crossed the dotted eyes and ensure that, come 2017/2018 all ducks in terms of law would be in a row.

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

Proceed, Sen. Gwendu.

Sen. Gwendu: Mr. Deputy Speaker, Sir, first, I congratulate my Chairman for taking the effort to bring this Bill after the experience we went through as Members of

this Committee. We have visited several counties and realised that most of them had the Committee on Delegated Legislation just like us, but they did not understand the role of delegated legislation. In fact, in most of the counties we visited, that was the committee where there were Nominated Members because they did not understand its role. They figured out that that committee was for Nominated Women Members to idle. However, this Bill will give life to those committees and the county assemblies. After the passage of this Bill, the county assemblies will pass legislation.

As Sen. Mutula Kilonzo Jnr. has said, the Constitution stipulates very well that one of the roles of the county assemblies is to legislate; but how will they do it when these legislations are not scrutinized or done consultatively? This Bill stresses on the scrutiny of legislation which is one of the roles of my Committee on Delegated Legislation. It also helps with consultation which, again, is about public participation. We went to some of these committees and Bills are just passed. A good example is Kisumu County where I come from; a law was passed that there is a way women are supposed to sit on the *boda boda*. How is that important to counties? How will it put food on Atieno's table? Atieno believes that devolution was effected so that she could feel the proceeds of the national Government. That she voted for a MCA so that she could feel the development that the MCA brings; more so, legislative wise. However, if legislation about *boda boda* is passed, how is it changing this country? Therefore, this Bill will give quality to county assemblies. We will see more legislative processes working; that will change the country, our country and produce MCAs who give quality legislation in the county assembly.

Part II of the Bill talks about legislation making authority that shall consult with persons who are likely to be affected by the proposed instruments.

Mr. Deputy Speaker, Sir, if there was a research that was done to that law, there would have been more regulations of the *boda boda* industry. The security, the area of operations and the times they are supposed to be working were not provided for. In some areas, they operate all night and are accused of rape, robbery and theft. If these Bills are enacted, there shall be more helpful legislation.

The county assemblies are also inhibited and cannot carry out their oversight role satisfactorily. The delegated legislations committee at times finds laws being enacted. In most cases, they are aware about the Bills that pass through the assembly. Therefore, this Bill will help strengthen the roles of these assemblies in enacting delegated legislations. Here in the Senate, a Bill may be enacted without necessarily passing through the Committee on Delegated Legislation. Those are the challenges that we at times experience.

I support.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, I support this Bill and I join my colleagues in congratulating Sen. Sang and the entire membership of the Committee on Delegated Legislation for coming up with this brilliant Bill to assist in the procedure of enactment of subsidiary legislations.

There are many things that are happening in the county assemblies. The level of education of some of the MCAs is so low that they do not understand the process of legislation. Some did not go to school, but because they are village politicians with an art

of politicking using vernacular language, made way to the county assemblies. However, in the assembly, they do not understand House procedures. This is a real challenge.

The County Statutory Instruments Bill is a Bill that if passed, will show the procedure of enacting a subsidiary legislation. Under Clause Four, it provides the comprehensive framework for making, scrutiny, publication and operation of statutory instruments. Some of the laws that have been passed by the county assemblies - for instance, one which was passed by West Pokot County Assembly for provision of bursaries---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Prof.) Lonyangapuo, you will have 12 minutes to finalize your contribution when debate on this Bill resumes.

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, it is time to interrupt the Business of the Senate. The Senate, therefore, stands adjourned until Tuesday, 15th March, 2016 at 2.30p.m.

The Senate rose at 6.30 p.m.