

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 28th July, 2016

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

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

PRAYER

NOTICES OF MOTIONS

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, on behalf of the Senate Majority Leader---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo! Your request was not granted so on what basis are you talking? Take your seat and do the proper thing. I understand the excitement of acting as the Senate Majority Leader, but you must still follow the procedures. Put a request. Does it mean that you do not have your card?

Proceed, Sen. (Prof.) Lonyangapuo. You can move to the Dispatch Box.

ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2016 SESSION

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Speaker, Sir. I beg to give notice of the following Motion on behalf of the Senate Majority Leader:-

THAT, pursuant to Standing Order 28(3), the Senate do adjourn until Tuesday, 13th September, 2016.

RENEWAL OF MANDATE OF *AD HOC* COMMITTEE ON CORRECTIONAL FACILITIES

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

THAT, aware that the Senate resolved to establish a Select Committee comprising 11 Senators to inquire into the policy on legislation on the treatment of prisoners and detained persons in correctional facilities in Kenya on 22nd October, 2015;

APPRECIATING, that the mandate of the Select Committee lapsed when the Senate extended the same for 45 days on 7th April, 2016;

REGRETTING, that due to heavy workload and sheer magnitude of the assignment, the Committee is yet to table its report in the House and requires more time to conduct a further and thorough inquiry into the subject matter of its mandate;

NOW, therefore the Senate resolves to renew the mandate of the Committee by a further period of 30 days to enable it to conclude its work and Table its report in the House.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KILUNGI ABC PRIMARY SCHOOL, MAKUENI COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, before we proceed to the next order, I wish to recognize the presence of visiting students and teachers from Kilungi ABC Primary School from Makueni County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them. On behalf of the Senate, and on my own behalf, I wish them a fruitful visit.

I thank you.

Sen. Mutula Kilonzo Jnr.: Allow me, Mr. Speaker, Sir, to join you and other colleagues in welcoming the delegation from Kilungi ABC Primary School. In fact, this school is next to my home. Therefore, it is my pleasure to welcome them here in the Senate. I have said this before and I want to repeat, that in the era of devolution, these student should not drive 107 kilometres to see the Senate. We must have a Senate sitting in all the 47 counties so that these pupils can have the privilege of attending a Senate session in Makueni. That will be the day devolution will be working so that they can see leadership at that level.

Welcome, Kilungi ABC Primary School, to the Senate and I wish you a fruitful visit.

Sen. Muthama: Mr. Speaker, Sir, I also wish to congratulate the students from Kilungi ABC Primary School. Welcome to Nairobi and feel at home. This is where we work and debate our issues. Kilungi ABC Primary School is one of the indigenous African churches sponsored schools in Kenya. They have also constructed universities. This is a great achievement.

I urge these young people to work hard because education is the key to many things in life. With education, they can become Ministers, Prime Ministers, Presidents, Senators or anything they dream of in life. Welcome and feel at home.

Sen. Njoroge: Asante sana, Bw. Spika. Yangu ni kuwakaribisha hao wanafunzi katika Seneti na kuwaomba heri njema katika masomo yao. Kwanza nikisema ya kwamba wanafunzi ni baraka kwa Mungu kwa sababu wakiwa katika hiki kiwango cha miaka ya chini wanaweza kuendelea na hata wajikute wenyewe wameingia Bunge hili la

Seneti. Siku za usoni, tukija kuona wengine wenu hapa Seneti itakuwa jambo la busara. Nawaombea safari njema mkirudi na msalimie wazazi wenu.

STATEMENTS

The Speaker (Hon. Ethuro): Is there any Senator seeking a Statement?

Sen. Nabwala: Mr. Speaker, Sir, on 28th July I sought a Statement which is appearing on the Order Paper.

The Speaker (Hon. Ethuro): Order, Senator! Next time, I will give sanctions to Senators who are not listening.

Statement 3(a); by the Chairperson of the Standing Committee on National Security and Foreign Relations. I cannot see the Member who requested it, Sen. Madzayo.

ASSAULT OF A MATATU DRIVER BY A POLICE OFFICER ALONG MALINDI-KILIFI ROAD

Sen. Adan: Mr. Speaker, Sir, I have the Statement. However, the Member requested me to hold it until the next sitting.

The Speaker (Hon. Ethuro): Statement 3(b); by the chairperson of the Standing Committee on National Security and Foreign Relations, again.

DISAPPEARANCE AND BRUTAL MURDER OF CHILDREN IN CHESUE VILLAGE, NANDI COUNTY

Sen. Adan: Mr. Speaker, Sir, I still do not have this Statement. In the last sitting we had handed over the matter to the Leader of the Majority. I still do not have the answer. I have struggled to get the answer up to now and I do not have it.

Sen. Sang: Mr. Speaker, Sir, clearly everybody can now agree that surely the Ministry of Interior and National Coordination is not taking its job seriously. I share in the frustration of the Vice Chairperson. If one is a Chairperson or a Vice-Chairperson of a committee and has a Ministry that is not responsive, there is little one can do.

However, there are still avenues provided for by the Constitution. I expect the Vice Chairperson to be telling this House that they have invoked Article 125 of the Constitution or they are bringing a Motion to censure the Minister. If the Committee has not undertaken those other available options, it means that the Committee is also not taking its job seriously. Therefore, they should tell us what other steps they have taken to get the response.

The Speaker (Hon. Ethuro): Chairperson, you just told us you do not have the Statement but you never said why.

Sen. Adan: Mr. Speaker, Sir, as a Committee and the vice chairperson, I have really tried to get the answer. I have tried tracing both the leadership of this particular department. When I failed, I handed over the matter to the Leader of the Majority who is not in the House today. Again, this morning, we requested the Inspector General of

Police (IG) and the National Police Commission (NPC) to appear before us on another matter that you directed that we should have a meeting with them. The IG was not present. Therefore, we have summoned them for Thursday next week although we are going on recess. That is the much I have done. I have really tried. We have tried as a committee. However, failure to that, if I do not get the Leader of Majority with the response, I can summon the Cabinet Secretary as soon as possible.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, there is a concern particularly in both the Standing Committees on National Security and Foreign Relations and the Committee on Health. Maybe the Committee on Health will absolve itself of blame in the next Statement. However, when children disappear from Nandi, it is a serious issue. If this Senate cannot get a Statement in seven days and the Leader of the Majority is given a task and does not respond to it, it puts to question the work of the Ministry, the Leadership of the Senate and how we treat Statements by Senators.

It cannot be casual that Sen. Sang sought that Statement. There is a family somewhere in Nandi which has entrusted Sen. Sang, the Vice Chairperson of the Standing Committee on Legal Affairs and Human Rights with that obligation. If Sen. Sang cannot get the answer, the Leader of the Majority, Sen. (Prof.) Kithure Kindiki cannot get the answer and Sen. Dullo, former commissioner of the Kenya Human Rights Commission cannot get the answer, then we have a crisis in this Senate. Therefore, as we go on recess, or maybe we should even defer our recess to determine our work and whether or not the committees particularly the one on National Security and Foreign Relations ought to employ extra legal measures in order to have a sitting somewhere, like what congressmen did, so that people can understand that some of these things are very serious.

The Speaker (Hon. Ethuro): Sen. Wangari.

Sen. Wangari: Mr. Speaker, Sir, though I appreciate the frustrations of the Vice Chairperson of the Standing Committee on National Security and Foreign Relations, I attended the *Kamukunji* in this House earlier today and we were very categorical that some of these things need to be taken more seriously. We demanded that the IG appears in person or sends his deputy because he had not done that.

However, I refer the Committee to Article 125 of the Constitution:-

“(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court.”

We must not push this buck to the Majority Leader in this House. I have seen the powers of summon work. Even now in the County Public Accounts and Investments Committee, we are now meeting the very stubborn governor of Kakamega through summons. The powers of the committees are much guaranteed in the Constitution. I encourage the Committee not to pass the buck because this issue is quite critical and it is not the only one. The issue of families sleeping, not knowing whether their children are alive or not is not an issue we can push and joke around with. I ask the Committee to exercise their powers as provided for in Article 125 of the Constitution.

The Speaker (Hon. Ethuro): Members, let us be brief.

Sen. Omondi: On a point of order, Mr. Speaker, Sir. Is Sen. Wangari, in order to call the Kakamega Governor a stubborn governor?

The Speaker (Hon. Ethuro): Order, Sen. Omondi! Would she be in order to call him the most celebrated governor? That is a point of argument.

(Laughter)

Sen. Omondi: On a point of order, Mr. Speaker, Sir. Can Sen. Wangari substantiate why she is calling the Governor of Kakamega, Mr. Wycliffe Ambetsa Oparanya stubborn?

The Speaker (Hon. Ethuro): That is better put.

Sen. Wangari: Mr. Speaker, Sir, I know Sen. Omondi and yourself know me very well. I would not make such allegations without grounds to substantiate. As a Member of the County Public Accounts and Investments Committee, we sent over three requests for him to appear before us, he defied. Then we sent summons over and again which he defied. Therefore, yes, by all measure, he is very stubborn.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Omondi! Are you now satisfied?

Sen. Omondi: Mr. Speaker, Sir, although she has substantiated, for me, I am not satisfied. My governor is not a stubborn governor.

The Speaker (Hon. Ethuro): Order, Sen. Omondi! You cannot be changing goal posts. You made a request for substantiation, you are satisfied it has been substantiated. In fact, from where I sit, she even used a milder word than what she should have used. Therefore, let us leave it there.

Well, back to the issue of Sen. Sang, maybe Sen. Sang will have the last bite of the cherry and then we dispose the matter because there is really no matter before us. There is no debate!

Sen. Sang: Mr. Speaker, Sir, if somebody is working from the comfort of his office, from the comfort of three or four bodyguards and police officers, from the comfort of a siren and a fleet of vehicles around him, they may not seem to understand the challenges that certain families go through.

(Applause)

I mentioned, in that Statement, that two of the children were found murdered. Part of the question was a request to the Government to compensate and even support the families with the burial. One of the families, a very humble family, could not have a decent burial for their child. They could not afford a coffin. We had to do a harambee to support them. If one looks at what families are going through and there is a public officer sitting in the office of a Cabinet Secretary, comfortable for two or three weeks and not taking time to appreciate the pain the families are going through, it is very challenging.

I agree with Sen. Wangari, that again, from the comfort of the Senate, one might look at this thing as such a simple matter and the Committee might want to pass the buck to the Leader of the Majority who gave assurances that he would respond yet he is not here right now. I appreciate that they may not feel the pain that I feel because these are my constituents.

Yesterday, you indicated that you would give some sanctions. I believe that the Chair does not speak in vain. I hope, as you give us direction on this matter, you will act in a comforting manner. It may not compensate the pain that the families are going through but it will give them an indication that this House feels their pain, appreciates the challenges they are going through and that we are not going to sit as a House until the same is resolved.

Sen. Boy Juma Boy: Asante ,Bw. Spika. Nilikuweko ndani ya Jumba hili ulipotoa amri kwamba swali hili lijibiwe leo. Amri yenyewe ilitoka kwako; Spika wa Bunge hili!

(Laughter)

Sasa, Bw. Spika leo imefika na jibu hakuna. Ina maana aliyedharauliwa ni Spika ama ni Bunge? Kwa fikira yangu, kuna nyoka anayeuma halafu kuna nyoka wa plastiki. Agutusha tu lakini haumi. Sijui kama hawa wenzetu wanatufanya sisi, Bunge la Seneti, kuwa nyoka wa plastiki ambaye haumi. Naungana na Sen. Sang kwamba itabidi nyoka aume sasa; asiwe nyoka wa plastiki.

(Applause)

Sen. (Dr.) Machage: Mr. Speaker, Sir, it is sad, indeed, when we have to have loud complaints on nearly all committees. Yesterday, it was the Committee on Health that was under reprimand and today it is the Committee on National Security and Foreign Relations. The real issue is a constitutional issue. The system where the chairpersons have the mandate of answering on behalf of Ministries has failed and we should accept that. This is something that we saw from before, that there were lapses of the Constitution. Maybe, it is high time everybody, both in the Opposition and the Jubilee side, thought of *Okoa Kenya* and that is the way to go. We should change the Constitution into a parliamentary system. That is when we will have this things working.

Sen. Njoroge: Bw. Spika, naunga mkono wenzangu na hasa Seneta wa Nandi. Ninasikitika kwamba tutaenda kwenye likizo na kuacha jambo hili ambalo ni la huzuni bila kulisuluhisha. Si jambo la kuchukuliwa hivi hivi watoto wanapopotea na wengine kufariki katika Kaunti ya Nandi. Ni jambo ambalo tunatikiwa kuliangalia kwa makini. Ni jambo la kushangaza kwa sababu Wizara ya Masuala ya Nchi na Mipangilio ya Serikali inatakiwa kushughulika jambo hili na kuangazia jinsi mambo yanaendelea. Ni kinaya ikizingatiwa kwamba Waziri anayehusika na mambo ya usalama na pia Inspekta Jenerali Mkuu wako pamoja Kule Naivasha katika mafungo wakati kuna watoto ambao baadhi wamefariki na wengine kupotea.

Nilitarajia Kamati ya Usalama wa Taifa na Uhusiano wa Kigeni kushughulikia jambo hili. Walifaa kuzuru maeneo ya kule Nandi ili kuangalia hali ilivyo kwa sababu wale in binadamu. Ni jambo la aibu sana kuona ya kwamba wale ambao wanahusika hawana lolote la kufikiria kuhusu kinachoendelea. Tunazungumza kuhusu watoto ambao waliopotea na wengine kupatikana wakiwa wamefariki. Ni vyema tupate suluhisho kabla twende kwa likizo. Ikiwa itawezekana, ni vyema tujiongezee muda hata kama ni siku mbili au tatu ili tuweze kupata suluhu kuhusu watoto ambao walipotea. Itakuwa bora kumwita Waziri anayehusika na usalama aje atueleze hapa kwa sababu hawezi kwenda kwa mafungo wakati watoto wamepotea na hakuna mtu anashughulika na jambo hilo.

The Speaker (Hon. Ethuro): Order, Members, I am going to give the following directive, not because Sen. Boy Juma Boy has tried to intimidate the Chair, but because this House has powers under the Constitution of the Republic of Kenya. I want to start by telling Sen. Mutula Kilonzo Jnr. that the issue is not the Senate. By the time the Member for Nandi County brings this matter, it means that the civil service has already failed because that matter should have been sorted out at the local level. For the same civil service to continue disregarding the representatives of the people, it is a continuation of their failure.

So, we must take these things as they are and the Committee of this House has powers. The Constitution contemplated that possibility and has given you powers. So, I direct the Committee, within seven days, to summon the Cabinet Secretary (CS), the Principal Secretary (PS) and the Inspector-General (IG) in the seventh day before the Committee. Failure to do so, the recourse is there for us. That should be sufficient enough for them to deliver the statement.

Let us go to Statement (c).

IMPLEMENTATION OF GOVERNMENT POLICY ON FREE MATERNITY SERVICES

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise to give the Statement requested by the Senator. I am a Member of the Committee on Health and I am issuing this Statement on behalf of my Chair who is not in the House. This Statement was directed to the Senate Standing Committee on Health and it was requested by Sen. Sijeny. I will go straight to the answer which has been provided.

The first question required the Chairperson to explain whether the Jubilee Government policy on free maternity is being implemented and how effective it is. The free maternity policy of the Jubilee Government is being implemented and it is very effective. On 1st June, 2013, the Government announcement the abolishment of fees payable by mothers seeking maternity services in public health facilities countrywide. To compensate the health facilities for the lost revenue, the Government provided a budgetary allocation of Kshs3.8 billion in 2013/2014 Financial Year, increasing to Kshs4 billion and Kshs4.298 billion in 2014/2015 and 2015/2016 Financial Years, respectively.

The first year of implementation was marked by a sharp increase in deliveries conducted in public facilities from 461,995 deliveries in 2012/2013 to 627,487 deliveries in 2013/2014, an increase of 35 per cent. Subsequently, the number of deliveries in public

health facilities has continued to increase as it is estimated to be 720,000 for the current financial year. This trend is summarised in the Table below. The Table below shows the deliveries in the years 2012/2013, 2013/2014, 2014/2015 which is 711,651 and 2015/2016 which is 725,528, giving a total from 2012/2013 to 2015/2016 of 2,526,661 deliveries.

Cumulative number of deliveries in public health facilities

Financial year	2012/2013	2013/2014	2014/2015	2015/2016	Total
Number of deliveries in public facilities	461,995	627,487	711,651	725,528	2,526,661

The increased utilisation of maternity services in public health facilities has contributed to the overall increase of delivery in health facilities. Successful implementation of the programme places Kenya on the pathway towards achieving universal health coverage and realisation of the right to health.

The second question required the Chairperson to state how much money each county received towards free maternity in 2015/2016 Financial Year. In the Financial Year 2015/2016, the Ministry paid out a total of Kshs3,321,002,500 to the counties for deliveries conducted as per the breakdown below.

NO	County	Total payments in 2015/2016
1	Baringo	51,262,500.00
2	Bomet	43,192,500.00
3	Bungoma	145,047,500.00
4	Busia	69,262,500.00
5	Elgeyo-Marakwet	44,427,500.00
6	Embu	41,110,000.00
7	Garissa	42,080,000.00
8	Homa Bay	91,817,500.00
9	Isiolo	18,720,000.00
10	Kajiado	44,112,500.00
11	Kakamega	165,945,500.00
12	Kericho	83,127,500.00
13	Kiambu	196,955,000.00
14	Kilifi	132,717,500.00
15	Kirinyaga	53,790,000.00
16	Kisii	134,452,500.00
17	Kisumu	107,937,500.00
18	Kitui	50,790,000.00
19	Kwale	74,397,500.00

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20	Laikipia	52,457,500.00
21	Lamu	12,337,500.00
22	Machakos	96,395,000.00
23	Makueni	90,900,000.00
24	Mandera	37,515,000.00
25	Marsabit	18,227,500.00
26	Meru	106,112,500.00
27	Migori	104,565,000.00
28	Mombasa	98,447,500.00
29	Murang'a	69,497,500.00
30	Nairobi	233,780,000.00
31	Nakuru	184,362,500.00
32	Nandi	41,727,500.00
33	Narok	40,605,000.00
34	Nyamira	47,342,500.00
35	Nyandarua	30,690,000.00
36	Nyeri	63,295,000.00
37	Samburu	13,087,500.00
38	Siaya	74,625,000.00
39	Taita-Taveta	32,507,500.00
40	Tana River	13,415,000.00
41	Tharaka-Nithi	27,767,500.00
42	Trans Nzoia	68,402,500.00
43	Turkana	23,875,000.00
44	Uasin Gishu	30,070,000.00
45	Vihiga	41,315,000.00
46	Wajir	38,860,000.00
47	West Pokot	37,675,000.00
Total		3,321,002,500.00

The figures range from as little as Kshs13,087,500 that was given to Samburu to a high of Kshs233,780,000 to Nairobi County. There are other counties that had substantial amounts like Kakamega which received Kshs165,945,500.

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

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

Kisumu County received Kshs107,937,500. Cumulatively, a total of kshs8,128,565,752 has been paid to the public health facilities countrywide for the period 1st June, 2013 to 31st March, 2016 under the programme.

Mr. Deputy Speaker, Sir, question No. 3 is to explain why up to five mothers and babies admitted at Kisumu County Hospital are sharing a bed. The existing maternity

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ward at Kisumu County Hospital has a bed capacity of 16 against an average of 364 deliveries monthly. These beds are for both antenatal and post natal mothers. The reason why mothers share beds is because of the low bed capacity and the high demand for skilled deliveries spurred by the Free Maternity Programme.

Mr. Deputy Speaker, Sir, the fourth question is to explain the measures that the Government intends to put in place to alleviate the suffering of mothers and new born babies admitted in hospitals. Healthcare service delivery is a devolved function under the county governments. The Ministry is, therefore, not in a position to confirm or deny that mothers and new born babies are suffering in hospitals. However, the statistics generated from the Free Maternity Programme indicate that the number of deliveries has been increasing over the last three years and is expected to increase further in the Financial Year 2016/2017. The Ministry intends to engage the county governments to plough back funds earned through the Free Maternity Programme to expand the maternal and the child health services including improvement of bed capacity.

For Kisumu County Hospital, there is an incomplete maternity unit which the county government will complete in the next three to four months. The new facility is expected to increase the bed capacity for mothers and new born babies thus improving their comfort.

The answer is with the Senator who requested the response.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator. Sen. Sijeny, are you satisfied?

Sen. Sijeny: No, Mr. Deputy Speaker, Sir. If both the Cabinet Secretary and the Chair are saying that the free maternity policy of Jubilee Government is effective yet it is clear and they have not denied that women as many as five who have just delivered are sharing beds and infants are dying, it cannot be effective. Even from their statistics, they have not indicated the rate of mortality of women and children who have died and how many lives they have saved for them to show us the effectiveness.

Mr. Deputy Speaker, Sir, the Chairperson said that health has been devolved to the counties. The Senate has the oversight role and the Chair has not informed us the intervention he has sought to ensure that the question we are asking to protect the mothers and the children who give birth in the counties---. What measures have been taken because the statement has been there for over two months? The Cabinet Secretary for Health should have done research or intervened in the best way possible.

Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kembi-Gitura): Senator, you are seeking a clarification and not making a new Statement.

Sen. Sijeny: Yes, Mr. Deputy Speaker, Sir. They should clarify the measures being taken to protect the women and new born babies because they said the new maternity wing will be ready within four months. What are the women going to do? With all this kind of money that Kisumu has received, they should tell us the measures, even if temporary, they are taking to protect lives. He is not going to tell us that because the doors are open, you will flood in everybody and let them die. Could they tell us what precautions are being taken?

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

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir. I want to take this opportunity to thank the Chairperson for that statement. However, I want to seek the following clarification; first, how much is paid for every delivery? Secondly; what is the Government doing to ensure that the facilities – you cannot talk about supporting free maternity and the facilities are not up to date.

In my county, I want to ask the chairperson to indicate the steps the Government is doing to ensure that they improve maternity services within the counties and what steps they are doing to ensure that there is co-operation between the Ministry of Health and the county governments in ensuring that there is upgrade of facilities in our counties in order to ensure that we have safe deliveries.

The Deputy Speaker (Sen. Kembi-Gitura): If you want to intervene on this, press the intervention button and not the debate button so that I can distinguish.

Sen. M. Kajwang: Thank you Mr. Deputy Speaker, Sir. I am one of the culprits and I will rectify that. My interest in this question stands from the fact that the free maternity care was meant to improve maternal mortality in this country. In my county, one of the critical things---

The Deputy Speaker (Sen. Kembi-Gitura): The correct word is to reduce maternal mortality and not to improve.

Sen. M. Kajwang: To improve means to reduce.

The Deputy Speaker (Sen. Kembi-Gitura): No, to improve is to enhance.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, to reduce maternal mortality and thereby improve the number of women who survive after birth. In my county, one of the key things is prevention of mother to child transmission of HIV/AIDS.

When more women deliver in hospitals, it is possible to prevent that transmission. The latest data released by the Kenya National Aids Control Council indicates that more than 2,000 children in Homa Bay County have acquired HIV/Aids through mother to child transmission. This tells you that something somewhere is not working in this Free Maternity Programme. When these mothers deliver in hospital, we are sure we are going to get the right care to prevent that transmission from mother to child.

My question to the Committee is this: What measures does the Government intend to take to ensure that these funds are utilized? It is one thing to provide the funds and another to compel people to go to hospital. Sometimes, it is not an issue of compelling; it is an issue of lack of facilities. If you look at the average distance to hospital for some of the areas where we come from especially in Homa Bay County, it is five kilometers. An expectant mother will have to walk for five kilometers to go to a hospital. Sometimes, they prefer to deliver at home. When you provide funds, then you should also provide other motivations and mechanisms to ensure that these funds are utilized to generate the right results.

Secondly, I want to find out what the current maternal mortality rate is because it is important for us to look at some numbers that when this programme started, it was at point x and now it is at point y.

I am interested in looking at the statistics for Homa Bay and Kwale counties.

Sen. (Prof.) Lesan: Thank you, Mr. Deputy Speaker, Sir. May I state that there are questions that were not in the original statement sought. However, I will undertake to find their answers.

The Deputy Speaker (Sen. Kembi-Gitura): For instance the one on transmission but you are a doctor and you do not need to find an answer elsewhere.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, these are administrative figures. I am a clinician and these are not figures that I would have on my hands. These are figures that are changing every time. I am sure there are figures that have developed over time. The issue of the mortality rates was not asked. However, we can find the most current figures from the officers. The question on how much it cost per delivery was not asked but I am sure it is a relevant and useful question.

The Cabinet Secretary has admitted that mothers in Kisumu are sharing beds. This may be the case in many other county hospitals. It has been undertaken by the Cabinet Secretary that the money allocated to the counties for free maternity healthcare will assist in expanding existing facilities. We know maternity units in most counties require some improvements and since funds are available, it is for the county governments to improve. The process is ongoing and it is exemplified by what is going on in Kisumu County where the facility will be ready in the next four months.

Mr. Deputy Speaker, Sir, as regards the mother-child transmission, this is another issue that requires some statistics. This answer does not provide the statistics but there are statistics that we can obtain which are useful. We know that with the increase in the number of deliveries-particularly in an endemic area where the prevalence rate of HIV-AIDS is high like in Homa Bay County- the mother to child transmission is certainly high. This is a figure that we would like to have so that we can know whether the free maternity health care which has raised the delivery rate is the cause of mother to child transmission.

I have taken note of the supplementary questions and I endeavour to get their answers sooner than was before.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Can I have your undertaking? Actually, you have not answered any of the issues that were raised by the two Senators. What you have said is that they require further requests and more detailed answers. In virtue of all of them, you have said their statistics require more answers. Can I know when you want to answer them?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, we have had a rough run with the Ministry of Health in the last---

The Deputy Speaker (Sen. Kembi-Gitura): Why is it that it is only your Committee that seems to have such a serious run with the Ministry?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, we have had this problem but I think, given what we have experienced this afternoon, it is not only this Committee. The two Houses have challenges with the same issue. Sen. (Dr.) Machage suggested that we rescue ourselves by supporting the *Okoa Kenya* campaign. So, this issue is running across all the committees and lately, it has been the Committee on Health. This has made

us to come closer to the Cabinet Secretary and the Principal Secretary of Health. I assure the House that we can bring this answer within the next one week.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, are you okay with that?

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

The Deputy Speaker (Sen. Kembi-Gitura): So, endeavour to get an answer for us. We may be on recess but we still need the answer in good time.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NANDI HILLS PRIMARY SCHOOL, NANDI COUNTY

Hon. Senators, I wish to recognise the presence of visiting pupils and teachers from Nandi Hills Primary School, Nandi County. They are seated in the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

Since we are in the middle of Statements, I will allow only Sen. Sang to welcome the pupils from Nandi County. He will welcome the delegation on behalf of all other Senators

Sen. Sang: Mr. Deputy Speaker, Sir, I join the Chair to thank and welcome the pupils from Nandi Hills Primary School. This is a wonderful school with very young children who are focused. This school neighbours the school where the five children who have been the subject of debate in the House this afternoon come from. May I tell them that this House had an occasion to discuss their welfare. The Senators had an opportunity to express themselves on the disappearances of their colleagues from Chesuwe Village, Nandi Hills sub-county and that the Senate stands with them.

However, I encourage them to work hard in school. I and Sen. Cheruiyot were recently from school. Therefore, this is an encouragement to them. In about 10 or 15 years, these students will be where we are now. By then, we will have other children maybe our children will be seating at the Public Gallery as they watch the deliberations. I encourage them to work hard in school but desist from the temptation to engage in the destruction of schools which we have witnessed some of their colleagues engaging in. Kindly focus on your studies, work hard because the future is bright and that the sky is the limit.

(Resumption of Statements)

The Deputy Speaker (Sen. Kembi-Gitura): Thank you Sen. Sang. Sen. Karaba had sought the Floor.

Sen. Karaba: Mr. Deputy Speaker, Sir, I was overtaken by events. All the I welcome the pupils and teachers from Nandi Hills Primary School---

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

Sen. Karaba: Mr. Deputy Speaker, Sir, I can take that opportunity.

The Deputy Speaker (Sen. Kembi-Gitura): Like you correctly said, you were overtaken by events.

Sen. Karaba: Mr. Deputy Speaker, Sir, I wanted to contribute about the free maternity health care but now that we have students from Nandi Hills Primary School, as the Chairman of the Committee on Education in the Senate---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, as the Chairperson of the Education Committee, I will allow you one minute.

Sen. Karaba: Thank you Mr. Deputy Speaker, Sir. I am encouraging the young boys and girls from Nandi County to frequently visit this House because it is a motivation. The last time I visited this building was in 1959 when I was in Class Two and I kept on hoping that I will come to this House to represent my people.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, Sen. Sang and Sen. Cheruiyot will now think they are in the wrong place if you talk about 1959 when you were in Class Two.

(Laughter)

Sen. Karaba: Mr. Deputy Speaker, Sir, they should listen. So, I welcome them because I was once a student and visited the other House. I was motivated to be in this House until when I was elected a Member in 2002. So, you can still build that hope until when you come to Parliament. These are the people who we need in about 30 years to come. I welcome you and feel free.

FINANCING OF JARAMOGI OGINGA ODINGA TEACHING
AND REFERRAL HOSPITAL IN KISUMU COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Karaba. We are now back to Statements. Since the Chair and Sen. (Prof.) Anyang' Nyong'o are not in the House, the Statement is deferred.

(Statement deferred)

Sen. M. Kajwang: Mr. Deputy Speaker Sir, on a point of order. I recall that the Chair had ruled on the Statement No. (d). The order was that whatever the case, the response ought to have been brought today. I also recall that the Senate Minority Leader informed the House that the Senator who sought the Statement was out of the country but the Speaker ruled that the answer should be brought all the same.

The Deputy Speaker (Sen. Kembi-Gitura): The trouble is that I cannot see the Chairperson of the Committee on Finance, Commerce and Budget. However, Sen. Mositet is present.

Sen. Mositet, are you ready with an answer?

Sen. Mositet: Mr. Deputy Speaker, Sir, as a Committee, we were ready---

The Deputy Speaker (Sen. Kembi-Gitura): Is this answer urgent? The Senator who sought the Statement is out of the country. I think it will make sense if the Senator who sought the Statement is present. Unless it is a question like the one we were dealing ---

(Sen. Murkomen stood in his place)

Sen. Murkomen, the Standing Orders are clear. You should not stand in direct line of the Speaker and the persons on their feet, making it impossible for the Chair to follow the proceedings.

Sen. Mositet, I propose that unless Sen. Kajwang has felt very strongly about it and the Statement is so urgent, I would rather we wait for Sen. (Prof.) Anyang'-Nyong'o to be in the House if the response is ready. This is because it is a specific question on a specific institution for which I am sure he has a specific interest.

Sen. Mositet: Mr. Deputy Speaker, Sir, okay.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kajwang what is your objection to that?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, I absolutely have no objection. I was just following up on the earlier ruling.

The Deputy Speaker (Sen. Kembi-Gitura): That would be my ruling. So, Sen. Mositet, please let us put it at that for now.

Next Statement. Where is the Chairperson of the Committee on Agriculture, Livestock and Fisheries? Sen. Nabwala, that was your Statement.

INCREASE IN THE PRICE OF MAIZE FLOUR

Sen. Nabwala: Mr. Deputy Speaker, Sir, I am also raising a concern. I sought this Statement on 28th June 2016. I think one month is sufficient for us to get a response. It was touching on the National Cereals and Produce Board (NCPB), where the storage of maize had gone ---

The Deputy Speaker (Sen. Kembi-Gitura): My issue is not so much on that but that the Chairperson is not here. Is there anybody here from the Committee on Agriculture, Livestock and Fisheries? Sen. Kajwang, are you a Member of that Committee?

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, yes.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have the response?

Sen. Kajwang: Mr. Deputy Speaker, Sir, unfortunately the response is not ready. We could undertake to present it on the first week when we resume from recess.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Nabwala, is that going to cause any prejudice?

Sen. Nabwala: Mr. Deputy Speaker, Sir, I think it is acceptable since the Chairperson of the Committee on Agriculture, Livestock and Fisheries has been busy.

The Deputy Speaker (Sen. Kembi-Gitura): Let us move to Statement (f). This is for the Committee on Roads and Transportation. Sen. Sijeny, what do you have to say?

REHABILITATION OF MAKUTANO-KAPENGURIA
ROAD AND BRIDGE

Sen. Sijeny: Mr. Deputy Speaker, Sir, Sen. (Prof.) Lonyangapuo is not here ---

The Deputy Speaker (Sen. Kembi-Gitura): Is the response ready?

Sen. Sijeny: Mr. Deputy Speaker, Sir, it is not ready, though ---

The Deputy Speaker (Sen. Kembi-Gitura): Then, do not give Sen. (Prof.) Lonyangapuo as the reason.

Sen. Sijeny: Mr. Deputy Speaker, Sir, he is more the reason because we have sought from him to be specific which particular road he is referring to. The Cabinet Secretary (CS) has also tried to reach him on phone but he has not communicated. So, unless he gives us full and better particulars, the response cannot be ready. Once he does so, it will be ready within two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): Okay. In any case, like you said, he is not here.

Could we have the next Statement – Committee on Implementation? Sen. Wangari, that is your Statement.

IMPLEMENTATION OF SENATE RESOLUTION ON STATE OF
AFFAIRS IN KENYA AIRWAYS LIMITED

Sen. Wangari: Mr. Deputy Speaker, Sir, I had requested for this Statement two weeks ago from the Committee on Implementation. We had hoped that the Chairperson would be in the House. It was directed by the Chair yesterday that it be produced today because it is an urgent matter. Kenya Airways just posted billions in losses. So, it is an issue of national importance. I would like to hear from the Committee so that we get good guidance as a House on how this issue is being handled. He was also supposed to respond to the declarations that were done in the Senate and how far this has gone in terms of implementation.

Sen. Sijeny: Mr. Deputy Speaker, Sir, I am just asking for direction. Is it really the Committee on Implementation? This question has appeared before the Committee. The Cabinet Secretary (CS) and all the delegations have appeared before the Committee and we have issued statements here. I am wondering whether the Senator was not satisfied or which is which.

The Deputy Speaker (Sen. Kembi-Gitura): I do not understand. Sen. Sijeny, what have you raised?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I am looking at the Statement and I am seeing it is the same issues as those that have been addressed or referred to the Committee on Roads and Transportation where the docket of Kenya Airways falls. We have summoned the Cabinet Secretary (CS) and even the Chief Executive Officer (CEO) of Kenya Airways asking the same question on how far the implementation of the resolutions has gone and even the recommendations of the *ad-hoc* Committee which was

constituted by the Senate. They responded. I do not know whether Sen. Wangari is unsatisfied or whether it is a repetition. I just need a clarification on that.

Sen. Wangari: Mr. Deputy Speaker, Sir, just to clarify, my request was to the Committee on Implementation regarding the enquiry by the *ad hoc* Committee. Its Report was tabled on 1st December, 2015 and adopted on 3rd December, 2015. My issue was; how far is the implementation of these resolutions? This had been taken to the Committee on Implementation. In fact, yesterday, Sen. Kanainza undertook to bring it to the House.

The Deputy Speaker (Sen. Kembi-Gitura): I can see she has sought the Floor.

Sen. Kanainza: Mr. Deputy Speaker, Sir, I have the response concerning the issues raised by Sen. Wangari.

The Ministry reviewed the recommendations of the Report by the Select Committee that was adopted by the Senate in December, 2015. The following actions have been taken ---

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. Would it be in order that the Senator first shares the response with me so that I can follow as is the practice of this House? I have not seen the response.

The Deputy Speaker (Sen. Kembi-Gitura): When did you get that response?

Sen. Kanainza: Mr. Deputy Speaker, Sir, I received the response yesterday.

The Deputy Speaker (Sen. Kembi-Gitura): why have you not shared it with Sen. Wangari?

Sen. Kanainza: I am sorry that I was unable to do it on time. May I proceed?

The Deputy Speaker (Sen. Kembi-Gitura): Okay. At least you have a response. We will wait for it. Sen. Wangari, do you want time to look at the Statement?

Sen. Wangari: Mr. Deputy Speaker, Sir, I would appreciate a few minutes and then with your discretion, we can have it back.

The Deputy Speaker (Sen. Kembi-Gitura): Take a few minutes.

Let us move to Statement (h). This one is for the Standing Committee on Finance, Commerce and Budget.

OPERATIONS OF THE WOMEN ENTERPRISE FUND

(Sen. Cheruiyot consulted loudly)

Sen. Cheruiyot, are you following the proceedings?

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, yes, I am.

Sen. Mositet: Mr. Deputy Speaker, Sir, the Statement is not ready. We have not received the response yet but we are following up.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, I would appreciate if the Chairperson told us how long this wait will be.

Sen. Mositet: Mr. Deputy Speaker, Sir, given that there is a Motion of adjournment of the Senate, I undertake that on the first week of resumption, we will have the response ready.

Sen. Karaba: Mr. Deputy Speaker, Sir, I stand on an issue which you have just ruled on; Sen. Wangari's concern about Kenya Airways. That is more about the

Committee on Implementation and implementation itself as a stage of trying to achieve what the Senate has done.

Implementation itself is a stage of trying to achieve what the Senate has done. We need a clear-cut ruling from you, so that we get to know what should happen, after the report is tabled here by a Member and it stipulates clearly what should be done by a Committee. What should happen to the Committee that does not follow up on what is stipulated by report?

Mr. Deputy Speaker, Sir, I tabled a report about the Mihiriga Kenda issue, on the Mwea trust land in Kirinyaga, which was in dispute between Kirinyaga, Embu and---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, for the sake of good order, can you let me finish with the issue of Sen. Cheruiyot?

Sen. Karaba: Mr. Deputy Speaker, Sir, I thought that was already done.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Cheruiyot, are you satisfied?

Sen. Karaba: Sen. Cheruiyot said that it is okay, I was following---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Karaba. Do not pretend to do what you are not supposed to do. Do not try that because it will not work with me.

Sen. Cheruiyot, is it okay with you that it will be the first week when we come back?

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

The Deputy Speaker (Sen. Kembi-Gitura): We have not even come to Sen. Wangari's issue because she is still taking time to look at her Statement. Have you received it? Sen. Kanainza, where is the Statement that you were to give to Sen. Wangari? As a matter of fact, I do not even have a copy.

Sen. Karaba, let us wait for the photocopy. I want you to raise your issue at the right time because it is important.

Statement (i) from the Committee on National Security and Foreign Relations.

SHOOTING OF ULANDA GIRLS' SECONDARY SCHOOL STUDENT

Sen. Adan: Mr. Deputy Speaker, Sir, I do not have this Statement. Since you have made a ruling, we will include this as part of the agenda once we summon the Cabinet Secretary and the Permanent Secretary in the next one week.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari.

Sen. Wangari: Mr. Deputy Speaker, Sir, Sen. Kanainza, should go on because it is a short response and I have gone through it.

The Deputy Speaker (Sen. Kembi-Gitura): I am talking about Statement (i), which has to do with you.

Sen. Wangari: Mr. Deputy Speaker, Sir, I am sorry. I was going through the Statement from Sen. Kanainza. The question I had raised in the Committee---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari, Sen. Dullo has said that the answer is not ready and it has to await the summoning of the Cabinet Secretary.

Sen. Wangari: Mr. Deputy Speaker, Sir, I sympathize with the Chair because I was in the *Kamukunji*. I oblige that we do it in the next one week as has been directed by the Speaker. I will raise the issue there.

(Statement deferred)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, do you have a point of order?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity---

The Deputy Speaker (Sen. Kembi-Gitura): I have not given you an opportunity. I am wondering what your point of order is?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, you called out my name.

The Deputy Speaker (Sen. Kembi-Gitura): I called it out because it is on the screen. Is it a point of order on what Sen. Wangari has said?

Sen. (Prof.) Lesan: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Do you want to seek a Statement?

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

The Deputy Speaker (Sen. Kembi-Gitura): Please wait. Let us go back to Sen. Wangari's Statement.

Sen. Kanainza, you can now proceed.

STATUS OF IMPLEMENTATION OF THE SENATE RESOLUTION
ON THE STATE OF AFFAIRS AT THE KENYA AIRWAYS LIMITED

Sen. Kanainza: Thank you, Mr. Deputy Speaker, Sir. There is a way forward that had been prepared by the Committee that led to the recommendations which were adopted.

(1) The board has been reconstituted with a new chairman and the departure of the finance director in order to strengthen its policy direction and oversight roles.

(2) In order to turn around Kenya Airways (KQ) the board has undertaken the following measures:-

(a) Strategic turnaround concept: it has developed a five-year plan with challenge and build from McKinsey.

(b) Operational turnaround concept: retained the recovery and transformation services to assist in detailed concept that was ready by end of March. The document is being fine-tuned.

(c) Financial/stock balance sheet restructuring; debt advisor PJT mandated to advise on the financial restructuring concept and long-term capital plan to be developed by the end of April, which will be based on the operational turnaround plan.

(2) The company has embarked on fleet resizing to homogenous new and competitive structure. They have two 787-8s sub-leased and contract signed; three 777-300s sub-leased and in the final stage of contracting and four 777-200s are out for sale with two sold and out of the fleet in February. I believe that we have been following it up

in the news on the national media. All the above actions will reduce monthly costs by US\$8 million.

(3) In order to increase revenue, raise working capital and cut down on costs, the company has:-

(a) sold land to the Kenya Medical Supplies Authority (KEMSA); the key tenant to raise US\$20 million, which is in the final stages of approval;

(b) made changes in commercial operations, including people and pricing restructure;

(c) restructured short-term debt to give room for recovery;

(d) sold the London slot to raise US\$50 million cash and the release of 787 series.

(4) The company has a plan to undertake a staff downsizing as part of the turnaround strategy, which we are aware that Phase 1 has already been done and completed.

(5) On the implementation process the Government, which is the major shareholder, is reviewing the financial position of the company in order to support the turnaround plan. Further, an *ad hoc* Committee of the Cabinet has met representatives of the Royal Dutch Airlines (KLM), with a view to establishing their role in the turnaround strategy and whether KLM can raise short-term finances. The discussion also revolved around the need to examine the master co-operation agreement, commercial partnership between KLM and KQ. The Government will, through the board, review the joint venture with KLM, especially on the provision of the code sharing, revenue management and sales tracking to ensure equity in revenue sharing.

(6) The recommendation of arbitration alternatives continue to be applied as part of dispute resolution and continuous engagement with unions. No new outsourcing contracts have been entered into in the period so far.

Mr. Deputy Speaker, Sir, if you allow me, I will go through the suggested way forward that arose from the meeting that was conducted between the KLM and KQ.

(1) Mitigating the challenges of KQ be approached as follows:-

(a) examining the master corporation agreement between KLM and KQ;

(b) registering and acknowledging the commitment of the Government of Kenya to sustain the operations of KQ as a major shareholder; and,

(c) commitment by both parties (KLM and KQ) to review and update the agreement referred to in part (a).

(2) As part of protecting the interests of the airline and its shareholders, all legal avenues have been explored.

(3) A formal record of the discussion and resolution between the Government of Kenya and KLM, as shareholders of KQ, be kept for future reference.

(4) The KQ board and management have briefed the Committee severally on the financial restructuring plan, which has now been endorsed for execution.

(5) The Government of Kenya and KLM as major shareholders reaffirm their support to the operational and financial turnaround plan. The Government has, in addition, borrowed on behalf of KQ from Afriexim to the tune of US\$ 200 million to enable the airline access funds for its short-term obligations and operational needs.

Sen. Wangari: Mr. Deputy Speaker, Sir, I thank Sen. Kanainza for that response. However, she seems not aware of what McKinsey is. May I seek the following clarifications:-

1. We continue to see hemorrhage losses of billions from Kenya Airways (KQ). I would like to know the measures being taken in short-term, apart from these 18 to 24 months, to mitigate the losses. When do we expect to see results?
2. It is the action of the people that has brought KQ on its knees. What legal measures have been taken by the organisation in taming this and serving as a lesson to others who mismanage public bodies?
3. How many people were targeted to lose their jobs?
4. What are the Cabinet resolutions regarding this issue as has been put here?

Sen. Mositet: Mr. Deputy Speaker, Sir, I was a Member of the Committee that looked into this issue. It was Chaired by Sen. (Prof.) Anyang'-Nyong'o. The question by Sen. Wangari was clear. The answer given by the Vice-Chair is doubtful. That is not the answer we expected. Sen. Wangari sought to know the status of the implementation of the Senate resolution but the Sen. Kanainza, in her answer said that the KQ changed the chair of the board and also replaced the finance director. She also read other resolutions.

I know that the Committee took its time and did a thorough job. There were good resolutions but I do not remember at one point where we talked of a land to be sold. We did not resolve that only two people were to leave. One Dennis Owori mentioned, came in when the proceedings of the Committee were on. The person who left, after the resolutions, was the commercial director. Therefore, the Chair should answer what Sen. Wangari sought.

Sen. M. Kajwang: Mr. Deputy Speaker, Sir, if KQ was my private business, I would have fired the CEO by now. Unfortunately, it is not. As a follow up to the recommendations of the Select Committee that this House established, there are a lot of initiatives that KQ has taken up. They have brought in McKinsey and Company Limited to look at the strategic plan. They also brought in Paul J Taubman (PJT) firm to do the balance sheet restructuring. There are also many other initiatives.

The fate of the KQ is as a result of the decisions made by the board and the management. The KQ's board has representation from the Government of Kenya. They are the National Treasury, Ministry of Transport and Infrastructure, Housing and Urban Development, among other representatives.

Mr. Deputy Speaker, Sir, there is an emerging trend where the directors that represent the Government of Kenya in specific boards, for instance KQ and Mumias Sugar Co. Limited, sleep on the job and Kenyans wake up to the fact that the Government partly-owned companies are in the red yet we have representatives on these boards. What actions have been taken on the directors who are sitting in the KQ board? It is not enough to change the Chair from one to another. If these people sleep on the job, there are sanctions that should be taken.

Furthermore, what is the Government's position on its representation on strategic boards? There is this issue of alternate directors. Are these officers given proper powers so that they look out for the interest of the common *Mwananchi*?

Mr. Deputy Speaker, Sir, finally, does the management of KQ still have the moral authority and the focus to bring down a strategy that was central in bringing the company down, called “project mawingu”, in order to adopt another one that will be introduced by McKinsey? Many people are not feeling that KQ’s problems could be Foreign Exchange (FOREX), hedging on fuel among others. There is also a weakness in leadership that starts from the board and extends to the Chief Executive Officer (CEO) who is expected to implement the recommendations of the board. Does the Government feel confident that the CEO of KQ still has the moral authority to implement the recommendations that will come out?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, on the issue that you raised, do you want to intervene now or later?

Sen. Karaba: Mr. Deputy Speaker, Sir, I can intervene now because I was also a Member of the Select Committee. My concern is the implementation level. The Report containing the recommendations was Tabled in the House. Who is supposed to follow up on the implementation? If it is the Senate let it be it. If the recommendation was that the CEO must be relieved of his duties, then the House must get the report as to whether it was done.

When we talk of the recommendations, the Committee on Implementation fails to report what occurred after the Tabling and adoption of the Report.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kanainza, this Statement that you are issuing shows that it is a Statement being issued following a Statement as requested by Sen. (Prof.) Anyang’-Nyong’o. Are we dealing with the same issue that Sen. Wangari is seeking or this is another?

Sen. Kanainza: Mr. Deputy Speaker, Sir, it is the same concern. Sen. Wangari wanted to know about the level of implementation.

The Deputy Speaker (Sen. Kembi-Gitura): Was there another Statement sought by Sen. (Prof.) Anyang’-Nyong’o?

Sen. Kanainza: Mr. Deputy Speaker, Sir, it is the same Statement. The Cabinet Secretary was due to appear in the Committee of Roads and Transport yesterday. However, he did not appear before the Committee but we had other officers. I attended the Committee to seek some clarifications on the same matter.

The Deputy Speaker (Sen. Kembi-Gitura): So what we are being told is that pursuant to the Report of the Select Committee which was Chaired by Sen. (Prof.) Anyang’-Nyong’o, this piece paper is now what is telling us how that resolution has been implemented. Is that right?

Sen. Kanainza: Mr. Deputy Speaker, Sir, yes.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, this is a serious matter. The nature of the response that we have received from the question raised, alludes to what the Senator for Kwale County had mentioned. He talked of people considering the House as a plastic snake that only scares but does not bite. This Committee took a lot of time. I had an opportunity to study the report and its recommendations. It is unfortunate that we are being taken round in circles when we seek information on the status of implementation. It shows that the scandal bedeviling Kenya Airways is bigger than Goldenberg and Anglo leasing. Kenya Airways is a fairly liquid business. I speak with some level of authority

because I properly understand this business. I served in this industry before coming to this House.

If we were talking about an airline that is struggling to fill its aircraft with passengers every now and then, we would understand why its making loses. However, many of us in this House travel with Kenya Airways once in a while and it is evident that the number of passengers is not the problem. Therefore, where does this money go to? Who are the beneficiaries? Each and every time we seek information from the Government, we are taken round in circles.

As a House, it is time we ask the most difficult question; what is it that one Mr. Mbuvi knows that for a long time despite posting losses year in year out, he has retained that position. Who is he holding brief for? We should ask serious questions. This is an investment for Kenyans. In this year's budget, we have set aside funds again. We are misusing tax payers' money despite poor performance of the company. Which are these cartels? We are told that there were certain deals which were signed and were not favourable but nobody is willing to come out in public to reveal the people who are benefiting or doing business with Kenya Airways.

The Deputy Speaker (Sen. Kembi-Gitura): Please seek clarification.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, sometimes one gets emotional.

The Deputy Speaker (Sen. Kembi-Gitura): As a representative of the people you should never get emotional. You must deal with issues.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, "empathize" is the right word. I empathize with Kenyans whose money is being squandered in this institution. We should get a proper response to this statement.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, in the last financial year, Kenya Airways made a loss of Kshs25 billion. When they attended a Committee sitting, they told us about their recovery strategy. It is now one year down the line. It is significant to note that this year they made a bigger loss of Kshs26.5 billion. I wish it could be clarified to us whether this company has ways of monitoring and evaluation whether their strategy is useful in view of the fact that it is making losses. Will the strategy recover and make this company come to fruition again?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kanainza and Sen. Wangari, I have an issue with this statement. It appears to me that Sen. Wangari sought to know whether the Senate said what they had to say in the report. Did it not? We have the report. The Senate pronounced itself. The only question that appears to be out there is not the several issues that have been raised here now; it is whether or not that report is being implemented. That is the question. We are discussing issues that we know. They were there in the Committee. They were canvased. We know about Kshs25 billion losses.

Sen. (Prof.) Anyang'-Nyong'o and his Committee did an intensive job on this matter. The question is not whether or not the losses are still being made but whether or not the recommendations that were made by the Senate Committee are being implemented. That is why Sen. Wangari, very cleverly went to the Committee on Implementation, not to the Committee on Roads and Transportation. She wants to know whether it is being implemented. That is the issue. It is not whether or not they are the single issues we are discussing now of this or the other person or of the chairman or the

other person. It is a question of implementation of the report as passed in a Motion of the Senate.

Sen. Lesuuda: On a point of order, Mr. Deputy Speaker, Sir. Before you intervened, that is what was going through my mind, having been in that Committee. The exact question should be; there were certain clear, specific recommendations that were worked on by the Committee and deliberated in this House. The answers that were given are also general; touching on everything. That is why Senators are just responding to this thing. Unless Sen. Kanainza can – looking from what has been given, they should go directly to the recommendations and they tell us at what stage they are on each one of them in terms of implementation. Then later we can see whether having implemented those recommendations, we can see any impact or turnaround on Kenya Airways.

The Deputy Speaker (Sen. Kembi-Gitura): My view is exactly what Sen. Lesuuda has said. The question is; has the implementation Committee read this report, internalized and understood it? Or are we getting a statement based on what the Cabinet Secretary has said without the implementation Committee understanding itself. I say this with great respect. What were the recommendations? Are you satisfied that the Motion is being implemented? That is the question Sen. Wangari is asking. Not about truncated issues.

Sen. Kanainza: Mr. Deputy Speaker, Sir, as the Committee on implementation, we have gone through the report. As we wrote to the Cabinet Secretary in charge we indicated all the recommendations that were made by the *ad hoc* Committee of the Senate. However, this is a response we got.

Yesterday we had our Committee meeting. We agreed that the Clerk writes a letter to the Cabinet Secretary so that he can appear before our Committee and respond to those issues directly.

I also agree with hon. Senators that the recommendations that have been pointed out in this statement are general. I have noted down other questions that have been asked by hon. Senators. I will share them with the Clerk so that they can include it in the letter.

Mr. Deputy Speaker, Sir, we asked for specific recommendations from the Cabinet Secretary. This is the response we got from him.

Sen. Kagwe: Mr. Deputy Speaker, Sir, I also happen to have been the Vice Chairperson of that Committee. In terms of the recommendations for implementation that were made, a key one which was fairly urgent was the discussion regarding the code share between Kenya Airways and KLM; specifically because it was the determination of the Committee that part of the reason why Kenya Airways is making losses is because of the agreement between KLM and Kenya Airways. There were issues. The code share had issues. Therefore, as the Vice Chairperson goes to check the implementation levels, there is some urgency in the matter.

We need to know whether it is under discussion. We even interviewed the KLM people. Part of the resolutions we made following the discussion with *Koninklijke Luchtvaart Maatschappij* (KLM) was a reconciliation of finances between the two shareholders. I do not believe that Kenya Airways is sure how much it is owed by KLM and how much KLM owes Kenya Airways.

Secondly, when we sought from KLM whether as the Kenya Government injects capital into Kenya Airways, they too will inject equivalent to their shareholding, they were not sure. Part of the recommendation was to see whether there are ways of buying out KLM as a shareholder, so that we are more flexible in what we wanted to do.

We also recommended that part of the way that the Kenya Government should inject capital into the airline was to find out how that capital was going to be paid back. The Kenya Government had looked at the purchasing of aircraft for the executive. This is because the little aircrafts that our President uses to travel around the world are miserable. He is the laughingstock of a lot of other countries.

Mr. Deputy Speaker, Sir, most of us have escorted presidents from other countries when they land at the Jomo Kenyatta International Airport. I was the escort of honour for the President of Nigeria. He landed in a 777 jet and another one following him. Although we are not a very rich country but the Committee has recommended that these aircrafts that were lying around the airport; the 777-300 be purchased by the government to convert them into executive rather than buying other aircraft. This could have saved money which can be injected into Kenya airways.

We had very good recommendations. Part of the problem is that we hear some of the 777 aircrafts that were supposed to be transferred to the executive were taken to Dubai or Abu Dhabi supposedly to be sold, a sale that was not completed and are lying somewhere in the Middle East. They have not been transferred.

When we talk about seeking to know the status of implementation of those recommendations, it is an urgent matter that should not be taken lightly. This is especially as we now hear that another Kshs26 billion has gone down the drain. We talked about the exit clause for the oil hedging deal. When we reported the loss this year, oil-hedge was again one of the causes of loss. We recommended that they get the exit clause and get out of the oil-hedging deal. We do not know the situation of that recommendation. Could the Senator clarify? I think---

The Deputy Speaker (Sen. Kembi-Gitura): I have three more requests from the floor. Sen. Mositot you have already spoken to this. Let us have Sen. Gwendu and let us be specific.

Sen. Gwendu: Mr. Deputy Speaker, Sir. Information given by the people who are in this Committee shows clearly that the Committee on Implementation did not take enough time to go through the report even from the way Sen. Kanainza was reading. She could not read the McKinsey and Company Limited which gave the ---

The Deputy Speaker (Sen. Kembi-Gitura): Order. This is not a semantics classroom.

Sen. Gwendu: Mr. Deputy Speaker, Sir, maybe in future, other Committee Chairpersons should learn from this. Before bringing the reports to this Senate or before answering questions we need to go through the report, do consultative meetings so that---

The Deputy Speaker (Sen. Kembi-Gitura): Order Senator. Stop doing my work. Let us have Sen. Sang.

Sen. Sang: Mr. Deputy Speaker, Sir, it would help this House if we got fairly straight answers. The question as you have rightly pointed out is; how far are the recommendations of the Select Committee on the Kenya Airways, as adopted by the

Senate, being implemented? I would expect the Committee to clarify the extent to which the recommendations of this Senate have been adopted by the Government in its considerations.

This is so because, if you look at the Statements, they are saying they reviewed, but they are not telling us the extent to which the recommendations were adopted and the extent to which they are being implemented. We can then know why we are discussing. Otherwise, we will get back to the general challenges of the airline and the issues that were captured in detail by the Committee, addressed and adopted by this House.

If the Chairperson of the Implementation Committee can clearly tell us how far the implementation process has gone, or ask for more time if she is not sure, to go and clarify what it is that this House is interested in.

The Deputy Speaker (Sen. Kembi-Gitura): Let us have Sen. Kanainza. You have listened to your colleagues and heard the general drift. Have you not? What you are giving us is not a report on the implementation of the resolutions of the Senate on Kenya Airways. You are giving us certain answers only, some of which may have to do with the Senate recommendations.

I would expect to let the Committee look at the resolutions of the Committee and tell us that the report has been implemented and give us the reasons if it has not been implemented. Sen. Wangari took an interesting line. She could have asked the same question from the Ministry but she did not. She wants the Committee to take responsibility of implementing the resolutions of the House and so I expect that we are going to get it sequentially to know exactly what or how far that report has been implemented and the reasons, if it has not.

What is your point of order Sen. Sijeny?

Sen. Sijeny: Mr. Deputy Speaker Sir, this report was tabled in the Committee on Roads and Infrastructure where I am the Vice-chairperson. We debated it and summoned the Cabinet Secretary (CS) and the Chief Executive Officer (CEO) of Kenya Airways and they responded to this. I understand what you have ruled on it, and there probably may be new issues which may have arisen. However, with your kind permission and to avoid duplication, I seek directions and clarifications if it will be in order that the Implementation Committee sits.

There could be a joint committee although I do not know what the Standing Orders are---

The Deputy Speaker (Sen. Kembi-Gitura): Has your Committee reported to the Senate?

Sen. Sijeny: Mr. Deputy Speaker, Sir, a report was done. I am just talking about the interim stage since they are going back to the drawing board. Could there be a joint sitting between the Roads and Infrastructure Committee and the Committee on Implementation so that we look at all these issues?

The Deputy Speaker (Sen. Kembi-Gitura): As far as your Committee is concerned, have the resolutions of the Senate been implemented?

Sen. Sijeny: Yes, Mr. Deputy Speaker, Sir. That was responded to---

The Deputy Speaker (Sen. Kembi-Gitura): No! Have they been implemented?

Sen. Sijeny: Yes, Mr. Deputy Speaker, Sir. They were being implemented but I cannot remember right away.

The Deputy Speaker (Sen. Kembi-Gitura): That is correct. You and I cannot remember yet there is an issue before the Senate.

Sen. Sijeny: Mr. Deputy Speaker, Sir, they were being implemented. **The Deputy Speaker** (Sen. Kembi-Gitura): You are going to do what I have directed. The Committee on Implementation may decide to sit with your Committee and give us an answer. This is a very important issue which we cannot afford to push under the carpet. Sen. Karaba, just hold your horses. I remember your issue. That should be it for now, Sen. Wangari.

Sen. Wangari: Mr. Deputy Speaker, Sir, I applaud your ruling and the direction it has taken. However, I rise because I did this to the Committee on Implementation on two issues. As a follow-up, I needed a Statement on the disappearance of twins at the Pumwani Maternity Hospital. My request to you---

The Deputy Speaker (Sen. Kembi-Gitura): Are you still on the issue of Sen. Kanainza?

Sen. Wangari: Mr. Deputy Speaker, Sir. It is to the same Committee and that is why I am seeking your guidance because I had asked sought two issues from the Committee on Pumwani and on Kenya airways. The Kenya airways can be taken by the Committee as they do a thorough work---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari, you are now confusing me. I am dealing with Statement (g) which has nothing to do with Pumwani, but it has to do everything Kenya Airways. You are confusing me now. Bring the issue about Pumwani when we get to Statement on Pumwani.

(Interruptions of Statements)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATIONS FROM HILLS VIEW PRIMARY SCHOOL AND KAPSOOR PRIMARY SCHOOL

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I wish to recognize the presence of visiting students and teachers from Hills View Primary School, Meru County. They are seated at the Public Gallery. 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.

Hon. Senators, I know that Kapsoor Primary School from Baringo County was in the Public Gallery, but they left before I had recognized their presence. I would like it to go in the HANSARD that Kapsoor Primary School from Baringo County was also here. The record should show that they too were welcomed and that we would have also wished them a happy learning experience.

How soon do we expect an answer from you, Sen. Kanainza?

Sen. Kanainza: Mr. Deputy Speaker Sir, we will do a thorough work and we will have the response in two weeks time.

(Resumption of Statements)

The Deputy Speaker (Sen. Kembi-Gitura): What was the issue that you were raising, Sen. Karaba?

Sen. Karaba: Mr. Deputy Speaker, Sir, my issue is on the kind of ruling that I was anticipating from you. The moment we table a report from a Senate Committee or from a Committee which has been instructed by the Speaker to undertake a certain task, especially after a petition, it should be followed by the Implementation Committee. They should be able to tell us after sometime, whether the recommendations that were in the report have been forwarded and have been implemented. That is the work of the Implementation Committee. Otherwise, if you do not do so, it is like you are dumping reports here. We will not know what is happening and nothing will happen even after that. Later on, those reports will be overtaken by other Bills that will come and you will say that they have been overtaken by events. A ruling of that nature is welcome.

The Deputy Speaker (Sen. Kembi-Gitura): I agree with you, Sen. Karaba, but it does no harm if the Senator concerned raises an issue the way Sen. Wangari has done. She wants to know what the Implementation Committee has done. Otherwise, some reports would just gather dust and will not see the light of day. If you have a specific issue, my advice to you would be to raise it on the Floor of the House. We will follow it up the way we have followed up Sen. Wangari's situation.

That brings us to the end of the Statement. I know that Sen. (Prof.) Lesan wants to seek a Statement. Go on, Sen. (Prof.) Lesan.

FATE OF FARMERS' DEPOSITS IN COLLAPSED IMPERIAL AND CHASE BANKS

Sen. (Prof.) Lesan: Thank you, Mr. Deputy Speaker, Sir, for allowing me to seek this Statement out of time.

Pursuant to Standing Order No. 45 (2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the fate of farmers who lost tea sales money in the collapse of Imperial and Chase Bank. In the Statement, the Chairperson should address the following matters:-

1) Is the Chairperson aware that tea farmers affiliated to the Kenya Tea Development Agency Limited (KTDA) cannot access Kshs4.8 Billion deposited in Imperial and Chase Bank now under receivership.

2) Could the Central Bank of Kenya intervene to ensure that KTDA is allowed to access the entire deposits in both banks on behalf of the affiliate factories to facilitate payment of this year's bonus to tea farmers?

3) Could the National Government prevail upon KTDA to pay farmers in excess of 75 per cent of what is due to the farmers monthly for the deliveries made in order to

reduce the amount of money withheld yearly by KTDA and deposited in various banks ostensibly to earn interest?

4) Could the National Government through a directive compel KTDA to operate within its core mandate of processing and marketing tea and minimize the establishment of subsidiary companies that often lead to the temptation of retaining huge sums of money held in Banks?

The Deputy Speaker (Sen. Kembi-Gitura): Where is the Agriculture, Livestock and Fisheries Committee Chairman. If he is not here, could we hear from any Committee Member?

Sen. Mositet: Mr. Deputy Speaker, Sir, I am a Member of the Committee. I will communicate with the Chairman. However, from what the Member has requested, it is like the farmers bank through KTDA, meaning that they could have even banked with Co-operative Bank. I do not know why they went to those private banks. Maybe the best question he should have asked is how---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Mositet! The Senator has sought a Statement and it has been approved by the Speaker of the Senate. You cannot then try to change that Statement by telling us how it should have been framed. Your role is to tell us when you will give an answer.

Sen. Mositet: Mr. Deputy Speaker, Sir, I undertake to bring the answer the first week after coming back from recess.

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir, is the Senator in order to anticipate debate? We are in the Senate and are not aware of any recess. Is he in order? He should be able to give us timelines in terms of two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): Order! The truth is that there is a Motion for Adjournment because we all know we have a calendar. He is working on the assumption that we shall follow the calendar. I, therefore, do not think that he has done anything wrong.

Sen. Karaba: Mr. Deputy Speaker Sir, the KTDA farmers who are the actual farmers were not involved in the transaction of that business. Where they were to transfer 4---

The Deputy Speaker (Sen. Kembi-Gitura): Are you riding on the Senator's Statement?

Sen. Karaba: Yes, Mr. Deputy Speaker Sir. I am riding on the same question so that whoever will be answering that question, will come with an elaborated response which will include my concern. He should tell us whether the farmers involved were made aware that the money was to be transferred to Imperial and Chase Bank and not Co-operative or any other bank of their choice. It is like a few directors decided that they were to bank that money in Imperial and Chase banks and not any other bank of the farmers' interest.

Sen. Mositet: Mr. Deputy Speaker, Sir, I will bring one answer---

The Deputy Speaker (Sen. Kembi-Gitura): You should take into account what Sen. Karaba has said.

Sen. Mositet: Mr. Deputy Speaker Sir, I think Sen. Sang was completely out of order.

The Deputy Speaker (Sen. Kembi-Gitura): Order! You know the rules of debate Sen. Mositet, and when I rule on an issue like I ruled on the Sen. Sang issue, I do not think it is right for you to come back to it and make your own ruling. That is the normal way to do things.

End of Statement time. Nobody is seeking for a Statement?

Sen. (Prof.) Lesan: Mr. Deputy Speaker Sir, I have not heard of the timelines set so that I can---

The Deputy Speaker (Sen. Kembi-Gitura): He said that he will give you a Statement on the first week after we resume from recess. That is if we are going on recess.

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

The Deputy Speaker (Sen. Kembi-Gitura): The Leader of the Majority is not here to issue the weekly Statement. Is there anybody with that instruction?

Well, let us proceed.

MOTION

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE COMMUNITY LAND BILL

THAT, this House adopts the Report of the Mediation Committee on the Community Land Bill (National Assembly Bill No.45 of 2015).

(Sen. Kivuti on 27.7.2016)

(Resumption of Debate interrupted on 27.7.2016)

The Deputy Speaker (Sen. Kembi-Gitura): The last person to speak on this was Sen. Boy Juma Boy. It is open for debate. The floor is open.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, I beg to support this Motion. However, I support it with an amendment.

I beg to move:-

THAT, the Motion be amended by deleting 'full stop at the end and inserting the following words;

"...laid on the table of the Senate on Wednesday 27th July, 2016 and pursuant to Article 113 of the Constitution and Standing Order 155(3) of the Senate Standing Orders, approves the mediated version of the Bill."

I request Sen. Sang to second.

Sen. Sang: Mr. Deputy Speaker, Sir, I rise to second this amendment. This amendment seeks to address an issue that we discussed yesterday while discussing this Bill in the sense that what we are discussing is an adoption of the report of the Mediation Committee. Standing Order 155(3) of the Senate Standing Orders, provides that we should have a Motion to adopt the Report together with an agreed version of the Bill.

As a Senate, we rejected the Bill in totality. When the Mediation Committee met, they discussed and came up with an agreed version of the Bill and the Motion as it is, before this amendment, does not indicate that we are also adopting the agreed version of the Bill. This amendment by Sen. Cheruiyot clearly brings in the concept that we also seek to approve the mediated version of the Bill. At the completion of debate on this Motion and adoption, we will have adopted the report together with the mediated version of the Bill.

This is very important and I thank Sen. Cheruiyot. Being the newest Member of this Senate, he has learnt the ropes to the extent of bringing such a very important amendment to this Motion. It will help this House ensure that we are not just in a discussion but that discussion on this Motion leads to the adoption of the Bill.

I wish to second the amendment.

(Question, that the words to be left out be left out, proposed)

*(Question, that the words to be inserted in place thereof
be inserted proposed)*

(Sen. Cheruiyot consulted loudly)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Cheruiyot! Sen. Sang' just now, talked about you being the very ardent latest addition to the Senate.

(Question, that the words to be left out
be left out, put and agreed to)

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Question of the Motion as amended proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Nobody is seeking the Floor. Mover of the Motion!

Sen. Kivuti: Mr. Deputy Speaker, Sir, I thank the Senators who have contributed to this Motion. I also thank the young Senator who has amended the Motion as approved now. It is important we go on record that the Mediation Committee actually sat every day in the last two weeks because the business in front of the committee did not only include the Community Land Bill but also the Land Laws Amendment Bill.

The content of the Community Land Bill and the reason it was rejected in total meant that we had to mediate on 48 Clauses including the Title and the Long Title; that adds up to 50 Clauses. To mediate on 50 Clauses of an emotive land law is not a small job. That is the reason, in the first instance, we sought the intervention of this House to have a seminar which was held at Crown Plaza Hotel so that we could, first of all, have the input of all the Senators before even the mediation could start.

At the mediation stage, we also had to hold another seminar whereby the committee had to sit with many lawyers and meet a decision to have a public participation so that extra inputs could come from the major stakeholders notably; the Ministry of Lands, the National Land Commission, the Institute of Surveyors of Kenya, the Council of Governors and several other institutions which brought all the annexes which were annexed in our report which was tabled here yesterday.

Pursuant to Standing Order No.54(3), I request that you defer the putting of the question until the requisite number of Senators is available before we put this matter to vote. I confirm to Members that we actually went through each and every clause. We even had some of our Members who happen to be aggrieved in the first instance when this Motion was rejected in this House. As the Chairperson, I allowed them to have informal sessions so that we could come up with an agreed version of the Bill which takes care of all the concerns of this House. These concerns were tabled before the mediation committee which included the National Assembly. The agreed version of the Bill is annexed to our Committee Report from pg.13 to the end of the report.

Mr. Deputy Speaker, Sir, I beg to move that this House adopts the Report.

The Deputy Speaker (Sen. Kembi-Gitura): Do you want to make any request under Standing Order No.54?

Sen. Kivuti: Mr. Deputy Speaker, Sir, I think I already did that but if you like I can repeat it.

The Deputy Speaker (Sen. Kembi-Gitura): No, it is not a question of liking.

Sen. Kivuti: Mr. Deputy Speaker, Sir, pursuant to Standing Order No.54(3), I request that you defer putting of the question until another time in view of the fact that we require the requisite numbers in the House.

The Deputy Speaker (Sen. Kembi-Gitura): So ordered.

(Putting of the question on the Motion deferred)

Next Order!

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON
THE LAND LAWS (AMENDMENT) BILL

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

THAT, the Senate adopts the Report of the Mediation Committee on the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015) laid on the Table of the Senate on Wednesday, 27th July, 2016 and pursuant to Article 113 of the Constitution and standing order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

Mr. Deputy Speaker, Sir, I have just concluded giving the actual analysis of what we did in the mediation of the Community Land Bill. I want to reiterate that the Mediation Committee that dealt with the Community Land Bill was the same that dealt with the Land Laws (Amendment) Bill which is the subject matter in front of the House right now. Prior to us going to mediation, we noted that during the Liaison Committee

meeting, we had a very unique case whereby two Bills from the National Assembly were rejected by the Senate in total. The two Bills included the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015). The Speaker at that time ordered that we have an informal session by way of a seminar which was held at Crown Plaza Hotel and I know the date is on record. That gave a chance for Senators to give their views because we did not want to invite Senators to come to public participation.

Mr. Deputy Speaker, Sir, I would like to thank all the Members of that Committee because the way they conducted the mediation was exemplary. To go through more than 100 Clauses one by one, because apparently since they were all rejected, it meant that we had to mediate on each and every one of them. In the mediation we felt that since we had a limited time of two weeks, we had to take extra time and all the Members agreed to work overtime in order to meet the deadline set because this is a constitutional Bill.

This is in addition to the fact that some of the issues contained in this Bill include the requirement for minimum-maximum land holdings in Kenya as required in the Constitution; and also the historical injustices law which is included in the Bill, among others. Of course this Bill sets to rationalize all the issues that we have had since 2013 between the Ministry of Land, Housing and Urban Development and the National Land Commission (NLC).

Mr. Deputy Speaker, Sir, I am happy to report that we worked very diligently and sometimes late in the nights and we came up with an agreed position which is contained in our Report from page 11 to the end of the Report. All the Members of the Mediation Committee unanimously agreed on all the Clauses listed there.

In looking at this Bill, part of the major concerns that we dealt with was to reintroduce the need--- Ordinarily, when we go to mediation, we only look at the Clauses and we agree or disagree with the National Assembly on them. In this particular instance, we agreed to include additional information from the major stakeholders so that when we come to our arguments, they are more informed. For that reason, I am convinced and the entire Committee was convinced that the position on each and every Clause was the best option for Kenya.

Mr. Deputy Speaker, Sir, I would like to request Sen. Hargura who was a Member of the Committee to second the Motion.

Sen. Hargura: Mr. Deputy Speaker, Sir, I was a Member of the Mediation Committee on the two Bills. In the case of the Community Land Bill, our concerns have been mainly on how the community land is to be defined and registered.

Sen. Kivuti: Point of information. Like I said, I would like to inform my learned friend, the Senator for Marsabit, that we are on the Motion for Land Laws (Amendment) Bill but not the Community Land Bill. Apparently, we were together in the mediation on both matters. So, the seconding that I need is on Motion No.9 on the Order Paper.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Hargura, we are on Order No.9

Sen. Hargura: Mr. Deputy Speaker, Sir, thank you for that guidance and I will be brief. We had discussed, as a Mediation Committee, the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015). When we attended the Senate half-day retreat at Crown Plaza Hotel, what came out clearly was the feeling that there was a lot of movement or shift from the NLC to the CS, Lands, in terms of land issues and that is

where our concern was. We wanted to know why the NLC was losing a lot of ground but in the mediation, we were given a Supreme Court advisory on that which clearly demarcated their roles. So, based on that, we went through the Bill, taking into account and that is how we came up with this Bill.

I beg to second.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Kivuti, I am reminded that this is an issue affecting counties. Just make a request under Standing Order No. 54 (3).

Sen. Kivuti: Thank you Mr. Deputy Speaker, Sir. I have very little to reply because no adverse arguments have been brought forth on this Motion. My reply is that I urge the House to adopt this Report because a lot of efforts have been put in it and the agreed positions are as written in the Report and they are for the interest of the entire country.

Pursuant to Standing Order No. 154 (3), I do request---

The Deputy Speaker (Sen. Kembi-Gitura): It is Standing Order No. 54 (3).

Sen. Kivuti: I stand guided Mr. Deputy Speaker, Sir. Pursuant to Standing Order No. 54 (3), considering we do not have the requisite number in the House, I request that the putting of the question be deferred to another time.

The Deputy Speaker (Sen. Kembi-Gitura): So ordered. Next order!

(Putting of the Question deferred)

ADOPTION OF THE MEDIATION COMMITTEE
REPORT ON THE WATER BILL

Sen. Kivuti: Mr. Deputy Speaker, Sir. I beg to move:-

THAT the Senate adopts Report of the Mediation Committee on the Water Bill (National Assembly Bill No.7 of 2014) laid on the Table of the Senate on Wednesday, 27th July, 2016 and pursuant to Article 113 of the Constitution and Standing Order No. 115 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

Mr. Deputy Speaker, Sir, the Mediation Committee on the Water Bill did not have a lot of issues to disagree on. The Water Bill has been a subject in this House for a long time. Since 2014, we have been debating this Bill. We have had several seminars on this Bill and we have had involvement of the public on two occasions. There are five issues which brought complication after the final Report was adopted by this House and a few clauses were rejected by the National Assembly. When we met as the Mediation Committee, I was elected as the Chairman and we resolved all the issues within less than an hour. We took around 34 minutes.

Mr. Deputy Speaker, Sir, having said that, I would like to thank the members of the Committee because they were all referring to the new law, constitutionality and all the issues from a very informed point of view. Without belabouring the point, that is why

the Report is short, all the items were as agreed by the Mediation Committee. I request that this Senate adopts that Report. I request Sen. Sijeny to second.

Sen. Sijeny: Mr. Speaker, Sir, I beg to second.

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

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

(Question proposed)

The Temporary Speaker (Sen. Mositet): Since there are no people willing to contribute on this, I therefore, request the Mover to reply.

Sen. Kivuti: Thank you Mr. Temporary Speaker, Sir. I have previously just submitted that the issues which were the subject of mediation were very few and they were all agreed upon between the National Assembly and the Senate. They were all in accordance to the laid down procedures and they were all making the Bill very good.

I, therefore, request that, pursuant to Standing Order No. 54 (3), you defer the putting of the question to another time because we do not have the requisite numbers at the moment.

The Temporary Speaker (Sen. Mositet): I order the putting of the Question to be deferred to a time when we will have sufficient numbers.

(Putting of the Question deferred)

Hon. Senators, since we do not have numbers to go for Division, I defer Order Nos. 11, 12, 13, 14, 15, 16, 17, 18 and 19 to the date when we will have numbers to vote.

BILLS

Second Readings

THE COUNTY GOVERNMENTS (AMENDMENT)
BILL (SENATE BILL NO.21 OF 2015)

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT)
BILL (SENATE BILL NO.9 OF 2015)

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

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT)
BILL (SENATE BILL NO.4 OF 2014)

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

(NATIONAL ASSEMBLY BILL NO.35 OF 2014)

(Bills deferred)

COMMITTEE OF THE WHOLE

THE REPRODUCTIVE HEALTH CARE BILL
(SENATE BILL NO.17 OF 2014)

THE COUNTY OUTDOOR ADVERTISING CONTROL
BILL (SENATE BILL NO.17 OF 2014)

THE EMPLOYMENT (AMENDMENT) BILL
(SENATE BILL NO.1 OF 2015)

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

(Committee of the Whole deferred)

Sen. Kivuti: Mr. Temporary Speaker, Sir, I have the requisite authority to reply on order No. 20.

The Temporary Speaker (Sen. Mositet): Please allow the Clerk-at-the-Table to read out the Order.

BILL

Second Reading

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

Sen. (Prof.) Kindiki on 27.07.2016)

(Resumption of debate interrupted on 27.07.2016)

Sen. Kivuti: Mr. Temporary Speaker, Sir, I am the Chairperson of the Committee on Land and Natural Resources. My Committee has already done even the public participation and the committee stage recommendations which were laid down on the table of the senate yesterday. While The Senate Majority Leader may not be present now, all the details that were used in the moving, actually came from my committee.

The issues which were discussed by the senate pursuant to this new Bill are so good. Almost every contributor yesterday was supporting the bill because physical

planning in this country is part of the basic necessity for the implementation of our Constitution.

The Temporary Speaker (Sen. Mositet): Senator, are you replying?

Sen. Kivuti: Mr. Temporary Speaker, Sir, I am replying to the fact that all the contributors supported the Motion. In my reply, I request this House to approve the Bill as laid in the House.

This is a matter affecting counties and, considering the fact that we do not have the numbers, I request that you defer putting the question, pursuant to Clause 54(3) of the Standing Orders, until another time.

The Temporary Speaker (Sen. Mositet): I therefore defer putting of the question on the said Bill.

(Putting of the question on the Bill deferred)

MOTIONS

ADOPTION OF CPAIC ON FINANCIAL OPERATIONS OF HOMA-BAY COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Homa-Bay County Executive for the Financial year 2013/2014 laid on the Table of the House on Wednesday, 4th November, 2015.

(Sen. Prof. Anyang'-Nyong'o on 28.4.2016)

(Resumption of Debate interrupted on 28.4.2016)

The Temporary Speaker (Sen. Mositet): I am made aware that this Order was debated exhaustively. This is not a matter affecting counties.

(Question put and agreed to)

NOTING OF REPORT OF THE COMMONWEALTH WOMEN PARLIAMENTARIANS REGIONAL CAPACITY BUILDING WORKSHOP

THAT, the Senate notes the Report of the Commonwealth Women Parliamentarians Regional Capacity Building Workshop held in Dar Es Salaam, Tanzania on 20th – 23rd January, 2016 laid on the Table of the House on Thursday March 17, 2016.

(Sen. Gwendu on 30.6.2016)

(Resumption of Debate interrupted on 30.6.2016)

The Temporary Speaker (Sen. Mositet): This Order was also exhaustively debated. Since it does not affect all counties, I will put the question.

(Question put and agreed to)

AUDIT OF BASIC EDUCATION FUNDS

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

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

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

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

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

The Temporary Speaker (Sen. Mositet): Since the Mover of the Motion is not here, we will defer it.

(Motion deferred)

INSTALLATION OF CCTV CAMERAS IN POLICE STATIONS AND POSTS

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

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

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

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

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

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

The Temporary Speaker (Sen. Mositet): Since the Mover of that Motion, Sen. (Eng.) Muriuki, is not here, let us also defer it.

(Motion deferred)

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.28(3)

ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2016 SESSION

Sen. Sijeny: Mr. Temporary Speaker, Sir, I beg to move:-

THAT, pursuant to Standing Order No.28(3), the Senate adjourns until Tuesday 13th September, 2016.

Sen. Kivuti seconded.

(Sen. Wetangula stood at the entrance of the Chamber)

The Temporary Speaker (Sen. Mositet): Order, Senate Minority Leader!

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, yes.

The Temporary Speaker (Sen. Mositet): Could you assume your official position?

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): It was moved and seconded.

The Temporary Speaker (Sen. Mositet): Order, Senate Minority Leader! You look very exhausted. So, just assume your seat.

Hon, Senators, when the House adjourns, we do not put the question.

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): There being no other business, the Senate stands adjourned until Tuesday 13th September, 2016 at 2.30 p.m.

The Senate rose at 5.10 p.m.