

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 12<sup>th</sup> July, 2016

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

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

### PRAYERS

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM RIARA SECONDARY  
SCHOOL, NAIROBI COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of visiting students and teachers from Riara Secondary School, Nairobi 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.

On behalf of the Senate and on my own behalf, I wish them a fruitful visit. Thank you.

### STATEMENTS

Order Members. No Member is interested in issuing Statements?

Yes, Sen. Obure.

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

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

**Sen. Mbuvi:** Mr. Speaker, Sir, last week before *Eid Ul Fitr* Day, there was a statement which was supposed to be issued---

**The Speaker** (Hon. Ethuro): Order! Sen. Mbuvi, I thought it was a different point of order. I had already given the Floor to Sen. Obure. I will come back to you.

**Sen. Mbuvi:** Much obliged, Mr. Speaker, Sir.

STATUS OF THE MOGONGA-KENYENYA-NYANSEMBE  
ROAD IN KISII COUNTY

**Sen. Obure:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Roads and Transportation regarding the Mogonga-Kenyenya-Nyansembe Road in Kisii County.

In it, he should state:-

(1) If he is aware that various unfulfilled promises have been made by the national Government regarding improvement to bitumen standards of Mogonga-Kenyenya-Nyansembe Road in Kisii County.

(2) If he is further aware that failure to improve this road has rendered it impassable and severely affected the economic activities in the populous and high potential part of Kisii County.

(3) What plans the Ministry of Roads and Transportation has put in place in respect of this road and when the residents should expect improvement work to commence.

**The Speaker** (Hon. Ethuro): Where is the Chairperson of the Committee on Roads and Transportation?

**Sen. Sijeny:** Sorry, Mr. Speaker, Sir. I was consulting. The statement is not ready, but I had informed---

**The Speaker** (Hon. Ethuro): Order, Sen. Sijeny! You need to consult further. Obviously, you were consulting on other matters and not on the statement.

**Sen. Sijeny:** Thank you, Mr. Speaker, Sir. I have been guided accordingly. I will need two weeks.

**The Speaker** (Hon. Ethuro): It is so ordered. Now let us move on to issuing of the statements. We will start with Statement (a) that is to be issued by the Chairperson of National Security and Foreign Relations Committee.

*(Sen. Adan moved across the Floor)*

Order! Sen. Adan, who tells you that you must issue the Statement from where you always sit?

CAMPAIGN AGAINST MANUFACTURE AND CONSUMPTION OF  
SECOND GENERATION ALCOHOL

**Sen. Adan:** Thank you, Mr. Speaker, Sir. Sorry; I had just received the response to the Statement, so I went to share it with Sen. Khaniri. We have not gone through it. Therefore, I request that we be given an opportunity to go through it so that he can also critique it and then we issue it tomorrow.

**The Speaker** (Hon. Ethuro): What has that got to do with where you sit? You should have just told us. In fact, you were strategically seated next to Sen. Khaniri.

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

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, whereas I appreciate the response by the Chairperson, I am of the opinion that, that particular sentiment would have been expressed by Sen. Khaniri indicating that he really needed more time to go through it. Would I be in order to request the Chairperson to issue the statement because it is the property of the House?

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Machage! You are completely out of order. This is a statement to be issued. Therefore, the Chairperson has a greater responsibility to explain its status. From where she was running away from, you should be the first one to confirm that they actually had some discussion. Unless leave is denied, we assume that it is agreed.

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir. As it is always the practice of this House, I have not received a written statement. She was just sharing her own copy with me. Therefore, it would be very difficult for me to interrogate the statement by just having looked at it for the first time. Therefore, I want to consent that if you can allocate it sometime tomorrow or in the course of the week. I will be available the whole of this week.

*(Statement Deferred)*

**The Speaker** (Hon. Ethuro): Next Statement (b). Sen. Haji, do you want to come to the rescue of your deputy?

HARRASMENT OF *BODABODA* OPERATORS  
BY POLICE IN KAKAMEGA COUNTY

**Sen. Haji:** Not really, Mr. Speaker Sir. I was dealing with it when I was behind you.

I want to apologise to the Senator who asked for this Statement and the House because this Statement should have been given last Thursday, but we have not received it up to now. It is a pity that I have just called the Cabinet Secretary (CS) and he has not responded to my call. I have also called the Permanent Secretary (PS), Mr. Kibicho, his secretary answered the phone and told me that he was in a meeting. I have told them categorically that this statement must be here latest this Thursday. We will keep on pursuing with them.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I have no problem with waiting for the next 48 hours. However, hon. Members will recall that when this matter came up, there was an uproar in the House because the police officer who shot and killed this *bodaboda* youth has been transferred and is hidden in another police station called Malaika in Ikolomani.

Could he confirm as we wait, that the police officer has since been arrested and that he is no longer on duty in any police station in Kenya, especially Malaika Police Station in Ikolomani?

**Sen. Haji:** Mr. Speaker, Sir, I think the sentiments expressed by my colleague is in the HANSARD and I request the clerks who are here to pass the same to the CS so that he can clarify what has been requested by Sen. (Dr.) Khalwale.

**The Speaker** (Hon. Ethuro): It is so ordered. This Statement should be here on Thursday.

*(Statement deferred)*

Sen. Haji, you need to impress upon the Cabinet Secretary; if he does not seem to understand, the rest of Kenyans understand and feel the pain. He must act with extreme speed and urgency in resolving some of these very urgent issues.

**Sen. Haji:** Mr. Speaker, Sir, I am obliged. I will keep on looking for him. Even tonight I will pass this information.

**The Speaker** (Hon. Ethuro): Let us move to Statement (c). Where is the Chairperson of the Committee on Land and Natural Resources?

*(Sen. Mbuvi consulted loudly)*

Order, Sen. Sonko, you are not the Chairperson.  
Proceed, Sen. Khaniri.

#### COMPENSATION OF LAND OWNERS ALONG THE STANDARD GAUGE RAILWAY (SGR) ROUTE

**Sen. Khaniri:** Mr. Speaker, Sir, this Statement was a subject of debate in this House last week. My Chairman was eager to issue the Statement but then, Sen. Mbuvi who requested for it was not in. You ruled that the Statement be issued today. I wish to report back to this House that I have the Statement. We had a meeting as a Committee this morning to look at it and many other issues. We decided that we will not issue this Statement in the form in which it is at the moment. There are a few grey areas and questions that have not been answered directly as requested by the Senator.

Therefore, we request that we be given one more week so that we can get the answers to questions one and two; the list of beneficiaries, identification card numbers and the directors of companies that may have benefited from this compensation. I, therefore, seek your indulgence that we reschedule this Statement for next week because of the reasons that I have just given.

**Sen. Mbuvi:** Mr. Speaker, Sir, first, I wish to apologise for my absence on the day the Chairperson of the Committee was due to deliver the Statement last week. I am half Muslim, half Christian. My late mother was buried in a Muslim cemetery in Mombasa. During this special occasion where Muslims worldwide were making *Idd-Ul-Fitr* Day, I had to join my family in Mombasa to celebrate this important day.

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

**Sen. Haji:** On a point of order, Mr. Speaker, Sir. Is Sen. Mbuvi, the “Governor-to-be” for Nairobi, in order to say that he is half Muslim, half Christian? There is nothing like half-half. You are either Christian or Muslim. So, declare what you are.

**Sen. Mbuvi:** Mr. Speaker, Sir, I am one of them. I have just clarified that my late mother was buried in a Muslim cemetery in Mombasa. My late father was a Christian. So, I am half Muslim, half Christian. That is my clarification.

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

**Sen. Omondi:** Mr. Speaker, Sir, I would like to support Sen. Mbuvi. I am one of the affected persons. However, I made a decision. My mother was a Muslim while my father was a Christian. I made a decision because I was brought up by a single mother. I made a decision to be saved and become a Christian. So, Sen. Mbuvi, it is wise as Sen. Haji says; you declare your position; whether you follow your father or mother.

**Sen. Adan:** On a point of order, Mr. Speaker, Sir. There is nothing like half Muslim, half Christian. This is very clear. If his mother married a Christian father, she automatically becomes a Christian. Muslims are not allowed to marry Christians. The other option is that the father should have been converted to Muslim. That is the Islamic position.

**Sen. Khaniri:** Mr. Speaker, Sir, as a House, we should not accept that apology and reason that is being given by the Senator for Nairobi for his absence. He must give a proper reason.

First, your mother being buried in a Muslim cemetery does not make you a Muslim. Secondly, we all took oath in this House when we started this 11<sup>th</sup> Parliament. We know that Sen. Mbuvi took the Christian oath. That is in our records. So, for him to come and claim that he is now half Muslim and that is the reason he did not come to the House, he is taking this House for granted. You must be very firm on him to explain why twice the Chairperson was here to issue this Statement and the Senator was not present.

**The Speaker** (Hon. Ethuro): Let us have the last point of order from Sen. Kagwe.

**Sen. Kagwe:** On a point of order, Mr. Speaker, Sir. Notwithstanding whether Sen. Mbuvi is a Muslim, a Christian or both, the fact remains that at that time the Chairperson had indicated that he was ready to move and the only reason why he did not issue the Statement is because Sen. Mbuvi was not there. Now, that Sen. Mbuvi is here, how then can it be that today when he is here, the Statement is not ready while last week when he was not here, the Statement was ready? Could we just be told the answer to that contradiction?

**The Speaker** (Hon. Ethuro): Order, hon. Senators.

Sen. Khaniri, just note it down.

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

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. Would I be in order to bring the attention of the House to Article 32(1) of our Constitution on freedom of conscience, religion, belief and opinion? It states:-

“Every person has the right to freedom of conscience, religion, thought, belief and opinion.”

So, Sen. Mbuvi is within his constitutional right to say he is half Muslim and half Christian.

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. The issue of Sen. Mbuvi's religion aside; Sen. (Dr.) Machage has addressed that concern. You are at liberty to be quarter one religion and quarter another one, *et cetera*. It is his right.

However, the Committee took this House for a ride. Last week we almost went to the point of discussing the conduct of Sen. Mbuvi in terms of his attendance to the plenary of this House and whether he was ready to receive his Statement yet we are now being told by the Committee that they are not ready. In fact, last week they indicated that they have been ready for the last one month. Is the Committee in order to take this House for a ride by shifting goal posts? The Committee should be reprimanded.

**Sen. Mutula Kilonzo Jnr:** Mr. Speaker Sir, for good order, the principle of *estoppel* should apply to committees to the extent where they make a representation. I have a feeling that that representation is what made Sen. Mbuvi surface. They can now not retract because he is already here.

*(Laughter)*

So, *estoppel* applies. It is fair that the objection as to the insufficiency is issued on the Committee so that next time we do not have the same. This is because now *estoppel* applies and Sen. Mbuvi has made the effort of surfacing today, irrespective of what he practices. Sen. Khaniri is famous for being a master of the Standing Orders. He must also comply.

**The Speaker** (Sen. Ethuro): Sen. Mbuvi.

**Sen. Mbuvi:** Mr. Speaker Sir, on the same subject, I had not finished when a Member interrupted me on a point of order. On the same day, I communicated to the Committee Chairperson, Sen. Kivuti, and to the Clerk's office of my absence. I wondered why the Chairperson, my brother Sen. Kivuti did not convey the same message to the Senate. Otherwise, I concur with my brother, Sen. Khaniri. I will be patient for one week and wait for a comprehensive statement to be issued.

**The Speaker** (Sen. Ethuro): What is it Sen. Kembi-Gitura?

**Sen. Kembi-Gitura:** Mr. Speaker Sir, I think it is a more serious issue than it would appear on the face of it. Although I was out of the country, I read from wherever I was that about an hour of Senate time was spent discussing Sen. Mbuvi until you had to make a decision on it. If the statement is not ready, and the HANSARD shows that the reason it was not read was because Sen. Mbuvi was not here on the material date, and now it appears it is not ready, either this House or the Chairperson of the Committee owes Sen. Mbuvi an apology.

This is because it might bite both ways, because the HANSARD now shows that it was the dereliction of Sen. Mbuvi that has caused this delay and were it not that you were on the Chair and ruled that he could not be discussed further, maybe it would have escalated to that point on the mistaken belief that he was the cause of the delay of bringing the Statement to the House.

The Chairperson of the Committee owes it to this House to correct the record so that Sen. Mbuvi is not just exonerated because we do not know whether he had your permission to be away from the Senate, so that he is exonerated and the HANSARD does not show him as having been part of the cause of the delay.

Mr. Speaker Sir, It is fundamental and important.

**The Speaker** (Sen. Ethuro): What is it, Sen. Karaba?

**Sen. Karaba:** Mr. Speaker Sir, my concern is that as a Chairperson of a Committee, this is a bit strange. It should not happen in this House that when somebody is available for a Statement to be issued, and the person has a Statement, he is giving a belated reason why it should not be given out. My view is that the ruling that you are going to make will affect all of us. I am giving some bit of way forward so that we are also guided in the right way.

**The Speaker** (Sen. Ethuro): Order. You have made your case. Let us have Sen. Ong'era and let us not be repetitive.

**Sen. Ong'era:** Mr. Speaker Sir, I am not being repetitive. I echo the same words that Sen. Kembi-Gitura said. Since the distinguished Chairman had already indicated in this House that he was ready to proceed, and it was only that Sen. Mbuvi was not in the House, it behooves the Chairperson to apologise to this House for misleading you and the entire Senate.

Secondly, we would also like the record to clearly show that it was not because Sen. Mbuvi was not present that the Statement was not read. I have a right to repeat because we want this matter to be brought to an end and with a proper ruling, so that in future, other Chairpersons may not take us for a ride.

**The Speaker** (Sen. Ethuro): Before I give the Vice-chairperson the opportunity to respond to the substantive issue, what is it Sen. Sang?

**Sen. Sang:** Mr. Speaker Sir, Sen. Mbuvi made a Statement that he called the Chairperson of the Committee and also the office of the Clerk to indicate that he was not going to be there. I know you do not communicate your absence to the office of the Clerk but to the Speaker's office. It also appears then that the Chairperson of the Committee - if the statements by Sen. Mbuvi are anything to go by - was informed that Sen. Mbuvi was not going to be there. It even appears then that the Committee Chairperson took the House for a ride by not indicating that they had received communication from Sen. Mbuvi.

**The Speaker** (Sen. Ethuro): Order, Sen. Sang. You can do better than that as a trained lawyer. It is an allegation. So you cannot put it as if it is a fact. You need to qualify it. I do not think I had been asked by anybody to make any ruling and so, I am not going to rule on any matter. I am just going to guide you, particularly, on the issue of whether you are half this religion or half the other, or to put it even worse in the words of Sen. Sang, even a quarter or maybe even a tenth.

In light of what Sen. (Dr.) Machage read from Article 32, my observation is that these are matters of faith. My clear reading of Sen. Mbuvi's statement of being a half this or that has nothing to do with him practicing 50 to 50 per cent of religions.

It had to do with the occasion that on the material day being what it was supposed to be in the Muslim calendar, he was performing some rituals that have to do with their

mother who subscribes to that faith. So, I think it is the rest of us who are reading too much in to it, and he was just clarifying. That is the way I will deal with it. Let the matter rest there.

From what Sen. Adan and Sen. Omondi said, every religion has its own norms. There is the Bible for the Christians and the Koran for the Muslims. You will subscribe to whichever holy book that you know. Whatever that book says is what will be the rule. It is not the Speakers, another Senator or the personal views of Sen. Mbuvi. Those are matters clearly spelt out in the holy books. That is why you get the choice on which one to use when you are being sworn to office so that you can abide by it.

I think, for Sen. Mbuvi, what was of value to you is what Sen. Khaniri said; that when you swore, you used the Bible. We give you options; it is not that we left you with only one book. We gave you many options and you elected that one. That is the one we will go by in this House because that is what we have on record. Sen. Mutula Kilonzo Jnr., is giving unsolicited advice that you can change, but that change must be recorded. For now, we go by the record of the House. Let us have the Vice- Chairperson.

**Sen. Khaniri:** Mr. Speaker, Sir, I just want to put this matter very straight and very clear. If Sen. Kagwe cared to listen to me, he would have heard what I wanted to say. It is true that the Statement is ready. It has been ready since 23<sup>rd</sup> June, 2016. I have the Statement here that is duly signed. When the Statement came to this House, it came through the Chair. In the Vice-chairperson's wisdom, the Statement was okay. He was going to read. We can still read it.

However, the Senator for Nairobi sought six issues in his Statement. After meeting this morning as the Standing Committee on Land and Natural Resources, we assessed this Statement and the responses to the six questions that were sought by the Senator. In the opinion of the Committee, questions No. 1 and 2 were not adequately answered. They did not have satisfactory answers.

Here is a situation where the Senator is asking for specific names and national identity cards. We are referring him to another department of the Government; the Kenya Railways yet as a Committee, we should be able to get these names of the beneficiaries for him.

Secondly, Mr. Speaker, Sir, the Senator wanted to know the directors of companies. That is, if there were any companies that were compensated. We are referring him to the Registrar of companies. As a committee we thought we are not doing justice to those two particular questions. Instead of answering questions No. 3, 4, 5 and 6, if we are given one week, we can provide this comprehensive information that the Senator wanted.

That was the gist of his question.

I assure the House that the answer is ready and it has been ready from 23<sup>rd</sup> June. The Vice-Chairperson was ready to read the answer last week on Thursday. However, after looking at it as a committee, we could do better than what the chairperson was going to present to this House. We seek your indulgence. However, if the House so wishes, we can still issue this Statement without the names. We will send the Senator to the Kenya Revenue Authority to get the names of the beneficiaries.

**The Speaker** (Hon. Ethuro): What is it, Sen. (Dr.) Machage?



**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. It is assumed in this House that when a Statement is ready to be read, it has been scrutinized by the Committee. Is the Vice-Chairperson in order to tell us that he actually presented a Statement here which had not been scrutinized by the Committee? He owes us an apology.

**Sen. Kagwe:** Mr. Speaker, Sir, Sen. (Dr.) Machage indeed took the words from my mouth. However, for the record, it is important for us to define the word 'ready'. If we go by the definition that Sen. Khaniri has just used, it means that anybody can write anything on any piece of paper and present it here as the answer to a question that has been raised by a Senator.

Therefore, for a Senator who understands these things very well, it is important for us to define and be clear that "ready" means that you have gone through the committees and the relevant Cabinet Secretaries and gotten all the information. Therefore, when a Senator presents a response here, they should present something that they are totally comfortable with. I also credit the Senator for realizing his Statement was half-baked. He appreciated that he could not present it to the House. It is good that he has done that. Let us be clear. The Statement was not ready.

**The Speaker** (Hon. Ethuro): Order, Members! I am very amused by the passion in which you are attacking your Vice-Chairperson. Many of you are chairpersons.

*(Sen. Hassan spoke off record)*

Order, Sen. Hassan!

I am completely satisfied with the explanation given by the Vice-Chairperson on this particular matter. He has no apologies to make. The Committee has no apology to make. This is one committee that always delivers and in good time. They say it as it is. For the benefit of Sen. Karaba, I also direct as follows; we do not need to define the word "ready".

*(Sen. Hassan spoke off the record)*

Order, Sen Hassan! When you come to the Chamber late, learn to listen first. Appreciate the fact that others have been there before you. I have said for the benefit of Sen. Karaba. He is the one who sought for guidance. Sen. Kagwe said that we need to define readiness. The one who really needed the guidance is Sen. Karaba. I am trying to marry the two concerns.

There are times those Statements come and the chairperson feels they are good enough to be presented to the House even before the committee has interrogated them. The ideal position is for the committee to interrogate the Statement. The Standing Committee on Land and Natural Resources took advantage of the window of the deferment of the question to interrogate the statement further. They realized the Statement was still not ready.

Out of six, they have four issues that were canvassed properly. However, the two issues needed more information. They have come before you to request for additional

time. The Senator is happy with that additional time. Instead of the Member looking for additional information, the Committee has volunteered to look for the additional information. That is my understanding and reading of the whole Statement.

Therefore, I do not know where the passionate arguments led by Sen. Kagwe are coming from. However, it is his opportunity. He has not received a lot of Statements from his side for a long time.

Sen. Sonko, before you respond, remember that you cannot be excused from coming to the House on the basis of your statements. This has nothing to do with the statements. You are expected in the House like yesterday, like tomorrow and like the day after. That is your duty whether you have a Statement to seek or not. Therefore, do not allow other Senators to mislead you.

Proceed, Sen. Sonko!

**Sen. Mbuvi:** Thank you, Mr. Speaker, Sir, for those remarks. However, I have a problem with what you have just raised. On the day this Statement was brought, the Leader of the few opposition Members in the House raised some very defamatory remarks against my absence. I have a copy of the HANSARD with me here. The remarks raised by the Senate Leader of Minority were that I am a regular absentee in this House. These were very misleading remarks.

I have a copy of my attendance with me. The last time I participated in the voting of four crucial Bills was on 14th June, 2016. I have a copy of the HANSARD with me. Still after that---

*(Loud Consultations)*

**The Speaker (Hon. Ethuro):** Order, Members! Let us listen to Sen. Mbuvi.

**Sen. Mbuvi:** Mr. Speaker, Sir, still again after that, the following day---

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

**Sen. Hassan:** On a point of order, Mr. Speaker, Sir. Is Sen. Sonko in order? According to the Standing Orders, Sen. Wetangula is addressed as the Senate Minority Leader. Here, our Minority is quite slim. Just a few people who Sen. Sonko bought had a very---. But all said and done, is he in order to call the Senate Minority Leader as the Leader of a few Opposition Senators?

**The Senate Minority Leader (Sen. Wetangula):** On a point of order, Mr. Speaker, Sir. Thank you for this opportunity. The last person I would want to entangle myself with is the Senator for Nairobi because of obvious reasons.

Mr. Speaker, Sir, under Standing Order No.20, my proper title is "Senate Minority Leader". He must also appreciate that I am a party leader, a coalition leader and the only presidential candidate in this House. I can tell the distinguished Senator for Nairobi for free that I did not say he is an absentee. I said he is a perpetual offender in failing to attend proceedings of this House.

I am a Member of the Committee on National Security and Foreign Relations to which the distinguished Senator for Nairobi is also a Member. I am ready to take the Bible and swear an affidavit. The Vice Chairperson, Sen. Adan is there laughing in

approval. For the past six months, I have never seen him in committee meetings. If that is not---

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

**The Speaker** (Hon. Ethuro): Order, Sen. Mbuvi. We heard you. Let us hear the Senate Minority Leader.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, in fact, the distinguished Senator for Nairobi should thank you for your magnanimity. If you applied the Constitution and the Standing Orders to the letter, he would have gone. He just drops into committees for a quick fight with his governor and then he leaves.

*(Laughter)*

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

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. Is the Senate Minority Leader in order to suggest that you do not enforce the Standing Orders of this House and the Constitution to the letter? It is the responsibility of the Speaker to enforce the Standing Orders---

**The Speaker** (Hon. Ethuro): Order, Sen. Sang. I listened to the Senate Minority Leader very carefully and he has expressed his views. The only area he substantiated is the attendance to the meetings of a particular committee. Of course you know attendance to the House has many opportunities. There is Plenary and there are meetings. So, I have no quarrel with these meetings but there are many other things that he has not taken into account that determine my enforcement of the Standing Orders, including the largesse I have under the Standing Orders.

Sen. Mbuvi, proceed.

**Sen. Mbuvi:** Mr. Speaker, Sir, I think I have to defend myself against the Leader of the few in the House. Let me not repeat the same mistake. In other words, the Senate Minority Leader who is a dreaming future president. In fact, I will be the president before he becomes the president!

**The Speaker** (Hon. Ethuro): Order, Sen. Mbuvi. It is one thing to say things before and after you are challenged. When you have been challenged and your attention has been drawn to Standing Order No.20, it cannot be “in other words” but you need to go for those words.

Proceed.

**Sen. Mbuvi:** Mr. Speaker, Sir, I have to defend myself against the remarks which have just been uttered by the Senate Minority Leader who is my good friend and I respect him but he is a “dreaming future president”.

Mr. Speaker, Sir, I am happy that both the Chairperson, the Vice Chairperson and other Members of the Committee on National Security and Foreign Relations like Sen. Orendo are present. I have been an active Member of the Committee.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Let us hear Sen. Mbuvi.

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

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. The honourable Senator for Nairobi has not only once but twice referred to a Member of this House to be dreaming. Would I be in order to request that Sen. Mbuvi tables documents in his capacity as a psychologist to show that the Senate Minority Leader is a dreamer?

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Machage. You are completely out of order. Sen. Mbuvi, have you concluded?

**Sen. Mbuvi:** Not yet, Mr. Speaker, Sir. The Senate Minority Leader has just said that I have not been attending committee meetings for six months. I want to prove him wrong that his sentiments are misleading the House. I went with the Committee to Mandera, Wajir, Laikipia and Kapedo while he was absent. The only Senator from the Opposition who was present was Sen. Orendo. Is he in order to mislead the House that I have been absent for six months or is he just dreaming?

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order Senators. I think all of you deserve those moments and it is very possible to make the distinction of the real issues from non-issues. I do not need to add more except to advise Sen. Mbuvi that this was about the Statement but not about your absence and that matter was settled on that material day. If you wanted to raise it, there are ways of raising it. So, let us leave it at that level.

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION OF TEACHERS AND STUDENTS FROM RIARA SECONDARY SCHOOL

**The Speaker** (Hon. Ethuro): Order Senators, I had earlier communicated about a delegation of students from Riara Secondary School. One of those students is actually a daughter of one of our Senators. That is a daughter to Sen. Adan, the Vice Chair of the very important committee of the House. So, after I make the communication on the other visitors, I will allow you time to acknowledge them. I may also wish to add that my daughter is in the primary section of Riara schools.

#### VISITING DELEGATION OF STUDENTS AND LECTURERS FROM PAN-AFRICAN UNIVERSITY

Hon. Senators, I wish to recognise the presence of visiting students and lecturers from the Pan-African University seated at 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.

I thank you.

*(Applause)*

**Sen. Haji:** Mr. Speaker, Sir, let me join you in welcoming the students from Riara Secondary School, which is very famous. Most of my children went to Riara Primary School. It is gratifying that they found it necessary to come and visit the Senate and see their elders discussing issues pertaining to their future. Unfortunately, today is not the best day for them to be with us. I hope that they will be here another time when we will be discussing issues that are relevant to the progress of this country.

Thank you.

**Sen. Karaba:** Mr. Speaker, Sir, I almost told you earlier that you had not made a clear observation, because from this position I can see that these are not primary school children. They look bigger than children in the primary school level.

*(Laughter)*

**Hon. Senators:** How do you know?

**Sen. Karaba:** As a former principal of a high school, I can assess the size and classes that they belong to.

**The Speaker** (Hon. Ethuro): Order! You have made your point. Proceed.

**Sen. Karaba:** Mr. Speaker, Sir, I welcome them to this House and wish them the best. I thank them for the previous performances that they have posted in the last three or four decades. Riara Schools are known to do very well in the Kenya Certificate of Secondary Education (KCSE) examinations and we are very proud to be associated with them. I wish them the best so that they can post better results this year, like they have done before.

Thank you.

**Sen. Sijeny:** Mr. Speaker, Sir, first and foremost, I wish to congratulate the ladies and gentlemen who have come. I wish to encourage the young ladies that the sky is actually the bottom and not the limit. You can aim higher and score higher in whatever you strive for. There is a song that goes; “I know that I can be what I wanna be.” That should be the spirit. Study hard and maintain discipline. In the future, I would like to see most of you coming to this House as Senators. You can make it; there is nothing that can stop you. I wish you all the best. Welcome, our distinguished visitors.

Thank you.

**Sen. Hassan:** Mr. Speaker, Sir, thank you for this opportunity. I would like to say something about the visitors from the Pan-African University. Since I joined the Wiper Party I have started having a great appreciation of bright colours. I used to see Sen. Mutula Kilonzo (Snr.) with yellow suits and green ties and wondered. That was when I used to work at the Kenya National Commission on Human Rights (KNHCR). I remember Sen. Mbuvi introducing me to his outfitter. He called me to his office saying: “Come, there is someone selling good suits.” The suits were red, green and indigo in colour. I told Sen. Sonko that I would be back, but I have never stepped into his office again.

*(Laughter)*

I must say that this is the first time I have seen purple looking good; I hope it is not the 'Wiper' effect. I think when any colour is blended well it can come out very well. I want to ask the students to work very hard. I was in a school where we put on maroon uniform, which was a very basic colour. But there were schools like "Bush" or Alliance High School which put on green uniform.

**Sen. Orenge:** On a point of order, Mr. Speaker, Sir. Did you hear the Senator for Mombasa say that there are other schools in the bush? Do you know where Alliance Boys High School is and what it has done for this country? It is not in the bush. Because of Alliance Boys High School now there is a town called Kikuyu, which is not small. It is not like Kwa Jomvu. Defend this school which I had the privilege of attending.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Sen. Orenge! You were not there alone.

**Sen. Hassan:** Mr. Speaker, Sir, schools have acronyms nowadays. Alliance Boys High School is widely referred to as 'Bush.' Lenana School where I was is referred to as 'Changes.' Nairobi School is referred to as "Patch." We definitely share different generations of life.

That said and done, I wish the students well as they progress. But to the Pan-African University, there was a lot of zeal towards Pan-Africanism in this continent. There were intellectuals who powered the academic and political spheres of Africa through learning, debate and critique. Great African leaders were public intellectuals who ended up being people who took charge of governments and wrote volumes in terms of informing earlier African states.

There is almost a death in critical thinking and learning in Africa. Look at the kind of public servants that we appoint and public leaders that we elect. If you look at their ideological foundation, it is literally absent. We have a crisis in this country because of the crisis of public intellectuals like you. We no longer interface with the political sphere. We no longer write critically or read published journals. You have such an important vacuum to fill, because Africa cannot just run on remote control.

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

**Sen. Hassan:** Mr. Speaker, Sir, I want to welcome and remind them that they have such an important challenge ahead of them; to recast this net of Pan-Africanism and redefine it, so that it can define our African sphere. It is quite ambiguous right now and that is why most of our African states, including South Sudan, are failing.

**The Speaker** (Hon. Ethuro): Order, Members. I will restrict you to a maximum of one minute.

**Sen. Mbuvi:** Thank you, Mr. Speaker, Sir. This is a school composed of young pretty girls and it falls under my county. I am glad to say that my second-born daughter, Salma Mbuvi Sonko, who is currently in university, is a product of this school. I encourage our young girls that education is the key to their success. You are the future 'sonkoreesses,' pilots and doctors of this country. Do not disappoint your parents because they sacrifice a lot to ensure that you study. Work hard so that you can make it in life.

Thank you.

**Sen. Nabwala:** Mr. Speaker, Sir, I would like to join you in welcoming the girls from Riara Secondary School and the gentlemen who are also visiting. Riara Schools are known to perform well in academics. I encourage the girls to work hard because their dreams are valid. Somebody challenged dreams here, but God and send one a sign through a dream. The sky is the limit and not the bottom. Work hard and you will get there. You can be Miss World, a Senator or anything in life, so long as you have your goals and focus right.

Thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the Riara Group of Schools – I congratulate you and Sen. Adan – is one of those schools that started in the 1980s in my neighbourhood. In fact, they refused to admit me at some point. However, if there is one example of why education is important when it is properly managed, then it is this school. We must congratulate the founder of Riara Group of Schools, Dr. Eddah Gachukia. This school is an example of schools in general that have gone all the way to university and you never hear of unrests; only good performance.

I join my colleagues in wishing well this Group of Schools together with its founder. I hope that the national Government can borrow a leaf from Dr. Gachukia. If our schools were managed in the manner that the Riara Group of Schools is managed, we would not have students burning schools, consuming drugs or generally being a bad example of what secondary schools should be.

**Sen. Chelule:** Mr. Speaker, Sir, thank you for giving me this opportunity to also join you in welcoming students of the Riara Group of Schools. I count them fortunate because they have visited the Senate during a heated debate between two strong Senators. I hope this will enhance their capacity. As the leaders of this country, we are happy to receive them. I congratulate Sen. Adan for taking her daughter to that school. We wish you the best. Avoid bad behaviours in school. We count on you because as children, you are our blessings. Most welcome next time.

**Sen. Adan:** Mr. Speaker, Sir, I wish to join my colleagues to welcome Form 2L from the Riara Springs Campus. Of course, you were interested in coming to the Senate to learn how debate is done. I have attended the functions of the debating club in Riara and according to me, sometimes their performance is even better than the Senate's.

*(Laughter)*

I am really proud of this school. They are very fluent in their English. For those who are planning to take their children to school like Sen. Hassan, Sen. Mutula Kilonzo Jnr. and Sen. M. Kajwang, this is where your child should go.

I wish to welcome them and wish them a nice stay in the Senate. I hope you will learn one or two things. The sky is the limit as my colleagues have said. For your information, to be a Member of Parliament (MP), you must be a professional first and then end up in the Senate or the National Assembly. That means that you have to work hard, be a professional and then come to Parliament so that you can deliver on your mandate.

Being a girls' school, we are very ---

**The Speaker** (Hon. Ethuro): Conclude, Senator.

**Sen. Adan:** Mr. Speaker, Sir, I am concluding. Girls, we are doing very well and we need to compete with men or the boys. These days, boys are the ones that are a threat. So, pull up your socks. You are in the best school and you will be the best performers if you work hard. Once again, I welcome you to the Senate and I hope you will learn from what you have seen today.

**Sen. Orenge:** Mr. Speaker, Sir, I congratulate the students of this School. I have realised that when Sen. Adan is not here, she is at the School listening to their debates. I do not know whether they are held in a classroom or some chamber of some sort. However, I congratulate you and the Speaker for having chosen the Riara Group of Schools. I have friends who have children who are doing very well in this School.

Let me encourage the students that this year is significant for women. Even in Kenya, the only Nobel Peace Laureate has been a woman. There is no man who has got that award. Secondly, with Mrs. Hillary Clinton likely to be the next President of the United States of America (USA); Ms. Theresa May could be Prime Minister of the United Kingdom; Ms. Merkel in Germany and even in the Islamic countries like Bangladesh in the East and other places; women are taking care of the most important and strong economies in the world.

Therefore, never aim for the sky. The sky is the wrong target. The target is right here. If you get close to the sky, you will burn. Let these men not send you to the sky. Compete here. I hope that in my lifetime, I will see a lady become the President of the Republic of Kenya. Probably, they would do better than the one that we are seeing at the moment.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Sen. Orenge. Stop confusing our girls. Aiming at the sky is just a phrase. It is the physical one.

**Sen. Kagwe:** Mr. Speaker, Sir. I also join hands with you and everybody else in congratulating the team from the Riara Group of Schools and even the university. Just for correction, perhaps Sen. Orenge was talking about the sky team and not the sky. That is the team that he was encouraging them not to join.

*(Laughter)*

I applaud the Director of the Riara Group of Schools, Mr. and Mrs. Gachukia and the family. If we were to raise the standards of our schools in this country to the level that they have built theirs, then as a nation, we would be very far and our students would be respected across the whole world. It is no longer a secret that many Kenyan students in many parts of Kenya, including this county, can no longer communicate in English. In fact, the written English in Kenya today is so bad that we need to think very clearly about how to introduce properly trained English teachers in our schools.



I am sure you get applications from Masters Degree graduates and when you read what they have written, you think that it is a primary school student who has written that quality of English. When we are told and hear from none other than a parent, Sen. Adan; that these students can communicate ably in English, we applaud them even further.

However, as a nation, we must face the issue of the fact that our spoken and written English, which is still a national language in this country, is as bad as it is. We must then ask ourselves how we will resolve this issue. Do we ask students and teachers from such schools to also assist the schools that Sen. Hassan calls “bush” schools, so that they too rise to the level of education that the Riara Group of Schools has reached? We congratulate them, their teachers and also the proprietors of the School.

**The Speaker** (Hon. Ethuro): Finally, Sen. Kembi-Gitura.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, some of us have the privilege of knowing the founders of the Riara Group of Schools, Mr. Daniel and Dr. Eddah Gachukia. I dare say that it is also a great privilege to have the School here with us this afternoon, to see and follow what we do in the Senate.

I would like to challenge students who are here from both the High School and the university that I hope that theirs is not just a visit to the Senate Chamber so that they can say that they were in the Senate. When they go back to school, I would like to challenge them to read, not as a novel or a book in literature but as a serious reading, the preamble to our Constitution.

I want them to understand that as a country, we acknowledge the supremacy of God and honour those who heroically fought for this nation. We are also proud of our ethnic, cultural and religious diversity. I want the students to understand why we have put the preamble in our Constitution and why nationhood is so important. When they get back to school, I want them to read - with the help of their teachers - Article 10 of the Constitution, to understand the national values and principles of governance, which include patriotism, national unity, rule of law, democracy and participation.

Mr. Speaker, Sir, I want them to consider and re-think about the national anthem. It is not just a song that people sing, but a national prayer. I would like them to work out and see where it came from. I hope that their teachers who teach literature and English will take them through the anthem and analyse every word, stanza and sentence, so as to understand it in reference to the national values, nationhood and what we stand for as a nation.

I want them to understand that this is their country and we are one people. With all the diversities that we might have, we are one people as a nation. We may be in the majority or minority sides as we sit in this House, but we are one people representing one nation. Those are the challenges I want to give the young ladies from Riara Secondary School---

**The Speaker** (Hon. Ethuro): Conclude, Senator.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, it is not enough to tell them that they are the leaders of tomorrow; they have to work for that leadership in the context of what is provided for in our Constitution.

Having said that, I want to congratulate them, particularly, the founders of the great group of schools, Daniel and Eddah Gachukia; great Kenyans who have done so much to bring this group of schools to where it is today. It is an icon in the schools system of our country.

**The Speaker** (Hon. Ethuro): Order Senators. That should conclude that matter. To add to what the Deputy Speaker has given them as homework; one, they are not students of constitutional law. Two, they should carry away from the Senate our prayer. I hope that when we pray every day, we actually know the words of the prayer. If we knew those words, we would be acting a bit differently from what we do sometimes. We have a responsibility as State officers to ensure that what has been done well in the private sector is mainstreamed in the public sector.

### COMMUNICATION FROM THE CHAIR

#### CONSIDERATION OF BILLS WITH A CONSTITUTIONAL DEADLINE OF 27<sup>TH</sup> AUGUST, 2016

**The Speaker** (Hon. Ethuro): Order Members. I have a Communication on the consideration of Bills with a constitutional deadline of 27<sup>th</sup> August, 2016.

Hon Senators, as you are aware, the Senate is in the process of considering various Bills which are subject to the constitutional deadline of 27<sup>th</sup> August, 2016.

These are:-

- (1) The Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015).
- (2) The Forests Conservation and Management Bill (National Assembly Bill No.49 of 2015).
- (3) The Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No.48 of 2015).
- (4) The Health Bill (National Assembly Bill No.14 of 2015).
- (5) The Energy Bill (National Assembly Bill No.50 of 2015)
- (6) The Access to Information Bill (National Assembly Bill No.36 of 2015)
- (7) The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No.43 of 2015)
- (8) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015)

The following two others Bills are subject to the same constitutional deadline of 27<sup>th</sup> August, 2016:-

- (1) The Community Land Bill (National Assembly Bill No.45 of 2015)
- (2) The Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015).

These Bills were negatived at the Second Reading stage in the Senate and are, therefore, presently undergoing mediation.

Hon Senators, as I had previously communicated, it is important that the Senate considers and disposes of these important Bills well before the said deadline of 27<sup>th</sup> August, 2016. This is to allow, in the event that not all the Senate amendments are agreed

to by the National Assembly, for the process of the mediation to take place and be concluded by the said deadline.

Accordingly, to enable consideration of the Bills yet to be considered at the Committee Stage, I direct all Committees responsible for considering any of the said Bills to table their reports thereon without further delay and definitely, not later than tomorrow afternoon.

I also direct that all Senators create time to be in the House from tomorrow afternoon. I further direct that there will be a morning sitting on Thursday this week in order to ensure that all legislations that need to be voted on will be voted on by the end of the week.

It is, therefore, ordered that the Whips rally Senators to attend all the sittings of tomorrow, Thursday morning and afternoon in order to vote on the said Bills.

I thank you.

What is it, Sen. Karaba?

**Sen. Karaba:** Mr. Speaker, Sir, I am waiting for a Statement.

**The Speaker** (Hon. Ethuro): Order! Let us proceed with Statements.

Statement (d) by the Chairperson, Committee on Roads and Transportation.

## STATEMENTS

### CONSTRUCTION OF KIRINYAGA SEWERAGE PLANT

**Sen. Sijeny:** Mr. Speaker, Sir, I have the permission of the Chairman, as the Vice Chair, to proceed. The Statements are not ready and I have communicated the position to Sen. Karaba who sought for them.

**The Speaker** (Hon. Ethuro): Sen. Sijeny, are you referring to Statements (d) and (e)?

**Sen. Sijeny:** Yes, Mr. Speaker, Sir. Although they are not ready, we have invited the Cabinet Secretary and he has confirmed that he shall attend our meeting on the 20<sup>th</sup> of this month, which is next week, where we shall deliberate on all these issues and after that, give a position. We shall invite Sen. Karaba to attend that meeting, so that he can also interrogate the Cabinet Secretary and his team.

**Sen. Karaba:** Most obliged, Mr. Speaker, Sir.

### STATUS OF MAKUTANO-NGURUBANI-KIMBIMBI-SAMSON CORNER ROAD

*(Statements deferred)*

**The Speaker** (Hon. Ethuro): The next Statement “(f)” is by Sen. (Prof.) Anyang'-Nyong'o who is not here. It will be pushed to when he will request for it to be on the Order Paper.

FINANCING OF JARAMOGI OGINGA ODINGA  
TEACHING AND REFERRAL HOSPITAL

(Statement deferred)

**Sen. Muthama:** Jambo la nidhamu, Bw. Spika. Tarehe 23/02/2016 niliomba taarifa kutoka kwa Mwenyekiti wa Kamati ya Ardhi na Mali Asili. Mpaka sasa bado naisubiri taarifa hiyo. Naomba usaidizi wako.

**The Speaker** (Hon. Ethuro): Sen. Muthama, uliuliza tarehe 23/02/2016?

**Sen. Muthama:** Bw. Spika, niliuliza mwezi wa pili mwaka wa 2016.

**The Speaker** (Hon. Ethuro): Ulitarajia majibu lini?

**Sen. Muthama:** Bw. Spika, kwanza ilikuwa baada ya muda wa wiki mbili. Lakini, muda huo uliongezwa wiki nyingine mbili. Baadaye wiki nyingine mbili ziliongezwa; ikaongezewa mwezi mmoja na hatimaye wakaongezwa wiki nyingine mbili. Licha ya hayo, ripotii hii haijawasilishwa bado.

**The Speaker** (Hon. Ethuro): Wapi Mwenyekiti wa Kamati ya Ardhi na Raslimali, ama naibu wake?

**Sen. Mbuvi:** Hoja ya nidhamu, Bw. Spika. Namwona mwanakamati wa kamati hiyo yumo humu ndani. Nilitaka kuwaonya wanakamati hao dhidi ya kudharau vikao vya Seneti. Mwenyekiti na naibu wake walikuwa hapa na wameondoka. *Statement* ambayo Seneta wa Kaunti ya Machakos ameuliza ni ya maana sana. Kwa vile mwanakamati yumo, anaweza kujibu.

**The Speaker** (Hon. Ethuro): Mheshimiwa Sonko! Hapa tunazungumza kwa lugha ya Kiswahili. *Statement* ni lugha gani?

**Sen. Mbuvi:** Naomba msamaha kwa hilo, Bw. Spika. *Statement* ni taarifa kwa lugha ya Kiswahili.

**The Speaker** (Hon. Ethuro): Mwanakamati, Sen. Obure!

**Sen. Obure:** Asante sana, Bw. Spika. Imekuwa muda mrefu tangu swala hili lifike hapa Bungeni. Nitajaribu kuuliza kamati yetu kulihusu ili tulijibu haraka iwezekanavyo.

**The Speaker** (Hon. Ethuro): Sen. Sonko akisimama kwa hoja ya nidhamu amekuuliza kwa nini Mwenyekiti hajaonekana. Naibu wake alikuwa hapa akatoroka.

**Sen. Obure:** Bw. Spika, Mwenyekiti amepatwa na shughuli za dharura huko Embu kwa hivyo imebidi asafiri kwa haraka. Naibu wake alipokuwa hapa hakutarajia kuwa swala hili litafikiwa. Hata hivyo, sisi tupo hapa tayari kukamilisha kazi ya Kamati.

**The Speaker** (Hon. Ethuro): Nakubaliana nawe kwamba hakutarajia maanake ilikuwa haijaandikwa kwenye orodha ya shughuli za Seneti. Hata hivyo, yafaa uwe tayari kukamilisha kazi ya Kamati. Usiseme utatoa taarifa kwa mwenyekiti. Ukiwa upo tayari, itoe hiyo taarifa sasa hivi.

**Sen. Obure:** Bw. Spika, ukweli ni kuwa hata mimi sikutarajia swala hili lije hapa kwa vile halikuwa kwenye orodha ya shughuli za leo. Hata hivyo, nitawajulisha wenzangu katika kamati ya kwamba swala hili lazima lijibiwe hapa. Nawahakikishia kuwa tutafanya hivyo.

**The Speaker** (Hon. Ethuro): Lini?

**Sen. Obure:** Bw. Spika, tutajaribu kulijibu swala hili Jumanne wiki ijayo.

**The Speaker** (Hon. Ethuro): Nimeamua kuwa taarifa hii itawekwa kwenye orodha ya shughuli za Bunge la Seneti wiki moja kutoka leo.

*(Loud consultations)*

*(Laughter)*

Sen. Hassan asifikiri Lugha ya Kiswahili ni Kimvita. Lugha ya Kiswahili ni lugha ya taifa. Kila Seneta anawajibika kuiongea, hata pamoja na Bw. Spika mwenyewe. Nimeona hata Sen. Oremo ikifikia kuzungumza Kiswahili, anakuwa mkufunzi.

**Sen. Oremo:** Bw. Spika, mimi niliishi Dar es Salaam kwa muda wa miaka mitatu. Niliishi huko nikiongea Kiswahili sanifu. Niliongea kwa Kiswahili na Wabunge. Wakati ule, Dar es Salaam hakuwa na mkuu wa serikali yeyote alikuwa akiongea kwa lugha ya Kiingereza. Kwa hivyo, wale wanafikiri kwamba wanajua Kiswahiki, hawajui Kiswahili.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Members! Kwanza, yafaa mjue kwamba hapa sio kikao cha kujifunza Lugha ya Kiswahili. Kila mmoja wenu alifanya mtihani wa lugha ya Kiswahili kabla ya kuruhusiwa kuwania kiti cha Seneti. Nyote mlipita ndiposa mkapewa cheti cha kuwania Useneta. Hiyo ni sheria.

Order, Members! Orders Nos. 8, 9, 10, 11, 12, 13 and 14 on the Order Paper require numbers. I can overhear the Senate Chief Minority Whip asking whether we have the numbers. I thought he is the most *bona fide* source of that information.

## BILLS

### *Second Readings*

THE MEDICAL PRACTITIONERS AND DENTISTS (AMENDMENT) BILL  
(SENATE BILL NO. 2 OF 2016)

THE BASIC EDUCATION (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 38 OF 2014)

THE AGRICULTURE, FISHERIES AND FOOD AUTHORITY (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 17 OF 2015)

*(Bills deferred)*

## COMMITTEE OF THE WHOLE

THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO  
RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2015)

THE CANCER PREVENTION AND CONTROL (AMENDMENT) BILL, 2014  
(SENATE BILL NO.3 OF 2015)

THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL  
(SENATE BILL NO.14 OF 2015)

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL  
(NATIONAL ASSEMBLY BILL NO. 18 OF 2014)

*(Committee of the Whole deferred)*

Under the circumstances as the Whips do their job, we will proceed with Order No. 15 on the order Paper. The moment the numbers are arrived at, we will always give priority to the divisions.

What is it Sen. Mutula Kilonzo Jr.?

*(Sen. Wamatangi crossed the Floor without bowing)*

**Sen. Mutula Kilonzo Jr.:** On a point of order, Mr. Speaker, Sir. Did you notice Sen. Wamatangi walk through this side and back to the other side without bowing? Kindly enforce the Standing Orders of this Senate.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Members! Sen. Wamatangi, did you hear what Sen. Mutula Kilonzo Jr. said?

**Sen. Wamatangi:** On a point of order, Mr. Speaker Sir. With profound respect, I heard the Senator for Makueni County laughing but I was engaged with the Clerk-at-the-Table. I seek the Chair's indulgence because the Senator must have mistaken that I did not bow. Indeed, I bowed unless he wants me to do it again.

**The Speaker** (Hon. Ethuro): Order, Sen. Wamatangi. This is a House of rules.

**Sen. Wamatangi:** Mr. Speaker Sir, yes it is.

**The Speaker** (Hon. Ethuro): From your conduct, you heard Sen. Mutula Kilonzo Jr. loud and clear. However, you acted in your motion. First, you need to confirm what he said. Secondly, you need to make amends by going back to the Bar and doing the right thing.

**Sen. Wamatangi:** Mr. Speaker Sir, what I said was that I did not hear the exact words of the Senator for Makueni County. However, I am more than prepared to make it good another time. I already bowed but I can go again and bow. I am ready to do that now.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Members! Sen. Wamatangi, it is neither an option nor a state of your preparedness. It is an order and a breach of the Standing Orders.

*(Loud consultations)*

*(Sen. Wamatangi bowed to the Chair)*

## **BILL**

### *Second Reading*

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

**Sen. Wamatangi:** Mr. Speaker Sir, I beg to move:-

THAT, that the Micro and Small Enterprises (Amendment) Bill (Senate Bill No. 12 of 2015) be read a Second Time.

The Micro and Small Enterprises (Amendment) Bill (Senate Bill No. 12 of 2015) is a proposed Amendment Bill to amend the Small and Medium Enterprises (SME) Act No. 55 of 2012 which sets the foundation for the informal sector which comprises the marginalised entrepreneurs who are spread out in all counties and provide services and products to Kenyans, to be recognised under the law.

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

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

Mr. Deputy Speaker Sir, informal traders are part of Kenyans who constitute the pool of employed persons and deserve equal treatment just like other entrepreneurs who are recognised under the SME Act No. 55 of 2012 and the benefits they enjoy. Kenya's informal sector consists of varied and dynamic small-scale activities.

In comparison with the big enterprises in the formal sector that have many employees, most businesses in the informal sector are own-account enterprises and draw the participation of people from all sectors of society. The majority of firms in the informal sector are micro and small enterprises often referred to by acronym as MSEs. Practically, MSEs include hawking or street vending, agro-businesses, food vending, market traders, artisans, handcraft traders, *matatu* and *boda boda* services and livestock traders, among others.

The significance of SMEs in Kenya is reflected in the 2014 Economic Survey which indicated that 80 per cent of the 800,000 jobs created in 2014 were in the informal sector that is dominated by SMEs.

Mr. Deputy Speaker Sir, according to the analysis done by Kenya the Institute of Public Policy Research Analysis (KIPPR), the proportion of informal sector

employment in Kenya increased from 70 per cent in 2000 to 83 per cent in 2012. In this period, around 10 million people were employed in the informal sector. As it is, neither the public sector nor the formal private sector is able to create enough jobs for the expanding labour force thus self employment is increasingly the only alternative given growing unemployment rates.

However, the national unemployment rate is about 10 per cent which is high for a country with a large informal and traditional sector. Youth unemployment rates are usually higher. About 80 per cent of the unemployed are young people aged below 34 years of age. Most informal sectors activities are often not officially registered formally and neither regulated nor meet legal operational requirements.

At times, some of them operate underground without following the laid down procedures in the formal spheres. The lack of clarity on this precise size of the informal sector translates to the absence of certainty on the contribution to the economy knowing that such enterprises play a big role in generation of employment and incomes.

In a case of street vending, for instance, which is popular all over Kenya and which a large number of Kenyans depend on for their livelihood, street vendors provide a valuable service for availing an outlet for industries to market and sell their goods to the rest of the country and at the same time engage youth and women in gainful employment.

Mr. Deputy Speaker Sir, it is obvious that the informal sector requires little *per capita* income input to create jobs compared to the formal sector. The sector also requires cheaper infrastructure to flourish and still depends largely on local raw materials. Despite the significant contribution of the informal sector to Kenya's economy, the sector has not been accorded the recognition it deserves. Informal businesses have not benefited from the privilege given to SMEs under the main Act. Many informal traders have been excluded from accessing services from government and financial institutions.

The amendments proposed in this Act are intended to raise the profile of the informal sectors in the business world. They will help them to gain recognition and to access various services. The role the informal sector plays in employment creation and poverty reduction cannot be underestimated. The sector can do more if it is recognised by the government as doing genuine business and is given the necessary support since what is not recognised by the Government is not supported by other service providers like the financial institutions. The main aim of these amendments is to bring this sector into the ambit of SMEs as recognised by this Act.

Mr. Deputy Speaker Sir, globally, informal work forms part of---

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

**Sen. M. Kajwang:** On a point of order, Mr. Deputy Speaker Sir. Whereas I appreciate the detailed presentation by Sen. Wamatangi, but is he in order to read the speech, contrary to the Standing Order No.84?

*(Loud consultations)*

**Sen. Wamatangi:** Mr. Deputy Speaker Sir, I am laying the broad---



**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wamatangi, let me reconsider the point of order.

*(The Chair consulted with the Clerk-At-the-Table)*

Sen. M. Kajwang, what is your objection?

**Sen. M. Kajwang:** On a point of order, Mr. Deputy Speaker, Sir. The Senator for Kiambu County is referring copiously to written notes, which is against the rules of debate in this House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wamatangi, if you refer to Standing Orders No.84, what would you say in response to what Sen. M. Kajwang has said?

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I am quite cognizant of that Standing Order, but I am not reading a speech. I am making reference to my own notes to lay the broader outline of precisely the details that I intend to bring to this debate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wamatangi, kindly be alive to the objection by Sen. M. Kajwang. He has referred to the correct Standing Order where you can only refer to your notes unless you want to proceed under Standing Orders No.84(2) which is specific when you want to read a statement.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I will proceed with that fully in mind. As Sen. M. Kajwang will realize, it is important for me to lay the broader outline by referring to specific details, quotes and statistics before opening the debate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wamatangi, are you proceeding under Standing Order No.84(2)?

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, I am proceeding normally under Standing Order No.84(2) while referring to my notes.

**The Deputy Speaker** (Sen. Kembi-Gitura): You can refer to your notes, but do not make it look like you are reading a speech.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, you will appreciate that I am avoiding the gimmicks of reading and then looking away to pretend that I am not reading. I am saving time.

*(Laughter)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wamatangi, I have referred you to the rules. Kindly proceed.

**Sen. Wamatangi:** Mr. Deputy Speaker, Sir, it is obvious that the informal sector requires very low *per capita* to create jobs. In the day to day endeavours of the players in the Micro and Small Enterprises (MSEs) whom I have described as hawkers, small traders, livestock dealers, fishermen and many others, their requirements are minimum.

Most of the governments across the world have not recognized street vending as a legal activity. They view these vendors as barriers to development of the cities. For example, Malaysia, Philippines and India have policies for regulating and protecting

street vendors who often conduct their business amidst a lot of challenges. For instance, harassment by authorities who even confiscates their wares.

Mr. Deputy Speaker, Sir, I am cognizant of the fact that in Malaysia and India, the business of MSEs specifically the hawkers are clearly recognized. They have benefitted from a formalized way of doing business, including benefits which in this country are only enjoyed by a privileged few who come from the so called larger MSEs. The informal sector in India has got more than 370 million workers; this forms almost 93 per cent of the entire work force. The Government of India formulated a national policy on street vendors in 2009.

There is need for street vendors to be allocated the best possible time and place to sell their wares in response to demand for their goods and services. I urge the city authorities to designate appropriate places for the vendors to sell their wares even if it is on a time sharing basis at the convenience of the other users of the space. This policy should recognize that street vendors who are micro entrepreneurs should also be provided with vocational education and training on entrepreneurial development skills to upgrade their technical and business potential so as to increase their income levels.

Mr. Deputy Speaker, Sir, most of the MSE traders have no form of training at all. One leaves their house and goes on the street to practice street business by selling their wares. In this amendment, I propose that it is important to recognize that the role played by the MSEs in this country in job creation, taking our youths from crime and movement of capital is a great achievement in a country where the greatest part of our population are the young. In this amendment, it is important to give access and information on credit facilities to such entrepreneurs.

Municipal authorities are supposed to provide necessary facilities and infrastructure within vending zones, including facilities such as sanitation, water, electricity and protective covers to such vendors and their wares. They must be protected from environmental effects and be given storage facilities for their fish and other perishable items.

Mr. Deputy Speaker, Sir, the above policy would address challenges that many Kenyan players in the informal sector face which stem from the lack of recognition in legislation. Under the Constitution, such people deserve to be provided with an enabling business environment. Among the challenges that are faced by the small scale traders and MSEs, one would list lack of access to proper structured financial services which include credit and savings.

Other challenges would be inability to access training in business and technical skills, inadequate linkages with the formal business sector and suppliers as well as lack of access to basic services such as work places, water and limited access to business related infrastructure such as manufacturing space for those that want to do so; closeness to others involved in similar activities where pooling of similar resources by similar businesses is an advantage. For example, we have seen this happen in China where companies started specialized cottage industries from hawking.

The low awareness and understanding of Government regulations which affect these people, particularly how public space is regulated is also a challenge as well as lack of or limited and uncoordinated communication strategies and channels. I believe the

informal economy in the developing countries would cease once they achieve sufficient levels of economic growth. However, this has not been the case. The informal economy can no longer be considered as a temporary situation.

In countries where the informal economy is recognized and supported, one will realize that their economies do better. The informal sectors require the necessary Government support and other institutions will be willing to help them transit from informal to formal businesses. If Kenya desires to achieve a middle income status by 2030, an enabling environment for the growth of this sector which contributes almost 40 per cent to our country's GDP has to be provided.

Mr. Deputy Speaker, Sir, I ask that this Bill be debated in this House. This Bill serves to benefit thousands of Kenyans, especially in the urban areas where we have major challenges in crime and lack of employment. There is also lack of employment and challenges in facilitating alternative methods of employment for the youth.

It is important that we recognise that we have left a very important sector for the growth of this country and the economy on its own. For example, most of the funds which the Government has provided in the earlier instances; I would like to single out the Youth Fund or most Biashara Funds which are being started by counties. The reason the effect of most of these funds is hardly realised after such funds have been instituted is lack of a system through which these funds can reach the people who are doing business.

Therefore, if there is a structured way where Small and Medium Enterprises (SMEs) can be formally recognised and beneficiaries accounted for, then this country would change. We would not need to worry anymore about a growing batch of young people graduating from college. It is no longer news to find that in the job market probably more than half of the people who are "tarmacking" are graduates.

We have been constantly telling our young people that we want them to go to school, get educated and get a college degree. However, if you look at the job opportunities that are available in this country; if we promise all our young people that what you get is a blue or white collar job, then we will be leading our young people to a situation where they will be disillusioned. As a representative of the people of Kiambu County, I have thousands of job applications in my office of graduates who are expecting to be employed.

However, there are examples of young entrepreneurs who do not expect to be employed.

For example, the other day, a young man from Kajiado County hit the headlines by being innovative. He created a lighting system and started to market it. Within a short while, neighbours were calling him to connect light at their gates. The community is excited that there is a new entrepreneur in the community. Within no time, this young man can move his small business from the cubicle into a small informal factory. He becomes an employer.

As I referred to earlier, another very good example is China. I visited China. I tried to find out how is it that, for example, you find very young people in their earlier twenties in a factory. They export goods worth thousands of dollars. The Government of China was sensitive enough to realise that if they organise their informal industry with their young people and put them in pools that they call cottage industries according to the strength of that area and availability of resources, they build resources.

Mr. Deputy Speaker, Sir, lastly, somebody was joking the other day. He said, “the reason why you find that we have a big challenge in our country in employment of our young people is because when our youth were in class in their “O” levels or even in early university, when they were being shown the diagrams of an insect and told that this is a leg, this is the thorax, this is the abdomen, a young man of the same age in Japan was in a technical school learning how to assemble an engine.” At the convergence zone of their lifetime, one of them is an engineer who has an income, can manufacture a vehicle or is employed. In our case, we have a young man who is “tarmacking” with knowledge that is not relevant for his day to day applications or living. So, this is the thrust of my Bill. We have young people who have already taken the initiative. They have said, “This is the way to go.”

Mr. Deputy Speaker, Sir, we must tell the truth. In this country, those volunteers who have said that they do not want to be beggars and rather be business people and young entrepreneurs have been suffering. If you walk along Uhuru Highway in the afternoon, if a yellow van is seen, you will be lucky if you do not witness an accident, for instance, somebody losing his or her limbs. You have seen how hackers run away from our city enforcement agencies; some of them almost break their legs. You have seen how they are bundled into vans at night and locked up in police stations all over the city for doing one thing; trading in legal wares.

Therefore, if we formalize or recognise in law that all these young people require is big banks like Equity Bank, Barclays Bank *et cetera* to fund their enterprise. When they refer to small traders, they do not have to go to the factories in industrial area, they can look at the streets and when they do so, they will find an opportunity for growing young people to become entrepreneurs.

Other examples are the herdsman in the markets of Kajiado, young men in the markets on your way to Kibuye and the young people in Samburu who trade in hides and skins and dry them and carry them on their backs. All these young people can be harnessed. In Kisii, young people make artifacts with soapstone. They are somewhere on the roads selling these wares for Kshs5 or Kshs10. If we support them, then we will have a very vibrant economy. We would have young people who can start from somewhere. This is how history has been made in this country.

Mr. Deputy Speaker, Sir, I would like to summarise by using examples of world renowned philanthropists and investors, for example, Mr. Richard Branson, the Chief Executive Officer of the Virgin Enterprise. He has business interests from airlines to resorts in the whole world worth billions of shillings. In his history and in his books, he has clearly said that he started business in college by buying and selling used books. He opened a small shop selling music cassettes. From there, he went on and became a big business man. He opened a small bank. From there, he opened an airline. Now he is a name to reckon with in the list of “who is who” in the world. If my memory serves me right, he is ranked amongst the Forbes 500 in the world as a top billionaire yet he started with nothing. We can find our Richard Bransons in this country, on these streets and on Uhuru Highway, on the roads of Kiambu and in the plains of Kano in Siaya. There is no limit as long as we empower these young people.

Mr. Deputy Speaker, Sir, with those remarks, I wish to persuade my colleagues in this House that we are in a position to enact legislation to make sure that we leave a legacy and bequeath an opportunity to our young people who have decided to be entrepreneurs albeit without the backing either of coming from rich families or without money in their pockets. We can set a trend.

We can make history by ensuring that we have put in place legislation that will say; you do not have to come from a big family or to have the backing of dollars and millions of shillings from people with big names. Using your own mind and spirit as an entrepreneur, you can say, I will start with one step and you can find a platform of a law that has been made to elevate you to any levels of achievement and to the highest heights in this world.

This is the spirit of this Bill and the reason I sought this amendment because I realized that in the earlier Act, recognition to these young people was cut out only to include those who could be able to own warehouses or big buildings. Those were the only ones to be recognized to succeed in being entrepreneurs, independent, holding their brothers' hands and creating employment.

The philosophy that I personally employed as one who has a history that is similar to the story that I have told is that, every time I walk through a door of opportunity, I do not close it behind me. I leave it open so that another person like me can walk through the same door and see the same opportunities. That is the spirit with which I bring this Bill to this Floor. That door of opportunity may open to other young people in this country who may not do the same just like I did many years ago when I first sought to be an entrepreneur, which is the platform I used to come here.

My name "Wamatangi" is a testimony that I started as a person with only a spirit and a will. I started going round to assist people within the communities of Kiambu and now to the larger Kenya. From the work that I have done, I ensured that families, poor people, schools and orphans can access clean water. I started doing this without the benefit of being a rich man. That exploded and earned me a name that I was baptized by the communities of this country and they called me Wamatangi. If this spirit can be alive to another person, they can be called either Wamatangi like me, *Wamagari*, *Wamasufuria* and *Wamatinga* as long as they will change the future and the history of this country by bringing in more people to the fore of opportunities.

I beg to move.

I request my colleague Sen. Sijeny to second.

*(Interruption of Debate on Bill)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STUDENTS AND TEACHERS  
FROM KABAA HIGH SCHOOL, MACHAKOS COUNTY

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator. Before you second that very important Bill, let me do a very short communication. Hon. Senators, I wish to

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recognize the presence of visiting students and teachers from Kabaa High School in Machakos County who are seated in the Speaker's 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.

Proceed, Sen. Sijeny.

*(Resumption of Debate on Bill)*

*(Applause)*

**Sen. Sijeny:** Mr. Temporary Speaker Sir, I congratulate Sen. Wamatangi. If he was baptized "Wamatangi" it is not for nothing. This is a very noble cause and he is actually teaching Kenyans, especially the younger generation; that they can leave this society a better place than they found it.

These are ways of improving on the economy. I stand here very excited because I feel I have been vindicated even before my Bill, the Reproductive Healthcare Bill has passed.

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

**The Temporary Speaker** (Sen. Kembi): What is your point of order? You should use your console.

**Sen. Hassan:** Mr. Temporary Speaker Sir. I rise on a point of order on a matter of justice that another school visited us earlier, and we encouraged the youth to work hard. If you would allow me to urge them also---

**The Temporary Speaker** (Sen. Kembi): Order. You cannot interrupt debate to put a point of order which is irrelevant to the debate. I am not stopping you from congratulating or giving words of encouragement to the students. You will do that if they will be still sitting there when Sen. Sijeny finishes seconding the Bill.

**Sen. Sijeny:** Mr. Temporary Speaker Sir, I feel vindicated because this is the kind of dream I had when I was coming up with a Bill, and concentrating on the adolescents. I said that both the national and county governments should come up with ways where our young teenagers are fully engaged and prepared for the future. They learn all these life skills, do the vocational training and many other ways that can help them uplift their lives, empower themselves, contribute to the wellbeing of the society and help Kenyans eradicate this overdependence on white collar jobs.

Having had the privilege of studying in India for six years, these are also the kind of ideas we came back with. We have seen how India has survived. They have improved the small sectors. Even the big industries like TATA began in a small way. They have recognized what, to some extent in Kenya was called the *Jua Kali* industry. They have supported all those small entrepreneurs and made the young people and everybody have this entrepreneurship attitude in mind. They have seen that everybody is taken care of.

We have people who are talented, have different backgrounds and stay in different environments. When we, for example, talk about the informal enterprise, including vendors, hawkers, livestock traders, fish mongers, artisans and the rest, it

shows that all these Kenyans who are doing the little trade can be recognized. Sen. Wamatangi correctly said that they need the support and legislation that can ensure that they get all the financial support, all the legislation and all the policies that can guide them.

Since I declared that I want to contest the Lang'ata seat, I have gone around Lang'ata and seen that this is a cosmopolitan state. Everybody is organized. We have the youth who are organized in the car wash trade and women in table banking who are making soaps and *kiondos* also known as Kenyan baskets. Others are engaged in all sorts of small businesses.

All they need is to be supported, and these guidelines will provide the necessary support. If they are protected by the law and empowered in a way that they can access these resources, they will build their capacity and improve not only their social status but the economy of the entire country. Over-dependence on white collar jobs will be a thing of the past.

I am glad that this law is recognizing the county governments who must also facilitate and ensure that they support these small traders who also need the recognition and not to make life difficult. This is because the groups that fall here for now include the youth and women whereas accessing the *Uwezo* Fund and many other financing agencies is not very easy. When the space is opened up, many more now have ways that they can depend on themselves.

*(Question proposed)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Hassan, did you want to make a Statement before we proceed to the debate? You have one minute.

I beg to second.

*(Interruption of Debate)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STUDENTS AND TEACHERS  
FROM KABAA HIGH SCHOOL, MACHAKOS COUNTY

**Sen. Hassan:** Mr. Deputy Speaker, Sir, on behalf of the people of Mombasa County I welcome the students to the Senate and to wish them well. We have encouraged students here before, to go out there and work extremely hard. The challenge of this nation rests in young people. The challenge of this nation rests on how they graduate from school in terms of their views towards professionalism, nationalism and all these other values that are positive for this nation.

I acknowledge the fact that 70 percent of the Kenyan population is made up of people below the age of 35. We have a fairly young nation. When people talk about us having faith in the young people of this country, it is not a political plebiscite. It is the reality of the Kenya that we seek to govern. All these challenges we have are up to these students. People rest their hope in them. They are quite confident in them. They have not

stolen a dime of Kenyan resources or maimed in the name of tribe or are not tribalists in their orientation. They have the excellent opportunity to lead this country to its destination. I welcome them and wish them well as they tour the Senate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Muthama, these are students from your county. Did you seek the Floor?

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, that is why I am giving you the Floor.

**Sen. Muthama:** Mr. Deputy Speaker, Sir, the boys seated there are from Kabaa High School which is within my county that I vastly share with Sen. Wamatangi. Kabaa High School is one of the oldest high schools in this country which has produced quite prominent citizens in this country. It has never been affected by the problems that have been affecting other schools. We have only had one incidence there and it was not so much.

I congratulate the young men there and the teachers who led them here. It is good they came to the Senate to see how the Senate performs its functions. Therefore, as I keep telling them and their counterparts from other schools, the future is before them. It is based on their efforts that they will make to attain their education. It is my sincere hope that they will admire what we are doing here. In the years to come, I hope to be seated in my house watching television and seeing them debating issues in this House; issues that will help this country to be a better place to live in. I wish them all the best and they are most welcome.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Senators Muthama and Hassan. The students are very welcome. I hope they learn something from us. We now go back to the main debate.

*(Resumption of Debate on the Bill)*

**Sen. Elachi:** Mr. Deputy Speaker, Sir, I rise to support this Bill. It comes at a time when we are just about to have the United Nations Conference on Trade and Development (UNCTAD) which deals with trade. It comes at a time when the Chamber of Commerce is about to do their elections which deals with issues of small enterprises and trade.

Therefore, I thank the Senator for Kiambu for coming up with this amendment, which is critical because, first; this is a key sector that has employed thousands of Kenyans and secondly, it is a sector that has contributed so much to our Gross Domestic Product (GDP) but has never been given an opportunity to be vibrant. It has never been given an opportunity to participate even in the different sectors that we have like the Kenya Private Sector Association (KEPSA) and the rest.

The amendment is very clear immediately after paragraph C (iii) – “...the informal sector including vendors, hawkers, market traders and other small business people and where the enterprise does not operate from a designated location”. These are the real key Kenyans. The fishmongers at Kenyatta Market should now be included because they contribute to our GDP and revenue collection at a very high level. This is



one sector that has made many Kenyans survive. When Kenyans say they are hustlers, it is within this sector that they are able to take their children to school and ensure life goes on especially in the counties. The counties have had so many investment forums. However, within those, one wonders where the voice of the livestock trader, the hawker, the public transport operators or the market traders where they collect revenue is heard.

In this country, when we come to layers of how we do business, we will never look at this sector as “business”. That is where our young people are finding challenges. They do not want to be innovative and engage in such business. It is because they believe this is not business. Therefore, there is need to anchor it into an Act of Parliament. We have students who have visited us. In the new dispensation, we do not have white-collar jobs. However, if one has gone to campus and can craft a better way of doing things, they will be wealthier than the one with a white collar job.

Therefore, we need to ensure that we give them incentives. Even when the Kenya Revenue Authority is giving incentives to various groups that do business, it is only the manufacturers who are beneficiaries. Every person is doing business. They are required to have licences and pay KRA dues. However, whenever it comes to incentives of who is who in terms of tax incentives, they will never be there. However, now that we are anchoring them as any other, they are supposed to be bigger beneficiaries than the manufacturers.

For many years, we have been wondering how to ensure the livestock traders and pastoralists are able to thrive. Billions of shillings daily circulate among livestock business people. That is the reason some areas experience serious cattle rustling. When we anchor this into law we bring in a law to safeguard them. We are able to prosecute those doing cattle rustling in court, for charges against crimes on humanity. When they engage in cattle rustling, they even kill. This will make them understand that they can trade in livestock and make good money. Many people do not know that, and that is why very few people are in that business. We have left the whole of that sector to pastoralists. You can be involved in agriculture whether you are from the pastoralists community or not and benefit.

We have had issues of fishmongers and we have also heard the public outcry concerning fish from China and other places, but that is business. If you understand that fish mongering is also a business for people in micro and small enterprises, you also have to understand the importance of having liberty in that trade. You can export your fish to China and China can as well export its fish to Kenya. We can both do business as long as we ensure that fishmongers also have a market for their fish.

Mr. Deputy Speaker, Sir, we have always believed that cyclists and *boda boda riders* are people from the western region of Kenya because they are the ones who use bicycles. However, today, with the traffic jams that we have, if my opinion is sought, I would like to see roads being done in such a manner that you can leave your car somewhere and just cycle to town. I hope that counties can pick up on that matter and make it easier for Kenyans to ease the congestion of traffic jams that we have. That will also make Kenyans healthier because it is a way of exercising.

So, as we look at the principle of why we are amending this Bill, the Ministry should also be informed because as much as we do this, if the Ministry does not have that will of ensuring these are traders like any other, we will go nowhere.

When the officers of the Kenya National Chamber of Commerce and Industry (KNCCI) go to meet the President, they should make sure that small entrepreneurs are part of those who will accompany them because they are the ones who do business but not the leaders and the chairmen. Entrepreneurs should go and tell the President how they feel and the challenges they face while carrying out their small businesses. The KNCCI is structured in a way that it appears to cater for only those who have businesses worth billions of shillings. However, who makes Kenya survive? Just the way the middle class makes the economy run, small-scale entrepreneurs are the ones who flourish our industries and the economy in this country.

Going forward, I hope that we will give them a better opportunity to show what is supposed to be done; a better opportunity to go and showcase not just the *kiondos* but also other things because we have very good entrepreneurs and innovators in this country. The only problem is that because they are not under the KNCCI, you will find that they will never get anywhere and especially women. Women are the ones who run small-scale businesses. They are the fishmongers and vendors but when it comes to those who can sit and dine with the “who is who” of this country and in engaging in bilateral business talks, they are nowhere to be seen.

That has been the trend even during the regimes of former presidents of this country. I have not seen more women than men engaged in such ventures, yet women are the ones who run this country by engaging in small-scale businesses. When you go to Gikomba Market, you will find women and when it comes to selling *njugu*, it is women but the men are the beneficiaries of that. We need to see women engage in harvesting sand because it is also a business. We also need to see women engage in the transport sector or the so-called *boda boda* sector in order to benefit.

Mr. Deputy Speaker, Sir, I want to thank the Senator for Kiambu very much because as a Government, we have ignored the sector of micro and small entrepreneurs for long yet we have Uwezo Fund and the Women Fund. People who benefit from these funds are the same people who conduct businesses of fish mongering, vending and all those small-scale businesses. I want to appeal to my President that after the election of officials of the KNCCI, the chairman should meet small-scale entrepreneurs and select people who will be part of the team that will talk to the President. Let them have their own spokesperson who will say what they are going through. I know they are having many challenges with the county governments and you will find them being overtaxed.

Right now, when you go to Malindi, you will find *boda boda* operators there are suffering and the same applies to those in Nairobi. I sought a statement here to see how we can help them and ensure that they also do business. We are collecting very much revenue from the small-scale entrepreneurs but we have given them very little benefits in return to what they are doing for our country.

Mr. Deputy Speaker, Sir, as I finalise, it will also be important to ensure that the necessary infrastructure to support small-scale entrepreneurs is put in place within counties. Counties conduct investment programmes all over, which is good for building

their names, but they must know that their important stakeholders regarding what they do are the small-scale entrepreneurs. As they plan, they should be aware of what happens all over the world.

There is something called Dubai 2020. I would like to see people sitting down and ensuring that the team that will go to Dubai will not just comprise of the “who is who” of this country, but will also include small-scale entrepreneurs. They should be given an opportunity to package their products so that they meet international standards when they go out there.

Mr. Deputy Speaker, Sir, I want to thank Othaya Coffee Farmers. They have moved a step forward and they are able to market their coffee in Denmark and all over the world. I also want to thank the President for that task team that he put up to ensure that brokers are removed. We want the same to happen regarding sugar and tea industries, so that other farmers can benefit by selling their own products. We should train them on how to package products to meet international standards so that they can be exported anywhere in this world.

Lastly, Britain exited from the European Union. Again, we shall have to go back to the drawing board to see how we shall discuss with them the issue of trade. We should not forget the small-scale entrepreneurs who sell vegetables and other products in Embu and other places because they will also be affected. Therefore, as we amend this law, we must be alive to the fact that we have very many other issues. Therefore, we require the best infrastructure to assist both men and women and ensure that they both benefit from the incentives given to the manufacturers of this country.

Mr. Deputy Speaker, Sir, with those few remarks, I support.

**Sen. Muthama:** Mr. Deputy Speaker, Sir, thank you once again for the opportunity to contribute to this Bill. I also take this opportunity to congratulate my neighbour brother, Sen. Wamatangi. The steps he has taken to bring this amendment shows how he is so much in touch with the business sector. He went ahead to even explain some of the issues that he faced. As a businessman, I stand here to support this Bill whole heartedly because I know what it means.

Mr. Deputy Speaker, Sir, we fought for our Independence and got it. The focus of Kenya was diverted to white collar jobs and the politics of the day. From that time, Kenyans spent so much time trying to see how someone can become a general manager, a pilot, a politician or generate money with no source, whatsoever, to show where that money is coming from. That has tilted the minds of Kenyans. Today, we are referred to as able people with the ability that it takes to do our things with good knowledge.

Mr. Deputy Speaker, Sir, Kenyans are respected everywhere in the world. There is one black spot that is painted on us. That is; we are ready to steal at any given time. There are great sons and daughters of this country who have managed to change the face of this country. I had a special friend of mine, the late Njenga Karume, who was a great leader in this country. His leadership emanated from the fact that he organised himself as an individual. He did not have degrees. However, he had the wisdom that had been given to him by the Creator and he used it properly.

My brother has brought a Bill on micro finance and small scale enterprises. Mr. Karume started his businesses by selling a bag of charcoal. We know the number of

people that he left with the institutions that he set up using his own brains. Today, the successive governments have failed to do what is important for the country.

We talk about creating jobs. What jobs are these that we are creating for Kenyans if we cannot pass this Bill? This is a great Bill. I do not think that we are lacking managers and qualified doctors in this country. We are looking for jobs for the masses and we are lacking them. Most of the employees earn Kshs5,000 and 30,000 per month. These are the jobs we are talking of creating in this country. How many companies can now employ such class of people? Today, other than the tea and coffee estates, there is no other sector that can employ such people. We need to push our economy to the middle class level. In Kenya, we have the top notch and then the lowest bottom. In between, there is absolutely nothing.

The amendments here talk about hawkers and other lower cadre of business. If the Government is serious in improving lives of small scale business people, then we would not be chasing women and young men who sell their vegetables and all manner of wares by the roadside. We would not even be taxing them because we have not build sheds for them. We are using a colossal amount of money to build offices of parliamentarians behind here. Land was bought for millions of shillings and now the construction work is taking place at the expense of poor Kenyans who just need sheds. Our priorities are lopsided. If we were to spend that money in building sheds for hawkers and other small scale business people throughout the country, how many of those people would we accommodate in a decent and clean environment instead of building offices with carpet for us? Whether it is raining or shinning, you will buy your vegetables under a shed, you will be secure and you will have time to purchase and pay that lady who is selling vegetables on the roadside.

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

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

Mr. Temporary Speaker, Sir, in Gikomba Market, you will meet gifted Kenyans who are working while sitting on one another, making wheelbarrows, shovels and hammers. Since there is no space and the place is insecure, Sen. Muthama will not find time to go and shop there. However, he will go to Nakumatt Supermarket to buy hammers and wheelbarrows imported from China and India. We are killing our local industries and land is being dished out in this city. Hawkers do not have a place to work from.

You will find somebody with *mabati* boxes piled up in a very small room. Even if you want to go there to buy a medium sized box, there is no parking. Yet, these are the people who religiously pay taxes to this Government. Where they buy the raw material, there is Value Added Tax (VAT). Some of the businesses of those big dealers who sell the raw materials to them are not registered and they do not even pay taxes. My brother mentioned here that someone needs to be registered so that he feels he is being recognized in the county.

Some of us are self-created business people. We know the number of people that we employ and the taxes we pay. We should just close our eyes and say that enough is enough and stop these big projects that we are putting up in this country at the expense of the poor people.

Mr. Temporary Speaker, Sir, in your county, people mainly rear livestock. You will bear me witness that during the drought season, these people suffer and lose their livestock. They cannot drive their animals to the Kenya Meat Commission (KMC) because KMC does not have money. Money was allocated to the National Youth Service (NYS), but it ended up being stolen. The report by the Auditor-General year in, year out, shows billions of shillings are squandered.

If you drive along Thika Road, you will find young men selling roasted maize and flowers on the road. The contractor of the road did not consider such people. Contractors should create spaces on the roadsides where small business people can sell their products. That will ensure that we eliminate theft and other criminal activities that are taking place in the country. If we empower the common people, a big number of them, including teachers, will turn to fish-keeping.

Secondly, the professionals who are experts are jobless because the Government cannot employ them. As Sen. Wamatangi said, we should not focus on those people who can manage themselves. We should not focus on the Muthamas, the Wamatangis and the owners of the banks in this country, including my friend Dr. James Mwangi. We should consider the people who need our help and change their lives. A good example is the industry I am in. We have small-scale miners in this country who struggle in search of minerals. They lack guidance, yet we have trained geologists walking in the streets of Nairobi in search of jobs.

The Government just needs to spend a small amount of money to hire those experts and send them to guide these small-scale miners. Again, once the minerals are produced, they do not belong to the miners, but the country. They will be sold outside Kenya and the country will make money. The other example is fish farmers. They are struggling due to lack of experts to guide them.

In Thailand, the *tuk tuks* are allowed to go everywhere in the city centre of Bangkok and all other cities. The same happens in Malaysia. In Kenya, the Government wants to phase out the 14-seater *matatus* so that they can allow the big shots who can buy 52, 82 and 120-seater buses to operate in the city centre. The people who deserve to be assisted by the Government are being chased away.

Mr. Temporary Speaker, Sir, the traffic jams in Nairobi are caused by the big vehicles which are not owned by the common *mwanaanchi*. The best way to go about it is to allow these people to use *boda bodas*. I should not be driving from Runda—

**The Temporary Speaker** (Sen. Mositet): Order, Sen. Muthama! Your time is up.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, I am very touched.

I beg to support.

**Sen. Hargura:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. From the outset, I would like to support The Micro and Small Enterprises (Amendment) Bill, (Senate Bill No.12 of 2015). I would like to thank Sen. Wamatangi for coming up with this amendment because it captures a critical part of our society

which is working hard to make a living. This could be the basis of any development. We are talking of being a middle income country by 2030. If we do not carry all these people on board and harness all parts of our society then it will be difficult for us to achieve the dreams we have.

In defining or interpreting what a micro enterprise is, this particular amendment takes into account the annual turnover and the number of persons it employs. It also states that the total asset and financial investment shall be determined by the Cabinet Secretary. It also talks of the manufacturing sector, service sector and farming enterprise. This amendment also captures the informal sector. The areas covered include traders such as vendors, hawkers, market traders, livestock traders, fishmongers, artisans, handicraft traders, sand harvesters and cyclists. This is where the people in the rural areas and some of the urban areas earn their living. If they are not organized and facilitated, they will not be able to contribute much to the development of this country.

This Bill captures an important part of our citizenry, which as much as they work hard, do not access facilities and are not recognized. This Bill puts them under a particular authority, which will take into account provision of the necessary support. For example, through this authority, they will access capital. Right now, we have several funds, for example, the Youth Enterprise Development Fund (YEDF), the Women Enterprise Development Fund (WEDF) and *Uwezo* Fund. However, it is difficult for people to access these monies. We should have an authority that could easily register groups and channel the funds in an accessible way, instead of doing it through constituencies, where other factors like politics come into play.

If we have an authority people can easily approach it and be registered into groups. It also talks of the authority making sure that they have proper infrastructure. Clause 47 talks of liaising with the national Government and the county governments to provide infrastructure for these people. For example, if it is a livestock trader, the livestock market should have some basic facilities, which are necessary for somebody to operate and earn his or her living.

This sector also provides self employment for many Kenyans. This is where to start developing capital for any future venture. In my case, it captures the livestock traders, handicraft traders, cyclists or the *boda boda* riders who provide an important service, especially in the rural areas where public transport is not developed. People purchase motorbikes out of their own initiatives, but they are not organized.

Mr. Temporary Speaker, Sir, they are all over the place, but they are not organised. However, if there is a way they can be organised under a particular scheme like the SMEs, they can access more funds. They can even move from the *boda boda* to *matatu* business from the funds they would have generated over one or two years of the *boda boda* business. Finally, they can easily develop into a Savings and Credit Cooperative Societies (SACCOs). That is how people should be facilitated so that they develop into a proper transport industry instead of everybody riding his or her own motorcycle and when it breaks down, the dream collapses. However, if we have an authority that can register them, provide infrastructure, advice and capital, then we shall expect proper industry to develop out of it. If we cannot get them at that level, they cannot develop on their own.

Mr. Temporary Speaker, Sir, in my county, there are many livestock traders because livestock keeping is the main way of life. However, the market is not organised. You will find someone in the bush trying to buy some livestock for sale, but the next day, he is absent. This is because there is no support. If they are organised and have capital with proper markets developed, a livestock trader can easily move from one step to another. One day he could be doing it on foot. The next day, a trader can buy a motorcycle. Finally, he can own his vehicle to ferry animals. This is an important way of developing our potentials, industries and making sure that Kenyans move out of the poverty brackets we usually talk about.

We can easily get out of the poverty line with the support which we provide to Kenyans. The handicraft men and women who make beads and sell to the locals and tourists need to access markets; without which, it will end up as a hobby for them. Therefore, we need to have this kind of an authority which will provide a market for them. In that way, they can grow and have many Kenyans who will rely on their own initiatives. We will have a developing country. In the case of the livestock-beyond the MSEs, it needs to be developed in a way. As one of the Senators said, we experience perennial droughts and because of the lack of markets, a herder will keep a big herd and when it comes to the dry season, he will lose the whole of it and start all over again.

Mr. Temporary Speaker, Sir, if there were proper markets and facilitation, then they could sell the animals when the body condition will allow them to fetch good price. They will restock during the rainy season and repeat the business cycle, unlike what they practice now. That will require livestock traders to be supported so that the herdsman will also have the markets to sell their products. It should be a reliable market. The Kenya Meat Commission (KMC) has never been a support to the livestock traders. Therefore, if the livestock traders are well supported, they can have somewhere to sell the animals.

I support and I hope that the authority, once these amendments are put into place, will go out of its way and ensure that what we are discussing here is put into practice. We hope it will not be like any other authority in Nairobi. We do not want to see Kenyans struggling on their own without any support from the Government.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, I also rise to support this Bill which seeks to amend an Act of Parliament regarding micro enterprises. This is The Micro and Small Enterprises (Amendment) Bill (Senate Bill No.12 of 2015). Before I make my contribution to this Bill, I congratulate my colleague, the Senator for Kiambu County-the bedroom of Nairobi City-Sen. Wamatangi.

May I draw the attention of the Senate to the Fourth Schedule of the Constitution regarding the division of functions; that is the second part on sub-section seven of the County Governments Act. One of the functions of the county governments is on trade development and regulations, including markets, trade licenses, excluding regulation of professions, fair trading practices, local tourism and cooperative societies.

Mr. Temporary Speaker, Sir, Sen. Hargura spoke before me and talked about *boda boda* operators grouping themselves into SACCOs that will make it easier for them to do their business and access capital. The same is true with table banking which is currently done by many women groups in the counties.

A couple of months ago, I had the privilege of discussing this matter with 52 women groups from one ward in Nyakach Constituency which had a total of Kshs93 million.

*(Sen. Hassan consulted loudly)*

**The Temporary Speaker** (Sen. Mositet): Order, Sen. Hassan! Kindly consult in a low tone.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, over a short period they had collected that much and they were wondering what to do with the money because they found that they could no longer absorb the money within one ward. I advised them to grow from table banking to a SACCO. Since I knew little on how to do this, I had to hire a consultant to help them to do it. They have now formed the SACCO which is growing fast.

*(Sen. Hassan stood on his feet)*

**The Temporary Speaker** (Sen. Mositet): Order Senators. When I asked you to keep order, I did not mean that you walk out.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, Sen. Hassan should give us peace. The month of *Ramadhan* is over and it does not mean that he becomes a little bit less religious.

The next step from being a SACCO is to become a bank. Most of these banks we see in the world today started from such humble beginnings. The bank De Credit De Commerce Agricole in France started by small enterprises in agriculture and putting their money together and forming a source of capital for financing agriculture. That is what became the bank Credit Agricole.

The same can happen with the *boda bodas* and table banking. The only way that they can do so, is for county governments to take seriously sub section (7) of county governments' functions as listed in the Fourth Schedule of the Constitution. At the moment, I do not think that county governments are taking the Fourth Schedule seriously. I do not think that all county governments have sat down and decided on what to do on this particular function.

Mr. Temporary Speaker, Sir, under trade development regulations, including markets, trade licenses, regulation of professions and fair trading practices and co-operative societies, a lot can be done using Sen. Wamatangi's amendment to the Micro and Small Enterprises (Amendment) Bill (Senate Bill No.12 of 2015). The Bill seeks to amend that section to include the informal sector where the enterprise does not operate from a designated location, including vendors, hawkers, market traders, livestock traders, fishmongers, artisans, handicraft traders, harvesters, cyclists and public transport people. That means that if we will regulate these sectors, county governments must choose to implement this particular section of the division of functions.

County governments must come up with trade regulations. One of the things that happen in most counties, including mine, is that the traders who harvest sand or soil to



make bricks are absolutely unregulated. Secondly, they do not pay cess although they have access to a natural resource almost freely on which they should pay cess. They do not even pay for the roads they use.

Mr. Temporary Speaker, Sir, one of the biggest fiascos in counties at the moment is that the county governments give tenders to people to make roads with very little standards being obeyed. Within a short time, a road is opened. Within no time, it becomes a series of holes and valleys because the sand traders have come with huge trucks whose weight cannot be supported by those roads. You are an engineer and you know that when you are constructing a road, you must have in mind the kind of vehicles that will use that road. On how many wheels does a truck run? A truck with more than six wheels cannot possibly run on a rural road to harvest sand from a river. However, that is what is happening. County governments are facing a nightmare. They should use this particular section of the Fourth Schedule of the Constitution to have regulations so that the trading practices can be fair to all.

Mr. Temporary Speaker, Sir, sub section (7)(c) of the Bill talks of fair trading practices. In other words, if you are a sand harvester, please realise that the road that the lorry will use is also used by the *boda bodas* and *mamas* on their feet going to the market. It is not just for you to use a six wheeled lorry to go and harvest sand, destroy the road completely yet that lorry has not paid a single cess or toll that can be used to repair the road. Giving the county governments the responsibility of trade development, including fair trading practices, was an extremely important provision in the Constitution. It relates directly to Sen. Wamatangi's amendment which says that all the businesses and traders must be brought under the rubric of MSEs and be subjected to regulations so that we have fair trade practices in the counties.

As Sen. Eleachi said earlier, if you look at the economies of counties, for example, the City of Kisumu, ten years ago if you walked down Oginga Odinga Street, you could stand 100 yards away and waive to somebody down the road because there were very few people on the streets. However, that cannot happen now because the street is teeming with people walking around. A famous political economist, Adam Smith, in his writing said that populations are the most important factor in economic growth. When you have more people, you have a bigger market. However, you can only have a bigger market if they have goods to buy and money to buy the goods.

Mr. Temporary Speaker, Sir, our people are very ingenious. When the traders see more people walking on Oginga Odinga Street, rather than allow those people to enter the shops to buy in the formal sector, they bring the goods to the road. In fact, the market on the streets is much bigger than the one inside the shops. The traders have seen that population walking along Oginga Odinga Street as a market. They bring shoes, belts, baskets, sodas and many other things on the street. This means that particular market has to be regulated. Those people should fall under some regulations and protection as traders and not be chased away at will as any government wishes.

In the event that you do not want these people to put their goods on the street because you want other people to move as well, then a peoples' market should be created. In Mexico, for example, one of the biggest markets in down town is called Mercado Cuidadela. Cuidad is a Spanish word meaning city. Cuidadela is a small city within a

city. Before that market, all those people were on the streets, but a huge enclosed market was created for them. People know that if you want to go to the informal sector to buy cheaper goods, they go to Mercado Cuidadela. Rather than buying things on the streets, they buy them in the market within proximity of each other. If you enter that market, you can spend a whole day there because there are banks, restaurants and all other services. Therefore, the small business enterprises are contained within a framework where other services are also selling their services.

Mr. Temporary Speaker, Sir, those are some of the practices that our counties must adopt. In juxtaposition to Sen. Wamatangi's amendment to the MSEs Bill, comes this particular section of the Constitution, which unfortunately from what I can see in our Committees, both in the Committee on Finance, Commerce and Budget and the County Public Accounts and Investments Committee (CPAIC)---- Unfortunately, not many counties have taken into account to create a change in the culture of commerce, trade and industry in the counties so as to encourage the small enterprises in this sector to develop.

An artisan is somebody who must be allowed to be creative and have an environment where his creativity responds to market needs. You cannot have an artisan who is creative and subject him to too many regulations because by doing that, we kill productivity. What an artisan needs is for his product to be recognized; to have access to the market and for him to pay for services that the city offers after the sale of his products. We have so many artisans in this country. We have musicians, creative people and many others. Unfortunately, we have rigid rules and regulations that thwart creativity, especially in the entertainment industry. One of the things that the counties should look into are rules and regulations at the national level which have thwarted the creativity among artisans, particularly in the entertainment industry. This blocks them from prosperity and expansion of their market.

Mr. Temporary Speaker, Sir, all these things are under the authority of counties. Therefore, counties should not wait for the national Government to change the laws. The counties themselves should propose those changes and pass those laws at the county level. If then those laws are in contradiction with national laws, then it falls upon us as the Senators to bring harmony between the laws. However, at the moment, the reason Kenya is doing so poorly in terms of art and creativity is because of the backward laws and regulations that make it very difficult for artists to expand in creativity and put much more goods into the market.

Sen. Wamatangi's amendment is extremely important. Some of the sectors of the economy that are to be included in small enterprises are artisans. For example, my county is one of the counties around the lakeshore which is talented in art and music. As you know, some of the most important musicians come from my area. They have adopted Congolese to all kind of tunes. However, what surprises you is; to what extent are these artists prosperous?

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

**Sen. Okong'o:** Mr. Temporary Speaker, Sir, from the outset, I commend the efforts of my good friend, Sen. Wamatangi of Kiambu County for coming up with this initiative. For many years, this country has had good laws and Acts of Parliament. However, the biggest problem is to actualize some of them. That is why it has taken a lot

of time for Sen. Wamatangi to look at the lacuna in this Micro and Small Enterprises Act to come up with this amendment.

What is required now by county governments as Sen. (Prof.) Anyang'-Nyong'o alluded to is vocational training for our young people who have left school looking for white collar jobs. It is incumbent upon the county governments to actualize Chapter 4 of the Constitution so that the notion of white collar jobs for our young people is dissuaded.

Mr. Temporary Speaker, Sir, India is a developed country. It has come up with mechanisms of dealing with youths in terms of cottage industries. They are enabled by the Government. Government incentives assist them to have a state of well-being in the economy. The many licenses that are required do not assist the young people to move and have a footing in business. It is incumbent that, first the Governments gives an enabling environment before they start taxing these would-be business entrepreneurs.

According to the Constitution, 30 per cent of tenders should be awarded to young people, persons living with disabilities and women. This is an illusion. In the counties, compliance with this constitutional requirement is less than 1 or 2 per cent. As I said earlier, in India, young people in cottage industries manufacture coils, bulbs, sweets, crisps, water, candles, *et cetera*. This has assisted them to remove the notion of white collar jobs from their minds.

In Indonesia, there was an entrepreneur who came up with a bank. It was called the poor man's bank. He gave an incentive equivalent to Kshs3,000. Women and youth were educated in terms of licence and taxes.

Mr. Temporary Speaker, Sir, I studied in India for quite a while. There are categories of Middle Income Groups (MIGs), Low Income Groups (LIGs) and High Income Groups (HIGs). There is Government incentive in terms of ration. In those areas, if you were staying in an estate or urban area within the MIGs, the Government gave incentives to business persons and people residing in these areas in terms of rations; food rations for sugar, rice and kerosene. These businesses have much to grow.

In Gusii land, for instance, the land of *Amatoke* as it is called, we have plenty of pineapples and sugarcane which require intervention of the county governments to actualize the constitutional requirement of empowering the people in terms of incentives. Avocados go to waste. A young person or woman comes to a market where there is no toilet facility and water, but they are required to pay taxes. They are harassed the whole day. I believe this amendment will pass and be imbued to the existing Act of Parliament. It is incumbent upon the Government and the young people to follow these regulations and fight for these rights to enable them to move in the right direction in empowering themselves.

Right now, we are striving to become a developed economy. However, there is a big problem in how businesses are run. For instance; materials being used in the construction of the Standard Gauge Railway (SGR) come from outside. Despite billions of shillings being put in this project, Kenyans do not benefit directly and yet they will repay loans for its construction. All subcontracts are carried out by foreigners. I wonder if the national Government is interested in the wellbeing of Kenyans. Kenyans at the grassroots level are wondering where money is. How can they have money when conglomerates or big companies bring along their workforce?

I am told some of the workers of the SGR are prisoners from China. Kenyans can handle most of the work done by them and earn money which will have a trickle-down effect in our economy. The flouting of World Bank directives on projects should not be entertained even if a project is being funded by two Governments. There must be some legal framework to safeguard the interests of local people. These are overlooked. This country is now developing very fast because of discovery of oil and minerals deposits. As we move forward, we expect that leaders like us in the national Government and other leaders must call a spade a spade and not a big spoon. Brokers who are beneficiaries of the riches of Kenya must be dissuaded at all costs.

I commend the President of Kenya. He has created a new direction in terms of foreign policy. However, I expect him to include young business entrepreneurs in his delegations of business persons he travels with. We cannot be carrying only people who have been in business for the last 40 years. What about the young women, innovators and the youth who have come from universities, for example, Jomo Kenyatta University of Agriculture and Technology (JKUAT). They have business skills. They need to sit at the round table with those people who have been in business for the last 100 or 400 years.

These issues are crucial. The Prime Minister of India is here with a delegation of highly established business entrepreneurs. How many people from Nyamira came? How many young business men and women from Kericho came? As leaders, these are issues we need to look at so that as we move forward in building this country, we will have areas whereby even the common man can dine, by virtue of his expertise and knowledge to work in a way of developing this nation.

We have seen young business and women in towns such as Kisii and Nairobi being taken like criminals. Some have been maimed and killed. This is why I commend my colleague, Sen. Wamatangi for having come up with this kind of amendment so that the county and national governments can create room for this kind of Kenyans to carry out their businesses without interference. They are not thieves, but Kenyans who are fending for themselves.

We cannot have everybody in Kenya wearing a tie. We have people who have dropped out of school at Class Four, but they have got very good initiatives. I saw a street boy about 14 years old who was able to put up very good sentimental music. Those are people who need to be adopted and assisted by those who are in Government and those who are given the responsibility of nurturing young business entrepreneurs.

I beg to support.

**Sen. M. Kajwang:** Mr. Temporary Speaker Sir, I also join my colleagues in supporting this Amendment Bill and congratulating Sen. Wamatangi who has told us how he provided tanks at a time when he did not have the benefit of wealth. God smiled upon him, and out of his tank donation activities, he is now a man of means and highly regarded in society. He has good experience and good grasp of the informal sector that has led him to come up with this Amendment.

As I support this Amendment. If you look at the Memorandum of Objects, it is fairly straightforward; to broaden the definition of the term macro enterprise to include the informal sector. It goes ahead to provide other examples like hawkers, vendors, livestock traders, fishmongers and others.

When I read the Micro and Small Enterprise Act, 2012, I do not see why these categories that are being brought forward by Sen. Wamatangi could not have been taken care of under the existing Act. This is because the existing Act has a definition that attempts to define micro and small enterprises as enterprises whose annual turnover does not exceed Kshs500,000. I do not expect the annual turnover of artisans, fishmongers and hawkers to exceed Kshs500,000. Many of these street enterprises that we see employ less than ten people. In other words, a strict liberal interpretation of the Micro and Small Enterprises Act, 2012 would provide cover for the small scale traders that we want to incorporate. I believe that what Sen. Wamatangi is trying to do is, for the avoidance of doubt, to ensure that anyone reading that Act knows that beyond any reasonable doubt that the Act shall apply to those categories of business persons or informal sector players that he has defined.

The challenges faced by players in the micro and small enterprise sector have been laid out very articulately by my colleagues and particularly, by Sen. Wamatangi. He laid the case very well, even though I was challenging him that he was reading a speech. However, it was a speech containing statistics.

However, as at 2015, no money had been appropriated to this Fund. It is interesting that money is not being appropriated to a sector that contributes 18 per cent of the Gross Domestic Product (GDP) and employs millions of Kenyans when every other day one hears about high-placed individuals running away with millions of shillings from public coffers. Therefore, we expect that when we get our act together and put money in this Fund, it will provide some credit support to the Small and Medium Enterprises (SMEs).

This amendment also provides policy support to the small timers or businessmen who really drive the economy of this country. The Micro and Small Enterprises Authority that is established under Section 29 has been in place for the last three years. This law was enacted in 2012. We must ask ourselves what has been the significant achievements of the SMEs Authority.

In the ideal sense, a look at the objectives and the functions that the SMEs Authority is supposed to undertake gives you confidence that the small traders, hawkers, artisans and the fishmongers are going to get some policy support. They are going to get an Authority that is only committed to look into their own issues. The objectives of this Authority are so nice that sometimes I wonder why we have not had the envisaged take-off of the informal sector.

The objectives have been crafted in a noble manner. One would have expected, in three years' time, our hawkers to be treated in a less antagonistic manner. There are reports that have been circulated in the public domain that in Nairobi County alone, hawkers contribute to about US\$1 million a month in bribes. Not in revenue coming from legitimate sources like permits and taxes, but rather in bribes.

There is a programme that has been airing on television and no one has gone to court to challenge what that programme has been talking about. It is called *Jicho Pevu*. It is about city council inspectorate officials who go around collecting bribes from hawkers in broad daylight. They kill the businesses of those people and take away what they have contributed throughout their lifetime. If this Authority has been in place for the last three

years, what has it done? The definition of SMEs did not stop them from looking into the interests of hawkers. In as much we would like to go beyond reasonable doubt and define those micro businesses to be under the purview of its Authority, we need to be careful to ensure the Authority is constituted in a way that will ensure it is sensitive to the needs of the people at the bottom.

I spent some years in the financial services, especially in insurance. It got to a point where we were thinking that the top of the pyramid was saturated with products and providers. We wanted to go to Gikomba Market to sell insurance covers to hawkers. We wanted to sell life covers to fish mongers. We wanted to sell financial security products to people at the bottom of the pyramid. I still remember what one of my directors told us, that for you to go there, you must take off your tie, jacket and white shirt. You must have a paradigm shift.

He told us the way we think when we are dealing with the corporate class or the middle class must change. It was a different way of thinking when we were dealing with people at the bottom of the pyramid. He told us that there are some institutions that had mastered how to deal with such cadre of people. Equity Bank did and they got it. You would go to a market like Gikomba and right in the middle of Gikomba, there would be an Equity Bank branch. That means the traders there did not have to carry cash home and get mugged along the way. They were able to mop up lots of money at the bottom of the pyramid.

The reason I say this is that; as micro and small enterprises, we have got an Authority with a Chief Executive Officer (CEO), with structures and an office, probably, somewhere in Kilimani, Upper Hill or some fancy building in the middle of the city. Are they wired to look after the interests of the hawker, fishmonger or the artisan at the bottom of the pyramid? If they are not, then, probably, structurally, they might want to come up with a directorate or a department that will focus wholly on the interests and the needs of the hawkers and the street-bound traders. Otherwise, we will have a situation where a CEO will go to deal with hawkers on the street. He will never understand what their needs are and we will never achieve some of the objectives set here.

Mr. Temporary Speaker, Sir, as we look at this, we must also find a way of looking at the by-laws of some of the counties. Hawkers are being clobbered every day in Nairobi and the Inspectorate Department keeps citing by-laws. Who writes those by-laws? Is there some oversight to ensure that those by-laws are consistent with the Constitution? Is there any part of laws that allow an official of Nairobi Inspectorate Department to clobber people and chase them up and down the street as if they are animals or criminals or lesser beings?

The by-laws must also be subjected to some form of interrogation. If the by-laws are okay and it is the Inspectorate Department officials who are in the wrong, then the Inspectorate Department officials must also be subjected to some form of interrogation, so that we have a situation where the business people who sustain this economy are treated with dignity and decorum. They should not be treated as if they are rats or cockroaches or as if they are an embarrassment to this nation.

There have been many arguments that have been advanced, that you cannot have a city full of hawkers. I do not think the hawkers of Nairobi have refused to sit down and

come up with an appropriate formula. We do not expect that we will have hawkers on Mama Ngina Street, Harambee Avenue or State House Road. I believe hawkers are also reasonable enough to be able to sit down with a legitimate authority to agree on specific areas where they can ply their trade. They can agree on specific days when they should come to the city and ways of ensuring that they have got licenses that are inviolable because we have seen many counties issue licenses and then withdraw them, saying that some were stolen from their premises thereby affecting all the hawkers. Someone spends Kshs1,000 to get a license. When it is withdrawn, they have to look for another Kshs1,000 to get another one.

We must treat our hawkers and small-scale traders like other Kenyans. Since Independence, there have only been 3,000 people who have borne the title of an honourable MP, but there are tens of millions who have plied the streets who sell fish and wares at the bus stages and *matatu* termini. Those are the true owners of this nation. It is not the 3,000 hon. Members. It is that Wanjiru, Otieno and Wafula who sell cakes, marbles and Chinese goods out on the streets.

I also hope that we will not continue to see people of foreign extraction, especially from China, also competing with our locals out there on the streets in the informal sector. In some backstreets in Nairobi, we have already seen plastic shoes being sold by the Chinese. They bring the items and sell them themselves. We must also ring-fence this informal sector because it is becoming attractive to other forces outside this nation.

I support.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, thank you for giving me this chance. I rise to support this amendment. Before I do so, allow me to congratulate my colleague and dear friend, Sen. Wamatangi, for what I consider a very well thought out amendment. During my very first days in the Senate just a few months ago, I read the Order Paper and kept on seeing the Micro and Small Enterprise (Amendment) Bill. It kept on ringing in my mind that it something worth of interest. For one reason or the other, I never considered going through the records just to find out what it is all about.

This afternoon when I realised that it was slotted for the Second Reading, I went to research on it further. What I found out has extremely pleased me. I am rising to support the amendments that are contained herein for two main reasons. One is a national reason as a legislator and the work that has gone in. Secondly, for a selfish reason, I will start with the selfish one because it is the least important and then I will move on to the more important one.

Mr. Temporary Speaker, Sir, this is the industry that I came from before I joined this House – the small and micro industry traders. So, when you talk about these people, I understand the tricks of this game and challenges that they go through. You do not have to teach me. I do not have to read any policy research document to understand the challenges that Sen. Wamatangi is describing and what these people face each day. These are things that I have seen every day and lived through. Having been given the gracious chance by the people of Kericho County to represent them in this House, I think there would not be a greater honour than to contribute to something that I understand so well.

Secondly, during my campaign to be the Senator for Kericho County, if there is one thing that really appalled and shocked me and I have never reconciled my thoughts to it up to date, it is how difficult it is when you are not properly exposed and given the mental process that it takes – the signs of money making. People find it difficult to make as little as Kshs20 or Kshs50. This room is filled with politicians and you all know campaigns, the Kenyan way. When you finish your meetings, people mill around you. I never knew how much of value Kshs50 can be to some Kenyans out there in the villages, until I went out to campaign. This is, perhaps, very small money that you spend on lunch in a hotel and you leave Kshs200 or Kshs500 tip to the waiter.

In the village, there are people who have not been able to get their psyche to the level that you can wake up in the morning and by evening, you have made Kshs50, Kshs100 or Kshs200. It was quite shocking to me because despite being what I would consider a hustler, I had come to understand the psychology of money making and what it takes to make such an amount. However, here comes a Kenyan who wakes up at 6.00 a.m. and by the time they go to bed at 7.00 p.m. or 8.00 p.m., they have not made a single shilling. I thought it was impossible until I was exposed to that kind of world.

Mr. Temporary Speaker, Sir, this is an amendment that tries to focus the legislations that we produce in this House to try and encourage Kenyans and leaders, even as institutions of governance, to realise that there is a group that we must not leave behind if we really want to build a great country. That is one of the major reasons I support this amendment. It recognizes that there are Kenyans who are struggling out there. They need this form of law that will guide and give them some sense of direction to understand that besides being at the low levels of society, they do not have to be there forever. They can be taken care of and mentored so that they grow from whatever level of business they are in and move on to the next.

The success of microfinance institutions cannot be complete without having to look back at our history. In Kenya, we have our own success stories, for example, the Equity Bank which is being emulated. One of the stories that have always encouraged me is the story of Prof. Mohammed Yunus of Bangladesh, who is considered to be the father of microfinance. In his institution known as the Grameen Bank, which Equity and other microfinance institutions borrow heavily from, he was able to turn around the small-scale activities, which rural women of a small city of Bangladesh used to engage in for leisure activities like knitting.

He taught them to realise that they can turn their activities into a business and a source of income. With time they were able to grow such enterprises to a level where many of them became serious business owners and moved from a life of extreme poverty to a life of abundance. We should, therefore, have such an amendment that considers the lowest cadre of people in the society, for example, those involved in businesses that we do not give thought to.

Whenever heads of State visit our country, it means a lot for us, as a nation, and portrays a good image. However, as a legislator and leader, it is my duty to look at the details that are contained in some of the bilateral agreements that we sign with these visiting heads of state. At the end of the day, with no offence intended, I realise that the heads of State are just business people visiting their customers. For example, if you read



our history and that of India, you will realise that we buy machinery and pharmaceuticals worth US\$2.5 billion each year, yet they only buy from us soda ash, tea and vegetables worth Kshs200 million. When you look at that trade imbalance, you realize that we, as leaders, need to do something until it gets to a time where the President of Kenya will also visit a European nation that we have balanced trading relations with.

Mr. Temporary Speaker, Sir, the only way we can achieve such a vision for our country is by enacting such legislation that promotes the lowest level of businesses. People should learn that they cannot just wake up one day and make a million. They have to grow from Kshs5, Kshs10, Kshs100 to thousands, hundreds of thousand shillings and then get to the millions league. This is what we should teach them.

I think about many of the people who have been left behind. In my county, there are stone traders in Kedowa. We need to consider such small traders who may not consider themselves to be business people. We need also to consider the young touts in bus stages like Kapsoit and Premier in Kericho, who fill up the *matatus* and buses. They need to understand that the *matatus* and buses are their offices and their business. We should provide a legislation that will aid these young men and women who engage in that economic activity. They should know that there are people who recognize their trade. The officers from the county governments should not harass them. If anything, they should provide legislation and avenues to pay tax levies that need to be paid, so that the small businessmen can engage in proper economic activities. That is the only way we will build a greater nation.

We read from history about some of the great businesses that we have today, for example, Apple and Samsung. These organisations begun as micro institutions many years ago, but today they control the economies of the world. Through this small amendment, a *mama mboga* in Homa Bay County, where Sen. M. Kajwang comes from, could get recognition, access to capital and good training. She could then grow her business and be one of the largest exporters of vegetables to the United Arab Emirates (UAE) and other countries. However, she does not know that this is possible because nobody holds her hand.

I look back to the years when I was starting business. I realised that access to credit was not the biggest struggle that I had at the opportune moment. What I lacked was someone who could show me the direction that I needed to pursue. This is what we are now doing to the *boda boda* riders, fishermen, and sand harvesters, among others. This amendment will hold their hands and give them a direction. That is the only way we can run away from the social ills that are bedeviling our country. We have an educated lot of young people who cannot humble themselves and realise that one can become a graduate and still engage in fish trade, starting from Kshs500 to Kshs1,000 for their enterprise.

In conclusion, what I like about this amendment is where we propose the devolvement of the authority to the county level. I do not understand why to date, many county governments cannot replicate the institutions like the Youth and Women Enterprise Funds at the grassroots level despite the colossal amount of funds that we send to the counties. What is interesting with the governors is their determination to construct roads and culverts because that is how they earn their kickbacks.

Mr. Temporary Speaker, Sir, we have set aside about Kshs200 million for young women and men to borrow and engage in business; that is the only way to grow local revenue at the county levels.

I support and congratulate Sen. Wamatangi for a well thought out Bill. This is one of my proudest days as a legislator. As I retire to bed tonight, I will have done something, and when asked about what I did in the Senate, I will mention this legislation.

Thank you.

**The Temporary Speaker** (Sen. Mositet): Since there are no more requests to contribute, I call upon the Mover to reply.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I thank my colleagues for supporting this Amendment Bill. It has come out clearly that the amendment to the Act will have far reaching ramifications as to how we view this important sector that is, indeed, the foundation upon which our economy vibrates. As my colleagues said, it has been an act of absolute ignorance of our country to blindly ignore an important part of our economy, population and the nation.

Mr. Temporary Speaker, Sir, livestock traders trek for five or six days to find their way to the market. They are sometimes befallen by calamities before they get to the markets. Sometimes, they lose their livestock. What recourse do they have? To whom do they go to complain their investment is lost? To whom do the *boda boda* riders of this country ever go to when they are involved in accident or have lost their tools of trade? What happens to hawkers when their wares are impounded and confiscated by authorities? Such people form the bulk of our population. Where are our morals when we sit in county assemblies to pass laws requiring that those traders pay for access to sell their wares in markets or streets? What have we done in return to warrant us to ask those people to contribute to our economy?

How would a country of an economy of our size ignore that millions of people do not have to go to the Government to show them what to do. They take it upon themselves to decide what to do irrespective of the risks. How blind have we been? Right now, we should be changing the economy of this country. The requirement that we have to keep injecting cash into the economy without realizing that all we need to go is to empower those that are down and then raise them to a high level. With a vibrant middle class, this country would move forward to become a great economy where we can pride ourselves to have grown our economy.

Mr. Temporary Speaker, Sir, I thank all my colleagues for the support that they have given this Bill. I hope that after we have passed this legislation, the young men and women of this country can proudly and confidently find their way into market places, streets and other areas of trade and enterprise where they can feel that they belong. They will have a place where they can go to. Even though the big wigs go to trade on the revolving chairs in the tenth floor of shielded buildings, even the small trades who have just the sky as their roof can also feel that they are Kenyans and have a place to trade because they are recognized. I believe that this spirit is echoed.

Mr. Temporary Speaker, Sir, I thank my colleagues for supporting this Bill. The hawkers, fishmongers, artisans, *boda boda* riders, *matatu* drivers, vegetable vendors, skin and hides dealers and everybody else who has been previously ignored because the size

of their enterprise and venture does not impress those that assess the value or contribution of people by the size will now have a chance.

Pursuant to Standing Order No.54(3), I request you to defer the putting of the Question to tomorrow.

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, You have contributed well. The Mover of the Bill has requested we defer the putting of the Question to tomorrow when we have the requisite numbers to vote.

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

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, it is now 6.30 p.m. It is time for interruption of the business of the Senate. The Senate now stands adjourned until tomorrow, Wednesday, 13<sup>th</sup> July 2016 at 2.30 p.m.

The Senate rose at 6.30 p.m.