

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 22nd September, 2015

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

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

PRAYERS

PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF VARIOUS COUNTY GOVERNMENTS

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I beg to lay the following Papers on the Table of the Senate today, Tuesday 22nd September, 2015:-

Report of the Auditor-General on the financial statements of the County Government of Meru for the 16 months period ended 30th June 2014.

Report of the Auditor-General on the financial statement of Embu County Government for the 16 months period ended 30th June 2014.

Report of the Auditor-General on the financial operations of Kiambu County Assembly for the period 1st July 2013 to 30th June 2014.

Report of the Auditor-General on the financial operations of Murang'a County Executive for the period 1st July 2013 to 30th June 2014.

Report of the Auditor-General on the financial operations of Kirinyaga County Assembly for the period 1st July 2013 to 30th June 2014.

(Sen. (Dr.) Khalwale laid the documents on the table)

NOTICE OF MOTION

ESTABLISHMENT OF A TASK FORCE TO SURVEY AND
FIX BEACONS FOR ALL COUNTY BOUNDARIES

Sen. Murungi: Madam Temporary Speaker, I beg to give notice of the following Motion:-

GIVEN the clear provisions of Article 6(1) and the First Schedule which establishes the 47 counties of the Republic of Kenya;

CONSIDERING the clear provisions of the Districts and Provinces Act (Cap 105A) of 1992 which specifically delineates the geographical boundaries of each county;

NOTING the provisions of Article 188 of the Constitution, which clearly states that the boundaries of a county be altered only by resolution of an Independent Commission, set up for that purpose by Parliament and with the support of at least two-thirds of the Members of the National Assembly and two-thirds of the county delegations in the Senate;

FURTHER NOTING that the boundaries of the counties have not been surveyed and no beacons have been fixed;

CONCERNED that failure by the National Government to mark and fix the county boundaries has led to endless and sometimes violent conflicts, in which innocent Kenyans have been killed and their property destroyed and is generally perpetuating poverty and underdevelopment in many counties of this Republic;

THIS HOUSE urges the Office of the President and the Ministry of Lands, Housing and Urban Development to urgently establish a task force to survey mark, and fix beacons for all the county boundaries and submit a report of the said taskforce to this House on or before 31st March 2016.

Sen. (Dr.) Machage: On a point of order, Madam Temporary Speaker, this House passed a Motion by Sen. Mutula Kilonzo Jnr. requiring that a commission is set up by the President to look into the boundaries of different counties. Is it, therefore, in order for the Speaker to allow this Motion to be discussed in this House at this time?

Sen. Murkomen: Madam Temporary Speaker, I know the process for approval of Motions by the Speaker. However, sometimes the Speaker may need someone to bring to his attention existence of a similar Motion. In this regard, there was not only a Motion by Sen. Mutula Kilonzo Jnr., but there is already a Bill which is about to be tabled in this House. We have approved it in the Committee on Legal Affairs and Human Rights. It is proposing detailed mechanism for dealing with boundaries.

So, I request Sen. Murungi that before the Motion is put on the Order Paper for future deliberations, to consult Sen. Mutula Kilonzo Jnr. and jointly perhaps, approach the Speaker with a view of merging the two processes. We do not want to deliberate again on something that we have already deliberated on and moved forward.

Thank you.

The Temporary Speaker (Sen. Ongoro): I will allow two other interventions on the same.

Sen. Khaniri: Madam Temporary Speaker, we, probably, do not expect you to make a ruling on this now, because the Motion was approved by the Office of the Speaker. However, in my understanding of this Motion, what Sen. Murungi is asking us to do is an illegality. The Motion says in part:-

“THAT, this House urges the Office of the President and the Ministry of Lands, Housing and Urban Development, to urgently establish a taskforce to survey, mark and fix beacons for all county boundaries and to submit report to the said taskforce---”

Madam Temporary Speaker, Article 188 of the Constitution, stipulates clearly how boundaries can be altered. Article 188(1) says:

“The boundaries of a county may be altered only by a resolution—

(a) recommended by an independent commission set up for that purpose by Parliament; and

(b) passed by—

(i) the National Assembly, with the support of at least two-thirds of all of the members of the Assembly; and

(ii) the Senate, with the support of at least two-thirds of all of the county delegations.”

Madam Temporary Speaker, it is explicitly provided for in our Constitution on how we should go about altering boundaries. The issue of the Office of the President setting up a taskforce will be an illegality in itself. This is where we came from and that is why we came up with the current Constitution which vests the power to alter boundaries in the Houses of Parliament and not the Office of the President. Sen. Murungi is taking us back to the old dark days.

Temporary Speaker (Sen. Ongoro): Finally on this, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, last week on the request of the Senate Minority Leader we stood down the First Reading of the County Boundaries Bill, so that the schedule on two counties, that is, Siaya and Bungoma, which had been inadvertently omitted by the Office of the Government Printer, can be included.

Madam Temporary Speaker, my only concern is that by approving this Motion, the Speaker’s Office might cause a conflict to the public; that we are proposing a Bill which provides the mechanisms of how county boundaries will be done. However, at the same time, we are asking the Office of the President to fix boundaries. The public will get confused as to what we are doing in the Senate. Therefore, we are sending the wrong signals.

Secondly, Sen. Khaniri has been waiting for the last several months about an issue he has raised with our Committee on Legal Affairs and Human Rights and many others. The other day, we challenged Sen. Sang when they came up with a taskforce on the issue about setting up polling stations in the United States because a taskforce had already been formed. It will pose a tremendous challenge when we appear to be blowing hot and cold in the Senate.

(Sen. Murungi stood up in his place)

Temporary Speaker (Sen. Ongoro): Sen. Kiraitu, I have not given you the Floor. Considering the fact that it is your Motion that is being discussed, allow the Chair to give a ruling to some observations by hon. Senators.

Sen. Murungi: On a point of order, Madam Temporary Speaker.

Temporary Speaker (Sen. Ongoro): Okay. Let me give you that opportunity to give your intervention.

Sen. Murungi: On a point of order, Madam Temporary Speaker. I would like to say the following on the comments made by my colleagues on my notice of Motion. If you look at the Notice of Motion, I read Article 188 which Sen. Khaniri is referring to because it says: "Noting the provisions of Article 188".

Article 188 talks about alteration of the boundaries while my notice of Motion does not talk about alteration of any boundary. According to me, the Districts and Provinces Act of 1992 had a Schedule which clearly states and gives geographical references of the districts per 1992. It is those districts which are now counties.

Madam Temporary Speaker, we are not requesting for alteration of any boundary because they are clearly stated in the Districts and Provinces Act of 1992. My Motion is merely asking that those boundaries which are clearly stated in that Act be marked by placing beacons and, under the Standing Orders, Article 188 does not apply.

The proposed Bill referred to has not come to the House. It is not before us and, therefore, the comments made by Sen. Murkomen are anticipatory. Therefore, he cannot refer to a Bill which is yet to be brought to the House to block my notice of Motion.

Secondly, regarding my friend, the Senator for Makueni, his Motion is about the review of boundaries which will be almost similar to what Sen. Khaniri is talking about; review or alteration of boundaries. However, mine is strictly for marking of boundaries. There is a difference.

The Temporary Speaker (Sen. Ongoro): Please, conclude your intervention.

Sen. Murungi: Madam Temporary Speaker, the review might bring changes to boundaries which are not what I am asking for.

The Temporary Speaker (Sen. Ongoro): Please, conclude your intervention. You are not contributing.

Sen. Murungi: Madam Temporary Speaker, I am just responding; kindly be patient with me.

The issues that Members are raising were actually raised at the Rules and Business Committee (RBC) and the "Queen of Kisii" was present in that meeting. The Speaker was very aware of the issues that are being raised. The Speaker approved this notice of Motion when he was well aware of Sen. Mutula Kilonzo Jnr.'s Motion and other arguments. I, therefore, plead with the Chair to allow me to give this notice of Motion.

Thank you.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. We must bring that to a conclusion. Let me start by stating that the Speaker is aware of the Bill by Sen. Mutula Kilonzo Jnr. Secondly, the Bill that was referred to by Sen. Murkomen is not yet a property of the House. Therefore, we cannot make reference to it.

Thirdly, I have quickly gone through this proposed Motion by Sen. Murungi. It is clearly not seeking to alter the county boundaries as this is already set out in the Constitution. Its main aim is to have the boundaries clearly marked to avoid conflict even before they are altered through Sen. Mutula Kilonzo Jnr.'s process.

In my opinion, having listened to your intelligent contributions and interventions, there is clearly some level of conflict. Therefore, based on that, the Speaker's Office requests that you bear with it to have a ruling on this matter tomorrow.

Next order!

STATEMENTS

DESTRUCTION OF INDIGENOUS TREES IN THE NORTH RIFT REGION

Sen.(Prof.) Lonyangapuo : Thank you, Madam Temporary Speaker. I rise to request for a statement from the Chairperson of the Standing Committee on Land and Natural Resources relating to the destruction of indigenous trees for charcoal burning in the North Rift region; West Pokot, Turkana, Baringo and Elgeyo-Marakwet counties. In the statement, I request the Chairperson to:-

1. State whether he is aware that there is a new trade that has replaced cattle rustling in the North Rift, along Kerio River, particularly in Kolowa Ward, neighbouring Tot in Marakwet and Chesegon in West Pokot in the form of destruction of indigenous trees for charcoal burning; and that this is facilitated by senior national and county government officials.
2. Explain what the relevant Government agency is doing to stop this dangerous activity in the region and in other areas throughout the country where such activities are being undertaken, given that recently, the Government wiped out illicit brews, drug barons and cattle rustling.

This is a new phenomenon that will interfere with our ecosystem. It will interfere with our ecosystem and environment.

The Temporary Speaker (Sen. Ongoro): We are still on Statements.

Please, proceed Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I rise to request for a Statement on the cost of the trip by His Excellency the President to the 2015 United Nations General Assembly in New York.

Sen. Murungi: On a point of order, Madam Temporary Speaker. The request for statement by the Senator for West Pokot County was to the Chairman of the Committee on Land and Natural Resources. However, I did not hear the Chairperson say anything about that Statement. Could he say when he is likely to bring a response before you call the next statement?

The Temporary Speaker (Sen. Ongoro): Sorry for that oversight. The Chairperson is in the House. Kindly proceed, Sen. Khaniri.

Sen. Khaniri: Madam Temporary Speaker, you did not give me an opportunity to respond. I did not want to rise and respond without permission.

For us to respond to this statement, we will need to get the answers from the Ministry of Environment, Water and Natural Resources. I am glad to report to this House that the Ministry has been very cooperative. Whenever we request for statements, they come quite timely unlike other Ministries that we deal with. I, therefore, give an undertaking that everything remaining constant, we should issue a statement in two weeks' time.

The Temporary Speaker (Sen. Ongoro): Are you satisfied with two weeks, Sen. (Prof.) Lonyangapuo?

Sen. (Prof.) Lonyangapuo: I am okay with two weeks.

The Temporary Speaker (Sen. Ongoro): It is so ordered.

Next Statement by Sen. (Dr.) Khalwale.

COST OF THE TRIP BY HIS EXCELLENCY THE PRESIDENT
TO THE 2015 UN GENERAL ASSEMBLY IN NEW YORK

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise to request for a statement on the cost of the trip by His Excellency the President to the 2015 United Nations General Assembly in New York.

Pursuant to Standing Order No.45(2)(b), I wish to seek for the above statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the trip by His Excellency the President to the said conference at the United Nations (UN) Headquarters in New York. In the statement, the Chairman should, among other things, address the following:-

(1) How many overseas trips has the President made from January, 2015 to date?

(2) Could the Chairperson clarify the composition and number of persons in the delegations in each of those trips?

(3) What has been the cost of each trip to the Kenyan taxpayer?

(4) Could the Chairperson confirm that there are over 40 Members of Parliament (MPs) in the President's Delegation to the 2015 United Nations General Assembly and explain their role in the trip considering that the Kenyan delegation is entitled to only 10 sitting slots at the General Assembly?

(5) What measures is the Government taking to cut down on the frequency and size of delegations in overseas trips in view of the admission by His Excellency the President that the country is facing a financial crisis, making it difficult for him to honour the Supreme Court's judgment to effect a salary increment to our teachers?

I, thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Where is the Chairperson of the Committee on Education? He is not in the House. Is the Senate Majority Leader or the Deputy Majority Leader around?

Hon. Senators: Point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Just a minute.

Sen. Keter: Madam Temporary Speaker, the issues asked by my brother, Sen. (Dr.) Khalwale are complex because besides being specific about the trip by His Excellency the President to New York, he went further to inquire about all the other trips

and make comparison to teachers. I propose you give us three months to respond to that. Will that be okay?

(Laughter)

Sen. Murkomen: Madam Temporary Speaker, what we call the substratum of the question in law is missing. By the substratum of the question, I mean the fact that the President has not gone anywhere. Therefore, Sen. (Dr.) Khalwale is anticipating the President going to New York. He should wait until the President travels before he makes allegations. There is no delegation in the first place. Therefore, how can one answer a question on something that has not occurred? He should wait until the President makes his trip. So far, there is no hurry as far as that question is concerned because the President is in the office.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, is the Senator for Elgeyo-Marakwet purporting to be the Chairman of the Committee on Finance, Commerce and Budget and, therefore, attempting to answer the question?

Madam Temporary Speaker, I am not responsible for the times of departure of the President. However, I know that the President will be attending the UN Conference in New York. Whether he left yesterday or will leave tomorrow, that is not the substance of the question. I did not ask – in my question – for when the President will be leaving. I asked about the cost of funding the trip.

Sen. (Dr.) Machage: On a point of order, Madam Temporary Speaker. If you listened carefully to the statement sought by Sen. (Dr.) Khalwale, he was trying to rethink the habit of the President going for conferences with a certain number of people who have no business there. Is he not in breach of Standing Order No.90 of this House?

The Temporary Speaker (Sen. Ongoro): Order, Senators! We must bring this to a close. Sen. Murkomen, I will allow you to have the last intervention on this.

Sen. Murkomen: Madam Temporary Speaker, I submit to you and to the House that the substance of the question is whether or not the President is going to New York. The question anticipates that the President will go to New York with a delegation. The question expects a chairperson of a committee to answer in anticipation. What is the hurry for? Sen. (Dr.) Khalwale should wait until the President goes for the trip then it will be easy to state that he went with a delegation. Why should you act as a Speaker of the Senate of the Republic of Kenya in vain by ordering for an answer to a question whose action has not occurred? That is the substance of the question.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we have to proceed. However, I have a copy of the request for the statement here and the issues are very specific.

- (a) How many overseas trips has the President made from January, 2015 to date?
- (b) Could the Chairperson clarify the composition and the number of persons in the delegation in each of the trips?"
- (c) What has been the cost of each trip to the Kenyan taxpayer?"

These are very specific issues. Therefore, when or if we get the substantive answers to these very clear questions, then, those interventions could be considered. Anything that will be out of order will then be considered.

Meanwhile, now that the Senate Majority Leader is in the House, could he undertake to tell us when we will receive a substantive answer to this request?

Sen. Keter: Madam Temporary Speaker, I thought that I was doing that as the Deputy Senate Majority Leader. I made my commitment because we want to give a very comprehensive answer in comparison to very many years.

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Khalwale, are you okay with three months?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the distinguished Senator for Kericho requested for three months. However, considering the mood in the country and the State of the Nation Address by the President on Sunday where he tried to justify why he cannot pay teachers; Kenyans, especially teachers and parents, are eager to know how much money is spent elsewhere that could possibly save the crisis in the education sector.

Madam Temporary Speaker, I, therefore, request that he brings the answer – since it is just a matter of going to records at the national Treasury, the Ministry of Foreign Affairs and International Trade and the Office of the President (OP) – next week on Thursday.

The Temporary Speaker (Sen. Ongoro): Thursday would be too soon because one of the trips will still be ongoing. Are two weeks sufficient for you, Deputy Senate Majority Leader?

Sen. Keter: Madam Temporary Speaker, why can we not issue it in one month's time so that we come in between? One month will be in the next two weeks. We can give an answer in a month's time because we have to deal with the foreign affairs office. Even some Members of Parliament sometimes accompany the President on some of those trips. It is not one organ we will deal with to come up with a comprehensive statement. That is why we need at least a month.

Temporary Speaker (Sen. Ongoro): Sen. Khalwale, could we reach some compromise and give him three weeks?

Sen. (Dr.) Khalwale: Most obliged, Madam Temporary Speaker.

Temporary Speaker (Sen. Ongoro): Fine. I think three weeks is reasonable.

Let us move on with statements. It has been brought to my notice that some Statements are due and the hon. Senators are in the House.

ISSUANCE OF TITLE DEEDS IN MERU COUNTY

Sen. Murungi: Thank you, Madam Temporary Speaker. I want to request a Statement regarding the issuance of titles in Meru County.

I hereby request the statement from the Chair of the Standing Committee on Lands, Housing and Urban Development clarifying the following issues.

(1) How many titles have been processed and issued in Meru County since Madam Charity Ngilu, the Cabinet Secretary for Lands, Housing and Urban Development stepped aside on 29th March, 2015?

(2) How many titles in total have been issued in each adjudication section in Meru County, so far?

(3) How many titles have not been processed and issued in each of the adjudication sections?

(4) When will the remaining titles be issued in view of the President's pledge to the people of Meru that all the titles would be issued by December 2015?

(Sen. Khaniri stood up in his place)

Temporary Speaker (Sen. Ongoro): Why are you standing, Sen. Khaniri?

Sen. Khaniri: Thank you, Madam Temporary Speaker. I would not say the same of the Ministry of Lands, Housing and Urban Development. What I said of the Ministry of Environment, Water and Natural Resources is that when we request for Statements, answers come promptly. However, it is exactly the opposite of what happens when we do this in the Ministry of Lands, Housing and Urban Development. Records will show that sometimes it takes us even two months to receive statements from this particular Ministry.

Madam Temporary Speaker, having said that let me give an undertaking that in three weeks---

(Loud consultations)

Temporary Speaker (Sen. Ongoro): Order, Sen. (Dr.) Khalwale! Please, consult in low tones.

Proceed, hon. Senator.

Sen. Khaniri: Madam Temporary Speaker, I will endeavour to make a response to that particular request in three weeks' time. Whether the response is there or not, I will report progress in the House.

Temporary Speaker (Sen. Ongoro): Sen. Murungi, are you okay with three weeks?

Sen. Murungi: On a point of order, Madam Temporary Speaker---

Temporary Speaker (Sen. Ongoro): Do you like to inform the Chair or Sen. Murungi?

Sen. Murungi: Thank you, Madam Temporary Speaker. This House cannot tolerate incompetence from any Ministry. Therefore, for the Chairman to come here and say he has problems with the Ministry of Lands, Housing and Urban Development, is not fair at all. If he has a problem, he should ask the Chair to summon the Cabinet Secretary for Lands, Housing and Urban Development here so that we can deal with him as a House. He should not call upon us to assist him in the cover up of inefficiency in the Ministry. So, I need an answer in two weeks.

Sen. Ong'era: Thank you, Madam Temporary Speaker. I am seeking a clarification to that question asked.

What is the relevance of the name of the former Cabinet Secretary, the Hon. Charity Ngilu in that question? Why is her name coming up, when clearly know that we

have our illustrious son from Kisii Hon. Fred Matiangi who is the Acting Cabinet Secretary in that Ministry right now?

I do not know what inefficiency has been brought in because I have just heard the distinguished Senator for Meru say that there is inefficiency from that Cabinet Secretary. I do not know how that connects with the question.

Sen. Khaniri: Madam Temporary Speaker, in requesting for three weeks, I was, indeed, going by the trend in which we receive answers from this particular Government department and I wanted to be very sincere to the House. I do not want to make promises that I will not be able to fulfill. The difference between two weeks and three weeks is not much.

As pertains to the issue of incompetence, I want to inform Sen. Murungi that I am not anywhere near the appointing authority of Cabinet Secretaries and their offices. If there is incompetence in these ministries, it is this Jubilee Government that is supposed to deal with that and not me as a Chair of a Committee.

Sen. (Prof)Lonyangapuo: Madam Temporary Speaker, is Sen. Ong'era in order to personalise and reduce a Cabinet Secretary by saying 'our Gusii?' He is not a Gusii, but he is the Cabinet Secretary for the whole country and should serve all Kenyans. We do not want to know the tribe.

Sen. Murkomen: Madam Temporary Speaker, any Chair or a Vice Chair or a Member of a Committee who is unable to discharge his function, should not divert or give excuses that this side of the House or the other side is supposed to deal with it. If there is any incompetence in a committee, it is not a political party issue.

If Sen. Khaniri and his Committee are unable to deal with that Ministry, he should start by demonstrating his competence by resigning from that committee.

Sen. Ong'era: Madam Temporary Speaker, I do not think the distinguished Senator from West Pokot heard what I said. I said our illustrious son from Kisii who is the Acting Cabinet Secretary in the Ministry of Lands, Housing and Urban Development. I did not say that the illustrious son happens to be a Gusii. I said our illustrious son who is a Gusii from Kisii. That is a fact that is known in the public. I am merely stating a fact.

Temporary Speaker (Sen. Ongoro): Are you okay with the three weeks requested?

Sen. Murungi: Thank you, Madam Temporary Speaker. I was asking about Hon. Charity Ngilu. The reason the name of Charity Ngilu features in my request for Statement is because when she was in the office, we received very many title deeds. There was a title centre which was operating even at night. Now it has been closed down.

Madam Temporary Speaker, I did not say that my friend, Dr. Matiangi is incompetent. Indeed, he is a very competent person. However, he does not work alone in that Ministry. Sen. Khaniri was talking about the Ministry; he did not talk about a person. The question is: Could we have the same number of titles issued as they were issued during Charity Ngilu's time until 29th March when she stepped aside?

Considering the number of titles issued afterwards, this House can judge for itself whether that Ministry is performing well or not. We are not here to cast aspersions, but we want to deal with facts. This has nothing to do with the personality of Dr. Matiangi who is there in an acting capacity.

Temporary Speaker (Sen. Ongoro): Hon. Senators, the statement sought by Sen. Murungi is quite clear. What we need to know is whether you are okay with the three weeks time requested? To me, three weeks is reasonable time.

Sen. Murungi: Madam Temporary Speaker, I believe they can do so within two weeks' time. These are just statistics that we are looking for; so, why three weeks? Even a clerk can sit down and---

The Temporary Speaker (Sen. Ongoro): Sen. Murungi, we have just granted three weeks on another request.

Sen. Murungi: Madam Temporary Speaker, Sen. (Dr.) Khalwale's issue was very complex.

The Temporary Speaker (Sen. Ongoro): Three weeks for the answer should be considerate.

Sen. (Dr.) Khalwale, what is your intervention?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I rise on a point of order on a matter of procedure. The procedure in Parliament is that everything uttered here is put on record in the HANSARD. Are you satisfied that remarks by Sen. Murungi bordering on tribute to hon. Charity Ngilu on how she performed her duty should remain on record given that arising from the number of days she was at that docket, she has since been suspended?

She is facing charges of corruption at the Ministry of Land, Housing and Urban Development, including the Karen land saga where four Senators of this House have been sued. These are Sen. Orengo, Sen. (Dr.) Khalwale, Sen. Ongoro and Sen. Muthama. Is he in order to pay any tribute to hon. Ngilu when she is being investigated for corruption and she is suing us as the whistle blowers?

The Temporary Speaker (Sen. Ongoro): Order, Senators! We have to bring this to an end. I honestly find nothing wrong with the Statement as sought and even the further clarification by Sen. Murungi. All that has been directed to a Senator who is a sitting Chair and is in the House. When and if he brings the answer, Members can then engage in further interrogation. Otherwise, three weeks for the answer to be issued is sufficient.

Let us proceed to the next Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget.

Proceed, Sen. Leshore.

Sen. Leshore: Thank you, Madam Chair. I wish to seek a statement---

The Temporary Speaker (Sen. Ongoro): Order! It is, Madam Temporary Speaker.

REVENUE COLLECTION FROM SAMBURU NATIONAL GAME RESERVE

Sen. Leshore: I am sorry, Madam Temporary Speaker. I wish to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding revenue collection from Samburu National Game Reserve.

I do not see the Chairperson here. I requested this Statement five months ago.

The Temporary Speaker (Sen. Ongoro): This was a serious oversight on the Order Paper. This Statement was sought almost five months ago. Today we were supposed to get to it.

Hon. Senator, as you can see the Chairperson is not in the House.

The Senate Majority Leader, can you tell us when Sen. Leshore will get this statement because it is five months now since it was sought. Could you give us an undertaking because you are in the House?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, on behalf of the Chairperson of the Committee on Finance, Commerce and Budget, I request for two weeks. I will personally discuss with the Chairperson and ensure that this Statement is submitted within two weeks.

The Temporary Speaker (Sen. Ongoro): Sen. Leshore, will you be patient to wait for two more weeks? That will be five months and two weeks.

Sen. Leshore: Madam Temporary Speaker, I will be out of the country for about three weeks.

The Temporary Speaker (Sen. Ongoro): So, one week.

Sen. Leshore: Madam Temporary Speaker, if the Senate Majority Leader can bring it on Thursday, I will appreciate.

The Temporary Speaker (Sen. Ongoro): Senate Majority Leader, this Statement is five months old. It would only be in order if we added you two days, so that you bring it on Thursday.

Is Thursday okay with you, Sen. Leshore?

What is it, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: On a point of order, Madam Temporary Speaker. I want to help the House. Last week, we discussed this matter extensively. We have sent four letters to the Cabinet Secretary, but he has not responded. We have asked the Clerk to issue a summons to the Cabinet Secretary and the Kenya Wildlife Service (KWS) next week in order for us to deal with issue once and for all.

The Temporary Speaker (Sen. Ongoro): Sen. Leshore, you have listened to a Member of the Committee. It seems not to be possible this week. Next week, you will be out of the country.

Sen. Leshore: Madam Temporary Speaker, I will be around from mid-October.

The Temporary Speaker (Sen. Ongoro): You are going away for a whole month?

Sen. Leshore: Madam Temporary Speaker, about three weeks.

The Temporary Speaker (Sen. Ongoro): Is three weeks okay?

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, we will have a response when the Senator is back from his trip.

The Temporary Speaker (Sen. Ongoro): Very well. Let us proceed.

The next Statement was supposed to be given by Sen. Haji, the Chairperson of the Standing Committee on National Security and Foreign Relations. The Statement was sought by Sen. (Prof.) Lonyangapuo. The Chairperson is not in the House. Is any Member of the Committee present?

Senate Majority Leader, give us an undertaking on when we can get this answer. This Statement is also quite old.

KILLINGS IN MT. ELGON CONSTITUENCY
IN BUNGOMA COUNTY

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, the Chairperson of the Committee on National Security and Foreign Relations is out of the country. So, I request for two weeks so that, hopefully by that time, he will have come back. We will ensure that it would be submitted.

(Statement deferred)

The Temporary Speaker (Sen. Ongoro): Okay.

ONGOING PROPERTY DEVELOPMENT AT THE JUNCTION OF
LORESHO RIDGE ROAD AND LOWER KABETE ROAD

The next Statement was sought by Sen. Kembi-Gitura who is also not in the House. However, we have the Vice Chairperson of the Committee on Land and Natural Resources here. However, we will have to skip it because Sen. Kembi-Gitura is not in the House.

(Statement deferred)

Sen. (Prof.) Lonyangapuo: On a point of order, Madam Temporary Speaker. I appreciate your ruling. However, since there are Members of that Committee on National Security and Foreign Relations in this House and the written answer has been with the Chairperson; would it not be in order that any Member can read it this week or latest next week, rather than postponing it? This is a matter concerning deaths. We want the people who killed these boys to be arrested.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, to the best of my knowledge and because I know all the Members of all Committees, I do not see any Member of the Committee on National Security and Foreign Relations in the House. If you know any, please, bring it to my attention.

I am a Member of that Committee, but I am on the Chair. Therefore, I cannot respond and read that statement. So, we will skip that too because the Chairperson and any Member of the Committee is not here.

We proceed with statements. We need to bring this item to a conclusion.

ACCESS TO FINANCES BY THE YOUTH, WOMEN
AND PWDs TO EXECUTE TENDERS WON

The next Statement was sought by Sen. Chelule from the Chairperson of the Standing Committee on Labour and Social Welfare. Sen. Chelule is in the House. Where is the Chairperson or any Member of that Committee?

Senate Majority Leader, undertake when your Chairperson will be in the House to issue this statement.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I am sorry, Madam Temporary Speaker, I was consulting. Which Statement is that?

The Temporary Speaker (Sen. Ongoro): The Statement is on the next page.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, the one on the Committee on Labour and Social Welfare?

The Temporary Speaker (Sen. Ongoro): Yes.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, again, if you could allow, there is a point of order for help.

The Temporary Speaker (Sen. Ongoro): Proceed, Sen. Kisasa.

Sen. Kisasa: Madam Temporary Speaker, I am a Member of that Committee. We will issue the Statement in two weeks' time.

The Temporary Speaker (Sen. Ongoro): I kept asking if there was a Member of the Committee and you were just seated.

Sen. Kisasa: Madam Temporary Speaker, I am present and alive.

The Temporary Speaker (Sen. Ongoro): Sen. Chelule, is two weeks fine with you?

Sen. Chelule: Madam Temporary Speaker, as much as Sen. Murkomen is claiming that Sen. Mshenga Kisasa is my friend, this is not a matter of friendship. I requested for this statement about one and half months ago. I also requested for the same last week. I was promised that they would give me answers this week. I now seek for your guidance. I request her to tell me exactly when the Committee will give us the answer.

The Temporary Speaker (Sen. Ongoro): You are not comfortable with two weeks?

Sen. Mshenga Kisasa, could you undertake to bring an answer on Thursday?

Sen. Kisasa: Madam Temporary Speaker, Thursday, this week is okay with me.

The Temporary Speaker (Sen. Ongoro): The leadership of the Senate should take it seriously to prevail upon Chairs to always be in the House to give answers to statements sought.

We will skip the statement sought by Sen. Kanainza because she is not in the House. The last statement was sought by Sen. Ntutu from the County Public Accounts and Investment Committee (CPAIC).

STATUS OF VARIOUS PROJECTS IN NAROK
COUNTY GOVERNMENT

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to register my disappointment with the Government in the way they are driving requisition for statements. Even after three months and the Chair directing last week that the answer be here today, I have only been given a letter to read to the House from the County Secretary of Narok County. I will not waste the time of the House by reading it. He is merely saying that he wants us to allow him to give us an answer within 14 days.

I believe that the County Secretary is giving my Committee the go ahead because we have been rotated enough. Therefore, I leave it to the discretion of the Chair to either give further direction. If the Chair could bear with me, I will tell the House what we, as a Committee, have chosen to do.

The Temporary Speaker (Sen. Ongoro): Tell the House what you have chosen to do as a Committee.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, we have decided to apply the force of law on the Governor of Narok County. Therefore, we are demanding that he brings the written Statement in person to the Committee on the 6th of October which is exactly 14 days that he has requested for.

We want him to come in person because we do not want to let this answer follow on that day, for the reason that there are vital documents that we need. These are copies of the bank statements for his county government for the months of February, March and April 2014.

We would also like him to come with a record of the revenue as recorded in the Mara Triangle Website during those periods. This would enable us to see the veracity and usefulness of the Statement that I would be bringing to the House on that day.

Sen. Murkomen: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Sen. Murkomen, what is out of order?

Sen. Murkomen: Madam Temporary Speaker, to the best of my knowledge, as a Member of that Committee, we only agreed that our Chairman will read the statement as it is. We did not agree that it had come to a stage where we will issue summons.

I wish you could hear me on this because it is important for your determination. I wish the Chairman had read the letter. The argument in the letter is that we sent our own request for statement late and they received it---

(Loud Consultations)

Madam Temporary Speaker, could I complete what I am saying?

Sen. (Dr.) Machage: Madam Temporary Speaker, you have noticed an argument between Members of one Committee so ably chaired by their Chairman who has given a statement in this House.

Is Sen. Murkomen in order to dispute the Chair's response in this House? I am told that he does not attend meetings.

Sen. Murkomen: Madam Temporary Speaker, procedurally, you gave the Floor to Sen. (Dr.) Machage illegally because I was on a point of order.

I am facing the same challenge in my Committee that I Chair, where requests made for questions that are related to counties are delayed inordinately. We, as the Senate, must take responsibility through our staff. If we sent letters late, we cannot take punitive measures against those whom we request the letters from. That is the point I was making. If the letter had been read as it is, then it would explain why there was a delay in getting the answer. A request for two weeks is reasonable for me.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, this is very sad because the Senator for Elgeyo-Marakwet is a Member of the County Public Accounts and Investment Committee. For him to purport and assume that whenever he departs from the meeting, it then registers the end of the meeting is misleading the House.

He left the meeting before the meeting ended. The matter on which we found the Office of the Clerk at fault, in terms of writing to a county government on time, was not in respect to Narok County. It was in respect to Kakamega County.

I want to insist that if we will fight corruption in this country, Hon. Senators should not use the Floor of this House or their membership in committees to protect governors who are Members of their political parties.

It is a matter of public notoriety that the Governor of Narok belongs to the same party with Sen. Murkomen. Therefore, I would like Sen. Murkomen to withdraw and apologize for imputing improper motives on his own Committee and on the Chairman.

We have committed ourselves to fighting corruption. We have lost Kshs53 million---

The Temporary Speaker (Sen. Ongoro): Order! Anybody who seeks an intervention should log in and they will be given a chance.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, we are talking about a serious matter and our country is watching. A sum of Kshs53 million collected in February, March and April has been declared as not collected by the governor. The money is gone. The Senator has approached the Committee to unlock the crisis. So, when a Member of the Committee starts talking like this, the public can be forgiven for thinking that my Committee has been penetrated by the governor.

I want to assure the House that we shall get to the bottom of the loss of Kshs53 million in Narok County.

Sen. Ntutu: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): I had given the Floor to Sen. (Prof.) Lonyangapuo. However, if you are on a point of order, I will give you the Floor.

Take your seat, Sen. (Prof.) Lonyangapuo. Sen. Ntutu has requested for a point of order so that precedes yours.

Sen. Ntutu: Madam Temporary Speaker, even though there are some complains here and there, we do not have to worry much because those are flying briefcases, which are benefiting some few individuals in the House.

(Applause)

This issue of Narok County is becoming serious. This is the fifth time. They have been postponing it, telling me to wait until next week. I am even shocked to hear a Senator asking how do you arrive at Kshs53 million? How does he know? Is it because of the flying briefcases, and that you are one of the beneficiaries?

(Loud consultations)

Temporary speaker (Sen. Ongoro): Order, Senators! That is a serious allegation now. We cannot---

(Loud consultations)

Sen. Ntutu: Madam Temporary Speaker---

Temporary speaker (Sen. Ongoro): Order! I have not given you the Floor. You have to take your seat.

(Several hon. Senators stood up in their places)

Order, hon. Senators! We must maintain some order in this House. Anybody wishing to make a statement---

(Loud consultations)

Order, hon. Senators! We must maintain order. Otherwise, I will ask the Serjeant-At-Arms to kindly request you to leave the Chamber peaceful. I will give everybody an opportunity to speak, but you must make sure that request is in an orderly manner.

Sen. Murkomen: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Order, Sen. Murkomen. I am about to give you the Floor. However, under those circumstances, you are making it very difficult. Proceed.

Sen. Murkomen: Madam Temporary Speaker, first of all, I want to dare the Senator for Narok not to pretend to hide behind the Parliamentary privilege to insult other Senators. I am an intelligent person and I know what I am doing. I am not a beneficiary of any money from Narok County. I dare him to mention the same outside this door.

Secondly, he must substantiate because the Standing Orders are very clear. If he mentioned anything regarding any Senator, he must bring a substantive Motion. He must substantiate that point.

Most importantly, the Chair of my Committee has hidden facts contained in the letter. That is why I insisted that he should read the letter, but he did not read it.

To the best of my knowledge, this letter says:-

“We acknowledge the receipt of your communication vide email dated 16th September 2015, asking us to provide information on the Statement to Senate. This is, therefore, to inform your office that the county government is currently compiling the necessary data and we undertake to provide the necessary

information within the next 14 days.”

Madam Temporary Speaker, you remember in my interventions I said that if it is true that the Senate is sending letters late; the date of 16th September, 2015 is just a week ago. This is not a problem facing the Committee chaired by Sen. (Dr.) Khalwale alone, but also my Committee. The first point and I intervened in this House, was to say, if we ask questions in this House before we go on recess, but the only time it reaches the people who are supposed to respond is just last week---

I stood up in this House to say if it is true that we sent the letter late, then the county government is right to request for 14 more days. It is supposed to be the Chair's ruling that 14 days is long, but let us give them one week. How comes now Sen. (Dr.) Khalwale was portraying that myself and the governor belong to the same political party? Where does the issue of political parties come in? Where does the issue of being a beneficiary of “flying briefcases” from Narok County come in?

Temporary speaker (Sen. Ongoro): Order, Senator! Please, conclude.

Sen. Murkomen: We, as Senate, must be serious! The Senator for Narok is rarely in this House. His contributions in this House are close to nil. Then on one day he comes to insult me.

Temporary speaker (Sen. Ongoro): Order, Senator! We are now becoming unruly.

I have been listening very keenly to all deliberations. First and foremost, I am aware that if any Senator is adversely mentioned, then substantiations should follow. However, as I listened to Sen. Ntutu, I heard him say “some Senators”. He did not mention any name. I am not aware of any Senator in this House called “some”. So, all we need from him is to substantiate which Senators he was making reference to. As it is now, he has not mentioned any names. I want to request that we proceed because given the manner in which we are proceeding, it is now becoming a bit heated. We need sanity to reign so that we can proceed. I will give the Floor to three Senators to bring this matter to a conclusion.

Sen. Musila: Thank you, Madam Temporary Speaker. I just want to mention for the purpose of record that what has happened today is unprecedented. It has never happened in the history of Parliamentary procedure where, a Chair gives a Statement and a Member contradicts the same statement. If there are any differences, they should be resolved within the Committee.

This House has been treated to something that should not be allowed to happen in the future. Indeed, I am informed that Members of a county assembly are here to learn about procedures. I hope they do not learn this procedure, because it is not a right procedure. It should not be allowed to happen in this House.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I sit in the same Committee and I also sit in the other Committee on Finance, Commerce and Budget. Where the same issue of Narok came up and was dealt with in the House. Sen. Murkomen rose because our Clerks who were supposed to have dealt with the Narok

County, three months ago, never did anything. It is not until last week on Wednesday when they sent this email.

Therefore, it is not good to start crucifying and imputing any improper motive on any county or any Senator here until the process is duly followed. We also need our Clerk and his team to make sure that they do not put us in the current scenarios in the committees. In this case, I agree with my Chairman that we can deal with it in the next 14 days. However, we should not mention it if we have not processed it.

Sen. (Dr.) Machage: Madam Temporary Speaker, I rise under Standing Order No.90(3) which states as follows:-

“It shall be out of order to use offensive or insulting language whether in respect of Senators or other persons.”

You can read sub paragraph (4) for yourselves. Sen. Ntutu said some Senators in this House have received briefcases. Any of us could be mentioned in that list of Sen. Ntutu.

I rise on this Standing Order to demand substantiation from Sen. Ntutu on who received briefcases - I assume - with money, as a form of bribery which was used to cover up the case of Narok. Otherwise, he should withdraw the statement.

Temporary speaker (Sen. Ongoro): I was very clear in my ruling, when I said that the use of the word “some” could refer to any one of us, not one particular person. What we would then seek is further clarification from the hon. Senator. He should give specific names. If he did, that would have been in order in that line of argument. But so far, I simply clarified that he did not mention any specific person.

(Applause)

He said “some Senators”. The word “some” could refer to anybody. There is no Senator in this House whose other name is “some.” So, I give the Floor to the Chairman to give his final submission on this matter and we bring it to a close.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, have we found the Office of the Clerk in the wrong in terms of communication? Sen. Murkomen, you missed the debate last week. The reason the Clerk gave seven days is because last week we went through an e-mail and the same County Secretary (CS), requested for 14 days. However, the Speaker then indicated that this issue had been around for too long and, therefore, directed that the answer be given today. It was on the force of that that an e-mail was written and this CS then, confirmed that he would be ready today. So, the Office of the Clerk is not at fault.

Madam Temporary Speaker, the final issue which I wish to clarify is the position by Sen. Ntutu. When I spoke of “lost funds”, I was basing that on the issues raised by Sen. Ntutu. We have found that in interrogating the position of collection vis-à-vis banking of funds in that county, in the month of February, Kshs21,686,950 was recorded as having been collected. However, the Kshs21 million did not arrive in their account in Co-operative Bank. In March 2014, a sum of Kshs17.2 million was collected. Again, it was not banked. Finally, a sum of Kshs14.9 million was collected, but it was not banked. A total sum of Kshs53 million.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, are you already answering this question?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am clarifying. He had asked where we are getting the figures of millions that we are mentioning. I am clarifying that this is evidence. His perpetual missing of meetings puts him at a disadvantage for him to make an intellectual and intelligent participation in this particular debate. Do not give the impression that our Committee is not up to the task. You are urged to attend meetings.

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Order, Senators! That matter comes to an end. We must proceed. It is 3.50 p.m. It is now time for us to proceed with other matters of the Senate.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM VIHIGA COUNTY ASSEMBLY

Hon. Senators, I am pleased to acknowledge the presence, in the Speaker's Gallery this afternoon, of a delegation from Vihiga County Assembly. The delegation is in Nairobi County on a benchmarking visit to share experiences on the management of the affairs of a legislature.

I request each member of the delegation to stand up when called out so that they may be acknowledged in the Senate tradition. The members are as follows:-

Hon. Daniel Chitwa	–	Speaker of the County Assembly
Hon. Richard Muhiga	–	Deputy Speaker
Hon. Pamela Amunga	–	Member
Hon. Gladys Analo	–	Member
Hon. Stephen Mulagitsi-	–	Member

The delegation is accompanied by the following officers of the county assembly:-

Mr. Kennedy Kulali Okang'a

Mr. Joseph Olumula

Ms. Nancy Aseyo

Ms. Judy Osire

Mr. Victor Chadiva

(Applause)

On behalf of the Senate and on my own behalf, I welcome you to the Senate and I wish you well for the remainder of your programme.

Thank you.

Sen. Khaniri: Madam Temporary Speaker, allow me to join you in welcoming the distinguished delegation from the great Vihiga County. I take this early opportunity to

thank the Speaker of the Senate for putting together a programme that involves inviting county assemblies to benchmark and learn from the Senate.

The importance of county assemblies in ensuring success of devolution cannot be gainsaid. We fully rely on them to ensure that the funds that we send to our counties benefit the people in those counties. I know that they have a lot to learn from the Senate. I wish them a fruitful stay, but pray that they do not learn what they just observed this afternoon during the session that we have just ended. Otherwise, I wish them a fruitful stay in the Senate.

Sen. Chelule: Thank you, Madam Temporary Speaker. May I also take this opportunity to welcome members from Vihiga County Assembly. It is unfortunate that they came at a time that we had some issues among ourselves. However, they must be learning a lot.

I hope they know that we, as the Senate, are here for them since we represent counties. We believe that they will deliver to the people of this country because we want devolution to succeed. It will not, if they will not be alert. No wonder my fellow Senator from Vihiga County was very much alert talking about parties.

In the Committees, we do not work on the basis of our political parties, but we deal with issues pertaining to the people of this country. It was very unfortunate to mention political parties.

Sen. (Prof.) Lonyangapuo: Thank you, Madam Temporary Speaker. I join Sen. Khaniri and the House in welcoming the delegation of hon. Members and staff from Vihiga County Assembly. This is what we do in the Senate. We have just done our work; looking at the audited reports of the Auditor-General.

However, allow me to read the role of the Senate Article 96(3) which says:-

“The Senate determines the allocation of national revenue among counties, as provided for in Article 217, and exercises oversight over national revenue allocated to the county governments.”

Madam Temporary Speaker, what is not mentioned here is the local revenue, which is similar to the one that we have just dispensed with on Narok County. I know in Vihiga County, you have a lot of bananas and businesses going on there, where local revenue is generated a lot. The role of the county assembly is to look at how the local revenue is actually spent and how work is being done. So, for most of the work that the Senate does, you are supposed to be the serious watchdog on the ground. You are the people that we depend on 100 per cent. If you go to bed with some governors, we are done.

I thank them for coming and wish the people of Vihiga County well.

Sen. Murkomen: Madam Temporary Speaker, on my own behalf and the Committee on Devolved Government, I congratulate the team from Vihiga County led by my friend, Speaker Chitwa, whom we schooled together. This is really the kind of relationship that we should be having with county governments. This is the right place for them and where the Constitution mandates us to protect the interests of counties as passionately as we do, as well as protect the Constitution.

I congratulate Sen. Khaniri and for avoidance of doubt, he is one of the most hard working Senators. In this House we call him the “Senator of rules”. His business is to

keep us within the rules and the Standing Orders. He does what he does best and we are told he took over from the late legendary Martin Shikuku.

Madam Temporary Speaker, we are very happy to have teams from the counties and we welcome them. Through the County Assemblies Forum, they should encourage many more county assemblies to visit us.

The Temporary Speaker (Sen. Ongoro): There being no further requests on this, let us now move on to the next order.

Sen. Murkomen, please, approach the Chair.

COMMITTEE OF THE WHOLE

The Deputy Speaker (Sen. Ongoro): Hon. Senators, because we do not have the numbers, I will defer Order Nos.8, 9 and 10 and we move to the next Order.

THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO.1 OF 2014)

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL (SENATE BILL NO.20 OF 2014)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILL NO.32 OF 2014)

(Committee of the Whole deferred)

BILL

Second Reading

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILL NO.35 OF 2014)

Sen. Sang: Madam Temporary Speaker, the Bill is being moved by Sen. Mutula Kilonzo Jnr. then I will be seconding it.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. I rise to move the Bill for the Petition to County Assemblies (Procedure) Bill 2014 (Senate Bill No. 35 of 2014). I want to express in a usual manner my disappointment that we have taken too long debating this straight forward Bill and the Petition to County Assemblies.

Without wasting time, the procedure for Petitioning the Senate under Article 119 is replicated in the Constitution under Article 37. For the avoidance of doubt and record, I would read into the record that every person has a right peacefully and unarmed to assemble, demonstrate, picket and present the Petitions to public authorities. The Legal Affairs Committee drafted a Bill that I am moving.

Madam Temporary Speaker, the Bill is ostensibly to ensure that we have uniformity of legislation. We, as a Committee, are aware that it is possible that there is a procedure provided for in the county assemblies respective Standing Orders. However, in order to have uniformity of legislation and procedure in the manner in which those Petitions will be moved, the Legal Affairs and Human Rights Committee then prepared this Bill, hence my disappointment that we have taken so long.

I am convinced that had this Bill been enacted, some of the Petitions we have received in this Senate would easily have found themselves on the floor of our respective county assemblies. The questions that we Senators are asked when we go to our respective counties could be answered at the county assembly level. The purpose is that we must be accountable to the people who elected us and whom we represent. If they have an issue, it must be addressed in a form which can have some force of law.

In the Memorandum and Objects and reasons, we have stated the purpose, reasons and the procedure so that we harmonize it. We have provided, under Section 3, the form under which that person will file this petition. The petitioner is also defined as any person under the County Government's Act Section (1) and Section (3), in order to ensure that our electorate in the counties can present a petition that is fairly capable of being determined in a manner that is understood.

The petition should be handwritten, printed or typed so that we allow the people out there to even present a handwritten Petition. It should be in English or Kiswahili under the Constitution; should be free from alterations, should be addressed to the county assembly, should clearly indicate the subject matter and indicate whether there have been any efforts to address the issue to any relevant body and whether there has been any outcome.

Madam Temporary Speaker, the petition that will be filed by the citizens to the county assembly will indicate also whether there is any pending court process so that we can take care of the issue of *sub judice*. We do not want our county assemblies to violate the principle of *sub judice* by discussing matters that are pending before another court so that we can respect the principle of separation of powers.

It should also be clear that the prayers cite a definite object; we do not want love letters in our county assemblies. It must be clear, have an objective and must identify either by a thumbprint or a signature of the petitioner so that we are clear that the Petitions are not anonymous. Anonymous petitions will not be accepted at the county assembly. We want the person filing this petition to be courageous enough to face the county assembly members by appending their signature or thumbprint in order for us to be sure that that person is not a fraudster.

The petition will not have letters, affidavit or any other documents attached to it. In the case of a petition presented by a Member of a County Assembly (MCA) on behalf of a petitioner; he must be able to sign. We have replicated the procedure like the one we are using in the Senate where a MCA, or a Senator like most of us have done, will be able to present a petition just like the one Sen. (Prof.) Lonyangapuo presented on behalf of the retired councillors which is causing a lot of mayhem. Nonetheless, the procedure is the same.

The petition will be submitted to the Speaker who will then receive it, notify, give it identification and a stamp. Once the Clerk is satisfied that the petition meets the requirements that I have read in Section (3), he will then commit it so that it is tabled in the House in the similar manner as the way petitions are read in our Senate before any business is commenced.

Madam Temporary Speaker, we have also provided timelines so that the petition does not lie in the county assembly for eternity. That petition decision within 15 days will have to be communicated to the petitioner as to whether the petition has been accepted and with reasons because it is required by law.

The record of the decision must be provided to the petitioner in line with the fair Administrative Action Act signed into law by His Excellency the President where all public bodies, including the Senate and the county assembly, where a decision is made based on a request by a citizen. That decision must be in writing and communicated to the petitioner. Similarly, so that we do not have endless procrastination of these decisions just like is provided under the same law, the fair Administrative Action Act in this law, we have given a 15 day deadline.

Fifteen days are reasonable enough considering we do not expect that a person from a different county will file a petition in another county assembly. It is fairly straightforward that within 15 days, the county assembly ought to be able to determine this Petition and issue a decision thereof.

Madam Temporary Speaker, in fact going back to the way the county assemblies have been determining their issues, you are aware in terms of budgets, the MCAs are going to the public and telling them to give them their views about the budget implementation. After the end of any financial year, the citizens do not know why their views are rejected or accepted. They also do not understand why their projects are not implemented and what happens to that budget.

Madam Temporary Speaker, I want to tell the citizens of this Republic that instead of waiting for the Senator to come to your country, you will have a right to seek audience with the county assembly and ask questions about why projects have not been implemented and the answer should be given. The citizens will also get answers on why there was a variation on the budget. They will also know who varied it and so on.

In terms of Bills, we are aware that MCAs are going to the public to seek views about a law. However, when it is rejected or passed, they do not go back to the public to give them feedback. It has happened in Makueni and other counties. We want to put an end to this because we do not want the part of the Constitution which seeks public participation to be an academic exercise so that people are spending money for public participation in forums and *barazas*, then they forget about the citizens after that. The purpose of having this method is to now have accountability. If those petitions are not answered, the public will have a right to come to the Senate and say that their petition has not been responded to. This will reduce the workload that is coming here.

Madam Temporary Speaker, we are answering many questions that should have been answered at the county level, but the citizens are denied information. I would have preferred where the county assembly and the county government would be required to

publish the list of projects they are doing, the contractors they have given that work, the money that has been voted for and so on.

In the case of women, persons with disability and youth, we have given lip service to them. We do not know, out of the 30 per cent that we are giving to counties, the number of youth given contracts. We know that there are phantom companies that are pretending to be managed by the youth, persons with disability or women. That would come to an end because the public would be in a position to ask who the directors of company X and so on are.

We want to increase transparency in counties and remove or exorcise the shadowy things that counties have been doing. We are now telling them that the end is near and the writing is on the wall. The shadowy things they have been doing will come to an end sooner rather than later.

Madam Temporary Speaker, I want to ask my good friend, Sen. Sang to second the Bill.

The Temporary Speaker (Sen. Ongoro): Order, Senator! Conclude by moving. So far, you have not yet moved the Motion.

Sen. Mutula Kilonzo Jnr.: I now, with pleasure, beg to move that the Petition to County Assemblies (Procedure) Bill (Senate Bill No.35 of 2014), be now read a Second Time.

Sen. Sang: Madam Temporary Speaker, I beg to second this important Bill. From the onset, I want to thank the Members of the Committee on Legal Affairs and Human Rights. This is a Committee Bill. I want to thank the Chairman, the Attorney-General *emeritus* and the Senator for Busia County, Sen. Wako, for his leadership together with serious members of that Committee. This Committee has sponsored several Bills. This is one of the many Bills sponsored by it.

I want to thank Sen. Hassan of Mombasa County and take this opportunity to congratulate him for launching a strategic plan that we saw last week. This has put a number of young Senators on the spot in their counties. They include Sen. M. Kajwang, Sen. Mutula Kilonzo Jnr., Sen. Murkomen and myself. The hon. Senators who are fairly older in the House have done a lot of things in their counties. The young team must work hard and emulate “Sen. Zarai” although we have always known him as Sen. Hassan Omar. During the launch, he was referred to as Sen. Zarai. I want to take this opportunity to thank them for the support they have given us in developing this Bill.

Madam Temporary Speaker, this House has received many petitions. One of the reasons those petitions find their way to the Senate is that sometimes, people in our counties may not understand the procedures and opportunities available for them to present their petitions to county assemblies. It is important that we, as a House, should provide for a uniform legislation on procedure of petitioning the various county assemblies. We always receive petitions on issues that would easily fit in the mandate of the county assemblies. If members of the public are aware of the procedures and step by step processes of approaching the county assemblies, most likely many of them would present their issues to the county assemblies.

This legislation goes a long way in ensuring that we increase the level of interaction and public participation between the residents and citizens of the various

counties and their county assemblies. The primary role of every legislator whether at the national level or at the county level, is representation. One way of ensuring that you have quality representation by MCAs is by ensuring that we have an open window of opportunity for them to interact with their citizens. One such opportunity is through petitions. This is going to open an opportunity for various citizens in our counties.

We have witnessed many demonstrations in our counties on how the executive is not able to carry out its responsibilities as expected. In most of those demonstrations, we have seen residents petitioning the same executive, the county commissioner or the speaker in a haphazard manner. There are no proper structures to ensure that issues raised are addressed through proper channels. The petitioners need to know that when they present their petitions in the assembly, it will be received by the county clerk as indicated and go through the necessary checks.

Madam Temporary Speaker, I would expect that every county assembly would designate one staff within the county assembly, to help members of the public ensure that their petition meets the required threshold. This will ensure that if somebody presents a petition that appears, on the face of it, to be substandard or does not meet the threshold, then you just do not turn them away. You help them to pursue and develop those petitions.

Madam Temporary Speaker, I want to thank the Senate that on several occasions, MCAs of Nandi petitioned this House. Some of the issues, the form and structure of the petition were not as required in the Standing Orders. However, I want to appreciate the Senate because it designated one staff to help them develop and revise their petition into a format that is acceptable before this House. I hope that the various county assemblies will designate staff who will help members of the public ensure that they structure their petitions in a manner that befits what is provided for by law. We do not want to see members of the public being denied the opportunity to exercise their rights to petition, just because of a technicality.

Those of us who are lawyers know when you go to court you can easily lose a serious case on the basis of technicality. But on matters of public governance and interest, we do not want to see situations where on matter of technicality, members of the public are denied their rights and opportunities to present their petitions to the county assemblies. Therefore, I request the various county assemblies to ensure that they put in place mechanisms that will ensure that they are able to help members of the public, a number of whom may be “*mama mboga*,” and may not be properly schooled.

The law provides that the petition may be typed or handwritten. We do not want to have a situation where we have strict rules that require “*mama mboga*” and *boda boda* riders to go to cyber cafes and type their petitions in, say, font 12. We want to allow every citizen in our counties to petition their issues to the various county assemblies, whether in handwritten or whichever manner as long as we are able to have their issues addressed by the county assemblies.

Madam Temporary Speaker, these increased avenues for interaction will ensure that we have greater accountability by our county governments. We see a lot of issues being raised by members of the public against the county executive and even against the county assemblies themselves. One of our county assemblies has been in the newspapers

in the last two or three days for all the wrong reasons. Members of the county assembly travelled to Congo Brazzaville for two weeks for the All African Games, spending very interesting and ridiculous amounts of resources.

Members of the public expressed their anger over the same, but we have just seen them on news, demonstrating. We want to provide a structured mechanism where they can capture those issues, present them in an orderly manner and expect that the county assembly will sit down and address them. Those are the issues that we hope this Bill will help us address.

Madam Temporary Speaker, again, once a budget has been passed – and I want to agree with the Mover of the Bill – we need greater sharing of information between the county governments, county assemblies and members of the public. This will ensure that people in each of our wards in the country know how many roads will be done within their counties every financial year. They also need to know the names of those roads, so that within the year, they put the county government to account if those roads have not been done.

As stipulated in the Public Finance Management Act, the county government budgets must be project-based. We should not be given block figures like we see in our counties; where a county government says that in their budget they are going to do 350 kilometres of murram roads and they put a block figure of Kshs400 million. People on the eastern side of the county think that roads were made in the south, while those in the south think that roads were made in the north.

We need to ensure that we have project-based budgets, so we help the members of the public in terms of playing their oversight role and ensuring that some of these projects are implemented within the counties. Once they realize that there are issues that are not being addressed, as provided for within the budget, they can use the opportunity to present their petitions to the county assemblies. This will enable the county assemblies to apply their mechanisms of oversight and ensure that the county executives do their jobs.

Madam Temporary Speaker, this Bill provides us with an opportunity to have greater interaction by the citizens with members of the county governments and assemblies. We urge the members of the public that for devolution to succeed and take root in this country and achieve the intended purpose, members of the public must play their active role in terms of public participation, at the point of developing the county budgets. But they must also ensure that they play their oversight role in ensuring that projects within their counties are implemented in a manner that is anticipated in the budget and their development plans. Therefore, this Bill gives the Senate an opportunity to ensure that we have that legal framework established.

Madam Temporary Speaker, I urge the Senators to support this Bill and ensure that we walk together with the county assemblies. This will ensure that we are able to reduce the number of petitions coming to the Senate from the counties. The Senate will only deal with the very technical ones. Once members of the public have presented their issues to a county assembly through a petition, if they are not happy with the outcome in the county assembly, they still have the right to petition the Senate.

Therefore, we are not shutting out petitions from our counties. We are only saying that those that can be addressed within the county assembly should be dealt with at that

level. As the Senate we retain our inherent right to receive petitions as provided for by the Constitution and our Standing Orders. But this provides an opportunity to ensure that these issues are dealt with within the counties.

I would expect that once a petition has been presented to a committee within the county assembly, just like we do within the Senate, that committee will have an opportunity to invite the petitioners to even clarify the issues more. On several occasions, when a petition has been presented to the Committee on Legal Affairs and Human Rights, for example, we have always invited the petitioners to come and shed more light. This is because if you look at the format and structure, sometimes the details of the issues that people would want to present may not be captured within the format. However, it is important for them to invite the petitioners, hear them out in detail, get to understand the mechanics and dynamics within the petition that has been presented before them, so that when they make a determination, they are doing so from a point of information.

Madam Temporary Speaker, with those very many remarks, I urge this House to support this Bill, so that we are able to create this framework for our counties and the residents in our counties to interact more with the county assemblies.

I beg to second.

(Question proposed)

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I rise to support this Bill. Allow me to congratulate the Committee on Legal Affairs and Human Rights for the foresight that it has demonstrated by coming up with this Bill.

Madam Temporary Speaker, cases abound in many counties where the citizenry is held helpless. They want somewhere to go to and somebody to complain to about the many things that they witness on a day to day basis. We have got cases in many counties where members of the public are witnessing employees of the county government becoming overnight village millionaires. They see the investments that these officers are making and are hesitant as to whom to go to.

Madam Temporary Speaker, they see unfair dishing out of contracts and tenders to specific people who are either friends or politically correct people to the governor and relatives of the governor. They, therefore, remain helpless as they have nowhere to go to. I know of a case in Kakamega County where the county government had a very nice project of putting up two Early Childhood Development Education (ECDE) classrooms in every primary school. In one instance, a contractor who is related to the procurement officer was given a whopping six schools to build in one sub-county.

In the process, one individual, just for purposes of constructing four walls with doors and windows was given the monopoly of doing 12 classrooms. In a county of 2 million people like Kakamega, that cannot be justified in any way. Members of the public - Sen. Mutula Kilonzo Jnr. and Sen. Sang - through your industry, will have an opportunity to quickly approach the county assembly. I must thank you.

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

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

Madam Temporary Speaker, in the County of Kakamega, we have incidences where the people who tend to win contracts are from Asian extraction. One wonders what special talents these contractors of Asian origin have in construction that makes it impossible for contractors from other races.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Madam Temporary Speaker is no longer on this Chair.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir, for alerting me. I am very sorry. For all the remarks I have made about Madam Temporary Speaker, I retract and replace them with, Mr. Temporary Speaker, Sir.

Mr. Temporary Speaker, Sir, we wonder what special talents the contractors of Asian origin have in Kakamega County that other contractors of different origins lack. This speaks to nothing, but just furtherance of corruption in our counties.

Sen. (Prof.) Lonyangapuo: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Who do you want to inform?

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I would like to inform Sen. (Dr.) Khalwale that, perhaps, Kakamega County is benchmarking from the national Government who are dealing with contractors from China. I do not know whether this is correct benchmarking.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Are you informing him or asking a question?

(Laughter)

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I am informing him that there are other scenarios that Kakamega County could be copying from.

The Temporary Speaker (Sen. (Dr.) Machage): You did not prosecute your information properly. Kindly do it properly.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I would like to inform my distinguished colleague, Sen. (Dr.) Khalwale, that what is happening in Kakamega County is not unique. They are copying some bad manners from the national Government which is mostly soliciting contractors who are not locals.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale, are you informed?

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I am so obliged. Following quickly on that important piece of information, I am saddened and I wish to send a clear warning to the Committee on Constituencies Development Fund (CDF) because they have chosen simple projects like construction of a primary school and they have given to Asian contractors in Ikolomani. I was shocked that at Shiveye Primary and

Secondary Schools in Shiveye Sub- Location of Ikuhu Location, a Chinese is constructing a classroom. It does not make sense at all.

The United States of America (USA) developed to where it is because after the First World War, they started doing major construction works which were done by American companies. Therefore, the money that was borrowed from the international financial institutions remained within the USA. Hon. Senators must be on the lookout. If the devolved funds that come to our counties are going to construct projects in the counties yet the contractors are not from the county; that is capital flight. We need the contractors to be local. After they have constructed, they then reinvest in the same county for the development of our counties to be fast-tracked.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale, why are you referring to an unconstitutional organization such as CDF?

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir, for the correction. Unfortunately, at the moment, the court ruling allowed them to run the project for another 12 months before it is brought down. Therefore, we do not want to wait for too long. However, in any case, as Sen. (Prof.) Lonyangapuo said, what applies in the national Government is slowly creeping into the devolved governments.

Having said that, allow me to make observations on a few clauses. Clause 3(b) says that a Petition to a county assembly shall be in the form set out in the Schedule and shall be in English or Kiswahili, written in a respectable, decorous and temperate language. Our Constitution does not contradict what I am about to propose; allow for the people of Kakamega County, whose mother tongue is Luhya, if they so choose, to petition in Luhya language. It is not unconstitutional. If the people of Kiambu County, who speak very fluent Kikuyu and the county assembly, is not offended at having a petition read in the Kikuyu language, they be allowed. The same goes for the people of Bomet County in Kipsigis and Machakos County in Akamba language.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Are you privy to Standing Orders at that level that declare only Swahili and English as the national languages?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, allow me to comment on what I understand by those Standing Orders. The Standing Orders of the Senate and the National Assembly are not the same as those of the county assemblies. So, they are not bound. We must let our languages grow. A community of 6 million people like the one I come from should not be gagged from expressing themselves using the language that they understand better. I know some hon. Senators whose names the Chair recalls have difficulties because they represent cosmopolitan counties. I do not want to be offensive to them, but I suggest this to counties where we have homogenous speaking of language.

Mr. Temporary Speaker, Sir, Clause No. 5---

Sen. (Dr.) Zani: On a point of information, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I only accept it if they are holding my time.

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. I support this, as complicated as it might, be by informing Members that the provision that Sen. (Dr.) Khalwale is talking about is also included in Article 7(3)(b) of the Constitution that says:-

“The State shall –

(b) promote the development and use of indigenous language, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.”

Therefore, apart from English and Kiswahili being national languages, we are to also promote indigenous languages.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Zani. You are a scholar and, therefore, you should read that phrase properly because Clause 7(1) and (2) is law. The Constitution mandates to be law that the official languages of the Republic of Kenya are Kiswahili and English. These are the languages to be used in all official transactions including legislative processes.

(Applause)

Order! Continue, Sen. (Dr.) Khalwale.

Sen. (Dr.) Zani: On a point of order, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, as you correctly---

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. (Dr.) Zani?

Sen. (Dr.) Zani: On a point of order, Mr. Temporary Speaker, Sir. As a scholar, the assertion that the “state will promote” allows us. This is not a static law. It is a law that is alive and to which we can make interpretations. The state here promotes. Therefore, even when we move into the debate of using indigenous languages because that will be a big debate within county assemblies, we need to put that into consideration.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Zani. Are you doubting or in denial of the Chair’s ruling? You are treading on a very bad ground.

(Laughter)

Continue, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I was advancing a line of thought. It is important because my grandchildren might have the luck and opportunity to sit in this Senate. I want them – when they go to the library – to see the clarity of my thought on this very important issue.

I want to bring to the attention of the House that I have just come from Belgium. I visited the Regional Parliament of Wallonia and the Regional Parliament of Flanders. In Flanders, they speak and translate everything in Dutch. However, in Wallonia, everything is in French. When they meet in the national Parliament in Belgium, they use both languages. They said that they will not allow one language to develop at the expense of the other. The Flemish Parliament has got a population of 3.5 million people and they have been given an opportunity to express themselves. What is this obsession of killing African languages just because we want to look learned and clever when we speak the Whiteman’s language? Is this not a form of colonisation which we are giving our children?

Members, as you witnessed, the Ministry of Education struggled to introduce mother tongue in the teaching of the first three years of primary education. It is a move in the direction of the findings of modern science. Medical research has confirmed that a child who is taught in mother tongue in the first five years of life is in a better position to learn a second language. That is why you, Mr. Temporary Speaker, Sir, are a doctor like me. The older generation of students – you and I included – who were taught in mother tongue in the formative years of life can express themselves better in English in this country. However, children who are taught three or four foreign languages from birth always perform worse when eventually examined in English.

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. Is Sen. (Dr.) Khalwale insinuating that those of us who were taught three or four languages are unable to express ourselves in English?

The Temporary Speaker (Sen. (Dr.) Machage): Not even so. I wonder which research he is referring to.

(Laughter)

We cannot dispute his opinion. However, if he so wishes, he could enlighten us on the research.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, this is important because I am a medical expert. I cannot be responsible for anybody who does not want to take advantage of innovation. Innovation is such that even seated where you are, Senator, you can google “Learning in the first years of a child.” If you googled and went for the research, you will get the feedback and confirm what I am actually saying.

Mr. Temporary Speaker, Sir, I am very passionate about culture. Why do you want to kill the backbone of culture which is language? Is it just because my skin is not white, therefore, my language is a secondary language? That cannot be true. Anyway, it is a question of personal choice.

Clause 5(4) states; the Clerk shall, within 15 days of the decision of the county assembly in writing, notify the petitioner the decision of the county assembly. I propose to the Committee for discussion to add sub-clause 5 so that it is Clause 5(5) to read: “The Clerk shall, within 30 days of the decision of the county assembly in writing, notify the Senate on the decision of the county assembly.” This is because there are such important decisions that will be made. The decisions might be challenging the comfort zone of the leadership of the county government, be it the executive of the county assembly. Let it be passed over to the Senate so that the respective Senator gives life to it to make sure that the views and desires of the populace in the county are not belittled.

Mr. Temporary Speaker, Sir, I want to conclude by proposing that after Clause 7, we have Clause 8 which I suggest should read – not in those words by lawyers but it in a drafters language – that; Nothing in this Bill should be assumed to prevent any member of the public from presenting any matter to the Senate.

Mr. Temporary Speaker, Sir, we do not want to shield the Senate away from the public by way of bringing petitions to us. We should not show or teach them that we are too big and, therefore, they are small people who should do things in the rural areas. If we

do that, the tendency will, therefore, be that the people of Kakamega County who work in Nairobi and think that they speak in “fat English” because they were educated in London will feel that they are the only ones who can approach the Senate. I would like even the sugar cane cutters of Bungoma, Busia and Kakamega to come to Sen. Wetangula, Sen. Wako, Sen. Nabwala and myself to help them draft a petition that befits the Senate.

Having said that, Mr. Temporary Speaker, Sir, I thank Sen. Mutula Kilonzo Jnr. and tell him what I read about him on *Twitter* when I was in Belgium. The *tweets* are very many these days such that you cannot see all of them.

The Temporary Speaker (Sen. (Dr.) Machage): Then, you must actually come with a substantive Motion if you want to discuss about that.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I do not want to discuss about that. I just want to inform him in light of his industry. There are a number of youth we share who *tweet* to you and I. They *tweet*---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale. Could you address the Speaker?

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

Mr. Temporary Speaker, Sir, I am also aware that the Chair is very active on *Twitter* and *Facebook*. It is only that we do not share friends that much. They were talking about the industry of Sen. Mutula Kilonzo Jnr. They said that he has, within a very short time, become almost what his father was in this Senate. I, therefore, encourage him to continue with the spirit. It is the integrity that he has that makes him admirable. The moment you lose it, that is the end. As they say in English, integrity is like virginity. You only lose---

(Sen. (Dr.) Khalwale’s microphone went off)

The Temporary Speaker (Sen. (Dr.) Machage): Thank you for cutting off Sen. (Dr.) Khalwale.

(Laughter)

The Temporary Speaker (Sen. (Dr.) Machage): Order!

Sen. G.G Kariuki: Temporary Speaker, Sir, allow me to join my colleagues in making a contribution on this Bill. I have listened to the Mover of the Bill and the Secunder and the Members who have spoken before me, I found the Bill to be quite in order and my concern as usual is, after all these and after allowing members of the public to petition the County Assembly, then what, after that? County Assemblies have failed in so many ways from the governor downwards. For anybody to think that you can petition the county government and expect any concrete reaction---

The Temporary Speaker (Sen. (Dr.) Machage): If I may inform you, Senator, there is a difference between the County Assembly and the county government. This Petition is to the County Assembly. I want you to make that distinction.

Sen. G.G Kariuki: Mr. Temporary Speaker, Sir, I am aware of that. I was involved in the crafting that Constitution and, therefore, I understand what I am talking about very well. Perhaps I mixed the two.

The Temporary Speaker (Sen. (Dr) Machage): It is all right.

Sen. G.G Kariuki: Mr. Temporary Speaker, Sir, I know there is the county government, the county Assembly and the county executive. In total, they form county governments. Following what the Mover said, there is a lot of merit in political science that the public is given an opportunity to say something, protest or to petition their county government and the county assembly for that matter. That is the message that the public is receiving. My question here is; after we got all those messages, we have tried as a Senate even to demand the appearance to our Committee of some Members of the County government but we have found it very difficult.

There is something that we have not understood in the total set up or management of the county government or county assembly and so forth. I think it is important for Members of the Senate to start looking beyond what we see because there is a problem that we have not been able to discover. I hope it will be discovered very soon. The day that the Senate will decide now that they are here to represent the county government, they will want to understand how we want to represent them.

Are we really representing them in the manner that you would comfortably think that I am really representing the county government? Are we in good harmony with the county government? Are we really working together? Unless Sen. Mutula Kilonzo Jnr. captures the reason why we are completely not in one team, between the counties and the Senate, we shall continue talking and thinking that we have done a very good thing to bring a Motion like this one. Even without this one, nobody had stopped members of the public to petition the county government. I do not think there is anybody who had said no. It is only the legal mechanism which was not there. Now with the legal mechanism, how is it going to improve the situation?

We have been receiving petitions in this House. It is now going to two-and-a-half or three years, what remedy have we given every group of people that have petitioned this House? What answer have we ever given? I think it is high time we thought beyond our politics and saw the solution; and see why we were elected to this House. In fact, with your permission, we have gone too low as if we are Members of the National Assembly where they are free to ask all the questions they want to. But in this House, I think we cannot be so reckless as to just do things because they are there.

We have to create a situation where we will be seen by the public as the House of mature people; people who really think, people who think of tomorrow. We are here to use their brains to make sure that we change this country. Even if we do not change this country, we should be very strong mediators between the county government, the national Government and the National Assembly. We can create that bridge and be seen to be there. For the Senator to come here and say my road has not been tarmacked, what does he expect the Member of the National Assembly to say? Someone was sacked, and he is now being promoted. These are politics of the National Assembly and we have to shift from this kind of politics and become responsible.

I thank the Mover of this Bill because he has provided an opportunity for us to say what we are saying. At the same time, the public will think that something is happening because we have been given an opportunity to petition the county government as if they did not have it before. I think few questions that one raises, and I feel very concerned are about all the petitions that usually come here. They come to our Committees, we discuss them and the way we discuss them in the Committee you know it too well; you find the fellow coming late and after two minutes he goes and he expects to be a concerned person over a situation that the public is very concerned about.

I hope we will shift before long from our current situation or current dispensation in the way we run the Senate so that we become people who will be respected. Look at the Senators in the United States of America (USA), look at the House of Lords in London and many other places; they are not jokers. But in this country, we have to know that we are moving even if we have not reached that level. We should appear to be moving towards that level, but not to appear stagnating as we came in and go out the same way and that we have been Senators and what. I think---

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Ole Ndiema?

Sen. Ndiema: On a point of order, Mr. Temporary Speaker, Sir. Is the Senator for Laikipia in order to claim that Senators or this House is stagnating?

The Temporary Speaker (Sen. (Dr.) Machage): I think he is entitled to his opinion and rightfully so, to give a warning or an observation. It is all right, continue.

Sen. G. G. Kariuki: Those are my observations, and I think I am entitled to them.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. G.G. Kariuki, just continue, I have so ruled.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I keep on asking myself whether we are on the right course. Do we know where we are going? Is our mission properly considered? Do we have a mission? Where will the mission take us? If we know where we are going, all of us should endeavour to get there no matter what. However, here we keep saying that we are non-partisan. I have never seen any political set up where the issue of partisanship is not there.

(Applause)

We deceive ourselves all the time. We claim we are in the same *blah blah* and when things happen you find CORD in their meeting passing their own resolutions and TNA with their own, yet when they come here they just pretend to be together.

Mr. Temporary Speaker, Sir, time has come – a professor like you, I am following your *nyayos*, I am soon becoming one. I ask myself: Are we doing the right thing? Is that all there is in the Senate? Unless changes take place - these will be done by us. There is change of human nature. One can change his or her nature to become something else. We can forego our elections next time if some of us think that we can be elected by the Members of the County Assemblies (MCAs). Time has come for us to decide whether we shall be elected by the people through what we tell them and not through any other group of people. That is how some of us survive.

Therefore, I did not want to speak to this Motion because I do not see anything new although I support the idea; the essentials and the content. However, there is nothing new. This is what we are being told by the Members of the National Assemblies. We just pick few papers around and send them a Motion. They will reject the Motion on the grounds that it is not well considered. We provide another occasion for a Member of the Senate to stand here and raise alarm that our Motion has never been considered; that a Bill does not reach the President. How can some of the small Bills like the one we are passing now reach the President?

Mr. Temporary Speaker, Sir, with those remarks, I beg to support and congratulate the son of my great friend. God bless you.

The Temporary Speaker (Sen. (Dr.) Machage): Thank you. There are two issues: First, Sen. G.G. Kariuki said that he did not want to debate. May I put it rightfully in the HANSARD that I actually gave him the opportunity because he requested to debate electronically?

Secondly, maybe Sen. G.G. Kariuki has thrown very stinging observations which I will expect the Mover to reply to, especially so, just look at Clause 5 of the Bill; to remind Sen. G. G. Kariuki that the “so what?” question is adequately answered by the draft.

Proceed, Sen. Hassan.

Sen. Hassan: Mr. Temporary Speaker, Sir, thank you for this opportunity. I rise with similar hesitations as Sen. G.G. Kariuki in terms of the authority of the Senate but still with a lot of hope that the Senate can still put its act together as the principal guardian of devolution.

At this point in time, surrender is not an option. As the Senate, we are duty bound to continue to propose all measures necessary towards the fulfilment of our mandate. This means that, as time progresses, we need to be extremely more creative in terms of circumventing the obstacles that are erected in our quest to defend devolution.

This Bill is about oversight. It forces the participation of the people. It is a Bill in furtherance of Article 37 of the Constitution where this Senate has an obligation to ensure that we advance our constitutional order and practice through the legislative process. It accords the right to petition alongside other rights; including the right to picket, assemble and many other rights that are within the domain of the rights of the citizenry.

Mr. Temporary Speaker, Sir, this Bill can also be read simultaneously with Article 185 of the Constitution which articulates the legislative authority of county assemblies and in particular Article 185(1) states:-

“The legislative authority of a county is vested in and exercised by its county assembly”

More importantly, Article 185(3), states:-

“A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.”

This Bill and procedure to present petitions is in fulfilment of that constitutional obligation and mandate of the county assembly which makes it easy for members of the public who may not of essence be able to sit in county assemblies much in the same way

others are not able to sit in the Senate, to speak to issues of accountability and oversight through a petition. Therefore, this procedure then necessitates the clerk and the county assembly to consider that petition.

I agree to that point where, once this petition is considered, what next? I believe this quotation will be able, whenever a petition is considered, to give authoritative recommendations that shall guide and direct certain actions to be taken, interventions of the Ethics and Anti-Corruption Commission (EACC), interventions of the police and interdiction of officers in the course of investigations. Therefore, we must also assume powers broadly that are necessary for county assemblies to summon any officer, information and public evidence of a broad nature so that it can facilitate them to discharge their functions under this law.

Mr. Temporary Speaker, Sir, these days, I have decided at every opportunity to demonstrate and talk about Article 174 of the Constitution which principally talks about objects of devolution. Very few of us talk about objects of devolution. We sing the plebiscites of devolution but hardly try to internalize why devolution is there.

Article 174 of the Constitution states:-

“The objects of the devolution of government are—

(a) to promote democratic and accountable exercise of power;”

This petition allows that exercise of democratic and accountable exercise of power by capacitating respective citizens of various counties to petition their county assemblies on a wide array of issues.

Therefore, this will also stop that overload on the Senate so that some of these matters can be dispensed at that level. However, I agree with Sen. (Dr.) Khalwale by saying that nothing in this law must preempt the possibility of anybody else seeking further resolution of the Senate on any matter. We realise that many county assemblies as currently constituted are under the whims of county governors and executives. Therefore, it might be difficult to navigate against certain petitions that are of a weighty nature. Only the gravitas of the Senate can conclusively speak on some of those issues.

Mr. Temporary Speaker, Sir, the same objects of devolution in Article 174(c) says:-

“to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them”

Therefore, it gives the citizens an opportunity to be part and parcel of decision making because a petition can be a petition as to whether there were enough consultations before any project of the county government was undertaken. This petition is broad in terms of giving citizens of counties an actual avenue to participate in their democracy. Not all of us can be in the Senate or at the county assemblies at the same time but we are giving the citizens a direct role of participation in the proceedings of these Houses.

Once you present your petition, as a member who has presented it, then you will enjoy certain privileges and rights to speak before these committees of the county assembly and present evidence before them. Where necessary, you will cross-examine evidence which is presented by those who you seek their accountability. Therefore, this Bill is a flagship. One of the hallmarks of this Senate is how it needs to distinguish itself.

This is a flagship law which is about activating and giving capacity to democracy.

For governors or county governments to promote democratic and accountable exercise of power, it is best done through the avenue of the people. Therefore, people are given an opportunity to promote democratic exercise of power at their county level. Today, Sen. (Dr.) Khalwale was speaking to it. Counties are making arbitrary decisions and people are getting frustrated about the wastage and the plunder in the counties.

We could interrogate questions about accountability well before massive plunder takes place. The Senate also stands accused of the fact that we do not have the capacity to pre-empt possible wastage and plunder of public resources. If we always must wait for the Auditor-General's report, day in and day out, it might be too late to salvage the situation. We may prosecute but not recover our resources.

Therefore, this Petition law is well conceived. I sit in this Committee and I want to praise ourselves for having this flagship in terms of realizing that it is important at this point in time to tighten the noose of accountability. Governors have tried to evade every form of accountability. They do not want to be summoned by the Senate or appear before county assemblies. When they appear before county assemblies, the county assemblies do not have sufficient gravitas or capacity to audit their executive. They tend to validate foolish or sometimes very basic projects. You ask yourself whether there was enough input by Members of the County Assemblies (MCAs) to secure the interest of their people.

Therefore, if county assemblies fail in the realm of governance, this Petition has given the people the right. If you are not asking the hard questions that you ought to be asking, then, this will open an avenue for people to start asking hard questions.

This Bill also puts the MCAs on notice. If they fail to perform their functions, the people will perform their functions for them. If they fail to ask the hard questions, people will ask the hard questions for them. That is what this Bill intends to do.

We must also allow the avenue that Sen. (Dr.) Khalwale talked about - If one is dissatisfied with the outcome - in some counties; some MCAs are handled like a flock of sheep. Some MCAs are paid to make decisions. Some live in perpetual state of fear, some have no capacity; either educational or political. Also, they may not have the needed courage.

Mr. Temporary Speaker, Sir, when this happens, we must allow the avenue for this thing to come before the men and women who sit in this Senate. We do not want a process that will present a petition to county assemblies that will sanitize the transgressions of county assemblies or county governments. The pertinent question that is coming up is who oversees the county assemblies; who oversees the 'oversightors'? We must be able to petition them on whether they are exercising their mandate. Kenyans should go to county assemblies and interrogate whether they are living up to the objects of Article 125 of the Constitution and whether they are doing oversight, passing laws and the things that the Constitution allows them to do.

Therefore, this Petition is a jump-starter of a democratic avenue for the people of the Republic of Kenya to ask the hard questions. This avenue of Petition is also an opportunity for the people to oversight the 'oversighters'. This is the whole idea of public participation which the governors do not know about. Members of Parliament (MPs) do

not take it seriously. It is about oversighting the ‘oversighters’. It is about allowing Kenyans to make a direct appeal to the legislative bodies. The county assemblies are an embarrassment to democracy and a letdown to devolution.

Mr. Temporary Speaker, Sir, this is a right to Petition their modicum of laziness or their inability to hold dear. Why is it that most of the county assemblies did not call upon their county executives in the last financial year? It is what we have said today that county assemblies are summoning some of their county governors or county executives. They need this shock action and therapy.

The spirit upon which this Bill has been represented to this Senate is about creating a robust democracy. It is about giving life to articles of devolution and articles which give mandate to county assemblies so that they take their mandate seriously.

I am hoping that Kenyans will use this opportunity to---

(Sen. Abdirahman walked into the Chamber and consulted Sen. Mutula Kilonzo Jnr.)

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Abdirahman, you are an old legislator and you know that standing between the Speaker and the Member on the Floor is not allowed. You must bend as you pass.

Sen. Hassan: Mr. Temporary Speaker, Sir, I want to thank the Mover and the Seconder of the Motion, Sen. Sang, who while commending me, said that we have put people under a lot of pressure. I have not put anyone under a lot of pressure. We must be creative as a Senate and, as respective Senators, we must stand together.

If there is an issue that we must go to Laikipia County for, we must go as Senators. If there is something in Nandi County about oversight, we must go to Nandi County. If there is something about oversight in Makueni County, we must go to Makueni. The same applies to Homa Bay, West Pokot, Trans Nzoia and Migori counties. It is time we formed a conspiracy to fight corruption and lack of accountability in county governments and in both arms of county governments. We should participate collectively on issues that we need to discuss about accountability and there is a marauding governor who wants to frustrate everything.

One of our Senators was disrupted when he wanted to empower the public. Sen. (Eng.) Muriuki needed to call us so that we face that governor head on. The police also needed to prosecute the disruptors of those rallies. We must have accountability forums across this country so that we capacitate our people. In the meantime, these petitions will be ready avenues. Nothing can preclude a petition presented before county assemblies and the Senate. It means that it does not exempt one from talking about accountability. It must not forestall or be a pre-emptive measure so that people may not discuss hefty issues around the county governments.

Therefore, I share passionately in this Bill. I am waiting for that day when President Uhuru will sign it. I always see hon. Duale and Speaker Muturi at State House whenever the President is signing Bills. I am looking forward to seeing the Speaker of the Senate, hon. Ethuro, and the Senate leaders of Majority and Minority stand before the President so that he can also acknowledge the flagship of legislative processes that

emanate from this Senate. It cannot always be about Money Bills or Appropriation Bills. This Bill is a flagship because it addresses the Constitution.

How many Bills have come through this Senate that are about specific provisions of the Constitution? This Senate is about the Constitution and the fact that somebody somewhere is undermining the authority of the Senate simply means we must up our game. They might say that we are a House that is not of their level or performing their kind of functions, but we are a House that is senior, politically. It is a given and crystallized fact that in this country, Senators enjoy political authority above all else in every county. That is the kind of political capital we need to capture.

Therefore, when we speak in the county, people know that the Senator has spoken. The fact that there are few young people running around somewhere undermining us should never be a basis for despair.

I beg to support.

The Temporary Speaker (Sen. (Dr.) Machage): Are you on a point of order, Sen. Abdirahman?

Sen. Abdirahman: No, Mr. Temporary Speaker, Sir.

Sen. Ndiema: Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to also support this Bill. In so doing, I would like to thank the Committee and appreciate them for being proactive in bringing this Bill that will go a long way in enabling the counties to provide better services to the residents of those counties. The Constitution has given the public the right to participate in all areas of governance but they have not been fully involved.

We have had cases, for example, in budgeting and planning. There have been public participation forums which are academic exercises. As soon as those exercises are completed, public views are kept away and decisions are made independently by the executive and sometimes, by the county assemblies. There are situations when even the budget has been made on the basis of some public participation. However, in the middle of the year, the budget is overhauled without public participation in the name of supplementary or revised budget, where new issues are introduced, sometimes to the level of 80 per cent or more.

Provisions for the petition are provided. It will go a long way in making it easy for the public to participate. Previously, the public even in those days when they could not petition, perhaps in writing, people were given the opportunity to participate through public *barazas*. Chiefs used to involve people in public *barazas* to get their views. There were times when people could give memoranda and they were accepted and responded to but as we speak, very few county governments participate in *barazas*, forums or even encourage people to present memoranda.

This provision or formal establishment of a method of providing complaints is welcomed. However, other than legislating, there is need for civic education up to the grassroots on how such Bills and petitions can be drafted and presented. Not many people in the village will know, even after we have legislated, that there is a method of presenting their grievances.

There are so many situations where county governments have not done what is expected of them. We have been confronted with issues of corruption in this Senate.

There is corruption, nepotism, theft of public resources and poor services in the counties. For example, drugs have been procured but still members of the public in hospitals are told to go and procure them. The public have had a problem, but this method of petitioning the county assemblies will go a long way in assisting.

Mr. Temporary Speaker, Sir, while I thank the Committee for drafting this Bill, there are a few areas that should be considered at the Committee Stage; possibly for amendment or inclusion. It is important that when a petition is made; when it goes to the county assembly, there should be an opening that the same can be copied to any other office that the petitioner deems relevant, particularly to the Senate. At the Senate, there should be an office or a unit dedicated to keeping records of all the petitions that have been received in the county assemblies for purposes of follow up by the Committee on Implementation. This will ensure that the Committee on Implementation keeps a tab on all the petitions that have been received in this country in the various counties and follow up to ensure that they are properly addressed.

I believe that there should be a provision whereby the executive is compelled by this Act to provide any document or information that will enable the county assembly to respond appropriately to the petition. I am saying so because in most counties, it is very difficult even for a Member of the County Assembly (MCA) and the office of a Senator to obtain any information. Many executive officers in counties have been instructed not to divulge any information to anybody. This is the case in my county.

In addition, the Controller of Budget and the Auditor-General are denied access to information and evidence to be able to provide a report and give comments on financial accounts. I do not want to go into details on that. Generally, there is a trend that county governments, particularly the executive, consider public information to be their property that should not be divulged even to the county assemblies. A clause should be introduced to state that, any public officer in a county or any person must provide information to the county assembly when required to do so.

With those few remarks, I beg to support.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, thank you very much for giving me this opportunity. I would like to start by congratulating the Committee that worked on this Bill; my elder brother Sen. Mutula Kilonzo jnr., the seconder of the Bill, Sen Sang, and the entire Committee that ensured that this Bill comes to the Floor of the House.

This is a straight forward Bill that should have been enacted much earlier. If you do a search on similar Bills, you will realize that the county assemblies of Nakuru, Laikipia, and Nairobi have already come up with similar Bills. This means that the Bill that we will come up with today will provide guidance to the rest of the counties that have not come up with such a Bill. If we will end up with 47 Bills and regulations on the same subject, there is a possibility that there could be some contradiction. It is a good thing that the Senate has seized the opportunity to come up with a Bill that will guide the rest of the counties.

It is clear from the Constitution that every person has a right to petition a public authority; it is not only Parliament or the county assembly. Every person has a right to petition public authorities. That is contained in Article 37 of the Constitution.

Section 15 of the County Governments Act is the one that provides for the right of persons to petition county assemblies. Many people do not know that they can petition county assemblies. They are convinced that once they have elected their governor, the Senator, the Member of the National Assembly and the Member of the county assembly, then that is the end of their participation and contribution to the running of the affairs of the county.

Let me make it clear to Kenyans who are listening today that they have a right to petition county assemblies. It is because, maybe, some of the county assemblies had not come up with the relevant legislation, but it is contained in the Constitution. We also appreciate that county structures are new. As much as we may have lost two or three years, we sympathize and empathize with them, but it is time we fixed this because our new Constitution is now five years old.

Someone would ask: “When will I ever use this Bill or under what circumstances will I, as a *mama mboga*, petition the county assembly, the Senate or the National Assembly?” I would like to give scenarios and even drawing from certain events that are happening in my own county of Homa Bay. When you have a dam that has collapsed under the watch of everybody – the Member of County Assembly (MCA), Member of the National Assembly, governor and Senator and no one seems to do anything about it – even after we have made noise about it in funerals, held demos and nothing happens – I encourage the people of Gembe Location in Homa Bay County to petition the county assembly. That way, there can be a formal and structured manner of looking into the issue and seeking a solution.

When you have a situation in a county where the county government has spent money on a road and at the same time, you find that the Kenya Rural Roads Authority (KeRRA) has spent money on the same road; you have found yourself in a situation where you are running around the streets of the town picketing with placards and police running after you--- I tell you picketing and taking to the streets is a legitimate right; but I encourage you to also construct a petition for the county assembly, so that the matter can be looked at in depth.

When you have a situation where all over town, people are grumbling that jobs in the county government – executive and the assembly – are being given out quietly; you just find that people have been hired and yet there was no advertisement for those positions; instead of sitting at the “*bunge la wananchi*” and talking about it from morning to evening, I challenge you to petition the county assembly, Senate or the National Assembly and the matter will be formally and properly addressed.

Mr. Temporary Speaker, Sir, this Senate has received 35 petitions as at 17th September, 2015, according to the petitions tracker that our secretariat has very ably and competently put together on the Senate website. The interesting thing is that out of the 35 petitions, 25 have no status update. So, 35 different groups have taken the effort to petition this Senate and we probably could have dispensed with only 10 of them. What happens to the other 25 petitions?

Just the other day, we received a petition from former councilors who wanted their welfare to be looked into, following their retirement and on the basis of the effort and the work that they put in to ensure that this nation is where it is today. The question I

would like to ask today is: Is it futile to petition Parliament? Is it an exercise in futility for *mama mboga* to present a petition to the county assembly?

If you look at the procedure for processing petitions even in this House, once you have crafted a petition in the manner that is prescribed in the Bill that we are discussing today, the person who brings that petition to this House speaks for only five minutes. There shall be no debate on that petition unless the Speaker feels that people should comment on it, in which case, for example, our Standing Orders say that there shall be a maximum of 30 minutes for discussions on the petition.

When we brought a Petition to this House on the plight of former councilors, you saw that the Gallery was full of former councilors who expected an electrifying contribution and performance from every Senator in this House. However, the rules did not allow Senators to make any quality or substantive contribution to that Petition. This is because when it is tabled here, the Mover can only speak for five minutes and other Senators can only contribute for 30 minutes.

Once that petition comes to this House, it is referred to the relevant committee which is required to do its work and bring back its report to the House within 60 days. I have been in a situation where a petition was referred to a Committee where I sit, only for us to realise that that petition was committed to the wrong Committee. We had to dismiss the petition because it had landed in the wrong Committee. We told the petitioner: “Sorry, you are in the right House but in the wrong room.” That meant that that was the end of that petition and we had a very disappointed petitioner who felt that the Senate did not really care about him.

Once the Committee brings a report to this House within 60 days, that report shall be tabled in the House, and no debate shall be allowed unless, at the discretion of the Speaker, he feels that it is such an important matter that it should be discussed. In that case, a debate shall only be allowed for 20 minutes. This is the fate that will befall the petition by the former councilors – a very important matter. When the relevant Committee brings that Petition here, we shall only discuss it for 20 minutes. As the last born of this House, in 20 minutes unfortunately, I will not get an opportunity to speak on the report of that Committee. That is why I keep asking: Is it futile for citizens to petition this House?

Once that report comes to this House, the Clerk is required to write a report to the petitioners within 14 days and that is the end of the story. How do we then ensure that, first of all, the Committee that the petition is referred to does a good job? How do we deal with the “so what” question that Sen. G.G. Kariuki had attempted to raise? After the Committee has done its report, what happens next? Is there anything binding on the Senate or county assembly which we are discussing in this particular case, to take action on the recommendations that have been brought forward by that Committee? We need to ask ourselves whether petitions are serving the intended interest or purpose.

I agree that petitions will open a window for citizens to give directions and probe Parliament and county assemblies, but it is weak. There is nothing that can replace certain other avenues of ensuring that the public participates. One, we must continue to strengthen public participation and at the right time, we should start considering making it mandatory that every elected representative must have a formal documented and

minuted public participation fora in their respective jurisdictions, at least, once every two months. As it is, I can go for five years without doing any public participation forum but come to this House and speak. If I do not do public participation, I will be speaking on the basis of what I imagined in my sleep the previous night. We need to make it mandatory that all elected leaders should conduct public *barazas* or participation forums.

We must also continue to strengthen the oversight role of this Parliament. There is now a debate on the public wage bill. There are people who have said that Members of Parliament (MPs) and other elected leaders should have their salaries slashed by 50 per cent. Let me say on this Floor that pay me zero but make sure you facilitate my work. I would rather you do not pay me a salary but make sure that when I go to Homa Bay County, you provide me with a fueled vehicle, accommodation and meals, hall and refreshments for the people who are coming. As it is now, Senators are using their salaries to process that.

This Saturday, I will go to close the Agricultural Society of Kenya (ASK) Show in Kendu Bay. It is one of the oldest shows in that part of the world and a venue where many people met their wives because that is where all the beautiful girls and nice boys come out. I will be closing that Show and have to dig into my pocket to fly to Kisumu County, go to Kendu Bay to preside over it and come back to Nairobi. There are certain office holders who will use the funds that they are supposed to be using for development, to open and close events. That is why I say that if you want to pay me zero, do so, but make sure when there is a show in Kendu Bay, give me a vehicle that will pick me from my door, take me to Kendu Bay and bring me back to Nairobi. In that case, I do not need a salary because I used to eat and feed my family before I became a Senator.

In conclusion, I congratulate the Speaker for launching a caucus that was called, “Caucus on Evidence Based Oversight and Decision Making”. This is important because if we do not strengthen oversight and make it evidence based, then we shall have failed in our role and the only resort that the public will have will be to file petitions, picket, demonstrate and fight running battles with the police.

I also want to congratulate one of our colleagues in this House, Sen. Hassan Omar, who last weekend launched a strategic plan and work plan for his county. At the right time, we need to make it mandatory for every elected leader to have a strategic plan and a work plan. The situation we have right now where a few leaders, and I am not saying most of them, wake up to find out where the next funeral is. If there is no funeral, they want to find out where there is a church gathering. There is some haphazardness in the manner in which we execute our duties. If we have a strategic plan and a work plan, that will guide us, allow the public to understand our strategic focus, give them the assurance that the issues that they would have picketed on or that they would have petitioned this House on or the county assemblies on, would be taken care of within that strategic framework.

Mr. Temporary Speaker, Sir, even as we continue to look for funding and facilitation for Senators, we need to make it mandatory that every Senator before getting any facilitation must provide a strategic plan which also will have a proper calendar for public participation because it is only through that that we can reduce the number of petitions that come to Parliament.

I support.

The Temporary Speaker (Sen. (Dr.) Machage): There are two issues which I do not think we will allow to pass uncommented on; one, just as national legislation cannot override the Constitution, county legislation cannot override national legislation. I wanted you to know that. Maybe it passed your attention. Two, the petitions we receive in this Senate are not useless because if you look at your Standing Order No. 227 (3), “the Clerk shall within 15 days of the decision of the Senate”, meaning the Senate must make a decision at the Committee level. The Clerk shall within 15 days of the decision of the Senate in writing notify the petitioner of the decision of the Senate. So, not only do you have that Petition, you must make a decision. The Committee level is part of this House and any Member is allowed to go and participate in that Committee if he so wishes. I want that not to be taken as gospel truth from your contribution.

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker, Sir. Let me start by making a comment about something that Sen. G.G Kariuki said. I think it is important and I wish this Bill does get to the President for assent because this is one of the avenues that is going to be clear for us to do what Sen. Hassan Omar talked about; creating oversight for the public. They are the most critical. We have experienced it in the Senate where we have had many petitions coming in.

As the Senate, we have had opportunity to discuss those petitions. What I like about these petitions - I have been happy to sit in some of the Committees, is that there is a lot of investigation that goes on. It creates an opportunity for people to be called, be they Members of County Assemblies, governors, County Executive Committees Members (CEC) or the Clerks of county assemblies, and asked questions. When they come and give this information, it means they are really opening and giving a lot of light about some of the questions that may be the petitioner has asked about.

As they do that, because Committees are open and I believe also Committees at the county assemblies are open and that we should encourage more people to come to those Committees to listen, then it gives more information to the public. Even though under the Constitution, every citizen has a right to access information, the procedure and the process for doing this is not clear. Remember, we are coming from a state of repression where people did not ask questions and felt they cannot question the Government, where people felt they wait and whatever services they are given, they are lucky to have those services.

The Constitution of Kenya 2010 has opened up the space for Kenyans. If Kenyans do not take this space now, we will never get another chance because the power of the people is insurmountable. It is a power that nobody is able to replace. All citizens should seek answers for issues that those answers are not given. They should come out of the market place, go to the governor’s office, County Assembly, galleries, listen and ask questions and even demand that all these things that are in the strategic plans eventually be implemented, and ensure that the projects that were promised within the specific counties have been adhered to and that those specific projects have been actualized.

They can ask about the costs or the contactors. For devolution to work, Article 10, and especially the principles of Article 10, specifically public participation cannot be ignored. That is why I support the view that people should now have that civic education.

Empower people who in this country have never been empowered before to realize that they can raise these questions. Before they do that, because they might not be able to do it as a group, they have a chance to do it in the form of petitions.

For a long time, petitions have been coming into the Senate and we have been trying to answer them adequately. Even at the county assembly, it is possible to bring these questions and have them answered properly. I remember in one of the committees when we were visiting various counties, we went to one of the counties and met our counterpart committee. As we were having discussions with Members of that County Assembly, a Committee Member asked us as Senate, what we were doing to address the scarcity of water in their county. We told them that it is not for us to do that. They have the power. They should be part and parcel of the planning process, they need to indicate what needs to be done in the counties, and they need to hold the county government accountable.

I think this particular Bill comes at the right time and it tries to bring into effect Article 37 where each person has a right to demonstrate, assemble and present petitions. It is something that we should be able to do willingly and easily. It is something that we have been encouraging people to do. What has been missing is the procedure. That is why this Bill is very critical. The procedure for doing that has not been clear and I think even as we started off, it seemed like petitions were going to be handled at the national level but here is a chance for us to cascade the receiving of petitions to the county assembly level and I think that is very critical.

That cascading to the county level will also be able to contextualize issues and be able to answer specific questions in specific county assemblies. People in those county assemblies should understand what is going on and what is missing in those county assemblies. There should be a general interest by everybody of what is happening in the county assemblies, and that this should not just be a club of a few. That county development is for everybody. It needs to be enshrined in plans of the various counties. This becomes very critical.

In the Bill, there are very specific provisions that have been done on how that Petition should be formulated. This is very critical. But if I look at part (e) where the subject matter must be indicated, I think that is important so that there is no confusion about what the Petition is all about. It might be a Petition within petitions. So it is important to have the header of that Petition clear so that there is no confusion about what is happening and, therefore, handle multi-petitions without realizing what the key issue is meant to be. That becomes very critical.

The idea that the petitions must have the names and addresses is very important because, one, it gives the identification and that these are issues coming from specific counties. I think more importantly, it gives the weight and the trust that is needed in specific petitions. I have seen petitions with about 50 or 200 members. It will be great to have a petition with almost the whole adult population from a specific county so that county governments can begin to feel the weight of the people they are in charge of and so that they can be able to tell that this comes from the people. It will also help Members to authenticate and know that these are the members who stay in a particular county and they are the ones who have presented these particular petitions. This will help people to

understand that this is an area with many other people and everybody should come on board.

It should also be counter-signed by the member presenting the petition; that is the Member of the County Assembly. This Bill says that a Member of the County Assembly cannot bring a petition, but they can do it on behalf of a petitioner. They can only sign as they present that Petition. So, the Member of the County Assembly is the one who can bring the Petition that has been signed by the petitioner to the county assembly. That is also important as it will create order on how things need to be done.

Mr. Temporary Speaker, Sir, in this Bill, it states that a petition to the county assembly shall be submitted to the Clerk, which makes it very easy and straightforward. That is the process that we also have here at the Senate. It is even clearer that for that process to proceed, it should not take a lot of effort.

The fact that a petition shall be considered in accordance with the Standing Orders is very critical because it means that it is an obligation and it has to be. This is one of the best ways to bring some of the nagging and sensitive issues to the county assemblies because the forum is that once the petition has been put into place, then it must be dispensed off.

It was interesting to hear what Sen. M. Kajwang had to say about a petition that went to a particular committee and then they realized that it was in the wrong Committee and that was the end of it. Maybe as we talk about this Bill, we should think about amendments to show if such a situation happened, then there will be a revision process to ensure that the particular petition goes to the specific committee or how to deal with it including invoking petitioners to petition again across certain issues. We do not want to lose many of the petitions because of the technicalities and maybe some of them are actually stage managed rather than real technicalities, if it is a sensitive petition.

The idea that feedback also has to be given to the petitioner is important so that they know what is happening. However, I find Clause 6 very interesting that supporting documents have to be given to the county assembly. Many times in many of the petitions, I always have a little bit of worry when documents are being presented especially those that cannot be authenticated. There is no way to ensure that these are the original documents that were used at the specific time and if there were meetings, if the minutes presented were the actual minutes for the meetings yet they are documents that cannot not be vetted. I know that when people are giving evidence, they do so under oath. There are people who when speaking under oath, they tell the truth but there are others who even when they speak under oath, might not tell the truth.

Mr. Temporary Speaker, Sir, it is, therefore, very critical at this point to ensure that if there is any documentation, then there is a process of vetting that document so that by the time it comes, even the committees which these petitions are committed to understand how those documents have come to the fore.

As I conclude, I would like to say that evidence that is presented is critical because it leads us to conclude a situation and answer the right questions as the fact finding process is critical and important. Therefore, the paperwork and the Statements that are given are very critical and they have been carefully understood. We can have an entry point for participation from the members of the public.

As we look at this Bill and make amendments, it is critical for us to think about the sort of penalties we are going to give for misinformation, so that anybody coming to give information or evidence about any subject matter on a petition, knows that there is going to be some penalty or consequence for misinforming, misdirecting or giving the wrong information. At the end of the day, when these petitions have been processed and everything has been handled and processed through petition, it is very important to also disseminate this information and make it a public document that Members of County Assemblies (MCAs) can read and look through to see what is happening.

I think that county assemblies have not realized how much power they have in terms of holding the county governments to account. By having this Bill passed into law, it will enable them to have that sort of power which is very critical to us. It will enable counties to feel that they have a sense in which they are participating and that they can actually hold the county governments to account. I, therefore, congratulate the young Senators in the Committee on Legal Affairs and Human Rights.

I have heard that the Committee on Legal Affairs and Human Rights constitutes quite a number of young and vibrant Senators. Cascading work is the direction to go. As we have devolved institutions, we need to devolve further some of the functions and responsibilities held at the national level to the county level. That will help in faster accountability and progression of information and faster, easier and nearer participation from members from various counties.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): I am also curious to know the petition so referred to by Sen. M. Kajwang, having been thrown out by a committee. That is completely unprocedural. If that happened, then, the committee breached the laws of this House. It did not obey the command of the Speaker which is very explicit in Standing Order No.227(2) which states that; the report shall – you are not persuaded – be tabled in this House in whichever form. In any case, if a committee receives a report and thinks that it is not the right committee, then, it has an opening to write back to the Speaker for redirection of the same. Therefore, I order that you furnish the Speaker with more information on that petition that was just casually thrown out of a committee. I would like to see that. That is an order.

Sen. M. Kajwang: On a point of order, Mr. Temporary Speaker, Sir. When this particular matter that I alluded to in my contribution came to the committee, we assessed whether it was within the mandate of that particular committee. When we realised that the issues were extraneous – not relating to the committee – we, as a committee, resolved to advise the House that the petition should be committed to the relevant committee. We did not throw it out of the Senate but wanted it directed to the right room within the correct House; that is the Senate.

The Temporary Speaker (Sen. (Dr.) Machage): Very well, you maybe have put it better now. I may rest with that but not in peace. I hope that is what happened. At least, it sorts out the statement you had earlier made which was very serious for the Senate.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I will be very brief in the interest of the other contributors and also so that I can take over my duties which are well known to you.

Mr. Temporary Speaker, Sir, I congratulate my Chairman in our Committee, Sen. Mutula Kilonzo Jnr., for moving this Bill on behalf of our Committee. This is very important and it will empower people in our counties to have a mechanism within which they could exercise their sovereign rights that the Constitution provides in Article 1. Article 1(1) of the Constitution states that all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution.

Secondly, Mr. Temporary Speaker, Sir, the Constitution provides that Parliament has a responsibility to do all that it needs to ensure that the devolved system of government functions. It is within the mandate of this Committee to legislate on uniform regulations, standards and processes that affect all counties across the country. Therefore, this Bill is within the jurisdiction of this House. I believe that it will give us an opportunity to empower our people; give our people a voice within which they could approach county assemblies.

Mr. Temporary Speaker, Sir, at the moment, there is a lot of work being done by county assemblies. However, there is also a lot of apprehension by members of the public that they do not know or have no access to what county assemblies are doing. This is partly because – for those of us who come from marginalised areas – you will find that most of our people have no access to internet, reading websites of county assemblies and ways of appreciating what their representatives debate. This House has a great advantage because we have live coverage. People listen to us whether on radio or television.

As we empower county assemblies with a process of petition, it is also important that we also think through how best they can get to communicate to the public. That is why we talk about county assemblies being empowered to have resources, so that they run their own in-house televisions. If you remember there was a time we were in Mombasa with the media editors in this country, and one of the things they advised the Senate was that one can be able to do his own production and be able to broadcast online. Use *YouTube*, websites and so forth.

I think our counties need to do that so that they can reach more people, we see the level of debates in that county; we see the capacity of the Members in representation of the people. One way of enhancing that representation is to enable the members of the public to petition. Such petition is important. This Bill is very brief but to the point; that it provides for the manner in which a petition must be presented to the House. It also provides for the procedure for presentation of that petition.

I was listening to the Mover of the Motion and I believe it is important that petitions that come to Parliament or county assemblies, there should be no other processes going on whether in the courts or Commission of Administration of Justice or a tribunal or any other arbitration processes that might be going on, so that we do not have concurrent jurisdictions of different entities working on the same matter, and when you complete, you wonder because there is a decision may be by the Commission of Administration of Justice that is different, there is another decision that is from a court which is different and there is a decision of a county assembly which is different.

The Temporary Speaker (Sen. (Dr.) Machage): Indeed Sen. Murkomen if you look at the regulations for the submission of a petition, one of the requirements is that---

Sen. Murkomen: The Temporary Speaker, Sir, that is why I am saying it is important. I listened to the Mover also but I have also read that one of the key issues is to ensure that there are no multiple processes that are going on, people are not tabling a petition at the same time there are other processes out there, so that in the petition, there is a clear declaration that there is no pending matter or process that is going on in the court.

I think one thing that we might need to include in this Bill is the fact that we must make it mandatory that the county assembly during the day that the petition is being debated or at the time that the final verdict is being made, that at least, they ensure that an invitation is extended to the petitioner so that they can come and sit in the gallery where they will follow the proceedings on the petition. Sometimes, some petitions are related to special groups, persons with disabilities, minority communities in the county, elderly people and so forth. If they want to arrange themselves and come and to listen what procedures are going on in the House, we need to provide for that mandatory requirement that the petitioner be invited during the day that the debate is going on, through an extended invitation. He may come or not. That should not tie the county assembly from proceeding with the petition but give him that option of being able to sit in the gallery, listen to the petition and appreciate what is going on.

As I conclude, I want to say that county assemblies are very important for this country. They are important for economic growth in the counties. Today, we were discussing with some of the County Assemblies Forum Members who came to our Committee, and it is important that county assemblies have a bigger picture for the country and for the county. This idea of a welfare State where county assemblies agree that let all the money be divided to every sub-location, there is no planning about major projects in the county. You find now in the desire to please everybody, counties are dividing money into very little fractions that are distributed to every sub-location and when you want to look at what major project is going on in that county, you do not find it. What major road they are investing in, you do not find because they have distributed the money thin.

We must tell the county assemblies to begin thinking big. We must also not berate the county assemblies. I know sometimes – I saw my county assembly, and you must have read in the newspaper; they were being accused of travelling to Brazzaville. What the public must be informed is that county assemblies have that power to travel. The question should be: Are they travelling for the purpose that was intended? Is the resource being used or are they diverting resources beyond that which was meant for that purpose?

It will be unfair, for example, in my county, the Members of County Assembly (MCAs) are being accused of going to the All Africa Games yet more than five Senators were with them. Members of the National Assembly were also there, and I know them. It is important also that we do not have unfair treatment of county assemblies even where we, as legislators, go through a similar process. However, it is important that county resources must be used prudently for the purpose which they are intended. It must be used for the purpose that the people intended through the County Integrated Development Plan (CIDP).

Sen. Mutula Kilonzo Jnr. will tell you that in the County Assembly Forum submission today to a Committee, there was even an argument that many counties do not follow their annual plan and CIDP. Citizens must have a forum and framework to petition and ask: What was the business of taking people to hotels and *barazas* and asking them questions on how they intend to develop their county. At the end of the day, you have a county budget that does not reflect the wishes of the people.

Through petitions which will be presented in the manner in which this Bill has provided, we will strengthen oversight, devolution and development in the county.

As I conclude, I believe that the next set of MCAs will be more knowledgeable, experienced and competent. As we progress - even Parliament, if you look back since 1963, although they say that between 1963 and 1970, Parliament was more robust then after that there was lax until later in 1990s, there has been improvement. It is important that we carry out civic education. Even as Senators when we go back home, even in our *barazas* and rallies, we should remind people that the most critical institution in the county is the county assembly because they provide oversight, planning and budgeting. If we do that, we will ignite the passion and spirit in the most competent people in our country to go and serve in the county assembly.

It is important that those who are aspiring to be MCAs must start acquiring the knowledge on economics for legislative processes on how to run a county and what is devolution so that we do not have people who are incompetent to even carry out a single debate. I sympathize with what the former Prime Minister and Prof. Ngugi wa Thiong'o were saying; that perhaps the county assemblies can use their mother tongue to debate. In some of the county assemblies, Members cannot communicate in English and Kiswahili. So, it becomes almost impossible for them to make their point the way they would have liked to do it. That defeats the purpose of what the Constitution calls a national language, but there is a feeling that MCAs need to be competently equipped to carry out their jobs.

I support this Bill subject to that small amendment that gives way, permission or makes it mandatory for the county assembly to extend invitation to a petitioner during the time of debate and decision-making by the county assembly.

Mr. Temporary Speaker, Sir, I beg to support.

[The Temporary Speaker (Sen. (Dr.) Machage) left the Chair]

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

Sen. Abdirahman: Thank you, Mr. Temporary Speaker, Sir, for allowing me also to contribute to this very important Bill which was processed through the Committee on Legal Affairs and Human Rights.

From the outset, I want to say that through this Bill, the Senate will play its rightful role as the protector and promoter of the interests of the county as clearly defined in our Constitution. This particular Bill will help standardize as is clearly spelt out here, the manner in which petitions will be laid out to county assemblies. Unless we do that, knowing the level of our county assemblies, we will not make any meaningful progress or presentations.

Mr. Temporary Speaker, Sir, two-and-half years down the road towards implementation of devolution, we are yet to find stability in our counties. Looking at the rate in which petitions have come to this House in recent times, it is a clear pointer or indicator that there are real issues in counties which remain unresolved. Trying to develop such good steps will help local communities to get an opportunity to present their views or petitions to Members of the County Assemblies (MCA) who are within their reach.

Mr. Temporary Speaker, Sir, quite a number of times, communities have raised issues that relate to the inability of county executives to incorporate their views either in the County Integrated Development Plan or in the budget-making process. There has been no avenue for the local communities to question this. Fortunately, we now have an opportunity and a procedure established for MCAs to receive these complaints or petitions and we will hear more of them. The most important thing is to check whether the issues that had remained unresolved in the counties are resolved through this.

Mr. Temporary Speaker, Sir, time and again, questions on equity in terms of resource distribution and employment have come to the fore. This will give an opportunity to the local communities to come out very clearly and hold county executives accountable. Looking at what had happened, in our case, we were trying to look at the County Development Board but county governors took us to court and up to date, it remains unresolved. There is an opportunity for a leaders' forum in our County Government's Act which has not been operationalized to date. Communities, political leaders and all stakeholders at county levels have issues but there are no avenues to solve them at the local level.

Mr. Temporary Speaker, Sir, the question of transparency and accountability at the county level is low. As much as state agencies including the Ethics and Anti-Corruption Commission (EACC) and the Auditor-General have tried their best to stop the menace at our counties nothing much has been achieved.

Therefore, I anticipate and have a feeling that this opportunity of petitioning at county assembly level will provide a more re indepth understanding of what goes on in the counties.

Mr. Temporary Speaker, Sir, a few minutes ago, you spoke about building the capacity of county assemblies by allocating them enough resources. The ability to interrogate county executives is not there in the county assemblies. They have become an appendage of the executive. It is important that they understand their roles properly because they are the watchdogs and the people who are supposed to do oversight at the local level. They should understand that they are in the first line of support to the local communities with regard to reaching their aspirations.

We need to do a lot more for the county assemblies so that they understand what their roles are. It is not about the education alone, it is about expertise and building experience over time. The flow of petitions in recent times has been a lot. Now that we are talking about establishing a procedure for doing this at the local level, we will need to create an opportunity through Messages to or from the Senate, for us to monitor or look at the number of petitions that have come to the county assemblies and whether they have been attended to or whether they are touching on issues that will help improve our county

assemblies. This will be what is expected of the Senate. We will not simply say that we have created an avenue for people to raise their issues but as well, we are expected to guide the processes so that we do not miss steps.

With regard to the Bill, I have a feeling that all is catered for except the bit that relates to trying to briefly state the reasons underlying the request for the intervention of the county assembly by outlining grievances or problems. A brief statement is insufficient to get to the bottom of what the issues are. Probably, annexing documentary evidence with regard to issues that are been raised, for instance, if it is on employment, providing sufficient data on discrimination, misappropriation and project distribution will be key. At times, we get petitions in the Senate that do not clearly spell out what the issues are. Probably, we may lose very important issues in between.

It is a very good opportunity for Members of the County Assemblies (MCAs) to participate in these decisions. It will reduce the burden at the Senate level so that we can deal with more substantive issues. However, we need to publicize this as much as possible so that we do not miss out critical steps. Though short, the Bill is very comprehensive.

With those remarks, I beg to support.

Temporary Speaker (Sen. Murkomen): There being no other contributor, I invite the Mover to reply.

Sen. Mutula Kilonzo Jnr: Mr. Temporary Speaker, Sir, I thank the Senators who have contributed to this Bill; Sen. Sang, Sen. (Dr.) Khalwale, Sen. G.G. Kariuki, Sen. Hassan, Sen. Ndiema, Sen. M. Kajwang, Sen. Murkomen, Sen. (Dr.) Zani, Sen. Abdirahman, among others.

There is a general consensus that there has been a problem, this is a pioneer Bill of the Senate and there is need for the watchman to be watched as stated by Sen. Hassan under Article 185 and Article 186.

I would like to respond to some of the concerns particularly of Sen. (Dr.) Zani and Sen. (Dr.) Khalwale on language and promotion of the different languages. The purpose of having this kind of method; for it to be transparent and for there to be a good record, just like they do it in courts, a person can be allowed to petition in a language he understands best but that petition ideally ought to be translated into a manner that conforms to the Constitution because those are the two official languages.

We have not managed to translate the Constitution into Kiswahili; leave alone the fact that we are now talking about many other languages, indigenous as they may be. Therefore, my view is that for the time being, for purposes of having good order and good record, we should have this in a language that is official even if it has to be translated so that a petition filed in Nakuru, in English or Kiswahili can also form precedence on a petition filed in Turkana, on a similar issue. That is how ideally we do it. However, for purposes of communication so that people can understand the details of the petition, I do not see any objection to a person presenting a petition in a language they understand best.

Mr. Temporary Speaker, Sir, the questions addressed by Sen. (Dr.) Khalwale and the Deputy Minority Leader, Sen. Abdirahman, on a method of checking that the county assemblies do not turn into another theater of the absurd; where these petitions are turned

into an avenue of hiding things and sweeping them under the carpet; the proposal that there is a form and amendment to ensure that these petitions or their answers are then filed with the Senate, will be a good method. I would have preferred even the Senator to be allowed even to table reports regularly on petitions filed at various county assemblies because we have that provision in our Standing Orders.

Sen. G.G Kariuki made general comments. I think this Bill is one of the methods where the Senate will be able to stand up, look at Kenyans and tell them: “We have provided you with an opportunity to oversight your own leaders at the local level. Take up that opportunity and baton.”

Mr. Speaker, Temporary Sir, I am convinced that in the case of Makueni County, if this law was in place, many questions that the public were asking would have been answered through this petition. The default in answering those questions would have then come to the Senate.

To address the issue of Sen. Ndiema on information, Article 195 of the Constitution is on all forms, in statutes with Article 125 which empowers Parliament – and that includes the Senate - requesting for any information. Let me answer Sen. Abdirahman that we must allow citizens to even ask questions on petitions without necessarily supporting those petitions with hard evidence as if in a court of law. Article 35 of the Constitution gives all citizens a right to information. Therefore, this right will be impaired if we insist that if you file a petition, it must be accompanied by evidence that so and so has misappropriated funds.

This is because under Article 196, which I have just stated is similar to Article 125. The Committee that will sit to determine this petition will have a right to ask for documents and production of material. That way, we can then allow *mama mboga*, Mutheu, Wanjiru, Wanjiku or whoever it is, to ask whatever question they want to ask, without necessarily giving them such strict procedures. Otherwise, we will turn committees of the assemblies into a court of law, which is not the purpose of Article 35 in terms of information.

Sen. Kajwang, I have noted your concerns and I had made a note about the petition that was in your Committee. I am glad that it has been answered. I think it would have been unconstitutional to dismiss a petition simply because it is in the wrong Committee. I have answered Sen. Zani’s question on public participation. Article 196 is clear that public participation shall be incorporated into the work of county assemblies. Sen. Murkomen, Clause 5(3) answers the question of public participation, because the petitioner will then be allowed to participate in the committee. At the time that it is being deliberated on the Floor of the Assembly, Clause 5(3) gives that avenue for participation.

Mr. Temporary Speaker, Sir, I have answered most of the questions and we will incorporate the proposals to have a method of ensuring that there is a watchman of the watchman; that is the Senate. The Senate will watch and ensure that our county assemblies will not be used by governors as an avenue of rubberstamping and hiding information. We want to tell the public that there is a new era; a dawn has come where they will be able to ask questions. Gone are the days where, for example, the Governor of Machakos County would run around Makueni County. Somebody in Machakos County ought to ask where he is getting funds to go into another county. That is the formula that

we are providing for the people of Machakos County, so that they do not do it in hushed tones but loudly.

In conclusion, in the words of the Bible, 2nd Corinthians 5:17: “Therefore, he who is in the Lord, the new has come, behold the old is gone.” The new is here. We have now provided a method for citizens to question even the person who represents you at the county assembly level. As suggested by Sen. Hassan, this petition is not restricted to matters of county government but also to those of county assemblies. The people of Elgeyo Marakwet ought to be able to ask why they spent Kshs4.3 million in Congo Brazzaville. Was that a priority? Who authorized? Who paid? What was paid? Why did you go 12 of you? The people of Makueni ought to ask, why was Kshs50 million spent last financial year travelling to Israel and Malaysia? What output did you get in return? That is what we are giving to the citizens of this Republic.

I beg to move.

Mr. Temporary Speaker, Sir, I request that you defer the putting of the Question under Standing Order No.54 (3) so that we can do so at an appropriate opportunity.

The Temporary Speaker (Sen. Murkomen): It is so ordered.
Next Order!

(Putting of the Question deferred)

BILL

Second Reading

THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)

Sen. Sang: Mr. Temporary Speaker, Sir, I beg to move that The Office of the County Printer Bill (Senate Bill No. 42 of 2014), be now read a second time.

I wish to move this Bill and before I do that, I want to appreciate and congratulate this House today, because we have just concluded the Second Reading on a very important Bill which is The Petition to County Assemblies Bill.

As we all know, the role of the Senate is to protect and serve the interests of counties. For quite a while now, this Senate has deliberated on very crucial Bills. Despite the challenges that we face as Senate, despite the kind of not so very good gesture that we receive from the county governments and the county executives most specifically, this House continues to discharge its responsibility of ensuring that we have the necessary legislations in the counties that facilitate and support devolution in counties.

One such Bill is the one that we have concluded in terms of providing a framework for the engagement by members of the public with the county assemblies through petitions. Today, again, we have the opportunity to discuss The Office of the County Printer Bill. One of the greatest challenges that have come with devolution is that we now have 47 legislative authorities in our counties; the 47 county assemblies whose

responsibility is to enact legislations to help in the smooth running of our counties within this country. This has brought a very serious challenge to the National County Printer.

Every other time you go to our counties, one of the greatest challenges they continue to raise with regard to the passage of Bills and the legislative processes in the counties is the delay in the publication of Bills. This is understandable because we have only one Printer in this Government. Sometimes when you have a Bill that is forwarded to the Government Printer, it takes two or three months before it is published. We have to appreciate that whereas we may want to push some of the national institutions to ensure that there is efficiency in the way they run their affairs, we must be alive to the fact that the establishment of 47 new legislative bodies in this country, to be served by the same Printer in the country, is untenable. Therefore, we want to appreciate that whereas we may want to continue pushing the Government Printer to ensure that they are effective and efficient in the way they run their affairs, it is practically impossible that they can achieve that, looking at the workload.

Mr. Temporary Speaker, Sir, in the County Assembly of Nandi, for example, we have several Bills pending before the Government Printer for publication. This is replicated in the other 46 county assemblies. Therefore, we cannot expect our county assemblies to move forward in ensuring the necessary legislations are passed in the counties. Stories in the newspapers are told of some of the county governments who because of the very strict timelines in the budget making process, ended up printing some of their budgets in some of the commercial printers in River Road. Whereas this is illegal you can sometimes understand the frustrations that the county governments are going through in waiting for the Government Printer to print their Bills and publish their budgets and other documents, yet they have strict timelines that they should meet. Therefore, the Bill that we are proposing today seeks to partly address that particular challenge.

Mr. Temporary Speaker, Sir, if you look at the Constitution, it clearly indicates that a law cannot be effective, unless it is printed within the *Kenya Gazette*. Therefore, that clearly says that, that has to be the *Kenya Gazette* as published by the national Government. However, there are several publications in the counties that may not necessarily need to be published in the *Kenya Gazette*. That is why we are providing for the establishment of The County Printer to ensure that even appointments in the counties and publication of Bills or proposed budgets for purposes of distribution to the residents of the counties can be done by the office of the county printer once it is established within the counties.

Mr. Temporary Speaker I must appreciate that in the Committee on Constitutional Review, headed by yourself and deputized by Sen. Mutula Kilonzo Jnr., in some of those proposed amendments in the Constitution, you have included this particular component because this is an appreciation that there has to be a review in the way our county assemblies are running their legislative mandate. This will ensure that we do not have bottlenecks being created and roadblocks being established between the county assemblies and their legislative responsibilities of ensuring that they have legislations in place.

Therefore, I am sure that whereas this Bill operates within the existing constitutional provisions, which clearly indicate that the *Kenya Gazette* is only published under the hand of the Government Printer in Nairobi. But we hope that as we even have this greater debate and discussion within this House on the proposed constitutional amendments that may need to be undertaken in this country to ensure that devolution and the Senate is strengthened, this is one of the components that have been addressed. Therefore my Bill seeks to address in the short-term within the limited scope in the constitution.

The Temporary Speaker (Sen. Murkomen): Order, Sen. Sang! You still have 50 minutes to prosecute this Bill tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, it is now 6.30 p.m. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 23rd September, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.