

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 26th July, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM THE ZIMBABWE
PARLIAMENTARY COMMITTEE ON LEGAL AFFAIRS

The Speaker (Hon. Ethuro): Hon. Senators, I wish to recognize the presence of visiting Members and staff of the Zimbabwe Parliamentary Committee on Legal Affairs who are seated at the Speaker's Gallery. They are as follows:-

Hon. Innocence Gonese	-	The Leader of the Delegation
The Hon. Ziyambi Ziyambi	-	Member
Hon. Fortune Chasi	-	Member
Hon. Fungayi Jesse Majome	-	Member
Mrs. Gladys Pise	-	Parliamentary Counsel
Mrs. Nosizi Khumalo	-	Committee Clerk

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

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. Permit me to extend a warm welcome to the delegation from Zimbabwe. We are happy you came to visit us. Zimbabwe and Kenya have enjoyed very friendly relations for a long time. Both countries share a lot of similarities as they pursue development. It is in order for us to meet, interact and exchange ideas. Feel at home and enjoy yourselves as you eat our version of "*sadza*" which is *ugali*.

Sen. Sijeny: Thank you, Mr. Speaker, Sir. I also wish to join in extending the warm welcome to my learned friends from Zimbabwe. We have had a very good interactive session. We learnt a lot from them and they have also learnt a lot from us. They are gender sensitive. The Affirmative Action Bill or Gender Role Bill that is in the Order Paper today is already being practiced in Zimbabwe as from the year 2013.

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I thank them very much for that. The gentlemen, the hon. Lady and their clerk are gender sensitive. I hope we shall also visit you in Zimbabwe and thank you for choosing Kenya.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. Together with my colleagues, I would also like to welcome the delegation from Zimbabwe. The reason I rose to speak and congratulate them is because through an effort of one of the Members who was then in the Opposition, Zimbabwe was able to sign into law something we call the Arms Trade Treaty (ATT) which this country has not managed to do.

I learnt through the Parliamentary Global Action that there is an opportunity for legislators to use what we call the soft approach even when in the Opposition, to enable a country do something as important as the ATT as we commonly refer to it. Just to echo the sentiments of Sen. Sijeny that those efforts emphasize the idea that there is more room for ladies in parliamentary action.

The Speaker (Hon. Ekwe Ethuro): Order, Sen. Mutula Kilonzo Jnr.! Your Speaker was very instrumental in that ATT. What are you going to do for your Parliament? Food for thought!

Proceed, Sen. (Dr.) Machage.

(Laughter)

Sen. (Dr.) Machage: Thank you, Mr. Speaker, Sir. The mention of Zimbabwe for those of us who are old enough reminds us of the struggle for Independence and, indeed, Kenya also had its history on the same. We are proud of the statesmanship the leader of your country. We tend to read a lot of small extracts in this country of words of wisdom from the President of Zimbabwe. We are happy to receive a delegation from that country.

Feel welcome in Kenya.

Sen. Sang: Mr. Speaker, Sir, I want to join you in welcoming this wonderful delegation. We, as a Committee on Legal Affairs and Human Rights hosted them. One of the interesting things to learn from this particular Committee is that this is a constitutional Committee. It is a Committee that is constituted according to their new Constitution whose mandate mirrors the mandate of the Committee on Legal Affairs and Human Rights.

We learnt a few things from them. One of the things that I know for sure, they will learn from our situation in Kenya as they are in the process of trying to set up devolution in their country. This is one of those institutions in this country mandated to protect, preserve and advise the quest for devolution. I ask them to learn and to see how the Senate is working to entrench devolution in this country.

The Speaker (Hon. Ekwe Ethuro): Next Order.

PAPERS LAID

Sen. Sang: Mr. Speaker, Sir, kindly allow me to table some Papers on behalf of a number of Committees.

REPORT ON THE ENERGY BILL, 2015

Report on the Energy Bill (National Assembly Bill No. 50 of 2015)

REPORT ON THE PETROLEUM BILL, 2015

Report on the Petroleum Bill (National Assembly Bill No. 44 of 2015)

REPORT ON THE PROTECTION OF TRADITIONAL KNOWLEDGE
AND CULTURAL EXPRESSIONS BILL, 2015

Report on the Protection of Traditional Knowledge and Cultural Expressions Bill
(National Assembly Bill No. 48 of 2015).

THE COUNTY BUDGET IMPLEMENTATION
REVIEW REPORT FOR FY 2015/2016

The Third Quarter County Budget Implementation Review Report, Financial Year
2015/2016.

(Sen. Sang laid the documents on the Table)

The Speaker (Hon. Ethuro): Next Order.

Sen. Sang: On a point of order, Mr. Speaker, Sir. Did you notice that Sen. (Prof.) Lesan, the Chairman of Devolution crossed to the other side of the House and comfortably walked back smiling as if he was transacting business in Nyangores Ward?

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Sang! Firstly, I did not notice. Secondly, where is Nyangores Ward?

Could you confirm, Sen. (Prof.) Lesan?

Sen. (Prof.) Lesan: Mr. Speaker Sir, indeed, I was at the Dispatch Box area in the House, but I did not cross the Floor of the House. I am glad that you have mentioned that you did not see me do so.

The Speaker (Hon. Ethuro): Order! That happiness is displaced. I do not need to see you. That is why I asked you to confirm. I was just confirming that I had not seen you. That does not mean that it did not happen. That is why Sen. Sang was pointing it out. In this place, we do not act because you are not being seen. You act on what is supposed to be done.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I actually went to the Dispatch Box area. Unfortunately, as my colleague was resuming his seat, he thought I obstructed his direct view of the Chair. I do apologize for not showing respect to the Chair.

The Speaker (Hon. Ekwe Ethuro): Order, Senator! I do not understand.

(Loud Consultations)

Did you or you did not cross the Floor?

Sen. (Prof.) Lesan: Mr. Speaker, Sir, indeed, as I said, I actually crossed the Floor. However, I did not realise that I had entirely crossed the Floor. Indeed, I crossed and that is why I am apologizing.

The Speaker (Hon. Ethuro): Order. The form of the apology is that after the apology there is a remedy. The remedy is to retrace your steps and do the necessary.

(Laughter)

(Sen. (Prof.) Lesan went to the Bar and bowed to the Chair)

STATEMENTS

The Speaker (Hon. Ethuro): Order, Members! Are there any requests? We will take the requests first. If not, we will proceed on the Statements to be issued.

The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a Statement on the security situation in the Republic of South Sudan. What is it, Sen. (Prof.) Lesan?

INDUSTRIAL ACTION BY MEMBERS OF THE KENYA PLANTATION WORKERS UNION

Sen. (Prof.) Lesan: On a point of order, Mr. Speaker, Sir. I made a request for a Statement from the Standing Committee on Labour and Social Services regarding the industrial strike that was going on within the County of Bomet among the tea workers. It was due last week on Thursday.

The Speaker (Hon. Ethuro): What happened on Thursday last week?

Sen. (Prof.) Lesan: Mr. Speaker, Sir, it was not issued on Thursday. However, I did not press for it.

The Speaker (Hon. Ethuro): Our tracker centre here shows that the Statement regarding industrial action by members of the Kenya Plantation Workers Union was requested on 6th July, 2016, and was to be issued on 20th July and then was postponed by another one week to 27th July. It is supposed to be on the Order Paper tomorrow.

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

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

VOLATILE SITUATION IN SOUTH SUDAN

Sen. Adan: Mr. Speaker, Sir, I wish to respond to a request for a Statement which was sought by Sen. Wetangula.

The Republic of South Sudan attained their Independence from the Sudan on 9th July 2011 following a referendum as provided for by the Comprehensive Peace Agreement (CPA) signed between the Sudan People's Liberation Movement Army (SPLA) and the Government of Sudan on 9th January 2005.

However, the country plunged into a political crisis in December 2013 when violent conflict broke out between SPLA forces loyal to the President Salva Kiir Mayardit and those loyal to the Vice President Dr. Riek Machar. Immediately, IGAD Heads of States and Government initiated a process to resolve the crisis in South Sudan. The IGAD-led South Sudan Peace talks resulted in the signing of agreements for the resolution of the conflict in the Republic of South Sudan on 26th August, 2015.

With the support of the Intergovernmental Authority on Development (IGAD) and the international community, the implementation of the peace agreement has been progressing at a sluggish pace largely due to lack of trust and goodwill, naming the parties to the conflict.

Mr. Speaker, Sir, on Friday, 7th July, 2016, fierce fighting erupted in Juba near the State House where His Excellency the President Salva Kiir was meeting with first Vice President and His Excellency, (Dr.) Machar. Immediately, the crisis broke up. His Excellency President Uhuru engaged with the leadership of South Sudan urging them to do everything within their powers to end the senseless fighting and restore calm.

The Cabinet Secretary for Foreign Affairs initiated engagement with her South Sudan counterpart to see his commitment on the safety of Kenyans as well as our staff in the mission in Juba.

Mr. Speaker, Sir, further consultations with IGAD Foreign Ministers were intensified with the view to persuading the leadership of South Sudan to immediately stop hostilities and resolve their differences through peaceful means. This culminated into the convening of the Extra-Ordinary Session of IGAD Council of Ministers on 11th July, 2016. Meanwhile, our Embassy in Juba continues to provide situational reports and evacuation plan which remain vital in decision making.

The fighting between the South Sudanese Army and the opposition forces of the SPLA, however, continued into Sunday 10th July, 2016 leading to over 270 fatalities. Both sides traded accusation of instigating the new spate of violence. At the same time, the two principals each unilaterally announced a ceasefire leading to an uneasy calm which continues to date.

Mr. Speaker, Sir, having provided this background information, allow me to respond to the specific questions raised and directed to the Chairperson of the Standing Committee on National Security and Foreign Relations. First is on the steps being taken by the Government of Kenya to evacuate Kenyans living in South Sudan. With the brief calm in Juba, many Kenyans sought refuge in our Mission. The number continued to rise due to the fragility of the situation in the country.

Mr. Speaker, Sir, on 12th July, 2016, the Ministry of Foreign Affairs wrote a note verbalé to the Government of South Sudan as well as their Mission in Nairobi seeking assurance for safety of Kenyans in the country as well as safe passage for those intent on leaving the country. On 13th July, 2016, our Ambassador in Juba met with the Foreign Minister, Hon. Deng', who assured him of the safety of Kenyans.

On 14th July, 2016, an executive decision for evacuation of Kenyans was made. On 15th July, 2016, the Ministry of Foreign Affairs dispatched an official to Juba to liaise with and assist the Embassy in ascertaining the number of vulnerable Kenyans willing to leave the possible means of transport out of Juba and exit route. Simultaneously, on 16th July, the Chiefs of Defence Forces of Kenya, Ethiopia, Rwanda, Uganda and the Sudan visited Juba to discuss regional stabilization effort.

On Saturday, 16th July, 2016, a team of 16 officials including six medical personnel were dispatched to Juba to commence emergency evacuation. Between 16th and 19th July, 2016, a total of 845 nationals were evacuated by air which includes 712 adults and 133 children who were infants. Among the evacuees, priority was given to the vulnerable, mainly women with infants, children, the sick, elderly, wounded and persons with disabilities. As of 18th July, 2016, the number of Kenyans who had registered at the Embassy stood at 4,031.

The Government is negotiating for safe road passage through Juba-Nimule Road to Uganda for Kenyans who could not be evacuated by air. Currently, there are about 1,000 Kenyans camping at the Embassy in Juba to whom the Government is providing safety and emergency relief. So far, an estimated 1,500 Kenyans have benefited from the security escort provided by the Ugandan Defence Forces escorting trucks ferrying their nationals to Uganda.

Mr. Speaker, Sir, I wish to report that our Embassy at Juba will continue to issue free emergency travel certificates for those without valid travel documents up to Monday 25th July, 2016. As at present, the situation is calm and quiet and it is expected to continue to improve. The Government is still monitoring the situation closely with a view to quickly determining an appropriate course of action should the situation deteriorate.

With regard to the number of Kenyans who have lost their lives in the ongoing skirmishes, there is one unconfirmed report of the death of a Kenyan truck driver allegedly killed in crossfire; a Mr. Mohammed Ali Ibrahim. The Embassy is in constant communication with the relevant authorities to ascertain the accuracy of this report as well as the nationality of the deceased.

Third is on how the bodies of Kenyans who have lost their lives will be brought back to Kenya. The alleged deceased Kenyan is alleged to have been buried in the South Sudan according to Muslim rites.

Fourth is on whether the Government is considering seeking compensation from the Government of South Sudan for Kenyans who may have lost their properties in the conflict. The Government is concerned about the loss suffered by the investors from Kenya. However, at this particular moment in time, efforts are geared to ensuring the safety and evacuation of nationals as well as encouraging the parties to the conflict to resolve their differences through peaceful means. Once the situation improves and peace is restored, the Government will engage with the Government of South Sudan to explore avenues of compensation.

The fifth question is on what the Government is doing as a leader in the region to engage intergovernmental authorities; the East African Community, the African Union, the United Nations (UN) and other international agencies to assist in solving the conflict. The Government has been fully engaged in mobilizing both regional and international

organizations to redouble their efforts in search for a solution to the conflict in South Sudan.

His Excellency the President has used various fora including the recently concluded United Nations Conference on Trade and Development 14 (UNCTAD) and the initially held 27th Ordinary Summit of the African Union Heads of States and Government. He has also interacted with global diplomats such as the UN Secretary General, Ban Ki Moon, on the matter.

Immediately the new spate of violence broke out, the Government took the lead in calling for the urgent convening of the Extra-Ordinary Session of IGAD Council of Ministers to map out a regional response. Thus, Kenya hosted the 56th Extra-Ordinary Session of IGAD Council of Ministers on 11th July, 2016 which condemned the resurgent violent conflict and made several demands for immediate action including an immediate ceasefire, reopening of the Juba International Airport and reopening up of humanitarian routes.

On 16th July, 2016, His Excellency the President participated in the Summit of the Heads of States of IGAD plus the UN Secretary-General, Chairperson of AU Commission, Chad, Rwanda, South Africa, Nigeria and Algeria in Kigali, Rwanda. The Summit issued a communiqué by among others, acknowledging the ceasefire declared by the leader of SPLA-AIG and SPLA-AIO as a step in the right direction and urged for its full and unconditional implementation.

They also called for immediate investigation of the recent violence in Juba and elsewhere in South Sudan with a view to ensuring accountability of those responsible for the breakdown of law and order. Thirdly, they appealed to the international community and the humanitarian agencies to ensure accountability of those responsible for the breakdown of law and order.

They also appealed to the international community and the humanitarian agencies to come to the rescue of the affected population in South Sudan by strengthening their presence and mobilizing requisite resources and in that connection demand the parties to guarantee safe humanitarian corridors for passage of displaced communities and delivery of humanitarian supplies.

Finally, within the IGAD, AU and the UN framework, Kenya has continued to play a proactive diplomatic engagement to implore on the leadership of South Sudan to honour the peace agreement with a view to restore peace and tranquility. Furthermore, IOGAD, AU and the UN Security Council are seized with the matter and have held several meeting to map out the stabilization effort.

Sixth is on what the international community is doing to demilitarize Juba and disarm the combatants with a view to merging the two warring armies into one national army. The UN Secretary-General has recommended the reinforcement of the UN mission in South Sudan. In this respect, the UN Security Council is considering the possibility of additional troops to reinforce United Nations Missions in Sudan (UNMIS) and is counting on the region.

On 10th July, 2016, members of the Security Council encouraged states in the region to prepare to provide additional troops in the event the Council so decides. IGAD called on the United Nations (UN) Security Council to extend the mission of United

Nations Missions in Sudan (UNMIS) with a revised mandate including the deployment of a regional protection force to separate the warring parties, protect major installations, the civilian population and participation of Juba.

IGAD also calls for immediate containment of the armed forces throughout the country to separate the forces in accordance with the permanent ceasefire and transitional security arrangement.

On supplementary information that was requested; first, is whether the Government is considering lobbying the international community to send peacekeeping forces into South Sudan.

Mr. Speaker, Sir, through the IGAD framework, the Government calls on---

The Speaker (Hon. Ethuro): Chairperson, you should be concluding.

Sen. Adan: Mr. Speaker, Sir, it is a long one.

The Speaker (Hon. Ethuro): But he has a copy.

Sen. Adan: Mr. Speaker, Sir, in conclusion, question No.6 is how prepared the Government is in dealing with the influx of refugees from South Sudan. Most of the questions are exhaustively responded to unless the Senator would like to seek clarification in one or two issues. The issue of refugees is primarily one of international concern. The Government will work closely with the relevant international agency should there be an influx of refugees.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I thank the distinguished Senator for that long answer on the issue of South Sudan.

Could the Chairperson tell the House and the country why – this is on page 3 of her statement – while Uganda sent troops into South Sudan up to Juba to not only protect its nationals but carry out some evacuations, our country was seeking assurances of safety of Kenyans from the Government of South Sudan?

In a situation such as it appertains in Juba, you cannot possibly seek assurances from a Government that is dysfunctional and running two standing armies in Juba. Could the Chairperson tell us what concrete steps are being taken? From the whole rigmarole that we have been subjected to, there is no indication of any concrete plan by the Government either to send escorted buses or trucks to bring back people from South Sudan even the 1,000 that you say are marooned at the Embassy.

I know the Embassy compound; it is a very tiny little place. It probably cannot even accommodate 300 people. How are Kenyans being catered for knowing that the population of Kenyans in South Sudan is in excess of 35,000? We are told that 4,000 are registered with the Embassy. Obviously somebody who is at the border at Nadapal or Nimule will not have money to go to Juba to register at the Embassy. What are we doing to save our people?

In addition, how many refugees have fled to Kenya so far? It may be an international responsibility but the first port of call and contact is the Government of the Republic of Kenya or whichever Government is proximate to the exit of refugees. How many refugees have come into Kenya so far since this conflict started?

Lastly, what is the Government doing as the regional leader to help bring normalcy into Sudan? President Salvar Kiir is now playing the usual tactics that we see in this country of poaching and purchasing opposition members to join him and others to

foment a coup against Mr. Riek Machar which will escalate the problem even further because Mr. Riek Machar was not just a leader of the faction but a leader of a heavily armed section of the population of South Sudan. What are we doing? Peace in South Sudan is peace in Kenya and *vice versa*.

Sen. (Dr.) Machage: Mr. Speaker, Sir, the latest announcements by the Government on the policy on refugees is that Kenya intends to close refugee camps. We now have a crisis in South Sudan. Have you revised that policy? If so, how many refugees do you intend to allow into Kenya?

Secondly, you have said that you only airlifted 800 out of the 4,000 registered refugees in South Sudan. You have also said you want to use road transport in a war ravaged country. What informs your thought on using road transport to bring refugees instead of continuing with the airlifts?

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage, are you referring to refugees or Kenyans in South Sudan?

Sen. (Dr.) Machage: Mr. Speaker, Sir, sorry. I am referring to Kenyans.

Sen. Obure: Mr. Speaker, Sir, we just heard from the Statement that for Kenyans in South Sudan who do not have travel documents, the Government has put in place an arrangement to issue travel certificates. This programme was going on until yesterday, Monday, 25th July, 2016.

Could consideration be given to continue with this programme to ensure that any Kenyan in South Sudan who wishes to travel back home is guaranteed travel documents and security escort until they arrive?

Sen. Kagwe: Mr. Speaker, Sir, could the Chairperson tell us what arrangements have been made in Turkana County to secure Kenyans? Given the fact that the last time there was an influx from Sudan - you know very well about the situation in Lokichoggio and other places - what are we doing to ensure that Kenyans will remain secure inspite of the influx of those refugees? What are we doing to bring together the warring factions? As opposed to popular opinion expressed by one of the Senators who spoke earlier; opposition members can migrate willingly and comfortably without being bribed or given any money.

So, is it not possible to merge this people as---?

(Sen. Billow consulted loudly)

Mr. Speaker, Sir, please protect me from the Senator for Mandera who is claiming that members of the opposition are moving to Government willingly.

The Speaker (Hon. Ethuro): Order, Sen. Kagwe. How can you be protected from your invitation? Sen. Billow is your guest. You invited him.

Sen. Kagwe: Mr. Speaker, Sir, Sen. Billow is an active player in the Jubilee Administration and perhaps, one of the people who can even acquire people from the Opposition side. The issue here is how we can bring these people to Nairobi to discuss this matter, as they have done in the past. They will never make peace sitting in the Republic of South Sudan on their own. If Kenya was to engage them, it is possible for us

to create peace in that country again. No matter how difficult and challenging this seems, ultimately Kenya is the country that is going to assist these people.

The Speaker (Sen. Ethuro): Sen. Billow.

Sen. Billow: Mr. Speaker, Sir, as matter of policy, I want to know from the Chairperson of the Committee on National Security and Foreign Relations what the Government's policy is with regard to Kenyans working in conflict situations like South Sudan? This is because there seems to be a challenge where often, in South Sudan, this matter has been covered extensively in our media. Kenyans have been suffering in South Sudan even before this conflict. Many have been killed while others including pilots have been in detention for a long time.

The Foreign Affairs Ministry does not seem to have a policy for assisting Kenyans when there are problems in those countries even without these conflicts.

The Speaker (Sen. Ethuro): Sen. M. Kajwang.

Sen. M. Kajwang: Mr. Speaker, Sir, in the past, the Government has appointed certain individuals as special envoys or advisors in situations like these where there is conflict. The last time conflict broke up in South Sudan, Kenya appointed Hon. Dalmas Otieno as a special envoy.

Could the Chairperson confirm whether the Hon. Dalmas Otieno still acts as the special envoy of Kenya to South Sudan, under what terms he is holding that position and whether Kenya intends to continue using his services in the future in the light of the fresh outbreak of violence?

The Speaker (Sen. Ethuro): Sen. Karaba:

Sen. Karaba: Mr. Speaker, Sir, recently Kenya agreed to repatriate the Somali refugees from Kenya to their country. Now that we are foreseeing a situation where Sudanese refugees will come to Kenya, are we practicing double standards by sending away the Somalis while opening up camps for Sudanese refugees in Kenya? What kind of reconciliation can we provide?

The Speaker (Sen. Ethuro): Sen. (Prof.) Lesan.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I reiterate that in the past, Kenya has appointed some personnel to handle the issue in Sudan. Since this was a military issue, General Sumbeiywo was the arbitrator on the ground. I believe he did a wonderful job during the crisis at that time.

Could the Chairperson state whether the Government is considering reinforcing this office of General Sumbeiywo in Sudan in order to deal with the problem?

Secondly, I wish to know what Kenya is doing to prepare, with the help of any residual government in South Sudan, to handle refugees inside Sudan who might be Kenyans.

The Speaker (Sen. Ethuro): The Chairperson.

Sen. Adan: Mr. Speaker, Sir, I confess to this House that I might not be able to give most of the information and clarifications sought. It is outside what was initially requested by Sen. Wetangula. I need to go back to the Ministry and confirm what position they are taking especially on the issue of the buses that escorted and transported Kenyans from South Sudan.

I do not know why the Government opted to transport some individuals by bus and others by air. It is important if the reasons behind that action are clarified. I need to go back to the Ministry of Foreign Affairs to get more information.

Regarding the number of Kenyans, the embassies are facing a lot of challenges, not necessarily in South Sudan. As a Committee and Government, we advised that all Kenyans should register with their Embassy for their safety. Unfortunately, some of them do not want to register with the Embassy because they have gone to those countries through some *panya* routes or maybe they do not want to register.

It has been a concern of the Committee on several occasions even when we met with the Ministry of Foreign Affairs both locally and internationally. We have requested them to register with the Embassy. I cannot confirm how many refugees have fled to Kenya so far since this is a new issue for clarification sought by the Member.

Concerning the Government's actions to bring peace to South Sudan, I have enumerated several measures that are being taken in bringing peace to South Sudan. This is very important for Kenyans living there and for the country. I can confirm to the House that there are other steps that are being taken by the Government apart from what I have read. Kenya is doing a lot to make sure that South Sudan is peaceful. I may not be able to tell how many refugees are being allowed, but I will bring additional information in a week's time.

About issuing travel documents to Kenyans and providing security until they arrive, the Ministry of Foreign Affairs is taking action but I will be able to discuss with the Ministry and ask them to continue providing the travel documents until calm is restored in South Sudan.

I am unable to confirm the situation in Turkana and the safety of the county in terms of the problem in South Sudan. I will be able to clarify on that in a week's time.

About Kenya's policy regarding the people working in South Sudan---

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. The Chairperson has accepted that the magnitude of the questions is too wide for her to tackle now.

Is she in order to continue revisiting the HANSARD, when we could save time and accept that she brings the answer at an appropriate time, instead of repeating the questions?

The Speaker (Sen. Ethuro): The Chairperson.

Sen. Adan: Mr. Speaker, Sir, the issues are captured in the HANSARD and I may not be able to answer most of the clarifications sought by the Members. I will be able to clarify from the Ministry in a week's time.

The Speaker (Sen. Ethuro): Order, Members. Sen. (Dr.) Machage, my understanding was that the Chairperson was basically revisiting the clarifications being sought and disposing each one of them either by giving some response or by saying that she does not have a response, which means that she will seek more information. That is the only way to assure the Members who had sought those clarifications that she was seized of the issues.

What is it, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, may I seek your permission to have a second go because I had too many issues and I did not want to go on and on. If you give me an opportunity, I have got three other issues.

The Speaker (Hon. Ethuro): Proceed.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. When the United Nations (UN) and the African Union (AU) decided to send additional troops to South Sudan, the Government in South Sudan flatly rejected the gesture and said that was tantamount to turning their country into a colony. That meant that the peace situation shall continue remaining volatile and the distinguished Vice Chair did not even bother to answer that. If our neighbour Uganda has sent a contingent of their troops into Juba to protect their nationals and evacuate them, what is so difficult with Kenya doing the same? Why have we not done that knowing that we have more Kenyans in South Sudan than even Uganda that is taking extraordinary measures of security for its nationals?

Secondly, most of these warring parties in South Sudan live in this country and their families are here. In trying to bring them to order, has the Government considered imposing sanctions on those who are unwilling or flatly rejecting any gesture of sitting down to talk about peace in their country so that they do not set their country on fire and run to Nairobi to live in the rich suburbs of our city in Karen, Lavington, Runda and everywhere when the small ordinary person in their country is feeling the full weight of their misconduct as their politicians?

Mr. Speaker, Sir, lastly, could the Chair, while looking for more information, inform us as a House and the country whether Kenya as the team leader of the process that led to the comprehensive peace agreement and the only African guarantor to peace in South Sudan, will move quickly to the African Peace and Security Council in the AU and the UN to call for a reconstitution of an international mechanism to bring order in South Sudan, the youngest county in the world, which is unable to hold together because of what I can call “the extreme views and selfishness of the leaders” where each does not want to be any lesser than the other?

The Speaker (Hon. Ethuro): Vice Chair.

Sen. Adan: Mr. Speaker, Sir, we will bring additional responses to the questions asked after recess. That is if we will go on recess this Thursday.

Sen. Obure: Mr. Speaker, Sir, we are talking about a matter over which Kenyans are very anxious. We know a lot of the information is readily available at the Ministry. Could the Chairperson make every effort possible to come back with answers on Thursday before we go for recess?

Sen. Sang: Mr. Speaker, Sir, the media reports on what is happening in South Sudan is worrying. We saw images of hundreds of Kenyans stranded at the airport but no nationals of other countries could be traced there. That means that Kenyans were abandoned by the Government and we cannot allow that kind of a situation.

Could the Vice Chair undertake to respond to these issues by Thursday so that in case we go on recess, we are assured of the lives of the many Kenyans who are in South Sudan because this is a serious matter?

Sen. (Prof.) Lesan: Mr. Speaker, Sir, we all notice that this is a very serious issue and we are being made to understand that the answers are available somewhere. Could the Chair undertake to bring the Cabinet Secretary (CS) concerned to this House so that we address the issue because this is urgent and serious?

The Speaker (Hon. Ethuro): Finally, Sen. Karaba.

Sen. Karaba: Mr. Speaker, Sir, I am imagining how Kenyans are feeling in South Sudan and more so, in Juba. It is like a river which has marooned a village and there is no hope, not even from the sky, and there are no signs that this situation will end soon; that is the feeling they have. Could the Government take the quickest means or methods of transport possible, including using parachutes, to go and evacuate those people who are marooned because it is very serious? We are talking about people who are about to die literally and they are saying that we wait until after recess.

The Speaker (Hon. Ethuro): Order, Sen. Karaba, do you want Kenyans to be parachuted from Juba to Nairobi?

Sen. Karaba: Exactly, we need to use the quickest possible way even if it means doing it today.

(Laughter)

The Speaker (Hon. Ethuro): Order, Members. Vice Chair, saying that you will give a response after recess is anticipating debate and so it is not acceptable. More importantly, all the Members have demonstrated to you, in a very significant manner, the importance and the sensitivity of this particular issue and the need to secure and protect the lives of Kenyans in that particular country. The Chair directs that you bring a response on Thursday afternoon. In any case, you are building on an existing response. So, whoever prepares the response is already seized of the matters and you just need to deal with the issues that have arisen.

Sen. Adan: Mr. Speaker, Sir, much obliged.

The Speaker (Hon. Ethuro): Let us go to the next Statement.

STATE OF MOGONGA-KENYENYA-NYANSIEMBE ROAD

The Speaker (Hon. Ethuro): The Chair is not here. Sen. Sijeny, do you have the response?

Sen. Sijeny: Mr. Speaker, Sir, I do not have a response right now. I have informed Sen. Obure that the CS for Transport and Infrastructure will come to our Committee tomorrow. So, we shall get those clarifications.

The Speaker (Hon. Ethuro): Order, Members. I have previously advised that when we have no response, let the Chair and the Member know, so that we do not canvas the issues in the Plenary if there is an agreement unless there is a disagreement.

Sen. Obure: Mr. Speaker, Sir, the Chairperson spoke to me about that and we reached some understanding on that. I have no objections whatsoever and I will wait until the CS gives us the response.

The Speaker (Hon. Ethuro): Let us go to Statement (c) although I cannot see the Member here.

FINANCING OF JARAMOGI-OGINGA-ODINGA
TEACHING AND REFERRAL HOSPITAL

Sen. Billow: Mr. Speaker, Sir, I am ready to execute the Statement but the Member is not here. So, I seek the indulgence of the Speaker to defer it because he was very keen on it.

The Speaker (Hon. Ethuro): Order, Mr. Chairman. I cannot see a copy of the Statement with you.

(Sen. Billow spoke off record)

Okay, I believe you. We will wait until the time Sen. (Prof.) Anyang'-Nyong'o will be around. For purposes of reorganisation of business, that Statement is deferred to Thursday. I think this is the second time we are deferring it. For those who have a bit of care and the neighbourhood of Kisumu County, you need to tell the Senator that it will be his last chance.

(Statement deferred)

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

The Speaker (Hon. Ethuro): What is it Sen. Wetangula in your capacity as the Leader of that side?

The Senate Minority Leader (Sen. Wetangula): On a point of order Mr. Speaker, Sir. I do recall Sen. (Prof.) Anyang' Nyong'o informing me that he was travelling to Poland. So, Thursday may not be appropriate. I think it may be put off to after recess.

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am quite sure he told me that he was going to Poland and I am told he was not even available to Chair the County Public Accounts and Investments Committee (CPAIC).

The Speaker (Hon. Ethuro): Order, Senator. I am just appreciating your initial statement. You do not need to add more.

What is it Sen. Wangari?

Sen. Wangari: On a point of order Mr. Speaker, Sir. I want to seek your guidance on an issue that I had requested a statement on regarding Kenya Airways.

The Speaker (Hon. Ethuro): Order, Senator. From where I sit, I saw you were following the proceedings actively and engaging, even if not in the whole Plenary but in your neighborhood, then all of a sudden you spring a surprise on us. We are disposing of statement (c).

What is it Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order Mr. Speaker, Sir. If you heard Sen. Wetangula humbly requesting for the Statement to be delivered after recess, the fact that a Member has travelled to a far country is no indication that he may not be here tomorrow.

The Senate Minority Leader (Sen. Wetangula): He is gone for a week.

Sen. (Dr.) Machage: That is the information you did not give us. If that is the information, then I am satisfied but just because he went to Poland, it does not mean that he will not arrive here tomorrow.

The Speaker (Hon. Ethuro): Order Members. The Minority Leader is engaging us in speculation. In fact, his eloquence deserted him and you could tell he was busy trying to confirm from other scenarios. I also know for a fact that he has written to me on another matter and given very clear directions implying his absence. But on this particular matter, he made no commentary.

Under the circumstances, the Statement will be on the Order Paper on Thursday. It is the responsibility of the Member to request deferment or otherwise. This House cannot purport to be acting on his behalf without the necessary prayers being sought.

I agree with Sen. (Dr.) Machage that this is now a property of the House but we are always sympathetic to the Member when he seeks alternative prayers. For now, the Chair is not aware of any.

Sen. Sang: On a point of order, Mr. Speaker, Sir. I am patiently waiting for my statement under Statement (f) but apparently a number of Senators are just rising on points of orders and requesting for their statements and yet they are not on the schedule.

The Speaker (Hon. Ethuro): I cannot agree more. The practice is that we exhaust what is on the Order Paper before you can raise the other concerns. I hope Sen. Cheruiyot and Sen. Wamatangi are with us.

Let us move to Statement (d); Chairperson on Health to issue a statement on free maternity care by Government hospitals. Sen. (Prof.) Lesan!

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

The Speaker (Hon. Ethuro): Order Senator! We are not on your committees.

Sen. (Prof.) Lesan: My apologies, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Today Senator, you might need to visit a doctor.

IMPLEMENTATION OF GOVERNMENT POLICY ON FREE MATERNITY SERVICES

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I do not have an answer to this Statement on behalf of my Chair but I am informed that we have made two attempts to try and get an answer for this and we have not succeeded. I have informed the Senator who requested this answer about the situation. We have made a third attempt to try and get the answer and we believe that if we are given a day or two, we can try and present an answer on Thursday to the House.

Sen. Sijeny: Mr. Speaker, Sir, this is truly very unfortunate because I sought for this Statement on 16th June, 2016. To date, there is no indication. In fact, the Vice Chair then told me that the statement will be ready within a week. These are very serious issues.

We have five women who have delivered sharing a bed and the pathetic situation has not changed. I believe this is countrywide. If the Committee is having a problem with the response, then they should summon the Cabinet Secretary (CS) to give a comprehensive statement on the situation because this is a matter of life and death.

The Speaker (Hon. Ethuro): I recall vividly that last week, there was an attempt to sort out this matter. I allowed the Committee to deal with the matter today. So, I think you are abusing the generosity of the Chair. What is the exact problem, Sen. (Prof.) Lesan?

Sen. (prof.) Lesan: Mr. Speaker, Sir, we have made strenuous attempts to get an answer from the Cabinet Secretary in charge of health but unfortunately, there has not been a response in the last two times. Now, we have made it a third time to see whether we can get an answer. We understand the urgency and the seriousness about the mothers and the children crises in the maternity and we are trying our best to get the answer. If we are not able to get it through this way, then we have no recourse other than to ask the Cabinet Secretary to come and deliver the answer himself.

The Speaker (Hon. Ethuro): When do you expect the response a third time?

Sen. (Prof.) Lesan: As I mentioned, Mr. Speaker, Sir, this effort has been going in the last two days and I hope that by Thursday we should be able to report to this House whether we have succeeded or not.

Sen. Sang: On a point of order, Mr. Speaker, Sir. Sometimes when committees have challenges in obtaining responses, the majority leadership has always been ready to support. This is a serious matter. Would I be in order to request that you direct the Senate Majority Leader, in this case, being a hard working former teacher at the University of Nairobi to ensure that this answer is delivered by Thursday?

(Laughter)

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

Sen. Nabwala: Mr. Speaker, Sir, I am a Member of the Committee on Health but for sometimes we have been having challenges because our Chair is---

The Speaker (Hon. Ethuro): Order, Sen. Nabwala! There is already a designated respondent. If you have any additional information you should have talked to the professor. We are not going to do committee business in the House.

What is it Sen. (Prof.) Lesan?

Sen. (prof.) Lesan: On a point of order, Mr. Speaker, Sir. If you so direct that the Majority Leader assists the committee to get this answer, we would kindly accept the assistance to access the Cabinet Secretary so that he gives us an answer.

The Speaker (Hon. Ethuro): Order Sen. (Prof.) Lesan! My directives are not subject to your acceptance; they are orders. Sen. Sang has correctly observed that when the committees have difficulties, they always seek refuge and assistance from the Senate Majority Leader. You have not told us if you sought that assistance. So, we will provide that assistance.

The Senate Majority Leader, you are ordered to get this statement that is outstanding to the House tomorrow afternoon.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I beg the Chair to give me one extra day so that I am certain to get it so that tomorrow, I can look for the Cabinet Secretary---

The Speaker (Hon. Ethuro): Order, Senators. The Senate Majority Leader, time on matters does not begin by the time you assist on the matter. Time started running by the time the Statement was being sought and so by the time it reaches you, it is actually time barred. I am giving you 24 hours so that you at least come tomorrow and tell the House what you have done, your difficulties, your expectations and then you can ask for more time. On what basis are you asking for additional time?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I fully agree with you, but just for guidance on when time starts running, in the case of the Senate Majority Leader; I thought it should run from now. But time for the Committee has been running, just specifically with due respect.

The Speaker (Hon. Ethuro): In fact, that is the point that I was clarifying to you that time does not run with the Senate Majority Leader being seized of the matter. In fact, by the time the Majority Leader is seized of the matter, time has expired. So it comes to you as an SoS; an emergency. When you have an emergency, you do not ask for more time, you deal with the situation. That is the concept.

Sen. Obure: Mr. Speaker, Sir, I want to support him, on that decision. Sometimes, I get the impression that we are not sensitive enough to some of the issues being raised in this House. For example, the issue of free maternity care is an important matter. This issue has been on the Order Paper so many times and yet you get the feeling that even the relevant Committee is not taking the matter seriously. On the issue, for example, of the disappearance of children in one of our counties, in Nandi County---

The Speaker (Hon. Ethuro): Order! You need to be relevant to the statement. We have not yet reached there, so that is sufficient for the current one. But, indeed, I want to agree with Sen. Obure, and that is why the Senate Majority Leader might be thinking otherwise. There are some key core policy statements by the State at the highest level and you expect the Cabinet Secretary to be seized of that kind of matter.

It is not just a matter of the State, this is an international committee meaning that the State has committed itself. So, when a few years down the road you are still struggling, what statement are we making to the citizens of the Republic? That is why it must be taken seriously because it is a key policy statement by the State from the highest office of the land. So, it should have systems in place for the information to be available. That is what it is guiding my directive. So, bring the answer tomorrow afternoon.

(Applause)

Let us go to Statement (e), by Sen. Dullo.

ASSAULT OF MATATU DRIVER BY POLICE OFFICER
ALONG MOMBASA-KILIFI ROAD

Sen. Adan: Mr. Speaker, Sir, I have just received the Statement from Sen. Madzayo. I have not interrogated it and I do not think he has a copy. So if he agrees with me, I would request if you can allow me to issue the statement on Thursday because tomorrow, I might not be in.

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

Sen. Madzayo: Mr. Speaker, Sir, taarifa ambayo nililiuza ilikuwa wazi kabisa. Haikuwa na pingamizi. Niko tayari kupokea jibu kutoka kwa dada yangu na sio lazima kwamba tujadiliane kwanza kabla hajaisoma. Niko tayari kupokea jibu hilo ili nitafakari zaidi. Kwa hivyo, niko tayari alisome.

The Speaker (Hon. Ethuro): Wacha niwapatie mwongozo ama mwelekeo. Naibu Mwenyekiti pia hayuko tayari kusoma taarifa hiyo kwa sababu akijibu kama hajaelewa, mtamwambia tena hajajibu. Ningekuwa nimesema kwamba atasoma taarifa hiyo kesho lakini anasema hatakuweko. Kwa hivyo, tutarudia taarifa hiyo baada ya “(f).”

(Laughter)

Kwa hivyo, nitakupatia nafasi ya kusoma na kuelewa ndio uweze kujibu taarifa hiyo kwa sababu mwenye kuuliza yuko tayari.

Sen. Adan: Mr. Speaker, Sir, the Statement (f) is also mine. So, I am kindly requesting Sen. Madzayo to give me until Thursday because I do not know whether the Statement is properly answered. If he is okay with that, I can go ahead and read the response but I have not satisfied myself that it is properly answered or not.

The Speaker (Hon. Ethuro): I think you have put your case. Sen. Madzayo, Thursday is just two days from now.

Sen. Madzayo: Bwana Spika, sawa.

The Speaker (Hon. Ethuro): Thursday. Proceed to Statement (f) and assume you have a response.

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

Sen. Adan: Mr. Speaker, Sir, I do not have a response but I have a letter from the Ministry. I have tried pushing for this Statement to be given to me today but I have an official communication from the Ministry which I can read to the House. Unfortunately, I have gone personally to the Ministry to meet the Cabinet Secretary on this matter but according to this letter, it is addressed to the Clerk of the Senate.

“Request for response to statement regarding the increased disappearances and murder of children aged eight and 16 years in Chesuwe Village, Nandi Hills, Nandi County.

Reference is made to your letter Ref. No. Sen/NSF/R/OR/04320/16 dated 14th July 2016 on the above subject matter.

This office is kindly requesting that we be provided with two more weeks to allow preparation of a comprehensive response to the various issues that were raised by the Hon. Senators.”

Mr. Speaker, Sir, this is a communication from the Ministry. I seek your direction on this matter.

Sen. Sang: Mr. Speaker, Sir, this is where you find yourself in an awkward situation as a Senator when you seek Statements on the issues that are sensitive and urgent. In this particular matter, we are talking about disappearances of five children; two were found murdered and three are still missing. This is the third week and the Ministry insists that they need two more weeks when we are talking about the whereabouts of three missing children.

This is where the Ministry and its officers need to take the lives of Kenyans seriously. The casual manner with which this Ministry and the Cabinet Secretary is taking this matter as raised in this House is upon the Chair. The fate of the three children who are missing to date is on whether the government agencies at the ground have not shared any information as to their whereabouts or the information as to the progress.

In terms of investigation the Cabinet Secretary is telling us that they require two more weeks to prepare the response. I think this Ministry is not taking the lives of Kenyans seriously. The Cabinet Secretary is busy issuing warnings and orders of taking people to court instead of concentrating on giving us answers to serious issues like these. We do not have the luxury of two weeks. I request that you direct that the Senate Majority Leader has to step in because this is a serious matter.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, under the doctrine of social contract, the cardinal responsibility of the Government is to protect the lives and properties of its citizens. I can feel the pain the distinguished Senator for Nandi is feeling. Children disappeared from a village and two were found dead. The presumption is that the three may also be dead. We cannot be told that information is being sought when the Government has agencies and agents everywhere in the country; starting from the village elders, the assistant chiefs, chiefs and everybody else, not to mention the police.

This is a matter where this House -as the protector of counties, their Governments and consequently their people - must demand cogent and urgent answers on a matter where innocent children have disappeared and two found dead. This is a matter that I would have expected the Chair of the Committee not to procrastinate in the manner we are seeing, but to demand even the Cabinet Secretary who has been generous in dishing out warnings to Opposition leaders on how he will arrest, wash and teargas us, to tell us the fate of this children.

Sen. (Dr.) Zani: Mr. Speaker, Sir, listening to the delays that we have from the Ministry, especially on such matters, we need to come up with a time limit on the answers, reasonably even within four days. If a Ministry is well organized, it can have specific officials who are thoroughly following up and ready to act on the questions coming from Parliament. The data is already there; it is a question of just systematically putting them through. From the response, I fear that there is no definiteness about the two weeks. It looks like even after two weeks we might still not have an answer. Somebody

somewhere is not taking seriously some of the Statements that we are seeking from the Ministries. We request that we have timelines and specific procedures of, probably, having officials on standby, so that we can get answers quickly and expeditiously.

Sen. Ongoro: Mr. Speaker, Sir, I wish to add my voice, fully aware that I am a Member of that Committee. In all honesty, we are talking about the lives of our children. A line Ministry that has a full mandate, with a budgetary allocation, personnel and all the organs and institutions, should give Kenyans the answer. Two weeks down the line, five lives have been lost. We are talking about a matter that infringes on Article 26 of the Constitution, under the Bill of Rights. Everybody has a right to life. It is a pity that we are now being told that an entire Ministry cannot give this House, on behalf of Kenyans, an answer as to what is happening to our own children.

In all honesty, we cannot wait one day, two days or one week. The Cabinet Secretary in charge should be summoned to this House, to tell Kenyans what is happening to our children, in not any other lesser words. To be honest, I am lost for words to even sit here and listen that an entire Cabinet Secretary, his Principal Secretary (PS) and all the officers in that Ministry cannot tell us that they have even a preliminary report on what they have gathered from the ground about what is happening to these children. It is completely unacceptable.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, this statement has been pending here for some time. You gave a directive as late as last week that it should be answered. These children are neither goats nor sheep; they are not cows that are stolen or a car that is lost in a normal robbery. These are lives of small innocent Kenyans aged 8 to 16. It begs the question: What is so particular about the 8 to 16-year-olds that are being kidnapped and killed in this village? To have a Cabinet Secretary who earns a salary and allowances every month, including 24-hour protection, asking for two more weeks starting today is untenable and uncalled for. The said Cabinet Secretary and the PS must resign. No single soul, whatsoever, should be taken for granted.

Sen. Cheruiyot: Mr. Speaker, Sir, this is a serious matter. One of the reasons I have risen to add my voice on this issue is that Chesumei, the village from where these children disappeared is next to my county. The following week after the children disappeared, similar cases have been reported in areas like Bureti and parts of my county. When I observe the casual nature in which this matter is being handled and the response that we are receiving - being told that we should give the Ministry two more weeks - we realize that there is a problem. We have a Cabinet Secretary who is in charge. What is his job if he cannot at the very primary level protect the lives of children who are totally defenseless?

For a long time, we have been saying that we need strategic minds to head our security functions. We need to move away from being told that since so-and-so is a retired General and so on, he is fit to head a Ministry. We are living in the digital age. If you scan a particular area at a particular time, you are able to tell the individuals that are active. I am not a trained security mind, but I know the basic things like where I would start my assessment from. We have a Cabinet Secretary whose only interest is to drive around Harambee Avenue with his chase cars pushing us off the way. I agree with Sen. (Prof.) Lonyangapuo that if the job is too heavy for him he should resign.

(Applause)

Sen. M. Kajwang: Mr. Speaker, Sir, my younger brother, Sen. Cheruiyot, pre-empted what I wanted to say. I am glad that with the powers and privileges that we have as Members of Parliament (MPs), no teargas shall be unleashed on him for asking for the resignation of the concerned Cabinet Secretary. There is an element of cluelessness on the part of the government. When citizens disappear and the Government cannot offer a reasonable explanation and they still need time to find out whether the children disappeared, it shows that the Government is clueless.

Mr. Speaker, Sir, the extent of cluelessness grows beyond Chesue Village in Nandi County. There is a situation where children are burning schools and the same Cabinet Secretary expected to give a response is still clueless. He is sitting in a Committee and we expect miracles and magic from him? I join those who are saying that the Cabinet Secretary involved is showing strains of incompetence. If he cannot present himself to this House, then he should not only resign, but also the Senator for Nandi County should join this side of the House where there are Members who have a clue on what is going on in this nation; the Senator for Kericho County as well.

(Applause)

Sen. Nabwala: Mr. Speaker, Sir, I also condemn the disappearance of the five children and the two who were found dead. The Cabinet Secretary and the Principal Secretary are sleeping on the job. They are very active when it comes to chasing people who are demonstrating about IEBC which is a serious matter affecting our people. However, when it comes to the disappearance of a person, it comes later, long after the person is found dead. I am afraid that the three children might also have been killed. The legislators want an explanation because we are the representatives of the people. Therefore, we must see how we can protect our children.

Sen. Obure: Mr. Speaker, Sir, I share the sentiments which have been expressed already. In fact, what I wanted to say has been captured. However, I feel that this raises a fundamental issue. The casual manner in which matters raised in this House are handled by the respective Ministries, shows that something ought to be done.

Imagining that you are the parent of a missing child, in this case five children and two of them are found murdered, yet there is someone employed by the Government right from Chesue in Nandi County to the Cabinet Secretary himself, it is very sad. This issue has been appearing in our Order Paper several times without any response. We should demand that the Cabinet Secretary responsible resigns and the disciplinary action is taken against officers down the line. This is to demonstrate that the government cares for the lives of its citizens.

The Speaker (Hon. Ethuro): The Senate Majority Leader, I know you did not ask, but I want to hear your views.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I join my colleagues in condemning any lethargy or delay by any State officer, in this particular

case, the state officers in charge of security, especially on a matter that relates to the lives of the people of Kenya.

My view is that this House through the Chair must send that message loud and clear and from where I sit, it is only fair to ask the Cabinet Secretary for Internal Security to urgently get seized of the matter and deal with it unequivocally, without any further delay.

I support what my colleagues have submitted.

The Speaker (Hon. Ethuro): Order, Members! I cannot agree more with what the Members have expressed. I order that the Chair of the Committee writes to the Cabinet Secretary. We need that Statement on Thursday. Failure to do so, this House will take the necessary sanctions against the responsible Cabinet Secretary. That is true too for the Statement sought from the Cabinet Secretary of the Ministry of Health.

In the meantime, the Senate Majority Leader must also take his responsibility of dealing with such kind of Cabinet Secretaries who are embarrassing the Government. He should make necessary presentations to the relevant offices. Our children are now protected in our Constitution because they are vulnerable. We have been told that two have been confirmed dead. So, you can imagine the fear that the presumption on the remaining ones is the same. Time is of the essence. If there is one Ministry that has its tentacles all over the country, then it is this one in question. How can it fail to deliver on such basic information? The public officers must do their jobs and be accountable to the Kenyan people. The business of Parliament is to ensure that accountability is done.

Those are my directions. There will be subsequent ones if they persistently fail to deliver on their mandate.

Hon. Members, as we conclude the Statements for today and revisiting other issues, may I make a Communication.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

THE SPEAKER'S ROUND TABLE RETREAT WITH KEPSA

Hon. Senators, I wish to inform you that the Office of the Speaker of the Senate has organised a meeting between the Senators and the Kenya Private Sector Alliance (KEPSA) to deliberate on the Public-Private sector engagement, especially on the legislative matters and its effects on the economy. The KEPSA is the apex body of the private sector in Kenya with its membership drawn from the various sectors of the economy. The KEPSA advocates on behalf of the private sector in respect of high level national cross-cutting issues. It also coordinates the private sector's engagement on public-private sector dialogue with the various arms of government. Recently, they played a very pivotal role in ensuring that there is a peaceful engagement by the two Houses on the matters of IEBC.

Since its establishment in March 2003, KEPSA has sought the integration of the private sector as a partner with the various arms of Government and other stakeholders in

the formation of laws and policies. Its over-arching goal is to create an environment conducive to business which makes Kenya a globally competitive destination commanding a high rank in the ease of doing business index which has improved over time.

It is towards this end that KEPSA has established mechanisms of engagement with the three arms of Government. These engagements are facilitated through various mechanisms such as the presidential round table, the Speaker's round table, the Ministerial stakeholder's forum and the Judiciary forum.

Hon. Senators, the theme for this year's Speaker's round table retreat with KEPSA is: Securing Kenya's competitiveness through an enabling legislative framework. The meeting will focus on the following broad objectives:-

1. To reflect on the engagement between the private sector and the Senate.
2. To review Kenya's competitiveness, policy and legislative reforms.
3. To deliberate on the forthcoming General Elections and mitigating the impact on the business environment.

The retreat will take place from 28th to 30th July 2016 at the Pride Inn Paradise Beach Resort and Convention Centre in Mombasa County. Hon. Senators are scheduled to depart on Thursday, 28th July, 2016. I invite all of you to plan to attend this important retreat. You are requested to forward your preferred time of travel to the Clerk of the Senate for planning.

I thank you.

(Resumption of the Statements)

STATEMENTS

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

Sen. Wangari: Mr. Speaker, Sir, I requested for a statement from the Implementation Committee on 19th June on the resolutions of the Senate on the state of affairs in Kenya Airways Limited. Although that Statement is not due yet, it is a matter of national importance. In fact, it is only last week that the company posted very serious losses. I request for the Chairperson to be directed to issue the Statement on Thursday instead of Tuesday, next week.

The Speaker (Hon. Ethuro): The Statement is due on 2nd August 2016. However, I agree with you that given the issues around it, it should be delivered on Thursday, this week.

POOR STATE OF ROADS AND BRIDGES IN WEST POKOT COUNTY

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Last month, I sought three Statements, but none of them has been responded to even after you directed

the Committees to do so. One of the statements was addressing the issue of the bridge that is about to collapse at Makutano-Kapenguria Road. I believe that was an emergency, but no response has been brought here yet.

CONDUCT OF CHINA JIANGSU INTERNATIONAL (K) LIMITED

The second statement was addressing the dispute between the local people of Kepsait Village in South Pokot and the contractor of the Kapsait-Sioi Dam which I have not received a response to.

CATTLE RUSTLING MENACE IN WEST POKOT

The last statement was on what the Government is doing to compensate the people who were affected by the cattle rustling menace now that they are resettling akin to what they did to the Internally Displaced Persons (IDPs).

The Speaker (Hon. Ethuro): I direct that the urgent statement on the collapsing bridge should appear on tomorrow's Order Paper while the others appear on Thursday, this week.

Sen. Kanainza: Mr. Speaker, Sir, I would like to comment on the statement that was raised by Sen. Wangari. I am the Vice-Chairperson of the Committee. Therefore, I will make sure that is done.

The Speaker (Hon. Ethuro): Sen. Kanainza, do you mean that you will respond to that statement on Thursday?

Sen. Kanainza: Mr. Speaker, Sir, I will take up the matter with my Committee so that we give response before we break for recess.

The Speaker (Hon. Ethuro): Order, Sen. Kanainza! I would like to know whether it is your Chairperson we will receive the response from. However, since you have undertaken that task, you will be the one to responsible for that statement.

Sen. M. Kajwang: Mr. Speaker, Sir, the Committee on Roads and Transport in which I sit, has previously summoned the Cabinet Secretary to respond to that specific issue. I do not know whether it will be proper for the Committee to bring the response because the Cabinet Secretary appeared before us and came with a written statement. I do not know whether it would be proper for us to hand that statement to the Committee on Implementation or bring it to the House to avoid a situation where we call the Cabinet Secretary to respond to the same matter on two occasions.

The Speaker (Hon. Ethuro): We always encourage Committees to work together. Therefore, I cannot be of help. The Statement is with the Implementation Committee because the House resolved on that particular matter. However, you can work together as Committees so that the implementation Committee can give the information.

Let us proceed to the other orders. Looking at the Order Paper, there are a lot of Divisions. However, we do not have the requisite numbers. Therefore, we will skip Order Nos.8, 9, 10, 11, 12 and 13.

COMMITTEE OF THE WHOLE

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

THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILL NO. 11 OF 2015)

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

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

(Committee of the Whole deferred)

BILLS*Second Readings*

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

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

(Bills deferred)

The Speaker (Hon. Ethuro): Next order!

Second Reading

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

(Sen. Sijeny on 10.2.2016)

(Resumption of Debate interrupted on 21.7.2016)

The Speaker (Hon. Ethuro): Please, proceed, Sen. Wetangula. You have 56 minutes.

Sen. (Dr.) Zani: On a point of order, Mr. Speaker, Sir. As Sen. Wetangula was contributing, just before the rise of the House, he made a statement that at certain periods,

party leaders are seen with aspiring candidates for nomination in hotels. Could he, please, substantiate?

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Zani! We only transfer a balance of time. We do not transfer statements.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I said no to such thing. I said that we should not abuse nomination by ignoring a woman in El Molo or another in the fringes of Turkana County in favour of women who are able to hobnob in hotels with the---

(Laughter)

The Speaker (Hon. Ethuro): Order, the Senate Minority Leader! I disallowed that point of order. Why are you attempting to respond to it?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, thank you. Since I had only spoken for just three minutes before we adjourned, I would like to start by affirming my absolute commitment to affirmative action. I would also like to affirm my commitment as a leader in the House, a party and a presidential candidate to the cause of our women who have been disadvantaged in many respects and who have been disenfranchised in many electoral processes.

Mr. Speaker, Sir, when we go to elections, the distinguished Senator for Tharaka-Nithi County vies in the village where he was born and grew up; a place where he made friends and enemies in equal measure, sometimes. The people who go to vote for him are those that know him very well. However, our daughters and sisters who are married in the neighbouring counties, have identity problems. The people of that county would like one of their own. They will ask about her parents and all manner of things. Therefore, it takes a milestone to get distinguished persons like former Cabinet Secretary, hon. Charity Ngilu, born in Mbooni and married in Kitui to be repeatedly elected with landslide victory. They are very few of such situations.

Mr. Speaker, Sir, there are also women in a minority who have stood, competed and defeated men such as hon. Cecily Mbarire, hon. Millie Odhiambo and a distinguished MCA in my county who has been elected three times. There is every indication that she will be elected again in the next election. However, a majority of the women cannot stand the rough tumble of competitive politics.

A monopoly of hooligans surround them that intimidate women candidates to the extent where campaigning on an even ground becomes very difficult. That is why it is important that affirmative action be entrenched, supported and implemented to give women an opportunity to join in this electoral and post-electoral arrangement.

Even in this House, we have persons like yourself, elected in your own right previously, but now nominated to this House and performing your duties with total distinction. I can say this of very many of our ladies in this House. Last week when I was concluding my speech for the day that appeared to make the sponsor of the Bill both uncomfortable and unhappy, I said, and I say this without any apologies that, first, affirmative action is not open-ended. It always has some sunset. It is a therapy, a measure that is meted to improve situations.

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

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

When we talk of women being brought in Houses of representation, it is about women of Kenya from all walks of life, from Mathare slums, Kibra, the heat of Mandera, the ravaging weather of Loiyangalani and the comfort of Runda, Muthaiga and other places, so that there is a blend. We also get very distinguished academicians like Sen. (Dr.) Zani here, who left their calling at the university to join the process of representation, legislation and oversight in Houses.

The Bill before us, in its memorandum rightly seeks to amend the Constitution to give effect to the two-thirds gender principle through the creation of special seats that ensure that the gender principle is realized in Parliament and further, that the State takes legislative policy and other measures, including the setting of standards to achieve the realization of the principle.

The realization of this principle and philosophy is not just about the Constitution. It is about several facets of our electoral process. When one has a partial police force that cannot ensure security for all, when one has an incompetent and untrustworthy electoral commission, when one has male-dominated political parties that do not give equal opportunities to women, then we will have these problems forever. We need to go beyond the Constitution. We have very competent women out there who have been championing for the cause of women with men who sympathise and support them like myself.

Madam Temporary Speaker, I would want to see a situation where when one goes to elections, a woman candidate like yourself is given equal opportunities in terms of security, financial support if any for purposes of competition so that you can also compete and wrestle the seats from men. I would want a situation where during elections, if a male candidate is given one police officer for security, and a woman should be given three because they suffer more disadvantages than men. Men have the capacities to marshal youths to confront any situation as they go round campaigning, but most women, except for a few, do not have that capacity. They need to be protected and given an opportunity to campaign.

I have seen situations where women candidates stand on a platform to address people and hired hooligans with red eyes, obviously looking drunk, torment them with all manner of issues, such as, who their husband is, when they were married, where their children are and such questions that have no bearing on being a leader. Those questions from these hired and red-eyed hooligans demoralize women completely from going to any other campaign meeting with the same men who are doing the same things.

One time I was attending a campaign rally, and out of the blues, some youth emerged with a placard displaying that a woman candidate in the same constituency was the previous night seen locked up in a room with a man who was not her husband. Obviously, it was false because this woman stood up to say that since the campaigns started she had been with her husband throughout. However, assuming the placards were

saying the truth, so what? Does a woman sleeping with another man make her ineligible to be a leader? It does not.

That is why we need to take more steps than just amending the Constitution and saying there will be one-third women. We must completely level the playing field to make sure women candidates have an equal opportunity to compete with men. When they are given that equal opportunity, their capacity is even better and higher. We are parents and we have daughters. I would like to see my daughters competing with other Kenyans for positions of public leadership and any other woman anywhere.

When we were in Naivasha crafting the Constitution, we left Naivasha with general consensus that the electoral seats called Women Representatives that go to the National Assembly, 47 of them, were to be given to them for 20 years. In other words, they were to go through that process of electing County Women Representatives to the National Assembly for four elections. Thereafter, that clause was to collapse into a sunset with the hope that then, we shall have built sufficient capacity for our sisters and daughter to face candidates even those who come from areas who go campaigning totting AK 47 rifles.

I went to Turkana County and was very impressed by the courage of women. A woman is looking after cattle, she has a child on her back and an AK 47 rifle hanging on her shoulder ready for combat and to repulse any danger from anybody. including a man. I asked these ladies whether they knew how to handle those weapons. One of them said “try me”. These are women in the rural areas who are totally resilient and capable of protecting their loved ones. I want the Senate Majority Leader here to imagine that, that a woman is protecting livestock, family wealth, a child on her back, her life from any danger that may come around. Those are our women. A man will be carrying an AK 47 rifle and nothing else. You will never find a man with a child on his back.

As I support this, affirmative action should not be given in perpetuity to any individual. There is a case in the National Assembly where a lady has been nominated four times. That becomes an abuse. It is not just one woman that we are considering in the country. I would like to see - unfortunately I am exiting to a higher seat - those who will be sitting in this Chamber to sit with a lady from El molo; a lady nominated from communities that have been forgotten by leadership in this country. If you look at the manner in which we nominate, it leaves a lot to be desired.

I have been giving an example of a lady in Garissa County called Mama Salado. She was on the streets of Nairobi fighting for multipartyism with the late Jaramogi Oginga Odinga, the late Masinde Muliro, Bamaris, hon. Kenneth Matiba, hon. Charles Rubia and the late Martin Shikuku. She remained consistent in her fight. However, because of where she comes from where clan politics is at play, the clan never considered her as a leader to front her for election. She is a member of my party. Successive party leaders of my party just ignored her, but she remained resilient and committed. If you go to Garissa, you will find her with flowers to welcome you. She is using her little position. I was so happy that I put her on the nomination list. She is now a nominated Member of County of Assembly (MCA) at the age of 73. In the County Assembly of Garissa, she was given the honour to be the majority Whip by the CORD coalition. I feel very happy about this mama.

Madam Temporary Speaker, you may remember that when we were campaigning in the by-election in Bungoma, she came and lived there for one month to campaign and made sure that things went right. Those are some of the people that we think about when we are talking of this affirmative action. They are people who have made major and enormous sacrifices. Some people think that when our sisters like you who love politics walk around with us from one corner of the country to the other, you have a different motive. I dare say no. You are there because you are committed to a cause to make things better.

Madam Temporary Speaker, I can say without any fear of contradiction how many times we have inhaled teargas with you, particularly on the streets of Nairobi. We were teargassed by a ruthless man called Mr. Nkaissery. We were splashed with poisonous water and beaten with truncheons. All this happened to us. In the evening, you could see the Cabinet Secretary smiling on television saying, "I will wash them if they do not take a bath at home." It is extremely ruthless yet he cannot protect Pokots from marauding people from Uganda who steal their cattle. He could not protect five children in Nandi who were kidnapped and killed. He cannot protect dormitories of our children. As at yesterday, 104 schools had been burned. It is going on and on. However, he is very quick to deport a Congolese musician who extended his leg to his dancer.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Madam Temporary Speaker. Is the Senate Minority Leader in order to make fun of such a brutal attack that took place against a lady on Kenyan soil? I am talking of the case involving Mr. Kofi Olomide, the musician. Time has come for this country to make a very strong statement that we do not condone violence against women, not the least in public. Is he in order, given that he aspires to be President, to joke around with a serious issue of an attack against women on Kenyan soil?

The Temporary Speaker (Sen. Ongoro): The Senate Minority Leader, please, take your seat. I will allow two more points of order.

Proceed, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: On a point of order, Madam Temporary Speaker. Let me start by commending Kenyans who reacted very quickly. Therefore, is Sen. Wetangula in order to dilute the whole statement that Kenyans have made clearly? People are listening to him. He is our leader. What he says is critical, but could he correct that assertion about Kofi Olomide because battering is battering. There is nothing like extending a leg or anything to anybody. There is nothing that will be extended with force and we call it extension. If you hit somebody, you have hit him or her. People are hit in private. This one had the audacity to do it in public. It will not happen again. We do not want that sort of thing.

The Temporary Speaker (Sen. Ongoro): Proceed, Sen. Nabwala. Are you on a point of order? Have you retracted?

(Sen. Nabwala spoke off record)

Proceed, Sen. Hassan.

Sen. Hassan: On a point of order, Madam Temporary Speaker. Is the Senate Majority Leader in order to say that the musician only extended a leg to a dancer when

we all know what “extending a leg” simply means? It is a figure of speech. In that context, you could construe it to mean a kick. You only extend a leg to kick. If the Government of the day thought it was a serious crime, why did they not do what the Democratic Republic of Congo (DRC) Government has done? They arrested him, charged him and locked him up for one year. If it is a grievous matter that this Government and nation was so pained, why did they not take an appropriate action as prescribed by law?

The Temporary Speaker (Sen. Ongoro): The Senate Minority Leader, you were giving a very elaborate point before all these points of order. You have to clear the air because what we are making reference to is very serious. It is not about extending a leg.

Do you accept a point of information from the Senate Majority Leader?

The Senate Majority Leader (Sen. Wetangula): Yes, Madam Temporary Speaker, Sir.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, this is just for information. We, as leaders, do not want to trivialize this matter. The reason the Government of Kenya deported the accused person is because the complainant refused to give evidence and retracted while what happened was in the glare of the whole world. That is the only reason we found that it would be untenable to host Mr. Olomide in this country after what he did. The complainant who was the sole witness on the scene retracted. I think she was confused. She started saying how Mr. Kofi Olomide loves her and did not intend to kick her. At no time did she talk about the leg being extended to her.

The Temporary Speaker (Sen. Ongoro): The Senate Minority Leader, please, clear the air.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, if my colleagues did not jump on points of order, I would have finished my point. I was talking of the manner in which the Cabinet Secretary for Interior and Coordination of National Government has been acting in serious contradictions of our expectations. When I talked about Mr. Kofi Olomide, in fact, Sen. Hassan literally took words out of my mouth. The distinguished Senator for Tharaka-Nithi is a professor of law. He knows that in all cases of grievous assault like what we saw, the complainant is not an individual. It is the State. If you commit a homicide, the complainant is the State, the Republic of Kenya. It is the Republic versus the murderer, the Republic versus the assailant, the Republic versus the robber or the Republic versus the thief. It is never distinguished Sen. Ongoro versus me as an assailant, for instance. It is the case of the Republic versus so and so, because the complainant is the Republic that is the custodian of everybody's peace and security.

With the footage that we saw, if it was true, it was sufficient to take this Congolese man to court and charge him with assault, behaving in a manner likely to cause a breach of peace and all manner of coinages of crime that the State is so good at doing in collaboration with the policemen. In fact, in the footage, there was a Kenyan woman who said, “*Sasa wanapigana wenyewe kwa wenyewe*? The complainant did not have to say she was beaten. She was seen being beaten. There were witnesses.

Therefore, I was not in any way trivializing the issue. I was saying that it is failure on the part of the Government of the Republic of Kenya to deport a criminal instead of prosecuting him when we have enough laws to do so.

Cancelling his visa is not enough. There is a Kenyan in Tanzania, a Mr. Osoro whom we have been crying for, that has been languishing in jail for the last six years. How many of our children and girls lured by Nigerians are languishing in jails in China, Thailand, Malaysia and Indonesia? They do not deport them to Kenya. They try and jail them there, which we should have done for Kofi Olomide.

For my sisters who were worried that I was trivializing the issue, I would be the last to do so. I condemned it on social media, in public addresses and interviews, that what this man did was very uncivil, cruel and unacceptable.

Madam Temporary Speaker, I want to believe that this is not just Sen. Sijeny's Bill, but it comes from various groups. As Sen. (Dr.) Khalwale said, this Bill should not be used to entrench our positions. However, it should be used for the good of the women of Kenya.

Clause 4(b) says:-

Inserting the following new Clauses immediately after Clause (1)-

(1A) a person elected under Clause (1) for a seat in Parliament or a county assembly shall be eligible for re-election under Clause (1) for two further terms only.

Madam Temporary Speaker, I cannot accept this. It means that you are nominated like our distinguished ladies are. I salute the only nominated lady from my party, Sen. Nabwala, who is aggressively fighting for an electoral seat in her county, because she knows that she has to give way for somebody else to be nominated. Having been given capacity for five years, she feels she has enough capacity and I have seen how ferociously she can campaign to face men, fight with them and be elected. This is what I expect of all our ladies, including you, to do. I salute you.

I have seen you ferociously campaigning in Nairobi. This is because you appreciate that you were not nominated to build your capacity since you had served a full term as an elected Member and now you are going back to look for an electoral seat. I urge my brother, the Senate Majority Leader to support affirmative action. However, we must have affirmative action as a revolving door, where you enter and leave after your term. Somebody else enters and leaves at the end of their term. We must give opportunities to as many of our womenfolk as we possibly we can.

Madam Temporary Speaker, I cannot accept it if we say that when you are nominated to this House you are entitled to two other nominations. I will convince this House that we must open doors far and wide for as many Kenyan women as possible.

Clause 4(b) 1(b) says:-

"Despite Clause (1A), a person elected under Clause (1) for a seat in Parliament or a county assembly in the first general election held under this constitution shall be eligible for election under Clause (1) for two further terms".

I have not looked at the Constitution properly. Sen. (Prof.) Kindiki you could help us on this. In the old Constitution, a constitutional Bill was passed or rejected as it was, without amendments. I do not know if the new Constitution and our Standing Orders say something about this.

I encourage Sen. Sijeny that if she takes what we are saying seriously, and this is a position held across the Floor, instead of waiting for the Bill to meet the fate and then wait for six months to bring it back, withdraw it and recast it. We support affirmative action, but we do not want some of our ladies entrenching themselves once they come into the House and continue to be elected and nominated, while others wait out there.

She can recast it, bring it and we will pass it with ease. If it is amendable, I would encourage her to give a commitment to the House that she will amend the Bill so that she either leaves it fluid by not having such clauses or casts it to a situation where it makes it clear that this is a revolving door, where if Sen. Bule nominates his daughter - I hope he does not - he cannot just create a dynasty, where his daughter is always being nominated. What about other daughters? Every woman is somebody's daughter and must be given equal opportunity to benefit from the new Constitution, the new legal structure and the new regime that we have in our electoral system. I encourage that this be done for purposes of creating opportunities for all.

Madam Temporary Speaker, Clause 5, Article 97 says:-

“Article 97 of the Constitution is amended-

- (a) In Clause (1) by inserting the following new paragraph immediately after paragraph (c)-
The number of special seat Members necessary to ensure that no more than two-third of the membership of the National Assembly is of the same gender;

I have quite agonized on this. Last time I said there is a lady called Sarah Serem who wails louder than the bereaved from rooftops about the wage Bill. We have too many people in the the structure of electoral process in the country and too many corresponding nominations to meet this gender rule. This is to the extent that if the United Kingdom (UK) with a population of 68 million has 400 elected people in their House of Parliament. India, with 1.3 billion people has a Parliament of 500. How do we justify the numbers that we have?

The problems we are having with counties is because of the reckless compromise we had after failing to agree on what would constitute regions as they were then called and not counties. You can remember that at Bomas of Kenya, it was agreed that the former provinces; Rift Valley was to be split into three, Eastern into three, Central into two, Western into two, Nyanza into two, North Eastern into two. Nairobi as an extra provincial region was to remain while the Coast opted to remain one.

We were going to have 16 regions which would have been more viable. There would have been a Parliament of the Coast region in Mombasa and another in Meru, covering the entire upper eastern and another in Machakos covering the lower eastern. We were to have a Parliament in Kakamega or Bungoma, Kisumu and Kisii covering an area that is economically viable in population, economy and everything. We ended up with counties, some that are not even viable in terms of physical size and so on and so forth. I have said this, that we must---

Sen. (Prof.) Lonyangapuo: On a point of order, Madam Temporary Speaker. Is the Senate Minority Leader in order to belittle the process he himself championed very hard before 2010 when he was among the front runners in the “Yes” camp, campaigning to pass the Constitution that created small regions called counties? If he was of the

contrary view, he should have been on the other side that was advocating to have the 16 he is talking about retained. Those who advocated for that were in the “No” campaign.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, the distinguished Senator was in the “No” camp and they were running around with Hon. William Ruto with red cards. The only point they were talking about was homosexuality which was fraudulent and false because it was not in the Constitution. They never talked about the issue that I am talking about. In any case, only fools have got minds that Lenin said are like concrete, all mixed up and permanently set. However, if you are not a fool, you have the right to change your mind any time.

Besides, when we went to the referendum, there was the group with red cards that was saying; *Rekebisha tupitishe* and there was a group of us who said; *Pitisha turekebishe*. So, each one of us agreed that there was something in the Constitution that needed to be changed. *Rekebisha tupitishe* and *Pitisha turekebishe* were the competing philosophies about the Constitution. I was among those who were saying; *pitisha turekebishe*. This is the time for us to start thinking of *kurekebisha*.

Although he is a professor of Mathematics, I believe that along his readings, he has read some philosophy, law and basics. Every new Constitution the world over is subjected to a public audit after five years to see whether all the contents work for the people and if they are sustainable or not. That is why I am surprised that every time we say let us look at the Constitution, Jubilee Members start saying that *tunataka nusu mkate ama sijui nini*, but we are not interested in being part of this corrupt Government. We want a good Constitution to help run the country. This can only be done in a bi-partisan manner.

Sen. (Prof.) Lonyangapuo: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Professor, I will give you the last point of order, so that we allow the Senate Minority Leader to conclude.

Sen. (Prof.) Lonyangapuo: He has very many minutes and I have to assist him use some of them.

Madam Temporary Speaker, is the Senate Minority Leader in order to say this Government is corrupt? I know his daughter and other people’s children are employed by this Government. Is he in order to say all civil servants working in this Government are corrupt? He should withdraw that statement and apologise.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I find nothing out of order. If you have contrary statements, please, present them. He has made his points and you will get your time to present a contrary position. Therefore, he is not out of order.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I do not even need to respond, but the distinguished Senator knows that if he goes to his county and says this Government is not corrupt, he will be shown the door. I have talked to him and he knows what we have talked.

The Temporary Speaker (Sen. Ongoro): Do not disclose what you have talked with him, but stick to your contribution on the Bill.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I want to rush so that I give room to my colleagues. I was dealing with Clause 5 where the

Bill provides that the number of special seats under Clause 1(c)(a) and so on--- That is why I was saying that we need to look at the entire structure of electoral positions in the country so that if we put more thinking in this process, it will be very possible to have the one-third gender rule achieved without having such a bloated Parliament. When you go to some county assemblies, you will find that all elected MCAs are male. If, for example, they have 50 wards they are obliged to nominate about 16 women which is one-third of 50 yet with some ingenuity, we can create structures where women can be elected to meet the one-third gender rule. Some countries have done it and it is not rocket science.

Madam Temporary Speaker, I do not mean to demean the National Assembly, but if we have a House of 290 plus 47 plus 16 plus 5. Therefore, it will take you a month before you even have an opportunity to raise a point of order. Probably, it will take you half a year to have a meaningful debate because everybody is competing to speak. In fact, it will be serious sense of guilt on anybody who will stand there and speak for more than 10 or 15 minutes because you have to give room to others yet we can do much better. We are a country with a population of 40 million. If India with 1.3 billion people has a Parliament of 500 MPs, what justification do we have for having close to 400 MPs for a population of 42 million people?

Madam Temporary Speaker, this Bill speaks to reviewing. It states that Parliament shall review Clause 1(c)(a) on the expiry of 20 years from the date on which the Members under Clause 1(c)(a) are first elected to the National Assembly with a view to determining whether the principle under Article 81(b) can be achieved without the special seats provided. We need to be more ingenious than this because the moment we have nomination as a cure to an electoral deficiency, very few people will make a serious effort to fight.

I wish Sen. Sijeny plucked the Clause that we had put in the Naivasha Draft Bill that just gave a determinate sunset clause of 20 years other than a review because when the 20 years are over, knowing how Kenyans behave, it will open a hole of very angry arguments as to what we want to do with it. I would prefer that we just have a sunset clause and after 20 years, we must take care differently of these special seats. Of course, there is a basic constitutional provision that one-third of every House must be of either gender and that will never go away. What will go away is the methodology that we have. Once that methodology exits, then we must be ingenious enough to think of another way of achieving this.

How do we have women elected without stress? How do we have women coming to the House without duplicating the numbers of men who are here? I am sure we can find a way of getting special constituencies that can accommodate this process and have enough women coming to this Chamber. In fact, I have seen that even in this House where men are the majority, the Senators who sit here and debate up to evening are women. The men are out there looking for all manner of things---

(Laughter)

The Temporary Speaker (Sen. Ongoro): Hon. Senator, you have had enough points of order. I would give this chance to Sen. Bule; proceed you have the Floor.

Sen. Bule: Is it my point of order or my statement, Madam Temporary Speaker?

The Temporary Speaker (Sen. Ongoro): It is a point of order.

Sen. Bule: Madam Temporary Speaker, my point of order is that the Constitution is very clear and it has allowed women. We are equally elected---

The Temporary Speaker (Sen. Ongoro): Hon. Senator, what is out of order? You are on a point of order so direct us to what is out of order.

Sen. Bule: Madam Temporary Speaker, my point of order is that we do not have to create a new constituency for women while we have 47 women who are elected.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, you are out of order because what you are giving is a contribution on this. You are not pointing out what was out of order.

Hon. Senator, proceed.

The Senate Minority Leader (Sen. Wetangula): Thank you, Madam Temporary Speaker. I thought the distinguished Senator was offended by my assertion that women sit in this House longer than the men. He then pursued a completely different trajectory that was irrelevant to what I was saying, but we forgive him.

Madam Temporary Speaker, I want to conclude by encouraging Sen. Sijeny, the Senator sponsoring this Bill, that we do not want to throw out the baby with the bath water. This House is unlikely to find favour with the Clause allowing nominations in perpetuity. This House is unlikely to find favour with Clause 4(1)(a) and (b). She should find a way of giving us a firm commitment that she will change the Bill then we will vote overwhelmingly for it. If that remains the same, she has my qualified support.

I noticed that many Senators had similar thinking; that we want the revolving door to give room for as many women as possible. Sen. Wangari is here; she will run and next time her daughter should follow or somebody else other than entrenching Sen. Wangari here for over 15 years as if there are no other people out there.

Madam Temporary Speaker, I beg to support to the extent that I have said and I hope that at the Committee stage, we will see something restructured, recast and meeting our expectations as we support firmly the one-third gender rule and affirmative action for our women.

Sen. (Dr.) Zani: Madam Temporary Speaker, when Kenyans spoke as we promulgated the Constitution in 2010, it was very clear that not more than two-thirds of the same gender should hold a particular position. Sometimes we refer to it as the two-thirds rule and sometimes as one-third gender rule because gender is a social construct. It is not men or women, it is not sex. Gender is a social construct, but because that social construct in a patriarchal society like Kenya has tended towards discrimination for women, when we talk about the one third, we are talking about the affirmation for this one third to be able to come up.

Kenyans made that decision. When we started this debate, Sen. (Dr.) Khalwale raised a point of order to question the whole idea of the Bill being properly before the House. In my understanding, that provision and principle is already in place. What is not in place and what we are trying to do now is to come up with a legislative framework for us to achieve that. It is interesting because without that sort anchoring, it becomes difficult for women to move to leadership positions.

We hear it from men and every time that they support women, they have daughters and that they have mothers who are women. If that was the truth of the matter, we would not be in the situation we are in. We would not be in a situation where when that Bill went to the National Assembly twice; it was rejected with the second rejection being worse than the first rejection. Those are the same men who had spoken in that same language. That is why we find ourselves in a situation where we want to anchor this in a better way. I am happy it has come in the “upper” House because I find here Senators men and women of repute who will look at this Bill with a very conscience lens and try to achieve what it is that Kenyans have asked for.

Madam Temporary Speaker, it is not difficult to do this. If you look at countries like Rwanda, they have attained 64 per cent gender representation with 64 per cent being women. For example, Finland, we have 80 women in a parliament of about 200 members. The interesting thing about Finland is that most of these have been elected. We obviously pick that discourse or argument from that setup into this setup and say; why can they not be elected? We would love to be elected, but we must look at our historical, social and cultural limitations that have been the key to putting us in the situation we are in. So, when we are talking about affirmative action, we are not talking about it because we love it or we want it to last forever, but we are talking about it because it is the one that will catapult us to a point where one would become a reference point where the girls who are interested in joining politics can watch and get interested and come on board.

Madam Temporary Speaker, Sen. Wetangula, as he made his contributions, talked about the difficulties that women face. This is how we are. We know of many parliamentary seats that could easily have been won by women and they may have won those seats, but they were not able to be declared the winners. We know of women who have died and somehow the level of violence that is meted on women is most cruel and violent, including getting into the point of hurting children in the name of power. So, when you find women in a situation that they are in, where they are a little bit cautious, there is reason for it. Therefore, every time we have this argument, we must be able to contextualize it in that particular realm so that we understand what it is we are talking about and we do not become skeptical and say women can go. Women can go to fight for these positions, but we need to look at their talents clearly.

Madam Temporary Speaker, this amendment Bill is very important because it aims at entrenching that. If we look at the numbers in the National Assembly and the numbers in the Senate, the argument that Sen. Wetangula has put is true. If we have more women elected into these seats, we would have less need to have the women nominated into these seats. Right now, in the National Assembly, 16 women in the constituency were able to get those seats and we hope we will get many more in the future. We have the 47 women county Members of Parliament and we have the five nominated women giving a total of 68 women in the National Assembly. In the Senate, we have a membership of 67: we have 49 men and 18 women, respectively.

The shortfall in the Senate is much lower than in the National Assembly. The shortfall in the Senate is about five women. If we have, for example, two nominated Senators – and Sen. Ongoro, you are going for the Senator’s seat and I know a few others who want to be elected to be members of the National Assembly. We pray and hope for

the best for you to get those elections so that we have women sitting here so that we do not have somebody saying like one of the Senators commented that you are escorting delegations and that we cannot vote for our delegations.

This is because we vote as a delegation but in consultation with the head of delegation. It would be a fresh breathe of air to have those positions filled by women. It is possible and can happen. The numbers will vary. In the National Assembly, to attain almost 150 Members, we need about 70 more added, if things remain the way they are but going into the election we expect that change.

The foundation of this Bill is that it tries to address the issue of having a constitutional assembly, both at the National Assembly and the Senate, by having not more than two-thirds of the same gender within those particular bodies. Article 177 of the Constitution saved a situation for the county assemblies. It gave an important provision that at the end of the day, the number of special seats necessary to ensure that not more than two-thirds of the membership of the assembly is of the same gender was entrenched within the Constitution. Immediately after the elections, it was possible for county assemblies to seat, look at the numbers and calculate how many more are needed and embrace them. This did not happen for the National Assembly and the Senate. Article 97 of the Constitution deals with the composition of the National Assembly and Article 98 deals with the composition of the Senate. This Bill, therefore, tries to entrench the same principle within the National Assembly and the Senate.

Clause 3 (2) is an additional clause. We realised that if we leave this within the Constitution as it is, it will be a problem for it to be enacted. Therefore, we are making a provision in this Bill to take legislative policy and other measures, including setting standards to achieve the realization of this particular clause. Without a clear affirmative action to address that specific clause, it becomes difficult for us to do that.

Madam Temporary Speaker, allow me to go to the contentious clause. A lot of contributions that we are getting across this clause are to do with the misreading of the clause. Clause 1 tries to solve a problem of having nominations of one particular Member exceeding two specific terms. It is already addressing the problem of having a Member being nominated for the third and fourth time. When we talk of women Senators and leaders wanting to be nominated 15 times, it is a misrepresentation of the clause. This clause tries to cure a good. It states that a person should only be nominated for two terms. The eligibility refers to qualification; it does not state that a person must be there. We know that in any nomination procedure, some might be nominated once or twice. It is a political party decision to be made. Therefore, we are misinterpreting this clause given what I have heard from the debate since Thursday. I stood on a point of information and informed Sen. (Dr.) Khalwale. He told me that if I were his lecturer, I would have misled him. There is no misleading because this clause is very clear. We are talking about eligibility which does not infer “a must.”

I will go along the lines of Sen. Wetangula, that if this clause is creating confusion, we can discuss about how best we can address it. I do not think that the spirit of this particular Bill was for the women leaders, especially those in this House or the National Assembly, to entrench themselves. That is not the interpretation that we had expected to come on board.

Article 97 of the Constitution addresses the issue of the National Assembly and the number of special seats. Article 98 focuses on the specific provisions for the Senate, which are critical and have been put out in the Bill. It is important to have the sunset clause because 20 years is a long time. We expect that after 20 years, we would have attained more than the two-thirds or the one-third, but there is also the possibility that it will not have happened. We do not want to reach a point where we have closed all avenues. In the previous Bill, we did not have this review in place. This Bill puts that review in place, which helps us to move ahead.

If you look at the issue of nomination from a positive perspective, yes, we are nurturing women. However, some unpalatable statements have been made in this House about how people get their nominations. I am so disappointed because some of these statements come from women. Initially, when we were at political meetings, some women would stand and speak the loudest about such things. When it comes to some positions, not everybody can get them. No matter how many nominations we give, some people will not get those nominations. As women, we must stand and support each other. The worst thing is for any woman to stand and talk about how another woman got a nomination, by doing God-knows-what. In fact, people should ask her because she might know that system better than anybody else.

When it comes from men, I will ask two questions: Do you not think that there is any woman qualified enough to be nominated? When it is a man who has been nominated, what did he do to be nominated? Nominations are there to help make specific contributions. Women are coming up with these positions both in the National Assembly and the Senate. Sen. Wetangula has just talked about the role of women in the Senate and the amount of work that we put in. The fact is that if you look at the composition now, we are at 90 per cent. These are the things that we need to press on. As we look at the Committee work, what sort of contribution are women bringing into those committees?

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

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Zani, do you wish to be informed by Sen. (Prof.) Lonyangapuo?

Sen. (Dr.) Zani: Madam Temporary Speaker, I would like to be informed.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I want to inform Sen. (Dr.) Zani that as far as we know, the strongest candidates in a nomination are delivered by their own individual parties. Likewise, the respective Senators are elected in their counties. For that reason, our nominated colleagues are here strongly to safeguard the interests of the institutions that we stand for. Therefore, any other person that may purport to imagine that people come here through a different process is really misled.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. Conclude, Professor.

Sen. (Dr.) Zani: Madam Temporary Speaker, 'professor' sounds good as well. I hope it will come true in the next few years.

This is exactly the tone that we need to set. We have professions and other things that we need to move on to do in different spheres of life. It is important for that tag; some people are bothered by it and some are not. It reflects negatively when a society

speaks like that and utters this sort of sentiments. People have to be cautious and careful about how they go about it.

Lastly, there is the feeling that some of those who are nominated might not have contributed much to the party or worked hard enough. However, it is the political parties that make the decision and nominate. This is something that has been debated over and over again. These are some of the proposals that we made, even as we were talking about the amendment of the Constitution. It is important to come up with amendments in the Political Parties Act, so that we have a provision on how women can come in. We should have women who can present themselves to the electorate and try to be elected. The proposal is that the nomination lists would entail those women who have tried to be elected, but did not win. We can then have 'the best loser' but they stand a chance to be nominated within the party having gone into the election in the first instance.

Madam Temporary Speaker, if we look at it as work in progress and people we love, we shall realise that there is no way we can attain development when one half is playing in one way and the other in another way. The way a man thinks is different from how a woman does. The views, values and their imaginations---

The Temporary Speaker (Sen. Ongoro): Kindly, conclude Senator.

Sen. (Dr.) Zani: Madam Temporary Speaker, thank you for giving me the two minutes to conclude.

It is important to support all the women of Kenya because they are the future women leaders.

I support.

Sen. Nabwala: Madam Temporary Speaker, may I commend the Mover of this Bill on the amendment of the two-thirds gender principle. She is putting a lot of effort to move this Bill.

I support this Bill because it is about the Constitution which was voted overwhelmingly by the people of Kenya. When Kenyans voted for Articles 97 and 98 on the composition of the Senate and the National Assembly, they knew they were voting about the numbers which would affect the wage bill.

Madam Temporary Speaker, in my view, we have seen many women making effort and in 2017, there will be many women vying. We may be talking about a lesser number of women being nominated because I am hoping there will be more women who will come through the elective position.

This Bill proposes that political parties should embrace women and work closely with them. It is through the political parties that we will enable women to get to elective positions. Therefore, we need our party leaders to be positive because they are the ones who will give the nominations. If they do not, then I do not see us going far in actualizing the affirmative action of the Bill.

Madam Temporary Speaker, I am a Member of the International Parliamentary Union in Geneva where we meet twice a year. We have 168 countries who have subscribed to the Union. One of the sustainable development goals number five is about gender parity. We normally give progress of what each member state is doing to actualise the position. Rwanda is the leading country because it has more women in elective and

state positions. However, Kenya is not doing well with only 20 per cent. Therefore, I urge the House to support the Bill so that as a country, we move forward.

We know that countries like the United States of America (USA) and the United Kingdom (UK) have a presidential woman candidate and a Prime Minister, respectively. Mrs. Hillary Clinton was given a nomination by the democrats meaning they have a lot of faith in their women. I request our party principals to embrace women because they have the ability if given a chance. As my party leader said, men work with hooliganism but we do not want to look at that when we get to the General Elections in 2017. We want to change the way we do politics. We want to reach a level of selling one's ideals. We do not want to sell muscles and how one is strong or how to bulldoze women to scare them from vying for elective positions.

Madam Temporary Speaker, affirmative action is important going forward. I do not think that there is any development without the involvement of women. Women have been marginalized for a long time. I am glad that with our Constitution, women can now come on board. We should encourage nomination of more women so that they can serve in elective positions. If we do that, we shall save many families out there. If a woman is elected, she will make sure that she serves her constituents but you will find that most of our men - outside there - marry many women. The more money one has, the more wives they marry but a woman is dedicated to serve her family and the constituents without too much ado.

Otherwise, I commend Sen. Sijeny for her good work. I hope that we will support this Bill. If there are disagreements, we should sit and solve them out.

Madam Temporary Speaker, as regards a clause which I think is contentious a little - where it provides that the Bill is intended to advocate for a second nomination - in my view, the Bill provides that the nomination is after a candidate has vied. Then, the nominated candidate shall be the best loser in the election instead of awarding girlfriends as you have branded us. The male Members have said that we are girlfriends but we are not. In fact, they can be willing boyfriends also.

The Temporary Speaker (Sen. Ongoro): Sen. Nabwala, kindly stick to the point.

Sen. Nabwala: Madam Temporary Speaker, the clause about having a chance for a second nomination is to curb the nomination being given four or five times. If for the second time, I stood for an elective post and garnered 30 000 votes, I have added the votes to my presidential candidate. Therefore, he or she should recognise the effort that I have made. We also spend money when campaigning because it is not a free undertaking. We know that campaigns in Kenya are expensive. So, on that basis, women should be given a second opportunity for our nomination if we can prove that we did a good job. However, if we do not, then we miss the nomination and another is granted the opportunity where she will continue building capacity.

Madam Temporary Speaker, the gender parity is not about women. It is a signal that I am giving to the men. In the next 10 years, men will be crying to us wanting to have the affirmative action. That time, we shall be smart enough and we will know how to deal with them.

Thank you.

(Applause)

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. I do not see any further requests to contribute on this. So, before I give the Chair of the Kenya Women Senators Association (KEWOSA) who is the sponsor of the Bill to respond, may I give two minutes to Sen. Bule to seek a Statement.

Sen. Bule: Thank you Madam Temporary Speaker. I pray to seek a Statement.

The Temporary Speaker (Sen. Ongoro): Permission granted.

(Interruption of Debate)

STATEMENT

DISMISSAL FROM SERVICE OF PRIVATE
ABDIRRAHMAN OMAR MATHEI

Sen. Bule: Madam Temporary Speaker, pursuant to Standing Order No. 45 (2) (b), I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relation regarding the dismissal from service of Private Abdirrahman Omar Mathei, an infantry man at the Third Battalion of Kenya Rifle, Kenya Army, Service No. 55662. In the Statement, the Chairperson should:-

(i) State whether he is aware that Private Omar was discharged from the service of Kenya Army for completion of colour service vide a discharge authority dated 24th September, 2008.

(ii) Explain the circumstances that led to the dismissal of the said officer by authority of the dismissal date indicated as 14th April 2009.

(iii) Explain the circumstances under which the officer who had a distinguished service for 25 years was dismissed even after he had been honourably discharged from service and given a 90 days terminal leave.

(iv) Indicate when the dues of the said officer will be paid to him for the 25 years service that he rendered to this country.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Sen. Sijeny, kindly undertake to relay information to the Chairperson of the Committee on the on National Security and Foreign Relations.

Sen. Sijeny: Madam Temporary Speaker, I undertake to relay the information sought to the Chairperson of the Committee on National Security and Foreign Relations.

The Temporary Speaker (Sen. Ongoro): You further undertake to relay the information after how many weeks?

Sen. Sijeny: Madam Temporary Speaker, the practice is two weeks. I request for two weeks to respond.

The Temporary Speaker (Sen. Ongoro): We will be on recess by that time, but I hope that we will get the response the first week after we resume.

Sen. (Dr.) Zani: Madam Temporary Speaker, perhaps I am coming in a bit late, but I would like to support the statement that has been sought by Sen. Bule because he raised a burning issue across the board. In addition to that, I would like to add that the Chair should highlight why there is such delay so that we understand what is happening because that is an issue that touches on quite a number of officers. It is only fair that after they have served their country diligently for long, they need to be given their dues in good time.

The Temporary Speaker (Sen. Ongoro): Sen. Sijeny, kindly factor in that when you relay the information.

You can now proceed to give your response to the Bill.

(Resumption of Debate interrupted today)

Sen. Sijeny: Madam Temporary Speaker, I thank you for this opportunity. I wish to thank all the Senators who have contributed to this Bill. I do not take it for granted. I know that they have taken their time. Some researched well, listened and came up with very good ideas.

First and foremost, I wish to respond and say that before this Bill was tabled, or sponsored at the Senate, there was very wide consultation. We consulted widely and I wish to record that it is the Attorney-General who was the convener of the meeting where all stakeholders who deal with women issues came, discussed and researched widely. We know the tremendous efforts by the National Gender and Equality Commission (NGEC), especially the Chairperson, Madam Winfred Lichuma, who has given all her time and put her best foot forward to ensure that this Bill comes to reality.

Madam Temporary Speaker, I wish to inform my colleagues that many formulas were discussed and debated. This was the best option out of all the ones that were suggested by the various Non-Governmental Organizations (NGOs), the Law Society of Kenya (LSK) and many others. It was exposed to a lot of public participation. Therefore, what is in the Bill is well thought out. This affirmative action is not only a Kenyan initiative. It is a global initiative because many countries internationally and within the region have embraced this affirmative action. Zimbabwe, for instance, started implementing affirmative action in the year 2013 after their elections and they have complied. What we are bringing here is something similar.

I was sent to Rwanda on Thursday to represent the Senate in the Commonwealth Parliamentary Association Conference which dealt with Commonwealth women parliamentary issues. What came out is that what we have put in this Bill is what all the Commonwealth countries are urging their member states to ensure that they have constitutional, legislative and political ways of ensuring and encouraging women participation.

Madam Temporary Speaker, by coming up with this Bill, it should not be seen that it is us who have been nominated that are looking for a second chance of nomination. It is our role as the women of Kenya and the world to ensure that we improve and increase women participation. That is why we are enshrined in the Constitution.

I also wish it came out clearly that there are several pending Bills; some at the National Assembly, but one has already come, passed and is already law that as women and other stakeholders, we propose amendments to the Political Parties Act and other electoral laws. In those Bills, we indicated and gave proposals that for a person to be elected and not nominated as in the previous Constitution, all the people who are to be elected through the affirmative action, must pass through the electoral process as is stated in the Constitution. By saying that, it does not mean that we are looking for shortcuts to come back. Our colleagues should also give proposals on what criteria they would like to be used.

Madam Temporary Speaker, for example, it is common knowledge that I am contesting for the Langata Constituency parliamentary seat. If I win, so be it. I will not come back to the Senate. I will definitely cross over to the “lower” House, the National Assembly. However, if I do not win, but end up as the best loser, that means, I attain the highest number of votes out of the losing candidate, there is nothing wrong with my political party considering my efforts. By the time I contest and lose with high votes, as Sen. Mukite has said, I will have promoted the political party and increased its membership. Therefore, if the party is satisfied that you are the best person, and they recognize your efforts and competence, then it is up to the political party to decide if you meet the criteria.

This is a time when women are being recognized internationally. Kenya should not be the only country that is lagging behind. Even people who are less democratic are being given a chance by political parties in their countries. We will ask the relevant political party leaders to give us the political will and support and not only lip service. They should ensure that the affirmative action is real.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki)
gestured to Sen. Sijeny)*

I can see that the Senate Majority Leader is pleading and harassing me to check on time. I wonder what other Bills he wants to move.

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader, please, do not harass Sen. Sijeny as she replies to this important Bill.

Please, take your time, Sen. Sijeny.

Sen. Sijeny: Madam Temporary Speaker, the Senate Majority Leader was not here on Thursday when my colleagues were devouring and being unkind to me. I have the HANSARD here to prove it. However, two wrongs do not make a right. As a woman and leader, I must show that we can rise above pettiness and focus on the main issues. I also wish Sen. Wetangula was here. We, as Kenya Women Parliamentarians Association (KEWOPA) and Kenya Women Senators Association (KEWOSA), have mentored so many women so far. You all know that we do not have a financial kitty that supports our activities. We, as Senators, use our minimal resources to reach out to other women, both professional and non-professional.

We have mentored many young professionals even in the villages. We go everywhere because our mandate is not restricted to counties even though we are

registered voters in certain counties. If we are called upon by the women in Turkana, Coast or Tharaka Nithi, we will go. According to the Constitution, women know that we are here because of them. They are our constituents. We have to advocate for their rights.

On a light note, some people have said that women or party leaders are championing to bring their wives, girlfriends, daughters and so on. Those wives are also Kenyans. The best example is the First Lady. She has done a tremendous job not only in Kenya but in the world. We have seen her efforts to improve women's rights, maternal healthcare and HIV/AIDS. If the President through his political party; The National Alliance (TNA), was to consider nominating her for whichever position, as women of this country, we would support him.

The governors' wives also have the association of county first ladies. They are also going round doing the right things. Therefore, being a wife or spouse is not necessarily wrong. There are many other criteria. Your work should be assessed and our colleagues should judge us for what we are; as their equals and not otherwise.

I will sit in the Committee on Legal Affairs and Human Rights and see what can be done. If the Bill cannot be amended, then I will consult our colleagues because the eligibility part is a bit contentious so far. It has never been contentious even when I appeared before the Committee on Legal Affairs and Human Rights. With other stakeholders, I appeared before the Committee on Legal Affairs and Human Rights in pre-publication and even after publication. We discussed. The issue of eligibility was a contribution from the Committee, that there has to be a limit so that the same women cannot be nominated forever.

After discussions with the stakeholders and women, we agreed that it is not possible in all cases that a women being nominated after five years is ready to roll on to the strenuous campaigns. We come from different backgrounds. Some of them are just concentrating on getting their degrees so that next time, they can contest for the seats that they want; gubernatorial and so on. It is not mandatory that after one session, you must nominate them again. It was just stating the qualifications or eligibility. For instance, if you sit for an exam, the examiner can say that it is only graduates who can sit for the exam. Going there as a graduate does not mean that you have passed the exam. You must read and do it. You must be examined.

So, regarding the word "eligibility", I will look for time so that I can persuade the Senate Minority Leader, Sen. (Dr.) Khalwale and other Senators. Sen. (Dr.) Khalwale was so unkind to us, not polite at all. Being a good debater does not mean that you must insult or belittle your colleagues. We can argue and debate with decorum because this is truly the "Upper House."

Madam Temporary Speaker, with those few remarks, I beg to move.

The Temporary Speaker (Sen. Ongoro): Are you requesting that we put the question at a later date?

Sen. Sijeny: Madam Temporary Speaker, pursuant to Standing Order No.54(3), I beg to move that you defer putting of the question to a later date.

The Temporary Speaker (Sen. Ongoro): It is accepted. The question will be put tomorrow.

(Putting of the question on the Bill deferred)

Next order!

Second Reading

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

(Sen. (Prof.) Kindiki on 15.4.2014)

(Resumption of Debate interrupted on 15.04.2016)

The Temporary Speaker (Sen. Ongoro): Just to jog our minds, debate on this Bill was adjourned under Standing Order No.99 to allow for consultations. I think you have consulted. So, debate can resume. Therefore, the Floor is open.

Proceed, Senate Majority Leader (Sen. (Prof.) Kindiki).

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, what you have said is the correct position. However, we need your guidance whether it should be moved afresh. It was first stepped down for consultations. Or is it that the debate should continue?

The Temporary Speaker (Sen. Ongoro): No, it should not be moved afresh. The Floor is now open for anyone wishing to contribute. I believe you have now consulted enough. That is as per Standing Order No.99. We do not have to move it afresh.

Proceed, Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Madam Temporary Speaker, I thank you for giving me this opportunity to contribute to this Bill. From the outset, I support this Bill. This is an amendment Bill that seeks to align it with the Constitution. It is very clear in the Fourth Schedule. The distribution of functions between the national and county governments has been clearly stipulated. I refer to county government's specificity in terms of what they are meant to do. They have a function as far as county health services are concerned, specifically county health facilities. They have a jurisdiction for the functions across county health facilities, pharmacies and promotion of primary healthcare.

From the outset, this Bill has to be well anchored in a devolved system. There is no way that can be done without creating new structures and giving those structures responsibilities that make it possible for this organ to be well entrenched in the Constitution, the counties and have synchrony between the two. That is why the aspect of introducing an authority is important. This is the apex. This authority will have a national mandate linking directly with the counties. Therefore, that amendment at Clause 2 where we are adding an authority to run the specific responsibilities is important.

Madam Temporary Speaker, at Clause 3, specific additional definitions are put in so that we anchor this Bill clearly within a devolved system. These terminologies and definitions were not there in the principal Act. We have definitions about the council which in this case is referring to a council of county governors. We have definitions

about the county governments as per the reading of Article 176 so that it is explained exactly where these are and what essential medicines and medical supplies are.

This Bill brings out very well one of the things we have had a contention with the National Assembly any time we are talking about counties. You cannot talk about counties without talking about the people in those counties. Therefore, when we talk about a Bill touching on a county, this is such a Bill. It touches on the people in the counties and the provisions that they actually get as a result of being in those counties.

The inclusion in Clause 4(aa) creates the very important idea of consultation at the level of the Authority and the Council, thus creating a consultative process for very key and sometimes very sensitive aspects of procurement, warehousing and ensuring availability of adequate medical supplies to the county governments.

This Authority will create an important link for such consultations so that there is no confusion about what is going on. The county governments are going to establish drawing rights, and maintain appropriate supply chain systems for drugs and medical supplies. In many instances, especially when we are talking about the supply to public hospitals or public institutions, there has been a lot of hue and cry. Sometimes medicines allocated, procured and distributed to a hospital are not availed to the patients. This coordinating and streamlining will help ensure that these supply chains start from the origin and end with the patient being able to receive these medicines. They will also be able to utilize the available equipment for appropriate delivery of drugs.

The final premise is that the sick person should be well. This coordination has previously been centralised but is now a devolved function. We still have debates on equipment that have been given to counties and how they are meant to be used.

Clause 4(a) talks about an agreement between the national and county governments. This is hinged on the inter-governmental agreement. It is this section that entrenches the connection between the national and county governments through an inter-governmental agreement that is going to be put in place and will allow for transfer of functions that fall under the county governments so that they are well prepared to handle those functions and have the powers as a result of those functions being given to them.

Madam Temporary Speaker, it is important to ensure that adequate resources are provided so that when this transfer is implemented fully, there will be enough resources. This is because devolution was not just about devolving functions but also resources. The Senate has spoken severally about the idea of costing of these functions. Today, we were talking about village polytechniques in the Committee on Education and the need to have them funded in order to run properly. The issue of how much has been allocated for those functions and where the money is came up again.

Having a specific council in place is also a critical issue in this amendment. It says:-

“Two persons, one a man, one a woman will be members in that council”.

The gender balance in this role is very important. The Bill is clear that the recommendations, consultation, Council of Governors and the making of the regulations will be properly entrenched.

Clause 7 touches on the connection between decision making at the Cabinet Secretary (CS) level, the authority, the council and the county governments so that they can make all these important regulations for better carrying out of the objects of this Act. The CS is critical in driving this process. I suggest that immediately after this Bill becomes an Act of Parliament, correct structures and processes, finances and resources be allocated so that we are able to have everything in place and being run properly.

Finally, I commend this Amendment Bill. It will seek out and bring out clearer cooperation and functioning between national and county governments which is the gist of the Bill. This is so that at the end of the day, we have clarity about what is expected to be done at the various points. The Bill also clearly gives the functions of the Authority and the responsibilities of the CS. This Bill, like others which we have enacted, will help entrench devolution within the counties.

I support.

The Temporary Speaker (Sen. Ongoro): There being no further requests, I call upon the mover to reply.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move and request that you defer the putting of the question to a later date under Standing Order No. 54(3).

The Temporary Speaker (Sen. Ongoro): Request is granted. We will cluster it with the others for tomorrow.

(Putting of the Question on the Bill deferred)

Second Reading

THE SELF HELP ASSOCIATIONS BILL
(SENATE BILL NO. 2 OF 2015)

The Temporary Speaker (Sen. Ongoro): Since Sen. Wangari is not in the House, Second Reading of the Bill is deferred.

(Bill deferred)

Second Reading

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL
(NATIONAL ASSEMBLY BILL NO. 35 OF 2014)

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to move:-

THAT the Parliamentary Powers and Privileges Bill (National Assembly Bill No. 35 of 2014) be read a Second Time.

This Bill has one main objective which is to give effect to Article 117 of the Constitution relating to the privileges and immunities of Members of Parliament, in particular, to provide for the powers, privileges and immunities of Parliament, its committees, the Majority Leader, the Minority Leader, the Chairpersons of Committees and Members of both Houses of Parliament, and to make provisions relating to how members of the public may be admitted into the House, not necessarily in the Chamber, but the precincts of Parliament.

The precincts of Parliament are described as any area within the boundaries of Parliament. This is so that there is regulation on who accesses Parliament for the orderly conduct of business, the maintenance of the dignity of the two Houses of Parliament and for security of Members and staff who work there, being the most important and supreme political institution of the country.

Madam Temporary Speaker, the reason the Bill is introduced is to give effect to the new Constitution especially by recognizing that Parliament is now bicameral. This is because we already have an existing legislation known as the National Assembly Powers and Privileges Act Cap 6, but it deals with the National Assembly powers and privileges.

What the new Constitution says is that pending the introduction of a new Act which is now here, the National Assembly Powers and Privileges Act will continue to apply for both Houses of Parliament. Therefore, when this Act comes into force, Cap 6 which is the National Assembly Powers and Privileges Act will cease to apply. It will stand repealed and this is the law that will apply.

Madam Temporary Speaker, largely speaking, the issue of parliamentary privileges and immunities is standard. These are standard immunities and privileges that you will find in all parliaments around the world. With regard to the Commonwealth, the immunities and privileges are basically the same. Parliament is given inviolability in the sense that not everyone can access Parliament so that Members are secure and they are safe as they deliberate on important national issues. Parliament being a political House, its security cannot be overemphasized.

Secondly, all over the world and including in this Bill, Members are protected by being given freedom of speech and freedom from arrest or harassment by security agencies in connection with the words they speak or utter especially on the Floor of any House of Parliament or a committee for that matter. Likewise, there is protection of the staff members from being compelled to reveal information to unauthorized institutions, including courts, especially with regard to proceedings before Parliament.

For the orderly conduct of parliamentary business, this Bill also suggests that no member, whether an MP or a member of staff, may interrupt the proceedings of any House of Parliament or even a sitting of a committee of Parliament. Recently, we had an incident in this House where the proceedings of County Public Accounts and Investments Committee (CPAIC) were disrupted by an altercation between a Member and somebody who had appeared before that Committee. I do not want to speak to that matter because it is already being actively adjudicated but that shows you the need for order, whether in terms of plenary sittings or committee sittings, and this is what this Bill is intended to address.

Very briefly, I will do just a few highlights. The first one is what constitutes the precincts of Parliament, or rather to what space does this Bill apply. It applies to the Chambers in which proceedings of Parliament are conducted, including the galleries and the lobbies of the Chambers. It also includes all parts of the buildings in which the Chambers are situated, including the entrance, forecourts, yards, gardens, enclosures or open spaces are pertinent thereto. It also includes committee rooms and other meeting places used for parliamentary purposes. The offices of Parliament including the places within such offices that are provided for that are used by members of staff, the public and the press.

That includes Continental House and any other house which houses offices for MPs and members of staff. There is also Protection House and many other places where parliamentary staff and MPs operate from. That would be part of Parliament for purposes of this Bill. It also includes places provided for the use or accommodation for the Members, members of the public and representatives of the press *et cetera*. In a nutshell, Parliament is broadly defined to cover any building, passage or corridor where Parliament conducts its business. This is done by either MPs themselves or even members of staff who work in Parliament.

The other highlight I want to make is with regard to the provision that says that security officers may work within the precincts of Parliament with the authority of the Speaker for purposes of maintaining safety and order. This is found in Clause 4 of this Bill.

Madam Temporary Speaker, Clause 6 talks about the freedom from arrests for Members during sessions or committee meetings. They are not supposed to be arrested even for civil matters. If there is a civil matter, arrests cannot be made within the precincts of Parliament. You must wait for that Member wherever and arrest them from wherever. We have had a few cases in the history of the Parliament of Kenya where arrests have been made inside Parliament. The first major case was in 1975 where Hon. Martin Shikuku and Hon. Jean-Marie Seroney were actually arrested from inside Parliament. That was a grave violation of parliamentary immunities and privileges.

Another highlight is Clause 9 which deals with freedom of speech and debate for Members so that you are not held accountable in any way, whatsoever, for utterances that you make on the Floor of the House.

The other highlights are Clauses 10 and 11 which provide that no proceedings of Parliament may be questioned before any court to immunise the proceedings of Parliament. Just for clarification, we are not saying that courts cannot question products of Parliament like legislation but courts cannot stop Parliament from legislating. What they can do is to, for example, declare a certain legislation that has already been made either unlawful or unconstitutional. We have had exchanges around this issue between Parliament and courts. I think it is almost clear that the courts are appreciating that separation of power does not empower courts to injunct Parliament. The latest case was the matter involving the impeachment of the Governor of Murang'a County where Justice Onguto clearly refused to injunct the Senate from proceeding with the impeachment and said that the courts cannot interfere with the workings of Parliament.

Madam Temporary Speaker, I will also highlight the immunity from legal proceedings of any kind. I think I have already alluded to that and it is in Clause 12. I will highlight Clause 13 which provides that staff members who work to facilitate the working of Parliament may not be compelled, for example, to produce any minutes that they have written in the course of their duties because, again, this is part of the privileges of Parliament.

Clause 15 talks about the Committee on Powers and Privileges. This is a very important committee. You will recall that recently, we passed within our Standing Orders the Senate Business Committee (SBC) because it never used to exist. We had Rules and Business Committee (RBC) which was doubling up as Powers and Privileges Committee and at the same time as the House Business Committee. What we have done now under the new Standing Orders which this Senate passed a month ago is that we have the Senate Business Committee (SBC) as a separate committee from the Rules and Procedures Committee (RPC) which deals with issues of immunities and privileges.

For the National Assembly, the Powers and Privileges Committee is composed of the Speaker and 14 other Members of the National Assembly. For the Senate, it is the Speaker and six other Members of the Senate. This Committee will help us to deal with some of the things that we have seen.

The Temporary Speaker (Sen. Ongoro): Is it six or eight other Members?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, the Speaker is the Chairperson of the Committee. For the National Assembly, it is 14 other Members and for the Senate it is six. That is something we can confirm but the Bill that I have from the Government Printer talks about six.

Madam Temporary Speaker, allow me to say the work of this Committee is to help in the enforcement part so that you do not have security officers dealing with the enforcement of professional issues. As much as possible, security officers should not be used to deal with political disputes and matters that arise out of the transaction of politics. So, it is a very powerful committee and important in terms of dealing with some of the issues of discipline. Allow me to highlight some of the things that they may enforce; issues of assault, obstruction of members of staff and Members of Parliament. No one may assault, obstruct or harass them, no one shall cause disturbance whether it is in plenary or committee and including issues of members of the public. If they are given instructions by the security officers on how and when to access or not to access certain places in Parliament, they should comply. If they do not comply, then that matter will be taken up.

There is a whole section of enforcement and in case of infringement of the immunities and privileges. There are enough penalties provided for so that members do not use immunities and privileges to cause disturbance, chaos, violence, assault to other members, intimidate, threaten or injure visitors to Parliament or people who appear before parliamentary committees and so on.

Madam Temporary Speaker, I do not want to belabor the importance of this Bill but to say that this Bill will help us realize that Kenya is now a bicameral Parliament and that way, some of the provisions apply to the Senate and the National Assembly separately. For example, the Powers and Privileges Committees; we have one for the

Senate and one for the National Assembly. Other than that, the immunities and privileges are standard, the code of conduct which this Bill enforces on dignity, order and the need for respect among members in their relationships with each other, with members of staff, the relationship between members of staff and visitors; all that is contained here and anybody who violates has sanctions provided for, either using the security organs which have been given the mandate to enforce order with the permission of the Speaker or the Powers and Privileges Committee of the respective House.

Madam Temporary Speaker, I beg to move and request Sen. Nabwala to second.

Sen. Nabwala: Madam Temporary Speaker, I rise to second this very important Bill; The Parliamentary Powers and Privileges Bill, 2014 whose objective is very clear. The Mover stated very clearly that the National Assembly Powers and Privileges Act, Cap 6 which is the current law on this subject did not envisage a bicameral parliament. Therefore, this Bill is moved today so that we can debate on the various clauses that the Mover talked about.

The main objective of the Parliamentary Powers and Privileges Bill, 2014 is to give effect to Article 117 of the Constitution. We know that Article 117 (1) of the Constitution talks about freedom of speech and debate in Parliament. Parliament may for the purpose of orderly and effective discharge of the business of Parliament provide for the powers, privileges, immunities of Parliament, its committees, the leader of the majority party, the leader of the minority party, the chairpersons of committees and members.

Madam Temporary Speaker, the Mover has touched on all these items and I would like to support the Bill because it is important particularly to legislators because when we stand here to speak, we sometimes speak about matters that are sensitive.

The Bill seeks to protect us from legal suits and give us powers, privileges and immunity. This Bill sets out the code of conduct within Parliament. It also protects the precincts of Parliament. The *Al Shabaab* have bombed supermarkets in the past because of laxity in security checks. The Bill gives impetus to our security arrangements within Parliament. I support this Bill on that basis.

Some Members of Parliament have been harassed for not conducting themselves in a proper manner. For example, we saw what happened in the National Assembly when the President was delivering his Speech during the Joint Sitting of Parliament early this year. Hon. Opiyo Wandayi was ordered out of Parliament by the Speaker. We will have a Committee that will listen to contentious and conflicting matters. We have also had cases where governors appear before the Senate and are confronted by some Members. We do not want governors to be mishandled and thrown out of the Committee rooms by the orderlies. If we have a Committee in place to handle such matters, we shall have a better way of conducting our business without disruption.

The Mover also talked about two joint committees that will be formed by the National Assembly and the Senate. Both committees will be headed by the Speakers. These committees will be important because they will bring together the two Houses and promote the bicameral system. We are supposed to work together so as to serve the public better.

Madam Temporary Speaker, I beg to second the Bill and thank the Mover.

(Question proposed)

Sen. (Dr.) Zani: Madam Temporary Speaker, I stand to support this Bill. We have key organs in this country; the Judiciary, Legislature and Executive. The legislative body is incubated by Parliament, which by all means, is a symbolic and key organ in terms of ensuring that the legislative arm is catered for. A lot of things happen in Parliament. Members of Parliament are recognized and acknowledged to have a lot to offer within their societies in coming up with the right legislation.

This Bill is titled 'The Parliamentary Powers and Privileges Bill (National Assembly Bill No.35 of 2014).' It includes both the National Assembly and the Senate.

Madam Temporary Speaker, I think all aspects of the operations of what happens within Parliament are well catered for. The Bill is extensive and it gives details. It does not leave anything to chance because every aspect has been well tackled. The Bill provides for the precincts of Parliament by giving geographical position. It also provides for the privileges and immunities of Members and the Committee Members both at the Senate and the National Assembly. The membership of the proposed Committee will be the Speaker of the National Assembly Chairing the six Members and 14 Members drawn from the Senate and the National Assembly respectively. It also gives the provision of summoning of the witnesses when required.

Further, it gives clear provisions about publications and broadcasting and especially how the material that is used from publication and broadcasting can be used so that it is not abused.

Madam Temporary Speaker, in the Fourth Schedule, it clearly gives a code of conduct that is meant to help Members of Parliament in their day to day business. As usual, we do not rely on media reports as evidence. That has been confirmed too. The issue about carrying guns is also addressed. Parliament is a House of decorum and Members are expected to dialogue and not fight or utter adverse words against each other.

The precincts of Parliament have been well defined. In sub-clause (2), the definition becomes key. Where Parliament sits outside the precincts of Parliament, such a place shall be deemed to be the precincts of Parliament precincts. This is key for the Senate because we may have a sitting in counties. Our sitting in a county will therefore be deemed a Senate House.

Madam Temporary Speaker, we have protection from debt, civil and criminal suits, freedom of speech and that no proceedings or decisions of Parliament can be questioned by any court of law. It gives an allowance from freedom of expression. There is also protection of the members of stafftaking minutes. The information of the Committee should not be shared beyond the Committee sitting. Where there is a contravening situation, there is a provision on how to address it. There are penalties that have been given to curb such practice. It has been said right from the beginning that the threshold for these penalties needs to be clear. Therefore, from the onset of a committee meeting, it is important to sort out the issue of threshold on the punishment that can be meted out on what has been committed.

On the issue of the summons, it has always been considered as if they are requests but actually, they are summons. Also considered is the taking of oath, publications and broadcasting, issues of assault, obstruction and threatening of another Member have been mentioned.

Madam Temporary Speaker, if this Bill is passed, we shall have order but there are certain areas which this Bill will entrench making Parliament to have the dignity and decorum that it should have in any jurisdiction.

The Temporary Speaker (Sen. Ongoro): There being no other interests. I call upon the Mover to reply.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to reply. However, given that we do not have the requisite numbers to vote, I beg to move that you direct that putting of the Question be deferred to a later date.

The Temporary Speaker (Sen. Ongoro): Your request is granted. We cluster it with those that will be put on Thursday.

(Putting of the Question on the Bill deferred)

Next order!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, looking at the time, and considering that the Bill has to be moved and seconded, I request that you defer Order No.18 as well as the next one on assisted reproductive technology to tomorrow so that we can have ample time to debate. I do not think that I can move it in four minutes and have it seconded.

The Temporary Speaker (Sen. Ongoro): Your request is granted. We defer Order Nos.18 and 19

Second Reading

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

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL
(NATIONAL ASSEMBLY BILL NO.36 OF 2014)

(Bills deferred)

Next order!

MOTIONS

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

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

(Resumption of Debate interrupted on 28.4.2016)

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

The Temporary Speaker (Sen. Ongoro): The Chairperson of the Sessional Committee on County Public Accounts and Investments is not in the House. Therefore, that Order is deferred.

(Motion deferred)

Next order!

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

(Sen. Gwendo on 30.6.2016)

(Resumption of Debate interrupted on 30.6.2016)

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

Temporary Speaker (Sen. Ongoro): Sen. Gwendo is not in the House. Therefore, that Motion is deferred.

(Motion deferred)

Next order!

COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF
TEACHERS IN ALL PUBLIC SCHOOLS

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

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

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

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

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

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

Temporary Speaker (Sen. Ongoro): Sen. Khaniri is also not in the House. Therefore, that Motion is deferred.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, there being no other business, the Senate stands adjourned until tomorrow, Wednesday, 28th July, 2016 at 2.30 p.m.

The Senate rose at 6.30 p.m.