

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 29<sup>th</sup> September, 2015**

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

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

### PRAYERS

### PETITION

#### LEGAL FRAMEWORK FOR VOTER REGISTRATION AND VOTING

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators there is a petition that I would like to bring to your attention. It is a petition to the Senate by Mr. David Gesicho concerning the legal frame work for voter registration and voting during elections.

Pursuant to Standing Order No.220(1)(a) and (225)(2)(b), I hereby report to the Senate that a petition has been submitted through the Office of the Clerk by one Mr. David O. Gesicho, a resident of Kakamega County, concerning the legal frame work for voter registration and voting during elections.

As you are aware, under Article 119(1) of the Constitution and I quote:-

“Every person has a right to petition Parliament to consider any matter within its authority, including, to enact, amend or repeal any legislation.”

In his petition, the petitioner wishes to bring the attention of the Senate to the following:-

(a)THAT, a significant portion of citizens eligible to register as voters do not actually register as so, and further, that even among those who register as voters, a significant portion of them do not turn out to vote during elections.

(b)THAT, this is blamed on apathy and disinterest of eligible voters on one hand, and on the other hand, a voter registration system which continues to create barriers to getting to the voters register and to voting during elections.

The petitioner, therefore, prays that the Senate introduces legislation making it compulsory for every eligible Kenyan to be registered as a voter and, further, making it mandatory for every registered voter to turn out and vote during elections.

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

would request that each of you in this intervention be as brief as possible. This is not a debate. It is just your reactions to the petition.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, the citizen's petition to this House could not be more timely than it is. The mischief of rigging actually starts at registration of voters. This is a known fact, especially for us seasoned politicians who have seen subsequent elections for many years. I support this petition. I hope we will come up with views that will enact legislation to move the direction of the thinking of voting as the petitioner so wishes.

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, I also support the petition, but most importantly, one of the critical issues that we are having in the same lines of voter registration is the issuance of identification cards. It is an issue that this House will be able to deliberate on. It is an issue that young people in different parts of the country have been having for a long time.

Thank you.

**Sen. Obure:** Mr. Deputy Speaker Sir, I want to support the sentiments expressed by that petitioner, Mr. Gesicho. You will recall that as far back as May 2014, I sought a statement from the Independent Electoral and Boundaries Commission (IEBC) in respect to this particular matter, asking for some specific information regarding voter registration alongside information relating to the challenges that IEBC may be having.

This is an important matter. I visited one of the constituencies in Kisii County to see what progress has been made from the time the voter registration exercise started. Out of the eight wards in that particular constituency, half of them had not even registered a single additional voter. In one or two other wards, a few have been registered. It looks like there is a fundamental problem somewhere.

The IEBC, together with the department responsible for registration of persons must work together and move closer to where people are, such as, schools and market places so that they can register as many people as possible. What is happening today is denying people the right to participate and make decisions relating to matters that affect their welfare and their future. Therefore, every opportunity must be provided for people to register and vote.

I support.

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, I also wish to support this petition, especially the request it makes that may lead to some amendment to the law on areas that will help in registration of voters. I just want to mention the case of Bomet County, where there has been a long-drawn-out case of a petition. In the process when that petition has been going on, there has been no voter registration there.

The petitioner has mentioned and has stated facts that could be eliminated by amending the law to allow for the duration of a petition, so that it does not become so prolonged and denies the people the ability to register as voters. It is very unfortunate that this is happening in Bomet County where there is no registration of voters because of the petition which is going on in court. It is denying the residents of this country their right to register as voters.

I support this petition because it seeks to amend some sections of the law so that a petition does run for a specified period of time. This will allow the residents within those areas where the petition is taking place to be able to register themselves as voters.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, while I am not sure whether the Constitution really compels a person to vote, I believe if such a law was to come into force, then there should be a provision for abstention. If someone goes to vote, there must be a provision where a voter decides not to vote for either of the candidates. However, the more serious issue here which seems to be missing these days from voter registration and voting is the issue of residence. There is now a tendency for candidates to transport or trans-locate voters from one area to another for the purpose of voting. This will nevertheless disenfranchise the people residing in that county from electing people of their choice.

In amending the law, there should be a provision that strictly says that it is only people who are proved residents of that constituency or county who are eligible to vote there.

**Deputy Speaker** (Sen. Kembi-Gitura): Is that not in the law already?

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, it used to be there, but it is not very clear. People are moving from as early as when voter registration exercise starts.

The other issue is registration of voters, particularly in those border districts like Trans Nzoia, Busia and others. Youths have problems in obtaining identification cards because they reside on the border areas. The Government should set up machinery to vet the applicants quickly, but not use the excuse of border counties to deny citizens their right to obtain identification cards and vote.

*(Sen. Adan raised her hand)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Adan, is your card not working? Why are you raising your hand?

**Sen. Adan:** Mr. Deputy Speaker, Sir, it is not working.

**The Deputy Speaker** (Sen. Kembi-Gitura): You have the Floor.

**Sen. Adan:** Mr. Deputy Speaker, Sir, I take this opportunity to congratulate the petitioner because this petition is timely. As my colleagues have said, there are a lot of problems during election in this country. Voting and registration in itself is a right. Unfortunately, in most parts of this country, this right is being denied. In some instances, it could be intentional. For example, in Isiolo South where I come from, pastoralists move from one place to another and officers on the ground do not have budgetary allocation or transport. They do not go to where the pastoralists stay. This means that those people are denied an opportunity to get registered as voters.

This morning I went to the office of the Registrar of Persons where, since 2013, youth from a certain community in Isiolo County have been denied identification cards simply because the Department is introducing regulations that are not right. For them to register as voters, they are told to be accompanied by their mothers who may not exist or may not be living in the same town. Even if it is a matter of security, there are stringent

regulations that are being put into place in some of the communities and counties which need to be investigated.

Without an identification card, someone cannot register as a voter. This is a right that many Kenyans are denied. Those who will look at this petition must come up with a proper structure and regulation to make sure that all Kenyans get equal rights in terms of voting, registration and issuance of identification cards.

**Sen. Okong'o:** Mr. Deputy Speaker, Sir, I take this opportunity to support the petitioner. We are lacking civic education in this country. It has never been done properly to the citizens of this country. Statistics show that about 40 per cent of the registered voters never turn up to vote. If the petitioner was to say that we look for a way of meting penalties, it is a choice in a democracy for people to exercise their right not to vote.

In essence, from national Government or county governments, we need to effectively do a lot of civic education to our people so that they may understand the mandate of the leaders whom they will give the opportunity to serve them. That is what is lacking.

With those few remarks, I beg to support.

**Sen. Njoroge:** Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to contribute towards this petition. As I support the petition, I also reiterate that identification cards go hand in hand with voting cards. This has been a big issue in the Office of the Registrar of Persons because some officers tasked to issue identification cards are corrupt. There have been very many complaints about the officers in that office. For example, you will find identification cards meant for people living in Nairobi County in Mombasa County. One wonders why an identification card meant for a resident in Nairobi would be found in Mombasa. That is like disenfranchising that person in order for him not to participate in elections.

This is an issue that needs to be investigated so that we also work to ensure that the voter registration is done successfully so that we have identification cards for new comers who are registering themselves as Kenyan citizens.

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, I want to thank you for giving me an opportunity to give my accolades to the patriotic citizens from Kakamega who made this petition.

I want to join my colleagues in saying that this is a very timely, touchy and thorny issue. Personally, I have sought a statement in this House on the same. Sen. Obure and Sen. M. Kajwang have sought statements on a matter that relates to the same issue. This is just to show how important this matter is.

I think the way the petitioner has brought it would be the solution. I will personally withdraw the statement because coming up with a Bill and legislation will be the true solution to this particular problem. The petitioner states the reason for lack of registration to be apathy and barriers that are in the system of registering people. Many Members who have spoken have alluded to this.

I also want to add that the other biggest reason our people are not registering as voters is because they do not have identification cards. We have a problem with issuance of identification cards. As I have said, it is done in a very discriminatory manner. Some

of us tend to think that it is a strategy by the current regime to disenfranchise some areas that they think do not support the system.

Mr. Deputy Speaker, Sir, unless we streamline issuance of identification cards, the issue of voter registration cannot be resolved. As this Bill comes, I know you will refer it to the relevant committee. As we draft it, let it include the aspect of registering our young people so that they can get identification cards, register as voters and participate in all other activities that are happening in the country because without them, they cannot.

I support this petition.

**The Deputy Speaker** (Sen. Kembi-Gitura): There is a lot of interest in this matter. As I told you earlier, we have 30 minutes within which we dispose of this matter. I must end it within 30 minutes so that we can proceed to other business. I request you to be precise as much as possible.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, thank you for allowing me to contribute in support of the petitioner. The petitioner is telling us that something is wrong in the method and the process. First of all, we, as Senate, should pay more attention to the issuance of identification cards. There are so many identification cards which are lying in the county commissioners' offices all over the Republic.

The first thing we should do is to make sure that all identification cards which have been issued to potential voters should be released and issued through supervision. This will ensure that whatever will be issued as new cards for the future election is in line with what has already been dispensed with. It is also important to know that the identification card, voting card and maybe other cards can be condensed into one card. So, you can have one card which can be used as an identification card and election card. This will minimize irregularities during election.

I support.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. You have correctly guided us that we are about to exhaust the 30 minutes. However, in view of this unprecedented wisdom of a Kenyan coming up with a suggestion on legislation, could you use your powers under Standing Order No.1, to allow us to also ventilate, especially those who are way down the line---

**The Deputy Speaker** (Sen. Kembi-Gitura): Of course, I could do so, under Standing Order No.1. However, the point is that this matter will be committed to a committee, in any event, and you are going to debate the report, once it is finalized as a Motion. You will, therefore, have all the time that you need to ventilate on it.

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Omar! How can you possibly stop me in the middle when I am already responding to another point of order? Is your point of order against what I am saying, because then I could allow you?

We are going to try and deal with the petition within those 30 minutes and still have a few more minutes. I ask you to reduce your contributions to maybe a minute each because, in any event, what I am hearing is that everybody, apart from Sen. Mong'are, so far, is supporting the petition. I have been listening keenly. So far, almost all of you are supporting the petition.

Sen. Hassan, what is your point of order?

**Sen. Hassan:** On a point of order, Mr. Deputy Speaker, Sir. I just want Sen. (Dr.) Khalwale to strike out the words “unprecedented wisdom,” and just leave it as “wisdom” because if he says it is unprecedented---

**The Deputy Speaker** (Sen. Kembi-Gitura): Those are semantics and I am not going to strike it out.

Sen. George Khaniri, do you have a point of order?

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, I had requested to raise a point of order before you made a ruling. I just want to bring to the attention of Sen. (Dr.) Khalwale who is imploring you to use Standing Order No.1, that the Standing Order, under which we are making these comments, is Standing Order 226 and it is very explicit. Therefore, you cannot exercise the powers given unto you by the Standing Order No.1. Standing Order No.226 says that the Speaker may allow comments, observations and clarifications in relation to a petition presented or reported and such total time shall not exceed 30 minutes.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you now understand it; do you not? You can now see that I have no authority or power to extend time.

*(Laughter)*

Sen. Musila, one minute each will help.

**Sen. Musila:** Mr. Deputy Speaker, Sir, the petitioner has sent this petition out of the frustration that Kenyans have regarding the election systems. First and foremost, there is the issue of identification cards which has been alluded to by many people. The issuance of identification cards is not done fairly. I want to give an example using the last general elections. The identification cards that were applied for were released immediately after the elections, meaning that someone wanted to frustrate some voters. Today, registration is going on very slowly because the Government has not provided funds. So, before we even consider legislating for voting to be mandatory, we must, first of all, put the systems right; that is the system of registration of identification cards and voters.

I, therefore, want to recommend that the Government takes time to rectify the anomalies that exist in the registration of voters and registration of persons. Only then can we, after arming people with the necessary documents, make it mandatory for them to vote.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Haji:** Thank you, Mr. Deputy Speaker, Sir. We the people from northern Kenya are not so much worried about voting. We are worried more about our citizenship because when you do not have an identification card, your citizenship is in question. There are a lot of security operations which are going on all over the country and many of our people are being arrested left, right and centre for lack of identification cards; a mistake which is not theirs.

The fact that so many people are lamenting about identification card shows how serious this matter is. To make it worse, a person who lives about 800 kilometres away from the district headquarters - because pastoralists move from one place to another looking for pasture and water - he is asked to bring his mother. How would he bring his mother who is 800 kilometres away? This is a clear indication of denial of the right of the people from northern Kenya. Therefore, the committee that will look into this matter should visit all parts of the country to seek the views of Kenyans.

**The Deputy Speaker** (Sen. Kembi-Gitura): Since we have five minutes left, I will allow only four more people to contribute to this issue in the order of their entry onto the screen.

Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I support this petition and want to say as follows. First, 65 per cent of the population is eligible to vote in Kenya. However, only 14 million have been registered and that translates to half the number of those who are eligible to be registered. The Committee on National Security and Foreign Relations chaired by Sen. Haji has a Bill on the registration of persons. That Bill has been pending in his Committee for too long. It should have come here, so that some of these proposals made by the petitioner can find their way into law.

Lastly, we must ensure that there is uniform legislation on how people will be identified. The idea of having registration slips every five years is, in fact, an infringement on fundamental rights. The Independent Electoral and Boundaries Commission (IEBC) and the department of registration are not receiving funds for registration of voters. That is what has led to the infamous “tyranny of numbers,” which is discrimination in every sense of the word.

**Sen. Muthama:** Bw. Naibu wa Spika, ninashukuru sana kwa nafasi hii uliyonipa ili niunge mkono ndugu aliyeleta jambo hili hapa. Jambo hili ni muhimu sana kwa sababu limekuwa kizingiti kikubwa kwa Wakenya, hasa wakati wa kupiga kura. Kama ilivyo, ni lazima mwananchi yeyote apate kitambulisho ili awe mwananchi wa taifa hili. Kitambulisho hicho kitamwezesha kutafuta kazi, afungue akaunti katika benki na kufanya chochote.

Ni wazi kwamba ni lazima mwananchi yeyote kuandikishwa kama mpiga kura. Ikiwa hana kitambulisho, basi hawezi kupata huduma ya taifa. Tunalalamika na kupiga kelele kwamba viongozi ni wabaya, lakini wanaochagua viongozi ni wachache sana. Walio na maono ya kuchagua viongozi hawapigi kura kwa sababu hawajasajiliwa.

Ninaunga mkono na kusema, Taifa la Kenya liwe mbele tunapojadili mambo haya.

**Sen. Wako:** Thank you, Mr. Deputy Speaker, Sir. We can never have a free and fair election in this country, unless all the people who are entitled to vote have identification cards and are given an opportunity to register as voters. So, legislation is important. I would suggest that in that legislation, we should reduce the age from 18 to 16 years, for people who are entitled to have identification cards.

Secondly, we should make it compulsory that when a student registers for the Form Four examination, he should apply to be issued with an identification card at the same time in that school. Therefore, when a student graduates from high school, he

already has an identification card. We can then deal with those who have not reached Form Four and see how we can reach to them so that they can have identification cards.

**Sen. Haji:** On a point of order, Mr. Deputy Speaker, Sir. Sen. Mutula Kilonzo Jnr. raised the question of identification cards. He asked why this issue is lying within our Committee, but that is not the case. We have the Bill and we have done our work, but it is with the Commission for the Implementation of the Constitution (CIC).

**Sen. Ong'era:** Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this petition. I would like to support the petition which has been brought by a son of the wonderful and illustrious people of Kisii County and who is a resident of Kakamega County, David Gesicho. I support this petition because in the voting process, getting registration in this country is vague, haphazard and often not clear. Therefore, there is clearly a need for a legal framework.

We have selective issuance of identification cards in this country. Some regions are highly favoured more than others. That is why you find that in some regions, there are so many identification cards lying in the Deputy County Commissioners' offices. However, in some regions like Kisii County where I come from, you will find that there are no identification cards there at all. Double registration should come to an end. For example, why should we have voter registration for a voting card and also to get an identification card?

I support the proposal by Sen. Wako that when students are registering for their Form Four exams, they should also be issued with identification cards. I am thinking that, at that time, we can also have people registered as voters.

With those few remarks, I support the petition.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, Article 83(3) of the Constitution of the Republic of Kenya reads as follows:-

“Administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.”

At the moment, the system of giving people identification cards is there to deny Kenyans the right to be voters because the encumbrances that are put, particularly for women, are abominable.

I just came from my county and women are being denied the right to have identification cards because they have not brought their mothers from the places they came from when they were being married. This is not facilitating. This is denying Kenyans the right to vote. Therefore, the whole administrative system is unconstitutional, against Kenyans, unpatriotic and should be abolished, particularly with regard to registering voters.

We are now in the digital age. Let this registration be digitized and have people do it using M-Pesa, phone or have registration centres which are electronic. This idea of people running around the country registering people and asking for money is completely archaic, colonial and imperialist.

*(Applause)*



**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Hon. Senators! Pursuant to Standing Order No.227(1), this Petition stands committed to the relevant Standing Committee. In this case, it is the Committee on Legal Affairs and Human Rights.

In terms of Standing Order 227(2), the Committee will be required in not more than 60 days from the time of reading the prayer; that is today, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

That brings a close to that issue.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION BY MEMBERS OF STAFF FROM NYANDARUA COUNTY ASSEMBLY

Hon. Senators, I am pleased to acknowledge and welcome to the Senate this afternoon, Members of staff from Nyandarua County Assembly who are seated in the Speaker's Gallery. The officers are here on an attachment programme undertaken by the Senate pursuant to its mandate of assisting counties to build their capacity.

I request the officers to stand up when I call out their names, so that they can be acknowledged in our usual Senate tradition. They are:-

Mr. Stephen Mwangi	-	Serjeant-at-Arms
Mr. Daniel Kamau	-	Serjeant-at-Arms
Mrs. Leah Njenga	-	Serjeant-at-Arms
Mr. Benjamin Gatonga	-	Serjeant-at-Arms
Mr. Lois Njenga	-	ICT Officer
Ms. Martha Wacuka	-	ICT Officer
Ms. Chepkoech Gladys	-	ICT Officer

*(Applause)*

I take this opportunity, on behalf of the Senate and my own behalf, to wish the delegation a happy and fruitful visit.

Thank you.

**Sen. (Eng.) Karue:** Thank you, Mr. Deputy Speaker, Sir. I take this opportunity to join the Chair and the House to welcome the delegation from Nyandarua County and tell them to feel most welcome. I hope that they will gain a lot from the study that they are undertaking here.

The Senate has already passed The Potato Produce and Marketing Bill, 2014. It is now in the National Assembly. We will lobby them so that they also take the cue from the Senate and pass it. That way, Nyandarua County and other counties which produce potatoes will move on to the next stage in terms of development.

Thank you.

## PAPERS LAID

## REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTIES

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 29<sup>th</sup> September, 2015:-

Report of the Auditor-General on the Financial Statement of Kwale County Government for the 16 months period ended 30<sup>th</sup> June, 2014.

Report of the Auditor-General on the Financial Statement of Mombasa County Government for the 16 months period ended 30<sup>th</sup> June, 2014;

Report of the Auditor-General on the Financial Statement of Tana River County Government for the 16 months period ended 30<sup>th</sup> June, 2014.

Report of the Auditor-General on the Financial Statement of Kilifi County Executive for the year ended 30<sup>th</sup> June, 2014.

*(Sen. (Dr.) Khalwale laid the documents on the Table)*

**Sen. (Prof.) Lesan:** On a point of Order, Mr. Deputy Speaker, Sir. The last time, the Chairman of the Public Accounts Committee assured the House that in the next slot of Papers he will present would be one from Bomet County. Could I find out from the Chairman when these accounts for Bomet County will be tabled?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, once again, I would like to appeal to the House that at this stage, we are merely a conveyer belt. We are not entirely in control of the speed of churning out those reports. I just call for patience. As soon as we had that discussion here, I held a very lengthy discussion with Dr. Edward Ouko, the Auditor General and things looked good. So, be patient. In any case, even if it comes today, the Committee will not be able to work on all the reports at once. We have already started with the others and we are doing well. We have completed Turkana and Homa Bay. We are now on Kajiado and things are looking good. The reports of Homa Bay are ready and we will table them in the House this week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I know you are doing your best on this issue, but you must also appreciate the anxiety of the individual Senators because until this report comes, they are not able to make out what is happening in their counties on matters of accountability. It is good you asked for patience. However, sometimes it takes too long and the Senators can become anxious about it. You need to put more pressure. It is not just about having discussions, it is to put pressure and to tell them that there are timelines within which these reports must come to the Senate. I think that is important.

Next Order!

**NOTICE OF MOTION****RENEWAL OF MANDATE OF COMMITTEE OF INQUIRY  
INTO THE AFFAIRS OF KENYA AIRWAYS LIMITED**

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion.

**THAT, AWARE THAT** the Senate, on 18th June, 2015, resolved to establish a Select committee consisting of eleven (11) Senators to conduct an inquiry into the affairs of Kenya Airways Limited and its Subsidiaries and report back to the House within three months of its establishment;

**REALIZING THAT** the three month period lapsed on 18th September, 2015 but owing to the magnitude of the work involved the committee was not able to complete its work within the duration;

**NOTING THE NEED** for more time to carry out a thorough inquiry into this;

**NOW THEREFORE** the Senate resolves to renew the mandate of the Committee for a further period of 2 months to enable the committee to complete its work and report to the House and further resolves that the following two (2) Senators be added to the membership of the select committee-

1. Sen. Stephen Sang'; and
2. Sen. Mutula Kilonzo (Jnr.).

Thank you.

**STATEMENTS****STATUS OF ROAD CONSTRUCTION IN URBAN CENTRES  
BY KENYA URBAN ROADS AUTHORITY (KURA)**

**Sen. Ndiema:** Thank you, Mr. Deputy Speaker, Sir. Pursuant to the provisions of the Standing Order No.43(2)(c), I seek a statement from the Chairperson of the Committee on Roads and Transportation on the status of road construction in urban centres by Kenya Urban Roads Authority (KURA). In his statement, the Chairman should address the following:-

1. Give a list of new roads constructed by KURA in Kenya since its inception, including the period, names, kilometres, costs, urban centres and the county.

2. List the roads repaired by KURA since its inception, including names, kilometres, period, costs, urban centres and county.

3. What criteria has KURA been using to allocate funds for construction of new roads and repair in the various counties?

4. Has KURA tarmacked or repaired any road within Kitale Municipality?

5. When will KURA construct and repair urban roads which are dilapidated within Kitale Municipality and name the roads?

6. What arrangements have been made to involve county governments in roads construction in urban centres in view of devolution of the function?

**The Deputy Speaker** (Sen. Kembi-Gitura): Chairman of the Roads and Transportation Committee.

**Sen. Obure:** Mr. Deputy Speaker, Sir, I am a Member of the Committee and I want to provide the response on behalf of the Committee in two weeks' time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Ndiema, are two weeks good enough?

**Sen. Ndiema:** Yes, Mr. Speaker, Sir.

#### THE DECLINING PROFITS IN THE TEA INDUSTRY

**Sen. Sang:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b), to seek a statement from the Chairperson of the Committee on Agriculture, Livestock and Fisheries on the declining profits in the tea industry. In the statement, the Chairperson should:-

1.State whether the Government is aware that the amount of tea bonuses to farmers has drastically declined in the last three years and give reasons for the same.

2.Outline the tea bonuses that will be paid by each of the Kenya Tea Development Authority (KTDA) factories across the country.

3.Explain the glaring disparities in the amount of tea bonuses by the various KTDA factories given above.

4.Explain the role played by the Kenya Tea Board and what plans they have in ensuring that tea farmers reap from their hard work.

5.Explain what the national Government, in conjunction with the county governments, is doing to get the tea sector back to profitability.

*(Sen. Mbura crossed the floor without bowing)*

**Sen. Wangari:** On a point of Order, Mr. Deputy Speaker, Sir. Knowing that we are a House of rules and procedures, did you see the way Sen. Emma Mbura crossed the Floor to the other side disregarding all the rules of this House?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Mbura! Where are you going? You see when a point of order like that is made, you are supposed to sit where you are until it is finished and a direction is given. You do not just rise and go. Will you now do the right thing and proceed?

*(Sen. Mbura walked back and bowed to the Chair)*

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, allow me to ride on the statement by the Senator for Nandi County, mainly because the issue is not just limited to Nandi County, but to many other counties, including yours, and mine that also grow tea.

In that statement, could the Chairman also clarify about a board in Mombasa that is responsible for tea auctioning? Could he clarify how many people sit on that board, indicate the counties those members originate from and whether it is in keeping with the need to capture regional and ethnic balance, given that tea is grown across the country.

This year, a farmer was being paid Kshs120,000---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you are riding on a statement. You have talked about the tea auction board which will be considered by the Committee on Agriculture, Livestock and Fisheries. However, if there is any other evidence that you want to give, you will submit it to the Committee.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, in conclusion, may I register our objection as a House of equity that farmers in Kenya who are growing the same crop should end up benefitting differently. Why are farmers in Kakamega being paid Kshs40,000 at the end of the year while those in central region receive Kshs120,000

**The Deputy Speaker** (Sen. Kembi-Gitura): Those are issues that the Committee will deal with and give a report after which we will debate.

Please, proceed Sen. Ong'era.

**Sen. Ong'era:** Mr. Deputy Speaker, Sir, further to the statement request by my brother, the distinguished Senator for Nandi County, I would also like to know the criteria on which tea bonus is paid. This is because some farmers from some regions, particularly from central region, get paid a lot of money, while the farmers from Kisii County get a paltry between Ksh36,000 to Kshs39,000. I would like to know the basis on which bonuses are determined and paid. I know that the fertility of Kenyan soil is the same throughout the country.

**Sen. Obure:** Mr. Deputy Speaker, Sir, the issue of taxes and levies has been raised before in respect to profits going to farmers. Could a response also be given when responding to Sen. Sang's request so that we know the impact of the taxes in reducing the profitability of the crop to farmers?

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, I would also like to support and ride on the sentiments that have been expressed by colleagues. I come from a tea growing county and the issues that have been raised are serious. Therefore, I would also like to ask the Chairperson of the Committee on Agriculture, Livestock and Fisheries to also tell the farmers in the country why they have to suffer for 12 months to receive a one-off payment called "bonus" when tea payment is actually done at the fall of the hammer in Mombasa when it is sold. This money is available throughout the year. Why is it that the farmers are paid only once in a year and go through a very long period of suffering for the rest of the time?

Secondly, we know that there are a number of auctioneers who auction tea in Mombasa. They are all members of the East African Tea Auctioneers (EATA) group. I would like to know from him why there is only a limited number of auctioneers who sell tea in Mombasa. I know that they are limited to only 11 of them yet that is a free market and, therefore, we should allow as many auctioneers as possible.

Thirdly, I would like to know their proportion of payment or how the auctioneers are remunerated. Previously, they were paid a percentage of the sale, but that was when the tea volumes were small. However, now that the tea volumes are large, what proportion or percentage is given to the auctioneers? It has also been mentioned by my colleagues that it is very important that we also get to know the distribution of the auctioneers throughout the country, particularly in tea growing counties.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Musila, I see that you have an intervention, but I definitely know that it cannot be on tea.

*(Laughter)*

**Sen. Musila:** Mr. Deputy Speaker, Sir, absolutely not. It is not on tea because we do not grow any tea but I wish we did.

Mine is on a matter of procedure. Sen. Sang sought a statement and so many other requests riding on it have been made. Is it procedural? How will the Chairperson put all these requests by several Senators on Sen. Sang's statement? This is a practice that we have been doing, but in my view, it is not proper. We should be fair to the person who has sought the statement and let other requests be raised once the statement has come to the Floor of the House. We need your guidance on this matter so that we know whether the riding requests dilute the statement that was originally sought.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Musila, you have raised an important point. However, the Chairperson of the Committee on Agriculture, Livestock and Fisheries will have no problem because I am going to direct that the HANSARD is furnished to the Committee so that it looks at all the issues that have been sought by the other Senator. Therefore, that should not be a problem.

Secondly, it is now a practice that Members are allowed to ride on statements sought by others. It is not a bad practice. In my view, it enriches the statement and, therefore, the Committee will take a deeper look into the issues sought. In any event, the committees are open and hon. Senators can give or seek more information. If I were to give my opinion from where I am seated, it is not a bad practice, if it does not take too long or if it is not repetitive because it goes towards enriching the position of the person who sought the statement. I do not think that it dilutes. On the contrary, it strengthens the statement.

**Sen. Musila:** Mr. Deputy Speaker, Sir, there should be a limit.

**The Deputy Speaker** (Sen. Kembi-Gitura): I agree that there should be a limit. But procedurally, I do not think that there is anything that can be said to be absolutely wrong about it. I hope that satisfies Sen. Musila for now. However, it does not mean that the matter cannot be revisited.

Sen. Ndiema, you are the Vice Chairperson of the Committee, please, give response.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, before I give the time, I would also like to say that on the issue of riding---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Ndiema, I will not allow you to say anything further on that.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, I am not contradicting you.

**The Deputy Speaker** (Sen. Kembi-Gitura): It does not matter because I have already ruled on that issue. All I want you to do is tell me how long you require to respond to that statement.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, because of the so many requests that have been raised by hon. Senators, I request for three weeks.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is fine. A copy of the HANSARD will be forwarded to your Committee for you to look at the issues that have been raised by the Members riding on the statement request.

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, it is even better that clarification has been sought here rather than seeking clarifications when I am responding. I also understand that you come from a tea growing area like me and, perhaps, that is why you are generous on this issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, three weeks sounds reasonable to me.

**Sen. Sang:** Mr. Deputy Speaker, Sir, the many requests that were sought, additional to my statement, were fairly the same. Therefore, two weeks will be is appropriate to me.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, three weeks is reasonable time so that they can look into all the issues raised. I am also interested in this matter because I am from a tea growing area, only that I could not ride on your statement because I am on the Chair. Nobody else is seeking a statement. Therefore, let us listen to those issuing statements that were requested for.

Sen. Lesuuda.

#### STATUS OF IDP RESETTLEMENT AND PLIGHT OF INTEGRATED IDPs

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, I rise to issue a Statement that was requested by Sen. Khaniri regarding the countrywide status of resettlement of Internally Displaced Persons (IDPs).

The Ministry has responded to the issues he had asked. It is quite a detailed statement. However, I will run through some of the issues he raised.

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, I rise to seek your indulgence. I have just become seized of the statement now which has very many appendices. It would be fair for me to be given time to go through it and the appendices that have been attached on. Therefore, I request that you defer the issuance of this statement to either Thursday or Tuesday, next week, whichever that fits you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why not tomorrow? Is tomorrow okay for you? Will you have had time to go through it?

**Sen. Khaniri:** Okay, tomorrow is fine.

**The Deputy Speaker** (Sen. Kembi-Gitura): Therefore, Sen. Lesuuda, you will issue the statement tomorrow because that is a reasonable request.

**Sen. Lesuuda:** Much obliged, Mr. Deputy Speaker, Sir.

**Sen. Sang:** Mr. Deputy Speaker, Sir, would I be in order to request that the officers of this House help us reduce the noise coming from the cheering of Sen. Muthama outside this Parliament? Could our officers ensure that there is a conducive environment for us to transact business?

**The Deputy Speaker** (Sen. Kembi-Gitura): Is the noise coming from within the precincts of Parliament?

**An hon. Senator:** It is from outside Parliament.

**The Deputy Speaker** (Sen. Kembi-Gitura): If it is outside the precincts of Parliament, there is nothing I can do. I do not have jurisdiction beyond the precincts of Parliament.

**Sen. Sang:** Mr. Deputy Speaker, Sir, you can order the Inspector-General of Police (IGP) to ensure that---

I am not sure, but they seem to be supporting Sen. Muthama. That is what I am hearing.

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

*(Sen. Hassan spoke off record)*

Order, Sen. Hassan.

Sen. Sang, there are things that I can do and those that I cannot do. My authority is only limited within the precincts of Parliament. There is nothing much I can do beyond that.

Sen. Khaniri, are you still seeking the Floor?

**Sen. Khaniri:** No, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Anybody seeking the Floor?

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, mine is about the statement regarding the IDPs. Whereas Sen. Khaniri has requested for time to go through the answer and it is normal that a statement should be available to Members when it is brought to the House, I request that enough copies of the answer be availed because the issue of IDPs is very wide spread. It has come before this House a number of times. However, we have never had a proper answer, presuming this is one of them.

Almost all Members are affected by the issue of IDPs. In Nyandarua, particularly, we have over 30,000 IDPs. Every time we ask a question, we never get a satisfactory answer. Last week, the IDPs actually decided to walk from Nyandarua to the State House, but the Government had to intervene somewhere along the way.

Mr. Deputy Speaker, Sir, my request is that other Members and I be given a copy of the statement, however long it is, so that Members can---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Eng.) Muriuki, you are making a very important request. We cannot distribute the statement, but you can get a copy of it from the Clerk's Office. That can be done without any complications.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, I am speaking from previous experience when the issue of IDPs was raised. Sometimes you go to the Journals Office and find that they only have one or two copies. I request that many copies be availed so that we go through them in order to interrogate, respond or ask further questions on that.

**The Deputy Speaker** (Sen. Kembi-Gitura): The answer will be given tomorrow. Therefore, I advise you to collect a copy from the Journals Office so that you read it in good time.

About distribution of the same, it may lead to wastage because not everybody wants to read it. Therefore, let those who want the answer go for it so that we reduce on wastage of paper.



Sen. Wako, do you have a statement to issue?

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

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

STATUS OF IEBC'S PREPARATIONS FOR THE  
NEXT GENERAL ELECTIONS

**Sen. Wako:** Mr. Deputy Speaker, Sir, this is pursuant to the statement requested by none other than Sen. Obure regarding the status of the Independent Electoral and Boundaries Commission (IEBC) preparation for the next general election, including the issue of voter registration. The statement is signed by the IEBC Chairman, Mr. Ahmed Isaack Hassan.

The IEBC has a long-term perspective that goes beyond looking at elections as an event, but considers the cyclical nature of the electoral process. The IEBC has already embarked on the process of preparing for 2017 which will be implemented in three phases, namely; the review phase, the planning phase and the implementation phase.

With regard to the Review Phase, following the 2013 General Election, a post-election evaluation process was undertaken to audit the electoral process. This process highlighted key activities, challenges and remedial actions recommended for implementation by the Commission, including various recommendations on Information and Communication Technology (ICT) and voter registration. The evaluation informed the legal reform agenda of the Commission which has since culminated in the Draft Elections (Amendment) Bill, 2015, which is due for pre-publication, in consultation with the Justice and Legal Affairs Committee, in early 2015. I will add that the Committee on Legal Affairs and Human Rights of the Senate must also be involved.

The Commission has also embarked on assessment and audit of the existing technology and will be rolling out mapping of polling stations to improve on accessibility by the electorate.

Regarding the Second Phase, which is the Planning Phase, on 9<sup>th</sup> July, 2015, the Commission launched its 2015-2020 Strategic Plan. The Strategic Plan outlines the roadmap to 2017. The Plan is built on three pillars namely; managing the election, institutional transformation and trust and participation which was developed with input from stakeholders. The Commission is currently developing an Elections Operational Plan (EOP) for 2017 which is guided by the Strategic Plan.

Informed by the EOP, the Commission will undertake mass voter registration from November to December, 2015, and, has since commenced the process towards development of a strategy to realise this exercise. The preparation for voter registration is structured around contextual issues against the current status. The planning process will entail:-

1. With regard to the legal and administrative framework, I hope that some of the excellent ideas that have emanated from the Floor of the House this afternoon – including my own ideas – will be part of that legal framework to ensure that every Kenyan gets an identification card so that every Kenyan has an opportunity to get the electors card and participate in the election.

2. Logistics and infrastructure.
3. Distribution of voter registration kits
4. Status of Information and Communication Technology (ICT) to support the process.
5. Related risks
- 6 .Data management of registered persons.
7. Recruitment and deployment
8. Budgetary and resource allocation

These are appreciated as crucial and critical processes and functions that will support the voter registration drive. The allocated budget will be rationalized to inform outreach either at constituency or ward level. I would add village level.

(3) Implementation phase

For effective management of the electoral process, the Commission's EOP will be aligned to the budgetary projections. The Commission's EOP identifies key activities that will be implemented in order of priority. The EOP will be the critical roadmap in guiding preparations for the 2017 General Election. The plan has salient features which will guide the Commission in:-

- i. Establishing the necessary linkages in the implementation of identified election priorities.
- ii. Developing integrated time frames for the completion of the priorities.
- iii. Identifying resource needs.
- iv. Providing for monitoring and evaluation in implementation of the priorities.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much Sen. Wako. Sen. (Dr.) Machage, is it on this matter?

*(Sen. (Dr.) Machage stood up in his place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): I would rather allow Sen. Obure to go first because it his Statement. I would like each of you to be as brief as possible.

**Sen. Obure:** Mr. Deputy Speaker, Sir, I want to take this opportunity to thank Sen. Wako for a very elaborate answer. I am particularly excited to see that the IEBC is planning to carry out a massive registration of voters in November and December this year. I am therefore quite satisfied about what IEBC has put in place in preparation for the next General Election. However, the Statement was only part of what I requested. I also requested IEBC to provide statistics relating to the number of persons registered as voters so far in each of the 47 counties and how these numbers compare with IEBC's projected targets. That has not been answered.

I also sought an explanation as to why election materials including ballot papers have been sourced abroad when there is adequate capacity and competence locally to meet such requirements. There is no answer to that at all in the elaborate answer given by the Chairman. I also wanted the highlight of the achievements of the IEBC over the period since August 2010 and any challenges that the Commission has encountered in the

discharge of her mandate. No reference has been made to that either. In a way, I am very satisfied with the answer given but that only covered one aspect of what I requested.

**The Deputy Speaker** (Sen. Kembi-Gitura): I want to get you right, Sen. Obure. When you say you are satisfied because you have extracted so many areas that have not been dealt with, I would like to hear the response to that from Sen. Wako whether indeed those areas have not been answered.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, the chicken gate scandal is still very fresh in our minds. It involves the IEBC and their activities in procurement and especially the procurement outside this country.

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you sure that when the HANSARD is read ten years down the line, people will understand what chicken gate was, because the HANSARD is for record?

**Sen. (Dr.) Machage:** I think they will understand, Mr. Deputy Speaker, Sir. Otherwise, I meant corruption in the management of resources in procuring items for purposes of the IEBC's activities. It is very well known especially that some of the senior officers of IEBC - and, indeed, including the Chairman of the IEBC - are being investigated on the same. Is the Chairman very satisfied that the exercise so well thought to commence in November or December by the IEBC, will be transparently executed in this exercise of registration of voters in this country?

**Sen. Sang:** Mr. Deputy Speaker, Sir, I thank the Chairman for the response but I have a few clarifications---

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you not the Vice Chairman of the Committee?

**Sen. Sang:** I am speaking as the Senator for Nandi County.

**The Deputy Speaker** (Sen. Kembi-Gitura): I thought that you will not be seeking clarification because you are fully seized of the issues raised in that Statement. You must have agreed as a Committee.

**Sen. Sang:** No, Mr. Deputy Speaker, Sir, we have not yet discussed this Statement as a Committee but would the Chairman clarify---

**The Deputy Speaker** (Sen. Kembi-Gitura): That is quite strange. If you ask - as a Vice Chairman of the Committee and you have used the correct term; clarification - I do not think you should be seeking any clarification from the Chairman of your Committee.

**Sen. Sang:** Mr. Deputy Speaker, Sir, just for the Chairman to confirm because the Statement that he gave us reads that there is already a process of reviewing the elections law through a Draft Election (Amendment) Bill and within the Statement, it clearly says that they are carrying out consultations with the Committee on Justice and Legal Affairs.

This House has no Committee on Justice and Legal Affairs but we have the Committee on Legal Affairs and Human Rights. Does that mean it excludes the Senate? I know the Chairman mentioned something that he hopes that it will include the Senate but the IEBC seems not to think the same way. That is the clarification I am seeking from the Chairman.

Secondly, the Chairman has alluded to the strategic plan. Mr. Deputy Speaker, Sir. This country was treated to news that one coalition in this country had opposed the launching of that strategic plan after they had held consultations with IEBC. Would the

Chairman confirm whether, indeed, there is one coalition that opposed it? If so, what were the reasons why they opposed the launch of the strategic plan and how does IEBC intend to deal with that particular opposition? How do they intend to address those issues?

Finally, in terms of the review, what mistakes have IEBC admitted that they committed in the last election?

**Sen. M. Kajwang:** Mr. Deputy Speaker, Sir, I would like to thank the Chair of the Committee for the detailed response. I just need some few clarifications. We have been informed that the Biometric Voter Registration (BVR) kits that were procured during the last General election are obsolete because the batteries had a three year life-cycle. This means that these BVR kits will not be used in the next elections. I therefore would like to get some clarifications whether the IEBC has a budget and whether it has been allocated funds to replace these BVR kits. Also, considering that it is less than two years to the next General elections, can the nation be assured that the procurement of these kits will be done in good time to avoid the drama and the scandals that visited the last procurement?

Secondly, on the strategic plan that the Chair has talked about, it is a matter of record that political parties, not just one coalition, opposed the timing and the release of the strategic plan. We, Kenyans, are interesting people because we kill each other over election results. If we go into elections with an IEBC that does not have the confidence of the public, then we will be deliberately setting this country on a path to self-destruction.

What has the IEBC done? What measures will it take to restore public confidence in this very important institution? Also, on the legislative reforms on elections that the Chairperson has talked about, will the Senate be involved? We say that we attend to issues dealing with counties; elections are matters that pertain to counties, so, will we be involved in the enactment of some of these laws?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, in 2007/2008, Kenyans killed each other because of a disputed election. One of the reasons was that when election results were announced from certain constituencies, people doubted them. There is a very important constituency called the voter in the diaspora. Could the Chairperson tell us what the population of the potential voter in the diaspora is, and so far, what percentage of this population has been registered?

It will be extremely dangerous after Kenyans have followed and tracked the local results, and then, somebody announces that presidential candidate "X" has got five million votes from the diaspora. People will fight; this is not what we want. Could the Chairperson be clearer?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wako, there are two issues here. Several clarifications have been sought, some of which are seeking for completely new things, for example, the one from Sen. (Dr.) Khalwale. However, Sen. Obure said that there are three areas that you did not address. Can you let me know, without dealing with anything else, whether or not Sen. Obure is correct?

**Sen. Wako:** Mr. Deputy Speaker, Sir, first of all, let me inform you that, in fact, it was my intention not to read out---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wako, I am asking you that for a purpose so that I can give direction.

**Sen. Wako:** Mr. Deputy Speaker, Sir, I was aware of that, I just want you to understand the background. I was aware of Sen. Obure's number of questions that had not been covered by this Statement. Initially, I thought I should ask for more time to get a more comprehensive answer but because this statement has been pending for some time, I thought I should give this part of the answer now and pursue the remaining questions with the IEBC.

I believe that because of the importance of elections, my Standing Committee on Legal Affairs and Human Rights which is charged with the responsibility of elections must now continue to engage more regularly with the Commission---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wako! What is your point of order, Sen. (Dr.) Machage?

**Sen. (Dr.) Machage:** On a point of order, Mr. Deputy Speaker, Sir. Sen. Wako has said that he came with a partial reply and intentionally so – he has also received more questions which he is likely not to have immediate answers to. Would I be in order to request that you defer---

**The Deputy Speaker** (Sen. Kembi-Gitura): You are pre-empting me. I am waiting for Sen. Wako to confirm that there are areas he did not deal with in the Statement sought by Sen. Obure so that I can give direction.

It appears that there are more than three areas that you have not dealt with. The reason I am asking you that, if that is the position, then I would like to direct that you do not even have to deal with the interventions or clarifications that have been made now. It would be better, in my considered opinion, if you took benefit of the HANSARD to see the clarifications that have been sought and other interventions and tell me when you will be ready to deal with all the issues that were raised by Sen. Obure and those that have been raised today.

I do not want you to start answering to what has been raised on the Floor today and then still deal with it when you come up with a more comprehensive Statement. It is my thought that you give me a time indication. I hope this will be satisfactory to Sen. Obure. Give me an indication whether you need one or two more weeks to come up with one Statement covering all those areas. As every Senator who has spoken has said, it is a very important issue as you have confirmed.

**Sen. Wako:** Mr. Deputy Speaker, Sir, in fact, I was going to propose that you receive this partial answer and for other questions that were not answered, another Statement be sought from the IEBC; a Statement enriched by the various comments that have come from the Floor of the House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wako, the Clerk-at-the-Table keeps reminding me that you are the Chairperson of the Committee. We do not know where you get your Statement from. The moment you step into this House, it is your Statement as the Chairperson of the Committee. That is important. For us, the source is your in-house information. This is a presidential system and it is a Statement of your Committee when it finally comes to the House.

So, do you require one or two weeks?

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I had also requested for a Statement more or less akin to Sen. Obure's. Sen. Wako has given me the draft answer. I am not asking him to deliver it now. However, I am asking the Chair, if you consider it necessary for the convenience for the House, to combine them so that the two are issued together because we are interrogating the same issue. Although mine is on diaspora voting but it is all about registering voters and enabling people to vote. Our fear is that it may be done in a skewed manner, the way it was done last time. So, we need a thorough interrogation of this. I request the Chair to indulge the House, the Chairperson of the Committee and I, to combine the statement that will be issued on my request with the furtherance of the answer to the request by the distinguished Senator for Kisii.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is very reasonable request because it will remove duplication.

**Sen. Wako:** Mr. Deputy Speaker, Sir, I agree that the Senate Leader of Minority's request is very reasonable. In fact, it ties in very well with the questions asked by Sen. (Dr.) Khalwale which has enriched the information that we have received. I agree that the Chairperson of the Committee on Legal Affairs and Human Rights will endeavor to ensure that the IBEC gives us appropriate answers plus the issues that have arisen from the Floor of the House. I request for two weeks.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! You have finished. What is your point of order, Sen. Haji?

**Sen. Haji:** On a point of order, Mr. Deputy Speaker, Sir. We know that Sen. Wako has been away for some time. Instead of answering in a brief manner, he is going round in circles, wasting our time---

**Sen. Wako:** On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Member in order, when he has just arrived from Moscow yet I have been in this country for the last one month seeing my people in the constituency? Who is out more than the other, the Chairperson of the Committee on National Security and Foreign Relations or the Chairperson of the Committee on Legal Affairs and Human Rights?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! That matter is settled. Both of you have been away. That is the position.

The Statement will be issued in the next two weeks. Is it okay, Sen. Obure?

*(Sen. Obure nodded)*

The direction is that you are now going to deal with all the issues that have been raised on the Floor, taking advantage of the HANSARD and what Sen. Wetangula has said about his Statement. So, you will merge and deal with both of them at the same time two weeks from today. It is so ordered.

*(Statement deferred)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STAFF  
FROM BUNGOMA COUNTY ASSEMBLY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a brief Communication to make.

I am pleased to acknowledge and welcome to the Senate this afternoon visiting staff of Bungoma County Assembly, who are seated in the Public Gallery. The officers are visiting the Senate on attachment.

I request the officers that when their names are called out, they stand up so that they may be acknowledged in our usual Senate tradition.

- |    |                  |   |                             |
|----|------------------|---|-----------------------------|
| 1. | Calistus Wanjala | - | Serjeant-At-Arms            |
| 2. | Mildred Wasari   | - | Serjeant-At-Arms            |
| 3. | Martin Omusee    | - | Serjeant-At-Arms            |
| 4. | Ruth Kubeba      | - | Secretary, Clerk's Office   |
| 5. | Beatrice Mainya  | - | Secretary, Speaker's Office |

As you appreciate, one of our mandates is to help counties to build capacity and it is in that context that they are here. I take this opportunity, on behalf of the Senate and my own, to wish the delegation a happy and fruitful visit in this Senate.

*(Applause)*

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I notice that the Speaker's Gallery is not full. There is a reason it is called "the Speaker's Gallery" and the other one "the Public Gallery." What reason is the Office of the Speaker giving for receiving the delegation from Bungoma in the Public Gallery and that from Nyandarua in the Speaker's Gallery? Does it mean that the delegation from Bungoma does not deserve special recognition from the Speaker? This is very wrong.

*(Sen. Wetangula stood in his place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula! I will allow you to speak because I am actually the one who called you out; that I wanted you to speak.

In the very first instance, I understand and respect what Sen. (Dr.) Khalwale has said, because I can see that the Speaker's Gallery is not full. From where I am sitting, this issue must be administrative. I would like to say that the delegation from Bungoma County should be sitting in the Speaker's Gallery. On behalf of the Senate, as an institution, I would like to apologize to them, because it is not right that they should be sitting in the Public Gallery when the Speaker's Gallery is not full.

I have given an apology on behalf the Senate and that settles the matter. I noticed it when I called the names; that they were in the Public Gallery and not the Speaker's Gallery. I would have raised the issue myself. I think that issue is administrative and it is sorted out.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, allow me to welcome the delegation from Bungoma County, who are here on a learning curve. I encourage them to learn as much as they possibly can, so that they can carry the experience and good practices they pick from the Senate to the county assembly.

Your observation notwithstanding, I also want to express my displeasure and outrage, and thank Sen. Khalwale for raising it. First, the Office of the Speaker never informed me, as the Senator for Bungoma, that I have a delegation from my county that is visiting the Senate. It was drawn to my attention by the distinguished Senator for Makueni. I looked all over the Speaker's Gallery and saw nobody.

Mr. Deputy Speaker, Sir, your displeasure is justified and I thank you for ruling as such. But I deserve an explanation as to why, on a day like this where we have two delegations, and I have no difficulty whatsoever with the delegation from the county of my distinguished colleague, Sen. (Eng.) Karue, that is in the Speaker's Gallery which is half empty---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, I have made my own ruling on that issue already.

**The Senate Minority Leader** (Sen. Wetangula): That my delegation is put in a gallery where school children come to sit when they visit the Senate; I find this outrageous, demeaning and an assault on the dignity and standing of my county. As not only just the Senator for Bungoma, but a leader in this House, I deserve a much better explanation, if not an apology in writing, than a ruling from the Chair. This is because this precedent is wrong, dangerous and not sending the correct messages to visitors who come here. How can we do this to a delegation from my distinguished county?

Let me conclude by saying---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order. Order, Sen. Wetangula!

**The Senate Minority Leader** (Sen. Wetangula): Until and unless the Speaker's Gallery is full, all visitors to the Senate must be given the opportunity to sit in the Speaker's Gallery, so that when you communicate you have an eye to eye contact.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula! Order!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, you do not even know whether they are standing to acknowledge what you are saying. This is odious and not right.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, to say the least, I am a little disappointed in you, because you are a senior Member of this House. This is because I made a ruling, put you to order and you continued to speak. I think that is disrespect for the Chair's position and it should not be encouraged. When you are told "order" by the Chair, whatever position you may hold, you must be in order. That is the tradition of the House and it does not change because of the positions that we hold. That should be noted and it is important. You may be as offended as you can be, but the



position and respect of the House must be adhered to at all times, particularly from the leadership of the House.

I have made my own ruling on the issue and welcomed the delegation from Bungoma County, which is here on internship. I am very happy to have them here and was the first one to apologize because of that position. I think that should be sufficient.

**Sen. (Eng.) Muriuki:** On a point of order, Mr. Deputy Speaker, Sir. Whereas the matter of the delegation from Bungoma County maybe settled, Sen. Wetangula raised an important issue; that he was not informed that there was a delegation from his county. I was equally not aware that there was a delegation coming from Nyandarua.

I request the Chair to rule that when a delegation is coming from a particular county, the Senator for that county should be officially informed, so that he cannot just acknowledge but be fully aware and welcome them properly.

**The Deputy Speaker** (Sen. Kembi-Gitura): There are two issues, Sen. (Eng.) Muriuki. The delegation from Nyandarua is here on internship; they have come here to learn. The delegation from Bungoma is also here to learn. You may wish to disparage or blame the Speaker's Office, but even your own county assembly in Nyandarua should have informed you that there is a team from Nyandarua on internship at the Senate. They are not here for a day or two; but for more than a week, because it is a situation that is recurring every time.

So, whereas you want to blame the Speaker's Office or the Clerk's Office, you must also take responsibility because your own county assembly ought to have informed you that there is a team from your county that is on internship, so that they can pay you a courtesy call in your office. Through that, you can also know when they are coming to be acknowledged in the House. Whereas all those things can be done, I do not wish to protract it. But I think that we all must take our responsibilities the way we should.

**Sen. Hassan:** On a point of order, Mr. Deputy Speaker, Sir. I think your explanation on this matter will suffice, because I do believe that it could not be deliberate that the Speaker's Office could have decided to bring such distinction. But I would also agree that on the administrative front, we should guard that this must never happen again. This is because we treat all counties equally. In fact, the equality of counties is best demonstrated in the Senate. That is why we say whether you got 800,000 votes or 20,000, your vote is one in this Senate. That is the equality of counties.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Omar. I promise you that I will take it up and it is not going to happen again. I have given that undertaking already and that is a promise I can give you. When it happens like it has happened today, it is cannot be deliberate. It is administrative and we are bound to make errors like everybody else.

Sen. Wetangula, do you still want to raise a point of order?

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I understand and appreciate what you have said, but following up the point raised by my distinguished colleague from Nyandarua, a delegation from any county, be it Garissa or Kirinyaga, can be here for a week or two and Senators are busy. Since they are not in the Chamber all the time, courtesy demands that if a particular day is picked for that delegation to come to the Chamber, then it is only fair that the Senator for Laikipia –

if the delegation is from Laikipia – be informed so that he can leave whatever he is doing to come and welcome them.

This is because it is not the Senators, but the administration who arrange who goes to the gallery. So, I would want the Office of the Speaker also to make it clear that in future, it will not be - like you have said - that it is the duty of the Senator to know that you have a delegation from your county and your assembly should inform you. Even if you are informed that they will be here for two weeks, it is not the assembly back home that arranges when they come to the gallery. It is the administration here that does that.

**The Deputy Speaker** (Sen. Kembi-Gitura): I have made my own observation on the issue and believe that the matter is now closed.

Sen. G.G. Kariuki, is it on the same issue?

**Sen. G.G. Kariuki:** On a point of Order, Mr. Deputy Speaker, Sir. Mine is not exactly on the same issue, but it is related. There are committees which invite members of the county assemblies and governors. Those committees should inform the Senators from those counties in advance, so that they can attend the sittings of those committee meetings with their counterparts from the Senate.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, now that you have made a ruling regarding the two delegations sitting in different galleries and they are on internship, could we reverse the position, so that the delegation from Bungoma moves from where they are to the Speaker's Gallery? It is not too late to do that and they are all learning. They have learnt that a mistake can be made by the Senate.

**The Deputy Speaker** (Sen. Kembi-Gitura): I think that is a very important observation, that everything is a learning curve. They have learnt that mistakes can be made and when that happens apologies are given. We accept and give apologies when mistakes are made.

Sen. Mutula Kilonzo Jnr., do you have something to say? Is it on a different issue?

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Deputy Speaker, Sir. I want to help. Now that we are admitting many mistakes, let us correct them for the future to the extent that even when schools come here – and I have followed the procedure which appears to be very lengthy - the Senator involved should also be notified because it would only take an SMS or an email. I have also noticed that the people who sent the SMS to mobilize us to come and vote, do it so easily and effortlessly. What Sen. Wetangula has suggested would not even make anybody break a sweat.

**The Deputy Speaker** (Sen. Kembi-Gitura): I have heard you and thank you for your observation. Anybody else seeking to speak on this issue?

*(Sen. G.G. Kariuki stood up in his place)*

Sen. G. G. Kariuki, I thought you have already spoken on this issue. I hope you are not expecting me to make a specific response to you. Are you?

**Sen. G. G. Kariuki:** I wanted to ask that we include Members of the Senate in Committee meetings especially the Committee on Finance, Commerce and Budget and

the County Public Accounts and Investments Committee, when the specific counties come to those Committees.

**The Deputy Speaker** (Sen. Kembi-Gitura): I would take it up with the secretariat of the Senate and I would pursue the issues raised on the Floor of the Senate this afternoon.

There are no more Statements being sought or being issued. We should now move to the next Order.

#### FREQUENT POWER BLACKOUTS IN WEST POKOT

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

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not have a request on the screen. Sen. Musila, I am seeing you just now.

**Sen. Musila:** I was following the Order Paper because after the Senator for Busia issued his Statement, I expected the one from the Committee on National Security and Foreign Relations before we move to mine. The one I am dealing with is part (f) on energy.

**The Deputy Speaker** (Sen. Kembi-Gitura): That Statement was sought by Sen. (Prof.) Lonyangapuo, who was not in the House.

**Sen. Musila:** I wanted to confirm whether it should be deferred. I want to confirm that the Committee on Energy has the Statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): We will defer it but I think now the Rules and Business Committee is moving towards saying that a Statement once sought is the property of the House and unless the Speaker has knowledge from the Member that he or she will be absent, the Statement should be issued anyhow. Since that has not been decided formally, I request that we defer it to a later date.

Is next Tuesday okay?

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Musila.  
(Statement deferred)

#### INSECURITY IN NANDI COUNTY

**Sen. Sang:** Mr. Deputy Speaker, Sir, two weeks ago, I sought a Statement on the state of insecurity in Nandi County. The Chairperson of the Committee on National Security and Foreign Relations undertook to bring the Statement to this House in one week's time. On the day that we were supposed to get the Statement, both the Chairperson and Vice Chairperson were not present but I am expecting an answer today.

**Sen. Haji:** Mr. Deputy Speaker, Sir, the Statement sought by Sen. Sang is very valid and very important. I have been told by the distinguished Senator for Bungoma that they have a ward for *boda boda* casualties in Bungoma. Unfortunately, I am not able to issue the Statement right now. I want to apologise and ask for more time so that I can do due diligence to respond to the Statement.

**Sen. Sang:** Mr. Deputy Speaker, Sir, it is really very unfortunate that we can raise matters of security and the Committee charged with national security takes this long. More annoying is that the Leader of Majority through the Deputy Leader of Majority, the Senator for Kericho, undertook that this Statement will be issued today. When the Chairperson tells us that he is going to do due diligence to look for the answer and yet it is already late by one week, could we have a response to this Statement, latest tomorrow?

We granted indulgence to this Committee to split the Question into two and answer the component relating to security in one week and the other one on *boda boda* within three weeks. Therefore, the Chairman needs to be forthright. I would appreciate if the answer could come tomorrow.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, when this matter was brought by the distinguished Senator for Nandi on the continuing insecurity involving disappearance and killings of *boda boda* riders, not less than five Senators sought to ride on this Statement. These were, Sen. Wetangula, Sen. Murkomen, Sen. (Dr.) Khalwale, Sen. Ndiema and two others. This is a matter that is not only important but urgent because we need to hear from the Government about what steps they are taking to prevent the continued attacks, maiming, killings and disappearance of *boda boda* riders.

I want to urge that my distinguished brother from Garissa, Sen. Haji, brings the Statement either tomorrow or latest Thursday so that we can voice our concerns on this matter.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Haji, how much time do you need? Is it possible for you to give the Statement tomorrow?

**Sen. Haji:** It would not be possible. I have tried and even the distinguished Senator is aware.

**The Deputy Speaker** (Sen. Kembi-Gitura): How much time do you require so that we can see whether Sen. Sang will agree?

**Sen. Haji:** I require not less than a week because of many reasons.

**The Deputy Speaker** (Sen. Kembi-Gitura): I think it would be prudent for us to allow him time until Tuesday next week.

**Sen. Sang:** It would make more sense if the Chairperson would share what the difficulty is. He is telling us that he cannot give an answer today due to various reasons but we do not know what those reasons are. We actually agreed to split the statement into two. There is the aspect of insecurity in Nandi County and key in the Statement that I sought is an alleged collusion by police and criminal gangs in Nandi County. Since I sought that Statement, we have had serious incidences in Nandi up to and including thugs invading a county government office and stealing computers. This is a county government office that is manned 24/7!

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, I also represent a county and the Statement you sought is very important to all of us because the issues that you raised cut across the whole country. Even if you insist and yet he is not able to issue that Statement tomorrow, it will not help and even if he gives you the reasons, it will not help. You also Chair a Committee, so you know. Will Tuesday next week okay with you?

**Sen. Sang:** We seem not to have any other option, so Tuesday will be okay.

*(Statement deferred)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Chelule, is it on this point? Can I hear you?

**Sen. Chelule:** Mr. Deputy Speaker, Sir, I am rising on the same issue. I have been requesting for a Statement from a Standing Committee. Every time a different Member of the Committee stands here, he or she promises that a statement will be answered in a week. Sometimes, the Chairman answers, sometimes the Vice Chairperson responds and sometimes a Member comes with a response. What happens when answers are revolving among the Members and not brought to the Floor of this House? I am only seeking for your guidance.

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not understand. What do you mean “answers revolving around Members”?

**Sen. Chelule:** This is an example. I requested for a Statement from one of the Standing Committees and I was given answers by three different Members of that Committee---

**The Deputy Speaker** (Sen. Kembi-Gitura): For the same Statement?

**Sen. Chelule:** Not the same but for example in my case. It may happen to this case. The Chairman is here today and he has promised to come back after one week. You will be surprised that next week, the Vice Chairperson or a Member of the Committee will also promise to come back with the answer after one week. What happens? I am only seeking your guidance.

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not know whether you were here earlier when Sen. Sang was interrogating his own Chairman on a Statement that should have been the property of the Committee. As far as I am concerned, Sen. Haji has said that he will give an answer on Tuesday next week. For me, it does not matter whether he is the one who is physically going to give it, whether it will be the Vice Chairperson or a Member of the Committee. The important thing is that the Statement ought to be issued on Tuesday as promised by the Chairman. The unfortunate thing will be if on next Tuesday he is not here, neither is the Vice Chairperson nor a Member of the Committee and therefore the Statement cannot be issued. That would be unfortunate but until we get there, there is absolutely nothing I can do about it.

Sen. Haji, you are seeking the Floor but you have already said you will give the Statement on Tuesday. Do you still need the Floor?

**Sen. Haji:** I want the gracious lady to be very specific. Which Committee is she referring to because we have so many Committees here?

**The Deputy Speaker** (Sen. Kembi-Gitura): I think I will let the matter rest there because I have given a satisfactory answer to Sen. Chelule.

There are no more Statements so we will go to the next Order.

**BILLS***Second Reading***THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL  
(SENATE BILL NO.35 OF 2014)**

*(Sen. Mutula Kilonzo on 22.9.2015)*

*(Resumption of Debate interrupted on 22.9.2015)*

**The Deputy Speaker** (Sen. Kembi-Gitura): This matter is coming for Division and so is the matter on Order No.9. If we have a quorum, we are going to vote on them in one division. The Division Bell will now be rung for five minutes.

Could the Division Bell be rung for five minutes?

*(The Division Bell was rung)*

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

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

**Sen. Sang:** Mr. Temporary Speaker, Sir, I rise under Standing Order No. 54 (3). After the Division Bell has been rung, we do not have the requisite numbers. I request that we defer the putting of the Question for Order No. 8 and Order No.9 to a day of your direction.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well, it is so ordered.

*(Bill deferred)*

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

*(Sen. Sang on 23.9.2015)*

*(Resumption of Debate interrupted on 23.9.2015)*

*(Bill deferred)*

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, since the tradition of the Senate is to vote on Wednesdays, I would propose that since Sen. Sang and I were the Mover and the Seconder of both Bills respectively, we have the voting tomorrow and you place yet another Order because I know that you are capable; that the Whips bring Members to the Senate for the voting.

**The Temporary Speaker** (Sen. (Dr.) Machage): It is so ordered. Order No. 8 and Order No. 9 are deferred to tomorrow.

The Whips are ordered to make sure that we have enough numbers to execute these two orders. I also defer Order No. 10, Order No.11 and Order No.12.

### COMMITTEE OF THE WHOLE:

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

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

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

*(Committee of the Whole deferred)*

### BILLS

#### *Second Reading*

THE SENIOR CITIZENS CARE AND PROTECTION BILL  
(SENATE BILL NO.43 OF 2014)

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I thank you for this opportunity to move this Bill.

I beg to move that The Senior Citizens and Protection Bill (Senate Bill No. 43 of 2014) be now read a Second Time.

Mr. Temporary Speaker, Sir, the provisions of our Constitution in Article 57 compels the State to take measures to ensure that the rights of elderly people are taken care of. Although Article 57 is short, it has a lot of significance to the old people in this country. It requires that the State takes care of elderly persons to allow them to fully participate in the affairs of the society where they live. It also allows them to pursue their own personal development. They have things that they could do like writing their memoirs. It also allows and compels them to live dignified and respectable lives, free from any abuse or harm and also receive reasonable care from their families and more particularly from the State. This is why Article 57 is very important. Therefore, we must provide the legal mechanisms through which the State can assist the old people.

At the moment, there exists a huge void in the laws which exist in this country that will enable the elderly to live comfortable lives, well protected and their security assured. There is no comprehensive legislation or framework that makes senior citizens to realize comfortable lives.

Currently, we know the changes that are taking place in our society. There are a lot of abandoned persons within our community. They are very vulnerable, unprotected and do not enjoy the benefits offered by the Constitution of this country.

We know the terrible things that happen to elderly people in this country and we have witnessed them. We know that they are happening during our time. For example, if you are an old person in Kisii, you are in a very dangerous position because your life can end at any time. We are aware that elderly people in some communities are labeled as witches. In fact, once they are labeled as witches, they are condemned without being tried, listened to and they are brutally murdered. We have seen very sad cases where elderly people have been burnt in their houses for no reason except the fact that they are elderly; they are condemned as witches and killed.

This is a very unfortunate situation where the elderly are not protected by our Constitution as is stated in Article 57. Those of us who come from the coast know what happens; there are incidences where the elderly are condemned for no apparent reason. They are not given a chance to defend themselves and the punishment meted to them is very unjust, brutal, severe and irreversible. In fact, the elderly people in the coast are not killed by strangers. Sometimes, they are killed by their own children, relatives or sadists who enjoy killing people in the name of eliminating witches from the societies and communities that they come from.

The urbanization, urban migration and the changing lifestyles has separated families in that the elderly people have been left in the rural settings, while their children have migrated. There is a huge deficiency in the assistance and support to the elderly people, because the youth have migrated to the urban areas.

Therefore, this Bill takes into the account these changes in the society and looks for ways in which we can assist the elderly people, by creating a framework through which we can give effect to Article 57 of the Constitution of Kenya 2010. This Bill seeks to find ways in which we can assist the elderly people to live in a dignified manner in our societies. It also seeks to impose specific obligations on caregivers, so that they can provide for the elderly people wherever they are.

This Bill also seeks to establish some areas and stations where we can take care of the elderly people. I am sure it is one of those things that we can consider as we have reached that stage in our society, where we have both elderly and young people whose children and parents are living away from them. We could establish centres which can provide for the elderly people. This Bill seeks to create some framework in which we can take care of the elderly people in any station wherever they are, be it in their homes or away from their homes.

This Bill has several parts, which seek to provide for possible ways in which we can take care of the elderly persons by proposing the appropriate legislation through which we can be able to do this. So, the objective of this Bill is purely to create legislation through which we can take care of the elderly.



We have two levels of Government; the national Government and the county governments. I think it is the obligation of both governments to provide an environment in which we can create policies which will assist the elderly people to live dignified lives. I am aware of the Social Assistance Authority, which is in existence at the moment, which to a certain extent has provided some financial support to the elderly people in the country. But it is very unfortunate that the Act that is in existence has been applied in a very haphazard manner, in that we do know that there are some elderly people who receive support.

For example, there are some elderly people in my county who receive Kshs2,000 per month. The method through which these individuals are selected to be beneficiaries is haphazard and not consistent. We are looking for a way in which we can consistently give some financial support to these people. This Bill seeks to rectify and ensure that stringent legislation is made, so that there is consistency in supporting the elderly people.

Part III of this Bill seeks to establish community based programmes for the care and protection of senior citizens. These programmes may exist but there is no legislation that will support them to continue, be consistent and fair to all the elderly people. Whether or not they have children and live within our community, these community programmes will assist all of them.

Part III of this Bill also seeks to establish home-based care programmes. These are programmes through which the elderly people will be taken care of or assisted by the State in their homes. The programmes will include providing medical care in the homes of these elderly persons, supporting them and making sure that their medical conditions are taken care of. It is at this old age that there are many health challenges. Therefore, we must have a sensitive structure which can recognize immediately what kind of health challenges the elderly people have and they can be taken care of.

Part Four of the Bill is very challenging. It seeks to find a way in which we can establish a central point or homes where we can reach and provide their needs. Many times, the elderly people get abandoned as they grow older either because of their children getting involved in missions within or out of the country or they leave the elderly people very susceptible to neglect. This Bill seeks to have a point where we can reach out to these elderly people and take care of them.

The rest of the Bill provides for ways in which the elderly could be taken care of. If they are taken care of by individuals who are not their children, there must be regulations and rules which must be complied with, so that they are able to provide the service.

The last part of the Bill stipulates and seeks to legislate on the monitoring process of taking care of these elderly people. There should be somebody or an authority that will lay out the ground rules and regulations which anybody who wishes to give care to the elderly person would have to comply with.

Therefore this Bill is very important, in that in the level of suffering that the elderly people in this country are going through is so excruciating that the State, in particular, must support them. It is mandatory that the State must offer its senior citizen a leeway in which they can be supported during the difficult time that comes along with aging. I know that those of us who are in this House now are not very old and, therefore,

we might not appreciate the very serious challenges that the elderly people face, but I am sure we are mature and old enough. We come from societies where we see old people today suffering with no assistance.

We do know that even in this House, we are aging and, probably, we may end up in the same or even more difficult scenario. This is because the society where we come from is making the world a small place. It is possible that even those of us who think that our children will take care of us might not have that opportunity because they will seek greener pastures all over the world. They probably will not be physically around to take care of their parents.

This Bill seeks to find a way in which the resources of those children, who will be physically away from their aging parents, will be able to assist such parents; ways in which such resources can be made available for use by their aging parents. Therefore, this legislation will provide a way in which the resources provided by the younger generation to the older generation can be used to assist the parents.

This is a very important Bill that will bring awareness on the needs of the older generation within our societies and enable them to live a decent life. We do know that the elderly have a lot of useful information. They can be provided with a comfortable place where they can write their memoirs which will contain consultant opinion on how to do things or their vast experience. I am sure that, that information would be very useful for the coming generation. That is why it is important to provide an environment for the elderly to live and be useful in the society. That is why I consider this Bill important.

I want to ask the Senators to look through and support it, so that we can take care of the elderly now and also consider those who will age in time to come. We should prepare the ground for ourselves as we age. This is the reason why this Bill is very important for me. I ask Senators to look at this Bill and support it, so that we can start to provide for elderly people in this country.

Mr. Temporary Speaker, Sir, elderly people who are aged 65 years and above in this country form a very significant proportion of between 5 to 7 per cent of the population. That runs close to five million elderly people. This is a significant part of our population which we must not ignore. They have no other ways of taking care of themselves because they are unable to but more particularly, they already provided for us when they were young and active. Therefore, in return, we must rearrange our legislation and order of living with them so that we can support them at this time and in future.

I ask Senators to support this Bill and because it is a critical one, I will be looking at it and listening to any amendments that might be suggested and consider them. I also ask as many Senators as possible to contribute to this Bill as we listen to what more information can be provided, that might assist the elderly people in our society.

I beg to move and request Sen. Karaba to second this Bill.

**Sen. Karaba:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to second this very important Bill. It is important in the sense that all of us will age whether we like it or not. We will get to a point where we cannot talk with vibrancy the way we are doing now. We should also underscore the fact that age will catch up with us soon. We need to embrace the idea that when you reach 60 years, which is the retirement age for most of

the civil servants in Kenya, you start being called an old man or woman. It is, therefore, important to underscore the importance of this Bill coming at this time.

It is important that all of us discuss even what will happen to the future of our people and that of the nation. This is about the people because without them, you cannot talk of there being peace or long economic order. In this respect, therefore, the Bill tries to embrace what is important for the country. A country like Kenya, in all aspects, has been known to be the hub and wonder of the East African region and a destination of many countries which are trying to find their investments. That tells us that we are okay and all we need to do is harness what we get from the investors for the future investment of our people.

Mr. Temporary Speaker, Sir, we also note that as we advance in age, say 60 to 90 years, many people feel that the old men and women are a liability to their children. It is regrettable that some children feel that old people are a bother to them, when the same man or woman grew old bringing up the same person who towards the end, will say that this old person is a nuisance. You will then find most of the old people moving from rural to urban areas. This is one of the factors which have contributed to rural-urban migration and high population, be it in Nairobi or in other urban centres. This leads to depopulation of some of towns or rural areas in the country, resulting in uneven distribution of some factors of production. This has led to imbalances to both rural and urban areas.

It is also important to note that it is a constitutional requirement that the country takes care of the old. We have to be seen to be conforming to the Constitution. In this conformity, we have to do it going by the letter and the word. According to Article 57 of the Constitution, the aged are supposed to participate in the society. We must see to it that the old are not left to rot. We should make sure that they also participate in society because society continues.

The Government should attend to personal development of these old people. We should not imagine that at the age of 65 or 70 years when they retire, they become redundant and imbeciles. These are people who have wise ideas and should even be consulted more often. In fact, they should even form SACCOS where consultation will be seen to be the in thing. That is what happens in some developed countries.

Mr. Temporary Speaker, Sir, apart from retiring at the age of 60 or 65 years and you are forgotten, in some countries like Canada, you will find people working up to 80 years. Further, you never even know when they will retire because they are still comfortable and they contribute many ideas to the development of their country. This is what the Bill is asking us to address.

It is also important that the country has to thank and recognise the efforts made by these old people. What did they do when they were young? Some of them may have participated in the struggle for Independence, like we have seen quite a number of them did in the early and late 1950s. We have seen many courageous people having suffered torture and even later on in the Nyayo House Torture Chambers. All that was because they wanted to leave Kenya a better country.

We need to recognise these efforts. Some of them were maimed and disabled by the same Government and they continue to suffer in the name of the country that they struggled very much to ensure that we get our independence. So the Bill, therefore, is

trying to seek ways and means to bring closer those people who are seen to be old, senile and those people sometimes regarded as not useful to the society yet they have been useful in the past. They have been good and for that matter they should be recognized.

In many other countries in the West, they are called senior citizens. Even here, we need to refer to them as senior citizens. There are some things that we need to do for these people so that they can live longer in the sense that they are human beings and it is against God or doctrines of the Bible to imagine somebody is not alive after clocking 90 years. Let them live up to the time when they leave us and we give them a decent burial.

Mr. Temporary Speaker, Sir, I have been to quite a number of countries and what I see there is very encouraging. In America, a state like Alabama, old men and ladies have their own seats and senior citizens are respected. The bus cannot leave before the old have already sat down and they are the first people to alight at the point of destination. The same applies to France, Germany and Britain. In London, the double-decker buses have special seats for the old. They give total respect to these people such that you also feel like you admire such a society.

In those societies we say they are welfare states, but there is nothing wrong in Kenya being one of them. There is nothing wrong in extending the same to these old people because they once struggled to maintain and bring the country to where it is. Supposing these people were not there, what kind of state do you think we would be inheriting? The First President, Jomo Kenyatta, Daniel Toroitich arap Moi, Bildad Kaggia, Ochieng Oneko and Sen. G.G Kariuki are people who fought and struggled for this country. We need to respect them. If it were not for their struggle, Kenya would not be where it is. I know they struggled, did a lot of good work for this country and for that reason, therefore, the government should see it fit to pay some token for them to live longer.

There are some who did not acquire a lot of wealth. These are the ones we are saying that the government should be able to support and bring them up in the old homes. We have *miji ya huruma* all over the country. These old homes should be run by the government and be inspected often even if they are run by the county government so that the government sees to it that the old people living there live decently. I am sure the old people will live longer.

It is because of the old people that we have the adage; “old is gold” and we, therefore, recognize that living long is important. When you are employed, permanent and pensionable, we say you have been employed on permanent and pensionable terms. When we are pensionable, we would expect that the moment your pension is limited on monthly basis just like the way it is written in the employment letter. These days we know that some people retire, and after retirement, they never get their dues. I have a case of teachers who retired in 1997 and since then, they have not been receiving their dues. Some of them have died, some live in problems, they cannot get time to come to Nairobi and claim their dues and the government has failed to pay their pension.

Mr. Temporary Speaker, Sir, in this regard, it is bad to imagine that the government of the same country which has been put up by the people who are now old and tired are the same people not being offered decency in their lives. Once this Bill is passed, it is going to include all those people who worked hard. When we leave

Parliament, we might not have anything else useful to do. So, this Bill, once passed, is going to look into the lives of those people who have struggled in this country. We recognize the petition of former councilors and we should also recognize the petition of retired parliamentarians. We should also recognize the retirement of some senior civil servants just like the way we recognize the old retired presidents.

So, this is an eye opener and it is going to give old people hope of living longer and the hope of continuity in life. Once this is done, I am sure the old will be rejuvenated; they will look like they are young and cease to imagine that they are old because the government has a lot to do to save the lives and the environment of the old.

This is why I support this Bill and I urge my colleagues to support and come up with ideas on how we can improve it because that is where we are headed to and we need to have decent lives.

I second. Thank you.

**The Temporary Speaker** (Sen. (Dr.) Machage: Very well. I therefore, propose that the Senior Citizens Care and Protection Bill (Senate Bill No. 43 Of 2014), be now read a second time.

*(Question proposed)*

**Sen. (Dr.) Khalwale:** Thank you Mr. Temporary Speaker, Sir. I find it a catch 22 sought of situation for me to contribute here because of the medical implications of this Bill *vis-à-vis* the rich culture in which I am grounded. I believe this grounding is not different for all the Senators in this House.

I want to congratulate Sen. (Prof.) Lesan, my senior colleague, for this well thought piece of legislation, but at the same time announce that I want to support it but with very far reaching amendments. I support it because of the objective and purposes of the Bill. However, look at the definition of a senior citizen. This Bill tells us that a senior citizen is a man or a woman aged 65 years old. The drafters of this Bill had their minds outside their communities, their minds in the world of a white man.

Mr. Temporary Speaker, Sir, a 65 year old Luhya woman or a Kuria woman is a very hard working woman in the villages. We should not standardize the challenges that some of the people who are 65 years old have purely because of some instances of nature. For example, one was involved in an accident and suffered a specific medical condition. To me, that is the description of a 65 years old Luhya woman.

A 65 years old man in Luhyaland is such an active strong man, for example, my father got his last born son at that age, named Mr. Antony Lukhombo Kalulu. That is the kind of man we are talking about. When you go to Malinya, there is a 72 years old man called Mr. Francis Alulu who is one of the most powerful leaders there. He is the longest serving catechist for our local Catholic church. No mass can be conducted in Malinya sub-Parish and Shitoli Parish without his participation. This is not because he goes there for handouts, but to work.

Mr. Temporary Speaker, Sir, my eldest brother, Mr. Lawrence Bukhala, is 82 years old. He runs his farm in Chereng'any in such a clear way; he makes sure that animals are milked and taken care of in the morning. He makes sure workers are on the farm working. Therefore, let us change the definition of senior citizens to mean 70 years

old. Sen. G.G. Kariuki is over 70 years old, but you can see that he is active. Do not think that he is active because of the big money he has. He is active because he has led a good life. He is at peace with himself. Had he been a thief, like some of the Ministers who worked under President Moi, the poor man would have long developed high blood pressure and would, probably, be dead as I speak. Therefore, let us change the number of years to 70 as a compromise.

Mr. Temporary Speaker, Sir, I look at Clauses 3, 4, 5 and 6 which speak to guiding principles, rights of senior citizens, obligations of the national Government and county governments in respect to the rights of senior citizens, respectively and I have no problem with them. However, as you move on to Clause 7 which in a very subtle way introduces something which is un-African. This is where I have a problem with this Bill. The issue that the professor is quietly trying to introduce in Clause 7(d) where he talks about the establishment of residential care centres, social centres and other facilities for the care of senior citizens within the county in accordance with this Bill. I propose that we delete Clause 7(d) and 7(e). I will be expounding on the reasons why.

We cannot fault the entire Clause 7. It is good, especially when it speaks to the promotion and prevention of exploitation and abuse of senior citizens. When you look at Part III, that talks of the care of senior citizens. For us to debate this particular part, you need to ask yourself what a senior citizen needs. In my view, a senior citizen in Kenya needs the following four things; housing, food, clothing and medical care. You can buy or hire those things as long as you have economic empowerment. This is where our efforts should be directed. We should empower senior citizens so that they have access to housing, food, clothing and medical care for themselves. However, there is a fifth need which overrides all of them; a senior citizen needs love.

I have practiced medicine and I know what love is to a child, and it is not comparable to what it is to a senior citizen. You can give a senior citizen the best house, food and medical care. However, if that man or woman senses that nobody loves them, they break down while a child does not. Therefore, for a Professor of Medicine to suggest that we create a situation in Kenya where we remove our aged people from the seat and environment of love and take them to some silly place called “an old people’s home”, it is an affront to our African culture. He wants to kill our old people; to let them die from depression and starvation, not because food is not there, but because they will refuse to eat.

Mr. Temporary Speaker, Sir, I speak with a degree of experience. My father died at the age of 88 years. The man was blind in the last five years of his life. I spoke about my brother who was born when my father was 65 years old. Unfortunately, that young brother of mine, developed a medical condition that made me to make a conscious decision that we were punishing him by taking him to formal school so he just mingled in my family. The young man, Antony, for those five years ended up doing more for our father than all of us with our degrees and education. This is because he is the one who became his eyes. My father would wake up beaming because he knew as he was directed to where he would sit the whole day, my young brother, Antony, would have adjusted his tie. When he felt like going to the toilet, he would direct him and even helped in feeding by pointing out where the *ugali*, chicken and green vegetables were on his plate. Because

of that, the old man lived on and on. Do not remove old African people from the warmth of their families.

Mr. Temporary Speaker, Sir, as you continue to read this Bill, you find that in Clause 10, Sen. (Prof.) Lesan says that the community based programmes established under Sub-section 1, shall consist of :-

“(a) Prevention and promotion programmes.”

What does he mean by prevention? Delete the word “prevention” and let it read “promotion of programmes”

Clause 11 that speaks to home based care should be deleted for the reasons that I have said. Let me tell you about a young Senator here because he is the age of my son. He shared with me how much he loves his grandfather. Sen. (Prof.) Lesan thinks that because young Sen. Sang is a lawyer and a Senator who has money, and he loves his grandfather, that his love is different from the love that his age mate who is a goat herder in Nandi has for his grandfather. It is the same. Let the circumcision age mate of Sen. Sang enjoy relating with his grandfather the same way that Sen. Sang does. It is granted that Sen. Sang would allow his grandfather to enjoy watching television. However, a goat herder, who is his age mate and cannot afford a television, will express his love by helping his grandfather to listen to a radio powered by two batteries. They sit and one of them watches news while the other one listens to news. They will discuss news and feel they are loved. When they meet in church, they will discuss events that they heard on radio and watched on television. Both of them will feel that they are equal.

What county governments should be doing in this Bill is to build up on the social programme that is currently being given out by the Jubilee Government – although in a very bad way – where aged people receive actual cash. We should make sure that we make medical services universal so that every aged person has got access to a national hospital insurance card. If that is the case, then, you will be talking like an African. What is this obsession about White people, many of whom you went to school with and never beat most of you? Instead, you used to beat them.

I have colleagues, many of whom are doctors. I remember Prof. Lule, Dr. Ndombi and I leading the team that took the former Vice President, Michael Kijana Wamalwa to Hempstead Hospital in London. While we were there, the very professors that we had taken him to were asking us in the ward round: “What do you mean by this?” That shows that there is nothing special about them. That is their culture of homes.

When I become an old man, I would want my grandchildren to ask me how a bull should leave the compound in the morning when you want it to win. I will train them how bull-fighting is done. Now, you want to lock me up so that I cannot enjoy bull-fighting in Malinya Stadium when I become an old man! You should let my children walk me there to enjoy bull-fighting. This is what we are talking about.

Some of the old people enjoy beer, especially, *busaa*. Some of them take a little bit of *chang’aa*. You now want to take them to homes of the aged where they will be read the Bible the whole day yet not all of them subscribe to that? Let the ones who would wish to go and enjoy *busaa* do so in their homes. Let them enjoy a glass of *chang’aa* which – for your information because you are a doctor like me – has got a strong curative value. The obsession that alcohol is bad comes from just certain quarters in this country.

Therefore, if you have an alcohol problem in your quarter, do not think that, that is a Kenyan problem. In fact, I know of some people in Kipsigis who, when they take beer do not---

Mr. Temporary Speaker, Sir, just allow me one minute so that I comment on this deletion.

**The Temporary Speaker** (Sen. (Dr.) Machage): One minute.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I conclude by saying that Clauses 12 and 13 be deleted, Clauses 14 and 15 be retained and the entire Part 5 that structures the establishment of homes and Clauses 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29 and 30 be deleted.

Mr. Temporary Speaker, Sir, I thank you for the extra one minute.

**The Temporary Speaker** (Sen. (Dr.) Machage): It is interesting to hear the doctor say that alcohol is the best.

**Sen. Sang:** Mr. Temporary Speaker, Sir, I take this opportunity to congratulate Sen. (Prof.) Lesan for this wonderful Bill. I agree and share a number of contributions made by Sen. (Dr.) Khalwale and we will have an opportunity, during the Third Reading, to amend this Bill. However, it is important to note that the Bill before us by Sen. (Prof.) Lesan is pursuant to Article 57 of the Constitution that clearly indicates that there is a responsibility for the state to take care of senior citizens in this country.

Mr. Temporary Speaker, Sir, I am sure that the wording of Article 57 of the Constitution clearly indicates that the responsibility of taking care of the senior citizens in this country rests upon the family and the state. To that extent, we must allow the family to do its job. However, we must also allow the state to carry out its responsibility.

Mr. Temporary Speaker, Sir, I appreciate –more specially the Jubilee Government – that in this country, there is some programme towards appreciation of this particular Article. As I speak right now, we have the cash transfer among the senior citizens in this country. However, there is a challenge that this House has expressed itself on several occasions. Every other time we travel across our counties, we interact with people. We meet senior citizens in our counties aged 80 or 85 still asking us: “Where is the cash we hear elders and senior citizens are entitled to?” Therefore, this is one of the challenges that we must address. We may have a beautiful law, like the one before us, but we must take bold steps and look at the implementation. We must provide for the senior citizens in this country. The fairness of a state is judged on the basis of how it treats the weak. In this case, we are talking about the senior citizens.

Mr. Temporary Speaker, Sir, the Senator for Kakamega mentioned something that is very critical in terms of needs of the senior citizens; that is, medical attention. At the age of 60, 70 or 80, senior citizens are prone to medical conditions that come with age. Therefore, we must provide free medical services to our elders. I agree with the Senator that we may not need, as a matter of fact, serious residential homes for our elders. However, that is not compulsory in the Bill. We must establish some homes so that elders who want to go there and relax have that opportunity.

Mr. Temporary Speaker, Sir, the Senator for Kakamega and a number of us spend time in Nairobi. It is possible that you will find a family that has all its siblings and other family members all working and residing in Nairobi or even out of the country. However,



we have some of the senior citizens in the villages. We need to provide an option. It is okay for those who can take care of their parents, grandparents and other senior citizens within their homes. However, we must appreciate that you will meet a lot of senior citizens in our families back in the villages who have no shelter and family members to take care of them.

Therefore, it is important to bestow the responsibility of setting up some of the homes for the aged on our county governments. Nobody will uproot from the village my own grandfather or grandfathers of many of us to be taken to the homes of the aged. However, those who want and need them must be provided with the opportunity.

Mr. Temporary Speaker, Sir, we must provide facilities that are friendly to senior citizens. For example, somebody aged between 80 and 90 cannot board some of the transport facilities because of the madness and lack of respect for rules on our roads. We are a society, in this country, that sometimes may not appreciate and respect the elders.

I support this Bill that we have to provide for senior citizen friendly facilities. In this country, we have talked about disability friendly facilities although we have not achieved that. However, we need to appreciate that we have a lot of senior citizens at the age of over 90 who need special facilities to access certain facilities in this country; whether buildings or hospitals.

Whether it is hospital or any other facility, we need to provide mechanisms that ensure that we are able to take care of these citizens. Sometimes when you go to the bank, you meet retired teachers at the age of 75 and above queuing and you find a young person in front of the queue and the elders have to queue for 30 minutes or one hour. I think as a country, we must enhance our morals and appreciate that some of these senior citizens require priority passes whether on queues during voting, access to medical services, banks or even at the airports. We should be a society that recognizes and considers the aged.

Mr. Temporary Speaker, Sir, one of the most disappointing things sometimes is to meet a retired civil servant, someone who worked for this country in their youthful age and contributed heavily to the development and advancement of this country, they contributed pension through the National Social Security Fund (NSSF) whether they were working in the military or as teachers but once they retire, it takes an eternity to get their dues. Sometimes you look at the kind of corruption scandals within NSSF, the pension schemes and you find that they have a lot of resources that sometimes the monies are available for them to be misused forgetting that these are savings of some of these senior citizens who will need them when they retire.

Therefore, we must be a country that is conscious and we expect that NSSF and the other pension schemes will diligently manage the pension for our senior citizens so that when the time comes when they are in need of those resources, they are able to get them. We have seen teachers and retired chiefs trying to get their pension but it takes them about 10 or 15 years. Some of them die of preventable diseases as if they had no resources to obtain medication. It is sad sometimes when you attend a funeral of a person who worked very hard to try and get their pension but they did not succeed and the pension is paid well after their death. These are the challenges that our senior citizens are treated to. We must develop enhanced morals so that it is not just about the enactment of

this legislation but we must have a mindset, the change and paradigm shift in our thinking and in our morals to appreciate that we must be able to take care of our senior citizens in this country.

May I ask Sen. (Dr.) Khalwale that let us put together a number of the proposals he has shared with us so that when it comes to Third Reading, we amend this Bill to realign it with our customs. I know we have various customs and cultures in this country but we must sit down together and ensure that this very important Bill that looks into the interest of our senior citizens sees the light of the day and we ensure that our society, counties and our country are able to provide opportunities to our senior citizens to enjoy a dignified life after they have contributed a lot to the development of this country.

With those remarks, I wish to thank Sen. (Prof.) Lesan and I support this Bill.

Thank you.

**Sen. Chelule:** Asante sana Bw. Spika wa Muda kwa kunipatia nafasi niunge mkono Mswada ambao umeletwa na Sen. (Prof.) Lesan kuhusu wazee wazazi.

**The Temporary Speaker** (Sen. (Dr.) Machage): Labda uwaite wazee wakongwe kwa sababu mzazi ama wazazi wanaweza kuwa mzee mkongwe.

**Sen. Chelule:** Nachukua nafasi huu niombee Sen. (Prof.) Lesan akubali tupendekeze mabadiliko mengi sana katika Mswada huu. Kulingana na vile Sen. (Dr.) Khalwale ameongea, kwa tabia yetu kama Waafrika, pengine wazee wakongwe hawatakubali kutengwa na hata mimi mwenyewe singependa kutenga mzazi wangu wala babu yangu. Singependa nikiulizwa hata leo. Kwa hivyo Mswada huu unafaa kutiliwa maanani na pengine hata wahusika waulizwe pia vile wangetaka Serikali iwasaidie.

Kuna mpango ambao Serikali inatumia kuwalipa wazee na labda iboreshwe kwamba wakati wanapopatiwa pesa, pia wapatiwe vyakula ama lishe bora. Kama kuna nyumba ya wazee ambayo Sen. (Prof.) Lesan amegusia katika Mswada huu ambapo wanaweza kuishi na Serikali ihakikishe wamepata mahitaji yao ya kimsingi, iwe ni nyumba ambapo wanakaa na kuongea mambo yao ama hata kuwafunza watoto wetu na waendele na kazi zao kama wananchi wa nchi hii kwa sababu sitakubali kwamba wazee hawawezi kufanya kazi ambazo walifanya wakiwa wadogo. Otherwise---

**The temporary Speaker** (Sen. (Dr.) Machage): Order! If you decide to speak in Kiswahili, you must speak in Kiswahili.

**Sen. Chelule:** Pole, Bw. Spika wa Muda. Kwa mfano, kuna mama ambaye alikuwa anapenda kushona vibuyu, nguo ama vikabu, kungekuwa na nafasi ama nyumba ya wazee katika kila kaunti ndogo ambapo wanaweza kukutana, wakipenda wala si kwa kulazimishwa na watengeneze vitu ambavyo zinawahusu utamaduni wao. Hii isiwe ile nyumba imetengwa kwa sababu wazazi ama watoto wao hawawezi kuwalinda.

Jambo la muhimu ni kuwaelimisha pia watoto na hata sisi kwamba kuna umuhimu wa kuwatunza wazazi wetu hadi mwisho wa maisha yao kwa sababu ni baraka. Wakitengwa, ni njia ya kutoa baraka kwa jamii yetu. Naunga Mswada huu mkono lakini tutapendekeza mabadiliko na nadhani Sen. (Prof.) Lesan hatakata mambo mengi yabadilishwe.

Jambo lingine ni kuhusu mambo ya hospitali. Tungetaka wazee wakongwe wapate matibabu katika hospitali ya Serikali bila malipo. Kwa hivyo, tunataka kuangalia

maslahi yao ya kupata matibabu, vyakula na hata kupatana na marafiki wao lakini sio kutengwa nafikiri ni vyema.

La mwisho ni kwamba, Mswada huu, si rahisi Sen. (Prof.) Lesan, na naomba tufanye utafiti kwa wahusika. Nikitaja wahusika namanisha watu nyumbani. Tutahitaji kuwauliza vile wangetaka kwa maana kuna wengine hawataki kutengana na watoto wao. Kuna wazee hawangependa kukaa mbali kwa watoto wao na wakiona watoto wanafurahi. Lazima tuwahusishe wakati tunajadili Mswada huu ili tujue ni nini haswa wanataka.

Mimi kama mzazi, ninajua kuwa nitakuwa mzee mkongwe miaka ijayo, singependa kutengwa na familia yangu.

Asante sana.

**The Temporary Speaker** (Sen. (Dr.) Machage): Before a Bill is read for the first time in this House, there is usually a window of 30 days of public participation. We hope this was done.

Proceed, Sen. M. Kajwang.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I thank the Senator for Bomet for bringing this Bill to the House. It is a well thought out Bill, very relevant and its intention is to give life to Article 57 of the Constitution.

There are those people who think that this Senate is a House of old men. Today, when we are discussing a Bill on elderly persons, they would assume that today is the day we are doing our job. I want to put them to shame and tell them that this House is not an old men's home, the old men's home that has been envisaged in this Bill. This House is extremely relevant. However, if you look at the demographics of this House, there are many of us who would benefit from this Bill because they have gone beyond that definition of old age.

Mr. Temporary Speaker, Sir, my personal interest in this Bill is because I am the son of an old man. My dad is 83 years old and he has served his time as a teacher. He is now in retirement. I see many of his friends and colleagues, people he served with, who are faring very badly. In fact, if you look at the typical trend of citizens in this country, it is that you will be born with a lot of expectations, go to school with a lot of expectations that you will change this world, then you will get a job somewhere in Nairobi or one of the county headquarters and once you serve your time, you retire back in the village to a life that you are not accustomed to.

Whereas, you are accustomed to life in the city, 8.00 a.m. to 5.00 p.m. in the hustles and bustles of city life, all of a sudden you find yourself in retirement and you cannot afford to continue paying your rent in the city. So, you retreat to the village. Life in the village is very different. People die very quickly while consuming the *busaa* and *chang'aa* that Sen. (Dr.) Khalwale was advocating that old people should consume. I advise old people not to listen to the advice from Sen. (Dr.) Khalwale, who is a Senator and a Member of this House, because if you start consuming *chang'aa* and *busaa* in retirement, you will definitely die. If you want to do it in retirement, then start it early and not after you have retired.

Mr. Temporary Speaker, Sir, one thing that we have not remembered to bring up in the debate as we talk about teachers and their payment is that earlier this year, Justice Janet Mulwa directed the Teachers Service Commission (TSC) to pay retired teachers a

total of about Kshs42.3 billion. Retired teachers had taken the Government and the TSC to court. This matter had dragged on in the courts for almost 18 years. At some point, the courts had awarded the retired teachers and directed that they should be paid. The Government back then as it is today took a position that they will not pay. I want to put it on record, on the Floor of this House, that the retired teachers who were granted a pay award by the court must also be paid.

We believe that this country has got enough bread to go round. It is only that certain people are hoarding the bread and keeping it away from others. The retired teachers who are persons over the age of 65 years that this Bill seeks to address must also be paid. The Government must find that money and comply with the court order and pay the Kshs42.3 billion to those retired teachers who have suffered for a long time.

Mr. Temporary Speaker, Sir, former councillors also brought a Petition to this House and it is worth considering. In the court of public opinion, it sounds a little bit gluttonous to entertain former councillors at this point in time. However, the architecture of our politics is something that we need to change. This Senate, comprising of individuals who have served this nation studiously for a long time; you probably owe this nation a reshaping of our politics because politics is taken as an occupation in which people go into to acquire wealth. So, when you find a former councillor who is unable to pay school fees for their children or grandchildren, we look down upon them. We ask them; where were you when other people were sorting out their future?

These former councillors and particularly those ones that you find do not have a cent to their name are probably the people who served this nation with utmost good faith. There could be a few who because of shady deals that they could pull within those defunct authorities, ended up making some money and are now comfortable. Let us change our politics, leadership and public service so that it is service and not something people go into to acquire so that they can line and feather their nest in future.

The old people in Kenya are reliant on M-Pesa. One of these fine days, we will need to take a position as a country whether M-Pesa should be a private or a national infrastructure. When I talk about M-Pesa, I refer to the cash transfer system that is currently being run by one of the telcos. This has now become part of the life of many old people in this country. While they are in the villages looking after cattle and tilling their land they wait for their children or relatives to send them money through M-Pesa. When you look at the demographics or statistics, about 4 per cent of our population would benefit from this Bill. It is this 4 per cent which is the poorest age group in this nation.

Mr. Temporary Speaker, Sir, this is a good Bill which, if subjected to some slight amendments, can provide some hope and a much more dignified sunset time for those people who have given their labour and service to this country.

There is an issue that has been raised about the definition of old persons. This Bill defines an old person as one above 65 years of age. I request for some consistency because the definition of old people that Kenya has adopted according to the National Policy on Older Persons and Aging, is 60 years which is consistent with the African Union (AU) and the United Nations (UN) definitions. So, we probably might want to rationalize that or get proper explanation why we are starting at 65 and not 60 years.

I have taken note of the contribution from Sen. (Dr.) Khalwale about the activity of certain people who are at 65 years of age. I know people who are 65 years old who recently fathered twins. If you want to know that they were not assisted, you just have to look at the noses of those twins; they are an exact replica of the father's. So, at age 60 or 65 years some of these people are still very active but if we have a universal definition---

**The Temporary Speaker** (Sen. (Dr.) Machage): Is that a standard measure to know whose son or daughter is somebody's. Is the nose the measure?

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, DNA came recently. So, we have been using physical attributes to trace parenthood, but that was on a light note. We might need to rationalize and standardize that definition of old persons.

There is an Act in this country called the Social Assistance Act of 2013. This Act set up an authority called the National Social Assistance Authority. I do not know what they do or their address and even if you look around to find out whether this has been set up, it is not very clear. This sometimes tells you that we can come up with legislation, proposals and then nothing happens thereafter.

However, there is one programme that is worth talking about which if well implemented can provide hope to older persons in this country. This is the Older Persons Cash Transfer Programme which started off with just about Kshs4 million. Of course, it did not start with the Jubilee Government as my friend Sen. Sang has said. It started earlier when the likes of the King of Meru, Sen. Murungi, were in Government. So, it started as a pilot programme and progressed over the years.

Mr. Temporary Speaker, Sir, the older persons cash transfer programme provides hope to a number of elderly people. I remember early last year when the President was launching the second phase of this programme, he commented that he would like this programme to reach at least 523 persons per constituency in the country. The older persons are supposed to get Kshs2000. However, as much as this is noble, there are certain challenges that we must deal with. There are a lot of hidden costs to accessing that money. You will find that the nearest Equity Bank or Postal Corporation branches - which are the main outlets where this money is drawn - could be a long distant away, so an old person would spend all his or her money to access the Kshs2000.

I want to urge the Executive and those responsible for this to think through that and very quickly implement a mobile cash transfer solution so that the elderly persons do not spend all they have to get something less than what they have spent.

We also need transparency. When the Senator for Kitui County requested for a Statement on the status of this programme, there was not much clarity. We requested the Cabinet Secretary (CS) to come here and to date, the matter has not been resolved to the satisfaction of this House. Whenever we go to our counties, the elderly persons tell us that they hear that there is money somewhere but they cannot access it. We need transparency, proper disclosure and good information so that we as leaders in our counties can go back and advise the elderly persons on how they can access this money.

Mr. Temporary Speaker, Sir, there are delays in payment. Those who were in the pilot scheme and those who started benefiting say that sometimes payments delay. The beneficiaries sometimes feel as if this is a scheme that has collapsed. We must move

beyond legislation and ask ourselves whether our financial institutions are discriminating people on the basis of age.

If you go for a mortgage, they will ask you about your age and you will be dismissed by virtue of age. We can price products in the financial market but we should not make it look like it is a crime to be an old person. This happens when they go to apply for a loan, insurance or medical cover. In private insurance companies, you will find that when you are above a certain age, probably 65 or 70 years, you are not eligible to get medical insurance cover. Old age should not be treated as a crime.

Mr. Temporary Speaker, Sir, there are parts of this country where old persons are accused of being witches. We need to shame some of these retrogressive practices and talk about them as a Senate and as a leadership. A person does not become a witch simply because he or she is old. Assuming that the world and realm of witches exist, anyone can be in it. We should not victimize or assault old persons and accuse them of witch-craft because that will be infringing on their rights.

One final thing that I want to say is that we must also advocate and promote a saving culture in this country. If you look at the pay slip or the amount of money we are paying our teachers, doctors and certain cadres in the public service, it is very difficult to make a saving. Therefore, we must take urgent legislative, policy or practical measures to encourage people in this country to save because it is that saving that will pad our lifestyle in future.

This Bill will not take care of all the problems that older persons face. It is a starting point. The cash transfer programme is not the ultimate solution to the problems that older persons face. We must also make that conscious decision. I am glad that this country will soon be launching a mobile Treasury Bill which will allow young people to start investing in Government securities. It must go beyond that, we must promote and encourage a saving culture in this country so that we do not end up with a welfare state where everyone just goes about consuming everything they get because they know that in future the Government will take care of them. We should promote, entrench the saving culture and take care of the savings that we make through bodies like the National Social Security Fund (NSSF). We have NSSF that sits on a large amount of money, saving the future of this nation.

I support the Bill.

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I thank you for recognizing me to speak. First, allow me to thank my friend and neighbour Sen. (Prof.) Lesan, for introducing this important and timely Bill to this august House.

For a long time, this country has focused itself on the rights of women and children and forgotten their source; the rights of the aged. I am happy because for the first time in the history of this country, the Constitution of Kenya 2010 now recognizes the rights of the aged as fundamental human rights.

We might quarrel about definitions but I have no problem about the age of 65 years being the lower limit of a senior citizen. People who are 70 years; even President Jomo Kenyatta at 70, was able to give birth to the current President of this country, so they are not useless persons merely because they are senior citizens of this country. For a

long time, old age has been associated with misery, various diseases, starvation and loneliness.

I was reading another book on retirement and I was surprised that the first three pages of that book listed various diseases, I cannot remember all of them but the following are some of them:-

- (1) Diabetes
- (2) High blood pressure
- (3) Pulmonary thrombosis
- (4) Parkinsons
- (5) Chronic depression

Mr. Temporary Speaker, Sir, these are some of the diseases that we expect you to have as you approach your maker. The exit is not that simple, this is a process that we need to go through and we must be prepared for it. Old age need not be so miserable. One can age gracefully, we have seen people in Japan living long and working beyond the age of 70 years because even at 80 years, people in Japan are still at work.

If we implement this Bill and recognize the constitutional rights of the aged in this country, we can make old age more bearable and interesting.

I was listening to Sen. (Dr.) Khalwale as I was coming, saying that people do not have to be educated to enjoy life. For example, a *mzee* could be happy in enjoying his *busaa* and watching his grandchildren; we can never be happy alone but in the company of others, whether grandchildren or colleagues.

As a junior elder of *Njuri Ncheke*, when I meet the *wazee* there in their own company behaving like boys, they seem to be enjoying in their old age. We should encourage groups like *Njuri Ncheke* around the country where an old man does not have to stay at home alone all the time, suffering from loneliness and waiting for their grandchildren to come from school, but when they come they have homework and, therefore, no time to speak to him. So, I think we should encourage old age groups where *wazee* can socialize, enjoy the company of each other and be happy.

Mr. Temporary Speaker, Sir, allow me to disagree with my colleague, Sen. (Dr.) Khalwale, about old people's homes. They also give you company and not just reading the Holy Bible throughout. Why can you not play music or *Isukuti* in old people's homes? It depends on how the home is structured. You can create a lot of happiness in it.

The society that we are moving on to is not where you are likely to find many bulls for *wazee* to enjoy bull fighting. Indeed, there is a new class of elders who retire, live and die in Nairobi. What will happen to those people? Their grandchildren are in the United States of America (USA) and India. They have become global citizens. We also have to take care of this new class of old people. I think taking them to an old people's home might not be a bad idea. They will recall their days in the civil service and Parliament together and they will enjoy each other's company just like the old people are enjoying each other's company in *Njuri Ncheke*.

It is said that the Kenyan society is rapidly urbanizing and after 2030, the majority of the Kenyan population will be living in town. So, we have to create structures that can take the future of this country into account. That is why we are supporting Sen. (Prof.) Lesan, that along the structures we create for supporting old age, there should be old

people's homes in this country. However, we are in this transition and it does not mean that because some people are in old people's homes, others should not be at home where you are able to enjoy life with your grandchildren in the village. Let us encourage that and create structures to support the old people to enjoy within that structure in the village. Where it is impossible, let us allow old people's homes to be established and supported by both the national and county governments.

Mr. Temporary Speaker, Sir, I know we introduced legislation to support cash transfers for old people in the last Government, but the impact of that legislation in the villages where we come from has been negligible. There have been no significant improvements in the lives of the old people in the villages. The Kshs2,000 cash transfer is nothing. You will take a *bodaboda* or *matatu* twice and the money is finished.

Secondly, the method of dispensing that amount through the chiefs and assistant chiefs is an old leaking bucket theory where very little actually reaches the *wazees* because a lot of it is lost through the provincial administration loop holes.

Mr. Temporary Speaker, Sir, we can borrow the Indian model where every person in India is supposed to have a bank account whether you have or do not have money. Once you have a bank account, we know your name and where you come from, the cash transfer should be done directly. We are lucky in this country because we have M-Pesa. Why can we not give that money to the old people through the M-Pesa service? We should get them registered and just sent the money directly to them instead of directing it to the chiefs. There is a case for delivering the money to the beneficiaries through modern money transfer services.

Mr. Temporary Speaker, Sir, what is exciting about old age is the fact that many of the worries that we have as young people are not there in old age. If we take care of an old person's health and food, life can be good for them. This is because the things that worry young people, for instance, which young girl to marry or which man to get married to, do not bother old people who are 80 years old. They do not spend sleepless nights because young girls cheated them and they waited at a coffee shop for hours on end looking at everyone coming in to see whether she is coming in or not.

The young people worry about whether to buy vehicles or not, while old people do not think about such things. The ones they had many years ago still serve them right. If they have none, they are not dreaming of buying it at the age of 80 years and above. The old people who have some kind of modest housing are not thinking of buying new ones or even buying land. Therefore, the high pressure stresses of modern life do not bother them so we should not stress the old people. When their basic needs of food and medicine are met, they can live a relatively stress free life.

The critical thing that Sen. (Dr.) Khalwale talked about is love. The biggest challenge that the old people face in the country is that of loneliness. Many of them have very good stories to tell, but they have nobody to tell them to because the people they should be telling them to - their children - are busy at work in Nairobi, Mombasa and other places. They are not there to listen to those stories. The grandchildren who would also be enjoying those stories are also not there because they are in school. When many of them come back, they are either watching television or doing their own things. They have no time for those beautiful stories.



Thirdly, Sen. (Prof.) Lesan is reminding me about the issue of language. There are many Kalenjins here who are just Kalenjins by names because they cannot even greet their grandparents in the Kalenjin language yet they are called Koech, Kiprotich and many others. What kind of Koech is that who cannot greet his grandmother “*Chamige*”?

When Sen. Obama came to Kenya, he talked about his grandmother and that moment when the sister was not there to interpret, he said that he was left with his grandmother, and they just looked at each other and when the sister came, the grandmother asked the sister, “Why are you saying that this boy is so bright like his father yet he cannot even speak in Dholuo?” He cannot speak Kiswahili and communicate yet his father could communicate. So, there are tensions which arise during confrontations between grandchildren and grandmothers. Therefore, grandmothers are very much frustrated since they cannot share their wisdom and experiences because of the language and, sometimes, cultural barriers with the children.

Therefore, institutions where grandmothers and other old people can interact with younger people and share the wisdom should be created. Although young people play with gadgets in this digital era, the gadgets cannot be replaced with traditional wisdom. The gadgets will not tell you how to behave when you meet your mother’s age-mates or something like that. The questions on morality still remain important in our society.

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

### MOTION FOR ADJOURNMENT OF DEBATE

#### ADJOURNMENT OF DEBATE ON THE SENIOR CITIZENS CARE AND PROTECTION BILL

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.99 to move that the debate be now adjourned. I ask my colleague, Sen. Chelule, to second.

**Sen. Chelule** seconded.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well.

*(Question proposed)*

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I rise to oppose the adjournment. This is because the Bill was moved, seconded and several Senators have spoken to it. That is perfectly in accordance with procedure. If, at this time, the Senator wants to adjourn debate on it, he should first of all tell us why he is doing that. For us who understand rules of procedure, the Senator should have risen to respond as the Mover of the Bill. Are we changing the rules?

**The Temporary Speaker** (Sen. (Dr.) Machage): No rules have been changed as far as the Standing Orders are concerned. The Mover of the Bill was not compelled to give a speech if he so thought that everybody understood what he wanted. He is not compelled by the Standing Orders to do exactly what you would have wanted him to do.

As the Chair, I am obligated by the Standing Orders to execute and that is what I will do. Therefore, I will put the question.

*(Question, that the Debate be adjourned  
put and agreed to)*

Members of the Senate, since we have no other business for the House today, I defer Order No.14 because the Mover of the Bill is now the presiding Speaker. I order that it be given priority – because this has happened twice – in the Order Paper of tomorrow or the day after.

*Second Reading*

THE HIV AND AIDS PREVENTION AND CONTROL  
(AMENDMENT) BILL (SENATE BILL NO.4 OF 2015)

*(Bill deferred)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, since we have no other business the House stands adjourned until tomorrow, Wednesday, 30<sup>th</sup> September, 2015, at 2.30 p.m.

The Senate rose at 6.20 p.m.