

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 2nd April, 2019

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

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

PRAYER

PAPERS LAID

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to lay the following Papers on the Table on the Senate, today, Tuesday, 2nd April, 2019-

ANNUAL REPORT OF THE OFFICE OF THE COB FOR FY 2017/2018

Annual Report of the Office of the Controller of Budget for the Year 2017/2018.

REPORT ON THE FINANCIAL STATEMENT OF BUNGOMA COUNTY EMERGENCY FUND

Report of the Auditor General on the Financial Statement of Bungoma County Emergency Fund for the Year ended 30th June, 2016.

STATE OF THE JUDICIARY AND ADMINISTRATION OF JUSTICE REPORT 2017/2018

State of the Judiciary and Administration of Justice Report (SOJAR), 2017/2018.

(Sen. Murkomen laid the documents on the Table)

The Speaker (Hon. Lusaka): The Senate Majority Leader, kindly approach the Chair.

(Sen. Murkomen approached the Speaker (Hon. Lusaka))

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Please, continue.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations, I beg to lay the following Paper on the Table on the Senate, today, Tuesday, 2nd April, 2019-

REPORT OF JOINT COMMITTEE ON VETTING OF NOMINEE FOR
POSITION OF INSPECTOR GENERAL OF POLICE

Report of the Departmental Committee on Administration, National Security of the National Assembly and the Standing Committee on National Security, Defence and Foreign Relations of the Senate on the vetting of Mr. Hilary Nzioki Mutyambai, the nominee for appointment to the position of Inspector General of the National Police Service.

I thank you.

(Sen. Murkomen laid the document on the Table)

The Speaker (Hon. Lusaka): The Senate Majority Leader, kindly proceed.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on Labour and Social Welfare, I beg to lay the following Papers on the Table on the Senate today, Tuesday, 2nd April, 2019-

REPORT ON THE GLOBAL DISABILITY SUMMIT

Report of the Standing Committee on Labour and Social Welfare on the Global Disability Summit held in London, United Kingdom, on 24th July, 2018.

(Sen. Murkomen laid the document on the Table)

NOTICE OF MOTION

APPROVAL OF REPORT OF JOINT COMMITTEE ON VETTING OF
NOMINEE FOR POSITION OF INSPECTOR GENERAL OF POLICE

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to give notice of the following Motion-

THAT pursuant to Article 242(2) of the Constitution, Section 12 of the National Police Service Act, 2011, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order No.71 of the Senate, this House approves the Joint Report of the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security, Defence and Foreign Relations of the Senate on the nomination of Mr.

Hilary Nzioki Mutyambai, for appointment to the position of Inspector General of the National Police Service, laid on the Table of the Senate on Tuesday, 2nd April, 2019.

The Speaker (Hon. Lusaka): Next Order.

STATEMENTS

STATUS OF THE BUTE MEGA DAM PROJECT IN WAJIR COUNTY

Sen. (Dr.) Ali: Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Land, Environment and Natural Resources on the status of the Bute Mega Dam Project in Wajir County, which was to have a water supply, recreation facility and irrigation component. It was to benefit most of Wajir County and parts of Marsabit County.

In the Statement, the Committee should:-

(1) Provide a progress report on the project with regard to funding, design, tendering and construction; and,

(2) State the identity of the company undertaking the project, its country of origin, the tender amount and indicate the project's scheduled dates of commencement and completion.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): I hope that the Chairperson of the Committee on Land, Environment and Natural Resources has noted that.

Sen. Mwangi: Mr. Speaker, Sir, I have noted. We shall look into this matter to the extent of even visiting Bute Dam, so that we can see the dam and bring a proper response to the House.

The Speaker (Hon. Lusaka): Kindly, proceed, Sen. Farhiya.

Sen. Farhiya: Mr. Speaker, Sir, thank you for allowing me to contribute to this Statement. Bute Dam is one of the most fertile parts of Wajir County. If this dam is completed, many people will benefit in terms of agriculture. Seasonal agriculture is practiced there, but if there is enough water collection once that dam is completed, then many people will practice farming for longer periods and that will improve the livelihoods of the people in that county.

Given that Bute Dam does not have permanent water sources other than when it rains, the mega dam will give it enough water not only for more agriculture but also provide pasture during the dry season. It will, therefore, improve the livelihood of people.

As we talk about food security as part of the Big Four Agenda, this will be one of the projects that will help attain that goal because there will be plenty in terms of food security within Wajir County.

I thank you.

The Speaker (Hon. Lusaka): Kindly, proceed, Sen. Kinyua.

Sen. Kinyua: Asante sana, Bw. Spika kwa kunipa fursa hii. Mradi huu wa Bwawa la Bute ni lazima utiliwe mkazo kwa sababu sehemu hiyo ya Kenya ina ukame

mwingi. Hasa wakati huu ambao kuna kiangazi, itakuwa vizuri tukishughulikia bwawa hilo. Hiyo itahakikisha kwamba wakati mvua itakapokuja wakaazi wa sehemu ile watapata maji.

Sio sehemu hiyo tuu inayohitaji maji. Ukitembea sehemu za Laikipia na sehemu zingine nchini, kuna shida ya maji. Wakati wa kiangazi kuna shida nyingi na wafugaji wa kuhama hama hutegemea yale mabwawa kuwapa mifugo yao maji. Kwa hivyo, sio bwawa hilo pekee ambalo lafaa kushughulikiwa bali hata mabwawa madogo madogo yanafaa kutengenezwa katika sehemu zingine za nchi ya Kenya.

Asante sana, Bw. Spika.

Sen. Cherargei: Mr. Speaker, Sir, I would like to commend Sen. (Dr.) Ali for that Statement. We know that food security is one of the Big Four Agenda---

(Loud Consultations)

The Speaker (Hon. Lusaka): Hon. Senators, kindly consult in low tones.

Sen. Cherargei: Mr. Speaker, Sir, food security is one of the pillars of the Big Four Agenda. It is important that the Jubilee Government has earmarked over 20 dams across the country. We need to look into the future because under Article 43 of the Constitution on Economic and Social rights, the right to clean and safe water is paramount. It is important that some of these projects are completed in time, so that our people can benefit.

Mr. Speaker, Sir, as we discuss about food security, we should look at water pans and small dams that we should construct, so that our people can irrigate their crops.

Secondly, we can have clean and safe water for our people. I want to agree with Sen. (Dr.) Ali that going forward, the issue of food security should be given more weight in terms of ensuring that we have irrigation. This project should be completed in time so that our people benefit from it.

We hope that in future, Wajir County will be food secure. We should not only rely on the North Rift for food. As I speak today, farmers in the North Rift do not have adequate fertilizer to plant. I would like to see North Eastern becoming a food basket for this country and we stop relying on food from Bungoma, Nandi, Uasin Gishu or Trans Nzoia counties.

Mr. Speaker, Sir, as I support the Statement, I expect that the Committee on Land, Environment and Natural Resources will come back with answers so that these projects are completed in time and benefit our people.

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. The issue of food security is very critical in this country and we cannot achieve it depending on rain water.

The question of dams in Wajir, Mandera, Marsabit and Garisaa or formerly known as Northern Frontier Districts (NFD) is critical. This is because these are some of the most under developed areas in the country.

Mr. Speaker, Sir, when the Jubilee Government came into office in 2013, they promised that irrigation would be the solution to matters of food security and that is why they started Galana Kulalu Irrigation Project and other projects.

As I speak, the people of Baringo County, especially Tiaty Constituency are staring at a disaster of drought. Two days ago, two children in Marakwet East Constituency were brutally murdered by bandits from Tiaty Constituency. This is a contradiction that in the same constituency where they are facing starvation, they have the energy to carry guns and kill people in my county.

One of the solutions to the violence that we experience in that region is to have proper irrigation along Kerio Valley. This will make warriors and violent people to have meaningful sources of income. That is where Arror and Kimwarer dams will play an important role. These dams will be the solution to the problem of food insecurity. Here we are talking about over 10,000 hectares being under irrigation and over 100 families accessing piped water. We are talking of direct employment of over 5,000 young people when these projects are completed.

My Committee is dealing with the issue of Kimwarer Dam. However, they must come out meticulously because there is a very contradictory behaviour within Government. We will find the Government investing Ksh63 billion for a project. However, once they get donor funding, they say the Kenya Forest Service (KFS) is not ready to give them a licence to construct a dam. It is the same story for the Bosto Dam in Bomet and the Kimwarer and Arror dams. How can the Government fight itself? How can they fight projects that they borrowed money to construct? This is a contradiction.

As I was talking with Senator for Wajir County, we agreed that processes of development in this country must be distributed fairly to every part of the country.

Sen. Ochillo-Ayacko: On a point of order, Mr. Speaker, Sir

The Speaker (Hon. Lusaka): What is your point of order, Sen. Ochillo-Ayacko?

Sen. Ochillo-Ayacko: Thank you, Mr. Speaker, Sir, I hate interrupting the Senate Majority Leader. However, the person who speaks for Government here is Sen. Murkomen. Is he in order to use the Government platform to further sow the seed of confusion by saying that the Government is doing 'a' and 'b'? Am I in order to ask him to speak as Government so that we clearly understand him?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, we have insisted in this House that the old sycophantic order that was there when Sen. Ochillo-Ayacko was last a Member of Parliament went with the new Constitution.

Mr. Speaker, Sir, separation of powers between the Executive and the Legislature is very distinct. Article 96 of the Constitution does not say our oversight responsibility is for the opposition or the minority. Sometimes even the minority might be the ones who are in the Government. However, there is nowhere written in the Constitution that Parliament when carrying out oversight of the Executive must speak for the Executive. In fact, you vet a Government by properly criticizing it.

As the Senate Majority Leader, I have the responsibility to bring to the attention of this House the fact that we must take our work robustly. For example, the decision by the Kenya Forest Service (KFS) not to provide land for construction of dams was not by the President Uhuru Kenyatta, his deputy and even the Cabinet.

Mr. Speaker, Sir, a Cabinet Secretary in a docket just sits down and says: "I do not like the face of people of a certain county. Therefore, I will not issue them with the licence to do 'a' or 'b' project. I like the face of the people of another county and so on."

That is why in this House, when we summon Cabinet Secretaries, we take them to task because we want to ensure that oversight is carried out.

Sen. (Eng.) Mahamud: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. (Eng.) Mahamud?

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I do not want to interrupt my good leader. However, there is some noise from outside this House. Is it in order for the military personnel to do their parade around Parliament? Why can they not do it somewhere else?

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

The Speaker (Hon. Lusaka): Sen. Cherargei, what is your point of order?

Sen. Cherargei: Mr. Speaker, Sir, I concur with Sen. (Eng.) Mahamud on his observation because today, coming to the House was a problem. The military personnel have blockaded the precincts of Parliament. Could the Chair, in its Solomonic wisdom, ask them to practice elsewhere and implement it on Thursday when the President will be around?

The Speaker (Hon. Lusaka): Going by my past experience and training, they are doing what is called dress rehearsal. It must be done where the function will be, so that they do not get it wrong. However, we will send somebody to talk to them so that they do not interfere with the proceedings of the House.

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

The Speaker (Hon. Lusaka): What is your point of order, Sen. Cheruiyot?

Sen. Cheruiyot: Mr. Speaker, Sir, apart from the noise, you should also direct that at least they facilitate Members to be able to access Parliament with so much ease. When I was coming, I could not access the road from City Hall. The stern mean-looking gentleman told me that it does not matter who I am even if I was a commissioner. It is only that I do not have the demeanor to take him on.

On behalf of my Members who are supposed to be provided with services and facilities as their principal custodian of those facilities, please, direct that if they are practicing here, they should know that this is someone's property. It belongs to Members of Parliament. They cannot tell women legislators to park at Intercontinental Hotel and walk all the way in the sunshine and in high-heeled shoes. It is very unfair.

The Speaker (Hon. Lusaka): Okay, we will take action on that.

Senate Majority Leader, had you concluded?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I urge the relevant Committee to seriously take this issue of dams and comprehensively put to task the relevant departments of the Executive to comprehensively update the people of Kenya on the following: Which projects are being done? How much money is being used? What benefits will accrue to the people of Kenya? What period they will take to complete those projects? I want that Committee to come up with information about the distribution of those dams, their status and the resources that are being applied on them in this country. This is because some of the dams like Kimwarer and Aror are being targeted with investigation with malicious information being put out there just to bastardize these very important projects and then bring them down because they are

located in a place where somebody does not like, or perhaps does not want to be developed.

(Interruption of debate on Statement)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM GLORY VISION ACADEMY SCHOOL IN KIRINYAGA COUNTY

The Speaker (Hon. Lusaka): Before I allow other speakers, let me make a Communication. I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Glory Vision Academy School in our Kirinyaga County.

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

I thank you.

(Resumption of debate on Statement)

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir. Allow me to also join you in welcoming the visitors who are in the gallery.

I want to support the Statement by Sen. (Dr.) Ali concerning the status of the dam in Wajir County. The Committee concerned should take this Statement with a lot of seriousness. During campaigns, the President of the Republic of Kenya told us that water is very important if we are to realise the Big Four Agenda, particularly food security. However, the status of the 57 dams that were to provide a solution to the water problem and food security has turned to a political issue in this country. The Committee should give this House a comprehensive report on the status of all these dams.

In fact, the Senator for Kericho County and I have been camping in the office of the Cabinet Secretary for Environment and Forestry so as to know the status of Bosto and Itare dams. We are still in the dark because we have been unable to see the CS. We are always told that he is in a meeting and we end up sitting there just to leave because we have to come here. This Committee will help get some light on what is going on by bringing a report on the status of all the dams in this country. We are at times told that the forest service has not licenced particular areas for the construction of dams.

I support this Statement. Sen. Murkomen is complaining about the dams in his area and we were preparing to come up with a Statement concerning Bosto Dam. Instead of coming up with the same Statement, we would like to urge the concerned Committee to give this House a well investigated report on the status of all the 57 dams that the President had promised.

Sen. Kibiru: Thank you, Mr. Speaker, Sir. I would like to welcome the teachers and pupils of Glory Vision Primary School, Kirinyaga County. I would like to ask them

to feel at home and also encourage them to be good ambassadors of the great County of Kirinyaga.

I want to join my colleagues who have been supporting the Statement by Sen. (Dr.) Ali. I have a Motion regarding stalled projects and we need to discuss it. We have been talking about stalled projects in the newspapers for some time now. This is something that we need to take seriously because a lot of money is lying idle. We have seen hunger kill our people in some parts of this country and we are talking about dams that have stalled. This is something that the Senate needs to take up seriously. The Senate Business Committee (SBC) needs to prioritise my Motion for us to debate and agree on the way forward regarding the stalled projects.

The Speaker (Hon. Lusaka): I think that the matter was already discussed in the SBC. It is being given priority.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir. We have a tradition in this House where we support the issues of great importance brought by our colleagues but we also take the opportunity to include issues that we feel are of particular importance to the constituents that we represent in this House.

Therefore, if you permit, I request the Chairperson of the Committee that will look into this Statement to also inform this House on the status of a dam called Masaita in Kericho County. The residents have been promised this dam for the last 20 years. President Kibaki gave them a promise but left office without delivering it. President Uhuru gave the same promise in 2012 and he has three years to go. It will be of great importance for us to understand what is going on.

Could the Chairperson of the Committee give us the status of all the 57 dams that were promised by the current administration, without losing what Sen. (Dr.) Ali asked? They should keep us abreast by telling us the ones whose construction is ongoing and the cases where people are still waiting for compensation. When we speak of Thwake Dam, the face of Sen. Mutula Kilonzo Jnr. lightens up which tells you how that dam will change the status of the County that he represents.

Therefore, it is of great importance for us, as Senators, to know what the Government intends to do. We should know the dams that we can await and the ones that will be implemented by the next Government.

Sen. Ochillo-Ayacko: Thank you, Mr. Speaker, Sir. I would like to take this opportunity to thank Sen. (Dr.) Ali for raising this important matter. Dams play an important role in providing portable and drinking water that supports life.

I would like to request the relevant Committee to also give information regarding the Koru-Soin Dam that has been awaiting implementation and funding from our Government. That dam is important to the people of Kisumu County. In addition to that, I request the relevant Committee to find more information regarding the dams that were planned for lower Kuja in Migori County. We have scarcity of portable and useful water that supports life in Migori County. We request to get information on the dams that are being planned for the future. In as much as we live for the present, we must also know what is being planned for the future.

The Speaker (Hon. Lusaka): Thank you, Hon. Members. I hope that the Chairperson of the Committee and the Members have heard the contributions of the

Senators. The issue of dams is very alive. Use that opportunity to inform the House and the country on the status of all the dams as the Members have said.

Hon. Members, let us now move to the next Order.

(The Clerk of the Senate consulted the Speaker (Hon. Lusaka))

The Speaker (Hon. Lusaka): Sen. Olekina, please approach the Chair.

(Sen. Olekina approached the Speaker (Hon. Lusaka))

The Speaker (Hon. Lusaka): Hon. Members, for the convenience of the House I wish to rearrange the Order Paper and direct that we go to Order No. 13.

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

The Speaker (Hon. Lusaka): What is your point of order?

Sen. Khaniri: Mr. Speaker, Sir, on the Order Paper that I have, Order No. 13 is Committee of the Whole. I am informed that there is a Supplementary Order Paper but I believe---

(Sen. Khaniri was handed the Order Paper by the Serjeant-at-arms)

Okay, it is here now. I thank you.

The Speaker (Hon. Lusaka): There is a Supplementary Order Paper that was loaded. You needed to refresh you iPads for it to reflect because it was loaded later.

Proceed, Sen. Sakaja.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. I think I would also benefit from having that Supplementary Order Paper so that I can move the Motion in the words which are written.

(Sen. Sakaja picked the Order Paper from the Clerks-at -the- table)

The Speaker (Hon. Lusaka): Let us proceed.

MOTION

APPROVAL OF REPORT OF JOINT COMMITTEE ON VETTING OF NOMINEE FOR POSITION OF INSPECTOR GENERAL OF POLICE

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

THAT, pursuant to Article 245(2)(a) of the Constitution, Section 12 of the National Police Service Act, 2011, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order

No.71 of the Senate, this House approves the Joint Report of the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security, Defence and Foreign Relations of the Senate on the nomination of Mr. Hilary Nzioki Mutyambai, for appointment to the position of Inspector General of the National Police Service laid on the Table of the Senate on Tuesday, 2nd April, 2019.

Mr. Speaker, Sir, Sen. Judith Pareno will second this Motion.

On the 19th and 20th March, 2019, the Speaker of the National Assembly Mr. Justin Bedan Muturi and the Speaker of the Senate Rt. Hon. Kenneth Masika Lusaka respectively, conveyed to the respective Houses a Message from His Excellency the President Uhuru Kenyatta that one Hilary Nzioki Mutyambai had been nominated to serve in the position of the Inspector General (IG) of the National Police Service (NPS).

Mr. Speaker, Sir, this nomination was pursuant to the provisions of Article 245 (2)(a) of the Constitution and in compliance with the procedure that has been set out under Section 12(2) of the National Police Service Act (2011). That provision, in fact, is the only one of our laws that specifically gives the Senate an opportunity to participate in vetting of public and state officers. It is something that gives us the thought that more provisions like those need to be put in the Constitution.

Article 245(1) and 245(2) of the Constitution established the office of the IG of Police which is an office in the NPS. The IG is appointed by the President with the approval of Parliament. Unlike other provisions, the Constitution says Parliament in its entirety and not just the National Assembly. That is what necessitated us to sit down with the National Assembly Committee on the same.

The IG of Police exercises independent command on the NPS. In Article 245 - and Sen. Olekina is very knowledgeable of it - no one can direct the IG of Police unless through the Constitution.

Mr. Speaker, Sir, the name of this nominee and his Curriculum Vitae (CV) were referred to both Houses and to the relevant committees. A Communication was issued by you Sir, that directed that the approval hearing meetings be conducted jointly by both Houses as required by the Constitution and statute.

Just for a clarification, it was not a joint committee because our Standing Orders are clear about the procedure of setting up a joint committee. It was a Joint Sitting of the relevant specific committees of both Houses.

Section 6(9) of the Public Appointments (Parliamentary Approval) Act provides that-

“Any person may, prior to the approval hearing, and by written statement on oath, shall provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.”

To this end, the office of the Clerk of the National Assembly and the office of the Clerk of the Senate jointly published an advertisement in the print media inviting members of the public generally to present written statements and submissions. Another advertisement was also issued on Thursday, 21st March, 2019 to notify the public that the

Senate Committee on National Security, Defence and Foreign Relations together with the National Assembly Departmental Committee on Administration and National Security would hold a joint approval hearing on Thursday, 28th March, 2019.

Mr. Speaker, Sir, all of the requirements of the law were followed to the letter. We thank the Clerks of the Senate and National Assembly for making sure that they followed the provisions of the law. Both Committees held a joint preparatory meeting on 27th of March, 2019 to familiarize themselves with the CV of the nominee and prepare for the approval hearing.

We carried out the approval hearing the following day on Thursday, 28th March, 2019 and compiled a report that the Leader of the Majority has tabled today on behalf of the Committee and we thank him very much for doing that for us.

Mr. Speaker, Sir, in conducting that hearing, we relied, of course, on the provisions of the law, namely; the Constitution, the National Police Service Act 2011, the Public Appointments (Parliamentary Approval Act), 2011 and Standing Orders of the respective Houses.

The committees made observations which we have listed in the Report. I urge Members to get a copy of this Report and go through it. The observations are on the basis of the constitutional and legal requirements for holding this office as well as the submissions of the nominee himself made during the approval hearing. Our recommendation was based on the evidence and information from the proceedings of the Committee during the vetting exercise.

It is very important that Members go through this Report. If you go even further to the submissions by the nominee, when somebody is looking for a job they make promises and commitments. Those are ones that that this House can use to hold him to account if he is approved.

We wish to thank the offices of the Speakers of the National Assembly and the Senate, the Clerks of the Senate and the National Assembly and their staff for the logistical support accorded to us during the vetting exercise.

We thank the media for the live coverage of the proceedings which enhances accountability and transparency of the approval hearing.

Sen. Aaron Cheruiyot made a very important point during our *Kamukunji*. I had stepped out. However, I was told that he said that we must have a very serious reason not to have the media in any Committee proceedings of this House. This is because the Constitution opens up Parliament to the public.

Mr. Speaker, Sir, Mr. Hilary Nzioki Mutyambai is a Kenyan citizen. He was born on 24th September, 1964. He holds a Masters of Arts degree in National Security from the Australian National University and a Bachelor of Science degree in Agriculture from the only university called the University of Nairobi (UoN). He is currently serving as the Deputy Director, National Counter-Terrorism Centre (NCTC) at the National Intelligence Service (NIS).

Mr. Mutyambai is an accomplished professional in the area of criminal investigation according to the documents and the submissions he presented. He has 27 years of investigative and law enforcement experience. Those 27 years are very close to the age of many Senators in this House.

He has served as the Regional Intelligence Coordinator in Coast and Nairobi regions and has been a Superintendent of Police. He has also served as the Second Secretary at the Kenyan High Commission in Uganda. Therefore, based on that, he has wide experience.

He has undergone several professional trainings among them counter-terrorism, performance management systems, senior management courses, operational management courses, detection and prevention of fraud and forgeries among others. This is quite an issue right now in our country.

Mr. Speaker, Sir, the Committee having considered the nominee's field questionnaire, his CV and oral submissions during the approval hearing which really went into the entire morning, we have made several submissions on his suitability for appointment as the IG of the NPS.

The key observations made by the Committee are that, Mr. Hilary Nzioki Mutyambai's academic credentials, professional training and experience are in accordance with the provisions of Section 6(7) of the Public Appointments (Parliamentary Approvals) Act.

He has demonstrated vast experience in policing, security intelligence, investigation and law enforcement. He also satisfies, according to what was presented before us, the submissions and also from the relevant institutions, the requirements of Chapter Six of our Constitution on Leadership and Integrity. The nominee, therefore, has the necessary experience and qualifications to hold the office of the IG as per the requirements of the National Police Service Act.

Mr. Speaker, Sir, the Committee, therefore, recommends the nominee, having considered his suitability, capacity and integrity. We corrected the nominee for saying that he has a high degree of integrity. However, I told him that there are no degrees of integrity. A person either has integrity or not. There is no low or high integrity. Integrity comes from the root word "integer" which in mathematics means, one. It cannot be divided. So, a person either has integrity or not.

Mr. Speaker, Sir, based on what we were able to see, the information availed to us and the research done by our Parliamentary Secretariat, we recommend that pursuant to Article 245(2) of the Constitution of Kenya and Section 8(2) of the Public Appointments (Parliamentary Approval) Act, that Parliament approves the nomination of Mr. Hilary Mutyambai for appointment to the position of Inspector General of the National Police Service. Again, I thank our Clerk, for having a great team.

Mr. Speaker, Sir, this is my humble submission. I urge this House to support the approval hearing report and subsequent appointment of Mr. Mutyambai as the Inspector General of National Police Service.

Mr. Speaker, Sir, additionally, we must note that Mr. Mutyambai is coming to the NPS at a time when we are undergoing very serious police reforms. The 2010 Constitution, which I no longer consider new because it is almost 10 years old, created and brought what we call a paradigm shift in how we look at the police. We used to have a police force which was about force. When people saw the police, they would run and hide. However, the Constitution aspired to transform this to a NPS.

Mr. Speaker, Sir, in the last few months, I am glad that the Committee on National Security, Defence and Foreign Relations has moved step by step together with the Ministry of Interior and Coordination of National Government and the NPS in terms of the reforms. They have been engaging us and we have been meeting. The only thing we did not discuss is the colour of the new uniform. However, in terms of harmonizing the two forces, redistributing and making sure that the ratio of the police to the population is as per the United Nations (UN) standards, we have been sitting with them formally and meeting with them informally.

We asked the Cabinet Secretary why he has carried us along on everything else apart from National Integrated Identity Management System (NIIMS). He acted in secrecy and raised suspicion for no reason. In fact, when he came to the House, Sen. Cheruiyot told him if this was it, he should have just come on day one to explain it. However, Mr. Mutyambai is coming at a time when we have moved along and worked well with the NPS and the Ministry of Interior and Coordination of National Government. We are seeing the kind of reforms that we require. We are not yet there but they are coming.

We must acknowledge and thank one Mr. Boinett, the current IG. He is still the IG until we appoint this one. He has shown a level of humility that is new to that office. He has shown diligence and the ability to serve every part of this country without any bias.

I am saying this as the Senator and not as the Committee Chairperson because we do not deliberate him. We need more Boinetts in this country. We need people who can have power but who do not lord it over the people or show that they are bosses or have a loud voice. Mr. Bionett has been very humble.

If you talk to police officers, for example, those who are attached to Members who are here and ask them what they think about the outgoing IG, they will say that he is a man of integrity who took everybody seriously and spoke to every officer no matter their rank; the high and the mighty and the constables who are new to the force. Therefore, we thank him for the service that he has offered.

Mr. Speaker, Sir, similarly, we expect that this House approves Mr. Mutyambai. When he came for vetting, he had a humble demeanor and disposition. He is a man who many do not know about. If you google him and yourself, we will see many pictures and videos of you. However, you will not see anything about him. May be, it is because he has been in intelligence.

When he came to us, Sen. Pareno and those of us who were watching will tell you that he gave us some confidence. I asked him one question in relation to what has been dogging our police service and many institutions. Incidentally, I have not seen it today and I do not know whether it is a weird thing but it is what happens in this country. In the Committee hearing, the members of the Committee were present and there were also the friends of the Committee, which is allowed. The friends of the Committee in that hearing were the Senator for Kitui County, the Senator for Machakos County and the Member of Parliament (MP) for Mwala Constituency.

I asked the Chairperson to kindly introduce the friends of the Committee for a reason. I asked myself whether it was a coincidence that the only friends of the

Committee in that hearing happened to come from the same community as the nominee who said that he does not know them personally. It is not a bad thing. I imagine if the nominee was a Kisii, the friends of the Committee who would have come, based on our practice as a people, would likely be from that same community. If the nominee was a Luhya, those who would have come would likely be from that community.

Mr. Speaker, Sir, we asked the nominee to give an affirmation to the country that, one, he does not look at this country through the lenses of tribe. Secondly, even if people will try to put him in that cocoon he will not accept. He gave us an affirmation and confirmation. This is because in this country today, it is important--- Sen. Olekina might not be tribal. However, if he gets certain positions, his people will coalesce around him and try to make him in that direction.

Mr. Speaker, Sir, as the Vice Chairperson of this Committee, I know the structures that are in the police. We have departments in our NPS. In certain departments, if the IG of Police is from a certain community, they fill the positions with people from their community and if the Deputy (IG) of Police is from a certain community, they will fill the positions from their community. It is not just them but even us.

If you go to some Senators' offices, you will find that secretaries, personal assistants and drivers are from their communities. We must break the shackles and the poison of the politics of the past that has divided us, as a country, based on our ethnicity. Competence does not have any direct relation with where you are born in this country. Nobody chose where they would be born. The nominee gave us that assurance and we will hold him to account.

We know what has been happening in the past in that office and we have the names. However, I do not think there is any reason to deal with this retributively because there is also what we call reverse discrimination.

I can see young people in the Public Gallery. We must give our young people the hope that the Kenya that we are creating is a Kenya where tomorrow it will not matter where you were born, what your last name is or who your father was. If you have the content of character and the credentials, you should make it to any office of the Republic of Kenya.

Additionally, a question that kept recurring in the approval hearings was the issue of extrajudicial killings. I have said repeatedly on this Floor that as the Senator for Nairobi City County, it happens daily. From November last year to date, I have a list of 30 young people who have died at the hands of the police. We keep on saying that a country at war with its young people is a country that is not only cannibalizing itself but a country that has no future.

There have been cases of extrajudicial killings at the hands of the police. Let me not even go to the stories of Baby Pendo and the rest. Every day, young people feel that if they are caught outside at a certain time, they will be shot. We know many who have been pulled out of garbage trucks. It is not even self defence anymore.

Mr. Mutyambai was the Regional Director of intelligence in Nairobi. We asked him his commitment to make sure that if somebody commits a crime, they should be presented through the criminal justice system. The rule of law must always rise above the rule of man because the rule of man is always subjective.

I am glad that the Justice, Legal Affairs and Human Rights and the National Security, Defence and Foreign Relations committees have committed to visit those areas. There will be a county visit to the Coast this weekend and we will also visit certain areas in Nairobi. The police should know that just because they have guns, it does not mean they must kill. It is only God who has the right to take away life or if we are in a state of war as a country.

Mr. Speaker, Sir, it pains me because the young people are not statistics. Some of them were in my campaign team and I know them by name. It is painful to give an explanation to a mother on what happened to their child. So, on this one, as a House, we must stand with the young people of our country against extrajudicial killings.

If you look at the Ransley Report, you will be embarrassed. If you look at the Kenya National Commission on Human Rights (KNCHR) report of last year, you will be sad. You will be left wondering whether we are at war internally. It is just because the numbers are never published and they do not make it to the media. Those are lives lost.

There is a young man who had given a Technology, Entertainment and Design (TED) talk at a certain university in the West and he was acknowledged internationally. When he came home for holiday in Nairobi, he was killed in Kibera. We stole away his future and that of his children. That is sad. The other day, six bodies were found in Tsavo National Park and they are suspected to be products of extrajudicial killings.

I know of a young man who came to Nairobi for the first time over the holidays to visit his aunt in Dandora. The aunt had invited him to come and see Nairobi. During his stay, I think less than a week, the young boy was shot, not in the streets or while committing a robbery, but in the house. I know young people who are arrested because of being out in the evening.

There was also a situation where when people were told to kneel down and lift their hands up, one officer came and asked the other why he was wasting time with the young people and opened fire. That officer is still walking in the streets of Nairobi. We cannot have a police service that does not serve all Kenyans.

The nominee, Mr. Mutyambai, was also the Regional Director of Intelligence in the former Coast Province. We also asked him about the proliferation of drugs in the coastal region which has reached an alarming rate. Since he was the Regional Director of intelligence in that area, we wanted to know what he did about it. What he said, according to me, was almost a flimsy excuse. He said that his work was to get the information and give it to other agencies. I asked him whether we should expect victory in the war against the proliferation of drugs if he gets the position. We know that drugs have stolen the future of our young people.

Mr. Speaker, Sir, today, Kenya is a transit route for drugs. It is not the drugs you used to deal with when you were in public administration. It is no longer bhang. Nowadays, bhang is a small drug because it is frequently used everywhere. We are talking about heroin, cocaine and ecstasy. We are talking about serious drugs.

There are some clubs that I know in this City where if you go and ask for “fairy dust”, you will get it. It is our children who buy it. In fact, those expensive drugs are not being peddled in the slums anymore. They are now in the high-end areas where some of

our children frequent. I will not say I know them but they might fit such a profile of being well off.

Nothing takes away the future and dignity of our young persons than drug abuse. Sen. Madzayo will tell you this because we went with him to a methadone centre in Kwale County which is supposed to be a centre where young people can be rehabilitated. Monies allocated to that centre have never been applied to it. The donors gave their portion but the county is not doing its part.

If you go to Mwembe Tayari and Kongowea in Mombasa, you will see young people who are just like zombies. What Kenya do we expect to have tomorrow if we allow drugs to continue being peddled? We must demand for answers as a House. If the IG nominee is approved – I am using “if” because it is not automatic; this House might decline his appointment, going against the very wise proposals of my Committee – please Members, let us take the fight against drugs seriously as a country.

The peddlers of drugs in this country are known and they walk around with pomp, pageantry and impunity. Some of them might be in political offices or high-end businesses and some of them might be fraternizing with the leadership in this country. You might think it is okay because you assume that your child is okay. Tomorrow it might be your child who will be in that addiction. Even if your friend is involved in drugs and sells them to our children, please stand up because tomorrow it might be your child.

We asked the nominee about the issue of welfare of our officers. As a country, we cannot stand proudly without our armed officers. We have men and women who everyday put their lives on the line, living in situations that are way below their dignity. Our police officers do so much for us. The ones who are involved in extrajudicial killings are few. It is just that the impact of what they do is big but the ones who do a good job are many and they are the majority.

We told the IG nominee to reconsider and rethink the police housing project for two reasons. First, the amount of money they have given to the police officers for their housing is little. I will tell you what that means for police officers in Nairobi. We simply want them to live in the slums. If you give somebody Kshs9,000 of even 15,000 per month for rent and they work at Kileleshwa Police Station, where do you expect them to get a house? Of course, he has to go to Kawangware or Kayole where even their own lives are in danger.

Mr. Speaker, Sir, We know some of our police stations are sitting on such prime land; Spring Valley, Muthangari in Lavington, Kilimani and Karen Police Station where there was housing. What is going to happen to those properties that were previously housing our police officers? We do not want to start seeing those houses and properties sold to private developers or being grabbed and there is a high-rise apartment or mall. No, we are very keen. Members, as the police are doing it, as a Committee we are putting together an inventory of all these stations from your counties. You let us know so that we can protect them.

I know I have a lot more time to go but I will not use it all. I urge this House; based on the centrality of the Senate in dealing with security issues – in fact, this was just an example to the Cabinet Secretary (CS) who said that the Senate does not deal with security matters. Why has the law said that we must vet the Inspector General (IG)? Why

should we vet the IG if we are not to be involved in national security? Article 125 of the Constitution is clear. If we had no role to play, then we would not be participating in vetting the IG.

We want to change the relationship of this House with the security establishment in this country. I would urge the House to approve the nomination of Mr. Mutyambai and to join our Committee and this House in its entirety to oversight security, so that security can truly change from being a force to being a service that is being offered to the people of the Republic of Kenya.

I beg to move and ask Sen. Pareno, who is a Member of the Committee and was present at the vetting, to second this Report.

Sen. Pareno: Mr. Speaker, Sir, I rise to support the Report of the Committee. The man I saw before the Committee was a man who presented himself as a very smart and confident man; Mr. Hillary Nzioki Mutyambai, to me, presented himself very well before the vetting Committee and in the interview.

This is a man who, from the papers and credentials we saw, fits this job. He rose through the ranks. In fact, it was interesting that this gentleman decided to go straight from the university to become a policeman even after getting his first degree. Most people would not leave university and the first thing that they do is look for a job as a policeman. However, this is a gentleman who, straight from university, decided to go and start from the lowest ranks of a police officer.

He has a wealth of experience from what we saw in his papers and from his own presentation. At one point, he was asked how he rose successively through the ranks; it was like nobody else was moving up in the manner in which he was being promoted. We were satisfied that this man rose through the ranks because of his hard work. He is a man who, to us, is committed to duty.

As Sen. Sakaja has informed this House, the only friends of the Committee happened to be gentlemen Senators and a Member of Parliament (MP) from the National Assembly from the Kamba community. We told him that we do not want an IG who will be recognised by only his ethnic section, but an IG of Police who will treat everybody equally.

Mr. Speaker, Sir, there are actually allegations – which maybe Mr. Mutyambai can now start working on – that in some of these departments even within the police, you will find a whole department or floor with just one ethnic tribe of the country. In Mr. Mutyambai, I was particularly happy because I saw inclusivity in this country. This is because when we have a person of this ethnic background in the IG position, another in the Chief Justice (CJ), another one in the President and another in the Deputy President, inclusivity in this country is what will take us forward.

I thank the nominating authority – which is the President – for picking on Mr. Mutyambai. In that picking, some of us have started feeling that we are actually serious on issues of inclusivity in this country so that we carry everybody and every region on board and move together as one country.

There was a time when there was national dialogue in this country and I do not know whether it happened again. I noted that one because I was personally upset and so was the country. It was a meeting of two sections in this country sitting to distribute jobs

amongst themselves. This is because from the top to the bottom - almost every head of each Ministry on that day of the national dialogue - three quarters were from two regions in this country. It could not be a national dialogue for this country.

Mr. Speaker, Sir, we need a better national dialogue and national outlook that has inclusivity in it. The face of this country is made up of 42 tribes and we cannot shy away from our tribes. We should use it as a strength and not a weakness to fight each other. I thank the nominating authority because to me, I saw in Mr. Mutyambai that there shall be inclusivity in this country as we move forward.

We saw in Mr. Mutyambai, a man who is well trained for his job. This is a man who has more than two degrees. He is trained on security issues. He is not just experienced but trained on security issues. He even has a degree on issues that touch on anti-terrorism. You know how much we have suffered as a country because of terrorism. To have the head of the police – the IG himself – trained on this is a plus for us as a country. I am sure – we trusted what we saw in Mr. Mutyambai – that we will have better security ahead.

Not that the previous ones did not perform. They could have done their bit, but in Mr. Mutyambai we expect new things. That is what we put across as a Committee, that, we were not just simply approving him, but we wanted his assurance that as the approving joint Committee, there would be something new. We wanted him to tell us how he would transform the security situation in this country and he promised us that he would do it. Of course, when somebody is looking for a job, he or she would appear in their best. However, we trusted him at his word; that he will transform the police force.

Mr. Speaker, Sir, in an articulate manner, Mr. Mutyambai engaged with the joint Committee. He was able to answer all the questions that we asked in a manner that was satisfactory. In fact, all the bodies that had been written to, to assess his integrity, like the Ethics and Anti-Corruption Commission (EACC) and the Higher Education Loans Board (HELB) wrote back and said that he had a clean record.

It is not easy for a police officer who had started from that lowest rank of the police service to the rank that he is being proposed to right now, not to have something negative about him. He is a career man who at this moment does not have anything negative in his record. We believed in the papers that we received; that he is clean and good for the job.

Mr. Speaker, Sir, he committed himself to uphold the rule of law. That is so important for this country. It is so sad that for a few times, for example, in 2017 we witnessed blatant violation of the law and people disobeying court orders. Mr. Mutyambai told us that he is well trained. He has been sticking to the law. He has practiced and knows that he is supposed to uphold the rule of law if this country is to move forward.

He also committed that he will fight corruption which is the pain that has caused us suffering. In fact, if there is something that is bedeviling this country, it is corruption and ethnicity. He has promised that he will handle these issues. I ask all of us to look out as Mr. Mutyambai is approved today in this House. As a Committee, we are asking that this House approves the nomination of Mr. Mutyambai because in him we have seen the

way forward in as far as security issues are concerned. We should look out for all those things that he has promised that he will uphold. They are all good for this country.

On extra judicial killings, he also came out strongly. The Committee did not mince its words. In fact, on the day of the vetting, some human bodies were recovered somewhere around Tsavo National Park. We told him that is what we are tired of in this country. Of course, as usual, we expected that he would say that he will handle it. We will hold him to his word and ensure that he does what he has promised.

Mr. Speaker, Sir, finally, the Committee unanimously recommended that this House approves the nomination of Mr. Hilary Nzioki Mutyambai. We ask that you uphold the recommendations of this Committee because we did our best. We believe in him.

I thank you. I beg to second.

(Question proposed)

Sen. Dullo: Thank you, Mr. Speaker, Sir. Let me confirm to the House that I also sat in the vetting process. I am a Member of that Committee. As my colleagues have said, this is the third vetting process I have sat in since the Inspector General's (IG) appointment was established. I also wish to confirm to the House that I do not know Mr. Hilary personally. I was being asked by Sen. (Eng.) Mahamud, the Senator for Mandera County whether I know him. I do not know him. My first day to see him was on the day of vetting.

I congratulate and appreciate the appointing authority, as my colleagues have said, for the nomination of Mr. Mutyambai for the position of IG. He presented himself as the man for the job. He is a professional and met all the requirements for the position.

I do not want to take a lot of time. I am sure many Members want to contribute to this Motion because of the time factor. One of the questions I asked him is about extrajudicial killings. As my colleagues have said, we still have this problem in this country. A very good example is the six bodies that were found in the Tsavo National Park. I believe they are subject of extrajudicial killings, unless we are told otherwise. The six people were not shot, they were all hanged. Up to now, their bodies are in the City Mortuary. Nobody is giving an explanation on the way forward.

When I asked Mr. Mutyambai this question, he told me that the role of the police is not to investigate, kill or kidnap; even if that is not their responsibility or mandate but the police have been accused severally of kidnapping and disappearance of persons. We told him that he has to deal with extrajudicial killings. He confirmed to the Committee that he would make sure that it is a thing of the past. The law must be followed to the letter. I hope that if he will be given this position, he will do exactly the same.

Mr. Speaker, Sir, the other issue that we asked him as a Committee is on Gender Based Violence (GBV) in our country. You will find that whenever cases of GBV are reported to the police stations, the female gender is normally harassed. He confirmed to the House that there are guidelines in the police service on how GBV should be handled. I hope Mr. Mutyambai will stick to that word that he gave us and deal with GBV without bias.

The other issue we raised is about police road blocks. They are everywhere. They are not objective. Many years back, *The Kenya Television Network (KTN)*, while investigating, confirmed to the country that road blocks are not objective. The *KTN* crew placed a firearm in their vehicle. They brought it all the way from Turkana to Nairobi without being stopped or detected. Mr. Mutyambai confirmed to the Committee that he will make sure that all road blocks in this country will be objective and that the police officers manning them will do the right thing that is required of them. I hope that is exactly what he will do when he is confirmed.

A lot has been done on police reform but we need to do more. If you go to Central Police Station right now, you will not get to their reporting desk because it smells. The cells in that station were built before independence. It is shameful that we cannot improve our cells or reporting desks in our country, especially Central Police Station that is in Nairobi.

Housing is the other issue. Unless we take care of the welfare of the police officers in this country, we will not be able to deal with corruption in this country and neither can we hold the police officers accountable. This is because they have to look for other ways of ensuring that their lives are better. I do hope that Mr. Mutyambai will deal with this when he is given the job.

As pastoralists, we are told that cattle rustling is a traditional culture and belief but that is not true. Cattle rustling is no longer a culture, instead, it is a commercial business where people incite communities against each other. I asked him how he was going to deal with cattle rustling and he said that he has experience with the Karamoja from Uganda, when he was working there and that he will use that experience to make sure that cattle rustling is a thing of the past. I ask him to deal with the issue of cattle rustling because it is archaic and unacceptable.

In most cases, we are meant to understand that communities fight because of resources yet we have a lot of money in devolution. Why can we not construct resources such as boreholes and dams? Why can we not deal with them? Today, most of the people in our counties are displaced. They fight because of boundary disputes, cattle rustling and resources. This is the 21st Century and we should be able to resolve these issues.

Mr. Mutyambai seems to have a lot of experience in security; extra judicial killing, radicalisation and anti-terrorism which have made this country look very bad. Mr. Mutyambai gave us promises, as a Committee. He said that he is going to partner with all the security agencies. The private security agencies and Government security agencies are not coordinated because everybody wants to run with their own niche. I hope that Mr. Mutyambai will deal with this when he gets this job.

Finally, I want to congratulate the former Inspector General (IG) of Police, Mr. Boinett, who did a wonderful job, especially in reforms. I hope that Mr. Mutyambai will deal with the remaining bit. One of the things that I liked about the former IG is that he would answer phone calls and when he failed to answer, he would return it later which is a good practice for a civil servant or a public officer. I hope that Mr. Mutyambai will fit in the shoes of Mr. Boinett and will be able to deal with the issues of police service. Being humble pays a lot and I have seen that in him.

As a Committee, we had issues in the last two appointments but we unanimously agreed that Mr. Mutyambai was the person for the job. I hope that this House will approve his appointment.

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I would like to congratulate the Committee for the good work that they did with the sister Committee from the National Assembly.

Four years ago, we approved the appointment of Mr. Joseph Boinett to be the IG of this Republic and when he appeared before the Committee, we thought that he was the wrong person. Many people thought that he was not qualified enough because we grew up knowing that a policeman is a scary, huge, boisterous and loud. Most people wondered if Mr. Boinett would be up to the task. Four years down the line, he has left a very strong and permanent mark in the history of our country in so far as management of the police service is concerned.

Mr. Boinett came from a background of intelligence just like Mr. Mutyambai. He was a person of very few words and rarely did he address the media. In most cases, it was either the police spokesperson who addressed the media or he sent written statements to the media. I remember an interview that he did with a local media house and a very experienced anchor found it difficult to deal with the situation because the man gave information that one needed. He was comfortable to release information.

I look at Mr. Mutyambai and I see similar characteristics. He is not a man of many words. He is a quiet person not known to many Kenyans just like Mr. Boinett when he came to office but he has the relevant qualifications. To qualify to study agriculture, in what we used to call Kabete *Ng'ombe*, is not an easy thing. He must have worked hard in high school. I have no doubt about his other qualifications. He went to the University of Nairobi to study a degree in agriculture and made a deliberate decision to start from the lowest cadre of the police force instead of going to work for Kenya Agricultural Research Institute (KARI) or any other agricultural institution in the country or lecture at the university and that has paid off.

As we have been told in this report, he has worked diligently and I believe that he will even perform greater work. We have become a country with a lot of mediocrity that when someone does his job, we celebrate so much because very few public servants work diligently to deliver without stealing time, resources and the opportunity that is given to them. If Mr. Mutyambai comes and does it in the same way as IG Boinett did, and exceeds that, confronting the challenges we are facing as nation, I believe he will leave a mark in the country.

Mr. Speaker, Sir, I come from a county whose greatest challenge is insecurity of cattle rusting. We have many fights with our neighbours called the Pokot both in Baringo and West Pokot and the Marakwet in the Kerio Valley Triangle. Mr. Boinett did a lot to mitigate that kind of fight. I hope the new IG will continue from where IG Boinett left.

We also need the Ministry of Interior and Coordination of National Government to assist the security officers by ensuring that we work together to solve also the long-lasting issues of development in the area. We have been pushing people away from that region. We need inter-regional development programmes that are going to be sort of a marshal plan to sort out that problem in Kerio Valley.

Mr. Speaker, Sir, sadly, we lost two pupils; one of class six and another of class seven two days ago. They were just shot in cold blood in school. Sometimes, violence continues to an extent that it seems normal. When you report to the police or the Office of the IG, they seem to say, "Oh! It is happening again?" This is because it seems so normal.

I ask the Chair of the Committee, Sen. Sakaja, who has been acting on behalf of Senator Haji, to visit my county and familiarise himself with the problem of cattle rustling in West Pokot, Elgeyo-Marakwet and even Turkana and Samburu. This is a menace and Sen. (Prof.) Ekal will tell you about the same problem.

I was watching a video where widows in Turkana at the border with Sudan are the ones who have guns to protect themselves. A documentary on the same was done by a local media house. That menace of cattle rustling has become terrible. There are too many widows and orphans. Now they have gone to kill children. Small children are dying in school because they want to frustrate education.

Mr. Speaker, Sir, when IG Boinett came to office, we had 41 students at Tot secondary school. We worked with him and went there several times with the President and the Deputy President. Three weeks ago, we were there with the Deputy President. You will be shocked that a school that had 41 students now has 1,248. You can imagine what security can do. Those students who are in that school are from both Pokot; that is Baringo, Tiaty Constituency who are Pokots, and the Marakwet side. If the Government can put some effort towards dealing with insecurity in Kerio Valley, we will get most of our children to go to school.

I agree totally with what Sen. Sakaja spoke about in so far extra-judicial killing is concerned. The National Police Service must be a service. It cannot be that the persons expected to protect citizens of the Republic are the ones who take people's lives. The days of *Kanga* and *Kwekwe* squads and the like must come to an end. Police officers are expected to arrest criminals and charge them in courts of law.

It is sad that so many young people in this city and many parts of the country are being killed on the spot. That is unfortunate and sad because we are a country that prides itself as a beacon of hope. We always say that we are a country that believes in the rule of law. However, we have persons who are in the National Police Service that believe they are the law, the police, the prosecutor, the investigator, the judge, the jury and everything in one. We must bring that culture to an end.

Mr. Speaker, Sir, I believe Mr. Mutyambai should pick that one. If there is something that IG Boinett tried to do but never succeeded, it is in that area. That is an area he can start from and get rid of the mentality in the National Police Service that life can be taken without any reason. Not even the reason of safety is good enough - that the person was trying to protect themselves.

Finally, as citizens in this great Republic, we support public officers when they are doing their job and we criticize them when they are not doing it. Many of my colleagues sitting on the opposite side criticized Mr. Boinett several times during the days of protests that happened across this country related to the last general elections. They were right because we only make Government better if you can criticise it and make institutions better if you can tell them the truth.

We have been told in this nation that we cannot criticise public offices such as the Director of criminal investigations (DCI). I am one of the fiercest critics of the conduct and behaviour of our DCI who was a former *Kanga Squad* leader. I am one of his critics because that office must be run in a manner that appreciates that this nation is based on the rule of law. Can you imagine a DCI posting on Tweeter asking people to tell us whether they have seen vehicles that are supposed to be subject of investigation; vehicles that were supposed to be for the dam projects? Yet, we find out as was reported today that all those vehicles are owned by a Government entity called Rift Valley Water Service Board. They are in a Government yard; a Government body has project vehicles? What kind of mentality is that?

Mr. Speaker, Sir, we must, as a country, speak the truth. I like what Sen. Orenge said in court last week that the Office of the DCI has been misused to do targeted investigation. However, when Sen. Murkomen says it, it sounds as if he is a critic of the Government and those kinds of things.

I have said and insist that if every citizen of this country who has the courage to criticize and bring out the weaknesses of public offices especially the ones that are most dreaded by citizens of this country, deserve an award. I deserve recognition and an award for standing in the gap and pushing for a better institution of the DCI.

I have always said that it is only the guilty that are afraid. However, those of us who have a clear conscience and have never touched any single public funds and have never been accused of misappropriation of any public funds, have the courage to speak in public. We cannot be intimidated, threatened and shouted down because they know our records are clean.

It is only until the day you know you put your hand and finger in the cookie jar that you now start to become scared and go around saying that we should defend this office and the other one. I have always asked; if a public officer such as the DCI, IG, EACC or any institution, are doing the right thing, they do not need political support and campaigns. They do not need people to go around the country saying that they support them. In fact, that office is supposed to investigate the same people who are saying that they support it. As a matter of fact, it is important that a certain distance is kept.

Mr. Speaker, Sir, secondly, there is an unholy alliance of institutions of oversight in matters of security. I am saying this because the incoming IG will become the boss of the DCI. There is something that started in this country called Multi-Agency Team (MAT) approach that is dealing with investigations. We know very well that our constitutional architecture anticipated a separation of powers. As a very important principle of governance, separation of powers is very important. The Constitution wanted to separate the powers of investigations which is within the docket of the IG where Mr. Mutyambai is coming to preside. The IG is in charge of investigation.

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

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

Mr. Deputy Speaker, Sir, the Director of Public Prosecution (DPP) has the responsibility to direct the IG to carry out investigation which as per our Constitution, is separated from prosecution. Therefore, the prosecutor is supposed to oversight the investigator. The prosecutor is over-sighted by the judge because he must present convincing and proper evidence in court.

We are told that under the Multi-Agency Team (MAT), the investigators, the Ethics and Anti-Corruption Commission (EACC) and the Director of Criminal Investigation (DCI), who is presided over by the IG are now sitting on one table with the DPP. In fact, I saw an argument in court made by none other than Sen. James Orengo and Sen. Omogeni on how the DPP and DCI met one afternoon in the Supreme Court's buildings and agreed that they can charge the Deputy Chief Justice (DCJ). So, the prosecutor is sitting at the same table with the investigator. What is even worse is that they are chaired by the Attorney-General who sits in the Judicial Service Commission (JSC) and approves all Government contracts. This means he is subject of investigation of both of them.

Mr. Deputy Speaker, Sir, this is an unholy alliance. It is short-circuiting of our constitutional order. This country requires constitutional institutions that are independent and bold. We need a DPP who is capable of oversighting the prosecution and a judge who is capable of telling off the DPP. I saw in a conference, the DPP and DCI giving a lecture to the judges yet they are supposed to be over sighted by law and the Constitution. They must follow the rule of law. Therefore, if we want to go far as a country, we must accept to run our nation founded on the rule of law and not the rule of men. We must be a nation that will not survive on the whims of individuals.

Mr. Deputy Speaker, Sir, I am waiting for the decision of the court particularly on the submission of Sen. Orengo. He said that there was a reason why the Ethics and Anti-Corruption Act created the office of EACC as a special agency to investigate and submit for prosecution matters of corruption. Although the DCI has the responsibility to investigate everything, there was recognition for the need of a specialised agency. In reading that Act, he went ahead to say that the DCI is a busy body when he engages himself in matters of anti-corruption. I am waiting for the judge's ruling in the next two months.

Mr. Deputy Speaker, Sir, it is important to build institutions in this nation that will outlive, for example, myself, President Uhuru Kenyatta and yourself. If we build those institutions, you can retire and go home happy knowing that, if the Senate will act, it will do so in a just and fair manner because it is founded on principles of justice and not on the tenets of an individual. In fact, I find it ridiculous that we would talk about matters of investigation, extrajudicial killings, cattle rustling, corruption and all kinds of investigations.

Mr. Deputy Speaker, Sir, every time we say that it is President Uhuru Kenyatta's fight against corruption. We should not indoctrinate our heads that the fight against corruption is only for President Uhuru Kenyatta. The fight against corruption must be for every citizen. It must be a calling from the youngest to the oldest person. However, once we put it in the docket of an individual of the President, it means that it cannot outlive the generation, is not inspired by the desire and cannot be seen outside political influence. It

must be seen that President Kenyatta is leading the nation towards a collective responsibility for all of us to implement the Constitution on matters that are related to fighting corruption.

Mr. Deputy Speaker, Sir, therefore, I support the appointment of Mr. Mutyambai. I support the fact that he is a qualified citizen. Unless something else comes up, the information that we have shows that he is a man who has lived a life of integrity.

I would like to tell him that once he assumes public office and he is on a pedestal where everybody can see him, he must be ready for stones to be thrown at him by many people and characters in social and traditional media. People will convict and give him certain branding. It is no wonder that the newspaper has read two days consecutively that we suffer from depression. If you read the comments that we have on *Twitter*, *Facebook* and *WhatsApp*, we are truly a depressed nation. This is because the conversations we have are depressing in nature. We have cyber bullies and characters who create fictitious stories in the names of blogs and so forth.

Mr. Deputy Speaker, Sir, I hope that the new IG of Police will also fight the characters who use social media to spread hate, falsehood and use our names in a manner that does not benefit leaders by coming up with pseudo and parody accounts that communicate the wrong information.

(Sen. Olekina consulted loudly)

Sen. Olekina is telling me that there is a shortcut to deal with cyber fraud and persons who are impersonating us in social media.

Mr. Deputy Speaker, Sir, this is a very important Motion. I support.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KARIOBANGI BAPTIST SCHOOL,
NAIROBI CITY COUNTY

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I have a Communication to make. I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Kariobangi Baptist School, Nairobi City County.

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

I thank you.

Sen. Sakaja, would you like to say a word?

Sen. Sakaja: Mr. Deputy Speaker, Sir, I have already given my submissions on the Motion. However, on behalf of my colleagues, I welcome the students from Nairobi City County to the Senate. We are glad that they are able to witness the debate in the

Senate. I am sure that that they have seen their own Senator. They call me ‘super’ Senator. However, you said that I cannot use that on the Floor of the House as we debate.

I encourage them to remain diligent in their education. I hope that I will get a chance to visit them in their school one of these days just to keep them motivated and dream that one day they will hold important trusts in this Republic.

The Deputy Speaker (Sen. (Prof.) Kindiki): Well done. Thank you, Sen. Sakaja.

Hon. Senators, the interest on this Motion is extremely high. Therefore, I recommend each Senator to take not more than five minutes when they have a chance so that as many of us as possible can contribute.

(Resumption of debate on Motion)

Sen. Olekina: Mr. Deputy Speaker, Sir, from the onset, I join you and Sen. Sakaja in welcoming the students to the Senate. This gives them an opportunity to see what we debate.

I rise to support this Motion on the approval of the nominee to serve as the IG of the Republic of Kenya. I am quite happy that I followed the Senate Majority Leader who spoke about issues of confidence and how, as Kenyans, we can criticize any public office and support them when they do what is right.

Today, a judge in Nyeri County dropped 11 charges which were brought against a businessman called Mr. Jimi Wanjigi. The judge clearly stated that the IG acted in abuse of court process and in bad faith and was motivated by extraneous factors in the decision made to charge and summon Jimi Wanjigi.

Mr. Deputy Speaker, Sir, I am one of those people who believe that for a person to serve in a particular office, they must be appointed and be prepared to go beyond political interest. In the period immediately after the elections, I brought a Bill to this House on the retirement of the Deputy President and other designated state officers. One of the reasons was because the current Inspector General of Police had abused his office and used his power to deny people justice.

Mr. Deputy Speaker, Sir, as I support this Motion, I hope that the nominee, Mr. Hillary Mutyambai, will realise that at any given time, when you are appointed and approved by Parliament, you have to know that Parliament comes and goes. There is always something we call the rise of a political party and the fall of it. You should always, as a servant of this country, be ready to stand firm and not be swayed even by the appointing authority. The moment you take the oath to serve diligently and defend the Constitution of Kenya, you must do so.

During the recess period, most of us felt that the Inspector General of Police was being partisan. I am sure the parents of Baby Pendo – may the Lord rest her soul in eternity – felt that the Inspector General of Police was being partisan because the person who was appointed to defend and ensure *Utumishi Kwa Wote*, which is the Police motto, did not observe the same.

Mr. Deputy Speaker, Sir, I am happy to note that the nominee has risen within the ranks because of his merit. He had a degree when he joined the Kenya Police when it was a force before it was converted to a service. That allowed him to progress to a point

where he has been nominated as the Inspector General of Police. I hope that the experience he has gained in the intelligence world will help him bring discipline into this country because what we lack in Kenya is discipline.

Recently, I travelled to Rwanda. Getting into a police station, I wondered whether I was in a two or three-star hotel because it was clean and there was order. I hope that once he is approved by this House – I hope this House will approve him – he will bring discipline in police stations in this country.

We must also protect and support the policemen and women in this country. For you to become a good police officer, you must love Science, Mathematics and English because you have to carry out investigations and write. I heard the current Cabinet Secretary for Interior and Coordination of National Government saying that all police stations must have computers. If we have policemen and women who are not trained to write reports, how will they carry out investigations?

While performing his duties, God willing when he is appointed, he should begin with the basics. He should do a serious audit of all the police stations in this country and ensure that they meet the requirements. The police stations should also support the good traits that a policeman or woman should have.

I hope that the current nominee is a team player. Having worked in the National Intelligence Service (NIS), his work was hopefully to collect intelligence information and pass it over to the Inspector General of Police for further action. For him to serve in his new position well, he must be a team player and a quick problem solver.

We do not want a situation where a judge would say that allowing evidence by the Director of Public Prosecutions (DPP) would be abetting corruption. The Constitution is very clear that the DPP should instruct the Inspector General of Police to carry out investigations through the Directorate of Criminal Investigations (DCI). When that process is clear, it will be wrong for a judge to rule that the Inspector General of Police and the DCI violated the law. We must respect the rule of law and we must respect every Kenyan who lives in this country.

On the issues of cattle rustling and protection of the environment, I hope that the new Inspector General of Police will stand firm because we are here for a very short time. Right now, all our rivers are dry because of illegal activities taking place. I remember there is a truck which I personally arrested in Narok carrying a lot of cedar trees. It was taken to the police station and after about three or four days, it was released with all the cedar trees from the Mau Forest. So, I hope that the new Inspector General of Police will bring discipline and give priority to the police welfare.

Everyone is looking at the neighbouring country of Rwanda, which is a very small country the size of Kajiado County as the Singapore of Africa. The discipline there is what is making that country move forward. That discipline can only be brought about by a disciplined police service.

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

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Olekina, the remarks are not few but thank you very much.

I encourage each speaker to use five minutes or less, so that all of us can speak.

Sen. Cheruiyot: Mr. Deputy Speaker, Sir, I will try to stick to your advice on the need for us to observe time because this is an important exercise.

We are here to approve the nomination of the next Inspector General of Police, an officer who plays an integral part in making our society what it is. If he lives by the dictates of our Constitution, he shall give us a fair and just society where we will all be secure and do business in whichever part of the country and live peacefully with one another.

Since this is a nomination process, I have taken time to read through this Report. I think I was the first person to pick the Report the minute it was tabled by the Senate Majority Leader. First, I read the Curriculum Vitae (CV) of this particular gentleman and also the responses that he gave to the questions that he was asked by Members that vetted him, comprising Members of this House and those of the National Assembly.

In the responses, I paid keen and close attention to how he responded to questions which in my opinion are the top three, four or five issues that affect our police service. These are things that if I was asked to cease being the Senator for Kericho to become the Inspector General of Police, I would try and address them because I have found these to be issues which Kenyans or the people that we represent in this House find to be of great concern to them.

The first issue which I have taken time to read was on what he said about corruption in the National Police Service. The nominee informed Members that he will be guided by Chapter Six of the Constitution on Leadership and Integrity and he will work closely with the Ethics and Anti-Corruption Commission (EACC) in investigating and taking action against corrupt police officers. Unfortunately, since I came of age, this is one of the aspects that previous police commissioners have failed terribly at.

It is not a secret that in this county, any place you go to and interact with the police, chances are that even if you are seeking services because you are a taxpayer and you should be given them, let us say, somebody infringed on your rights and you want them to be apprehended, without parting with a bribe, you will never get any service. Unfortunately it also happens even to us leaders.

I had an experience a few weeks ago where somebody broke into a business premise that I have interest in. When I sought the service of a police officer, somebody that I thought I knew very well, they went ahead and told me that it was a Friday and also said other long stories. The long and short of it is that they cannot be moved or prompted without somebody parting with a shilling.

Mr. Deputy Speaker, Sir, I would like to keep a copy of this Report so that by the time Mr. Hilary Mutyambai finishes and celebrates one year in office, I will measure him by the score of how much he will have introduced and infused discipline into our officers, so that they live by their clarion call of "*Utumishi kwa Wote:*" Service to All. That way, a poor person can walk into a police station and know that they do not need to have a shilling in their pocket for them to be assured of service.

When you drive on our roads you will find roadblocks, which are toll stations. I would wish to see him get into his car, perhaps as a decoy, and see the kind of things that his officers do on our roads. If we give Mr. Mutyambai the nod of our approval, one year down the line, we want to measure him by this particular issue. We will also measure

how much he will have changed the perception and the reality of Kenyans on the issue of corruption in the National Police Service.

Second and most important, I thank Sen. Sakaja for spending a good amount of time speaking about the issue of extrajudicial killings. As a young person, and more so a leader representing so many young people in this House, the issue of extrajudicial killing continues to pain my heart. It is unfortunate and sad that even this House has never formed a select Committee. I encourage Sen. Sakaja that when he eventually brings a Motion to set up a select committee to look into extrajudicial killings, I am willing to serve together with him.

This is because growing up as a young person I watched so many of my friends and people that I went to school with here in this City being killed. These were just young people that maybe were misguided or did not have the proper appreciation of what life is about. A simple sentence into a facility for them to be rehabilitated would have saved their lives. Unfortunately, a police officer decided to cut short their life.

Have we not watched a video of what happened to those young people in Eastleigh? Up to date, nothing has happened to those particular officers. We have made it our culture and there are police officers who run *Facebook* pages known as *Hessy wa Dandora* and *Hessy wa Kayole*, where they give warnings. If they tell you: “Get out of this hood or we will kill you,” and you do not, true to their word, they kill you. Are we saying that we do not have the capacity to see who these rogue officers carrying out these extrajudicial killings are?

Should we approve Mr. Mutyambai, three or four months down the line, we want to measure him and see how much order and discipline he will have brought to the National Police Service on account of extrajudicial killings. Will he have stopped it and the officers who are found to be culpable face the full effects of the law?

I had four other points, but in the interest of time, I just want to talk about three points. I was also concerned about his response on what is a big topical issue right now in the country, that is, the roles of the Directorate of Criminal Investigations (DCI) versus those of the Ethics and Anti-Corruption Commission (EACC). I do not think that anybody in their right mind can say that the DCI should not take time to investigate corruption cases.

Many of us have used this Floor and other avenues to speak against some of the practices that we see being perpetuated by the current DCI. I would have wished to see the response of Mr. Mutyambai on the issue of impartiality and neutrality of the DCI, knowing that he is an officer in the Office of the Inspector General, who as per the dictates of Article 244 of our Constitution, should not work under the directions of anyone. Unfortunately, we continue to see the way these investigations are being carried out. You can clearly see that this particular officer is under the direction of someone.

It is, therefore, unfortunate that this Committee did not press Mr. Mutyambai hard enough and ask him to speak to the issue of impartiality and operating independently. We have the EACC and the DCI. Even if we were to have 10 other institutions that would help us slay the dragon of corruption, I will never be opposed to them, so long as they live by what is expected of them by law. On this account, I am extremely worried because he gave a plain answer that as per the Act of Parliament, it is within their

mandate. That was not the issue. We appreciate and know that the DCI has powers to investigate corruption, but the issue that people have continued to raise is on how he executes his mandate; whether there is a hidden hand behind how he carries out his duties.

The challenge that I give Mr. Mutyambai as I conclude is that he should run a police service that is impartial and independent. He should serve the people of this country with great dignity and honour, such that in another four years, when this House reconvenes over another Motion like this, it will look back with pride and say: "There was an Inspector General."

With those many remarks, I beg to support the approval of the nomination of Mr. Mutyambai as the new Inspector General of Police of the Republic of Kenya.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Sen. Cheruiyot. You have done well except on the fulfillment of your promise to spend five minutes or less. I continue requesting you to spend five minutes or less, so that we can have as many speakers as possible.

Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Mr. Deputy Speaker, Sir. I truly appreciate the opportunity that you have given me to add my voice to this Motion.

The issue of security is very important in this country. A country can never be stable without security. This nomination has come in handy, so that there is no gap in matters of security.

I have not interacted with Mr. Henry. However, from the comments that my colleagues have given about Mr. Henry, I have no doubt that he has what it takes to pick up this position. I see the appointment of one Mr. Henry as a combination of theory and practice. One, it comes out very clearly---

The Deputy Speaker (Sen. (Prof.) Kindiki): Which Henry are you talking about? I see no Henry before us.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, I am talking about Mr. Hillary, the IG.

The Deputy Speaker (Sen. (Prof.) Kindiki): You said "Henry," not once or twice, but several times.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, I stand corrected.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, I am talking about the appointment of the IG, which I support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, from what has been communicated, it is an issue of theory and practice. He has the theory because he has gone to school. He has also practiced. However, it is not just an issue of theory and practice, but also a calling. This is because this is somebody who has a first degree, but voluntarily decided to go to the police force and even started from the lowest cadre. That shows that he has a calling for this service. When one does a job that he has a passion and calling for, he does it with the best interest at heart. I believe that the IG will do what he desires from the bottom of his heart.

There is also need for him to have a plan, strategy, objective and a road map, so that at the end of the day, people will actually say that his appointment was legitimate and appropriate, and he has lived to his promise.

There are a number of issues that he needs to put into consideration. For example, there is the issue of corruption in the police force. I have had a very nasty experience with the police. Sometimes when you are travelling, you are just stopped and told that you are over speeding, when actually you are not. What follows sometimes is not very good.

I remember an experience I had while going somewhere with my children. A police officer stopped us and said: “*Hili ni gari la mlemavu. Wapi huyo mlemavu?*” He said that before my children, and it was not right at all. There is need for the police force to be courteous in the manner in which they address the public. This is a gap.

There is need for communication and capacity building in the police service so that they know how to address the public. The police should know that they are not enemies of the public. In fact, they ought to be the first friends of the public. You should see police officers and say, I will confide in this officer and tell him or her what I am going through.

At times, some people prefer even meeting a thug in the night that meeting a police officer. This is because; sometimes you can negotiate with a thug. You can tell the thug that you just have a certain amount of money with you. Sometimes they can even slap you and say, why do you have only Kshs5,000 instead of Kshs10,000 and then they let you go. On the other hand, sometimes you meet a police officer and you are not sure how to behave. This is an area that he really needs to ensure that his house is in order.

I also come out strongly to support and defend the police officers. Sometimes they are under stress. In as much as they are providing us security; they are the most targeted and very insecure. There is need to do something about it. For example, on the housing issue, at the moment they are paid an allowance to look for housing and the best place they can live in with that amount of money is the slums. When a police officer lives in the slum, he or she is compromised. Their families are at risk. In fact, he or she is very insecure. Everybody else will be more secure than the police. There is need to look into this issue.

At times, when they are harsh on the citizens, they could be venting their anger on the wrong persons. They are also stressed. There should be a reward or incentive into their service to mwananchi. There is need to also look into their promotions so that they do not stagnate at one rank. There should be a process of ensuring that if one has been in the police service for quite a number of years, then there is a mechanism in which one can get promoted so that even when they are working, there is an incentive. All workers feel good when they are appreciated.

I believe that the nominee for the position of IG will put his house in order: That, he will ensure that technology is used in the police service.

Mr. Deputy Speaker, Sir, there is need to ensure that things are in order in the police service. Sometimes you report an incident to the police. They take you through a strenuous exercise. They give you an Occurrence Book (OB) Number and ask you to write a long statement on what happened. They also listen to you explain. You explain for a long time until you have no words. When they give you an OB Number, you go

home and relax knowing that you have reported to the police and hope that they will solve your issue. Sometimes, a week goes by and nothing happens. It turns to two, three and even a whole year and nothing happens. This is when you give up.

I will give an example. I imported my vehicle. As a person with disability, we are vulnerable. I was not able to go to Mombasa. I used an agent. The agent called me and asked for Kshs250,000. I was frustrated. I went to Mtwapa Police Station and reported. I was given contacts of the police officer who was handling my case. I kept calling. I used a lot of money until I gave up. The police officer never got back to me. The person went scot free yet he had taken a lot of money from me. The police need to protect us. I hope that the nominee for the position of IG will put his house in order so that we have confidence in the police. They should not act as guards. They should act as police officers. We should have confidence in them.

Mr. Deputy Speaker, Sir, I would like to stop here to give my colleagues time to say something about this. I beg to support the approval of the nominee to the position of IG.

I thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. Well done but we can do better.

Proceed, Sen. Farhiya.

Sen. Farhiya: Thank you, Mr. Deputy Speaker, Sir, for allowing me to support this Motion. Given the credentials presented, I support the nomination of the new IG with caution though.

Article 245(4) of the Constitution states –

“The Cabinet secretary responsible for police services may lawfully give a direction to the Inspector-General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to—

- (a) the investigation of any particular offence or offences;
- (b) the enforcement of the law against any particular person or persons; or
- (c) the employment, assignment, promotion, suspension or dismissal of any member of the National Police Service.”

Mr. Deputy Speaker, Sir, given the provision of the Constitution, the IG should maintain independence. In his credentials, it is said that he is a very highly learned person. He also has good capacity. So, we urge him to be independent.

In addition, the National Police Force was changed to the National Police Service. Kenyans anticipated that the attitude of the police would change. Article 246 of the Constitution creates the National Police Service Commission. Among others, the Commission consists of a person who is qualified to be appointed as a High Court Judge, two retired senior police officers; and three persons of integrity who have served the public with distinction and the Inspector-General of the National Police Service.

Kenyans voted for the new Constitution overwhelmingly in 2010. They did not want an IG who is forceful. They desired a police service that will give services and at the same time ensure that the law is enforced in a friendlier manner. It is now nine years

since the Constitution was promulgated and yet we have not seen change of attitude by the police.

Given his capacity, and the fact that the nominee for the position of IG rose through the ranks very fast because of knowledge – he even joined the forces when he was so qualified – we want him to be at the level where Kenyans want him to be. He should be independent. He should also ensure that his power is exercised with respect to law and order. That is what the Constitution demands of him. He should balance the powers that have been given to him under the Constitution. He should balance between power and responsibility to the people of this beautiful country, Kenya.

The Senator for Nairobi City County talked about extra judicial killings of the youth in Nairobi. I come from a County where extra judicial killing has been carried out in the name of fighting the *shifita*; and has moved from this to terrorism. From the Dusit Attack, we have witnessed that terrorism has roped in other ethnic groups. The Somali community and predominantly the Muslim community have been targeted. Last year, many people were killed in Wajir East at the border – after the attack in Garissa where two teachers and their spouses were killed, what followed were extra judicial killings.

Also, people are picked up from Eastleigh and they disappear. Sometimes they are taken to a police cell and nobody knows where they are taken afterwards. After that, nobody even knows whether they are dead or alive. In the community where I come from, these extra judicial killings have been there under different excuses.

Mr. Deputy Speaker, Sir, there is also the issue of corruption. Every other year, when there is a survey in terms of corruption perception index, the police appear, among others, at the top. If they are at the top, how do we expect corruption to end? I support the other Senators. The new IG has to ensure that there is no corruption within the judicial system.

His Excellency President Uhuru Muigai Kenyatta nominated this gentleman. We are aware of the President's stand on corruption. I believe that corruption should be declared a national disaster for it to gain the attention that it deserves.

The Deputy Speaker (Sen. (Prof.) Kindiki): Try to summarise. We have many speakers left and we have to get this done today. I will give you two minutes.

Sen. Farhiya: Okay, Mr. Deputy Speaker, Sir. Talking of the same thing year in year out in this House does not make this country better. If we do not address the issue of corruption, history will judge this House and those in authority harshly. The next perception report before Mr. Mutyambai's tenure expires should state that the police force is free from corruption. Otherwise, this country will lag behind in terms of development as compared to other countries. This country has highly skilled people and our education is ranked highly compared to that of our neighbours. However, our neighbours will surpass us in terms of development if the vice of corruption is not tackled.

I support.

Sen. (Prof.) Ongeri: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute on the nomination of Mr. Hillary Nzioki Mutyambai.

We make laws as a country and the enforcement of law and order is left to the law enforcement agencies. Sometimes, we overstep our mark by trying to give all sorts of

directions on what the law enforcement officers should do. I support the appointment of Mr. Mutyambai.

In many instances, one of the scariest events in our society is when there is a breakdown of law and order. There was such a time during the post-election violence in 2007 and 2008. I was privileged to be in the Serena Team and one of the things that came out clearly that both sides of the divide agreed upon is the rule of law. It must be dominant, must be practiced and it must be the order of the day. I do hope that the new IG will abide by the rule of law and that he will execute his mandate in accordance with the rule of law. I hope that we will not hear of extra judicial killing because that will not be within the rule of law.

One of the things that pain me is that we seem to be making so much noise on things that are obvious. Everybody in this country accepts that corruption has become an endemic cancer in this country. Unless we take a proactive approach to stem off corruption, we will have no nation in the foreseen future. We must accept that as a reality in life. Whereas we have given the mandate to various agencies to prosecute this matter, I get distressed when I see a lot of interference. We have given the agencies the mandate and there is the rule of law that they must follow hence I do not see any reason as to why we should interfere in their day to day activities. At the end of the day, there will be arbitrators; the courts of this country will arbitrate on what must happen to whoever is accused in court. As legislators, we should give them an opportunity to handle their mandate in an effective manner.

I would join anybody who wants to fight corruption. The IG in consultation with the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) are fully mandated to go head on in confronting the monster called corruption. This country is bleeding because resources have been squandered and wasted. One of the most important jobs that the IG should do is to put his house in order. He should look at how our resources are being managed by those who have been given the responsibility to administer the resources and finances of this country.

The IG must also look at the welfare of the officers who have been put under his command. Those officers toil and work under very difficult circumstances. They sometimes go for many hours without rest. The Committee on Education has just come back from Wajir County. We left here in the morning and worked the whole day. I saw those officers, who were looking after us, work from morning till evening under the heat. I came back today feeling tired but they were not tired. Apart from looking after our security and welfare, The IG should also look after the welfare of the officers who are under his command. We will be very unfair to our uniformed men and women if we do not look after their welfare.

I expect the IG to also deal with the drug menace in this country which is overrunning our youth. We have lost the youth through moral decadency and we need to restore and bring our youth back to our families. I hope that through the legal mandate of the IG, the mandate of the religious organisations and that of the community, we will be able to rehabilitate the drug peddlers back to normalcy.

I wanted to make those three points. One, corruption is real with us; let us deal with the monster. The IG should take over and deal with it. Secondly, he should look at

the welfare of his officers for them to do the right thing. Thirdly, let us deal with the issue of drug peddling in this country because it is going to destroy society and the future of our nation.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed, Sen. Lang'at. Is it Langat or Lang'at?

Sen. (Dr.) Lang'at: Mr. Deputy Speaker, Sir, it is Lang'at. The Kipsigis use Lang'at while the Nandis and Keiyos use Langat.

Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to stand and support the nomination of Mr. Hilary Mutyambai.

Based on this document, he is qualified and deserves the position of the Inspector General (IG). However, I would like to advise him so that he improves the police service in this country. I advise him to live above any political influence so that he serve this country diligently, without favour or fear. I call upon him to uphold his professionalism so that no politician of any rank will influence him to achieve his own selfish goals.

Secondly, I support the point raised by Sen. (Prof.) Ongeru that he examines the police service welfare because we normally blame them for corruption and yet we do not ask ourselves how much they earn.

I taught many police officers when I was a lecturer at Moi University. Unfortunately, most of them did not complete their diploma courses because they were unable to pay for fees. Why? Their salaries could not support them, their families and pay fees. Probably, this is one of the reasons which make them engage in corrupt practices. They are living in dire conditions. Therefore, I urge Mr. Mutyambai to critically look at the welfare of police officers in this country with the aim of improving it.

Thirdly, the welfare of their families must also be re-examined. I do not believe that if police officers are posted to work in their home counties, they will not perform their duties diligently. That is a myth.

When I was teaching at Moi University, one of the policer officers did a presentation in a sociology class. From his presentation, I discovered that most of the families where children are truant and indisciplined come from the armed forces or police service. This is because they do not have time with their children and spouses.

Mr. Deputy Speaker, Sir, I hope the incoming IG will look into the current system and trends all over the world that determine the welfare of the police. In America, for example, when police officers attain certain age, they serve near their homes. These are the areas that in the modern police service that need to be taken care of so that they can serve us well.

When the HIV/AIDS scourge was very rampant in this country, the most affected people were those who were working either in the military or the police service. They work away from their families for more than 12 months and they rarely get time to take care of their children and spouses. We need to be bold enough and let them work near their homes.

I also advise him to listen to police officers so that he may understand their plight and the challenges they face on daily basis. The other day we read from the newspapers about a police officer who was sacked in Kericho because he overstayed at home taking care of his sick wife. The wife was suffering from cancer and she later passed on. It is a

pity that the police officer was sacked for staying beyond the days he was given by his boss. He became so depressed and resorted to drinking. Today, his family is suffering.

Another problem the police are facing is housing. They are living in deplorable conditions. You cannot expect somebody to work for this country so well when his welfare is wanting. To improve the police service in this country, we must look at their welfare also because good service is two-way traffic. Unless we improve their welfare, it is impossible to get good service from them.

I salute CS Matiang'i for coming up with new uniforms for our police officers. Otherwise, you could see by the look of their uniforms that they were desperate. Some of them continue donning very old shoes and uniforms. One could tell that they were suffering.

Mr. Deputy Speaker, Sir, it is high time that the IG looked at the welfare of our police officers with the aiming of improving it. We want them to serve the nation with integrity and accountability.

Mr. Deputy Speaker, Sir, I support the appointment of this gentleman. The country expects a lot from him.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you. Let us try and be brief. Proceed, Sen. Ochillo-Ayacko.

Sen. Ochillo-Ayacko: Thank you, Mr. Deputy Speaker, Sir for giving me an opportunity to make my remarks in support of the appointment of Mr. Hilary as the next IG of Police.

From what has been said by those before whom he appeared, he is an excellent person in terms of training, experience and integrity. I, therefore, unreservedly support the nomination of this gentleman to be our next IG of police.

Mr. Deputy Speaker, Sir, this country needs a firm and fair police person committed to the rule of law. All of us should support this nominee because according to those before whom he appeared, he pledged that he will be fair, firm and committed to the rule of law.

However, we, as a nation, also must do our part. One of the things we need to do is to ensure that we allocate adequate resources to the National Police Service (NPS). We should not leave the aspirations and hopes of the entire nation in so far as fighting crime and maintaining law and order to the ability of an individual.

We need, as a nation, to ensure that resources are given to the NPS. They will be used to improve their welfare, equip the police service and ensure that innovation and other activities that are relevant to detection of crime are put in place. This is so that we, as nation, are able to detect and prevent the commission of crime in this country.

Mr. Deputy Speaker, Sir, more importantly, we, as a nation, must create an environment that will be supportive to the work of our police officers. One of the things that has been worrying me lately and I believe it worries most leaders is the fact that people in elevated positions and offices that are privileged keep on attacking police officers when they are performing their work. Earlier on before I got this opportunity, a few of my colleagues personalized their diatribe against the Office of the DPP. Allegations were spilled left, right and center, claiming that the office is motivated by partisan politics, vindictiveness and political witch-hunt.

Mr. Deputy Speaker, Sir, I want all of us to imagine that we were police officers who are poorer paid the way all of us, say here, are. For example, you have been posted away from your family, and the leadership that is supposed to be supportive of your work is talking ill about you, telling you about some faceless politicians who have given you an agenda to fight other people instead of working. What would work is for us to appreciate the difficult task of police officers. We have to appreciate that these officers are not supported in terms of resources and equipment. More often than not, they lose their lives and families to criminals or people who revenge because, perhaps, they were arrested or were on the wrong side of the law.

Therefore, Mr. Deputy Speaker, Sir, I encourage my colleagues, as we appreciate Mr. Hilary Mutyambai, to also be supportive of both the Office of the IG and other associated offices so that they can collectively, as institutions, deliver in the war against crime.

Mr. Deputy Speaker, Sir, I conclude by reminding us, including myself, about Section 35 of the National Police Service Act. A lot of misinformation has been peddled out there, that the Office of the DCI has no legal mandate and responsibility to investigate matters corruption. However, Section 35 of that Act is clear that the Office of the DCI and related institutions have a mandate to fight all manner of crimes and to ensure that law and order is enforced. Therefore, I beseech Members of this House and people in leadership to do the best they can to support the police service. If we do not do that and we merely criticize them, they will not be motivated; and, consequently, they will not serve the public the way we expect them to.

Mr. Deputy Speaker, Sir, I pledge my support to the nomination of Mr. Mutyambai to the Office of the IG. I plead with my colleagues, besides supporting the nomination, to support the provision of resources and an enabling environment for this officer and his other colleagues who will be supporting the war against crime. We will do this so that they can do their work for the welfare of this nation.

Sen. (Rev.) Waqo: Thank you, Mr. Deputy Speaker, Sir, for allowing me to add my voice to this very important nomination of Mr. Mutyambai.

Much has been said by hon. Senators. However, I would like to add to what they have said. We are discussing a very important office. We all know the history of police service in Kenya. Currently, Kenyans have no faith in what policemen and women do. That is why we have a very poor working relationship between the police and the public. Many people have no faith in the police and cannot go to the police station because of the mistreatment they receive from them. Therefore, as I support the nomination of Mr. Mutyambai, I suggest the following so that when he assumes office, he can consider doing some few things that can reduce the burden that Kenyans are facing at the moment.

Mr. Deputy Speaker, Sir, I have touched on the poor relationship between the public and the police officers. This needs to be worked on, because if we do not do that, there is no way we can have a cohesive society where we all work together. The other area is the living conditions of our police officers, which has been mentioned by almost all Senators. A person cannot offer what he or she does not have. Our police officers live in very poor conditions; they are paid poor salaries and have poor working conditions.

They suffer a lot as they serve us, therefore, unless our Government gives them good support, there is no way we can expect good service from them.

My piece of advice to Mr. Mutyambai is that once he gets to office, he should give special attention to the police officers. For example, they should be provided with good housing, a salary that can support their families and also moral support. Many a times, we have heard of some officers who have ended up shooting family members and themselves. This shows the high level of desperation, depression and a lot of suffering that they go through. Therefore, we need to create counseling centres for these officers, so that any time they face a challenge, they can have a place to run to, share their problems and reduce the burden that they carry.

Mr. Deputy Speaker, Sir, much has been said about corruption in our country. Currently, it has become like a song or some chorus. We keep on singing and praising corruption. The fight against corruption has always been there. However, there is no single time that we, as Kenyans, have won this battle because our approach has never been right. We have reduced the capacity of the institutions; and the people who talk about corruption have dealt with it politically. Also, the responses that we get are politically motivated, and that is why we cannot get any good response. My advice to Kenya is to stop praising corruption in our society. We should empower our institutions, especially the National Police Service (NPS), so that they can deal with all the corrupt deals and persons in our society.

The Deputy Speaker (Sen. (Prof.) Kindiki): Summarise, Senator.

Sen. (Rev.) Waqo: I will, Mr. Deputy Speaker, Sir. There has been a lot of political interference in the police force. My advice to Mr. Mutyambai is that we should avoid that in the national and county levels. I have witnessed a situation where political leaders influence the action of police officers.

Another practice that is well known is that the northern part of Kenya and other parts of this country have been receiving officers who are under disciplinary action. All Kenyans deserve equal service. Therefore, the same should apply to the people living in northern Kenya and other parts of Kenya. Let us have those police officers who can give services that satisfy the people. We should not have people who are on disciplinary action, because they will mess us.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Cherargei: From the outset, Mr. Deputy Speaker, Sir, I support this Report by the Joint Committee of Parliament, and wish Mr. Hillary Mutyambai all the best. I also celebrate the outgoing IG of Police, Mr. Joseph Boinett. He was a quiet man with a few words, but very effective. When he was the IG of Police, we experienced some semblance of tranquility in the security sector.

Mr. Deputy Speaker, Sir, looking at the Report before us, it appears like the nominee for the position of IG of Police, Mr. Hillary Mutyambai, is a man of integrity. He has worked hard in the security sector for over 27 years, and we hope he will ensure that we are safe and secure in this country. I also commend Members of the Joint Committee because they went through the entire process of vetting the nominee.

Mr. Deputy Speaker, Sir, I would like to say something that my colleagues have talked about. Mr. Mutyambai is coming to office at a time when we are experiencing new

threats and security challenges in the country. We have issues of terrorism and cybercrime, which is the latest form of security threat in the country.

I have a concern about how investigations are carried out in this country. The equipment that the police use is archaic and when you go to some countries, they no longer use them. We hope that the new laboratory at the DCI Headquarters will assist the police in handling crimes that involve robbery with violence and other complex crimes, including economic crimes. As Parliament, we should be more than willing to give them enough resources to modernize investigations. The other thing I would have loved to talk about is the issue of the welfare of the police; but my colleagues I have discussed it in detail.

Mr. Deputy Speaker, Sir, we were in a prison in Industrial Area in Nairobi. It is sad that most of the police officers live in squalid conditions. House allowances of police officers have also not been harmonized and, therefore, the police officers who live in Nairobi are disadvantaged. You cannot give the same house allowances to police officers in Nairobi and those in Tharaka-Nithi, Mombasa or Busia counties. For them to be effective, they must be given proper attention.

There is also the issue of insurance. Any family will tell you that the moment they lose their son, father or husband through death while on duty, they go through hell to get money. I hope the new IG of Police will look at the welfare, especially the insurance of our police officers – because some of them die while on duty – so that if that happens - God forbid – their families will not be left in poverty. There must be harmonisation of police welfare and risk allowances so that our police officers work in a good environment.

Thirdly, regarding the issue of extrajudicial killings, my committee will be visiting Mombasa, Dandora and Kayole here in Nairobi and other areas to listen to cases of extrajudicial killings. All people have rights. If a person is a thief, a robber or is involved in any crime, they should be taken to a court of law. We hope the new IG of Police will address that issue. Not all police officers are involved in extrajudicial killings. There are only a few trigger-happy police officers who must face the full force of law.

Mr. Deputy Speaker, Sir, it is as if it is a crime to be a young person in this country. Most of the youth in Nairobi City County and other urban centres die either through accidents, or because of police bullets. As the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, my committee is looking forward to working with the new IG of Police to address the issue of human rights abuses, especially by the police officers and other members of the public. We also look forward to putting the menace of extrajudicial killings in this country to a stop.

Finally, Mr. Deputy Speaker, Sir, we have many challenges in Nandi County, which I represent. I have never understood the relationship between road blocks and security. I know you know Nandi, because you have specific interests there. The distance between Eldoret and Kapsabet is 40 kilometres, but there are more than eight roadblocks there. I can see Sen. (Dr.) Kabaka smiling mischievously. It could be that he has interests in Nandi. Roadblocks are placed to harass *boda boda*---

Sen. (Dr.) Kabaka: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the distinguished Senator for Nandi County to say that you have some interests in Nandi? Could he disclose them?

The Deputy Speaker (Sen. (Prof.) Kindiki): What is out of order about that statement?

Sen. (Dr.) Kabaka: People could have different interpretations.

The Deputy Speaker (Sen. (Prof.) Kindiki): So, what is yours?

Sen. (Dr.) Kabaka: It could have been a deal. Could he explain what he means by that for the benefit of Kenyans? I know you are a pious man.

The Deputy Speaker (Sen. (Prof.) Kindiki): Senator for Nandi County, what interests are you talking about?

Sen. Cherargei: What I mean, Mr. Deputy Speaker, Sir, is that Nandi is your second home. Sen. (Dr.) Kabaka should go to church more often so that when some of these things are mentioned, he does not become so evil as to imagine his own things.

As I conclude, Mr. Deputy Speaker, Sir, I have never understood why we have many roadblocks between Eldoret all the way to Kopere, at our border with Kisumu County. There are over 10 road blocks on that route. The work of police officers in Nandi County is to harass *boda boda* operators. Those are young men who are not employed and they are trying to earn a living from operating *boda bodas*. Therefore, the issue of road blocks must be addressed so that they do not become toll stations for officers who fleece and frustrate *matatu* drivers and *boda boda* operators in Nandi County. In fact, I have protested formally and informally to the security apparatus in Nandi County and even nationally. I protested to ensure that roadblocks in Nandi County are not used as toll stations or for harassment of our *boda boda* operators and *matatu* drivers in Nandi County.

I wish the nominee for the position of Inspector General of Police, Mr. Joseph Mutyambai, well---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order Senator! That is not the nominee before us. We do not have Joseph!

Sen. Cherargei: I stand guided, Mr. Deputy Speaker, Sir. It is Hillary Mutyambai.

Thank you, Mr. Deputy Speaker, Sir. I beg to support.

Sen. (Prof.) Ekal: Thank you, Mr. Deputy Speaker, Sir, for also giving me the chance to contribute. I do not know well the person who all the Senators are talking about. However, from what I have heard, I guess he is a well-trained man and he will be a good IG of Police.

While some people said that the outgoing IG of Police would pick phone calls every time, and if he did not, he would call back, I did not experience that. I used to call him many times, but he never answered my calls or replied to my messages. I do not know why some people say that he was nice; I guess he was partial because he could treat some people differently. I hope the new one will---

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

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Cherargei?

Sen. Cherargei: Mr. Deputy Speaker, Sir, I do not like interrupting Sen. (Prof.) Ekal, because he is a learned person. However, he should not cast aspersions by saying that the outgoing IG of Police, Mr. Joseph Boinett, treated some people differently simply because of his judgment on phone calls and messages. He should substantiate those allegations. He cannot just say that unchallenged; he must substantiate.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. (Prof.) Ekal, you would rather stick to your experience – that the former IG of Police never answered your phone calls – and leave it at that.

Sen. (Prof.) Ekal: Yes, Mr. Deputy Speaker, Sir. He never took my calls, yet I have heard a Senator say here that he never failed to call him back or reply to his messages. I, therefore, stand with what I have said, because I have experience that. I hope the incoming IG will not be like Mr. Boinet, because I will want to deal with him and talk to him. I will be calling him because of the many problems we have in Turkana County. As I have said many times before here, Turkana County is under siege from all its neighbours. I will, therefore, be calling the IG to come help us and save the people of Turkana County from their tribulations.

Many people have said that today, Kenyans do not have much respect for the police; and they do not think that the police are there to help them, despite the fact that the police have the slogan, “*Utumishi kwa Wote.*” These days, people are just afraid, especially in Turkana County. They are afraid to go to the police station because every time you go there, you must part with something. You cannot get any service without parting with something.

Mr. Deputy Speaker, Sir, I have a number of examples on this. I had a situation here in Parliament, where I was fleeced twice by people who know how to get money from others; and who look for naïve, good-thinking human beings to fleece. I have reported this case to the police here in Parliament but up to now, no arrest has been made. That is probably because I have not given something to somebody to get this work done.

Mr. Deputy Speaker, Sir, I had a situation in Turkana County, where a child was killed by people who thought that he did a bad thing to them. I called the Officer Commanding Station (OCS) to have these people arrested. However, up to today, nothing has been done about it. This is probably because I did not give them something in that particular case. I find that the police only need to be motivated by what you give them, and then they go to work. If you do not give them that motivation, they cannot do anything.

In Turkana County, they use the Kenya Police Reservists (KPR). These are Turkana youth, but they are used a lot by police to go and arrest women who are brewing *busaa*; and people who have committed different crimes. I feel that this is unfair, because these police reservists are not paid, unlike the police. In Turkana County, the reservists are used to do the work of policemen a lot, while the actual policemen spend their time collecting a little money here and there from the *wananchi*.

Mr. Deputy Speaker, Sir, because of this, I hope that the new IG will change – and this is a function of training – what Kenyans feel about the police. The police should be trained to be more responsive to *wananchi*, treat them with respect and do the work for which they are employed. I understand that the police are not treated well – they do not

have good homes, their salaries are not so much, and so on, and so forth – all the same, you must do the work for which you are employed.

Mr. Deputy Speaker, Sir, teachers do not get much money, but when I was a teacher, I went to the classroom every day to teach people and some of them are big men in Kenya today. I did not sit there and say “give me some incentives so that I can go to class”. I went to class every day, because that was my calling. I had to be a teacher; I have been a teacher all my life. The police today lack training. They do not do the things that we expect of them and, as such, people have stopped respecting them. The perception we have is that the police are people who harass and get money out of *wananchi*, and then go home to feed their families.

Mr. Deputy Speaker, Sir, I know that Kenyans would like to have an IG. As much as I do not know Mr. Hillary Nzioki, I will not stand in the way of Kenya having an IG. I am, therefore, supporting this Motion. I will vote for Mr. Nzioki to be the IG. However, as I said, I hope that he will not be partial. I hope that when I call him, he will respond and do something about the worsening security situation in Turkana County.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, Senator. I hope the IG will pick your calls.

Proceed, Sen. Linturi.

Sen. Linturi: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to join my colleagues in giving some words of wisdom to the proposed incoming new IG, Mr. Hillary Nzioki Mutyambai.

Allow me to comfort my brother. Sen. (Prof.) Ekal, and tell him to live by day. Do not carry that heavy load or the imagination that for one reason or another, the former IG, Mr. Boinet, probably by intention, did not want to talk to you. I am sure that as a leader, you do not also reply to very many phone calls because they are also quite overwhelming. Just as we are human beings, he could as well have been overwhelmed. Take it lightly, my brother. You are the future and you have a long time to deal with these things. Take is easy.

Mr. Deputy Speaker, Sir, I hope that this gentleman, Mr. Mutyambai, is listening and taking note of what the Senators are saying; or the words of advice or wisdom that they are giving. Let me congratulate him for coming this far, because it has been quite a rigorous process from the time it started to where it is now. He has proved to be a man that Kenyans, through this House and the sister House, have made recommendations for his appointment, which we are hereby debating today.

Going by the mood of the House, I can see him getting a nod for the appointment to this important office. I want to remind him that when he assumes this office, his status will change. He will move from the status of a public officer to that of a State Officer. The status of a State Officer is so unique, especially because he is being appointed. According to the provisions of Article 73(2), a person is appointed as State Officer completely on the basis of personal integrity, competence and suitability. I have looked at his CV and I have no doubt in my mind that, going by the experience and the story that is given, he is a person of integrity.

His academic record speaks for itself and for that matter, in my view, he is competent to handle the docket. His suitability is not in doubt, looking at the courses he

has attended; the positions that he has held in the National Police Service (NPS), and the critical docket that he holds today at the National Intelligence Service (NIS). He must, therefore, lead this institution, the NPS, by the bible. The bible in this case is none other than the Constitution of Kenya and the other relevant Statutes that have to guide him in the execution of his duty.

He must always remember that his bosses are the Kenyan people. He is heading an institution that has had a myriad of problems. It is an institution that we have all been trying to reform over a long time. I thank God that, at least, some standards have been set. There is a foundation that is in place, which he has to build on. One of the key duties that he has to deal with is so clear under Article 244 of the Constitution, which states that:-

“(c) comply with constitutional standards of human rights and fundamental freedoms;”

The police have been accused before of all manner of things. All the vices in this country have been attributed to them. Almost every speaker has talked about corruption, because whenever a corruption index survey is carried out in this country, the police will always be there. However, I must thank the immediate former IG, because with all the problems that the police has, he has tried. When we go to our counties, we can see their response to matters of security. They are not to the expected levels that you would say they are very prompt but, at least in my view, they are doing well. However, they can do better.

With his new energy, let him concentrate on ensuring that this is achieved. He must know that for him to succeed, teamwork is key. He must build confidence and he must motivate the police officers. Just as many other speakers have said, the welfare of police officers is critical. I am sure and I have always told many people and they laugh about it – and if I may make the statement in Kiswahili – *ni kwamba polisi akihisi njaa, anauza bunduki* – so, the idea of expecting to be guarded by a hungry policeman with a gun is misplaced.

Therefore, I would like to inform the nominee that the welfare of the police officers is key. Let him do whatever it takes to ensure that, at least, the living conditions, salaries and allowances are dealt with. We want to see a vibrant and happy police service. When I say this, it is also directed to all Members of Parliament (MPs) who have an opportunity to be guarded by a police officer. When you go out to take dinner and wait to be driven home, ensure that you share a meal with the police officer and extend some good words; because they cover your back.

Therefore, Mr. Mutyambai, you have huge a task ahead of you. I have no doubt that you will manage. We will give you the support you need, as Parliament. However, I also want to remind that you are working under a very political environment that will stress you up, because of different political interests. Be guided by the law. In the entire Constitution of Kenya, there are only two officers that can give direction to you; one of them is the Cabinet Secretary (CS) in charge of police services. He can only direct you on matters of policy, but he cannot direct you on who to open a file for or start an investigation or not. Stick to the law. The other one is the Director of Public Prosecutions (DPP) under Article 157(4) of the Constitution. Where you are directed to commence investigations, I ask you to look at what the Constitution provides for.

The Constitution is very clear that all these people giving you directions must do it in writing. Therefore, live by the Bible, the Constitution and other relevant laws, and I am sure that you will be a very happy IG during your tenure and retirement. This is because you will not have to bother so much. I commit to give the necessary support personally, as a leader in this country.

Mr. Deputy Speaker, Sir, where I come from, there are at times when we have sporadic incidents of insecurity. If you may remember, I pleaded with you last week to direct the Committee on National Security, Defence and Foreign Relations to visit my area, especially, Igembe North, where a number of people have died. I am, therefore, very happy that Mr. Mutyambai is coming in. When he is appointed, I would like to make an application to him that whenever he decides to tour this country to understand that kind of problems that we face, he should consider Meru County and the border between Isiolo and Meru, which is a hotspot. We are also trying to look for ways of constructing a police post and a GSU camp there. Therefore, even as he arranges his staff, we would appreciate if more police officers will be sent there to take care of our border.

Mr. Deputy Speaker, Sir, I beg to support this Report of the Joint Committee on National Security. I wish Mr. Hilary Nzioki Mutyambai well upon his official appointment and swearing in.

Thank you.

The Deputy Speaker (Sen. (Prof.) Kindiki): Very well. Proceed, Sen. Okong'o.

(Technical hitch)

What issues are you having, Sen. Omogeni? Please proceed.

Sen. Omogeni: Mr. Deputy Speaker, Sir, first, I want to be on record as fully supporting the appointment of Mr. Hilary Nzioki Mutyambai as our next IG of Police. I also thank the Joint Committee of the House for a job well done. It is ironical that this is the only vetting or approval that is being done by this House for persons holding constitutional offices. It speaks volumes on the gaps that exist in the Constitution that we enacted in 2010. This is because for a House that is supposed to protect the interests of counties in Article 96, there are so many constitutional office holders who are appointed and take office without getting the approval of the Senate.

Mr. Deputy Speaker, Sir, you can imagine an office holder, for example, the Office of the Auditor-General from whom we receive reports year in year out. He looks at the accounts of our county governments, but we never have a say when it comes to the appointment of the holder of that office. The same applies to the Controller of Budget (CoB) and the National Land Commission (NLC), who manages land in counties. When it comes to the appointment of these State Officers, this House never participates. I, therefore, hope that going forward, we should relook at this matter afresh as a country and as a Senate, so that the Senate is given a role in the appointments of these constitutional office holders.

When you look at the report that has been filed by the Joint Committee on Security, you will imagine that all the problems that we have faced in this country will come to an end. This reminds me of what I used to go through when I used to be the

Chair of Ethics and Anti-Corruption Commission. You will interview people and they will promise heaven. You will then pick somebody and say, “This is now the best candidate that we are bringing on board;” but the moment they occupy those offices, they will never implement any of those things they promised to implement. I hear that Sen. (Dr.) Kabaka, my good friend, schooled with this nominee. I, therefore, hope that he can walk the talk, because if you look at what he is promising, you imagine that he will be transformative.

Mr. Deputy Speaker, Sir, there is the issue of management of road blocks, for example. I do not know the experience of other Senators, but ever since my good friend, the CS for Interior and Coordination of National Government merged the police units, most road blocks are now manned by more than 12 police officers. Just imagine that you are driving from Narok to Nyamira, and you pass road blocks which have 12 armed police officers in each of them. You then wonder who is taking care of security in other areas, if all the police officers have been brought to our roads.

I, therefore, hope that the promise he has made – that he will ensure that there is proper management of our road blocks in this country; and that they will be there on a need basis after assessing the levels of threats in particular areas – will come to fruition.

Mr. Deputy Speaker, Sir, you will never find police officers on the roads in developed countries. However, in Kenya, when you drive from Nairobi to Nyamira, you will count more than 12 road blocks. We are getting it wrong in terms of security management. I hope that we can do something on the issues that he has promised.

Mr. Deputy Speaker, Sir, I am happy because I am one man who is directly affected by the cattle rustling that our neighbours from Bomet County do. Often times when you go home, most of us do not sleep soundly because of the fear of cattle rustlers. I hope that the promise that the IG of Police is making will allow my people of Nyamira County to sleep soundly and make sure that their cows are not taken by their neighbours. I am waiting to see what alternative mechanisms he is promising to bring on board are so that we can bring to an end the issue of cattle rustling.

Excessive use of force by police officers during demonstrations should be looked into. Anybody who has been unfortunate or bold enough to participate in a demonstration will confide that it is a matter of life and death. When you go to exercise that constitutional right of demonstrating, you are not sure whether you will go back home maimed; or whether a man or a lady who will never walk again. I hope that the new IG of Police can appreciate that the new Constitution we enacted in 2010 guarantees Kenyans some fundamental freedoms. That is the only Chapter in the Constitution of Kenya with the word ‘fundamental freedoms.’ He should allow Kenyans to enjoy some of these freedoms, because it happens in other jurisdictions.

Mr. Deputy Speaker, Sir, the issue of shooting suspects to death should be looked into. I was watching a show on CNN yesterday, where police officers were making an arrest in Dallas. They were chasing a man who had broken into one of the stores, and as the chase was going on, the police officers realized that it was 4.00 p.m. and children were coming out of schools. They then decided to abandon the chase because if they continued, they were going to put innocent children at risk. If there is an exchange of fire, the children may die. They abandoned the chase and instead deployed a police chopper to

track that thief. The thief thought that he had outsmarted the police officers, but the chopper tracked him to a restaurant where he went to take coffee. He was arrested on his way out without any exchange of fire.

Mr. Deputy Speaker, Sir, in this country, we have had situations where innocent Kenyans have lost their lives because police officers, in trying to kill high profile suspects, shoot and kill innocent citizens. That should not happen because under our Constitution, we are all presumed innocent until proven guilty. I, therefore, hope that the new IG of police will ensure that the police officers are professional. We understand that they operate under very difficult circumstances, but that cannot be an excuse for taking away innocent lives.

Article 244 states that police officers should prevent corruption. It means that they should start with themselves before they even take the mandate of fighting corruption and economic crimes. They should ensure that there is no corruption among the police force. What happens mostly is that suspects who find their way into police stations will meet police officers who will extort money from them. They are forced to pay bribes even when they have not committed any serious crimes. I hope that the police officers can lead by example. I hope that the new IG of Police can eradicate or rather reduce the level of corruption within our police force.

Mr. Deputy Speaker, Sir, the people who serve as investigators at the Ethics and Anti-Corruption Commission (EACC) are officers who are forwarded from the police force. Therefore, we should professionalize the police force and ensure that they themselves are not corrupt. They should not take it that the moment they become police officers, it is a blank cheque to engage in corruption. That way, we will change the culture that we have.

Mr. Deputy Speaker, Sir, I wish Mr. Mutyambai well. I personally did not make any attempt to call the out-going IG, like my other good friend. However, I hope that the new IG will be somebody who is accessible to Kenyans and leaders. I hope that he will not find himself in the same situation of disobeying court orders. I wish him well and look forward to a situation where there will be positive reforms within the police force.

I also hope that the IG of Police will not be doing what I have seen the Judiciary doing this afternoon, where one of the governors has been granted a cash bail of a whopping Kshs100 million. I sometimes wonder whether the Judiciary is out of touch with the reality. I do not identify with what is happening in Samburu County, but we must acknowledge that anybody who is arrested and charged in court should be treated as a suspect. He should be presumed innocent until he is proven guilty beyond reasonable doubt.

With those few remarks, Mr. Deputy Speaker, Sir, I fully support the approval of Mr. Hillary Nzioki Mutyambai as our next IG of Police.

Thank you.

Sen. (Dr.) Kabaka: Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to also air my voice to this important exercise that was done by a Joint Vetting Committee of Parliament. I congratulate Mr. Hillary Nzioki Mutyambai, the would-be new IG of Police, for reasons that it was deemed fit by H.E. the President to have him vetted by a joint Committee of both Houses.

Mr. Deputy Speaker, Sir, I came to know Hillary at a formative age, when we attended the same school, Pope Paul VI Junior Seminary. He was ahead of me in class; He was in Form Two when I was in Form One. Luckily, when we went to the university, because of the so-called double intake, we were clustered together. We, therefore, cleared university education at the same time in the 1990/1991 academic year.

Mr. Deputy Speaker, Sir, Mr. Mutyambai is a man I know very well. He is a man of good morals. We served together on the board of the Pope Paul VI Junior Seminary and like I said before, he is not a corrupt man. He submitted his wealth declaration form where he clearly said that unlike other people in this country, he does not think that amassing a lot of wealth is the right way to heaven. He said that he only wants a house in Machakos Town and in his rural area. He said that he does not have a house in Nairobi. To me, that is a good departure from the people who worship properties and go around looting the wealth of the citizens.

A lot has been said and I do not want to be accused of tautology by repeating what others have said; even the Standing Orders are against that. However, one thing is clear; I would like to advise my brother Hillary to serve all Kenyans equally. I understand that he comes from my place, but he is not an IG of Police for the Kamba. He should be the IG of Police for all Kenyans who are tax payers. I know that he will serve all the corners of this country very well as per his CV and he is going to excel very well. He comes at a time when this country is facing the international crime of terrorism. Out of his training, I think he will be in a position to execute, with precision, the skills to make this country safe.

Finally, I would like to advise him to take care of the lowly. I understand that there are police officers who have mark-timed in the Police Force for long. There are also others who are known to be promoted because of connections. However, there are some guys who, whenever we meet them, they say, "You, people in Parliament at the Senate, why can you not fight for us, because we have stagnated in one position for long?" I would, therefore, like him to review all the files of those who have worked for this force diligently and honestly for many years. He should then endorse recommendations commensurate to the services they render to this country. I think I am speaking volumes on that.

Mr. Deputy Speaker, Sir, the other aspect, which I also need to advise Mr. Hillary Mutyambai is that his department should also work very well with the Judiciary. It is in the public domain that people are caught using the *alco-blow* most of the times on Friday and Saturday night. Some have come to our offices saying that the police are not respecting the decisions of the High Court, where a decision given hon. Justice Teresa Matheka where she clearly poked some holes in the provision which talks of driving a motor vehicle incompetently.

If you look at that decision, it shows that, that section may even need to be amended such that as long as a person can prove that they can drive a vehicle maybe from Nakuru to Nairobi, you cannot charge that person with that offence. It has to be proved beyond reasonable doubt that you cannot drive that vehicle.

Mr. Speaker, Sir, my contribution clearly goes a long way to support the other Senators with regard to confirming the appointment of the new IG, Mr. Hillary Nzioki

Mutyambai, to this position, and we wish him all the best. We are aware that this is a very challenging job, and it is not easy. The change which is also demanded by most of us here is dynamic; it takes time and it is exponential. We know that our society is very corrupt, and he also needs to be very careful, because corruption fights back. I wish him all the best.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you very much. Is the Mover here?

Prof. Kamar, please, approach the Chair.

(Sen. (Prof.) Kamar approached the Chair)

I will allow Sen. (Prof.) Kamar to contribute to the debate.

Sen. (Prof.) Kamar: Thank you, Mr. Deputy Speaker, Sir, for giving me the opportunity to join my colleagues in supporting the appointment of the new IG, Mr. Hillary Mutyambai. This is the way we should go, as Kenyans. Maybe we should be calling ourselves by the first name so that it is easier, faster and does not have any connotation of who is who.

Mr. Deputy Speaker, Sir, most of us do not know this man, but looking through the Report that was given by the Committee, it is clear that he has the same character as the outgoing IG. He is diligent, has a lot of experience and has his ear on the ground. I knew that he is the right man when I learnt that he had come from the department that gets to know before we know. It is good to have an IG who can look at the situation and discern where things could be going. I, therefore, support the Report. I want to tell our new IG that we got into a situation that is completely different from that of the outgoing IG.

Mr. Deputy Speaker, Sir, I want to thank the outgoing IG, Mr. Boinett, because of the soft manner in which he led the force. For many years, we have taken our police force as a section that terrifies people; and a division that is a no-go zone. We thank the outgoing IG and congratulate him on his good performance because he changed our attitude towards the police force. The new IG is coming in at a time when our expectations are even higher, and we expect the police force to be a friend of the people.

Many a times, you find that our youth, especially those in the slum areas, tend to see the police as enemies. They have formed that opinion because of how the police officers treat them. I would like to ask our new IG to move the status from where he has found it to a better one, where the police will be friends of the people of this country. Policemen should be respected because they respect themselves. They should be respected because they respect everybody and because they do not form an opinion about somebody without evidence. It is for the police to do that because we are not going to change our slum areas; neither are we going to change our youth. However, they can only change if we change ourselves.

Mr. Deputy Speaker, Sir, the new IG has come at a time when Kenyans are democratic and can ask questions; they can even question the authorities. He has also come in at a time when even those who have been found guilty have to be

accommodated. We are in a worrying situation where people take the law into their hands, and a lot of innocent people have died because of that. People would shout, "Thief, thief," and the next person found running is stoned or sometimes killed; only for the people to later ask, "What did he do?" That happens because people do not believe that there is a police or security force that can deal with that situation.

Mr. Deputy Speaker, Sir, as we wish our new IG well, we want him to change the scenario for people to believe that someone who is arrested will not be released. We have had cases in this country where people have been killed because they were released from police custody. It is important that the people get to trust the work of the police. They should believe that justice will be done when someone is arrested. This is the environment in which our new IG is coming into. He is coming into an environment where Kenyans are democratic and are questioning things. If nothing is done for them, they seem to take the law into their hands; and that should not be the case. We need to know that if anything happens in the village or on the highway when driving, you can call the police and they will come to rescue and to take care of you.

Mr. Deputy Speaker, Sir, I also say this because we have a situation when it comes to the issue of gender. There are instances when women have gone to report rape cases, and in most cases you hear them say, "I will never go again." Others say that they were mishandled by the police. I ask the incoming IG of Police to look at these areas that need a lot of attention. This is because if you hear a section of society saying that they cannot report something to the police, it is because of an experience that has not been good.

I encourage him to look at the other areas that have not been looked at for a long time. I am happy that most of the Members have talked about housing for police officers. Since the Government has moved away from giving them houses to giving them house allowances, maybe that is the way to go. The experience some of us have observed has been appalling. In the prisons sector, for example, the officers in Eldoret used to build mud houses, and as their children grew, they would build huts for their sons. I remember raising this issue during the Tenth Parliament; that the police officers had been left to fend for themselves. It is like being on duty but nobody knows where you live.

Mr. Deputy Speaker, Sir, it is good that we are moving away from that and we are giving police officers house allowances so that they can live amongst the people. It, therefore, brings another challenge, because we know that police officers are supposed to be armed and taking care of us day and night. The proposed IG of Police has found himself in a situation where the police are being moved out of their official houses. In my opinion, I hope that we can still have houses for those who must be on duty during emergency situations.

Mr. Deputy Speaker, Sir, I agree that we need to look at the welfare of police officers. The IG needs to move further from where the outgoing IG did, because he has his job cut out and the challenges are laid out there. I believe that he can change the situation even further.

We are very proud of the outgoing IG of Police. I thank Mr. Boinett very much for the diligent manner in which he ran the force during his time. He did it in a very quiet but very effective way. I believe that the new IG of Police will do exactly the same. As

my colleagues have said earlier, these are people who were unknown by many people. Even as they come to be interviewed, most of us had never heard about them. It looks like this is the way we can get people who have not made too much noise. We know that police are supposed to talk less and act more.

Mr. Deputy Speaker, Sir, I support the appointment of the new IG and wish him all the best.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, very much. I do not see the Mover in the House. I will, therefore, proceed to put the question. Before I do so, I will determine that this is not a matter concerning counties.

The Speaker of this House made a similar determination on a similar Motion on 4th March, 2015, which regarded the approval of the nomination of Mr. Joseph Boinett for a similar position. Therefore, we will voice our vote in terms of “yes” or “no.”

(Question put and agreed to)

Hon. Senators, that Motion took most our afternoon, but I am of the opinion that it is an important national duty. Therefore, we needed a bit of time to have as many Senators as possible to contribute to that debate.

I will defer the items appearing as Order Nos.8.9, 10, 11 and 12.

MOTION

ADOPTION OF REPORT ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29th November,2018.

(Motion deferred)

COMMITTEE OF THE WHOLE

THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PUBLIC PARTICIPATION BILL
(SENATE BILLS NO. 4 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL
(SENATE BILLS NO. 22 OF 2018)

(Committee of the Whole deferred)

COMMITTEE OF THE WHOLE

THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL
(SENATE BILLS NO. 23 OF 2018)

(Committee of the Whole deferred)

Next Order.

BILL*Second Reading*

THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL
(SENATE BILLS NO.28 OF 2018)

(Sen. Olekina on 27.3.2019)

(Resumption of debate interrupted on 27.3.2019)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Githiomi had 19 minutes remaining, but he is not in the Chamber. I do not see any other requests.

Proceed, Sen. Pareno. You have about five or so minutes. You can start.

Sen. Pareno: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Bill. I support it because to me, it is an extension or a further Bill that will realise public participation on matters that concern counties. This is a Bill that goes ahead to further bring to life the provisions of the Constitution in as far as public participation by the citizens is concerned.

Mr. Deputy Speaker, Sir, the Constitution of Kenya 2010 put the citizens at the centre of every development undertaken and every decision-making process. The citizens

have a say on everything that we do in this country because of the history that we had, as a country. It was felt that the citizens did not determine what was happening to them as far as the running of this country was concerned.

Mr. Deputy Speaker, Sir, public participation has led to development because when they participate, they own the projects and feel that they belong. They even monitor projects, report progress and evaluate decisions being made that touch on their daily lives. I, therefore, believe that this Bill will ensure that there is accountability. This is because when the citizens are given room and are facilitated to participate, then people are bound to be accountable. This is for both those who implement the decisions and the citizens who follow up on what is done. This Bill seeks to enforce what the Constitution provides, and also to strengthen public participation. What I like about it is the provision for the necessary structures that are required for a proper public participation.

Mr. Deputy Speaker, Sir, we have a problem when it comes to public participation and people being satisfied that a public participation has been undertaken. Sometimes people tell us that they do not know how people are picked for public participation. Instead of having something like a public *baraza*, it is as if only a few people are selected for public participation. Bringing out the proper way of doing public participation and providing for the necessary structures that are required for a proper public participation will be in line with what the Constitution provides for.

We have heard that some public participation is done under trees in some of our counties. This Bill will, therefore, ensure that we have, at least, halls for people to sit in and make their submissions. They will not just be halls but halls with the necessary facilities.

Mr. Deputy Speaker, Sir, you can imagine telling people to sit under a tree to contribute meaningfully to a budget; or to propose the projects that they want or wish to have, yet you do not have the necessary facilities like toilets and where they can take water. That is not proper public participation. Some might even shy away from appearing to give their views, because they might not want to sit under trees. We have cases where people have to cover some long distances in some areas, like the places where we come from.

For example, my constituency starts from Athi River and ends at Chyulu Hills. Therefore, when you call people for a public participation even in a ward, it has to be properly arranged. You need to go an extra mile to facilitate them to attend the public participation exercise because when the area is big, mothers with children cannot come and talk about what they think should happen in their wards. Therefore, providing the necessary infrastructure for public participation will help us to realise what was intended. This Bill will ensure that, that is done.

Mr. Deputy Speaker, Sir, we have seen governors proposing in their budgets to set aside Kshs150 million, Kshs300 million or even Kshs350 million for their residences. That means that they can provide for halls---

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Sen. Pareno. When debate on this Bill resumes, you will have a balance of 14 minutes.

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, it is now 6.30 p.m., time to interrupt the Business of the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday 3rd April, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.