

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 22<sup>nd</sup> February, 2017

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

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

### PRAYER

### PAPER LAID

**Sen. Sang:** Mr. Speaker, Sir, on behalf of the Senate Majority Leader, I beg to lay the following Paper on the Table of the Senate today, Wednesday, 22<sup>nd</sup> February, 2017:-

#### SENATE CALENDAR FOR THE YEAR 2017

The Senate Calendar (Regular Sessions of the Senate) for the year 2017 (February to August 2017)

*(Sen. Sang laid the document on the Table)*

### NOTICES OF MOTION

#### APPROVAL OF THE SENATE CALENDAR FOR 2017

**Sen. Sang:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2017 (*February to August, 2017*), laid on the Table of the House on Wednesday, 22<sup>nd</sup> February, 2017.

I thank you.

**The Speaker** (Hon. Ethuro): Sen. Karaba, do you have a copy of the Order Paper? Look at the last page, you are supposed to give a Notice of Motion.

Sen. Adan also has a number of Notices of Motions.

**Sen. Adan:** Mr. Speaker, Sir, I am sorry. I am not prepared for this. With your permission, we can push this to tomorrow.

**The Speaker** (Hon. Ethuro): Order, Senator! There is nothing to prepare for before giving a Notice of Motion. Just read it as per the Order Paper.

*(Laughter)*

What is it, Sen. Sang?

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. Are the two chairpersons in order to take this House for granted and purport not to be prepared to just read a Notice of Motion that is as clear as indicated on the Order Paper? Are they portraying to this House that they are no longer able to transact business as chairpersons? If that is the case, would I be in order to request that they resign and allow able Members of their committees who are enthusiastic to execute the business of their Committees with precision and perfection?

**Sen. Karaba:** On a point of order, Mr. Speaker, Sir. How many times has Sen. Sang who is also the Chairperson of the Committee on Delegated Legislation adhered to the ethics of this House? Once he gets an opportunity like the one he has got now, he thinks that he can dictate---

**The Speaker** (Hon. Ethuro): Order, Sen. Karaba! You are completely out of order. You should just confirm or deny.

**Sen. Karaba:** Mr. Speaker, Sir, I can now give the Notice of Motion without any further ado.

**The Speaker** (Hon. Ethuro): Order, Sen. Karaba! There might be a little ado. You need to undo what you have said of Sen. Sang.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir. You must inform the Chairperson of the Committee on Education - because we have students in the Public Gallery - that the business of the Senate is circulated in the evening on our *Whatsapp* platform and the website. Therefore, the Chairman has no excuse about coming late or otherwise. They should be on notice. I echo the sentiments of Sen. Sang that the Chairpersons should take the orders and sequence of business in the Senate seriously. You must repeat, notwithstanding that we are all going for elections.

**The Speaker** (Hon. Ethuro): Sen. Adan, do you not agree?

**Sen. Adan:** Mr. Speaker, Sir, I do not agree with what Sen. Mutula Kilonzo Jnr. has said. We are taking our work very seriously. That has been my tradition as the Vice-Chairperson of the Committee on Security and Foreign Relations. It is unfortunate that I lost a relative yesterday and I just reported back yesterday. I had not had a look at the Order Paper. However, we will keep taking our work seriously in future.

I thank you.

*(Sen. Karaba walked around the Chamber from one Senator to another for assistance)*

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

Hon. Senators, I am disturbed, to say the least, that Business which is so plain, so simple and written cannot be conducted by Members. These are your own reports which you must have worked very hard to get them ready for tabling. This is just the logical sequence of events which require you to give notice of Motion. When it comes to

moving the Motion, I wonder what you will do. There are no excuses. Sen. Karaba, just give the notice of Motion.

ADOPTION OF REPORT ON THE 38<sup>TH</sup> SESSION OF UNESCO  
GENERAL CONFERENCE IN PARIS, FRANCE

**Sen. Karaba:** Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate adopts the report of the Standing Committee on Education on the 38th Session of the United Nations Educational, Scientific and Cultural Organization (UNESCO) General Conference in Paris, France held at the UNESCO headquarters from 3<sup>rd</sup> to 19<sup>th</sup> November, 2015, laid on the Table of the House on 14<sup>th</sup> April, 2016.

**Sen. Adan:** Mr. Speaker, Sir, I beg to give notices of the following Motions:-

ADOPTION OF EALA REPORTS AND RESOLUTIONS

THAT, the Senate adopts the report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolution pursuant to Standing Order No.235, laid on the Table of the House on Tuesday, 19<sup>th</sup> April, 2016.

**The Speaker** (Hon. Ethuro): Proceed.

ADOPTION OF REPORT ON THE SECURITY  
SITUATION IN MANDERA, LAIKIPIA AND KAPEDO

THAT, this House adopts the report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia County and Kapedo (a border town of Turkana and Baringo counties) conducted between 19<sup>th</sup> January and 5<sup>th</sup> February, 2015 and laid on the Table of the House on Wednesday, 29<sup>th</sup> July, 2015.

ADOPTION OF REPORT ON STUDY VISIT TO RUSSIA

THAT, this House adopts the report of the Standing Committee on National Security and Foreign Relations on the study visit to Russia, laid on the Table of the House on Tuesday, 15<sup>th</sup> March, 2016.

**The Speaker** (Hon. Ethuro): Hon. Senators, before we proceed to the next order, I have a communication and a message. I will start with the Message from the National Assembly.

**MESSAGE FROM THE NATIONAL ASSEMBLY****PASSAGE OF VARIOUS SENATE BILLS BY  
THE NATIONAL ASSEMBLY**

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40(3)(4), I have received the following Message from the Speaker of the National Assembly regarding the passage by the Assembly of the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No.23 of 2014).

Pursuant to the provisions of Standing Orders No. 41 and No.142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS, the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) published as Bills originating from the Senate were passed and referred to the National Assembly for consideration;

WHEREAS, on 14<sup>th</sup> and 15<sup>th</sup> February, 2017, the National Assembly considered and passed the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) without amendments and in the form passed by the Senate;

WHEREAS, on 14<sup>th</sup> and 15<sup>th</sup> February, 2017, the National Assembly considered and passed the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) with amendments contained in a schedule of amendments attached here to;

NOW THEREFORE, in accordance with the provisions of Standing Order No. 144 of the National Assembly Standing Orders and Articles 110 (5) and 112 (1b) of the Constitution, I hereby refer the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No. 23 of 2014), respectively to the Senate.

Hon. Senators, Article 110 (5) of the Constitution provides as follows:-

“If both House pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent.”

On the other hand, Article 112 (1)(b) of the Constitution provides as follows:-

“If one House passes an ordinary Bill concerning counties, and the second House-

passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.”

Hon. Senators, in this regard, and pursuant to Article 110 (5), I will process the Public Appointments (County Assemblies Approval) Bill (Senate Bill No.20 of 2014) sponsored by the Standing Committee on Labour and Social Welfare and present it to His Excellency the President for assent.

As for the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) sponsored by the Chairperson of the Standing Committee on Education, I direct the Standing Committee on Education to deliberate on the National Assembly amendments and report to the Senate.

FURTHER, pursuant to Standing Order No.150 of the Senate Standing Orders, I direct that the National Assembly amendments to the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) be listed in the order paper for consideration in two weeks' time.

I thank you.

**Sen. Sang:** Mr. Speaker, Sir, I take this opportunity to congratulate you for that specific Message. Such are the times you feel proud as a legislator when you look at the processes being undertaken to pass a Bill in accordance with the provisions of the Constitution. When this House, or when this country established the new framework of a bicameral Parliament, it foresaw this kind of heavy debate and healthy interaction between the Senate and the National Assembly.

In the Communication that you have shared with us today, we have two Bills. One has been approved by the National Assembly in totality where they agree with the Senate as it were. In another, they have proposed several amendments. This is how a bicameral Parliament should work.

I want to encourage you and the leadership of this House to embrace a cordial working relationship. As we move towards the end of this session, we should reach out to the National Assembly so that the over 21 Bills that are still pending in the National Assembly should be prioritized for us to receive these kind of responses. Where they agree with us, we process them into law. Where they propose amendments, they should forward them to us so as to allow us to conclude this legislative process.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir, for your communication. I am extremely concerned on this. From the calendar of events into the elections, if the nominations of political parties and their members are going to be held in mid-April, it means that we can only transact business for another one and a half months. Our legislative business is most likely to be affected by the nominations.

In view of the pending bills before the National Assembly, I extend my request again to you to extend an olive branch to your colleague in the National Assembly because, given the rate at which you are sending communication to us, it is obvious without even doing any calculation that we will not complete the business of the Bills that we have sent to the other House.

Is it possible, Mr. Speaker, Sir, using your gentlemanly mien, that you can cause the Speaker of the National Assembly to issue a communication suggesting that we should complete this business, whatever the outcome?

Lastly, may I also kindly request that on the seventh day when His Excellency Uhuru Kenyatta signs that Bill; we want to see you standing behind him. Thank you.

**The Speaker** (Hon. Ethuro): Your sentiments have been noted and they shall be effected.

*(Applause)*

**COMMUNICATION FROM THE CHAIR****SENSITIZATION RETREAT ON THE KENYA  
DEVOLUTION SUPPORT PROGRAMME (KDSP)**

Hon. Senators, I wish to inform you that the National Treasury has organized and invites all Senators to a sensitization retreat on proposals to have conditional allocations in the County Allocation of Revenue Bill. The proposed conditional allocations will be financed by a loan from the World Bank to support a devolution related capacity building and performance grand programme targeting all the county governments. The financing is under the Kenya Devolution Support Programme.

Prior to this programme, the National Treasury has had engagements on the same with the Ministry of Devolution and Planning, the World Bank and Senate committees on Finance Budget and Commerce, the County Public Accounts and Investments (CPAIC), and other committees.

The purpose of the retreat shall be:

(1) To sensitize the Senate on the Kenya Devolution Support Programme for results.

(2) Consider the proposed amendments to the County Allocation of Revenue Act 2016 and agree on a way forward so as to facilitate the flow of funds and implementation of the proposed programme as contemplated.

(3) The retreat will discuss and agree on the way forward on the proposed allocations for the Kenya Devolution Support Programme for results for the financial year 2017/2018.

The retreat is scheduled to take place from 24<sup>th</sup> to 25<sup>th</sup> February 2017 this weekend at Simba Lodge Naivasha. Senators are expected to depart for Naivasha tomorrow evening Thursday 23<sup>rd</sup>, 2017.

This is, therefore, to remind you that the invitation is still there and to urge you to plan to attend and participate. You are requested to confirm your participation with the office of the Clerk of the Senate for purposes of planning.

Thank you.

**Sen. Billow:** On a point of order, Mr. Speaker, Sir. I thank you for that communication. I urge the Senators to attend this workshop because the issues being discussed are very important to all the counties. This is because we are going to be looking at the County Allocation of Revenue Act for the purpose of reviewing it and making amendments so that some new figures can be brought in.

So, I think it is important for senators to come and be part of that process. I urge each one of you to join us for that very important meeting.

**Sen. Mutua Kilonzo Jnr.:** Mr. Speaker, Sir, from your communication, Sen. (Prof.) Anyang' Nyong'o chaired the first session we had with the Finance, Budget and Commerce Committee and the programme itself and we requested them to organize for the whole Senate to be informed, particularly the Members of this House who want to become executives of counties – Governors. It is extremely important that you attend this session because the governors have already given their input and there is now a formula as to how these grants will be given to counties and how they will be formulated.

It is very important to attend because it is going to inform how this is going to work now and in future and I am now referring to my brother Sen. 001; Mombasa County.

**The Speaker** (Hon. Ethuro): Senator Mutula-Kilonzo Jnr., you have obviously provoked those ones who want to abandon us.

**Sen. (Prof.) Anyang'-Nyong'o**: Mr. Speaker, Sir, I will never abandon you. My spirit will always be here. I join my Chairman, Sen. Billow and my colleague Sen. Mutula Kilonzo Jnr. Indeed the Chairman today chaired a meeting in this chamber with the Cabinet Secretary in charge of Finance, the Council of Governors, the Commissioner for Revenue Allocation and all other institutions that are concerned about this revenue allocation to the counties.

We had a productive discussion and I am sure the Chairman will report this to us on Friday. The issues raised are extremely important for Senators not just those who are going to be governors because this tradition must be maintained; that the Senate gets fully involved and versed in revenue allocation for counties so that when we speak, we do not speak from hearsay but from the point of being informed by facts and how the budget system has evolved to the point that certain principles are being established by tradition which will inform the future; and those principles which will form tradition must be influenced by this Senate.

I beg to support.

**Sen. (Prof.) Lonyangapuo**): Mr. Speaker, Sir, I join my colleagues in noting that the meeting for tomorrow is quite important and it is in line with our role as Senators in Article 96(3) where the Senate determines allocation of national revenue among counties as provided in Article 217 and also exercises oversight over national revenue allocated to the county governments.

This is our work and, therefore, every Senator has to attend because we need to be looking at the way revenue allocation to counties is done once in a while and should there be partners who want to join in beefing up and making sure that counties are funded properly, we are the House that needs to interrogate and look at how that can be done.

We also need to take stock of how the money that we have been releasing to counties has been spent. Issues have emerged and I think Sen. (Prof.) Anyang'-Nyong'o, the Chairman of CPAIC will present in a short while the audit reports of counties that have been discussed. You will be surprised at how some of the monies have been utilized. It is true we need to meet so that we can give appropriate directions and warnings on how this money is being spent.

**Sen. Ndiema**: Mr. Speaker, Sir, this meeting will be very important because for the first time we are seeing the national Treasury and the donors, particularly the World Bank, getting interested in supporting the counties after so many years of devolution.

It is encouraging that we, as a Senate, our mandate is to defend and protect counties and also champion their interests and when we have a situation where, finally, donors including the World Bank and International Monetary Fund (IMF) have realized that counties need support, we should be at the forefront in encouraging them and ensuring that they start from the right footing and that the funds so allocated should be utilized for the purposes intended and we should therefore, lay a proper framework for that purpose.

**The Speaker** (Hon. Ethuro): Next order!

### STATEMENTS

#### ALLEGED REGISTRATION OF VOTERS USING NYS IDENTIFICATION KITS

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights on the reported registration of voters using National Youth Service (NYS) kits. In the statement, the Chairperson should:-

(1) Clarify if the Government is aware that on the night of 13<sup>th</sup> February, 2017, people were registered as voters at the Administration Camp in Embakasi West Constituency, Super loaf Primary School in Mowlem Ward and Presbyterian Church of East Africa (PCEA), Karura in Runda using registration and identification kits belonging to the NYS instead of the recommended Independent Electoral and Boundaries Commission (IEBC) Biometric Voter Registration (BVR) Kits acquired for that purpose.

(2) Explain why the exercise was undertaken by NYS recruits and not IEBC personnel who were the rightful personnel for that exercise.

(3) Clarify where registration and identification kits belonging to the NYS were used instead of the recommended IEBC BVR kits acquired for that purpose.

(4) Explain if the Government has taken any measures to withdraw the NYS kits and to publicise and deregister any voters who may have been registered using the said kits.

(5) Assure the Senate that such malpractices will not recur in future and care will be taken to ensure the NYS kits are not used for purposes other than those for which they were intended.

**The Speaker** (Hon. Ethuro): We had other statements.

What is it, Sen. Okong'o?

**Sen. Okong'o:** Mr. Speaker, Sir, I would like to ride on Sen. Mutula Kilonzo Jnr.'s statement regarding registration equipment found under mysterious circumstances.

The IEBC should assure Kenyans whether they are ready and geared for the next election which is paramount to this nation.

**The Speaker** (Hon. Ethuro): Sen. Okong'o, I did not hear you.

**Sen. Okong'o:** Mr. Speaker, Sir, I think you were engaged, looking at the Standing Orders, and you forgot that a presidential candidate was speaking. I would like to ride on Sen. Mutula Kilonzo Jnr.'s statement regarding the IEBC. Considering that there is an array of backlog in legal infrastructure, the IEBC should inform us whether it is ready and set for the August elections.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, I would also like to add to what Sen. Mutula Kilonzo Jnr. has requested for. The statement should include a finding from the police at the Runda and Gigiri Police Stations where those who were purported to be trainees from the NYS used a NYS bus which was arrested at Runda Police Station. Therefore, the information that the police, both in Runda and Gigiri, have on the matter



related to the actions taken by this so called NYS trainees in registering voters in that area of Nairobi should be availed.

**Sen. Njoroge:** Mr. Speaker, Sir, I wish to get a clarification from the IEBC if a window would be opened for the large number of Kenyans who are applying for IDs and willing to participate in the next election to make sure that they register as voters. Otherwise, it has been noted that a large number was in the rush, looking for IDs in order to participate in the coming elections.

**The Speaker** (Hon. Ethuro): Next statement.  
Proceed, Sen. Karaba.

WAIVER OF LOANS TO COFFEE  
FARMERS IN MT. KENYA REGION

**Sen. Karaba:** Mr. Speaker, Sir, I rise pursuant to Standing Order 45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the waiver of loans to coffee farmers in Mt. Kenya Region. In the statement, the Chairperson should:-

- (1) State the consolidated amount of loans waived by the Government.
- (2) Give a breakdown of the waived amount per county showing the number of coffee farmers who benefited from that waiver.
- (3) Explain the actual benefits that will accrue to a coffee farmer from the region following the waiver and whether the waiver would lead to higher coffee yields.

Mr. Speaker, I have another statement.

**The Speaker** (Hon. Ethuro): Proceed.

**Sen. Karaba:** Mr. Speaker, Sir, I am sorry. I think that is all.

**The Speaker** (Hon. Ethuro): There are two chairpersons in the two statement requests. The first one is on Sen. Mutula Kilonzo Jnr.'s statement. Where is the Chairperson or Vice Chair of the Committee on Legal Affairs and Human Rights? Proceed Sen. Sang.

**Sen. Sang:** Mr. Speaker, Sir, appreciating the urgency of the issues raised but also cognizant of the many riders that we have received, I request one and a half weeks.

**The Speaker** (Hon. Ethuro): It is so ordered.

Where is the Chairperson or Vice Chairperson of the Committee on Agriculture, Livestock and Fisheries?

**Sen. Ndiema:** Mr. Speaker, Sir, in view of the detailed manner in which the statement is sought, I request for two weeks.

**The Speaker** (Hon. Ethuro): It is so ordered.

On the earlier matter of amendments to the County Early Childhood Education Bill which I gave the Committee on Education two weeks, I would like to revise that to one week. The work has already been done. You are just looking at the proposed amendments from the National Assembly in the light of what the two Members had pointed out.

*(Loud Consultations)*

Order, hon. Senators! What is it, Sen. Sang?

THE PLIGHT OF FORMER COUNCILORS UNDER  
KENYA'S DEFUNCT LOCAL AUTHORITIES

**Sen. Sang:** Mr. Speaker, Sir, on Wednesday last week I sought a statement regarding the welfare of former councillors in the defunct local authorities. It was directed to the Ministry of Devolution and National Planning. However, the Chairperson insisted that statement was supposed to have been directed to the Committee on Implementation because it is a matter that this House had already resolved.

Therefore, I will seek your direction now that the House reconstituted the membership of the Committee on Implementation, so that we can have a response on the same.

**Sen. Billow:** Mr. Speaker, Sir, on the Order Paper there is a Statement that was sought by Sen. Ong'era on the Biometric Voter Registration (BVR) kits allegedly stolen from Mandera by the *Al Shabaab* terror group. This has been featuring for the last few days and the Senator is not here. There is a precedent in this House where the Speaker has ruled that when a Statement is of great public interest, such as this, it can be answered for the purpose of the House.

I want to seek your indulgence and guidance so that this Statement can be given, if it is available, even though Sen. Ong'era is not here.

**The Speaker** (Hon. Ethuro): Sen. Billow, it is 'Statement to be requested.' Therefore, that is a different proposition. With regard to Sen. Sang, it is true that you sought that Statement and it was committed to the Committee on Implementation, which was approved yesterday. I want to believe that the first business, after they elect the Chair, will be to deal with that matter.

What is it, Sen. (Prof.) Anyang'-Nyong'o?

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, while on the issue of the welfare of the former councilors in defunct county councils, there is a matter still pending before the Committee on Labour on their pensions. I have received two emails from former councilors in my own county and they are wondering whether the Committee on Labour, Chaired by Sen. Madzayo and deputized by the young Senator from Gilgil--- We have entered *kipindi cha lala salama* and should dispose of important issues expeditiously.

**Sen. Kanainza:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. Kanainza, whom do you want to inform?

**Sen. Kanainza:** Mr. Speaker, Sir, I want to inform Sen. (Prof.) Anyang'-Nyong'o.

**The Speaker** (Hon. Ethuro): Order! Sen. (Prof.) Anyang'-Nyong'o had already finished his submission.

Let us go to Sen. Wangari.

**Sen. Wangari:** Mr. Speaker, Sir, there are two different issues. There is the Bill on pensions for county workers and the issues that were raised by the former councilors. The Bill on pensions was stood down from First Reading last week. We hope that it will be on the Order Paper this week.

On the issue of former councilors, we actually had a sitting with the former councilors and they presented to us their memorandum and issued a report on the same. What was pending was the Committee on Implementation to give direction on what action it has taken in terms of making sure that the recommendations that we made from the Committee and public participation were actually put into action.

**Sen. Ndiema:** Mr. Speaker, Sir, this House has passed many Motions, but we do not seem to be getting any feedback from the Committee on Implementation regarding the progress. Would I be in order to ask that, in the Order Paper, there be a provision for reporting progress made on all the Motions that have been passed by this House? There are very many, but it seems that very little has been done in terms of implementation.

**Sen. Kanainza:** Mr. Speaker, Sir, to respond to the issues raised, the Committee on Labour is supposed to bring the report back to this House before the Committee on Implementation works on it. I believe that once the Committee on Implementation is properly constituted we shall give you a report on what has already been done. We had prepared the report in the last Session and will definitely present it to the House.

**Sen. Sang:** Mr. Speaker, Sir, it is important to put it on record that the Committee on Labour and Social Welfare concluded the matter. We debated and the resolution of the House with regard to the issue of pensions for former councilors was made. Is Sen. Kanainza in order to take this House in circles? She is trying to take us back to the Committee on Labour and Social Welfare, when the work rests squarely within the Committee on Implementation.

With regard to Sen. Ndiema, you have communicated severally in this House that we have the opportunity to make our submissions on some of the proposed amendments to the Standing Orders. Is he, therefore, in order to use the platform of this House to suggest matters that he can direct to the Committee on Rules, so that we can capture and conclude them?

**The Speaker** (Hon. Ethuro): Order, Senators! The issues were actually requested of the Chair, but many Senators seem to be in a mood to try to explain one issue or another. Quite a number of views were very useful, particularly the ones from Sen. Wangari, who is the Vice-Chair of the Committee. Others views were not very useful.

Sen. Ndiema is at liberty to use the Floor of the House to make suggestions, but as pointed out by Sen. Sang, we have a framework. You are all invited to make suggestions to the review of the Standing Orders, which we have almost completed. That opportunity is still available to Sen. Ndiema to make those good proposals.

The arrangement we have now is that once a Committee has done its job and tabled a report, whatever recommendations are contained in that report will be followed by the Committee on Implementation. You cannot go back to the originating Committee; it would have done its job.

With regard to the County Pensions Bill, it was on the Order Paper last week, but we stood it down for further consultations. Since those consultations do not seem to be heading anywhere, I have directed that, that Bill be on the Order Paper tomorrow. I agree entirely with Sen. (Prof.) Anyang'-Nyong'o, and as earlier stated by Sen. Mutula Kilonzo Jnr., time is not on our side. Some of the critical Bills must be expended in good time.

Thank you.

*(Several Senators entered the Chamber)*

Order, Members! If you are entering the Chamber, you may wish to get to your seat as soon as possible.

### COMMUNICATION FROM THE CHAIR

VISITING STUDENTS FROM IKALUENI PRIMARY SCHOOL,  
NUNGUNI, MAKUENI COUNTY.

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students from Ikalueni Primary School, Nunguni, Makueni County.

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

I thank you.

*(Applause)*

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I join you in welcoming students from Ikalueni Primary School. The reason we invited them is a reward for being the best school in the last Kenya Certificate of Primary Education examinations. So, they are here as my recognition for them performing very well and being the best improved school in the region. Therefore, I thank you and wish them well.

**Sen. Musila:** Thank you, Mr. Speaker, Sir. I stand to congratulate this school. Being the best primary school in Makueni is something because Makueni County has one of the best schools in the country. Therefore, being the best school in Makueni, it tells us that this school has performed very well. Let me take this opportunity to congratulate the staff, the parents and the pupils of this excellent school and urge them to make sure that even this year they do much better. I would also like to congratulate my colleague Sen. Mutula Kilonzo Jnr. for recognizing this effort and bringing these lovely people into this Chamber.

Thank you.

**Sen. Wangari:** Mr. Speaker, Sir, as I welcome the pupils from Ikalueni Primary School from Makueni County. I also want to note that Sen. Mutula Kilonzo Jnr. has been very consistent in bringing children here to learn; not once or twice. He has done very well as to also being a role model to them. Being number one and especially a *Matiang'i number one*, should actually be congratulated and I hope that they can be able to learn and be encouraged that they will be here where we are seated today in the next few years to come. So, congratulations.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, I would like to join my colleagues, particularly Sen. Mutula Kilonzo Jnr. for being proud of a school which has done so well. As a teacher, when you do well and you are rewarded it encourages you to do even better. I am sure that those young persons sitting over there as we look at them

must have high dreams of one day sitting here and speaking in this Senate and also doing other things that are going to be their callings in life. So, I would just like to encourage them to believe in themselves; to know that whatever they dream about is possible. If they believe in God and believe in themselves, they will reach the highest achievements in their lives. I congratulate them.

**Sen. Karaba:** Thank you, Mr. Speaker, Sir, for allowing me to congratulate the visiting students from Ikalueni Primary School, Makueni County. I congratulate them for having done so well as a County and Sub-county. On behalf of myself and as the Chairman for the Committee on Education, I welcome them to this August House.

Thank you.

*(Applause)*

**Sen. Sijeny:** Thank you, Mr. Speaker, Sir, I also wish to congratulate the students. I know it is not easy to read and concentrate but you have done well. I wish to congratulate your teachers too and the parents who have worked tirelessly toiling hard in their farms to ensure that you get all that you need so that you can get your education. Take advantage of it; the fact that you are there is a privilege, first, from God and from everybody else. Do not abuse it; continue being good children. I am happy that we are hearing about you for the first time because you have performed well. You have not burnt your school or dormitories or anything. We want you to continue working hard and be a good example, not only to the county, but to the entire nation and indeed to Africa and the world. The sky is the limit. We were once in primary school---

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

**Sen. Sijeny:** Thank you very much.

**Sen. (Prof.) Lesan:** Thank you, Mr. Speaker, Sir, I also wish to take this opportunity to congratulate the students from the school in Makueni who have been doing very well. I want to encourage the students who are visiting and also those others in the country side that the government at the moment pays for examinations fees. So, every other student in this country, particularly those in primary school, the government pays Kshs800 for them to sit for examinations. I want to ask them to take this opportunity and attempt to sit the examinations that are available for them with the assistance of the government. I congratulate them as they continue to prepare to sit examinations and progress in their education.

Thank you.

**Sen. Okong'o:** Thank you, Mr. Speaker, Sir. Let me take a few minutes to commend my colleague---

**The Speaker** (Hon. Ethuro): Order, Senator! Your colleagues so far have done under one minute.

**Sen. Okong'o:** Mr. Speaker, Sir, I would like to commend my colleague, Sen. Mutula Kilonzo Jnr., for having brought these young people here to this August House to learn a few things. I am an educationist in my own right. I want to encourage these students to pursue their ambitions and we expect by the time history is going to be written some of them will find their way into this August House.

Thank you.

**Sen. Njoroge:** Mr. Speaker, Sir, I join my colleagues also to welcome these young beautiful students from Makueni. I hope they will imitate the hardworking Senator for Makueni and one day, they will be sitting where the Senator is seated after successfully going through with their education. I believe with that kind of effort from the Senator, I hope the students are in safe hands and hoping that this will encourage them more.

Thank you.

**The Speaker** (Hon. Ethuro): Let us go to Order No. 8.

## BILLS

### *Second Reading*

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

*(Sen, Sijeny on 10.2.2016)*

*(Resumption of Debate interrupted on 28.12.2016)*

**The Speaker** (Hon. Ethuro): Order, Members! Before we ring the Division Bell, I want to draw your attention to Standing Order No.63 because that will apply to quite a number of Orders; Nos.9 and 10.

(1) In every instance where the Constitution lays down that a fixed number of Senators is necessary to support the moving of, or to decide any question on a Motion, any amendment Motion to such Motion shall not be passed unless supported by the fixed number of Senators required to pass the original Motion.

(2) “Notwithstanding paragraph (1), whenever a Bill or a Special Motion that requires a special majority in the Senate fails to obtain the required majority when the question on the Bill or the Motion is put and the vote result in a majority of the “Ayes” but the “Noes” have not numbered at least one third of all the Senators, the Speaker may direct that a further vote be taken on the particular question and the further vote shall be taken within five sitting days from the day the first vote was taken.”

This is the fifth day of this particular vote. So, you must deal with it in whichever way.

(3) “If the Speaker does not direct a further vote under paragraph (2) or if on such further vote the vote majority is not obtained, the Speaker shall declare that the Motion is negated.”

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro)]: What is it, Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I am very concerned about the vote we are about to take. Allow me a minute or two to say that for the first time, I will request that you do something unusual, particularly under Standing Order No. 1 because of the following reasons. One, there is a pending Petition, although we are going for elections and we are not worried, to wind up the House.

We have told the House, and I have been participating in the legal process, that we are going to take a vote. Therefore, we have requested the Judiciary to give us time to take a vote. This Bill was lost by five votes in December. You had directed that we vote on 5<sup>th</sup> January. On that day, this Bill was not in the Order Paper and all these benches were full.

Mr. Speaker, Sir, even now I can see that we will not meet the threshold. It will be of great tragedy for this Senate and the law that we will not have achieved the one-third gender rule. I plead that we find a method that is both legal and real to the extent that you do not call the vote.

Under Standing Order No. 63(3), the condition is that if you do not direct a further vote or if after such vote, the fixed majority is not obtained, I plead with you to defer this order to either tomorrow or---. I am alive to the fact that the Whips of this House have not asked us to come and vote. Even if they did, they never mentioned that we need 45 Senators seated here. The threshold is very high.

Lastly, I am aware that some of my colleagues are in Jeevanjee Gardens launching a very big party. Therefore, I want you to take public notice of these facts and defer the vote for this particular issue in view of its constitutional significance.

**Sen. Sijjey:** Mr. Speaker, Sir, I wish to second the request by Sen. Mutula Kilonzo Jnr. because the circumstances are unique. You know that women of Kenya work so hard. It is because of circumstances beyond our control; for example, on the 4<sup>th</sup> of January, 2017 we would have voted. I urge you to exercise your discretion and defer it again.

**Sen. Okong'o:** Mr. Speaker, Sir, I also request that you take judicial notice of the sentiments expressed by Sen. Mutula Kilonzo Jnr. and look for a way of deferring this very important Bill. The women of Kenya are waiting for this House to salvage their interest. The Whips of this House and all the coalitions must stand up and be counted at this crucial moment. It is incumbent upon you to juggle within the legal framework and see whether we can salvage this Bill.

**Sen. Kittony:** Mr. Speaker, Sir, I would also like to add my voice on this. It is very disturbing that this issue has dragged for a long time. I would like to support the sentiments of Sen. Mutula Kilonzo Jnr. Let us find a time when all of us are committed. When it comes to such an issue, we all need to be united so that we support it.

**Sen. Njoroge:** Mr. Speaker, Sir, I would urge you to use all the powers within your discretion to defer this matter either to tomorrow or any other day. This is because if this Bill will not be passed today, it will be like the beginning of the darkest day for women. As we all can remember, the issues of affirmative action have been with us for a long time. It is my sincere hope that the Senate will not be a House where this Bill will be defeated or negative when the vote is called.

As it has been said, we know many of our colleagues are outside in some function. We need to lobby many Senators so that they can be here tomorrow to pass this important Bill.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Speaker, Sir, I believe somewhere in the Constitution, I am not very sure, maybe you can help me, this House or Parliament can sit anywhere in the Republic of Kenya. I believe that is constitutional. I think Parliament can sit anywhere? Can it, Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Yes, Senator.

**Sen. (Prof.) Anyang'-Nyong'o:** Yes, it can. I was going to propose that if we, indeed, go for the retreat and we have the requisite numbers, can we sit as a House and pass these Bills? We should urge everybody to go to the retreat then use the retreat to sit as a House and pass these Bills because we shall have the numbers.

We can move a Motion that we exploit the provisions in the Constitution and have Members sit and pass these Bills rather than waiting.

**Sen. Kanainza:** Thank you, Mr. Speaker, Sir. I join my colleagues in asking for a plea from you. This matter about one-third or two-thirds gender rule is not about women. It affects all of us. Right now, we may try to play about it because we are nearing elections, but what happens after the 2017 elections? What happens in the other Parliament if we are not able to elect the one-third or two-thirds gender?

As much as we may look at this Bill or this matter as a women issue, the youth are also affected, together with people living with disabilities. I humbly request that you defer this matter until we have the numbers. I urge my colleagues, both female and male Senators, please, let us save this country. This will at least give a face to the Senators. We will be seen as having been able to do something that is remarkable to this nation. We will be remembered for this important Bill and devolution.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir, for giving me this chance to also add my voice to this very important issue. I empathize with my colleague, Sen. Sijeny, who carries a very important vision that can save this country a lot of money when you put into context the repercussions if we do not pass this Bill, and come next Parliament, we do not observe the two thirds gender rule as it is so called.

Unfortunately, the sympathy that she has drawn is from the wrong quarters because while we sympathize with her, some of us do not have the powers to summon our colleagues into this House.

There are people with responsibilities and as you give guidance today, I think it would be good just to make a point to them that responsibilities are just that. You cannot be called a Majority Whip, have a nice office within the precincts of Parliament but at the most important hour of need where you are needed to whip your colleagues to pass an important Bill like this one, you are nowhere to be seen.

I think as you make your ruling, please spare some tongue-lashing for these people who have let us down.

**Sen. Omondi:** Mr. Speaker, Sir, I join my colleagues to ask that this matter be deferred so that we can have the numbers that can make us pass this Motion.

When we talk about wage bill and having a large number of legislators, I believe that when we have an equal number of male and female legislators, the issue of wage bill



is going to go down and it is going to equalize everything that raises a lot of questions in this country.

I, therefore, join my colleagues to request that we defer it.

**The Speaker** (Hon. Ethuro): Order, Members. Remember there is no debate before you, so do not delve into the merits and demerits of the Bill.

**Sen. Lesuuda:** Mr. Speaker, Sir, I rise to also request you to give us more time. Definitely we know our Whips have the duty to whip us but also many of us who have an interest in this Bill will be able to whip our colleagues so that we can be able to vote on this matter.

As interested parties, we tried to canvass and lobby outside this House, the other day and we will continue to do it and if possible kindly give us a date next week so that we can be able to push our colleagues.

**Sen. Murkomen:** Mr. Speaker, Sir, on the matter of the Gender Bill, it is really very unfortunate on the Constitutional Amendment and I wish Sen. Sijeny was listening.

This is because we in the leadership - I speak for the leadership of Jubilee Coalition - have actually done everything possible to mobilize people to vote. Last time we lost the vote, I realized that there are people who were intentionally absent from voting. Not being available to vote is a vote.

You will realize that we have postponed this thing. There was a time we had a Special Sitting and we should have achieved the numbers that time. Some people, including the leadership on the other side walked to the rest rooms, to evade voting on this matter which means there are some people who are unable to vote "no". They do not want to vote; "yes", "no", or abstain. They have made up their minds that they want this thing to fail but they do not want to be here because they fear public scrutiny.

I wish we were bold enough as Senators to take a stand. If you are voting "yes" or "no" you do so and that is why I take cue from what Senators have said here that you give us one last chance which should be in the glare of the public. If you say we come back tomorrow, Tuesday or Wednesday next week, we will know that those who will not be here will not have been here by choice.

However, it is disheartening that - Sen. Sijeny should take note of this - that our sisters who are here and were nominated to this House for the desire to fight for gender rights were not here last time we voted, are not here today and are not even taking it upon themselves as a matter of course to fight for the cause that brought them here and that will facilitate room for more women to come here. It has been left to us; the champions of women rights to stay here.

Give us another day and I will do everything possible within my powers---

**The Speaker** (Hon. Ethuro): Order, Senator. I appreciate your self-appointed position. I have allowed every Senator who wanted to say one or two things on this matter liberally and you are flogging a dead horse. If there is a better champion of this cause, it is your own Speaker.

On 28<sup>th</sup> December, 2016, when we had a Special Sitting on another matter, I made a deliberate decision to include this particular Bill since I knew we would have captured the numbers that day. In fact, some of the Members of the Senate Business Committee (SBC) even questioned that. We put our case and we succeeded. You can also remember

- I think Sen. Murkomen has mentioned - that I said some of us should be bold enough to say; “yes” or “no”. Some of us were not.

After the Bill was defeated, I brought it back unsolicited and not under anybody’s influence or pressure because I thought it was extremely important. I can only use my power that you have given me. What Sen. Kilonzo Jnr and the rest of you were trying to tell me, unfortunately, is to arrogate myself some other powers that I do not have. Like any other human being, I would like to have those powers. Unfortunately, we are in a democracy. We are in Parliament where we make laws. One assumption we have when making laws is that somebody else is going to implement them and not to break them.

So, last week we put it on the Order Paper on Tuesday and Wednesday. This week we have put it on Tuesday and Wednesday. I have exhausted, to the very limit, all the possible options. So, whatever is happening in court is another arm of government. Let them proceed. Whatever is happening here is our business and we will proceed the way we transact the business.

So, I order that the Division Bell be rung for two minutes.

*(The Division Bell was rung)*

**The Speaker** (Hon. Ethuro): Order, hon. Senators. Time has elapsed. Close the Door and draw the Bar, and then we start voting.

*(The Door was closed and the Bar drawn)  
(Roll call voting in progress)*

## DIVISION

### ROLL CALL VOTING

*(Question, that the Constitution of Kenya (Amendment) Bill  
(Senate Bill No.16 of 2015) be now read a Second Time  
put and the Senators proceeded to vote)*

**AYES:** Sen. (Prof.) Anyang’-Nyong’o; Sen. Chelule; Sen. Cheruiyot; Sen. Elachi; Sen. Haji; Sen. Kanainza; Sen. Karaba; Sen. Kittony; Sen. (Prof.) Lesan; Sen. Leshore; Sen. Lesuuda; Sen. (Prof.) Lonyangapuo; Sen. Mburu; Sen. Mositet; Sen. Murkomen; Sen. Musila; Sen. Mutula Kilonzo Jnr.; Sen. Njoroge; Sen. Okong’o; Sen. Omondi; Sen. Ong’era; Sen. Sijeny and Sen. Wangari.

**Teller of the Ayes:** Sen. Sijeny

**NOES:** Nil.

**Teller of the Noes:** Sen. Cheruiyot

**ABSENTIONS:** Nil.

**The Speaker** (Hon. Ethuro): Order, Senators. The results of the Division are as follows:

**AYES:** 23

**NOES:** 0

**ABSTENTIONS: 0**

The Bill is, therefore, negatived.

*(Question negatived by 23 votes to 0)*

Draw the Bar and open the door.

Next Order!

THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL  
(NATIONAL ASSEMBLY BILL NO.2 OF 2015)

*(By Sen. (Prof.) Kindiki on 3.11.2016)*

*(Resumption of Debate interrupted on 3.11.2016)*

**The Speaker** (Hon. Ethuro): Order, Members. I, therefore, wish to put the Question; that The Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No.2 of 2015 be now read a Second Time.

Ring the Division Bell for one minute.

*(The Division Bell was rung)*

**DIVISION****ROLL CALL VOTING**

*(Question, that the Constitution of Kenya (Amendment) (No.2) Bill  
(National Assembly Bill No.2 of 2015) be read a  
Second Time put and the Senators proceeded to vote)*

**AYES:** Nil.

**Teller of the Ayes:** Sen. Sijeny.

**NOES:** Sen. Chelule; Sen. Cheruiyot; Sen. Elachi; Sen. Kanainza; Sen. Karaba; Sen. Mburu; Sen. Mositet; Sen. Murkomen; Sen. Mutula Kilonzo Jnr.; Sen. Omondi; Sen. Ong'era; and, Sen. Sijeny.

**Teller of the Noes:** Sen. Kanainza.

**The Speaker** (Hon. Ethuro): Order, Senators! The results of the Division are as follows:

**AYES:** Nil

**NOES:** 12

**ABSENTIONS:** Nil

The Bill is negatived.

*(Question negatived by 12 votes to 0)*

THE CONSTITUTION OF KENYA (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO.26 OF 2013)

*(By Sen. (Prof.) Kindiki on 3.11.2016)*

*(Resumption of Debate interrupted on 3.11.2016)*

**The Speaker** (Hon. Ethuro): Order, Senators! I, therefore, wish to put the Question; that The Constitution of Kenya (Amendment) Bill (National Assembly Bill No.26 of 2013) be now read a Second Time.

Ring the Division Bell for one minute.

*(The Division Bell was rung)*

**DIVISION**

**ROLL CALL VOTING**

*(Question, that the Constitution of Kenya (Amendment) Bill  
(National Assembly Bill No.26 of 2013) be read a  
Second Time put and the Senators proceeded to vote)*

**AYES:** Nil.

**Teller of the Ayes:** Sen. Cheruiyot.

**NOES:** Sen. Cheruiyot; Sen. Kanainza; Sen. Karaba; Sen. (Dr.) Khalwale; Sen. Mositet; Sen. Mutula Kilonzo Jnr.; Sen. Omondi; and, Sen. Ong'era.

**Teller of the Noes:** Sen. Ong'era.

**The Speaker** (Hon. Ethuro): Order, Senators! The results of the Division are as follows:

**AYES:** Nil

**NOES:** 8

**ABSENTIONS:** Nil

The Bill is negated.

*(Question negated by 8 votes to 0)*

The doors may be opened and the bar drawn.

Next Order!

KENYA ROADS BILL (NATIONAL ASSEMBLY  
BILL NO.26 OF 2015)

*(By Sen. (Prof.) Kindiki on 15.2.2017)*

*(Resumption of Debate interrupted on 15.2.2017)*

**Sen. Mositet:** On a Point of Order, Mr. Speaker, Sir. Since the Bill is not a Constitutional Bill, I plead with you to defer it to next week, so that we can get more numbers to vote for it. It is a good Bill.

**The Speaker** (Hon. Ethuro): Order, Senators! Standing Order No.54 (3) allows the deferment of the putting of the question to another day.

I, therefore, order that Order Nos.11, 12, 13, 14, 15 and 16 on the Order Paper, be placed on the Order Paper tomorrow.

*(Bill deferred)*

### COMMITTEE OF THE WHOLE

THE COUNTY ASSEMBLY SERVICES BILL  
(SENATE BILL NO.27 OF 2014)

THE NATIONAL CEREALS AND PRODUCE BOARD  
(AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)

THE COUNTY STATUTORY INSTRUMENTS BILL  
(SENATE BILL NO.10 OF 2015)

THE BASIC EDUCATION (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO.35 OF 2014)

THE PRESERVATION OF HUMAN DIGNITY AND  
ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL  
(SENATE BILL NO.8 OF 2015)

*(Committee of the Whole deferred)*

### MOTIONS

APPROVAL OF THE SENATE CALENDAR FOR 2017

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, I beg to move:-

THAT, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2017 (February to August, 2017), laid on the Table of the House on Wednesday, 22<sup>nd</sup> February, 2017.

This is a document that sets out the events in terms of what we, as a Senate, are expected to do. It helps us to be very clear on the dates that we are to be in this House. We know that we are soon going for general elections. We are winding up in terms of our sessions and our activities in this House. With this calendar, we will be able to prepare our contributions adequately.

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Apart from what is provided in this calendar, we also have our regular sitting sessions of the Senate and the committees. We also have Committees which post their schedules of activities online. This helps Senators to know which Committees are meeting and on which day so that they prepare adequately.

It is prudent that this House approves the Senate calendar for purposes of us knowing how to conduct ourselves. This is something that is routine for us to know the schedule of activities and follow it prudently.

Being an electioneering year, it is important that the calendar comes out at this time. This will help us to plan our sessions in terms of when we will be out there in the counties and when we will be back here to transact Senate's business. As we move towards the end of this session, we have constitutional Bills, other key Bills and Motions which we should dispense off immediately in this House.

We also have the Petitions to deal with. Most of these Petitions were referred to relevant departmental Committees for consideration. I am sure those committees are working on those petitions. This calendar helps us to have our formal working plan as a Senate for this session.

I beg to move and I request Sen. Ong'era to second.

**Sen. Ong'era:** Mr. Speaker, Sir, the calendar as submitted by the Mover is a fairly straightforward matter. Therefore, I beg to second.

*(Question Proposed)*

**Sen. Omondi:** Thank you, Mr. Speaker, Sir, for allowing me to make my contribution to this Motion. I want to support the Motion because we need to move from an informed perspective by having a calendar that will direct us on when to be in the House and when to be in our counties meeting our people.

It is important that this House is directed through a calendar that has been approved by Members of the House. For that reason, I support.

**Sen. Mositet:** Thank you, Mr. Speaker, Sir. I also take this time to congratulate the leadership of the House for coming up with a very good schedule of the days and the months which will help us conduct our business. I also congratulate them for giving this House a chance to debate it and amend it, if possible. From that point of view, I support it because hon. Senators will have ample time to tour their counties and take part in the nominations exercise in their political parties.

Mr. Speaker, Sir, it is important to have this calendar because when it comes to special sittings, most of us are inconvenienced. For example, on December 28<sup>th</sup>, 2016 and January 5<sup>th</sup>, 2017, we were summoned through a Kenya Gazette Notice. Our holidays were interrupted and we had to come here. With such a good schedule, I urge the House to try as much as possible to avoid Special Sittings.

With those few words, I support.

**Sen. Kanainza:** Mr. Speaker, Sir, I stand to support the Calendar that is before us. It is also important that we are informed of other activities or events of the Senate on time. This morning we were invited for a retreat to be held tomorrow in Naivasha. This was done through the WhatsApp Group. I do not know if this is a formal way of

communicating to Senators. Therefore, I request the leadership of the House that such communication should be done in a proper manner according to our Standing Orders---

**Sen. Mositet:** On a point of order, Mr. Speaker, Sir. Is the hon. Senator in order when she comes to the House late after you had communicated about the workshop officially and then she stands and questions about WhatsApp which is also a very modern way of communicating? I believe she is in that age group where they appreciate WhatsApp.

**The Speaker** (Hon. Ethuro): Indeed, Sen. Mositet is right. Sen. Kanainza, I wrote letters inviting Senators for that event last week. I did a reminder today and so the WhatsApp group is normally for reminders in addition to the other normal processes.

Proceed, Sen. Kanainza.

**Sen. Kanainza:** Mr. Speaker, Sir, I thank you for informing me. I cannot challenge you but I have not received my invitation yet except for the modern way of communication through WhatsApp.

I support this calendar before us and I believe being our final session in the Senate, and the majority of us are eyeing different seats, we shall have very few of us coming here. I believe we shall give it the best in terms of debate, Motions and Bills that will come before us.

I support.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise to support. However, I have one comment. I notice on the new calendar that after 16<sup>th</sup> of June, we shall remain on recess until 7<sup>th</sup> August, 2017. According to the Constitution of Kenya, Article 102, the life of the Eleventh Parliament and, therefore, the first Senate, expires on 8<sup>th</sup> of August, 2017. Is it true that we are adjourning *sine die*?

I would have thought that the provision that we are adjourning *sine die* would be indicated on the 16<sup>th</sup>, June when we shall adjourn *sine die*. Somebody told me that they pronounce it differently in Spanish but I read it the way I am pronouncing it.

For purposes of the record, I would like that you clarify if I am wrong and if I am right, then let the record capture it properly.

I support.

**The Speaker** (Hon. Ethuro): Maybe, to help Sen. (Dr.) Khalwale, *Sine Die* refers to the period from 6<sup>th</sup> June to 7<sup>th</sup> August, 2017. So the adjournment takes place on the 16<sup>th</sup> of June, 2017 and ends when the term of Parliament expires. So it expires correctly as you have said on the date of the next General Election, whose date is 8<sup>th</sup> August, 2017.

**Sen. (Dr.) Khalwale:** So obliged, Mr. Speaker, Sir.

*(Question put and agreed to)*

#### ADOPTION OF EALA REPORTS AND RESOLUTIONS

THAT, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to Standing Order No.235 laid on the Table of the House on Tuesday, 19<sup>th</sup> April, 2016.

*(Motion deferred)*

ADOPTION OF REPORT ON THE 38<sup>TH</sup> SESSION OF UNESCO  
GENERAL CONFERENCE IN PARIS, FRANCE

**Sen. Karaba:** Mr. Speaker, Sir, I wish that the Senate adopts the Report of the Standing Committee on Education---

**The Speaker** (Hon. Ethuro): Order Senator. Repeat in the normal manner of moving a Motion.

**Sen. Karaba:** Mr. Speaker, Sir, I wish to move the following Motion:-

THAT, the Senate adopts the Report of the Standing Committee on Education on the 38<sup>th</sup> Session of the UNESCO General Conference in Paris, France held at UNESCO headquarters from 3<sup>rd</sup> to 18<sup>th</sup> November, 2015 laid on the Table of the House on 14<sup>th</sup> April, 2016.

The Report which is cited here was on the 38<sup>th</sup> Session of UNESCO in Paris, the capital city of France. As indicated in attendance, we had two Members, Sen. Mohamud the Vice-Chair and Sen. Daniel Karaba the Chairperson.

The Committee is the oversight of the Ministry of Education Science and Technology. We were able to meet quite a number of parliamentarians from other member countries and Kenya was able to be associated closely with the activities of UNESCO during the meeting.

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

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

During the meeting, 95 member states and 9 associate members attended. During the conference, the Committee joined other Kenyan delegates and successfully lobbied for Kenya to be elected to the executive board for the period of 2015 to 2019.

It is worth noting that Kenya was elected in a competitive election where there were eleven African countries for seven seats. Together with Kenya, other African countries that were elected include Cameroon, Cote d'voire, Ghana, Nigeria, Senegal and South Africa. Through the membership, Kenya will be able to contribute and benefit immensely from UNESCO programmes.

The Committee also participated in high level side events on education including Education 2030 Framework for Africa, education to prevent and counter violent terrorism. We also participated in a meeting on preventing and addressing violence and discrimination based on social orientation and gender identity through education.

The committee observed and appreciated the critical role that education played in fighting the menace of extremism and towards tackling the roots of terrorism. It is, therefore, the strong belief of the Committee Members that this will be reflected in the curriculum in the country.

The Committee further noted the achievement that Kenya has made since joining UNESCO, which has seen the upgrading of the UNESCO office in Nairobi into a multi-



sectoral regional office for Eastern Africa serving 13 countries namely; Kenya, Uganda, Tanzania, Rwanda, Ethiopia---

**The Temporary Speaker** (Sen. Mositet): If you are referring to a report, you just need to refer to your notes but not to read word for word.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, that is exactly what I am doing. During that time, Nairobi was named as a centre for multi-sectoral regional office where quite a number of other countries which I have cited would be involved. That includes Uganda, Tanzania, Rwanda, Ethiopia, Djibouti, Comoros, Eritrea, Madagascar, Mauritius, Seychelles, Sudan and Somalia.

While the Committee was there, we were able to make quite a number of observations including when the laptops are to be given to schools, it is necessary to involve the teachers so that they may have the capacity to deliver what is necessary and relevant to the pupils. We also noted that teachers should be promoted on technical education and vocational training so that they can create employment and opportunities for the nation's ever increasing population so that we can handle the technical education that is relevant according to UNESCO.

Mr. Temporary Speaker, Sir, it was also noted that education is a very critical tool in curbing violent extremism. We therefore recommend that education against extremism should be included in the curriculum. Generally, we noted that the Ministry of Education, Science and Technology should work with UNESCO to organise a programme to train teachers on Information, Communication and Technology (ICT) and this should be integrated in the education system. Therefore, every person trained on education should also have computer skills.

We should also have a policy on the laptop project in Kenya where we will be able to track the implementation. It should not be done haphazardly. The laptop project should take a process instead of having it done in some schools. Before it is done, there should be a process which will consider the implementation of this project in terms of sustainability.

Mr. Temporary Speaker, Sir, the Committee also noted that they should integrate age appropriate comprehensive sexual education into the curriculum. We should have sexual education taught or integrated into the curriculum. Therefore, there should be adequate resources in the budget for partially technical education and vocational skills. The education budgetary allocation should make sure that the money is enough to cater for technical education and vocational skills so that education is seen to be a brief by all. The national government should consider devolving infrastructure; buildings and the likes and development funds for primary and secondary schools to counties.

With that, the Committee was satisfied with the development that was taking place in UNESCO. We interacted quite a lot with the other members. UNESCO has three bodies; the general conference, the executive board and the secretariat. Kenya was able to interact with all the three UNESCO bodies. This is a bi-annual conference which is held after every two years. Normally, the Senate and the National Assembly attend because it is good for us. We are grateful that the Senate provided our Committee with the necessary facilitation for the two of us to travel to Paris and as a result came up with this report. It is important to note that more of these interactions should be encouraged so that

Kenya is not seen as an isolated country but as an integrated UNESCO community so that we learn from one another.

The UNESCO is a United Nations (UN) body in charge of education, science and culture. We need to continue participating in the bi-annual event. I beg to move and ask Sen. (Dr.) Zani to second.

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir. I rise to second this Motion. I would like to start by stating the importance of UNESCO in matters education. UNESCO has been in existence for a very long time. It has, at various times given initiative in terms of policy, direction in terms of education and it also does social audits. The forum allowed many educationist to come together to discuss various issues in the various countries who are members of UNESCO. For Kenya and the Kenyan delegation, the forum gave a very important chance to discuss some of the key issues that are pertinent in our own education system. The issue of laptops featured and recommendations have also been given in terms of the way forward for the specific provisions.

Prince Haakon of Norway opened he education symposium and it is important to note that I really admire the way education is taken in the international context because to have such a dignitary come to open the forum, it sent a strong message to the delegates who attended that forum.

Mr. Temporary Speaker, Sir, this particular forum takes place every two years and it is the supreme policy making body of UNESCO. It was good that we had a delegation so that the policy issues that would be discussed can be cascaded back to Kenya. I thank the Committee on Education which I am also a Member, especially the delegation that went for this particular forum, because they came up with this report in a very speedy and concise way. Looking at the issues, they are very critical.

Kenya has also played an important role because they have been elected to the executive board for the period between 2015-2019 which is ongoing for which we have anchored ourselves into UNESCO. That means that we can catapult ourselves in terms of the contributions that we are making. Together with other African countries that have been elected, it gives us a context. I am sure that during the meetings, this must have been a caucus group that met separately and discussed specific issues of education that afflict the African context.

Mr. Temporary Speaker, Sir, it is clearly stipulated that the Committee participated in terms of the forum and the side events in setting up the 2030 Education Framework For Action (EFFA) stipulating the specific areas. The FFA indicates the goals that had been put forward in terms of what needs to be achieved by 2030 which is not very far from now. However, it also cascades various issues such as education for all which is critical. It also looks at the transition from primary to secondary school and the rate of transition. It also looks at the issue of secondary education and the expenses that go into it and the affordability of it. It also looks at quality education which is very critical and moves to other issues such as relevance of university education for the market and the way the courses are able to cascade downwards and meet the market forces. For example if it is an industrial nation, they should focus on industrial programmes. If they are an agricultural nation, they should focus on agricultural programmes. That framework was put together.

Another key component of this side event is education to prevent or counter violent terrorism. The youth are the most vulnerable, especially when it comes to violent terrorism and extremism in general. There is need to approach, cascade and formulate education in such a way that it begins to address the psychological and social context of the one pupil, addressing, for example, issues of integration and to what extent they are committed within their countries.

There are certain countries that have moved on to have a very keen curriculum on patriotism. That is one way of addressing violent extremism. This can be an educational agenda that can slowly pass this information to the young and in the long run help to prevent and counter violent terrorism through education.

The other one that was important but a bit different and unusual in the context of Africa is the meeting on preventing and addressing violence in this violent and discriminatory sexual orientation and gender identity through education. This must have been raised by the western bloc. They have moved into issues of transgender. We have not moved to that extent in our educational systems in addressing it but one vital thing is the issue of gender identity: How people identify themselves to be and what their social construct is. In the African set up, we should look at our social construct in terms of how that blocks us from ascending and being able to break the glass ceiling that is sometimes put there by the society.

In the western world, the idea is about sexual orientation. Whether somebody feels that maybe they are a boy but they want to be considered a girl or whether they are a girl and they want to be considered a boy or whether they are going through transgender. That was another issue. There is also, how to prevent and address this discrimination, especially in societies where it is very critical. Sometimes there is a lot of discrimination when children portray themselves of the opposite gender, and what would have been expected to happen to them. These were key issues. How will the education system address this? It is mainly through a curriculum.

That brings us to an important issue; revision of the curriculum. How often is the curriculum reviewed? Who does the review of the curriculum? How is the reviewed curriculum implemented? Even as Kenya is thinking of adopting and changing its system from an 8-4-4 system to a 6-3-3 system where we will have a cascaded system of various years in education, the key tenet of that structure in terms of changing the education system is perceived as trying to get people more interested in Technical and Vocational Education Training (TVET) because it is very clear, for example, from an economy like Kenya which is a growing economy, we have a situation where we have a lot of unemployment because everybody is geared to the white collar sector yet there are so many other jobs that can be done, either in this context or neighbouring countries where people can go with this sort of skills. That is one element of it.

Another element is to create a whole balanced person so that this person is just not academically oriented. In the new system, we are talking about up to 70 per cent grading and 30 per cent not to be graded, maybe even to be graded on extra curricula activities. We are talking about a reduction of exams; trying to identify the skills and dealing with the creativity of people.

In the process of dealing with this curriculum and identifying how to go about answering these issues, the curriculum is important. I am sure in this Committee, one of

the resolutions that must have come with it is that; one, we should have a review of the curriculum but it needs to be consistent. And even when we will have a structural change all together, it is very important that this has been well thought, in advance, so that you do not mix up students and; two, end up in a very expensive and; three, end up with an expensive venture but not being able to deliver. That is exactly what happened with the 8-4-4 system. We were meant to address more of TVET but it ended up being like formal education. Money had been put into it, schools had bought books and experts had been brought on board to achieve something that probably had not been achieved and many years later, again, we are changing the system. It is very expensive as well.

So, we need to think about it broadly. How do we address the curriculum so that we can effect some of the issues appropriately for the decisions that were made by this Committee, especially in the side event that was attended at that particular time?

One of the issues also that came up; in terms of observation, this is important because this is after the Committee had observed the various achievements that Kenya had made since UNESCO. However, there are specific issues that could have affected Kenya and other countries, for instance, Uganda, Tanzania and Rwanda but looking at this report, it seems very specific to Kenya.

First, was the issue of laptops. Children could not be given lap tops if teachers were not trained. This is the situation we got into. This is another project roll out that has not been well thought through, financed and making promises that cannot be delivered. In this case, we have; one, laptops had not been delivered holistically across the board and; two, teachers might not have been prepared. Three, should we have probably then had a situation where we have for example, desktops and about 20 students, for example, trying to learn from that systematically instead of having student having a lap top and having teachers having to take children through the use of these laptops which they had also not been trained. In this session, it was handled in terms of the teachers in the expertise in teaching and conducting how to use laptops but the whole area of the buildup of capacity to implementation of this project is vital.

The Kenyan case is a case in project appraisal, projection and evaluation. These issues need to be looked at. In terms of a project becoming effective and being able to deliver all those path ways, it needs to be put in place very clearly.

Secondly, is promoting TVET in creating employment opportunities for the nation's ever increasing population. Recently, we have seen more initiatives from the Cabinet Secretary for Education who has been going round to ensure that polytechnics remain polytechnics. We have a situation in which not everybody will qualify to get into the universities. At one time or another, these polytechnics should be well resourced and equipped so that they give relevant information.

In this Committee on Education, we have a chance to go to various communities and counties, and see the level of education in the polytechnics that had been put up. This is the mandate of devolved units. Being in the Senate, one thing that we take care of in the Committee on Education is both Early Childhood Development and Education (ECDE) and polytechnics. It has been impressive. In some counties, it has been taken very seriously.

When we went to Turkana recently, we saw this. For example, we had very well equipped polytechnics that were offering very specific training. We just urged them to

go into the sectors that are important to them. With the discovery of energy, oil and water; that should be the main angle and stream of the sort of training that should come up so that whatever these young people are learning benefits them.

The Committee has made various recommendations. They go along the line of discourse. One is formulating a policy on laptop projects. As I said earlier on, the process should have been looked into, so that there is sustainability of the project way before it was put into place. If this project will be considered in the future, then a clear policy on it has to be brought to the fore right from the beginning. It should have a sustainable angle, so that the direction it goes is clear.

The other key recommendation that this Committee made from the observations that were made at the Committee level was that we need to work with UNESCO in teachers' training on ICT integration in education. Information and Communication Technology cannot be overstated. Various countries have gone way ahead. We are now in the age of an information superhighway and advanced communication. The older generation is struggling with technology, but the younger generation is more up to it. There is no way we can achieve the developmental goals without ICT integration. The Committee on ICT of this House has been doing a lot of work in that direction to ensure that, that happens.

On sexual education, there is need not to shy away from appropriate level of information in sex matters. Some people think that in sex education students will be taught how to do sex. However, it is about health and making the right choices.

Mr. Temporary Speaker, Sir, I request for just two minutes.

**The Temporary Speaker** (Sen. Mositet): You will get one minute.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. That appropriate level of education is key and we should not run away from it.

On the issue of vocational skills, we need to allocate adequate resources. Lastly, the national Government should consider devolving infrastructural development funds. What comes out of the various counties we visit is that what has been devolved is Early Childhood Development (ECD) centres and polytechnics. Most Governors have found it critical to move into the infrastructural part, because we have ECD that is developed with primary infrastructure that has not been developed. Moving forward, as we think about devolution, we need to empower them, so that they can do a little bit more in their counties, which will not contradict the Fourth Schedule. The Fourth Schedule is about policy being a national issue, but the infrastructure can be devolved without causing a lot of havoc in the education sector.

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

*(Question proposed)*

**Sen. Kanainza:** Mr. Temporary Speaker, Sir, we all know that education and training is important to the children and youth of our country or any other society. I want to appreciate the Chairperson and Vice-Chairperson of the Committee on Education who represented us in the UNESCO meeting. Kenya relates well with UNESCO on different matters, including social and human science, culture and communication, as well as education.

We have a report on what was discussed in the conference. We need to ask ourselves what we are doing, as a country, to implement the Education 2030 Framework for Action (FFA) that is before us. Kenya has been spearheading this process in Africa, but most stakeholders in education are not aware of what is happening. I call upon the Chairperson of the Committee to ensure that stakeholders are given information. They should go through this report on what was deliberated on, so that we can deal with the policy gaps that exist between the Education 2030 FFA as well as the Education Sector Plan (ESP) 2013 – 2018. This will enable us to develop strategies that can be used.

We have the Cabinet Secretary, Dr. Matiang'i who is trying to make the education system in Kenya better. In the recent past Kenya was considered one of the best countries in the region to study in, but we now see many Kenyan students going to Uganda, Rwanda and Tanzania for studies. The Ministry of Education, together with the Senate and National Assembly committees on education, need to find out what is not right. One of the recommendations that the Committee on Education came up with from the conference is that the Ministry of Education, Science and Technology should work with UNESCO with regard to teacher training on ICT integration in education.

Our children were promised laptops in 2013. We once visited West Pokot and the children, through a song, said that the Government had not given them laptops. It is a big shame that the Jubilee administration has failed to honour a promise they made to the children. Most of us are parents and know the importance of keeping the promises we make to our children.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. I regret to interrupt the distinguished Senator, but she says that most of us are parents. Could she substantiate what she means when she says that she is a parent?

**Sen. Kanainza:** Mr. Temporary Speaker, Sir, I do not know how best to prove that, but I am a wife and mother. Does the Senator want me to bring my baby to the Senate? I was trying to indicate that once the Government makes a promise to deliver something, it must be done. It is true that Class One pupils in this country were promised laptops and that has not been fulfilled.

We know that there is a pilot project that the Government is undertaking in some schools. We also know that the teachers are not competent in the use of these gadgets. Therefore, training should be fast-tracked, so that we can achieve Vision 2030, as well as the Education 2030 Framework for Action.

The other recommendation was on integrating age-appropriate comprehensive sexuality education into the curriculum, which would contribute to healthy lifestyles and gender equality in education. It is the work of the Kenya Institute of Curriculum Development (KICD) to review the curriculum and I believe they are doing it. We know that substantial funds are allocated to the Ministry of Education, but there is very little that is being done.

We know that counties are in charge of tertiary, technical education as well as vocational skills. Every constituency is trying to set up a technical institution, but it would be important if the Ministry of Education, Science and Technology could streamline this so that we can have a seamless system of education. We should not have many institutions offering the same courses because that will not help our children in this country.

One of the recommendations I have read inside here is that resources of infrastructure for primary and secondary school should be devolved. I want to urge my of Committee of Education that we can spearhead this before we end this Session. This is to make sure that these funds have been fully devolved so that county governments are fully in charge of the infrastructure because we all know the challenge that our schools go through. For example, once there is a fire breakout, they will not run to the Ministry of Education in Nairobi or to the President. They will run to either the area Members of County Assembly (MCA) or the Governor who have been coming in handy to help them. Therefore, this is a good proposal.

I stand to support the Report. Thank you.

**The Temporary Speaker** (Sen. Mositet): Since we do not have more requests and this is not a Motion affecting counties, we only need voice vote. Can I put the question?

**Hon. Members:** Yes.

*(Question and agreed to)*

**The Temporary Speaker** (Sen. Mositet): Next Order.

ADOPTION OF REPORT ON THE SECURITY SITUATION  
IN MANDERA, LAIKIPIA AND KAPEDO

**The Temporary Speaker** (Sen. Mositet): Order No.21 – the Notice has not been given.

**Sen. Ongoro:** On a point of order, Mr. Temporary Speaker, Sir. I am a member of the Committee on National Security and Foreign Relations. I thought the notice had been given.

**The Temporary Speaker** (Sen. Mositet): Yes, it was given by the Chair and the Chair is not in the House. Senator, do you want to move the Motion on behalf of the Chair?

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, yes.

**The Temporary Speaker** (Sen. Mositet): Do you have a seconder?

**Sen. Ongoro:** Mr. Temporary Speaker, yes, I do.

**The Temporary Speaker** (Sen. Mositet): Okay proceed.

**Sen. Ongoro:** Thank you, Mr. Temporary Speaker, Sir. I beg to move:

THAT this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia County and Kapedo (Border Town of Turkana and Baringo Counties) conducted between 19<sup>th</sup> January and 5<sup>th</sup> February, 2015 and laid on the Table of the House on Wednesday, 29<sup>th</sup> July, 2015.

As you are aware, around that time we had a very volatile situation on matters security in that part of the country. Therefore, as the Committee mandated to look into matters security, my Committee undertook a fact finding mission and came up with a report that interrogated the issues that were happening at that time.

When you read that report, you realise that all the issues that were discussed or presented to the Committee are issues that could be handled and tackled very amicably by the security apparatus in this country. The security situation in this country like in this part of the country are actually issues that are so puzzling because most of them have to do with cattle rustling that has been happening for over 50 years. However, with all the security apparatus that we have, it is a puzzle that we cannot just find a way of either having a station or taking these people for training or allowing the Government to support cattle rearing in such a way that no community finds it necessary to attack another community to take their cattle as they call it. They do not call it stealing.

Mr. Temporary Speaker, I support and request Sen. (Dr.) Zani to second.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I rise to second. First, let me start by reiterating matters security have really risen in terms of prominence especially now as we move into the elections period because every time there is some sort of competition then personal interest always comes in. Secondly, matters of security have also escalated because of the drought situation. The reason why I am saying that is that, in counties such as Marsabit, Moyale and Laikipia, we are having shortage of resources especially of pastures because of the drought. As a result of this, cattle rustling has become prominent.

The sort of cattle rustling we are seeing now is not the cattle rustling that used to exist before. It used to be the cattle rustling that was a cultural issue where people used to come in from one community, they take cattle and then another community comes and take that cattle and they return it. It is not the sort of cattle rustling that we are seeing today. This is not to worry because now we find cattle rustling which is involving the usage of weapons, killing of people and we are leaving the cultural rustling as we know it.

In the Joint Committee on Cohesion and Equal Opportunity where I am a Member, we have tried to address this issue from a legal perspective. We have tried to amend the criminal act so that at the end of the day cattle rustling is a criminal act. However, as you know with issues legislation sometimes it becomes difficult. For example, Female Genital Mutilation (FGM) was legislated on, but when it comes to the actual action, there is a problem.

The highlight of this problem was noted in the three counties where this Committee visited specifically in Mandera, Laikipia and Kapedo, overscale to the other counties. In fact, I would not be surprised if this Committee also still has initiatives to go to the various counties to be able to address this problem. One of the issues that have caused a lot of escalation in this is the issue of small arms which are rampant and everybody has this. Many times, people have been asked to surrender these firearms. At times, they surrender but many times, they do not and then it becomes a security issue.

Mr. Temporary Speaker, Sir, another issue is that sometimes the security that is deployed in these areas is scarce. If you are looking at the number and the response in terms of being able to respond to a call for help, it becomes limited and even dangerous. Even those security personnel who are expected to go and address the issue are not able to address because they are worried for their own security. So, you find instances of County Commissioners who have been sent to Counties like Laikipia and Samburu; they do not stay there for a long time. Their average period for staying in a particular county



is about two years after which they move to other counties. This is a dire situation. I am happy and I commend this particular Committee that went out to assess the security situation in these particular counties of Mandera, Laikipia and Kapedo.

Mandera and Moyale counties experience cases of insecurity because of bordering communities or sometimes from the neighbouring countries. For example, you will find that one community stealing cattle from another community, and later on, they also steal from that community. It is a vicious circle.

In Samburu and Laikipia counties, we found it is difficult to address insecurity because some local politicians have been supporting their communities to gain access to pastures. This has escalated cases of insecurity in those particular counties. For a long time, intra-community or intra-county policing has not been successful in addressing the security situation in those areas. This is because when that is done, you find that you have isolated the problems of that county, you deal with them, but in most cases, the same problems recur in other counties.

A problem in Laikipia County might be because people from Samburu County have infringed into Laikipia County people's right and gone back. Residents of Laikipia County do not graze in Samburu County and they will tell you that they have remained within their confines. However, for as long as you do not have an intra-community county experience, where you bring everybody to the table to discuss what the issues are, then it becomes very difficult for these issues to be addressed.

I am afraid that this happens in almost of counties. This situation escalates during drought because of lack of grazing pastures and scarcity of water. The security personnel cannot deal effectively with this situation because they are not well-equipped. They do not have proper housing. Sometime back, there was an initiative to make a review into this particular sector for the military and the police in order to improve their working conditions. A report was prepared and forwarded to the relevant authority. It is important to improve the working conditions of security personnel in those areas so that they become more effective in dealing with conflict situations in those counties.

This report cites Turkana and Pokot boundary as a source of endless conflict. Again, it is because of scarcity of resources for both counties. There is a lot of hostility, suspicion and trepidation. When communities come together, they feel that they should give the other people a chance. Let us try to address this issue and have it solved immediately.

We know of cases where one community fails to honour their agreement with other communities. Most of these agreements do not put a condition that whoever contravenes that agreement is the one who needs to pay a huge penalty. This creates a problem. This leads to situations where one community agrees on a cease-fire, but the other community attacks forcing the other community to revenge. It is worrying when you hear narratives that breastfeeding mothers in communities like Turkana and West Pokot tell their sons or daughters that one day when they grow up, they will kill a Turkana and vice versa. That is the novel of entrenched hatred and suspicion.

It becomes difficult to address this from an administrative point of view only. We need to have a cultural aspect; the local leaders and the communities begin to share experiences on what they can do. This is escalated when there are intra-county boundary disputes which also happen in most of these counties. We had had cases where people

from one county infringe on the other counties and settle down. It is even worse when this is happening in counties with neighbouring countries. We have the case of Moyale County where people from Ethiopia come in because of the porous borders. This is because we have communities who live on one side and they have relatives on the other side who walk in and out.

On the issue of registration and double registration of Identity Cards, you can actually put zero into the system and you get multiple Identity Cards. This is a disaster that we are waiting to happen in this country. We are now thinking of elections and how to win the election. We are giving Identity Cards left, right and centre so as to get the votes without realizing that the process of getting an Identity Card is a vetted process. To get an Identity card, we need to look at the Birth Certificate, the birth rates and we also need to know if one is a Kenyan. If you are going to give Identity Cards to our neighbors, we will have people who will come here, engage in criminal acts and then go back to their countries. We will not be able to control them because of a short-term measure which can become dangerous in the long-term.

One of the observations made in this report was the presence of natural resources such as geothermal or oil which can be a source of conflict. This is an area of natural resources. In areas where resources have been discovered and there is no clear policy of resource allocation, it becomes a centre for conflict. I remember when we were moving the Natural Resources Benefit Sharing Bill, 2014 in this House; these were the issues of consideration. We wanted these communities to feel that these are our resources and we are benefiting from these resources. It actually brings down the level of problems within the specific counties and creates a sense that these issues can actually be addressed appropriately.

Various recommendations have been made. The first one is very important. It states that Parliament should fast-track a setting up of an independent commission as provided in Article 108 to consider county boundaries so that this is addressed, once and for all. It is in this Senate where Sen. Mutula Kilonzo Jnr. was addressing this. He brought a Bill to this House which talks about the county boundaries.

They also state that there is need for political and administrative interventions to solve the problems of overlaps in the system of structure and administration, especially in Kapedo. This is to make sure that we have clear administrative interventions from whichever county. There should also be a clear angle of what these administrative interventions are so as to help them understand what is going on.

We should reach a point in this country where the age of armed raids is a thing for the past. We are talking about a situation where people are killed. We are talking about a situation where many years later, we still have challenges in the security sector which should be looked into. We need to look at the Constituency Development Fund (CDF). This report suggests that they look at how this CDF money can be used to address some of these issues.

Lastly, they have also indicated as an observation and a recommendation moving forward, that police posts need to be adequately facilitated. Most of the time when you want a problem addressed, you will be told that there are no patrol vehicles, they lack petrol or police equipment such as radio for communication. This is an observation that

has been made. The security personnel should be well equipped. If that does not happen, it becomes difficult for them to be effective.

The issue of security should also be looked at from a holistic point of view. The Committee has come up with a number of recommendations. However, moving forward, we need to look at it as a holistic problem. As we move into the election, we need to look at some level of mapping in terms of security matters. What are the issues? How can interventions be made in good time? We also need to know what sort of interventions need to be made. This is because we sometimes have duplication of action where one sector thinks that this is something for the military or the police. We also have armed reservists who can help where numbers have reduced.

As I come to the end, I want to give a case of Laikipia County where there is infiltration of illegal grazers from neighbouring communities to specific farms because of drought. That has caused a big problem in that county. This is because you find somebody comes to graze their cows in another person's maize plantation while firing in the air. Their cows eat the maize and beans that have been planted by a particular family. There is nothing that can be done.

Sometime back, these used to be illegal grazers who would come into the farms because they were looking for ways and means of feeding their cattle. However, as we move on now, these look like armed gangs. They know you are not going to stop them because they have the weapons. You can actually not stop them from doing that.

This is causing a lot of problems because that farmer has put that maize there so that they have something to eat. It becomes a question of choice between who is going to eat this maize. Is it the person who has the cattle because of the importance of cattle for certain communities in Samburu, Laikipia up to Marsabit or the farmer? They must feed the cattle, yet they are infringing on somebody's property?

Various recommendations can be made to control stocks especially during drought. A clear policy should be put in place to control stocking. One organization can come and buy the livestock in advance before everything comes to an end. I think my time is almost up.

I second.

*(Question proposed)*

**Sen. (Dr. Khalwale):** Mr. Speaker, Sir, I rise to support this very important Report that makes a wide range of recommendations on what Parliament and specifically the Senate thought would be a good way to intervene so as to address the issue of unnecessary violence, loss of property, injuring of human beings and loss of lives.

It is amazing; with the benefit of hindsight, I remember 15 years ago in the National Assembly, I moved a Motion intended to address the issue of cattle rustling. At that time, Hon. Poghiso and Hon. Kamama, the current Member of Parliament for Tiatiy opposed, belittled me and said that I was challenging their culture because they claimed that to them cattle rustling was a sport. I remember they said that. I had intended that we amend the Penal Code so as to classify cattle rustling as a capital offence. Currently under the Penal Code, cattle rustling is not given special mention. It is just indicated as an offence associated with robbery with violence.

When these young people are arrested, sometimes they get away with very light sentences. I had hoped that we send a clear message that anybody found engaging in cattle rustling faces punishment the same way that we punish people who engage in robbery with violence. Look at the situation in Baringo; the youth come when they are armed to the teeth, sometimes even with AK47 rifles. They then attack a home, kill people and go away with cattle they have robbed.

How can you be shy to call cattle rustling an offence equal to robbery with violence? That is for another day. I am now pricking the psyche of Hon. Kamama. I hear Hon. Poghiso intends to rejoin Parliament as Senator and I hope he will find time to read the recommendations in this book where on page 49 the Committee has also suggested that we must make legislative intervention. I want to see what intervention they are going to make.

Mr. Speaker, Sir, allow me to refer to a recommendation on page eight where they say that based on the findings of the Committee, it recommends that we increase county border patrols, deployment of more police officers to the area, among other recommendations. They are saying we increase more and more police. This is not a very innovative way of thinking, with due respect to the committee.

The police come in because the problem is there and they are coming to arrest it. To solve this, the answer can only be one; education. We must build more nursery schools, specifically, more primary schools and increase the secondary schools. This is because the children must be educated right from early age that in the modern world, people do not earn a living from cattle rustling but from technical things, be it through computers or standard professions like yours, engineering, medicine and so on or an educationist like the young Hon. Kanainza. We must teach Pokots and Turkanas that that is the future. The future is not in cattle rustling.

As I support this Report, I am aware that on page 50 they have referred to the role of bad politics which they have called political incitement. I support that view. It is true that politicians in some of these areas, specifically, West Pokot, Turkana, Baringo actually incite the youth either to sort out political differences or to be seen to be heroes preparing these young people to know that since this Member of Parliament or politician was funding their raids, he is material for a good leader who should benefit from their votes after they come of age. These politicians must be reined in.

I remember only a few days ago, “Baba”, non-other than “Baba” himself. Can you imagine, Mr. Speaker, Sir? “Baba” went to Turkana and they dared fire at him. If there is anybody in this country who thinks that firing at Hon. Raila Odinga is a good joke, that person better read what became of Rwanda in 1994 when Juvenile Habyarimana was shot. Then you will have reason to respect the fact that people like ‘Baba’. Not that anybody should be shot, but not ‘Baba’.

If you shoot ‘Baba’ he will not go as an individual. He can go with three quarters of the nation. It is a very bad joke. I, therefore, want to condemn all those politicians including the politicians who mobilized goons last weekend against the Orange Democratic Movement (ODM) rally leading to what you all condemned. This kind of stuff cannot be entertained.

By the way, Mr. Speaker, Sir, not that I am going ethnic, please send my greetings to Hon. Nkaissery. If he is still alive and in office, ask him what he is doing about what happened in Turkana. Send him my greetings.

Mr. Temporary Speaker, Sir, pass my greeting to him. It is very serious.

**The Temporary Speaker** (Sen. Mositet): Order, Senator! Are you implying that Hon. Nkaissery is not alive or is not in office? Can you clarify what you mean?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I am tempted to think that we need a special explanation on the whereabouts of the Cabinet Secretary Nkaissery because when he hears the former Mayor of Nairobi, Mr. Aladwa, say in a rally that we are going to defend the victory of CORD and lately NASA, he charges him with hate speech. However, when Nkaissery clearly sees that Mr. Pepee Kitambaa who would have been a Member of Parliament (MP) for Tiaty and a sitting MCA are shot in a pub in Tiaty, Hon. Nkaissery does not open his mouth. Hon. Nkaissery would rather warn us, the people in the Opposition, against talking about the rigging of elections and registering of voters using the National Youth Service (NYS). I therefore wonder if Hon. Nkaissery is alive.

**The Temporary Speaker** (Sen. Mositet): Order, Senator! You understand our Standing Orders properly. You do not need to mention the names of those who cannot defend themselves. You can come up with a Statement or Motion that could be moved in this House.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I am guided. I therefore, wish to commend Hon. Kamama. I am aware that he is reported to have built 15 police stations, posts and patrols in his constituency using the Constituency Development Fund (CDF). However, I would have liked to hear Hon. Kamama condemn the murder of Mr. Kitambaa. His silence is disturbing but I would not go beyond that because you will caution me as you have just done. Allow me to send my condolences to the family of Mr. Pepee Kitambaa and the MCA who were shamelessly and cowardly murdered while relaxing at home.

Mr. Temporary Speaker, Sir, retired President, Daniel Arap Moi, the longest serving president in the Republic of Kenya, whose record shall never be broken unless somebody amends our Constitution, comes from Baringo. During his rule, President Moi presided over levels of poverty and illiteracy in his own home. In fact, he ran away from living at home and came to hide in Nakuru. I think that a law should be written in this country that when a man becomes a head of state, he should be stopped from living outside his county so that he can also be a good example to the children who are born in that county that they can become heads of state.

President Moi ruled this country for so long. When I will be through with the writing of my book, I intend to describe Moi's rule as well as that of Mzee Kenyatta and Hon. Uhuru Kenyatta as leadership of the rich, by the rich and for the rich at the expense of the poor.

Mr. Temporary Speaker, Sir, I would like to speak to the issue of our police officers, our men and women in uniform. In this report, a lot has been written about police officers. Do you recall that on the 15<sup>th</sup> of January last year, gallant sons of this county at El Edde were killed? We only heard from Al Jazeera. We do not know what the

truth is. We heard that around 200 young Kenyans were massacred by al shabaab in El adde.

Mr. Temporary Speaker, Sir, the Commander-in-Chief has never come out to tell Kenyans how many of our soldiers died. He has never given them post humus commendations. We as the Senate and the National Assembly, charged with the responsibility of protecting the interest of the public, we have never been told what kind of compensation the families of these people were given. What is more, recently in Kulbiyow, 68 young Kenyans were murdered by Al Shabaab in Somalia. I ask the following questions to the Jubilee Government. What is it that the Kenya Defence Forces (KDF) is defending in Somalia? Mr. President, soften your heart and allow our youth to come back home. If you want to deploy them, we will support you but deploy them on our borders.

**The Temporary Speaker** (Sen. Mositet): Order Senator! Kindly focus yourself on the debate. You cannot mention the President and things to do with Somalia when we are talking of a report.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I am guided. If you go through this report, they have spoken to Mandera. We all know that the insecurity in Mandera and the deployment of the security forces of Kenya in Somalia, are inseparable. They are like Siamese twins. You are a busy man but one of these days, accompany me to Mandera to see for yourself. When you are there you can easily step into Somalia and you would not know that you are in Somalia. If you take one step, you will find yourself in Somalia; you take another one and you find yourself back in Kenya.

**The Temporary Speaker** (Sen. Mositet): Your time is up.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, kindly give me one minute to conclude. In this one minute, I want to condemn the Commander-in-Chief for being seen in State House dancing with the youth when at the time, he was expected to condole with the families of the 68 military officers who died.

I beg to support this report.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I beg to support this report and thank the Committee for having taken the time to visit the troubled regions of Turkana, Laikipia and Baringo. This region lies in what we call the Saharan region which stretches throughout Somalia, Central African countries including Northern Nigeria. What we learn from Northern Nigeria is that nomadic pastoralism which could be seen as source of problems in Kenya is a well-controlled economy.

The Fulanis who dominate the northern part of Nigeria are capable of maintaining free herding and pastoralism as compared to many countries, including Kenya. That is the difference. What we learn from Nigeria is completely different from Kenya. In Nigeria, the Fulanis move their livestock looking for pasture and water during the dry season, and during the wet season they are allowed to move even as far as Sokoto and the southern parts of Nigeria for free. The people will accommodate that as a system in Nigeria. That is the contrast. That is why we have cattle rustling and related problems in Kenya.

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

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

As Kenyans, we should solve the problems that the pastoralists face in these arid areas. There should be permanent solutions to these problems. This problem has been there since Independence and is likely to be there even in the next decade unless we offer a permanent solution to it.

Madam Temporary Speaker, as the Chairman of the Committee on Education, I strongly believe that the main problem is poor education offered to the children of this region. Whereas in Nigeria, there is transhumance education, in Kenya, most pupils will not go to class. They are left to wander in the semi-arid regions. Some of them will go without food. With that kind of negation, we have problems of survival and neglect. As a result of that, they are prone to quite a number of temptations from natural conditions.

In the said regions of Kenya, the problems emanate from people who are recruited. They suffer and are faced with natural and artificial conditions such that they can bear any problem be it natural or man-made. This is what we are trying to address. The kind of recommendations here are; include the police, buy better weapons, build better roads and so on. However, I believe that the Government should take cue because the kind of education which is offered in these regions is wanting. Children should learn like those in other parts of the Republic.

Noting that the semi-arid region in Kenya is about 70 per cent, we need to pay more attention to the 70 per cent just as we pay to the 25 per cent of the rest of the country. This is our country. We should, therefore, understand the problem. We thank the Government for developing better roads like the ones between Nanyuki and Isiolo up to Moyale and all the way to Garissa, Wajir and Mandera.

Madam Temporary Speaker, besides that, we need to have established boarding schools, where the Government should feed children, provide medical facilities and a proper curriculum which could be different from what others learn here. Children should be taught to observe natural conditions and how to react to certain happenings in such areas. Children here and those in the rest of the Republic should be taught terrorists activities and how to combat them. These are some of things that even the UNESCO, in the Paris Report, has recommended; that children should be well inculcated to learn and understand what happens in some of these areas.

That is what happens in Nigeria. In Nigeria, they know what is likely to happen, for instance, when rainfall is low. They know what it means to move from one region to another. They can adapt to different environments. They either move to the north in pursuit of pasture and water or run away from tsetse flies in the south. They are taught how to adapt to these conditions.

So, in Kenya, we should teach this and make sure that children who are in the northern part of the country are aware of the environment that they face in pursuit of solutions to such problems. When it comes to pastoralism and more so, cattle rustling, it is no longer a tradition, they have to do it. It is so organised that animals are stolen from one region, taken to another region for slaughter and then exported. It is purely for cash economy. That can be controlled. Some of these people are known yet they are never arrested. Why are they not? They should be arrested so that these problems can be curbed. That is how we can solve the problems of the people living in the 70 per cent of Kenya which is arid and semi-arid.

What next for these people? It is as if we are dealing with a desperate region. The Government should provide physical and fiscal facilities so that people in those areas should be seen not to be neglected by the Government. We have swamps like Lorian in Ewaso Nyiro River. The river has an internal delta. In Garissa and Wajir areas, those swamps should be developed so that people can have other sources of income apart from livestock. When that happens, we will be attending to agricultural activities away from pastoralism more so when the climate is harsh.

Reducing the number of livestock or moving them to other areas during the very hot dry times like now can be planned. We should know that during a certain month, areas in the north will be dry. We should not wait until it gets dry. People should be recommended to move. We should have proper and well controlled transportation of animals so that they are sold before they are too emaciated to move on the ground. That is one problem we are facing.

Therefore, the Government should be involved in advising and introducing insurance to the pastoralists so that they can also earn a living. They should wait for livestock to fatten. That is when they can sell them to neighbouring abattoirs. Some of the areas should also have refrigerated wagons so that the animals are slaughtered on the spot and transported in refrigerated form to the consumers in markets in Nairobi, Mombasa and so on.

In the absence of that, people will be so desperate that anything coming to them will be up for grabs. The situation can be dire, for instance, children are not in school, parents have no other economy to depend on apart from pastoralism which is nomadic and children have not been taught how to respond to certain changes in the environment. This has taken Kenya 50 years to deal with. This is not good for a developing nation. This is not the only county facing such problems. As I said earlier, there are other countries like Upper Volta, Guinea, and Senegal but they have ways to tame the environment. That is even one region stretching all the way to Kenya. They have managed to contain their people and control diseases.

If they have managed to detect and foretell that a time will come when there will be shortage of rainfall or no rainfall at all, there should be respective people who should guide the pastoralists. This will ensure that the pastoralists do not live in a hand to mouth economy. They should earn a living like the rest of the Kenyans.

Madam Temporary Speaker, we need not overemphasize what the Government will do or the amount of money to be used in putting up fences or buying wires. That can be controlled if the Government is serious enough to get to the people and advise them on how to cope with the environment and prevent such menaces from arising as a result of either terrorism or change of climate. That is what we should encourage.

Madam Temporary Speaker, we should also encourage the residents of the dry areas to adopt other activities like agriculture. In Mandera, for example, some residents are moving into agriculture. As a result, they have avoided many problems associated with pastoralism. That is what should be encouraged. The Government should come up with a blueprint of developing dry and arid regions. In Sweden and Norway, people live in harsh conditions, but they are assisted by their governments. If you go to Greenland and Iceland the climate is harsh, but people are assisted because they cannot move away. Therefore, the Government should identify with the people of the northern region, so that



we can improve their livelihood. That is what this report is saying. Where it is necessary, we should invest more in the northern region. People who live in arable land, which covers 20 per cent of Kenya, can plan how to till the land. But the people living in areas where the rains are unreliable need to be assisted. That is the kind of assistance we are looking for.

I support.

**Sen. Kanainza:** Thank you, Madam Temporary Speaker. I also stand to support the Report which is on the Floor of the House. This Report was completed in 2015 and the main problem is the border issue in Laikipia, Turkana, Pokot and Baringo. Last week and part of this week, we are still experiencing problems in one of the counties that had already been mentioned. Therefore, the Committee should ensure that the relevant Ministry implements the observations and recommendations that were developed by the Committee.

Madam Temporary Speaker, insecurity is on the rise not only in these places but also in other parts of the country. It is unfortunate that the leadership of Jubilee Government is quiet about it. When we look at the observations, there is wastage of public funds. Sen. (Dr.) Zani said that 15 police posts were built using Constituencies Development Fund (CDF). I wonder if that is the way to spend money meant to develop a constituency. The police posts have been built, yet we do not have officers serving in these posts. This means that this was not done on priority basis. There was no public participation to find out from the people if they needed these police posts.

Madam Temporary Speaker, we have illegal firearms in the hands of the residents. That is why insecurity has escalated from the normal cattle rustling to the use of force and killings. This affects education. How do we expect children in Laikipia, Turkana, West Pokot and Baringo to compete favourably with other children? A solution must be found soon.

Madam Temporary Speaker, the other observation from the Committee is that there is inter-ethnic hostility, which has been witnessed for a long time. There is also political incitement from the leaders. We expect leaders to help restore peace, but they are doing something different. That is why a Senator was engaging--- What is the Commission led by Francis ole Kaparo doing? Up to date, he has not mentioned anything about this.

Recently, we heard about our soldiers who died in El Adde and many other places in Somalia, but the President and Cabinet Secretary are quiet on this matter. There are many young widows; the wives of the soldiers who died in the line of duty. The Jubilee administration should account for what it has done to restore security in this country.

Madam Temporary Speaker, I do not want to talk about the living standards---

**The Temporary Speaker** (Sen. Ongoro): You have one minute.

**Sen. Kanainza:** The police live under poor conditions. They do not get clean water, electricity supply and good housing, yet we expect them to serve our county well. The money that is allocated to the Ministry should be used properly and to improve the living condition of police officers.

I wish to rest my case by saying that the Biometric Voter Registration (BVR) kits were in the wrong hands. The other day we saw them being used in Eastleigh. This issue should be addressed by the leadership of the Jubilee administration.

I support.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, it is now 6.30 p.m.; time to adjourn the House. The Senate, therefore, stands adjourned till tomorrow, Thursday 23<sup>rd</sup> February, 2017, at 2.30 p.m.

The Senate rose at 6.30 p.m.