

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 25<sup>th</sup> January, 2017

The House met at 2.30 p.m.

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

### PRAYERS

**Hon. Speaker:** I have confirmed that we do not have quorum. You may ring the Bell.

*(Quorum Bell was rung)*

We now have quorum. Order, Hon. Members! Those who are taking their seats, please, take your seats.

### COMMUNICATION FROM THE CHAIR

#### BUSINESS THAT LAPSED AT THE END OF THE FOURTH SESSION

**Hon. Speaker:** This Communication No. 002 relates to business that lapsed at the end of the Fourth Session.

Hon. Members, this Communication relates to pieces of legislation and other business that lapsed upon the conclusion of the Fourth Session yesterday, 23<sup>rd</sup> January, 2017. Standing Order 141(2)(b) states:

“A Bill that has been published, read a first time or in respect of which the Second Reading has not been concluded at the end of two consecutive Sessions of Parliament shall lapse at the end of the Second Session and may be republished in the same or different form in accordance with Standing Order 114.”

In this regard, the following Bills have since lapsed-

- 1) The Two-Third Gender Rule Laws (Amendment) Bill, 2015.
- 2) The Election Laws (Amendment) (No. 2) Bill, 2015.
- 3) The Parliamentary Service Bill, 2015.
- 4) The Constitution of Kenya (Amendment) (No. 3) Bill, 2015.
- 5) The Constitution of Kenya (Amendment) (No. 5) Bill, 2015.
- 6) The Constitution of Kenya (Amendment) (No. 6) Bill, 2015.
- 7) The Military Veterans Bill, 2013.
- 8) The Kenya Uwezo Fund Bill, 2015; and,
- 9) The International Crimes (Repeal) Bill, 2015.

Hon. Members, it is imperative to note that in accordance with our Standing Orders, the aforementioned Bills may be re-published, whether by the Members who had earlier sponsored them, or by any other Member or Committee for consideration by the House. Similarly, all

notices of Motions that had been given in the previous Session have also lapsed. This includes Notices of Motion relating to adoption of Reports of Committees as well as individual Members' Motions which are ordinary considered on Wednesday mornings. Committee Chairpersons and individual Members who wish to resubmit the Motions are free to do so following the usual procedures of the House. The House is accordingly guided.

I thank you.

## PETITIONS

### ALLEGED DETENTION OF MR. SILAS KERAGIA MAOSA IN RWANDA

**Hon. Speaker:** This is Petition No.01 of 2017. Pursuant to the provisions of Standing Order 225, I hereby convey a Petition from a Mr. Muriuki Wandeto on behalf of the family of Mr. Silas Keragia Maosa. The Petitioner alleges that a Kenyan citizen has been detained in the Republic of Rwanda based on accusations of embezzlement of resources belonging to a private entity, Gulf Energy Limited.

The Petitioner states that Mr. Maosa, while employed by Gulf Energy Rwanda was arrested, tried, convicted and remain incarcerated in Kigali, Rwanda. The Petitioner further states that the family of Mr. Maosa has been denied access to see him.

In this regard, the Petitioner prays that the National Assembly recommends that the Ministry of Foreign Affairs intervenes with a view to having the family of Mr. Silas Maosa granted permission by the Rwandese authorities to access the detainee and also intervenes to have him repatriated to Kenya.

This Petition, therefore, stands committed to the Departmental Committee on Defence and Foreign Relations for consideration. The Committee is required to consider the Petition and report its findings in accordance with the provisions of Standing Order 227 (2).

I thank you.

I had indication that Mr. Nyamai of Kitui Rural Constituency had a Petition that he wanted to present but he is--- Mr. Nyamai, you are here.

Proceed.

### ALLEGED LOSS OF FUNDS AT ST. AUGUSTINE KANYANGI BOYS SECONDARY SCHOOL

**Hon. C.M. Nyamai:** Hon. Speaker, thank you for the indulgence because I thought I would not make it in time and I had requested for it to be pushed to tomorrow.

I have a Petition by the parents and the Board of Management of St. Augustine Kanyangi Boys Secondary School in Kitui County on the loss of Kshs10 million which was given to the school by the Ministry of Education, Science and Technology.

I, the undersigned, on behalf of the parents and Board of Management of St. Augustine Kangangi Boys Secondary School, draw the attention of the House to the following:

THAT, the Constitution of Kenya entitles every Kenyan child to free and compulsory basic education and obligates the State and parents to facilitate access to quality basic education;

THAT, Kenya's Vision 2030 and Sustainable Development Goals (SDGs) acknowledge quality education and training as vehicles for accelerating our development in the society;

THAT, Kanyangi Boys Secondary School is a public school and is sponsored by the Catholic Church of Kenya;

THAT, it is alleged that in the year 2016, the said school lost Kshs10 million through misappropriation by the then school principal.

THAT, the said principal was transferred from Kanyangi Boys Secondary School under unclear circumstances and further that the Board of Management was not consulted about the transfer exercise and the new principal was posted to the school on 29<sup>th</sup> August, 2016.

THAT, in the recent past, the parents and Board of Management of the school have called for an audit of the accounts of the school to establish the status of the accounts but, unfortunately, the current principal has not co-operated.

THAT, due to the alleged misappropriation of funds, the school is unable to effectively carry out its obligations, amongst them implementation of the proposed projects which were supposed to have been completed by the said amount of money;

THAT, efforts to have the grievances addressed by the Ministry of Education, Science and Technology at the county level have not yielded any results or satisfactory action;

THAT, the issues in which this Petition is made are not pending before any court of law, constitutional or legal body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Education, Research and Technology:

- (i) causes an audit of the accounts of the school and recommends appropriate disciplinary measures for those found culpable;
- (ii) investigates the circumstances under which the principal of Kanyangi Secondary School was transferred to another school even after the loss of Kshs10 million under his watch; and,
- (iii) makes any other order(s) that it deems fit in the circumstances of the Petition.

And your humble Petitioners will ever pray.

**Hon. Speaker:** Very well. The Petition is referred to the relevant departmental committee of the House as indicated.

Next Order.

### PAPERS LAID

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2016, and the Certificates therein:

- (i) East African Portland Cement Company Limited.
- (ii) Industrial and Commercial Development Corporation.
- (iii) Tana Water Services Board.
- (iv) Unclaimed Assets Trust Fund.
- (v) National Communications Secretariat.
- (vi) Kenya Pipeline Company Limited.
- (vii) Bukura Agricultural College.

The Report of the Auditor-General on the Financial Statements of the Judges and Magistrates Vetting Board for the period 31<sup>st</sup> July 2016, and the Certificate therein.

**Hon. Speaker:** Next Order!

**NOTICE OF MOTION FOR ADJOURNMENT  
UNDER STANDING ORDER NO. 33**

INSECURITY IN ARID AND SEMI-ARID AREAS

**Hon. Speaker:** Hon. Kisang.

**Hon. Kisang:** Hon. Speaker, pursuant to Standing Order No. 33(1), I seek leave of the House for the purpose of discussing increased cases of insecurity across the country and especially in arid and semi-arid areas, that has been occasioned by cattle rustling.

Hon. Speaker, increased cases of insecurity has led to loss of lives and livestock, and displacement of hundreds of people in the country. Cattle rustling continues to be a key contributor to insecurity in the larger Kerio Valley Region between the Pokots and the Marakwets communities. Those attacks have negatively impacted on the socio-economic activities in the region and have affected learning as teachers and school children have been forced to flee to safer areas. The ongoing mass voter registration has also been affected and, thereby, denying the residents of Marakwet West and East of their political rights as provided for under Article 38 of the Constitution. The Ministry of Interior and Coordination of National Government is seemingly unable to deal with the menace. I seek for the adjournment of the House in order to discuss this matter of great national concern.

**Hon. Speaker:** Hon. Kisang, do you have the numbers?

**Hon. Kisang:** Yes.

*(Several Hon. Members stood up in their places)*

**Hon. Speaker:** Hon. Members, you may resume your seats. Hon. Kisang, you have the numbers and I will grant you the request. You will be required to move your Motion at exactly 5.30 p.m. today.

**PERSONAL STATEMENT**

RESPONSE TO ALLEGATIONS BY HON. A.B. DUALE

**Hon. Ng'ongo:** Hon. Speaker, since this is my first contribution, allow me to take 30 seconds to wish Members a happy New Year. It will be a very busy year and I wish all of us best of luck because we are all going for various seats. Some are ambitious and want to be governors and senators while others like me want to be in this House for a further five years. I wish you the best of luck in your endeavors regardless of political party affiliations. I rise to issue a Personal Statement.

Pursuant to Standing Order No. 81, I wish to make a Personal Statement regarding some remarks made against me on the Floor of the House by the Leader of the Majority Party, Hon. Aden Duale.

**Hon. Speaker:** Hon. Mbadi, are you rising under Standing No. 81 or 84?

**Hon. Ng'ongo:** Standing Order No. 84. On 23<sup>rd</sup> November 2016, just before we went on the long recess and in my absence, Hon. A.B. Duale made serious allegations that firms associated with me or my relatives benefited inappropriately from the National Youth Service

(NYS) contracts. He went ahead to mention two companies he claimed are associated with my wife, namely; Omos Enterprises and Takawiri Enterprises Limited. I want to clarify that I am not aware of any company registered as Omos or any other such close name associated with me and any member of my family or relatives. Regarding Takawiri Enterprise, I want to put it on record that my wife owns a company registered on 7<sup>th</sup> April 2009 known as Takawiri Limited. I have the certificate of incorporation. I want to come out clearly that the company registered under my wife's name is Takawiri Limited and not Takawiri Enterprises Limited. I have the certificate of incorporation and they cannot be the same. It should be observed that Takawiri Limited remained active from the date of registration, 7<sup>th</sup> April 2009 to August 2012, when it did the last transaction. I am not afraid to give the last bank statement where the last amount that went into that account was Kshs112,500 on 1<sup>st</sup> August 2012, and Kshs110,000 was withdrawn six days later leaving a balance of Kshs5,630. We even forgot that there was a balance in that account because there was no business until when Hon Duale did us some slight justice that we could be having an active account. My wife checked and got a balance of Kshs5,570, which she withdrew and used for our domestic expenses.

I want to repeat that the company remained active until August 2012 when we did the last transaction. It is inconceivable that the company could have benefited in any way from the proceeds of the NYS scandal, which happened much later. The company is not dissolved or wound up. But it is inactive since it is not doing any business. It does not have another account. I dare to challenge anyone to produce any other account. Between 2009 and 2012, the company never did any business with any Government Ministry, department or agency. I want to categorically state that no company associated with me or close family members has ever done business with any Government Ministry, department or agency. It baffles me why my colleague brought this information to the House. His remarks have gone a long way to tarnish my otherwise jealously guarded integrity.

I am not only a Member of Parliament but a serious Chairman of a party. Just in December, following the recommendations from Parliament, this country honoured me with the First Class Honours of the Chief of the Burning Spear. I am a person of integrity and great standing that the President, who I do not share a party with, awarded me as it had been recommended by Parliament. The allegations that were made against me on the Floor were very unfortunate. There is no company associated with me that has received any money. I have never supplied a toothpick to the Government. I welcome anyone with proof to table it.

This was probably meant to intimidate me so that I do not pursue the line I was pursuing as a member of the Public Accounts Committee (PAC) on the issue of NYS. I want to state that I will still follow that issue because I am not tainted and there is no time that anyone associated with me has ever done business with NYS or any Government Ministry, department or agency.

Thank you, Hon. Speaker.

**Hon. Speaker:** Very well explained. That is all you are required to do under Standing Order No. 84. There will be no debate.

## BILLS

### *First Readings*

#### THE DIVISION OF REVENUE BILL

## THE OFFICE OF THE ATTORNEY GENERAL (AMENDMENT) BILL

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

*(Orders for First Readings read - Read the First Time and ordered to be referred to the relevant Departmental Committees)*

**MOTIONS**

## APPROVAL OF THE CALENDAR OF THE HOUSE

**Hon. A.B. Duale:** Hon. Speaker, I beg to move the following Motion:

THAT, pursuant to the provisions of Standing Order 28, this House approves the Calendar of the House (*Regular Sessions*) for the Fifth Session of the Assembly, as contained in the Schedule.

**SCHEDULE**

**PROPOSED CALENDAR OF THE HOUSE FOR THE FIFTH SESSION (2017)  
(STANDING ORDER 28)**

PERIOD	DAYS
<b>Fifth Session: First Part</b>	<b>Tuesday, 24<sup>th</sup> January – Monday, 8<sup>th</sup> May, 2017</b>
<b>A: Sitting Days</b> Tuesday, 24 <sup>th</sup> January – Thursday, 2 <sup>nd</sup> March, 2017 <b>[5 weeks]</b>	Tuesdays (afternoon), Wednesdays (morning and afternoon) and Thursdays (afternoon)
<b>B: Short Recess:</b> Friday, 3 <sup>rd</sup> March - Monday, 13 <sup>th</sup> March, 2017 <b>[10 days]</b>	
<b>C: Sitting Days</b> Tuesday, 14 <sup>th</sup> March – Thursday, 6 <sup>th</sup> April, 2017 <b>[4 weeks]</b>	Tuesdays (afternoon), Wednesdays (morning and afternoon) and Thursdays (afternoon)
<b>D: Long Recess:</b> Friday, 7 <sup>th</sup> April - Monday, 8 <sup>th</sup> May, 2017 <b>[4 weeks]</b>	



Secondly and most important, the publication of all nominated candidates will be done from 10<sup>th</sup> to 17<sup>th</sup> June, 2017, and the submission of party lists to IEBC will be from 10<sup>th</sup> to 24<sup>th</sup> June, 2017.

Hon. Speaker, the third and most important consideration for this House is how to deal with over 15 Bills that ought to be passed by the end of the Session.

It is suggested that the House adjourns *sine die* on or around 15<sup>th</sup> June, 2017 which will be about 54 days to the general elections. Should the House be required to consider any particular business, the Speaker can be requested to recall the House on any sitting day between June 16<sup>th</sup> and August 7<sup>th</sup>, one day to the general election for a special sitting. That is in case of an emergency such as the approval of the Kenya Defence Forces (KDF) if they are required for internal and external matters. So, the House can ideally sit until 7<sup>th</sup> August, 2017. I am sure the Speaker will agree with me that Members will be paid all their dues up to 7<sup>th</sup> August, 2017. This is whether you have lost in the party primaries or not.

The reason for the proposed issues is that 15<sup>th</sup> June can be the last day of Parliament in case of a special sitting. Previous Parliaments adjourned two months before the general elections. Members used to conduct campaigns more freely and more so, interact with their constituencies. It allowed staff to carry out transitional activities in preparations for the next House. From 15<sup>th</sup> June, the staff of the House can do transitional matters for the 12<sup>th</sup> Parliament.

Hon. Speaker, as I stated earlier on, electioneering period is with us and most Members would wish to be away for campaigns. I, therefore, wish to urge Members to continue with their activities in the House especially in the first part of the Session.

As we approach the general elections, we have two important duties to do. One is to make sure that each one of us will have an opportunity to campaign and go to his constituency for his re-election bid. The other key function is your legislative duties as Members of the 11<sup>th</sup> Parliament. So, we expect our colleagues to do a balance between the time allocated for their legislative functions and time allocated for them to do their campaigns. I am sure if we do that, the people of Kenya will see that elections are there and they are a one day affair. But the State and institutions of Parliament, Judiciary and the Executive will function beyond that day.

This is the problem with the Fifth Session of every Parliament. This Parliament is going to lose some time of its five years because of the transition period provided for. This is because we were supposed to go to elections in December, but we are now going to elections in August. I am sure my colleagues will take their time and make sure that the day the nation needs them in the Chamber, they will make that sacrifice. We must work for the people of Kenya. We must oversee, legislate and represent without losing out on anything.

With those many remarks, yesterday, we started with a quorum hitch and this morning, we had serious issues. I am sure this is the time when the whips and leadership must account for the extra allowances we are paid to whip people. So, the whips and the leadership must be around. That is because if they are not here, then the rank and file membership will have very good excuses. So, I really urge the leadership from both sides to be around.

I beg to move and ask Hon. Mwadeghu to second this Motion on the Approval of the Calendar of the House.

**Hon. Speaker:** Let us have Hon. Mwadeghu.

**Hon. Mwadeghu:** Ahsante Mheshimiwa Spika kwa nafasi hii ambayo nimepewa ya kuunga mkono Ratiba ya Bunge na mpangilio ambao umewekwa waziwazi vile Bunge itakavyoendesha kazi zake. Naomba nichukue nafasi hii kuwatahadharisha Wabunge wenzangu. Mmekaa hapa karibu miaka minne na mpaka sasa hamjalewa shughuli za Bunge.



Mara nyingi nimeona Mheshimiwa Spika amesimama na naona Mbunge anatembea tembea ndani ya Bunge. Inamaanisha mpaka sasa hawajachukua nafasi ya kuelewa shughuli na mpangilio wa Bunge. Naomba wakati huu Mheshimiwa Spika hawa Wabunge ambao wamekaa hapa miaka minne na mpaka leo hawajaelewa--- Mmoja alikuwa anasimama mbele yangu wakati nilikuwa ninazungumza akikuzuia usinione.

**Hon. Member:** On a point of order.

**Hon. Mwadeghu:** Mhe. Spika, Mhe. Amina alikuwa anasema kuwa ninawatisha Wabunge. Naomba nirudie yale niliyoyasema hapo jana. Ninarudia Mhe. Amina, na si kwa ubaya vile ulivyokuwa umesisitiza kuwa tusitishie Wabunge. Theluthi themanini kulingana na stakabadhi na vile tunavyoelewa, wengine wenu hamtarudi hapa.

Kwa hivyo, tafadhali wakati umefika---

**Hon. Member:** Wa lala salama!

**Hon. Mwadeghu:** Ni wakati wa lala salama. Wengine mnakunja majavi yenu kabisa, na wengine wanayakunja nusu na watarudi. Kwa hivyo, itategemea uko upande upi. Wengine wetu tumeamua kwa hiyari kwenda kuomba kiti cha ugavana.

Wale ambao mmeamua mnarudi hapa, wakati ndio huu ambao umebaki mchangie kikamilifu ule wajibu ambao mmepatiwa na umma kushughulika katika utungaji sheria na kuwajibika wakati wa ugawaji wa pesa. La sivyo, wengine wenu mtakuwa mnasema mmekaa hapa miaka minne lakina hakuna kitu chochote cha kuonyesha. Lakini wengi wamefanya kazi ya kuridhisha na ninawapongeza.

Mhe. Spika, kazi ambayo imebaki ni nyingi. Kama tulivyoona leo, wakati huu utakuwa mgumu sana kwa viranja kwa sababu mara kwa mara Wabunge watakuwa huko mashinani wakiomba kura. Lakini tumetumia wakati huu vizuri kwa sababu tumejaribu tuwezavyo--- Ninawapongeza Wabunge wenzangu vile wametumia huu muda.

Hata hivyo, kwa muda mfupi ambao umebaki itakuwa ni wajibu wa kila Mbunge kuhakikisha ameangalia wastani wa muda wake. Ni muda upi utatumia kwa shughuli za Bunge na ni upi utatumia kuangalia maslahi na miradi yako ambayo imebaki?

Kwa haya machache, ninaomba kuunga mkono Hoja hii.

Asante, Mhe. Spika.

*(Question proposed)*

**Hon. Speaker:** For your benefit Hon. Members, the Schedule is at the back of the Order Paper.

**Hon. Members:** Put the Question!

**Hon. Speaker:** Very well, I can see the mood in the House is that I put the Question. But it is also good to explain to the membership that---

**Hon. Members:** Gender! Gender!

**Hon. Speaker:** You cannot start shouting "gender" at this hour because this is not about gender. It is still within the powers of the House to amend the calendar for its convenience and depending on the exigencies of business before the House. But nevertheless, the current dispensation is one that requires that this calendar must be gazetted for everyone in the country and elsewhere to see the way the House plans to sit.

*(Question put and agreed to)*

Next Order!

APPOINTMENT OF THE CLERK OF THE NATIONAL ASSEMBLY

**Hon. Speaker:** Let us have the Majority Whip, Hon. Katoo ole Metito.

**Hon. Katoo:** Hon. Speaker, I beg to move the following Motion:

THAT, this House notes the Report of the Parliamentary Service Commission (PSC) on the Recruitment of a Clerk of the National Assembly, laid on the Table of the House on Wednesday, 25<sup>th</sup> January, 2017 and pursuant to the provisions of Article 128 (1) of the Constitution, approves the appointment of Mr. Michael Rotich Sialai as Clerk of the National Assembly with effect from 22<sup>nd</sup> March, 2017.

Hon. Speaker, the PSC is established under Article 127(1) of the Constitution principally to provide services and facilities to ensure the efficient and effective functioning of Parliament. The administrative co-ordination of this mandate is rendered in the Office of the Clerk of the relevant House.

The Office of the Clerk of the Houses of Parliament in Kenya's bicameral Parliament is established by Article 128 of the Constitution which states:

“(1) There shall be a Clerk for each House of Parliament, appointed by the Parliamentary Service Commission with the approval of the relevant House.

(2) The offices of the Clerks and offices of members of the staff of the Clerks shall be offices in the Parliamentary Service.”

The terms and condition of service of the Clerk of a House of Parliament and staff in the Parliamentary Service are contained in the Parliamentary Service Commission Act, 2000 and as revised in 2012.

Allow me, Hon. Speaker to draw the attention of the House to Section 17(1) of the Act relating to retirement and resignation of employees. It states in part: “An employee shall retire from the Service on attaining the age of sixty years.”

Those of us who served in the 10<sup>th</sup> Parliament may recall that on 11<sup>th</sup> October, 2012, the National Assembly approved the appointment of the incumbent Clerk of the National Assembly, Mr. Justin Bundi, CBS. Mr. Bundi is due to retire on 21<sup>st</sup> March, 2017. Conscious of the impending retirement of Mr. Bundi on the date earlier mentioned, the PSC embarked on a competitive process of recruiting a new Clerk to succeed Mr. Bundi as the Clerk of the National Assembly.

On 25<sup>th</sup> October, 2016, the Commission placed an advertisement inviting qualified persons to submit their applications for consideration for appointment as Clerk of the National Assembly. The advertisement was circulated internally and also placed externally in newspapers of the national circulation as required by the law. At the close of the application period, that was on 8<sup>th</sup> November, 2016 a total of five applications had been received.

Consequently, the Commission constituted a panel to shortlist the candidates based on the qualifications set out in the advertisement. The panel's report was considered by the Commission's Board of Management in its 125<sup>th</sup> meeting, held on 3<sup>rd</sup> January, 2017 and thereafter by the Commission's Committee on Staff Welfare on 4<sup>th</sup> January, 2017.

Hon. Speaker, in a special sitting of the Commission held on 11<sup>th</sup> January, 2017 the full Commission considered the Report of the short listing panel together with the Curriculum Vitae (CV) and testimonials of all the applicants.

Having gone through the Report, the Commission was satisfied that other than Mr. Michael Rotich Sialai, EBS, none of the other four applicants met the minimum qualification requisite for appointment as a Clerk of the National Assembly.

The Commission was alive to the fact that the Office of the Clerk of the National Assembly is of high calling. Therefore, notwithstanding that, having been satisfied that Mr. Sialai had met all the qualifications and could be recommended for appointment as the Clerk of the National Assembly, based on its perusal of his CV and testimonials, the Commission sought to interact with him to ascertain the suitability for the appointment to the said position.

Accordingly, the Commission resolved that Mr. Michael Sialai be invited for an oral interview on Tuesday 17<sup>th</sup> January, 2017 at 10.30 a.m. for which the candidate appeared and successfully satisfied a panel of interviewers by posting a convincing score of 84.08 percent as indicated in the Report. On 18<sup>th</sup> January 2017, the Parliamentary Service Commission (PSC) considered the Report of the oral interview panel and resolved as follows:

That, the House notes the Report of the PSC on the recruitment of a Clerk of the National Assembly and pursuant to the provisions of Article 128(1) of the Constitution of Kenya, approves the appointment of Mr. Michael Rotich Sialai, EBS as Clerk of the National Assembly, PSC Scale 17 with effect from 22<sup>nd</sup> March 2017.

Pursuant to the provisions of Article 128(1) of the Constitution, it is now my pleasure, on your behalf as the Chairperson of the PSC, to present to this august House, Mr. Michael Rotich Sialai, EBS, for approval for appointment as the Clerk of the National Assembly, PSC Scale 17, with effect from 22<sup>nd</sup> March 2017. I would like to give a brief background on Mr. Sialai.

Mr. Rotich Sialai was born on 25<sup>th</sup> May 1961 in Kericho County. He went to Sotik High School for his Kenya Certificate of Secondary Education (KCSE) where he obtained Division 1. Thereafter, he proceeded to Friends School Kamusinga for his Kenya Advanced Certificate of Education (KACE) in which he obtained three principals and a subsidiary. Mr. Sialai later joined Kenyatta University and graduated with a Bachelor of Education degree in History and Kiswahili in 1989. He would later return to the same university for a Masters of Art degree in History which he was conferred in 1998.

Mr. Sialai has a long and decorated history in public service. He joined public service as a teacher of History and Kiswahili at Kimulot Secondary School in 1989. Thereafter, he served as an assistant lecturer at Kericho Teachers Training College until 1995, when he was recruited by the Public Service Commission and posted to the National Assembly as a clerk assistant. He served in that position from 1995. During his 21-year service with Parliament, Mr. Sialai has risen through the ranks to the current position of the Senior Deputy Clerk of the National Assembly. Mr. Sialai's service to the parliamentary service in the various capacities he has held is decorated with spectacular achievements that are a testament to his sterling performance. These achievements have been summarised in the Commission Report on its consideration for his suitability for appointment to the position.

Weighing his experience against the responsibility expected of the Office of the Clerk of the National Assembly, the Commission can confidently vouch for Mr. Sialai as a rare blend of all-roundedness that the holder of the Office of the Clerk of the National Assembly ought to possess. He has distinguished himself as an officer who possesses both the administrative and procedural acumen requisite for the steady execution of the functions of the office for which I am moving this House to approve his appointment.

Hon. Speaker, you will agree with me that the promulgation of the Constitution of Kenya in August 2010 heralded a major paradigm shift in the architecture and working of the

Parliament of Kenya. In this regard, Mr. Sialai, having been appointed to chair the task force of staff that led the review of the National Assembly's Standing Orders to accord with the provisions of the new Constitution, successfully and meticulously steered the process. He has also led the team in drafting the Senate Standing Orders.

The candidate that the Commission is proposing to the House for approval today has been tried, tested and prepared by the system. He has been exposed to extensive local and international trainings that have built the kind of capacity that makes him the undisputed heir of the Office of the Clerk of the National Assembly. Among the strategic trainings that Mr. Sialai has undergone are a senior management course in leadership for results programme in Swaziland, transforming leadership seminar at the International Leadership Foundation and the United States of America (USA) Congress Parliamentary Staff Institute training on strengthening of committee operation in Washington, USA, among others. Mr. Sialai has also been attached to various parliamentary jurisdictions of similar, nearly similar or different parliamentary models.

The sterling and illustrious service rendered by Mr. Sialai to Parliament and the nation has earned him recognition within and outside Parliament. In 2010, Mr. Sialai was feted as the third best overall employee of the year by the PSC. Five years later in 2015, on recommendation of the PSC, he was conferred the national award of the Elder of the Burning Spear (EBS) by His Excellency the President. There is no doubt that Mr. Sialai, EBS, has the requisite qualifications, charisma, experience, demeanour and flair of parliamentary work that makes him more suited for the appointment to take over from Mr. Justin Nthiiri Bundi as the Clerk of the National Assembly.

Finally, Hon. Speaker, on your own behalf as the Chairperson of the PSC, allow me to most sincerely appreciate the outgoing Clerk, Mr. Justin Bundi, CBS, for his selfless, dedicated and dynamic service rendered to the National Assembly as its pioneer Clerk under the new Constitution and also as the Clerk of the East African Legislative Assembly (EALA), which is the East African Community's legislative body.

With those few remarks, I beg to move the Motion and urge the House to approve the appointment of Mr. Michael Rotich Sialai, EBS, as the Clerk of the National Assembly with effect from 22<sup>nd</sup> March 2017. I also request the Leader of the Majority Party, Hon. Aden Duale to second.

**Hon. A.B. Duale:** Hon. Speaker, Hon. Amina does not want me to second. She is asking for the Question to be put, but we must discuss the next Clerk of the National Assembly. It is a very important position.

Hon. Speaker, I beg to support the Motion on the appointment of Mr. Michael Rotich Sialai as the Clerk of the National Assembly. From the outset, I would like to thank the PSC for having made a spot-on choice of Mr. Sialai to succeed Mr. Justin Bundi as the Clerk of the National Assembly. I have keenly perused the Report of the Commission on its consideration of Mr. Sialai's suitability for appointment as the Clerk and his curriculum vitae, and I can say without any fear of contradiction that the man Sialai is ripe for this job.

This House is the first one to transact business under the new constitutional order because the House never used to have this opportunity. We used to see clerks in the corridors, but this is the first Clerk whose appointment is being transacted in the House. This is because of the new constitutional order which gave the rules and procedure to ask procedural questions on the suitability of the candidate. The House has an opportunity that any other House never had.

I worked with Mr. Sialai in the 10<sup>th</sup> Parliament when I was a new Member of Parliament. Mr. Sialai is one officer that has amassed an overwhelming wealth of knowledge of workings of

Parliament, its legislative procedures and jurisdictions. I am sure you and your predecessor; at least, I have served under those two Speakers. Mr. Sialai, of course, working with his colleagues in various departments was key in making sure that all the proceedings of the House and its Committees were up to date.

Hon. Speaker, it is no wonder he has and continues to execute his role so meticulously and with demonstrated dedication of ensuring a fair parliamentary procedure and practice. He has built this experience over a time through his exhaustive service in Parliament over the last 21 years.

Most Members here are not aware that Mr. Sialai wrote a Master's thesis when he was very young and it formed part of the authorities which are quoted today internationally in the cases relating and regarding historical injustice against the Talai people of Tinderet. That thesis is used at the International Criminal Court (ICC). I am not a friend of the ICC and I will never be because of the historical injustice ICC has committed against many people. The thesis written by one Michael Rotich Sialai is one of the records which are being used.

As the House approves this officer, I have noted in your Communication that one of the Bills that have elapsed is the Parliamentary Service Commission Bill, 2015. I hope it will be published again soonest for consideration. When it is published, I will bring an amendment. We must have tenure of office for the Clerks of Parliament. It cannot be open ended. The way we have an amendment Bill dealing with the Office of the Attorney-General, every officer must have some tenure. Even CEOs of commission have tenure of office.

Imagine if Mr. Sialai was 40 years old today and will be in this House as the Clerk for the next 20 years until he gets to 60 years retirement age. Having a Clerk serving for 20 years is a long period. Therefore, when the Parliamentary Service Commission (Amendment) Bill will be brought, whether you are 40 or 50 years, if Members of Parliamentary Service Commission feel that you are not up to the task, there must be a procedure for your removal. You cannot give senior positions that room. There are people who are 40, 45 or 50 years and feel that the only time they will leave that office is when they reach the retirement age of 60 years. That Bill will be very crucial.

I have looked at the age of Mr. Sialai. He has about four-and-half years to reach retirement age. So, I am not against him. But in future, we cannot have a Clerk employed at 40 years and the only time he can leave is when he reaches the retirement age of 60 years. That, I think, is not procedural.

It is also important to legislate on the term of Clerks of both Houses of Parliament. They should either serve for two renewable terms or one long term of about five, six or seven years. But it should not be open-ended.

We will also rely on the experience of this officer to guide us on the next review of the rules of procedure of the National Assembly, including proposing the restructuring of our committee system so that Committees are leaner and more efficient.

Therefore, those are the tasks that the new Clerk, Mr. Sialai, will be faced with. Having said that, I also want to take this opportunity to indicate that the current Clerk, Mr. Bundi has served very well during the 11<sup>th</sup> Parliament. We had a different Clerk in the 10<sup>th</sup> Parliament. Mr. Bundi has also served at the East Africa Legislative Assembly. So, he has a wealth of experience. We wish him well and thank him for steering all the various departments of Parliament to greater heights. I take this opportunity to indicate that as leadership of the House we have ultimate faith and confidence on the person of Mr. Sialai whose impartiality and fairness is known to most of us.

I beg to second.

*(Question proposed)*

**Hon. Members:** Put the Question.

*(Loud consultations)*

**Hon. Speaker:** Order, Members! Of course, we appreciate that the current Constitution gives each House the opportunity to express itself on the suitability or otherwise of a person or officer proposed for appointment as Clerk. Therefore, we must also take it as a heavy responsibility that is invested in each House.

Hon. Jakoyo Midiwo.

*(Hon. (Ms.) Abdalla consulted loudly)*

Hon. Abdalla reminds the House that you are also called Washington.

**Hon. Midiwo:** Hon. Speaker, I think, that is her way of saying happy New Year to me. I say happy New Year back to her and the rest of us or House. As you know, it is a new year. We did not enjoy Christmas, but we hope we will enjoy our new year.

What a good time as we go for elections to appoint a new Clerk. I rise to strongly support the appointment of Mr. Sialai.

*(Applause)*

I have been here, I think, this is my 15<sup>th</sup> year and I can say that I know Mr. Sialai up to his home in the village. I have been there. He is a good person.

Most of all, Hon. Speaker, I remember what happened when we let Mr. Gichohi go without proper transition. I want to thank the Commission for struggling to catch up to put something where generally there was nothing. To move a two chamber Parliament, to increase the numbers of Members of Parliament to nearly 500 and the staff, Hon. Speaker, I must thank you and the Commission. This is now a good time so that when a new Parliament will come in September, there will be continuity and we will not be up and down like we were four years ago. This to me is just good order. I know that Mr. Michael Sialai is equal to that task and I know he has the experience.

Without saying too much, I think he fits the job.

I support.

**Hon. Speaker:** Member for Chuka/Igambang'ombe.

**Hon. Njuki:** Thank you, Hon. Speaker. I did not realise that Jakayo Midiwo was finishing. I want to thank you for allowing this debate to take place. There has been a syndrome that is encroaching in this House where Members are in a hurry. They want to go home every time. Everything we bring here is "put the Question." This is a time to be very careful just in case we leave out Members who want to contribute. I want to thank you for that wisdom to allow debate to take place.

I stand today as a Member of Parliament of the outgoing Clerk of the National Assembly, Mr. Justin Bundi, who has served this House with a lot of dedication. He is a very humble and

effective person. I am sure he has done a very good job in training Sialai. Even before I support this appointment, I want to note that Mr. Bundi is retiring but if you look at him, he is a very energetic person. He is a sportsman who has served this country with a lot of dedication. I am bringing the attention of this House that the wealth of experience that Mr. Bundi has will go into waste if he just came home to my village to plant bananas. So, I am hoping that within the premises of this Parliament and having the knowledge that he has, he can still serve in other capacities in this country. I hope that one time, we will find a position for him which is not limited by tags like age of a person when we have an experienced person. There are places like East African Legislative Assembly (EALA) where he served as a Clerk and many others. I hope one day, we will probably give him that opportunity to be able to serve out there.

Having said that, it is the first time in this National Assembly for me, having being here for four years, that I am approving an appointment of a person that I know and that I have worked with. Therefore, I want to say with a lot of confidence that Mr. Rotich Sialai was not only interviewed for a job that he is experienced in but a job that he also enjoys and does it well with his experience. Coming at a time when we are about to exit and give way to the next Session of Parliament, it is the right time to have the man that is going to do a good job as much as Bundi did. I want to congratulate Mr. Sialai for coming top in the interview to be able to get the nomination to this job. I have no doubt having worked with Sialai that working with a bigger National Assembly as compared to the previous years where we had only 210 constituencies, it is only fair that we have a person who has been in the system and understands the system and is able to rely on that experience and the history of what has taken place throughout the transition so as to give a better service. Of course, it would have been possible to have someone else from out there to come and be appointed having passed the interview but I believe having gotten Mr. Michael Sialai is the right thing. I want to sincerely support and wish him all the best in serving this National Assembly.

With those few remarks, I want to support the appointment of Michael.

**Hon. Speaker:** Hon. Dennitah Ghati.

**Hon. (Ms.) Ghati:** Thank you very much, Hon. Speaker. I support Mr. Sialai. For the short time that I have been in Parliament, Mr. Sialai has come across as a very experienced, very composed and very knowledgeable man. I am confident that even as Mr. Bundi goes to our famous Tharaka Nithi County, I am sure that Mr. Sialai will take up the mantle that he is given to him. As I say that, I am confident and I am sure that Parliamentary Service Commission (PSC) has done a good job. It is only good that employees are rewarded from within. Sialai has gone through the ranks, he has learnt the ropes and he will do a good job.

Lastly, I would want to say that even as Mr. Sialai gets elevated to the level that he is going, it is my hope that as we look around the mood of the country, it is only fair that even the other staff that are left behind get opportunities to rise through the ranks by merit, the same way Mr. Sialai has gotten to this position through merit. For me, it is an opportunity to also see that even as we distribute opportunities for Kenyans in this country, we sometimes do not look at one region. I hope that in the years to come and in the history of Parliament, we will have a Speaker from Central, a Clerk from Western, one from Nyanza and another one from Tharaka Nithi.

Having said that, I know Mr. Sialai will do a good job. I support his appointment. Thank you.

**Hon. Speaker:** Hon. Deputy Speaker.

**Hon. (Dr.) Laboso:** Thank you, Hon. Speaker. I rise to support the candidature of Michael Sialai for the position of Clerk of the National Assembly. He fits the Bill. He has the

requisite knowledge, experience and the right temperament for the job. I believe as you have heard so far, all these Members are speaking very highly of him because he handles himself in a very humble way. He knows his business. I believe he is a very passionate servant of the National Assembly.

Mr. Sialai also happens to come from where my mother comes but that is not the reason I am supporting him. The reason I support his candidature is simply because I believe he is the right Clerk. He has worked very hard. All of us have seen somebody who has been here for over 20 years in this National Assembly. Many of us remember with nostalgia all the conferences that we have gone and Sialai gives his presentations and tells you about all the different jurisdictions across the world from where we borrow some of our practices. I want to encourage him and tell him to continue working the way he has been doing.

To our outgoing Clerk, I wish him well and also tell him that he is in time to become a Senator if he so wishes. There is still time. He can prepare himself to come to the field like the rest of us who are now out in the field trying to get several positions that are available in this country. I wish him well as well and pray for God's blessings in whichever area he is going. I wish Hon. Sialai the same.

**Hon. Speaker:** Member for Kisumu West.

**Hon. Aluoch:** Thank you, Hon. Speaker. Mr. Michael Sialai is a career parliamentary staff. In this House, I noticed the Member for Kuresoi South, Hon. Z.K. Cheruiyot, with whom I had the privilege of serving as commissioner in the last Parliament and where we worked very closely with Mr. Sialai. Mr. Sialai seems to be the midway point between the humility of Mr. Bundi and the foxy slyness of Mr. Gichohi from whom Mr. Bundi took over. When I say "foxy slyness", I do not mean to say anything bad about Mr. Gichohi, but that is him.

Hon. Speaker, not many of us will realise that Mr. Sialai served very effectively as a member of the Board of Management of Parliament. Not many of us may remember that what we now see at the Parliamentary Broadcasting Unit (PBU) was set up by a committee that I chaired in the Parliamentary Service Commission (PSC) where Mr. Sialai worked very hard for us to look at how PBUs in the rest of the world operate, which finally ended up with what we now call the PBU in Kenya. It is a brainchild of Mr. Sialai.

Mr. Sialai is coming in as one among equals and that is a fact that he must appreciate. He is coming as Clerk to work as a member of a team of senior staff of Parliament. Whether his colleagues applied for this post or not, he must be able to accommodate them if he is elevated to the post of Clerk. Mr. Sialai is a gentleman that withstands pressure. The post of Clerk of the National Assembly comes with a lot of pressure. From my experience, Mr. Sialai is a man who can withstand pressure and work in a focussed manner. As Clerk of the National Assembly, he will be relating very closely with the Clerk of the Senate, who is the secretary of the PSC. The two of them will be coordinating with the other arms of Government, the Judiciary and the Executive. That calls for the type of level headedness that Mr. Sialai has.

However, Mr. Sialai is taking over at a time when there are very serious challenges facing this House. One of them that I am familiar with is lack of facilities for Members. He is coming in at a time when there is an urgent need for the office block to be completed within the shortest possible time so that in the next Parliament, Members can come to proper offices in the new block so that they fulfil the type of job that they are expected to perform. Mr. Sialai is coming into office at a time when the role of Parliament is under more scrutiny than before. His conduct and the way he is going to lead Parliament will reflect on the membership that we have.

Finally, I support this Motion and I wish Mr. Sialai the best of luck in this position.



**Hon. Speaker:** Hon. Jimmy Angwenyi.

**Hon. Angwenyi:** Thank you, Hon. Speaker. I rise to support this Motion. Mr. Sialai has 21 years' experience within Parliament. He joined Parliament two years before I joined. He has served in five terms of Parliament and he has grown up from an Assistant Clerk to a Senior Deputy Clerk through his exemplary services. Mr. Sialai worked before Parliament was independent. He worked under a regime which took Members of Parliament as messengers who line up every Friday to get part of their salaries at the Office of the President. So, he has all this vast experience and when we formed the first PSC, Mr. Sialai worked with that commission and he gave efficient and effective services. That is why he has been retained over the years. When Mr. Sialai appeared before us as a Commission, he answered all the questions. Actually, I thought he was going to get 100 per cent marks. Somehow, he got the 84 marks, which is also an A plus. This Parliament is fortunate to have that kind of exemplary member of staff. Mr. Sialai is a listener and a team player. He has experience from all over the world and he has imparted it among our staff so that their services have improved. I am sure when he takes over on 22<sup>nd</sup> March, you will see the impact of this exemplary officer.

I also want to say something about the outgoing Clerk, Mr. Bundi. Mr. Bundi has worked very well for the National Assembly and I wish him well. I hope those Members from the Meru community who are here can award him with a Senate seat so that he can come to the Senate and impart knowledge on how Parliament works to the new Members who are going to go to the Senate. I am sure he will be very useful and beneficial to the Senate, if he is elected to represent Tharaka Nithi County. If he represents that county, I am sure he will impart very good knowledge on the Senators. I am going to differ with my leader here, Hon. Mwadeghu. It is not 20 per cent who are going to come back. I believe this time, the way they have worked, the Bills they have passed in this Parliament and the way they have utilised the National Government Constituencies Development Fund (NG-CDF), I am sure about 50 per cent will come back. You might not come back yourself.

*(Laughter)*

However, I can assure you that if we continue with this tempo, 50 per cent of us will come back. With those few remarks, I beg to support.

**Hon. Speaker:** Hon. Chrisantus Wamalwa.

**Hon. Wakungu:** Thank you, Hon. Speaker. I rise to support this Motion and indeed Michael Rotich Sialai is the man who fits the bill. Rotich Sialai went to Friends School Kamusinga, a school that I went to. No wonder he behaves the way he is because in that school, issues of moral values, accountability and responsibility and use of common sense are upheld. Mr. Sialai is very accountable, very responsible and more importantly, he uses common sense. These are the things we were taught when we were in Friends School Kamusinga, even if we went there at different times. Mr. Sialai has the transformative leadership qualities. He is a team player and he is tolerant. Hon. Speaker, for you to work in this Parliament, you agree with me that you must be tolerant the way you are because when the temperatures are very high and you are not tolerant, it can be very hot and you can leave that seat very fast. I have no doubt that with the quality and skills he has, Mr. Sialai is going to take this Parliament to great heights of prosperity. Not everybody gets First Class Honours. He got 84 per cent. This is still First Class Honours. You can see the trend extends. I am sure even this Parliament will be performing 84 per cent or more.

When I was coming in today, I did not know the Motion was coming up and I saw even some staff talking to me about it. That means he is a team player and even the young staff who are down here are yearning for his leadership. This is a very good spirit to show; that even if Mr. Bundi goes away, we have somebody who is going to fit in his shoes. When we came here for the first time during the induction process at Safari Park Hotel, among all the presenters, his presentation skills are wonderful. A good teacher must motivate the students to listen to you. He is very charismatic and knowledgeable. He has been doing research and was doing comparisons with other jurisdictions. This is a good researcher and scholar that Parliament is going to appreciate. If you want to know his knowledge in terms of Standing Orders, you will agree with me that at times when we are in the House Business Committee (HBC), the Leader of the Majority Party and Hon. Nyenze might forget but he will remind them that we passed “ABCD”. Everything is at his fingertips. This is Mr. Sialai, the man who is coming in as the Clerk.

Hon. Speaker, I do not have much to say. Many times, we have had issues. When you call Sialai even in the night, he will receive your call. At times when we have issues and we want to know what to do next and you call him any time, he will receive your call. This is Mr. Michael Rotich Sialai. I have no doubt that he is going to fit in the shoes.

As Mr. Bundi leaves, we wish him well. Mr. Bundi is a humble man; he does not have many words. As he goes to Tharaka Nithi, I know Hon. Angwenyi was wishing him to be the Senator. I do not think he knew that Sen. Kithure Kindiki, the Leader of the Majority Party in the Senate, is the one who comes from Tharaka Nithi. But, let the people of Tharaka Nithi decide. Initially, I thought he would become the Governor of Tharaka Nithi so that he can bring in these transformative qualities. But, Njuki Muthomi told me that he is going for the position of Governor. We are told Njuki Muthomi is likely to be the Governor of Tharaka Nithi. If he gets that seat, he should not forget Justin Bundi. He can be a very good chairman of the County Public Service Board (CPSB). Njuki Muthomi does not need to look far because he is here.

*(Applause)*

Better the devil you know than the angel you do not. We wish him well. He has very good experience. Why not? He can even be the Speaker of Tharaka Nithi County Assembly as he waits in his retirement.

**Hon. Angwenyi:** He should go to EALA.

**Hon. Wakhungu:** Oho! If he is going to the East African Legislative Assembly (EALA), that is also good. If his going to EALA comes on the Floor of this House because we are the ones to pass; we will obviously be here to support Justin Bundi as he goes to do other duties.

As we move on, we have just passed the Calendar. Wherever he is, I know he is listening. He is a good man. I have no doubt that we are going to achieve this calendar with the leadership of Mr. Bundi and your leadership Mr. Justin Muturi our Speaker.

Thank you and I support.

**Hon. Speaker:** Hon. Member for Meru County.

**Hon. (Ms.) Kajuju:** Thank you, Hon. Speaker.

I support this Motion. As I support, I tend to think that we need to pay a lot of our congratulatory messages to the immediate Clerk, Justin Bundi. He has done so well. I remember some of us, when we came into this House; we barely knew exactly what was supposed to be done. Justin Bundi was there to guide us through the processes. He was a keen listener to some

of the issues we raised. I believe wherever he goes, in his next destination, he is going to serve us well in this country.

As I come to Michael Sialai, I got to know him as a very humble man as well. I look at his service as a person who has been decorated in the course of time. He has been recognised in the Republic of Kenya by none other than His Excellency the President with an award of the Elder of the Burning Spear (EBS). It is because of service in the public service. He has also been recognised by the Parliamentary Service Commission (PSC) as the third overall public servant in 2010.

I also note that he is someone who has institutional memory.

*(Hon. Chepkong'a gestured to Hon. (Ms.) Kajuju)*

That is the Chairman of the Departmental Committee on Justice and Legal Affairs. I do not think anything is unjust with what I have said. When I look at Article 127 of the Constitution and the mandate of the Clerk of the National Assembly, I realise that Sialai is the right candidate for this job. This being a Parliament that is now expanded with a lot of expectations from the public, I believe Sialai is going to deliver to this country and to the people that we are going to serve.

Therefore, I support this Motion.

**Hon. Maanzo:** Thank you, Hon. Speaker for giving me this opportunity.

**Hon. Speaker:** Just a minute. I can hear a point of order. Hon. Chepkong'a, what is your point of order.

**Hon. Chepkong'a:** Thank you, Hon. Speaker. As you know, I did not intend to oppose, at all, my very good friend – the learned friend from Meru County; Hon. Kajuju. As she knows, we have a very good working relationship; a working relationship, not any other relationship.

*(Laughter)*

**Hon. Speaker:** I thought you are on a point of order.

**Hon. Chepkong'a:** Yes, I am on a point of order. I rise pursuant Standing Order No. 95, that the Mover be now called upon to reply. The reason being, I am seated next to Hon. Kamama. You know there is a very important Motion that we must debate. As you have listened very carefully which I have seen you have been doing Hon. Speaker, everybody has been supporting, including that one who has not spoken by the name of Hon. John Mbadi, my very good friend. In fact, when I stood, he acknowledged and said "that is the right thing to do." Therefore, would I be right to request you to call upon the Mover to reply?

I thank you.

**Hon. Speaker:** Very well. Just to remind you again, the famous refrain by Speaker Lenthall on 8<sup>th</sup> January 1642. So, let us hear from the Member for Makueni.

**Hon. Maanzo:** Thank you, Hon. Speaker for the opportunity.

I rise to support the appointment of Mr. Michael Rotich Sialai. For the time I have worked with him, he is of good attitude. He is very much willing to serve. You will find him in his office every time. If he is not there, you can reach him on phone. Every time he is approached by Members when they have an issue, he is able to sort it out.

Therefore, I support his appointment and his positive attitude which contributes to 90 per cent of success. I believe the PSC did a good thing to appoint him. I urge the House to support his approval.

On Mr. Bundi who is going for retirement, he is very good natured, well mannered and he has been very useful to the country. Now that this House is the one which will approve the EALA nominees, I would like to urge the Jubilee side to nominate him for EALA. While he worked there, he is the one who put structures. He will be the best Kenyan to represent Kenya in the EALA. I really wish that could happen to him. I think and want to plead with the House to send him home with that package because it is within our means. I believe wherever he is listening, this is a good proposal to him. I believe he will serve the country much better.

I support.

**Hon. Speaker:** Hon. Members, Hon. Chepkong'a rose in his place claiming that the Mover be called upon to reply. Since it is not the Chair to make that decision, I will put the Question.

*(Question, that the Mover be now called upon to reply,  
put and agreed to)*

Mover.

**Hon. Katoo:** Thank you, Hon. Speaker.

In replying to this Motion, I would like to thank all the Members who got time to contribute. They are all in support of it. They have very kind and nice words for the nominee. Because it seems that is the feeling of the House, I wish to take this early opportunity to congratulate Mr. Michael Sialai and wish him well in the new position that this House is going to approve and also not forget to thank and wish well the outgoing Clerk for the good service he has offered to this House and the nation at large.

I beg to reply.

*(Question put and agreed to)*

**Hon. Speaker:** Congratulations to the incoming Clerk.

## BILL

### *Second Reading*

#### THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

*(Hon. (Dr.) Shaban on 19.10.2016)*

*(Resumption of Debate interrupted on 19.10.2016)*

**Hon. Speaker:** Hon. Shaban, I am informed that you had just concluded moving the Bill and that you were to nominate a person to second you.

**Hon. (Dr.) Shaban:** Yes, Hon. Speaker. I would like to ask Prof. Hellen Sambili to second the Bill.

**Hon. Speaker:** Prof. Sambili to second.

**Hon. (Prof.) Sambili:** Thank you, Hon. Speaker. I rise to second this Bill that proposes to amend the Public Private Partnerships Act, 2013 so as to recognise the county governments as distinct contracting authorities for PPPs. This Bill will make further amendments that will facilitate the functions of the county governments as contracting authorities for PPPs. This is to actualise devolution. I am glad to second this Bill.

Thank you, Hon. Speaker.

*(Hon. (Ms.) Abdalla walked into the Chamber)*

**Hon. Speaker:** Hon. Amina Abdalla, are you not in the Chamber?

*(Question proposed)*

I hope the Members who have put their cards want to contribute to this Bill.

Hon. Jared Opiyo.

**Hon. Opiyo:** Hon. Speaker, that was supposed to be on the other Motion. Thank you.

**Hon. Speaker:** Those who wish to contribute to this Bill, it is a small Bill. You can read it in five minutes, those of you who are fast readers.

The Chair of the Departmental Committee on Finance, Planning and Trade, Hon. Benjamin Lagat.

**Hon. Lagat:** Thank you, Hon. Speaker, for giving me this opportunity to support the Public Private Partnerships (Amendment) Bill, 2016. The PPP Act is a recent law and it is still under implementation. This Bill is meant to fine tune the main Act so that it is implementable.

When the question of PPP was decided, it was meant to fast-track Government initiatives in terms of development by allowing private investors to join hands with the Government so that where the Government may not have the financial resources or expertise, then there is a legal means through which you can attract the private sector to participate jointly with the Government. The PPP Act is supposed to fast-track the development of our country.

Unfortunately, since the main Act was passed we have not seen much in terms of these partnerships. But I have seen a few cases like an advertisement by Kenyatta University (KU) which was requesting for a private person to assist in the construction of hostels. The National Treasury and other ministries should push harder so that we get many people. There are people who have capital and expertise which is supposed to be invested and, therefore, contribute to the benefit of our country.

This Bill being proposed, as it has been mentioned by the Mover together with the seconder of the Bill, is an attempt to ensure that we recognise the county governments as another level of government so that we make a provision on how private investors can negotiate directly with our various county governments and be able to invest in infrastructure in our counties. I want to support it very strongly because when we talk about devolution, this is going to support devolution. We want to see the counties partnering with investors in sports. We want to see counties partnering with investors in terms of health. We want to see counties partnering with the private sector in terms of street lighting, and so many investments which the private sector can do jointly with the county governments.

I am happy with the Bill also because it not only provides that county governments can do negotiations for private partnerships, but it also provides the procedure through which the

counties may enter into negotiations. In particular, Clause 12 of the Bill provides the procedure through which the county governments may engage and come up with proposals for approval. Our country requires joint effort from both private and public sectors to develop faster than it is doing today.

I want to thank the Mover of the Bill and I want to encourage the House to support this Bill so that we also make sure that we see development across the country and not in Nairobi alone.

With those few remarks, I strongly support and request the House to support. Thank you very much, Hon. Speaker.

**Hon. Speaker:** The Member for Muhoroni.

**Hon. Oyoo:** Hon. Speaker, at the outset, may I take this opportunity to wish you and my colleagues happy New Year given that this is the first time I am accessing this microphone.

I want to support this Bill because it very important. It is coming at a time when the country is progressing towards serious devolution. With devolution, our aspiration is to ensure that proper industrialisation is done. This is our intention in this House. I think one of the Bills that we discussed here before was meant to ensure that all existing industries are given to the county governments so that they can see whether they can dispose them of or develop them further.

We believe that with financial inabilities of county governments, it will be very prudent if this Bill is passed and proper legal framework is given so that the county government can have the leeway of either progressing with the industries or disposing them of in a better way. However, the best way would be to engage in private partnership programmes with outsiders or people who have the ability and requisite experience in running such industries. I hope that a lot of legal input will be made so that when this Bill is passed it will be useful to county governments and our Government.

I also believe that the Privatization Commission should halt or go slow on its intention to do a lot of privatisation that it intends to do. This is because most of the companies that the Commission wants to privatise went down because of either inefficient or in ineptitude of sound management or lack of proper finance to ran those companies. However, once this Bill comes into effect and it is done properly, this country and more so county governments will attract better private partners who will come and pair up with them. With those, I think we can resuscitate our industries.

Hon. Speaker, currently, Kenya is not doing very well because we are importing more than we are producing. The country must be reeling under a lot of economic weight because we are not producing much. Kenya has become more of a supermarket. We are importing many things and producing very little that we are exporting.

With this Bill being put in good state, the county government should take a cue and enter into serious private partnership. I believe that while debating this Bill, we should look at the legal loopholes that exist. This is because it is like the governors went to a training school on how to steal together. The management in county governments everywhere is wanting. That is why we have to take this Bill very seriously. Look at the loopholes and tighten them so that when this Bill finally sees the light of the day, it is foolproof and can add the much needed value to the intended aspiration.

Otherwise, I want to say that I support this Bill. Hon. Members should look at it seriously and ensure that it is passed because it will add value to our industrial aspiration.

Thank you very much, Hon. Speaker.

**Hon. M'uthari:** Thank you, Hon. Speaker. I rise to support this Bill on Public Private Partnerships (PPP). This is an important Bill because it clarifies the mechanism and the processes for the partnership. We know the importance of PPP. We have seen cases where it has been carried out effectively. For example, we have seen the development in Kenyatta University. Where the PPP is carried out properly, it can stimulate growth, make work easier, create opportunities and it injects capital in public enterprises or entities. Those projects that should have taken very many years and which should not have been implemented can easily be implemented by using capital from the private sector. In the process, this can easily stimulate and encourage development and growth.

Again, the PPP has a potential for creating systems both at the national and county enterprises which can also bring greater level partnership and professionalism. This could provide greater opportunity in terms of making our country move to the next level. This is because at times the Government may not have resources. What we are seeing within the security sector where the Government is engaging in private enterprises like hiring vehicles is that what was very difficult before appears to be easier in terms of management. Once we have this both at the national and county level, it is easy to have services that are needed by the people of Kenya reach them in a better way. This way, we can move faster towards Vision 2030.

I support this Bill.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Member for Rangwe, the Floor is yours.

**Hon. Ogalo:** Thank you, Hon. Speaker. From the outset, I support this Bill. It is a very important amendment to the Public Private Partnerships Act of 2013. This is because many services are now being offered by counties. If counties are allowed to be also part of the contracting parties that can enter into contracts of PPP, then the overall idea will be quickly devolved across the country. The many projects in counties that cannot be carried out because of the budgetary constraints of those counties can quickly be carried out with the private sector partners.

The general objective of this Bill is clear. This is even stated in the Memorandum of Objects and Reasons. There are other issues that also appear in Clause 4 where we are introducing the new Section 3A. We are saying that the Public Procurement and Asset Disposal Act 2015 shall not apply to the contrary under this Act.

We have to be very careful when doing this. This is because as you realise, from the date this Bill was assented to and the Act came to existence, Parliament has not been briefed appropriately on how many entities have shown interest in projects in Kenya and the response of the authority towards those proposals.

In that case, if the Procurement Act is not being used then there is a possibility of collusion where those who are in the know and control the contracting process, get shareholding in entities that want to enter into PPP in this country. That would deny other people who do not play ball in such arrangements to express interest and be accommodated in partnering with the public in such partnerships.

Clause 4 should be looked at carefully and weighed very closely with interest of Kenyans as to whether partnerships that would cost Kenyans much more can end up being preferred over and above those that would have cost Kenyans much less. If you look at a road where toll stations are going to be erected, there must be an evaluation as to who between the interested parties is going to charge Kenyans lower and who is going to hand over the project to the Kenyan public faster than the others. Who is going to charge Kenyan taxpayer higher interest

rates in working out their financial input in such a project compared to the other interested parties?

So, there must be a clear criterion of evaluating. Parliament should be very strict in ensuring that the PPP Authority reports to Parliament periodically. If possible, it should report annually on who has shown interest in what project and why that project went on or failed to go on. What were the mitigating factors or reasons for stopping an expression of interest and those making an expression of interest go through to contracting?

Hon. Speaker, generally, a county cannot be tied to develop at the rate at which it can access Exchequer or local revenues. For the case of our country, we cannot tie it to develop at the pace at which we collect taxes. This, surely, will not make us compete with our neighbours and other competitors across the world.

We must provide infrastructural services at a pace that can attract more investors to our country and can make us a choice destination for investment capital. To do that, we must promote PPP but be very careful to ensure that we do not end up with the short end of the stick. If this also happens to the counties, Kenyans will access more services faster and our country will develop much faster.

Hon. Speaker, I support this Bill

**Hon. Speaker:** Let us now have the Member for Emurua Dikirr

**Hon. Kipyegon:** Thank you, Hon. Speaker. I would also wish to make a small contribution to this Bill because it is not a very long one. Investments and partnerships with private and public entities are very important and crucial. This is especially at a time when our country and counties are facing serious crisis on matters of management of the little resources we invest in them. It is high time we had a law that would cater for proper partnership.

If you look at a few entities which already have PPP, you will find them making good money, the management is good and the way they are investing is good. You will also realize that they do not make high losses and do not have laxity on employees. They pay good money and there is low rate of corruption in those entities. I believe that this Bill will cure some of the problems that we have in our public institutions. I also believe that a lot of attention should be paid to county governments because possibly those who are there right now and may be the aspiring candidates may not be having the right or proper managerial skills to ensure that there is proper running of those institutions. The PPP will ensure that good or serious management are devolved to those units.

Hon. Speaker, if we can have a situation where most of the parastatals are owned privately in joint partnership with the Government, it will ensure that there is proper management. You will realise that we have had very many parastatals in this country which have collapsed. Some parastatals are still asking for money from the Government instead of making their own money to run their activities. This is because of poor management. There is this belief that when an entity is public, people would think it is theirs at that time when they are appointed to those positions to “eat” from it. This is unlike in private entities where people actually know that the business entity must be properly managed so that it can make profit.

Hon. Speaker, if I was to be asked which areas the Government can have serious partnership, I would point at the parastatals and counties.

Counties have very many resources and opportunities. If they engaged private partners, they would make good progress. I look at my county as a very prospective county even though it is not making serious progress right now. I believe that in future it will make serious progress when we get the right people in those positions. Those are people who can negotiate with both



local and international partners who can help our counties grow. Look at the roads; they can engage private partners to do the roads and they will pay because there are very many activities that are going on those roads.

Look at the universities; we could also engage private universities to partner with county governments so that we can have universities that are tailor-made to provide courses that are geared towards achieving what is in those counties. In counties which have oil, we should train people in courses geared towards those areas. In counties which engage in tourism, we should train people in courses which are geared towards that sector. This will enable us have the right people to do that. I am saying this because I come from a county that is blessed with natural resources and tourism sites. If our county had the equal of Utalii College, it would be training sons and daughters of that county so that they would be working in those areas. The county would benefit from that resource. If that had been done, my county would be great.

Hon. Speaker, I have also been looking at the issue of having an international airport in Narok. Our county can partner with private or international entities to ensure that we get an international airport. When there are travel advisories by most western countries, most tourists do not come to Kenya because they fear Nairobi a lot. But if they were told that they would fly directly to Narok and Masai Mara by extension, which of course, does not have the problem of terrorism and the traffic jam that is experienced in Nairobi, it would create a big opportunity for our county and country. This is because the revenues that we collect from the tourism sector especially from the tourists who visit Narok are of great benefit to this country and county at large.

So, I support the idea of the PPP because it can also cure the corruption that we have in the country. Most Kenyans believe that if I am appointed a Chief Executive Officer (CEO) of a parastatal or a CS of a particular Ministry, I am appointed specifically to make money for myself, my family and the person who appointed me to that position. They forget that those ministries belong to this country, the money pumped into those ministries is taxpayers' money and they have to show value for the money that is invested in those ministries or parastatals. So, if we were to have equal partnership then these institutions would be properly run. We should be learning from private entities like private banks and companies. Private banks rarely go under. If it happens it could be because of some people engaging in money laundering and other activities.

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

*[The Temporary Deputy Speaker (Hon. Omulele)  
took the Chair]*

Hon. Temporary Deputy Speaker, these are things we need to learn as a country, public institutions and as a Government. Sometimes when we are employing these people we normally go for fishing expedition. We appoint CS or CEOs to parastatals from the private sector thinking they will bring those ideas. I remember we have had very serious CEOs who performed very well in private entities but the moment they are appointed to Government positions as CEOs or heads of particular departments they change totally. You wonder whether it was the same person who was managing a private entity. I think it is because of the culture that we have in our country that the moment you are appointed as a CEO, CS or a PS, you are meant to make money out of it. So, those people who are "fished" from the other side come and do the same thing.

I support this Bill. Even as we are doing this, we should also have a culture of patriotism that we belong to this country and we must do good for this and the coming generations.

Thank you, Hon. Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well, we shall now have Hon. Kibunguchy, the Member for Likuyani.

**Hon. (Dr.) Kibunguchy:** Thank you, Hon. Temporary Deputy Speaker. At the outset, I support the amendment to the PPP Act. The concept of devolution in this country has taken roots but I think along the way, we have missed certain steps. I believed and I still do that devolution was meant to do two things. One, bring resources closer to the people, two, look at what is locally available in terms of natural resources and find a way how this can be exploited for the benefit of creating wealth for that county and secondly, for the benefit of creating employment opportunities for our youth. As far as those two are concerned, we have missed that step.

If we bring in the concept of PPPs in our counties that this amendment seeks to do, we will probably start looking at the aspect of exploiting our natural resource. This is because each county has certain resources which can be exploited. If you look at the Coast, you will find that we have the ocean; if you look at Nyanza, you will find that we have Lake Victoria; and if you look at Kakamega which is my county, you will find that we have the famous hills, Kakamega Forest and River Nzoia which borders us with Bungoma and Busia counties. These are natural resources which can be exploited to create employment opportunities for our youth.

Most counties, as we speak now, probably do not have enough financial resources to exploit the natural resources but once we bring in private partners to partner with county governments, this will go along a way in the exploitation of the natural resources.

Finally, let me just touch on two other things. One, it is very sad that we are now on the 52<sup>nd</sup> day and the doctors are still on strike. This is the case and yet this is a devolved function. It is even sadder that our country is going through devastating drought and hunger and yet agriculture is also a devolved function.

Hon. Temporary Deputy Speaker, as a country, it is high time we re-examined ourselves and asked if the counties are really capable of running health, agriculture and water sectors. We need to start those conversations moving forward. Hopefully, you and I, Hon. Temporary Deputy Speaker, will come back in the 12<sup>th</sup> Parliament. We need to sit down and see whether we can start thinking about amending this Constitution.

As a medical doctor, I feel very strongly that it was wrong to devolve health function to counties. I think this function should come back to the national Government so that doctors will be negotiating with one employer instead of 48 employers. This will be much easier. Sometimes when we want to push the CS, Health to the wall, most times we forget that health is a devolved function.

I just wanted to touch on that because these are functions which are devolved and should be catered for by counties but it is like they have lifted their hands and left them to the national Government. If that is the case, let us bring it with its legs, feet, head, neck and everything to the national Government.

With those few remarks, I support this Bill.

**The Temporary Deputy Speaker** (Hon. Omulele): Well noted. We shall now have Hon. Sunjeev Birdi.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Temporary Deputy Speaker. The Public Private Partnerships (Amendment) Bill is very important, short and sweet. It has only 13 clauses which contribute to the amendment of this Act. The 13 clauses are very important.

I call the Public Private Partnership the 3Ps. It will be important in keeping our economy in line with the country's Vision 2030, which is to make Kenya a middle income economy. We can do this by inviting public and private investors to our economy. Our country has generally attracted a lot of attention in the past from private enterprises. We now have 47 counties, and I wish that at some point in time, we will be able to judge all of them on how well they have done. This will make the counties that are lagging behind pull up their socks.

Having a private investor coming to your county will increase opportunities for your area and the economy will grow. The PPP will help the private sector by giving it access to secure long-term investments. You can have private partners who want to multiply their profits and this will give them the opportunity to grow their investments. It is actually opportune for both parties; that is the private and the public sector. We also have to remember that private sectors come on board with some expertise which the public sector does not have. This merger between the public and private sectors brings out better use of local resources in the economy.

In essence, what is the Public Private Partnership (Amendment) Bill doing? It is bringing the element of our counties and what they are. Clause 3 on the application says that it will actually apply on every contract for the design, financing, construction, operation, equipping, management and maintenance of a project. That is basically the gist of this Bill. It highlights who the contracting authority is, and the contracting authority in this case is the county government and national Government.

Hon. Temporary Deputy Speaker, within this Bill, a committee which will be preparing reports and recommendations to the counties will be formed so that they can evaluate the proposals being brought on the table for the counties. That is whether they will be beneficial or not.

All in all, this is a very brilliant Bill that has come at the right time because we need to expedite the growth of our economy to double digits. The advantages of this amendment are far more than I can think of any negativity. I rise to support the 3Ps that is "Public Private Partnership".

Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have Hon. Ken Okoth.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the Public Private Partnerships (Amendment) Bill. It is an important Bill with critical amendments that will help to improve this legislation and framework. We have seen that if we rely on our Government to raise revenue and construct critical infrastructure and other public development projects on its own, it takes a very long time. However, if we are creative and consistent, we can seek competent partners from the private sector who can inject in capital and help us to embrace and do much more in a faster way.

Public Private Partnership is important. It is a model that has been used in many countries. In Kenya, we have not quite scratched the surface of fully exploiting it. It will help our county governments. Our county governments are given the permission and authority to go ahead and take on loans and county and municipal bonds for major projects. I have always been very wary about our county governments committing our whole country and the National Treasury to debts, whether it is from the money markets locally or foreign markets. When they enter into well-scrutinised agreements with oversight of the Cabinet Secretary, the Senate and their own county assemblies, with proper feasibility studies and reports for the viability of the projects, we can get good investors to partner with our county governments and bring to fruition

a lot of the projects much faster. The language is clarified and the framework of our 47 county governments working with the national Government is important.

As I comment on this Public Private Partnership Bill, I am excited. Everybody knows that my focus and passion as a leader in this country is the issue of education. In fact, in Kibra, my policy is *elimu kwanza*, education first. Sometimes I wish we could get public private partners to come in and help us to earn and scale up the schools and the quality of the facilities available. We have some government schools that need repair or that have space that we could run through public private partnerships. In Nigeria and Liberia the governments of Lagos City and Liberia under President Sirleaf embarked on pilot programmes where they are doing a public private partnership for basic education – primary school and secondary school. In this era where we have a very active, creative and foresighted Cabinet Secretary for Education in the name of Dr. Matiang'i, we really need to look and see.

Looking at the Basic Education Bill, it provides for public schools, private schools and then it talks about Alternative Provision of Basic Education and Training (APBET). These were the former non-formal schools or informal schools. APBET is a good point but it is not good enough. We need to go into the basic definition and say that there shall be three types of schools: public schools in Kenya, private schools in Kenya and public private partnership schools in Kenya, where the Government can build a school and invite a private operator to run the school or where a private operator can build the school and invite the Government to run programmes in that school.

We have taken a very bold step in this direction in issues of higher education. You will remember a few months ago, the President and the Kenya Universities and Colleges Central Placement Service (KUCCPS) enrolled 10,000 young people in private universities under Government scholarship. This is a public private partnership where investors can invest in the Mt. Kenya University School of Medicine, the Riara University Law School, the Stathmore University School of Business or the Daystar University School of Communication. Young people can have a choice of a programme that is tailored, important and useful for them and get the Government funding to go to a private university. The investors have built the capacity, the range of choice and spared the Government having to build those universities but giving the students a choice to go to those universities with the benefit of public funding which they can repay later.

We need to look carefully at this and see across our nation where primary schools and secondary schools are suffering or are absent in urban areas in places like Mukuru and Kibra where you do not have enough Government schools. How can we get the people who are already providing public education as public good at the basic level when we talk as a country of sustainable development goals (SDGs)? We used to talk of millennium development goals (MDGs). When we think of those things, where is the role of the private sector in free primary education as a right in our Constitution; as a commitment in Vision 2030; and as a global commitment and an SDG? My argument is that we should have partners like Bridge International which is one of the companies that has a lot of schools in Kenya. They have done market research in some places where they can offer, at a very low cost, education that is technology supported, outcome-based and focused. Their children pass KCPE very well. We really need to look at that model because we are talking about our public education system where a lot of students are not passing in the public school. We need innovation and competition and we should involve public private partnerships in the education sector.

Even at the county level, I come from the County of Nairobi and the County Government of Nairobi had proposed to construct early childhood development (ECD) centres through containers. That plan did not sit very well with parents. I can tell you that in places like Kibra, we want quality facilities for our children. We do not want our children to learn in a container as a school. We want them to have a proper school that is well-built. This is where we seek that in counties like Mombasa, Kisumu and across the country, there should be that innovation and a space, even within education, that you can invite providers to come in, whether they are a faith-based group like the Loreto Sisters or other missionaries who have built a lot of good schools.

We were confirming Mr. Michael Sialai to be the next Clerk and Hon. Chris Wamalwa told us about his background from his youth days at Friends School Kamusinga and the wonderful values he learned there. There are so many Friends Schools. I cannot see why we cannot engage with the Friends' educators and let them think about opening up kindergartens on behalf of the counties where this early childhood education initiative has not been taken on a public private partnership basis. Parents would have wider choice where public schools are failing or not living up to their standards and wasting the opportunity and potential of their children to move. Even if it is the basic capitation per child, it is the right of every child to take that to a private provider that has signed a contract with the Government on certain outcomes.

I had mentioned Hon. Sialai coming in as our next Clerk. I am delighted. I did not get a chance to support him formally when the Motion was being debated because the Mover was called upon to reply. I want to go on record to say that I am excited. He has been a gentleman, a friend and a mentor. Hon. Justin Bundi who is going out has been a wonderful Clerk. I did not know him very well when I first came to Parliament but in the last year or so, we have become very good friends. He has been somebody I can turn to for advice, humour and encouragement. He served as a guest at the opening of a fantastic Constituencies Development Fund (CDF) project in Kibra. He was a chief guest together with the Ambassador of France to open Joseph Kang'ethe Primary School. I wish Mr. Bundi a wonderful retirement where he can write his memoirs and share his leadership experience with the people of Tharaka Nithi and Kenya in general. I also wish Mr. Sialai Godspeed as he takes on this important role through the transition and make sure that he will steer Parliament to greater heights.

I heard that there was a concern that Parliament should not recruit very young people who will be in these positions for too long. I reject that notion. There are so many young energetic people. If you look at the Clerk of the Senate, I do not think he is 50 years old. However, he is competent. He should stay there. People should not be worried and say that only old people who have five years left to retirement should aspire to become a Clerk. Even young people in their 40s, in the spirit of the Jubilee Manifesto should be able to say that we are an inclusive Government and young people can aspire. I pray that in the next Parliament, while Hon. Sialai fits the bill and is a top-notch candidate, I pray for him to succeed in nurturing a new generation of women leaders.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ken, the matters are as exciting as they are and as robust as you are pursuing them, they are matters we have completed. We are all excited for Mr. Sialai. I hope that the Kang'ethe home he came to inaugurate in your constituency was as a result of the Public Private Partnership (PPP). It will serve the people of Kibra well. We have heard you.

I now give this opportunity to Hon. Emmanuel Wangwe, Member for Navakholo.

**Hon. Wangwe:** Thank you, Hon. Temporary Deputy Speaker. Accept my appreciation and best wishes for you in the New Year now that I am meeting you during the third week of the month.

This is a wonderful Bill which at the outset allows me to support it. This is a Bill that enables county governments to engage with the private sector. The purpose of a county government going an extra mile to engage the private sector is simply to enable it access more funding or access more funds for developing the county. When you look at this Bill, it allows or makes a second form of borrowing by county governments. It means therefore, that as you engage the private sector, definitely, county governments are going to pay for consuming the services. Therefore, as the governors would want to tie themselves to the amount they are going to get from the national Government, by passing this Bill, we are going to open the window for them to engage in more services as per the Fourth Schedule which gives them a wider range of activities to undertake within their mandate.

I support this Bill because coming from Kakamega County, which has been getting between Kshs8 to Kshs10 billion a year, money has not been enough to keep them where they are supposed to be.

Kakamega County is the second largest county after Nairobi. The poverty index puts us also very wide and this shows that we are also not really doing very well. Therefore, we need more services today than the funds we get from the national Government. With this Bill the county governments should be able to engage the private sector more so that we are able to meet what we require.

I want to look at Clause 10 of this Bill and make it as a rejoinder in my debate. Clause 10(2) talks about the evaluation team. The proposal in this Bill is that the evaluation team may reject all submissions by bidders where all the binders do not comply with the conditions and requirements specified in the tender documents, should there be a bid. With the passing of this Bill, the Public Procurement and Disposal Act shall not apply while doing contracting of PPP. This condition makes me comfortable to say that, that condition of Public Procurement and Disposal Act has been taken care of. Therefore, it makes me comfortable with the Bill in totality.

What also makes me a bit comfortable with the Bill is Clause 12(5) which says that the county governments shall implement a public partnership project if the project provides value for money. It qualifies the project which the county government shall engage in. This Bill is not just going to give county government a chance to engage in projects which are valueless. It gives a condition that there shall be a project whose value shall be measurable to the money. It also provides that the project shall be determined to be affordable. Therefore, it is a Bill which in itself regulates what the county governments shall do.

Finally, it also says that, and it is a risk statement, that it shall ensure that appropriate risks are transferred to the private party. Governors are elective officials in the county government. The governor may want to engage the county government on behalf of its citizens for a project whose risk is entirely in the hands of the county government. This Bill regulates that whatever happens, the governor must ensure that the risk lies with the private party not the county government. Therefore, this Bill has taken all conditions of investment into account.

Why do I say that this Bill in its totality is good? It is because of the viability of PPP which enjoys professionalism. For example, we have been saying that county governments lack capacity. Once county governments engage in PPPs, it simply means that the party that is coming on board has the professionalism it takes to undertake that kind of project. Therefore, issues of professionalism are of great concern.

There is also need to understand that most investors would want to go for Engineering, Procurement and Construction projects (EPCs) which safeguards the interests of the private investor. The EPC is now gaining a lot of confidence across the world. When you look at the West, it is mainly investing in EPC projects which are getting funding from western companies to go out in the world and look for more contracts. Therefore, we are at an opportune moment. County governments in Kenya stand to benefit more if they engage in EPCs which will tie them up with the PPP arrangements we are passing today. Should this Bill be assented to, I feel that will form the basis on which county governments shall initiate very good projects.

We have requirements, for example, most of the Fourth Schedule projects as itemised under county governments in our Constitution have all not been initiated. This is the opportune moment when the county governments should take advantage of this Bill and create more wealth, investments and more jobs for our people. Once a project has been established in a particular county, definitely, there will be casual labourers and permanent employees and therefore the unemployment ratio of our youth will now reduce. We will engage more of our Kenyans into informal and formal sectors. This is one of the best ways and methods which any government can use to endear itself to its people and create jobs.

Therefore, with that in mind, I beg to support.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall now have Hon. Dennitah Ghati, Member for Migori.

**Hon. (Ms.) Ghati:** Thank you very much Hon. Temporary Deputy Speaker. I like this Bill. From the outset, I would like to say that I am impressed and I am happy with the Bill. I have a background in the NGO management and work. I know the power of private investors and private engagements. For a long time in this country, we have had projects that rely a lot on public and Government procedures. We are all aware how long it takes to do a tender.

So, when I see an opportunity that is going to spur development, it is a Bill that is worth supporting. That is why I support the Public Private Partnerships (Amendment) Bill, 2016.

This Bill is in line with the spirit of devolution because devolution is basically to spur development. It is actually to spur grassroots development. When I look at this, I see it in that line. We have no choice but to engage especially the fact that we have given our 47 counties the authority to help develop our grassroots where we come from. I am happy with the Bill because again, it touches and gives power to the county governments to set up the county Private Public Partnerships (PPP) Committee projects. This is an opportunity for our county governments to ensure that in terms of project identification, project feasibility studies and awarding of tenders PPP Committees at the county levels are engaged.

We should also ensure that even within this Bill, these PPPs are in line with the constitution that looks at the issue of who constitutes these committees at the county. We have to definitely look at the issues of gender, disability and youth so that we ensure that the concerns and issues that these groups and segments of our populations at the county level bring on board are addressed because we want to spur development. As my colleague said, it is an opportunity for our counties to redeem themselves. We have heard counties say they cannot create employment for our young people who roam our streets. We now have an opportunity where county governments are now going to engage private investors. It is an opportunity for counties to create employment for our people who are roaming the streets.

As I said, we need to allow this private expertise that is going to come in. So, the PPP amendment, for me, is very good. I want to applaud what Kenyatta University is already doing.

They are engaging private investors in terms of developing the various infrastructural projects. I see no problem. Since this is something that is in line with our Constitution, it is in line with Vision 2030 and is in line with the vision that we had, it is going to be a very important opportunity for us to develop.

With those few remarks, I want to say that what is basically needed within our counties as we set up the structures and the committees is to ensure that even these structures have those accountability mechanisms. What has been happening in this country is that when we think something, people think corruption, people think how quickly they can be rich and people think how quickly they can loot. We now do not want to use this PPP arrangement and PPP Bill to devolve corruption to county levels.

It is a challenge that is going to be put to the county governments to ensure that we are setting up mechanisms of accountability, even as we source for these private investors. Personally, I know that private partnerships and private development can quickly spur development. I have told you I come from a Non-Governmental Organisation (NGO) background. Therefore, when you are engaging private investors, there is an angle. There is some seriousness that comes with it when you are engaging not necessarily Government or public but private sector. Private engagement usually is development oriented. It is a Bill that I feel has come at the right time. It is a Bill that is in good taste, if we implement and implement it well.

With those few remarks, I fully support the Public Private Partnerships (Amendment) Bill, 2016. Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall have Hon. Member for Siaya.

**Hon. (Ms.) Ombaka:** Thank you, Hon. Temporary Deputy Speaker. I also stand here to support this amendment Bill on PPP. This is a new concept. To me, it is a very positive one in the sense that governments have always worked on their own. They have always done things on their own.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Member for Siaya, just before you get into your submission, I would like the House to note that after your submission, we shall have the Mover replying. So, the Mover should be prepared.

**Hon. (Ms.) Ombaka:** I was saying that in the past, the Government has always worked on its own without partnering with the private sector. It has set its own standards. The standards of governments have never been that professional. Many people think that whatever is private is more of an expert and better than what the government does. When you look at hospitals, one prefers to go to a private hospital, a private university, or some institution that is privately run. So, there is a kind of a standard that private institutions or organisations set. Now, if you are going to have the PPP concept, one begins to see how governments are going to improve because they are coming and working together with private investors. I think that there is hope that the governments, whatever projects they are coming up with, whatever services they are going to offer, by working together with the private sector, then definitely we are going to see an improved set of things happening at the county level.

In my view, it is a good Bill that improves the economy of the counties. Where counties have not had enough funds and the private sector cannot do it, then they can come to an agreement to share the resources that they have. They can share manpower, they can share funds, they can share many other various services and skills. There is going to be an improvement because each partner is coming with his own idea that is going to improve whatever project that he is coming with. It is a great opportunity for economic empowerment at the county level. It is



also a great opportunity to do the right thing the right way working together in partnership with the private sector.

I do not have much to say on this. So far so good. This is a good way and we are moving towards the right direction for our county governments. With those few remarks, I want to support this Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): The Mover, you have 12 minutes to reply.

**Hon. (Dr.) Shaban:** Thank you, Hon. Temporary Deputy Speaker. I want to start by thanking all my colleagues for the contributions they have made towards the Public Private Partnerships (Amendment) Bill, 2016 (National Assembly Bill No. 25 of 2016).

It is important for us to thank the Cabinet Secretary (CS) for thinking it is very important for county governments to be involved in these PPPs. I just want to point out that this should not be the highway for county governments to think that this is the gravy train because of these partnerships. There is no way you would realise full devolution if you create hurdles, which this Bill seeks to remove so that it can be easier for these county governments to enter into partnerships without long processes and unnecessary setbacks. It makes it easier for PPPs to be entered into. This is also to make sure projects are implemented as quickly as possible.

With those few remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall not put the Question to this Bill for obvious reasons. You will recall the ruling of the Speaker early this afternoon that we shall be breaking off at 5.30 p.m. so that we can go into the Motion proposed by Hon. William Kisang. For the convenience and order of the House, although 5.30 p.m. has not reached, I think it is in order now to call upon him to move.

### **MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33**

#### **INSECURITY IN ARID AND SEMI-ARID AREAS**

**Hon. Kisang:** Hon. Temporary Deputy Speaker, I beg to move the following Motion:

THAT, pursuant to Standing Order No. 33 (1), I seek leave of the House for the purpose of discussing the increased cases of insecurity across the country, especially arid and semi-arid areas occasioned by cattle rustling. Increased cases of insecurity have led to the loss of many lives and livestock and displacement of many people in the country. Cattle rustling continues to be a key contributor to insecurity in larger Kerio Valley Region between the Pokots and the Marakwets. These attacks have negatively impacted on the socio-economic activities in the region including affecting learning as teachers and school-going children have been forced to flee to safer areas. The ongoing mass voter registration exercise has also been disrupted, thereby denying residents of Marakwet of the political rights as provided for under Article 38 of the Constitution. The Ministry of Interior and Coordination of National Government is seemingly unable to deal with this menace. I, therefore, seek adjournment of the House in order to discuss this matter of great national importance.

Hon. Temporary Deputy Speaker, for the last 14 years, the communities of Marakwet and Pokot have been living in harmony since 2003 but for some reason, from March last year, the two communities started engaging and in this particular case, our brothers across the other side, the Pokots, seem to be the aggressors. For the last 10 months, the children of Marakwet have not been to school. They have been to school on and off for a while. As a community, we have lost over 1,000 goats and over 500 cattle during this period and learning has been disrupted.

I cite a case that happened just last Sunday, 22<sup>nd</sup> January 2017. The Pokot cattle rustlers killed a young man, Justin, whose body is still in the mortuary and injured one person who is recovering at the Moi Teaching and Referral Hospital. For the last 10 months, we have lost over 30 lives and we need this to come to a stop. As I have said, for the last two months alone, in Aror Ward of Marakwet West, we have lost over 100 cows and over 300 goats and sheep. So, we urge the Government of Kenya. We had requested---

**Hon. Rotino:** On a point of order, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Philip Rotino, what is out of order?

**Hon. Rotino:** The Mover should be able to distinguish between West Pokot and Baringo because the Pokot community lives both within Baringo and West Pokot. He is talking about Aror. Aror is very far from West Pokot. He should distinguish between the two.

**The Temporary Deputy Speaker** (Hon. Omulele): I think Hon. Kipkemoi William, those are geographical areas.

**Hon. Kisang:** These are basically cattle rustlers. It is not the Pokot community. These are cattle rustlers from Baringo County, Tiaty Constituency. For a while, we have requested the national Government, through the Ministry of Interior and Coordination of National Government, because we have seen it looks like they are unable to contain this menace, to help us. We have requested for Kenya Police Reservists (KPR) for the last 20 or 30 years. Recently, they gave us 45 for Marakwet East and 15 for my constituency but these are not enough. The place is vast. Tiaty Constituency is one-and-a-half times the size of Elgeyo Marakwet County. In that particular constituency, there are resources that we have requested the Government to assist. We have requested for about four or five additional police stations but to date, they have not assisted us to put up police stations across the other side so that if there are any cattle rustlers coming to Marakwet side to steal, the police officers across Tiaty would apprehend them. To date, we do not have any of the police stations that we had requested. As the people of Marakwet, we asked the Government for additional 100 KPR to assist us stop this menace. There are also other things that we had requested the Government through the Ministry of Interior and Coordination of National Government, especially the National Police Service. We had requested for two or three motor vehicles along Kerio Valley and Aror so that these will help. We need to know that since schools opened this term, children along Kerio Valley have not gone to school and these are the same candidates who are going to sit for Kenya Certificate of Primary Education (KCPE) and the Kenya Certificate for Secondary Education (KCSE) like everybody else in the country. They will not be able to compete with the rest because they are not sleeping. They are sleeping in caves. They are being chased away by snakes and other things. They cannot sleep in their homes because of fear of attacks.

As I had noted earlier, mass voter registration is ongoing. Members of the Marakwet Community have a right to register as voters but we cannot do this because of fear of attack anytime by the cattle rustlers. What we request the national Government is if the National Police Service is unable to contain this menace, we use the services of Kenya Defence Forces (KDF),

the way they did in Mount Elgon so that we can do an operation to stop this thing once and for all. We need to live in peace because we have lived in peace for the last 10 months. I know what happened in Mount Elgon. The people of Mount Elgon are now living in peace and this is what the Marakwet community require. We want to live in peace. May we use the KDF because they have gone to Somalia and South Sudan and we are not living in our houses? Why can they not come and help us? As the community, we demand from the Government of Kenya to compensate us for the loss of lives and loss of livestock since 1992 because we have lost a lot. I actually lost my brother-in-law who follows my wife in an attack that happened in 1999. So, we demand and we will go to court. If it means going to the International Criminal Court (ICC), we can go to demand our rights as Marakwets.

We ask the Cabinet Secretary for Interior and Coordination of National Government, to step in. We do not know why he has taken too long to come to Marakwet even after loss of lives. He just came recently when the Deputy President came. He should be proactive and work. He should do what he did in 1984 when he was a major general. He needs to do that so that we bring this thing to an end. I want to give a proposal to assist the Government, if they do not have the ideas.

One, I know in 2014/2015, there was a peace caravan across the country. It passed through Samburu, West Pokot, Baringo, Turkana and Laikipia. We need to start a peace caravan between the Pokots and the Marakwets. We need to engage the religious leaders to go across Tiaty Constituency and set up churches and schools so that our brothers and sisters across there may also develop because the National Government Constituencies Development Fund (NG-CDF) is not enough. County governments also need to chip in to assist so that we can develop that part of the country.

Therefore, I move and ask Hon. Patrick ole Ntutu to second.

**The Temporary Deputy Speaker** (Hon. Omulele): You know our rules and procedures. There is no secondment to this. But, I will give this opportunity to Hon. ole Ntutu.

**Hon. ole Ntutu:** Thank you, Hon. Speaker for giving me this opportunity. I also thought there is no secondment on this Motion.

Listening to my good friend Kisang, this country and the Cabinet Secretary (CS) concerned should take seriously what the Hon. Member of Parliament is saying. When you hear that schools have been closed simply because of insecurity, it is not good. I belong to the Departmental Committee on Administration and National Security. We have talked about Marakwet and the Pokot brothers for a long time. For the last four years we have been in Parliament, we have provided the Ministry of Interior and Coordination of National Government with a lot of funding.

In terms of personnel, we recruit 10,000 police officers almost every year. When you hear that children cannot continue with their learning because of insecurity, it is really very shameful.

I remember during the 2013/2014 calendar, there was a lot of terrorism in this country. The Government put up all effort; they put all kinds of machineries on the ground. Right now, we do not have terrorism or, at least, it has gone completely down. But, when we are told that in Marakwet, Pokot, North Eastern or even Narok - which I will discuss in a minute - there is cattle rustling from one tribe to another or from one clan to another, it really begs the question: Are these people serious? I do not believe that they do not have intelligence on what is happening on the ground. In every location, we have a person employed to take intelligence on what is

happening on the ground. Therefore, for them to say that they do not know what is happening, to me, that is pathetic and that is a very bad thing.

When you hear my friend Kisang saying that people have lost lives and properties have been destroyed, either by stealing or cattle rustling, it is really very bad.

In Narok, we are not spared either. For the last six months, we have had two communities killing each other every day. In areas like Pimbiniyet, Tororek, Esoit, Njipship and Junction, there have been killings between the Maasai and the Kipsigis. Up to this moment, nobody seems to be bothered on the menace that is going on there.

The other time we heard the CS for the Ministry of Interior and Coordination of National Government, Hon. Nkaissery saying that there are no killings happening in Trans Mara. Hon. Johana Ngeno and I attended almost four funerals. I really felt bad when I heard a whole Minister who has not stepped there to see the problem saying there is no killing. There has been killing every day. Even today, there is somebody who is being buried simply because he has been killed by somebody else. I think time has come, and I hope my Chairman is listening. We need to call the CS tomorrow to come and explain to us what is happening in Narok because there are reports that people are using guns to kill one another. We should not allow that to happen in our country. The same thing applies in Marakwet and West Pokot. We must tell the CS that if he cannot do what he is supposed to do, he must resign and give somebody else a chance to do the job.

**The Temporary Deputy Speaker** (Hon. Omulele): Give him a minute. Press the intervention.

Members, please not that time allotted is five minutes per Member on this one.

**Hon. ole Ntutu:** Thank you so much, Hon. Temporary Deputy Speaker.

What I am saying Mr. Chairman, I hope you are listening to me. We need to call this CS to our Committee to explain to us. If he cannot do this job, he might as well go and join politics. If he wants to become a spokesperson of the Maasais, he can leave this job because he is failing us as Kenyans.

I want to end there by saying this is not proper. As Members who are affected, personally, I really felt bad today when I was told that the menace that is going on in Narok County cannot be stopped simply because some people, particularly politicians, have realised that most of them are going home. They are inciting people to fight over nothing. There is nothing they are fighting over.

With those very few remarks, thank you and I support.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Members, I see quite a bit of interest in this. You will recall that we have five minutes for every Member. I propose that we just follow the list as it appears here so that everybody will have an opportunity to speak. So far we have 12 requests and we have an hour. So, if we do five minutes each, we shall be able to cover this.

What is out of order Kenneth Okoth?

**Hon. Okoth:** Hon. Temporary Deputy Speaker, will I be in order to request, before it is six O'clock, that we extend the time up to 7.00 p.m. so that all Members get a chance to speak?

*(Loud consultations)*

What is wrong with those 30 minutes? It is national security. It is in our Standing Orders.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Okoth, yes, it is in our Standing Orders. We can extend time, but you will also recall the procedure for that, that if you wanted to do that you would have done it at the beginning of the session. So, I think it is a bit late in the day but we have an hour. Let us see what we can do.

**Hon. Okoth:** Just for clarification, I thought Standing Orders say “before six.” The start of the session is at 2.30 p.m. You can revisit it.

**The Temporary Deputy Speaker** (Hon. Omulele): We will look at the rules. I will make a determination on that in the next few minutes. But, let us make progress in this meanwhile. We shall have Hon. Abass Mohamed, Member for Wajir East.

**Hon. Mohamed Abass:** Thank you, Hon. Temporary Deputy Speaker for the opportunity.

I think this is a very critical and important issue. As we approach election time, there will be lot of insecurity issues. The most unfortunate thing is, every time we hear security issues and insecurities, you hear Pokot-Turkana, Pokot-Marakwet, Pokot and these kinds of things. In other parts of the country, there is a lot of insecurity of course. But, you know it is something that, at least, ends with time. But in this place it has become more or less a chronic thing. It is high time this Government looked for a solution. At this time when we have devolved funds and devolved functions, we should not be having this kind of business. It is high time the leaders came together to discuss and find out the problem. Why must one do cattle rustling?

One other thing; the most unfortunate thing is that cattle rustling is actually a criminal act. We cannot say “cattle rustling,” “cattle rustling” everyday. Anybody who kills, anybody who steals public property is a criminal. This business of camouflaging insecurity in the name of cattle rustling should not be there. It is a criminal act. It is high time the Government took stern action against any perpetrator who kills and steals public property. What is happening is that many schools are now closed. Actually, it is a whole generation in that region that cannot go to school. They cannot go on with their normal lives. Development lags behind. The entire economic system has been interrupted.

This country has enough resources. This country has men and women who are able to control this insecurity. But it seems there is laxity, as my colleague the incoming governor of Narok said. There must be somebody sleeping on the job. It is high time this stopped. The Government must take action against any aggressor who aggresses against other neighbouring communities or who misuses public property. It is high time we stopped hearing this business of cattle rustling every day. It is not a normal life. The life of cattle rustlers must change. There are better things to do. It must change in development, education, at least a good neighbourhood. Somebody must take responsibility. If the leaders in that area are very serious, they will be able to control this business unless it has become an economic activity for some to earn some money. I know it is a way of life where people look for some kind of support from these stolen animals. But this is not a normal business. They cannot undertake this kind of business.

With those few remarks, I beg to support the Mover. Action must be taken. We have chiefs, MCAs, elders. We have people who can control this thing. Somebody must take responsibility. I beg to support.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Okoth, you have a point. Our standing Orders allow us to do that. It would require us to have a Motion on that under Standing Order 30. I will request you to approach the Table so that we can see how to go about that.

Meanwhile, let us hear Hon. Johanna Kipyegon.

**Hon. Kipyegon:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to make my contribution on this Motion. I am a saddened Kenyan for so many things that are happening in this country on matters of security. Just like my brother the Mover of this Motion from those sides of Elgeyo, Marakwet, Pokot, Turkana and those areas which are prone to matters of cattle rustling, I think cattle rustling is the most primitive thing to happen in this country as we speak.

Cattle rustling, cattle theft and all those activities are things that should not be happening in the 21<sup>st</sup> Century. We have a Government that we give money each and every year. We have a Government that has got all the machinery, the police, the AP, the GSU, the NIS, the CID and a whole Ministry. This is a ministry in which we put billions of money and we need value for that money. As we speak people are still dying because of cattle rustling, people are still dying because of cattle theft, people are dying because of useless insecurity issues at the borders.

We should call Gen. Nkaissery to come and tell us and give us a determination on when we will see an end to these problems. Sometimes it hurts us when we see a whole Cabinet Secretary (CS) engaging himself on matters of politics, trying to advise us on what to say and what not to say instead of engaging himself on matters of security. We have ole Kaparo who heads the National Cohesion and Integration Commission (NCIC). This is the person who should be calling politicians out on hate speech. It is not Nkaissery's work. Nkaissery's work is to ensure there is security in this country.

I am very disappointed because even as we speak, just like my colleague from Narok stated, we have had serious problems in Narok: the border between Narok and Kisii, the border between Kilgoris and Emurua Dikirr, the border between the communities who are living in Kilgoris itself. People have been killing each other. When you ask them the reason, somebody tells you it is cattle rustling or cattle theft, somebody tells you it is land – so many fake reasons. The question of cattle theft lies with the administration. It is their job. We pay them to do that.

The AP, the police, the chiefs, the assistant chiefs, the deputy county commissioners, the county commissioners, that is their work. No one should ask us why this is happening. It is their work to ensure there is no more cattle theft. They should follow until they find the cows or sheep that have been stolen. I also hate that. I do not like it. We have a long history of cattle theft. We do not like it. It is a primitive activity we will not allow to continue in our country. But allowing people to kill each other because of those activities is equally primitive. The Government must ensure that people do not kill each other.

I am disappointed because for the last three to four weeks, some of us never celebrated Christmas and New Year. Why? It is because we were at the border trying to talk to the communities there not to kill each other. At that moment, somebody was enjoying. I do not know where Nkaissery had gone to. It is not our work to go and make peace. That is the work of Nkaissery. When I called him, he did not pick my call. When I texted him, he told me: "I will send my county commissioner to investigate." After a few minutes, he texted me and told me: "It is a lie. There is nothing like that going on. You are lying and I will put you in for lying." I told him: "Gen. Nkaissery, before arresting me, come and resurrect the two youths who are in the mortuary and come with them to my constituency." Somebody cannot just take us for granted. I am a leader; I represent a people. I do not want to see people dying.

As we speak today, the person who was buried today was the 12<sup>th</sup> among the many people who have been killed by guns and poisoned arrows. On the other side also, we have buried almost eight people from the other community who have been killing themselves. *Hatuwezi bembeleza* the CS for Interior and Coordination of National Government just because

he has some other activities to do. He should attend to these matters. I am calling upon the Chairman of the Departmental Committee on Administration and National Security, Hon. Kamama, you also have the problems in your area, take this matter seriously. We want this matter to end. We want the perpetrators of these killings to be brought to book. I want the following---

**The Temporary Deputy Speaker** (Hon. Omulele): We give him a minute?

**Hon. Members:** Yes.

**The Temporary Deputy Speaker** (Hon. Omulele): Alright.

**Hon. Kipyegon:** Hon. Temporary Deputy Speaker, I was ending and I wanted to say this: I want the following people in Narok to be investigated: Governor of Narok, Samuel Tunai; I want the MCA of Kimintet Ward, Mr. Kijabe, to be investigated; I want an aspirant who I will not mention his name until I meet Nkaissery to be investigated; I want the MP for Emurua Dikirr who is me to be investigated. This is a very serious matter. People are just talking of other people, saying: "This one has been inciting people." I also want to be investigated. If I am part of those people making inciting statements, I be investigated. I am ready to present myself before the police because I do not want to see people killing each other. The people on the other side voted for me in 2007; the people on this side voted for me in 2007 and 2013. Why should they die? They are our people. We should not allow that to happen.

I am calling upon the police to do a serious investigation on the Governor, the MCA, and an aspirant. Gen. Nkaissery should also be investigated by the investigating agencies. Gen. Nkaissery is not above the law. When he denies there has not been anybody killing each other or when he claims there was no killing and there were, I think he should be investigated for that statement.

Hon. Temporary Deputy Speaker, I thank you and I support.

**The Temporary Deputy Speaker** (Hon. Omulele): The Member for Emurua Dikirr, you know our rules. If you want to name a person who is out there, you know the procedures that you need to follow. We understand the passion with which you take the matter that is under consideration now, but let us also pay homage to our rules. If you feel that these people need to be discussed or investigated, then please let us follow the procedure.

Let us move on. We shall hear Hon. M'ruaki, the Member for Igembe North.

**Hon. M'uthari:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. The problem of cattle rustling should be considered as robbery with violence. It is painful because it has caused a lot of suffering in my Constituency of Igembe North. This is because other people come and claim that they are coming for re-stocking. They steal animals which end up getting lost within the country. Cows are not like small birds.

Cattle rustling is not only a robbery activity but also a business. It is no longer a cultural activity. In my opinion, it is a multi-million business which should be investigated. We have all security agents in this country. I wonder how you would have 100, 200 and 300 head of cattle being lost and not to be traced within this country. There is no reason absolutely. This is because in this Republic, we have county commissioners, deputy commissioners, chiefs, assistant chiefs, village elders and *Nyumba Kumi* people at the local level. Where does the livestock disappear to? If they are transported by vehicles - sometimes they are stolen and put in lorries or even small vehicles - where do they pass? This is because there must be roads where they go. There are also rules on transportation of livestock. Somebody somewhere must do what he or she must do so that we have these things right.

Hon. Temporary Deputy Speaker, the other thing is negligence in this Republic. Cattle rustling is associated with certain parts of this Republic where we have poor infrastructure in terms of roads. Cattle rustling is also practised in areas where there is no water. The vice is also rampant in areas where education is limited. This is also the question of marginalization because the areas which suffer from this practice are those, for one reason or the other, have not been prioritised in terms of development. In the new dispensation, development should not be tied to politics, orientation or whatever. There must be a masterplan.

We also have things like the Vision 2030 in this country. This should consider every part of this Republic. There must be a development activity going on in every part of the country. This being an election year, it is a matter of do or die. Why is this the case? It is because if you are associated with leadership, there are things that go with it. This is why people kill each other in this country. If you go to the local level, you will meet leaders fighting and causing chaos because they want to be in leadership. Why? I do not think it is because they want to serve the country or citizens. There must be other interests greater than why they are doing it. So, it is a question of marginalization and people being entrusted with responsibilities.

From my place, we can count in terms of hundreds of millions of people who were well and were educating their children but they can no longer do it. Some of them have died because of high blood pressure and other diseases associated with shock. You have may be 200 cows, one day, all of them are gone and you are finished. This has gone on for a long time.

There must be a clear mechanism by the Government. If it cannot protect, it must be able to compensate people who have lost their livelihood through negligence and inability to provide adequate security and support mechanism. But above all, there must be a clear strategy. This is why I am telling even the governors and those who have been entrusted with money for equalization or *Pesa Mashinani* at the county level that money is doing nothing. There is no change before the counties came into being and now. It is even worse. So, that money must be channelled to those areas which suffer from these atrocities so that they can enjoy the benefits of freedom and economic development like any other people---

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Let us have a lady's voice to this. We shall have the Kakamega County Women Representative.

**Hon. (Ms.) Amolo:** Thank you, Hon. Temporary Deputy Speaker. I want to wish you a happy New Year because I saw you last year.

Thank you for giving me this opportunity to support my brother, Hon. Kisang on this. As women in this country, we have been seeing what is happening in Marakwet and it is not something very good to look at. This is especially when you see young children who cannot go to school and the youth running all over trying to see how they can save their parents and yet they do not have the means. It is very painful to look at those scenarios especially for women in this country.

We all know that security is always key for any country to build its economy. It is sad in Kenya today to see what is happening in an area like Marakwet. It is an uncomfortable life when people keep on fighting. We do not have cattle rustling in Kakamega although we know that people have always stolen cows left, right and centre. However, this cannot be to the extent of what we hear in Marakwet.

Why does it always happen when we are approaching elections? We need to find the root cause of this problem because it cannot be re-occurring now and then and yet we have a system that should give us security. We have county commissioners and sub-county commissioners who should know what is happening. We also have a system of intelligence in the country. This is



something that can be dealt with if we all cooperate and work together. This is something that can be done.

If you look at the Budget, you will find that we always allocate a lot of funds to our security structure. You now wonder how comes they cannot deal with such an issue that keeps on re-occurring now and then. Is it that you want to reduce the number of people who want to vote for leaders in these areas? We should find out what is happening. The Government has all the machinery to deal with this issue once and for all.

As my brother, Hon. Kisang has said, this menace was dealt with in some areas some years back and people are now living in peace. This can also be done in Marakwet. Those women and children have suffered. We know how they suffer. When you look at your children and you cannot provide for them; and, when you cannot go out there whether you have money or not to buy a loaf of bread for your family to eat, it is such a painful situation. This has happened for many months. It can be really terrible.

The other day I heard that young girls in Marakwet could not even afford sanitary towels and that is why they were using leaves and animal skins. This is a terrible situation. I urge the CS for Interior and Coordination of National Government to look into this matter because we need peace at this moment of the year. Those *mamas* are young people---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Ameso, the Kakamega County Women Representative, you still have one minute, but I will interrupt you because there is a Motion to be moved by Hon. Ken Okoth, the Member for Kibra under Standing Order No.30(3)(a).

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Hon. Okoth:** Hon. Temporary Deputy Speaker, I beg to move the following Procedural Motion:-

THAT, pursuant to provisions of Standing Order No.30(3)(a) this House resolves to extend the sitting time today by 30 minutes up to 7.00 O'clock in the interest of all Members to address this issue of national interest.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): You need a seconder. Do I see the Member for Lagdera seconding?

**Hon. Shidiye** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Speaker** (Hon. Omulele): Mhe. Ameso ulikuwa bado na dakika moja. Utaendelea.

**Hon. (Ms.) Amolo:** Thank you, Hon. Temporary Deputy Speaker. We should look at the issue of the Kenya Defence Forces (KDF) going to give help in that area. I know very well that when these people land in that area, it will not be good for women and children. I saw this happen in Mumias which is in Kakamega County the other day. It was not a good scenario. Are

you people ready for this; that is when the KDF will be there? You need to ask yourself that question.

You also said that you are ready to go to the International Criminal Court (ICC). The Jubilee Government has been fighting that we come out of the ICC, but now you want to go back to the ICC. You better ask yourselves how to deal with this issue because it is very political.

I thank you, Hon. Temporary Deputy Speaker, but remember KDF and ICC are not the solution. The solution is with you, the politicians in Markwet region.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. Let us have the Member for Lagdera.

**Hon. Shidiye:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. From the outset, we cannot treat cattle rustling casually. This matter needs deep thinking. It also requires us to change our strategy completely. This is if, as a country, we want to have peace and the pastoralists to stay in peace.

Cattle rustling is not an ordinary business these days. In the old African traditions, we had people rustling from their neighbours. When you had drought, you could steal animals from others. When your livestock population decreased, you could go and steal animals without necessarily killing people. When those people lost their animals, they could come and steal from you. But now, we have commercialised cattle rustling which is very dangerous. We have a gang of 40 men raiding a village, killing people *en masse* and taking the entire livestock. In one single day those guys are reduced to poor people who have nothing to eat. The following morning, they have no breakfast. It is not like farming where if I steal your crop today and you harvest tomorrow, you can plant again and do other things because the land will not go. In the other case, people are reduced to beggars in one raid.

Hon. Temporary Deputy Speaker, this is a very serious matter and that is why it never stops; it is a circle. You steal my animals, I go, look for firearms and steal yours. It is a vicious circle that does not end. If you look at the colonial time, you will find that cattle rustling was at its lowest. Successful African governments have never been able to control it. This matter has been taken very lightly. It is not only among the Pokot, Maasai, Turkana and Marakwet but also in my neighbourhood in Garissa and Isiolo counties.

For the last three months, I have almost been absent from this House. Animals were stolen from my area and taken to Isiolo and I had to rush to that place to look for those animals. I went with the security officers and home guards and spent nights in the villages and in hardship places. If we are not going to treat cattle rustling as a national disaster, we will not achieve anything for the people of this country.

I think pastoralism will come to an end in this country if we do not tame cattle rustling. Pastoralism is a way of life because 80 per cent of Kenya is arid and semi-arid land. We got our meat and milk and people led a good life, but now, life has become very difficult in those areas. There are firearms from South Sudan, Somalia, Uganda and Tanzania. Cattle rustlers have more firearms than the Government of Kenya, the KDF and the police.

We have only two options. One is to fully arm the pastoralists so that they can fight and two, we disarm everybody. If we do not do either of the two, then we are in trouble. We have one community which is armed and another which is not armed. You can remember what happened in Suguta Valley in Maralal, where 60 police officers were killed because we were not organised. Where are the intelligence officers, the regular police, the Administration Police (AP), prison wardens and KDF? If KDF is being terrorised by young guys who are morans in those villages then something is fundamentally wrong. Where are the county commissioners, deputy county

commissioners, assistant county commissioners, chiefs and the security apparatus of this country? We are not serious. That is why our people continue to suffer. These are people who are earning salaries and getting promotions but not performing.

**The Temporary Deputy Speaker** (Hon. Omulele): I understand the passion of the Member for Lagdera. You are asking for an additional minute. It is alright. I give you one minute.

**Hon. Shidiye:** Thank you, Hon. Temporary Deputy Speaker. Where are the police, the chiefs and the other security apparatus? These are people who are paid. They have developed what is called “a do not care attitude”. They earn salaries but do not want to work. They are ever complaining that they want promotion or want to be transferred from one station to another. This is because we are not serious as a society. If we are a serious society and Government, the people in the village will not suffer.

In Uganda, Tanzania and Somalia where there are many warlords and *Al Shabaab*, there is no cattle rustling because people are serious. We have a government and a police force which is fully funded. We have tripled the budget for national security yet they are unable to perform. As the late Julius Nyerere said, the time has come to remove an entire police force and employ fresh ones who are dedicated towards helping the people of Kenya.

**The Temporary Deputy Speaker** (Hon. Omulele): Let us have the Member for Migori.

**Hon. (Ms.) Ghati:** Thank you so much, Hon. Temporary Deputy Speaker for the opportunity once again.

From the outset, this is a topic that is very dear to me. It is dear because I also come from the Kuria community where cattle rustling is the order of the day. For those who are not aware, my community is in Migori. It borders the Maasais. I am happy that my colleague, Hon. Ngeno, from Emurua Dikirr has talked about it very passionately. This is an issue that we grapple with every day. Cattle rustling is not an issue of arid and semi-arid areas alone. Cattle rustling is a gender issue. Cattle rustling should be considered a national disaster in this country. Those people who do not come from areas or counties where cattle rustling is not practised have no clue what people who come from border counties where it is an issue go through.

It is not the first time we are talking about cattle rustling in this House. I am surprised and I wonder why the Government does not consider cattle rustling a national disaster. The vigour and the zeal with which the Government is now doing voter registration should be the vigour and the zeal with which they address the issue of cattle rustling. It is a serious issue. It is an issue that needs serious attention. Where I come from on the border of Transmara in areas called Lolgorian, Masurura, Mashangwe and Kilgoris women do not even sleep in their homes because of cattle rustling. These are areas where children do not go to school because of cattle rustling. Even now, as we look at voter registration, we are not even sure whether we will reach these areas with the information about voter registration. How are these people going to vote for this Government if it does not address the issue of cattle rustling? How will my people find peace going to polling stations on the day of voting to vote for the candidate of their choice?

We have said over and over that Maj-Gen. Nkaissery, the Minister for the Interior and Coordination of National Government, needs to be very serious. I know he is Maasai. He owns so many animals and maybe his animals are protected with electric fences. He does not understand what other small people who own small numbers of animals go through. He needs to be very serious. We have police officers who are stationed in these centres. They have been deployed there for over three or four years. They have become locals. Now they even engage in cattle rustling themselves. They are greater cattle rustlers than the natives. These are the police

officers who need to be reshuffled every year. They need to go. That is a serious issue that we have found on the ground. We who come from border counties know what we are talking about.

I come from Kuria; Kuria East Sub-County to be specific. Every time I am home, the youths who are supposed to be engaging in farming and doing other forms of employment are busy with all manner of crude weapons because they want to protect their borders and their animals. People say that members of the Kuria community sleep with their animals in their homes. If you open a door your goats, sheep, cows and bed are there. They do that because of insecurity. The Government is failing to provide security for Kenyans in this country. That is a serious issue. My colleague Hon. Asman Kamama is seated here. He is in charge of the Departmental Committee on Administration and National Security and I know he owns animals worth millions of shillings. It is a serious issue and he knows that.

Hon. Temporary Deputy Speaker, I call upon the Cabinet Secretary for Interior and Coordination of National Government to list down the counties that are affected by cattle rustling. He needs to go to those counties, sit down with the leadership and see what the issues are. If it is police officers who have to be reshuffled, let them go because they are the people who probably lend their guns. We need to be very serious if we need to address the issue of voter registration.

The Government right is now busy---

**The Temporary Deputy Speaker** (Hon. Omulele): I will give you a minute, Hon. Dennitah.

**Hon. (Ms.) Ghati:** Thank you, Hon. Temporary Deputy Speaker. I am very passionate about this issue. I am talking about the Government going round doing voter registration. Voter registration for who? If my people are not protected, how will they vote? How will they even take those voters cards and vote? We need to be very serious.

Lastly, we have issues and the Hon. Member for Emurua Dikirr mentioned them. We have leaders fuelling tension. One of those leaders, I want to say in this House, is the Governor for Narok County. My county borders Narok and this Governor for Narok, Tunai is not preaching peace when it comes to cattle rustling. We have the Maasai who live on the other side. You know very well that Maasai think that all cattle belong to them. The Kuria on the other side also believe that all cattle belong to them. So, we are not meeting halfway. We are all everyday looking for these animals. Whose animals are they?

I call upon Government, with all due respect, that the issue of cattle rustling should not be taken lightly. It is a serious issue. If you came from a county that has animals, you would understand what those of us who come from border counties are talking about. Many of you do not understand that I come from the Kuria community. That is the culture that has been there. I want to ask that cattle rustling be named a national disaster in this country.

Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Well presented, Hon. Dennitah, but you insinuated that the Temporary Deputy Speaker does not come from a county where there are animals. There are animals in Vihiga and Luanda too. We understand the travesties of this cattle rustling.

I now give this opportunity to Hon. Kamama, Member for Tiati.

**Hon. Abongotum:** Thank you, Hon. Temporary Deputy Speaker. I want to give my comments on the Motion. I just want to confirm to the House that cattle rustling between the Marakwet and Pokot is a serious issue which must be addressed by the Government.

This thing began in 1992 all the way to 2002. When I took over in 2003, I actually managed to talk to leaders, together with the former Member of Parliament, Hon. Kilimo on the issue of cattle rustling and for 14 good years, there was no cattle rustling. I am just surprised that it is continuing. We need to investigate what is happening. There is even an angle where two Marakwet clans are fighting each other. As we speak, over 300 families are being hosted on my side. We are hosting them. These people are cousins and are not interested in killing each other, but we should focus on the cattle rustling menace.

I would not really blame the Government because it has tried. As we speak, there is an operation going on. It used to be headed by somebody called Sharif, but they have now transferred him. The operation is being conducted with armoured personnel carriers in that area. The other day, the Deputy President visited the area and ensured that both communities were given Kenya Police Reservists (KPR) so that they can take care of their cattle. We are even using reformed warriors to address these issues.

As leaders of the region, we have visited these areas severally with the Members of Parliament from Marakwet, Turkana and West Pokot and we have even used the *Nyumba Kumi* initiative but this thing has continued unabated. We need to deal with it. The Pokot have lost over 10 people, over 500 goats and 300 cattle. So, both sides have lost. We need to deal with this problem because it is deep-rooted. The way Hon. Shidiye said, we need affirmative action to deal with this problem. When Uganda was faced with two challenges - cattle rustling in Karamoja region and the war in the north led by the Lord's Resistance Army (LRA) - the President came up with two ministries in charge of those areas. The Ministry in charge of Karamoja affairs, at the moment I think is headed by the wife of the President, the First Lady. There is also the Ministry for the Pacification of the North to deal with the Kony issue. So, we need to come up with different ways of dealing with this matter. It is not business as usual. We are losing lives. We are losing livestock from both sides. We are one community. We are cousins. We are all Jubilee Members. We support one President and one deputy. So, it is paradoxical that the same people who speak almost similar language, similar dialect, supporting one party and supporting one President and one deputy are killing each other. Something has to be done. I recommend that we think of coming up with a Ministry---The *Nusu Mkate* Government came up with a Ministry of Northern Kenya. They tried to address those issues.

This time round we should have a Ministry in charge of these Arid and Semi-Arid Lands (ASAL) especially the pastoralists so that their issues can be understood, dealt with properly and comprehensively. At this age, if people are still practising this old barbaric, very primitive culture of stealing cows, something---

**The Temporary Deputy Speaker** (Hon. Omulele): I will give you an extra two minutes because you are the Chair of that Committee and also a Member for Tiaty which has been mentioned adversely quite a number of times.

**Hon. Abongotum:** Thank you, Hon. Temporary Deputy Speaker, for your generosity. I am saying that let us think outside the box and come up with unique ways of solving this issue. We have tried, and I want to thank the politicians. For two years, we have not been having issues between the Pokot and the Turkana but around December, we started having reports of people being killed and cattle being stolen. So, we tried this and we had all the governors and senators speaking with one voice. We need to try that peace caravan between us and the Marakwet and between the Pokot and the Turkana so that this matter can be dealt with once and for all.

We also want a specific funding for these areas so that we can address most of their issues. Some of these conflicts are resource-based. People are quarrelling over water or grass. So,

we need to come up with permanent ways of solving the matter. I want to assure the House that we are committed even to push the Ministry to go an extra mile in solving this problem. As Chairman, together with my Members, we are also committed. There are many ways we have actually tried as a Committee to deal with this matter.

Those are my comments. Thank you.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Member for Tiaty, you are the Chair of the Departmental Committee on Administration and National Security. I have heard you make recommendations in regard to how to deal with this. Your Committee should take charge and make those recommendations through our procedures so that they can reach the proper ears and be dealt with. We should have Hon. Ken Okoth, Member for Kibra, who will benefit from his Motion to extend the sitting of the House.

**Hon. Okoth:** Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this Motion with a heavy heart in solidarity with the people who are suffering in the ASAL parts of this country. Kenya is a stable country with a functioning government that is guided by the rule of law. It is sad and disappointing that in the 21<sup>st</sup> Century our people do not have opportunities. We give excuses and hide behind culture as cattle rustling continues. I do not suppose that in today's modern world peculiar English words like "rustling" are widely being used elsewhere as in Kenya. That is not a point of pride but a point of shame. It has been said that in the East African region, Uganda has been leading in this practice. We take pride in being a more organised and stable country. People in countries that have been in conflict, like Somalia, do not engage in cattle rustling. We do not have cattle rustling in Tanzania. Therefore, the excuses that we are giving, and the issue of political linkages in Kenya, must be dealt with once and for all. The people engaging in this bad practice must face the consequences of their deeds.

Hon. Sakaja brought amendments in the areas of crime, procedure and the sentencing guidelines. Specific crimes associated with and disguised as cattle rustling, theft of livestock, trade in stolen livestock, among others, were covered with very specific penalties. Therefore, the Departmental Committee responsible for national security should look again at the amendments that were brought by Hon. Sakaja. The Implementation Committee should work with the Executive arm of the Government to see if those amendments are being implemented. We do not want to be a House that legislates in vain. The legislations that we pass here, in the interest of our people, must be implemented. We are in an election year. Choices have consequences. People in the areas affected by cattle rustling voted overwhelmingly for the Jubilee Government. It is clear that the Jubilee Government does not have their interests at heart or it has not prioritised the fight against cattle rustling. The Government did not care in the past, it does not care today, and it will not care in the future. That is why we have this Adjournment Motion.

The matter has not been prioritised as demanded by the reality on the ground. We are now left with this House to speak and plead with the Government, on behalf of the affected communities, to give attention to these issues. As we prepare to vote, we are talking about climate change and other major issues. We have a national policy on climate change. We have the sustainable development goals. We have very advanced scientists and academicians at our universities are experts who can help us to see how people in ASAL areas can, in the long term, cope with the realities of a world in which the climate is changing. If you look at the global context, climate change is one of the biggest causes of insecurity. It is responsible for the emerging national security threats in our country as well as what is happening around the globe. Lake Turkana is drying up. In our foreign policy, we have not engaged properly with Ethiopia regarding the dams they are building across River Omo, which will lead to the drying up of Lake

Turkana. We will soon be talking of other conflicts that will be coming up in that area. We will be talking about people losing lives to starvation.

This is a country where doctors have been on strike for over 50 days but a sense of urgency to resolve the issues surrounding the strike is lacking. The lecturers of public universities are on strike. Our young people are not studying yet we have made vote-seeking, and registration of hungry and dying voters, a national priority. We are at a point when we should be asking the people whether they are better off today than they were four years ago, when they elected the current Government that is supposed to be serving them and implementing the current Constitution. The oath of office that we took as parliamentarians, which the President and his Cabinet members also took; to protect the Bill of Rights, including safeguarding Kenyans' right of access to food, security and dignity, among other rights, should not be in vain. We are seeing a total failure of the Government in this regard. There is no way of sugar-coating the situation. I am telling the people of this country to ensure that we vote wisely this time round because choices have consequences. If there are MCAs, governors, Members of Parliament and even Cabinet Secretaries who are working for the President and letting him down, causing you suffering in the process, vote very wisely.

With those few remarks, once again, I would like to register my regrets that in the 21<sup>st</sup> Century, our people's lives are not treated as valuable. This is a shame. It is an indictment of the ruling class in this country.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Very well. We should now have Hon. Philip Rotino, Member for Sigor.

**Hon. Rotino:** Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity to add my voice to this very important Motion.

I am a very sad man this day because during this period of holiday, I buried 12 people who were victims of this cattle rustling, both from Marakwet and Turkana. My constituency is such that I get all the cattle rustlers coming there. They come from Baringo, Turkana and Marakwet; all of them come to my constituency. I kept asking myself "until when are we going to continue doing this?" The leaders have talked. We had a big break when we did not have cattle rustlers. I think there was a break maybe when the leaders talked to them and they decided to be quiet a little bit.

As we go towards elections, cattle rustling has become rampant. It is not even cattle rustling now, but cattle theft. People are just being killed without animals being stolen. We have a problem with the border between Turkana and Pokot. As I speak here today, the Turkana raided the Pokots and just killed people without taking anything. We have complained to the security forces.

**The Temporary Deputy Speaker** (Hon. Omulele): Member for Sigor, just for my knowledge, I know how passionate you are about this. What will be the difference between rustling and theft? Where people are killed and nothing is stolen, it is simple theft. What would be the difference?

**Hon. Rotino:** Hon. Temporary Deputy Speaker, I will take one minute to educate you on "theft" and "rustling". Stealing is where you steal one cow and just disappear. But, cattle rustling is where you have about 20 people going to raid thousands of animals; 20, 50 or more animals. Theft happens everywhere. It is a case where we have two young men, who are not educated or not going to school, who raid Turkana or Marakwet and just steal animals. The problem is they kill when they encounter opposition. What do you expect when you go and fight? There is no

cattle rustling as such; it is just theft - we have reduced it to theft. Members of Parliament have worked hard to bring down cases of cattle rustling through committees which have been formed.

But, we still have a long way to go. That is why we request the Government to come in and assist us. We are requesting the Government to give us Kenya Police Reservists (KPRs) because the regular police force is not able to manage. When you hear there are animals being stolen, the police do not intervene. They look for the KPRs because they are locals, to deal with the issue. We have requested, time and again, the Government to visit the area and understand what the problem is really.

One of the problems we face is high levels of illiteracy among our people. In my constituency, for example, I have a whole ward where the level of literacy is very low. In my own constituency, it just one location that is troubling everybody. The rest of the area is okay. Therefore, we are telling the Government to help us build infrastructure. Let us build boarding schools. Let us have mobile schools and centres to put these people in one place. When we give them those strategies and plans, implementation is not there. Several times we have gone to the Cabinet Secretary (CS) to tell him to visit the area and see what is happening, but the CS continues to sit in the office comfortably. He is not even thinking of those areas because to him, it is not a priority. We plead with the CS to call all Members of Parliament from Turkana, Pokot and Marakwet and have a meeting in his office. He needs to put resources to those areas so that we can arrest this problem. Otherwise, many people are going to die every now and then because the Government---

**The Temporary Deputy Speaker** (Hon. Omulele): I have heard your passion and the recommendation you have made. Together with what the Member for Tiaty has submitted, I think there could be a solution to this.

I want to give this opportunity to the Member for Kapenguria.

**Hon. Chumel:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this important issue. I have seen all the speakers in this House this evening are from the minority groups in Kenya, and all of them are just crying now and then; this is not the first time. I believe communities in Kenya are clustered. There are those ones which are very important and there are the useless, the minute that one cannot even count or think of. Take, for instance, even the campaign for voter registration going on, there are areas where the big forces are running to seek for votes. But all these areas that we are now discussing, none is even thinking of going there. It is equally the same to the cry these people are making. It is not because of their making. There is the saying that an idle mind is the workshop of the devil. Because they are not engaged, they do not have anything, so all the time theirs is just to fight. Even when you leave young children in the house, even grownups, when you put them in a place without engaging them, you will find them doing nasty things.

I come from Kapenguria. That is western Pokot, where the Pokot border Marakwet, Turkana, Karamojong to the other side of Uganda, and Trans Nzoia. My constituency goes all the way to Turkwel, at the border of Turkana South, led by Hon. Lomenen. We initiated, because we saw there was nobody coming to our rescue--- As I said, there are community clusters. Remember when there was a problem of local brews in central Kenya, the current President ordered an operation for illegal *chang'aa*. Some chiefs were sacked. It was taken seriously. You cannot get such issues there now. But here, you find a Maasai fighting a Kipsigis, there is this Kuria issue, Kisii, Pokot, Turkana – nobody cares.

The only person I can give credit is the former President Mwai Kibaki. There was a time when the other President Moi, who ruled for 24 years, anything happening in our areas, he used



to take there the *Nyundo Operation*. This is part of the areas where the current CS Nkaissery used to lead: kill, maim and hurt people, but nothing good came out of it. The war was just ongoing. When Kibaki came in he brought *Dumisha Amani Operation*. This is when he even had to dispatch the military forces which used to harass us left and right; they came there, drilled water and brought medicine. Because some of the military personnel are medical practitioners, they came and treated people. So they brought a close relationship between the military and the society. They became friendly. Everything stopped until now. Even the case of the Marakwet and the Pokot started the other day. It has not even lasted a month. There must be laxity somewhere.

Hon. Temporary Deputy Speaker, mine is just to appeal especially now that we have enough security officers in that area. We knew the Anti-Stock Theft Unit (ASTU) from the General Service Unit (GSU).

**The Temporary Deputy Speaker** (Hon. Omulele): I will give you an extra minute so that you can tell us what you think is the solution.

**Hon. Chumel:** Thank you, Hon. Temporary Deputy Speaker. There are several GSU and Administration Police (AP) officers between my border and that of Trans Nzoia County. We also have the regular police and the ASTU officers. There is nothing those officers are doing apart from competing with the locals in farming. They always go and grab land from others.

We have done our part as leaders. Marakwet and Pokot peace caravans have done their part. Now, Hon. Nkaissery should go there and take action. There are police in Marakwet but they are doing nothing. What are the APs and other officers doing there? Let them get out and let *wazee* and others tackle the issue, like we have done with the Turkana. You cannot get a Pokot from Kapenguria and Kacheliba fighting the other side. It is us who came out and said enough is enough.

I support whoever brought up this matter but other measures should now be taken.

**The Temporary Deputy Speaker** (Hon. Omulele): We shall have Hon. Suleiman Murunga from Kimilili.

**Hon. Kasuti:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to this important Motion.

This is a second or third time ever since we came to Parliament we are talking about this problem of cattle rustling. Primarily, most people claim that pastoralists fight for pasture and that is why there is a time they fight.

Security officers in this country have let us down seriously on keeping security in this country. Most of the time, when these instances take place the security officers should be informed. They would rather leave the semi trained officers to go and tackle cattle rustling. The officers should go out and rescue people who are being attacked by rustlers. This is a problem that has been there for a very long time. The information from there is that there are warlords who are behind cattle rustlers. If about 200 animals are stolen at a time, where do they go? They cannot be eaten overnight. They must be sold somewhere. This is a problem which the National Intelligence Service (NIS) should really be looking into. They know those who are behind these issues. We, as legislators, in this country would like to blame this problem squarely on the security officers in this country, but I think they currently lack proper command. They do not look into the welfare of junior officers. They are not even encouraged to do their work properly. The command of Mr. Boinet should take up this matter seriously. He comes from Marakwet and I will be happy to see him take the lead.

He has gone there severally and every time he leaves the place, there is escalation of cattle rustling. So, you wonder what he goes there to do. Does he go to fan the problem again or he supports the cattle rustlers?

This is a problem that ought to be looked at more seriously than what we are doing. The National Intelligence Service (NIS) is well equipped and trained. It should give information well in advance to other security forces who are supposed to deal with such issues. Those officers should go and waylay the attackers before they come and harm innocent people. Places like Turkana and Tiati have no roads.

Hon. Members should use the National Government Constituencies Development Fund (NG-CDF) to ensure that those places have been opened up and vehicles can travel easily so that if there is any incident that takes place vehicles can move from one place to another. Security forces always claim that it is impossible to track down cattle rustlers. After an attack, they move down to Suguta Valley where it is impossible to arrest them. There are snakes and dangerous animals but nonetheless---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, I can see a lot of interest in this matter and yet we have limited time. I would propose that you limit yourself to three minutes so that Members who are remaining can speak briefly on this. I will give this opportunity to Hon. David Kiaraho, the Member for Ol Kalou.

*(Technical hitch)*

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Kiaraho, please use the next microphone.

**Hon. Kiaraho:** Thank you, Hon. Temporary Deputy Speaker. When you read what is happening in Baringo and Marakwet we, as responsible leaders, share the suffering of these communities. We know the situation we are in. We have persistent drought especially in those areas and all over the country. Other than these communities thinking about their daily livelihood, they most often think about how they will be raided in the evening and those things. We know the suffering their children and women are going through. Even if we send the whole team of General Service Unit (GSU) there that will not be the solution. This is a situation, in my opinion, the leadership in that area has to take responsibility.

As Hon. Kuria said, there was a time we had a problem in central Kenya of illegal brews and we took the whole issue in our hands. I know almost every Member from that region went to his respective area and handled the problem head on.

In short, this is one issue which I feel that unless the communities in those areas are educated--- The Government should step in and set up a special team so that it can get to the root cause of this problem. We know there are many problems related to politics, lack of pasture and water, supremacy in terms of various clans, proliferation of firearms and so forth.

My recommendation is in three fold. First and foremost, a fund should be established to focus on this problem and the leadership from that area must get involved. I am happy because this afternoon most of the leaders who stood to speak are from those areas. They are the people I believe have a solution to this issue. About forming a special unit, I feel the Ministry under Nkaissery should take that seriously. If they take that seriously, we will solve this problem.

The raids we have been hearing about are very unfortunate and sad. To me, they are very outdated. I remember many years back the Kikuyu community used to have conflicts with the Maasai. They used to come to Kiambu and take our cattle.

Almost 100 years down the line we are still having these raids in the areas that have been mentioned here today. I think it is the responsibility of the leadership to end these raids. I know the Government is serious about it and this problem can be solved once and for all if they come together.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Oner, the Member for Rangwe, you have the Floor.

**Hon. Ogalo:** Thank you, Hon. Temporary Deputy Speaker. I join my brother Hon. Kisang in feeling sorry for those who suffer this litany of failures. I call them litany of failures because provision of security is the first and foremost duty and responsibility of any Government.

This is litany of failures because the people whose cattle are taken are deprived of their right to property, those whose lives are taken are deprived of their right to life and those whose children are not going to school, their children are deprived of their right to education. This is litany of failures by the Government in power. There was no cattle rustling from 2002 to 2013 because there was a responsible Government which took care of those places.

When you get a Government that does not care about the plight of the police and refuses to utilise the Equalisation Fund to develop areas which have been left behind, you get cattle rustling. If people cannot get water and pasture, they have to fight for the resources. If they cannot sustain the life of their cattle, they wait for restocking and when it comes they steal cattle from other places. These people who have been neglected by the current Government need to know as my brother Ken Okoth said, choices have consequences.

These are predominantly Jubilee supporting areas. Those areas support this Government. If Jubilee cannot take care of you, make the correct choice. We are in an election year. Choose a Government that can take care of you. Nobody in the Government has gone to Marakwet, where Hon. Kisang comes from, to see for themselves the plight of the people being raided by people from Tiaty every now and then because those people think that the people of Marakwet do not matter. The lives of the people in those places do not matter. As my friend, Hon. Kisang, has said, if it was somewhere else, the force of Government would have been seen. Mobilisation would have taken place to save those places.

This is not a laughing matter. It is not a joking matter. The role of the Government in power is to safeguard the lives and property of the people. Those who take other people's property should be jailed. Why are they not known? What is the work of Kameran? Kameran's job is to know those who perpetrate things – the lords of impunity. It is his job to know them. It is Muhoro's job to arrest them and take them to court. Why are the officers not doing their work? They have failed. If they have failed and the Government has failed, they should get out of power so that we replace them with a regime which can handle those institutions. We should not come to this House again to discuss things as basic as cattle rustling when we have security forces that are able to tackle the problem.

In fact, we need to discuss the morale of police officers. They are silently crying about their 42 per cent salary increment. The concerned Government officials are busy leasing vehicles – a process through which they make money – yet the welfare of ordinary police officers is not being taken care of. Police officers in this country are disgruntled. Let us discuss this matter. You can get vehicles but you cannot force police officers to use them to catch thieves, if the officers are disgruntled. Management of security is a key role of the Government. If this

Government cannot do it, they should get out of the way so that we put in place a government that can do it.

**The Temporary Deputy Speaker** (Hon. Omulele): Members, I will give two minutes to each of the following Members: Hon. Sammy Mwaita, Member for Baringo Central; Hon. Ababu Namwamba, Member for Budalangi; Hon. Marcus Muluvi, Member for Kitui East; Hon. Christine Ombaka, Member for Siaya; and Hon. Mark Lomunokol, Member for Kacheliba. You will each, strictly, have two minutes.

Proceed, Hon. Mwaita.

**Hon. Mwaita:** Thank you, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this important Motion. I would like to congratulate my friend, Hon. Kisang, for moving it.

I would like to start by correcting my good friend, Hon. Oner, who said that these issues are found in Jubilee zones. This is a national security issue which cuts across the country, including the Coast region and even Muhoroni Constituency, where he comes from. Secondly, rustling has become a serious issue in this country. I recall that during the 10<sup>th</sup> Parliament there was a select committee which went round the country and came up with very good recommendations. I urge the Government to implement those recommendations.

First, it came out that the issue of rustling started as a cultural practice. It has been upgraded to economic sabotage. It is an economic crime which needs to be dealt with like all other crimes. Secondly, in Baringo County, where I come from, we have similar problems. These problems are not only in Baringo but also in most of the North Rift region. As a leadership, we set up a taskforce, led by Gen. (Rtd.) Tonje, which came up with recommendations that were to be presented to the 10<sup>th</sup> Parliament. Those recommendations should be implemented, and the problem will be solved.

Finally, apart from those recommendations, the solution is to set up the Kenya Police Reservists (KPR) in all the areas which are afflicted by rustling. Once we have KPR units comprising of local people in each of those areas, the issue will be resolved instead of relying on the regular police and other units of the security forces.

**Hon. Ababu:** Thank you, Hon. Temporary Deputy Speaker. It is really annoying and infuriating that since I came to this House nine years ago, it has become almost cyclic to discuss the matter of cattle rustling every other day. It is really annoying. We have to put this to an end because this House is becoming a talk shop. We talk and talk but we do not see any action. We have to start seeing some serious action on the side of the Government. This is a historic problem. We should not look at it simplistically. I would even trace it to Sessional Paper No.10 of 1965 on African Socialism and its application to planning and development in Kenya, which somehow contrived to divide this country. It zoned this country into so called high potential areas and low potential areas then instituted an attitude in Government that you only pay attention to high potential areas. That has to come to an end. We have to treat this country as one unit and the only solution to this problem is for Government to declare it as a matter of national concern. This is a matter of national security. Come down firm and hard on the perpetrators and the beneficiaries of cattle rustling. Otherwise, this should really be the last time we are discussing this matter in a cyclic and none productive manner such as this.

Thank you, Hon. Temporary Deputy Speaker.

**Hon. Muluvi:** Thank you, Hon. Temporary Deputy Speaker for the opportunity. I also want to add my voice. It is unfortunate that Kenya has been independent for over 50 years, yet

we are talking about basic things like cattle rustling, when we have one of the best forces in the region.

Hon. Temporary Deputy Speaker, I want to say this and I want to speak for Kitui County in particular. Between the border of Kitui and Tana River counties, we have no issues. But there is a big buffer zone between us and Tana River which is a forested area which is seriously infested with people of Somali origin. They are armed and are always attacking our people. I want it to be on record that two months ago when the President of the Republic came to launch the Kibwezi-Kitui Road, our Senator, David Musila, told him on the face the problem we are facing. He gave a very casual answer. He said, "We will look into this." I want it to be on record that since then up to yesterday, we have lost well over five people through cattle rustling, especially in Sosoma Division in Mwingi District. We are losing not less than three people every month. I want it to be on record. We have requested the Government because those guys are armed. Why can the people in Kitui County not be allowed to use home guards? We have volunteers all over.

Currently, and this one I want it to be on record, there is a ranch in Malalani---

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Muluvi, I add you one minute.

**Hon. Muluvi:** Thank you, Hon. Temporary Deputy Speaker. That ranch is infested with many people including people of Somali origin. I have even talked on the ground with the relevant authorities that we need to know who those people are because that is where, in my opinion, some of those cattle rustlers are harboured in my constituency. Unless the Government becomes serious, this thing will be talked about until Christmas. If that is the case, then we need Jubilee Government out of office as soon as possible so that we can have a government which will respect the lives and property of the people of Kenya.

Thank you.

**Hon. (Ms.) Ombaka:** Thank you, Hon. Temporary Deputy Speaker. Cattle rustling has been described as barbaric, primitive and a criminal offence because lives are lost. Not only are lives lost, but property and homes are burnt during that process, children, women and men are killed, animals get lost and families get poorer and poorer because it has effect on their economy. Therefore, for that reason, the Government has the responsibility to take care of its citizens. All over the world, the Government is responsible for taking care of its citizens by providing security and ensuring that they are safe. Over the years, this has never happened. What has happened to the Jubilee Government that promised security? Are they seeing that they are failing? Are they admitting that they have lost the game? It is high time that the Government owned up because they have owned up in other areas where they have failed to succeed in doing what they set out to do.

My proposal is that in those areas where there is cattle rustling, the Government must put police posts nearby. The police must patrol the area day and night. Night patrols must take place because this is going on forever. When will we ever stop this? We need curfews in those areas as well. So, in my view, the solution to some of these is not only beefing up the area with police but ensuring that police stations are nearby and that they patrol the area and at night, nobody moves out of their homes. Look at the story that Dennitah Ghati told us. People sleep with cattle in their houses! It is terrible, dirty and it does not look nice---

**Hon. Lomunokol:** Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this very important Motion. I want to urge my colleagues not to politicise the issue of insecurity in this country because we have all borne the brunt of insecurity. Having been raised in these hostile regions, the following solutions can bring peace in the

country As Parliament, we need to allocate substantial amount of resources to peace meetings and peace committees. It must be a deliberate action that aims at providing peace to these communities. No peace can come without any amount of money. The peace committees are very important. Like what we have done for the last two years in Turkana and West Pokot, we have really invested and it has given us good results; Turkana and Pokot have had peace for the last two years.

We also need to see heavy presence of police in these regions. I would also suggest that any livestock lost should be recovered. This will give confidence to the communities and also deter criminals from engaging in these activities because they will be making loses. Education is also very important in development.

Finally, the most important and very practical thing is to do disarmament.

Thank you.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Omulele): Hon. Members, the time being 7.00 p.m., this House stands adjourned until Thursday 26<sup>th</sup> January 2017 at 2.30 p.m.

The House rose at 7.00 p.m.