STATEMENTS

Date 1st August 2013
Member of Parliament: Hon. Gladys Nyasuna
Contribution She Made On: Threatened Strike By Medical Personnel

- She pointed out that the matter in discussion was a delicate matter as it was before the court but it was a matter, nonetheless of great national importance. She reiterated that the Leader of Majority Party in his statement had given absolutely no reason as to why Mr. Tom Odongo was summarily dismissed.

- She sought clarification on how then to proceed in prosecuting this matter owing to the fact that Members cannot do so on the Floor at the moment following the Speaker's earlier direction. She also recommended that Parliament pursue the matter even after it ceased to be sub-judice and added that there are several angles to it, including the constitutional right of the Cabinet Secretary to have done what he did to Mr. Tom Odongo.

Date 6th August 2013
Member of Parliament: Hon. Rachel Shebesh
Contribution She Made On: Repossession Of Duty Free Shops By KAA

- She thanked the Member for requesting for the Statement stating that the matter mostly affects residents of Nairobi. She further added that the week before she had sought a Statement on the issue of evictions on Langata Road but did not get any response and the eviction of tenants of DDF Limited has happened.

- She asked for clarification from the Committee on how an airport that is supposed to have a 24-hour security could be invaded by 350 unknown persons who were used to illegally evict tenants within the Duty Free Shops. She further inquired whether there were CCTV cameras within the premises that could show us who those hooligans were, and who led the operation to evict the owners of Duty Free Shops.

- She reiterated that it was important that the hooligans were identified because JKIA is supposed to be a secure place and it is an international airport. She questioned how a court order that was in the name of the Ministry of Transport be can used to evict the tenants?
REQUESTS FOR STATEMENTS

Date 1st August 2013
Member of Parliament: Hon. Rachel Shebesh
Contribution She Made On: Land Dispute between NCCK and Jua Kali Artisans

- She requested for two Statements pursuant to Standing Order No. 44(2) (c). She sought for a Statement from the Chairperson of the Departmental Committee on Lands regarding the dispute between the National Council of Churches of Kenya (NCCK) and the local Jua Kali artisans over the land property LR.209/9324.
- She pointed out that the areas in question was a 3.05 hectare piece of land that was allocated to NCCK in 1978 by the Government to be held in trust for the Jua Kali fraternity and establishment of the pilot project for light industries. She further added that the NCCK had since abandoned its role as trustee and attempted to sell the land to the disadvantage of the Jua Kali artisans.
- She asked that in his Statement the Chairperson should clarify:
  1. The current status of this land
  2. The measures the Government was taking to resolve this issue and protect the affected Jua Kali artisans.
  3. The actions being taken by the Government against the NCCK for this breach of contract.

Date 1st August 2013
Member of Parliament: Hon. Rachel Shebesh
Contribution She Made On: Increase In Electricity Connectivity Fees

- She requested for two Statements pursuant to Standing Order No. 44(2) (c). She sought for a Statement from the Chairperson of the Departmental Committee on Energy, Communication and Information regarding the increase of electricity connectivity fees from KShs. 35,000 to KShs. 70,000.
- She pointed out that the Kenya Power had stated that the increase was due to the need to meet the cost of connection as it was unsustainable under the earlier fee contrary to the Government directive to bar Kenya Power Company from increasing this fee until the Energy Regulatory Commission (ERC) had completed its three months study beginning March to ascertain the real cost of connection. She indicated that to date, there had been no report by the ERC on its findings and requested in the Statement, the Chairperson should clarify whether the Government had lifted and maintained its suspension of the increased connection fees and clearly state the connection fees payable by customers to Kenya Power for connection to its grid.

Date 1st August 2013
Member of Parliament: Hon. Rachel Nyamai
Contribution She Made On: Encroachment of the Kitui South Game Reserve
She requested for two Statements pursuant to Standing Order No. 44(2) (c) from the Chairperson of the Committee on Environment and Natural Resources and the Committee on Justice and Legal Affairs, regarding the encroachment of the Kitui South Game Reserve.

She added that some communities from Galole Constituency had migrated several kilometers inside the Kitui South Constituency border, settled and even built permanent structures like schools using CDF in Kitui South Game Reserve and there was even a polling station located in the same place and was in use by the residents of Galole Constituency within Kitui South Constituency.

She requested that in their Statements, the Chairperson should inquire and report on:
1. The reasons for the encroachment of this natural resource, which is public land and state under whose consent this occurred.
2. Whether any measures are being undertaken to recover this land and the timeframe allocated for this exercise.
3. The status of Koweti polling station number 19 as determined by IEBC.

She clarified that directed to the Committee on Environment and Natural Resources because of the game reserve, and also to the Committee on Justice and Legal Affairs because of IEBC.

**Date 1st August 2013**
**Member of Parliament: Hon. Alice Ng’ang’a**
**Contribution She Made On: Resettlement Of Squatters In Kilimambogo**

She requested for two Statements pursuant to Standing Order No. 44(2) (c) from the Chairperson of the Committee on Lands concerning the resettlement of squatters in Kilimambogo. She stated that In 2009, the then Minister for Lands assured the MP for Juja that the settlement of squatters would be done by the latest March 2010 and a district Planning Liaison Committee was constituted to begin the process of resettlement. A Part Development Plan (PDP) was drawn and verified by all stakeholders and submitted to the Ministry of Lands Headquarters for approval in 2012 but since then there has been no response from the Ministry to date.

She called on the Chairperson in his Statement, to inquire into and report on:-
1. The reason for the delay in this resettlement considering the deadline of March 2010 has expired,
2. When this resettlement will take place,
3. The state of the Part Development Plan (PDP) that was forwarded to the Ministry of Lands,
4. Clarify whether the Government was aware that the land identified for resettlement has since been sold to Verrell Construction Company to do quarrying.
**Date 1st August 2013**  
**Member of Parliament: Hon. Grace Kipchoim**  
**Contribution She Made On: Measures To Control Flooding From Lakes**

- She requested for two Statements pursuant to Standing Order No. 44(2) (c) from the Chairperson of the Committee on Environment and Natural Resources regarding the constant flooding of lakes Baringo, Bogoria, Nakuru and Victoria. She stated that a number of schools, roads, dispensaries and homes had been submerged due to swelling of waters in those lakes, resulting in loss of livelihoods for the families and the people living around there.

- She further requested the Chairperson to inquire into and find out the position of the Government Departments responsible for flooding, which had affected the people living around those lakes. She further welcomed Members to visit Lake Bogoria, where there are over two million flamingos.

**Date 6th August 2013**  
**Member of Parliament: Hon. Esther Gathogo**  
**Contribution She Made On: Suspension Of Students From South Eastern University College**

- She pointed out that there were a lot of pending requests for statements and exemplified this by stating that in the previous month she had made a request to the Ministry of Transport and Infrastructure and had been informed that she would be called to the committee but she was yet to receive the call up and she wanted to know what was being done about that worrying trend.

**Date 6th August 2013**  
**Member of Parliament: Hon. Sabina Chege**  
**Contribution She Made On: Suspension Of Students From South Eastern University College**

- She stated that her committee was going to give the answers to the questions raised in three weeks and that investigations were already underway including other universities.
MOTIONS

Date 6th August 2013
Member of Parliament: Hon. Rachel Shebesh
Contribution She Made On: Approval of Changes to Select Committees Membership

- She expressed her interest in seconding the Motion by the Chief Whip and acknowledged that there was a challenge in formation of committees because of the great numbers in the House.

- She also acknowledged that a lot of negotiation had taken place between both the Jubilee Coalition and CORD Coalition and, therefore, she urged Members of the CORD Coalition to hasten the process so that every Member plays their rightful role in the House.
Bills

Date 6th August 2013
Member of Parliament: Hon. Esther Gathogo
Contribution she made on: The Constituencies Development Fund (Amendment) Bill – 2nd Reading

- She seconded the Bill by stating that the CDF Act had a number of contentious areas and added that when elections were taking place, Members faces many problems because they needed to have regional balance and this was especially challenging because the Members who were required to be gazetted were few. She further stated that since Members were going to employ some members, they should not be limited because we have very many people to consider and they also had to consider regional balance, religion, age and gender.

Date 6th August 2013
Member of Parliament: Hon. Esther Murugi
Contribution she made on: The County Allocations of Revenue Bill – 2nd Reading

- She supported the Bill by first assuring the governors and the Senators that the Members of Parliament were actually the beneficiaries of devolution and that was because the governors would take on various functions the Members can divert Constituencies Development Fund (CDF) into other projects as the Governors take over some of the other functions for example, they have taken over the youth polytechnics, which means that the funding that we had allocated to youth polytechnics could now go to something else that will be of more value to constituents.
She proposed to move:-

THAT, the following new Part be inserted immediately after Clause 59, and before Part XVI—

59B. A member of the Authority, staff or other person having any duty to perform pursuant to any written law relating to any matter under this Act— Offences by members and staff of Authority

a) makes, in any record, return or other document which they are required to keep or make, an entry which they know or have reasonable cause to believe to be false, or do not believe to be true;

b) willfully refuses to do anything which they know or have reasonable cause to believe is required to be done by them under this Act or other written law;

c) interferes with any other person or process under this Act, so as to defeat the provisions or requirements of this Act;

d) where required under this Act or any other law to do anything to give effect to the provisions of this Act, fails to do such thing;

e) without reasonable cause does or omits to do anything in breach of his or her duty under this Act;

f) wilfully contravenes the provisions of this Act to give undue advantage or favour to another person;

g) fails to prevent or report to the Authority or any other relevant authority, the commission of an offence committed under this Act, commits an offence and is liable, on conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

Liability of employers and officers of companies.

59C. (1) Where any offence under this Act is committed by an employee or agent, the person by whom that employee or agent is employed shall also be culpable for that offence unless he or she proves to the satisfaction of the court that he or she did not know, and could not reasonably be expected to know, that the act or omission constituting the offence was taking place and that he or she took all reasonable steps to ensure that the offence was not committed.

(2) Where an offence under this Act has been committed by a body corporate, every person who, at the time of the commission of the offence, was a director, general manager, secretary, or other similar officer of the body corporate, or was acting or purporting to act in that capacity, shall also be culpable for that offence, unless he or she proves
that the offence was committed without his or her consent or knowledge and that he or she exercised all the diligence to prevent the commission of the offence that he or she ought to have exercised having regard to the nature of his or her functions in that capacity and in all circumstances.

Burden of proof.

- **59D.** In any proceedings, whether criminal or civil, under this Act, the burden of proving that any tax has been paid or that any goods or services are exempt from payment of tax shall lie on the person liable to pay the tax or claiming that the tax has been paid or that the goods or services are exempt from payment of tax.

General penalty

- **59E.** A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

 She further stated that in proposing these amendments, and especially Clause 59B, that covers offences by members and staff of the authority, she was guided by the experience with the Independent Electoral and Boundaries Commission (IEBC) during the elections and added that the elections that were recently conducted, very hefty penalties were included in the law for the staff who would work for the IEBC. Not only would they be under duty and authority to take us through the elections, but they would also be found personally liable for many of the matters that would not be properly attended to during the elections.

 She further stated that that particular regime of law works very well. The authority and the personnel employed have just got to follow the law and added that if the Members in the Jubilee government intends, to raise money through VAT, then it is important that the staff of the authority stand guided and really duty-bound to implement this law in its entirety.

 She pointed out that in Kenya tax evasion happened a lot because the staff colludes with the tax evaders and that was what the amendments in that section sought to cure. She added that the offences created require the staff to make sure that the records are up to date, and to ensure that they will fully undertake their tasks and that they do not in any way seek to obstruct the collection of tax. The Clause also requires that this Act is not contravened by the staff. If contravention of law will occur, it will need to be done by people other than the staff of the authority. She further moved that that particular Part be part of the law, and then Members were going to have a better tax regime where the officers of the authority will be duty-bound to ensure that the provisions of this law are really obeyed.
She pointed out that In Clause 59C, after creating the offence in 59B, Clause 59C covers the liability of employers and officers of companies. She reiterated that taxation was a matter of individuals, but it was also a matter for corporate bodies adding that if corporate bodies evade tax, then the employers and the officers of that company should also be held liable by the law. She further stated that, the intention was to ensure that if you have a choice between paying tax and evading paying it, one would will choose to pay tax because the penalties are going to be hefty, and would reach to officers of the companies and not just the company that is going to be surcharged. This tax regime will be better implemented that way.

On Clause 59D, the burden of proof is shifted to the person who says they have paid the tax. If you claim to have paid tax on certain goods and services, the burden is upon you to prove that you actually paid the tax. This again makes it easier for the officials handling the tax regime to do their work well. They will not always go around approving in court that you are a defaulter. If you are claiming you have paid, it is up to you to bring documents that will indicate that you have paid tax. On Clause 59E, there are many offences that are created, and they range from failure to disclose goods and services, changing records and documents and not issuing receipts for goods. All of those offences require a general penalty. There are many offences created within the body of the law and the only way to penalize those particular matters is to create a general penalty. If there is an offence created in the body of the Bill for which no penalty has been provided, then the general penalty in Clause 59E will apply.

She further recommended that the general penalty be set at Kshs1 million for evading tax or imprisonment for a term of three years or both. This again, is supposed to make people really feel the need to pay tax. If you choose not to pay VAT and you are caught, then the penalty will be very high.

Date 6th August 2013
Member of Parliament: Hon. Florence Kajuju
Contribution She Made On: The Value Added Tax Bill

She supported the amendments and congratulated the Committee for the making and accepting gender related amends to the Bill positively. She further stated that she was happy that the Committee was able to look at the fact that the women of Kenya need sanitary pads and tampons; it has now and agreed with our application.

She further pointed out that the question of comparing sanitary pads with food as posed by one of the members was wrong as they both held the same importance and none could be dismissed for the sake of the other. She added that there were several items that had been considered in this amendment.
Date 6th August 2013  
**Member of Parliament: Hon. Priscilla Nyokabi**  
**Contribution She Made On: The Value Added Tax Bill**

- She proposed THAT, the First Schedule be amended in Section A of Part 1 by inserting the following new items immediately after item 27—“28. Maize (corn) seed of tariff no.1005.10.00

- She reiterated the other members’ gratitude to the committee for catering for women in relation to sanitary towels maize flour and other products but she also added that in moving Item 28 there was a need to put the maize/corn in line with the other seeds that as tariff No.1005.10.00, so that it is clear to all that maize seeds were also exempt from taxation.

Date 6th August 2013  
**Member of Parliament: Hon. Rachel Amollo**  
**Contribution She Made On: The Value Added Tax Bill**

- She opposed the amendment by stating that exempting publishers from taxation would not help any of the children in school due to the fact that the discussion was on free education and soon, they would have e-books, e-learning and e-library and therefore she did not see why levy VAT should not be included on textbooks and that way the publishers could also be controlled.

Date 6th August 2013  
**Member of Parliament: Hon. Florence Kajuju**  
**Contribution She Made On: The Value Added Tax Bill**

- She supported the amendment by Hon. Wanyonyi, and she sought to bring to the attention of Members the provisions of Article 27(6) of the Constitution that read:—
  "(6) To give full effect to the realization of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination”.

- She added that the disabled and the blind were part of the class we would say that past Governments have not looked at in terms of provision of basic needs and therefore, that was a very progressive amendment that had been brought to the House.

Date 6th August 2013  
**Member of Parliament: Hon. Gladys Nyasuna**  
**Contribution She Made On: The Value Added Tax Bill**
She supported the amendment by stating that the delimitation of boundaries of constituencies had already taken care of a lot of the equality issues within the constituencies and therefore distribution of funds should not, again, take into account the factors that have already been taken care of when delimiting the constituencies.

She reiterated her support for the amendment by stating that it would give an opportunity for all Kenyans to enjoy the benefits of the CDF and added that the CDF is so far the most successful devolved Fund and therefore, everything that can be done to improve it must be done.
MOTION FOR ADJOURNMENT

Date 6th August 2013
Member of Parliament: Hon. Mary Emaase
Contribution She Made On: Adjournment To A Day Other Than The Next Normal Sitting Day

- She supported the Adjournment Motion stating that it was very timely and also it was a health break for all members. She continued to state that the Members had had very little time to address issues of their constituencies and that break would give them time to go and attend to development issues in their constituencies.

- She appealed to all the Members that as they went to the constituencies, they should focus on issues of development as opposed to politicking that had been going on and to give the Jubilee Government time to deliver on its promises.