MOTION

Date 4th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL COHESION AND INTEGRATION

Hon. (Ms.) Kajuju: Hon. Deputy Speaker, under Standing Order No. 1, this is a House guided by rules. We have already adopted the Motion appearing at Order No. 14 as per this Order Paper. I do not know what exactly the Orange Democratic Movement (ODM) Chairperson has issues with. However, we need to know what Standing Orders they are using to raise the issues they are raising or to compel a Member to vote in a certain way after a Committee has adopted a Report. We need your guidance, Hon. Deputy Speaker.

Date 4th August, 2015

Member of Parliament: Hon. (Ms.) T.G. Ali

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. (Ms.) T.G. Ali: Hon. Deputy Speaker, I beg to move the following Motion:-

THAT, this House adopts Sessional Paper No.2 of 2014 on the National Social Protection Policy, laid on the Table of the House on Tuesday, 17th June, 2014.

I want to take this opportunity to give the background of this policy paper. Social protection has been implemented in Kenya for many years in various forms that include non-contributory and contributory schemes. These schemes are given impetus by the 2006 African Union (AU) meeting in Livingston, Zimbabwe, following which the Government of Kenya initiated a wide consultative process to formulate a national social protection framework. Through this process, the Government has identified several social protection actions in areas of social assistance, social security and health insurance.

The Constitution of Kenya 2010 contains a comprehensive Bill of Rights. Article 43 of the Constitution guarantees all Kenyans economic, social and cultural rights. Article 43(3) of the Constitution mandates the State to provide appropriate social security to persons who are unable to support themselves and their dependants. This right is closely linked to other social protection rights which include the right to health, human dignity, reasonable working conditions and access to justice. Hon. Deputy Speaker, Article 21 establishes the progressive realisation of social and economic rights and obligates the State to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights.

The Constitution also emphasizes the direct application of international agreements ratified by Kenya. This includes the Universal Declaration of Human Rights 1948 which recognises social protection as a fundamental human right for all citizens of the world. This is also reinforced by many UN and ILO conventions as well as regional agreements including the African Charter on Human Rights, People’s Rights 1981 and the East African Community Common Market Protocol.
The UN and the ILO protection law initiates SPF and guarantees universal maximum package for social transfers of services within a life cycle approach to social protection. Within this, Vision 2030 envisages an equitable society to which social protection can contribute to. For this purpose, the Social Protection Policy is defined as policy actions including legislation measures that enhance capacity and opportunity for the poor and the vulnerable to improve and sustain their livelihoods and welfare that enables income earners and their defendants to maintain a reasonable level of income through decent work, and that ensures access to affordable health, social security and social services. The Committee also looked at the analysis of the National Social Protection Policy. The following are some of the things we noted. The overriding goal of social protection is to ensure that all Kenyans live in dignity and exploit their human capacity for better and for social economic development. To attain this, the following broad objectives will be pursued:

a) Protecting individual households from impact of adverse shocks to their consumption that is capable of pushing them into deep poverty.

b) Supporting individuals and households to manage those shocks in a way that does not trap them in poverty by reducing their exclusion and strengthening their ability to graduate from social assistance to become financially stable and sufficient.

c) Cushioning workers and their dependants from consequences of income threatening risks such as sickness, poverty, health injuries at work as well as threat of poverty in their post-employment life.

d) Looking at promoting key investments in human capital and fiscal assets by poor household and individuals and ensure resilience in the middle term that will break the intergenerational cycle of poverty.

e) Promoting synergies and integration among social protection providers as well as positive interaction among stakeholders for optimum functioning of this policy.

The Social Protection Policy is also based on the principle of leadership and integrity and also good governance, evidence-based programming, gender mainstreaming in assessing the implication of both males and females and any other planned action. It will also help in equality and social justice, improve enhancement to common standards, public participation, affordability and sustainability of benefits and flexibility of response to changing circumstances.

The Committee observed the following during the hearing of this policy:

(i) The Policy should provide strengthened transparency and accountability in social interventions.

(ii) There is need to incorporate the powers of the Council to the Bill.

(iii) There is need to review the legislation and policy in social protection.

(iv) There is need to carry out regular monitoring and evaluation and reporting of social protection programmes and interventions.

(v) There is need to harmonise data, for example, beneficiaries, despite differences in implementing agencies.

(vi) The Ministry seeks the formation of the National Protection Council that will bring together key stakeholders in the area of social protection.

The Committee made the following recommendations: The National Assembly adopts Sessional Paper No.2 of 2014 on the National Protection Policy.

The Ministry of Labour, Social Security and Services should strengthen transparency and accountability in social protection interventions. This will be through initiatives such as single registry, implementation of standardization targeting tools, common monitoring and evaluation system, common complaints and grievances handling system and various committees.

The Ministry of Labour, Social Security and Services should ensure that the powers of the Council are incorporated in the proposed Bill.
I beg to move and ask Hon. Gatobu to second.

Date 4th August, 2015

Member of Parliament: Hon. (Ms.) Musyoka

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. (Ms.) Musyoka: Thank you, Hon. Deputy Speaker. I rise to support this Sessional Paper on National Social Protection Policy. This is certainly a very important policy. I agree with all the speakers before me that there is need to have this policy in place, to ensure that the less fortunate in the society are well protected.

The special groups that require social security include Orphans and Vulnerable Children (OVC), the vulnerable groups such as the elderly who have no one to take care of them, and the severely disabled persons who are in our communities and, of course, the unemployed youth who are many. I would urge that we put more effort and resources on the issue of social services because it is very important. Our country is not among the richest countries. In fact, according to the parameters that are shown at the back of the sessional paper, our poverty level is 46.7 per cent, which is not good. Our GDP is 2.6 per cent and it has not improved much since Independence. Since we are a poor country, it means that our vulnerable groups are many and so are the needy persons. So, we should have a policy in place that takes care of those groups of people. At the moment, there are programmes that are going on such as the cash transfers, but they do not cover everybody who deserves to have these cash transfers.

We also have the OVC programmes which need to be strengthened. At the moment, as I look around, I find that the NGOs are the ones which mainly take care of the children who are orphaned. We need the Government to have in place a system that takes care of vulnerable groups.

As the Constitution says, everybody has a right to live well and to live freely. It is, therefore, important that we have adequate resources put aside, so that these groups of people can get support.

At the moment, the needy are many and a comprehensive framework is necessary so that we set aside resources and have a programme in place that will take care of all these people. This will get us out of the handout mentality.

We also need to increase our GDP. We need to have ways and means of increasing production in goods and services in the country so that we improve our economy and take care of these people as it happens in other countries that we talk about.

In Argentina, there is a good programme that covers 85 per cent of their vulnerable groups. The implementation policy there ensures that children and adolescents in that category receive certain amounts of money every month. The working age that are unemployed, as they look for jobs, also get some support. There is also a programme which takes care of the youth who are out of school. There is a good after-retirement plan for the old and every other person. Eighty Five per cent is a good figure. We should aim towards getting there. I do not know what figure we have currently but we are not doing as much as we should.

Hon. Deputy Speaker, thank you very much. I support this.
Date 4\textsuperscript{th} August, 2015

Member of Parliament: Hon. (Ms.) Muia

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. (Ms.) Muia: Thank you, Hon. Temporary Deputy Speaker. We have discussed the issue of human rights in several meetings and conferences and nothing has been implemented. I thank the Member who saw the need to bring this sessional paper on the Floor of the House. I will speak on only one issue, namely the issue of the older generation. If you could allow me to read Article 57 of our Constitution, which refers to the older generation, it reads:-

“The State shall take measures to ensure the rights of older persons—
(a) to fully participate in the affairs of society;
(b) to pursue their personal development;
(c) to live in dignity and respect and be free from abuse; and,
(d) to receive reasonable care and assistance from their family and the State”.

When we were campaigning for the new Constitution, we talked so much and persuaded the older generation to support the Constitution so that they would benefit when it was passed. The cash transfer programme is going on. In my constituency, it has only covered 660 persons. The old people are looking at leaders, for instance, I, as if I have been cheating them. I support this sessional paper and request that the coverage be expanded to even cover three times the current coverage, so that many people can benefit out of that.

Many people retire at the age of 60 or 70 years and most of them have not invested. When they get to the village with their families, they get a lot of problems. They think that everybody is covered by the cash transfer. So, I support this sessional paper because it covers even the people with disabilities.

Last year, we passed the Bill on persons with disabilities and yet, many of them are suffering on the ground. Nobody cares about their welfare. Once this sessional paper is adopted, I am sure many of those groups are going to benefit.

I support.

Date 4\textsuperscript{th} August, 2015

Member of Parliament: Hon. (Ms.) T.G. Ali

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. (Ms.) T.G. Ali: Thank you, Hon. Temporary Deputy Speaker. I wanted to donate some few minutes to different Members.

Hon. Temporary Deputy Speaker, I wish to thank the Members who have contributed to this. I know there is a lot of interest from the different Members and that is why I was making a request to donate some minutes. However, from the discussions, the Members have agreed that all Kenyans have a right to social protection. They have agreed that there is great need for coordination of social protection support in this country.

Social protection has been going on without a policy framework. In spite of the fact that many social protection initiatives are going on in this country, we have not put a policy framework in place. From the discussions, we have also realised that there is no problem with the availability of funds. We have contributors and non-contributors to the scheme. Quite a number of times, even during the Budget process, many Members have accepted to set aside money for social protection support.
I also want to thank Dr. Pukose for having brought in the dimension of universal healthcare, which should automatically be included for the beneficiaries of social protection. We have also realised that there are other vulnerable groups that have not been included in this support. Quite a number of Members have talked about internally displaced persons and street children. I thank all the Members for supporting the sessional paper.

I beg to reply.

Date 4th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I rise to second this Bill. I wish the Leader of the Majority Party would take the gender rule principle further beyond just giving me this chance.

I want to support and second this Bill. It may look voluminous and complex, but this is a Bill that simplifies the process of insolvency. It reduces the long bureaucracies and processes. What excites me about this Bill is the opportunity given to bankrupt persons - it is not that I am bankrupt. It gives bankrupt persons a chance to seek ways of bailing themselves out and restoring their normal status. This Bill requires expertise in practising insolvency. It eliminates the possibility of quacks and brokers coming into the limelight with no qualification. The Bill categorises liquidation as well as its processes. It clearly indicates the nature of bankruptcy and makes provisions applicable to companies in liquidation. It further establishes offences in relation to conduct before and during liquidation. This Bill enforces companies’ obligation to lodge documents with the Registrar of Companies and gives provisions for appeals to the Court of Appeal against decisions.

With those few remarks, I beg to second.

Date 4th August, 2015

Member of Parliament: Hon. (Ms.) G.W. Omondi

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL SOCIAL PROTECTION POLICY

Hon. G.W. Omondi: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. In contributing to the Bill I want to comment, at the outset, that the biggest gainer in this Bill is the local risk-taker who invests his seed money into a business and the local entrepreneur who tries to put money to grow his company. In looking at all these things I will restrict myself to the qualifications of the receivers, the introduction or the stage that has been set for insolvency practitioners to turn around companies and not necessarily sell them of when they take them. I will also look at the time-frame. I will also look at the fact that the interests of the shareholders are now being taken into account in this Bill. I will also look at the new introduction to the Insolvency Bill - that is the general requirements to turn around businesses. To begin with, it is very good that qualifications of insolvency practitioners have been introduced in Part II (6)(1) from (a) to (c). It sets out the qualifications expected of insolvency practitioners. Section 6(2) from (a) to (c) sets out disqualification. What has been happening is that anybody could be appointed as a receiver to a company. Those people ended up running down the companies and
neither the shareholders nor the creditors benefited. They ended up stripping the assets of a company because there was no rule at all. Some of them were not qualified. This is now a good thing that sets out that they must now be qualified. The law also sets out the provisions under which some people can be disqualified.

In Clause 5(1) of the same part, there is a penalty against those who are going to masquerade as qualified insolvency practitioners. They are going to be fined and expected to pay Kshs5 million. At Clause 8 of the same part, the Bill stipulates that an insolvency practitioner should apply to the official receiver. I will be bringing an amendment to this. This should not be left to the official receiver to approve the insolvency practitioner. Rather, it should be a panel or a committee within the official receiver’s office.

The other bit that is interesting in this Bill is that it gives an opportunity for insolvency practitioners to turn around the business and not to simply liquidate them. The existing insolvency law has been wanting on this. If you remember, historically in this country, Uchumi is put into receivership today and the next day, assets are advertised for sale and nobody tries to turn it around. This Bill sorts out this problem. Insolvency practitioners are expected to go a step further to try and rescue companies.

The object of the Bill at 3(1)(b) is that they should do their business to enable the companies fulfil the expectations of the shareholders and creditors.

Also, at Clause 3(1)(b)(ii), they are expected to conduct the business in such a manner to achieve a better outcome for the creditors and all the stakeholders. In (c), the need for turning around insolvent institutions is also dealt with at Clause 3(c)(i) and (ii) of this part. With regard to the time-frame, some insolvency practitioners and receivers have gone into business and taken forever making stakeholders, namely, the shareholders and creditors incur a lot of loses. The Bill requires that within a very short time, they should find out whether the company can be turned around or should be liquidated. The Bill proposes to resolve this at Clause 3(1)(d) and (e). For institutions whose financial positions are irredeemable, they are supposed to take a very short time to sort them out and liquidate them. The procedure for quick resolution is also mentioned at Clause 495 of this Bill.

The next bit is that this Bill takes into account the interest of the shareholders. Currently, the insolvency law has not adequately catered for the interest of the company contributors. They have been looking at the interest of the creditors but, in the process, they end up ripping off the creditors. They have been operating as undertakers. If your company is put under receivership, you know that you are done. Some of them operate as asset strippers instead of making sure that the company survives. This Bill, at various sections which I have mentioned - like 4(2) and 5 - provides that they must apply to the court in order to liquidate. Clause 428(1) provides that any creditor or contributor is given the opportunity to apply to the court to stay liquidation proceedings. This was not there before. Now, any stakeholder, if you feel that your company is being liquidated unfairly, you are given the opportunity to go to court. This has not been there before. Also, Clause 496(2)(d) and (c) gives grounds under which a stakeholder can go to court to stop liquidation.

Moving forward, this is very good. It gives the company’s contributors and other stakeholders something to hold on to. If it is left for the insolvency practitioners to decide without giving the other contributors an opportunity to go to court and stop them, they could behave in the olden ways of stripping the assets and selling even very viable companies.

Under Clause 455(1) and (2), both creditors and contributors are entitled to inspect all the records in the company’s possession or under its control. Before, once your company went down into receivership, you were not even allowed to go into the company. The receiver took over and you were treated as a criminal. At Clause 455(1) and (2), you are allowed to go and inspect the records of the company.

At Clause 465, this Bill stipulates that if a company is being liquidated, the liquidator may convene a general meeting. You can call a meeting of the court and the shareholders. At Clause 465(2)(a) and (b), a shareholder can request for a meeting to make sure that things are done well.
I will go straight to the new measures that are introduced in this Bill. The Bill is a step in the right direction in that it introduces new measures to preserve and turn around companies. This is at Part VIII.

BILL
Date 5th August, 2015

Member of Parliament: Hon. (Ms.) Chidzuga

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) BILL


"Pili, ikiwa tutakuwa na uchaguzi katika mwezi wa nane, kwanza, tutakuwa tumeadhiri elimu ya watoto wetu. Mwezi wa nane ni wakati ambapo watoto wetu katika Darasa la Nane wanaishara mwezi wa nene na mtihani wa mwigo. Wale ambao wakati Kidato cha Nne pia wako katika hali ya matayarisho ya mtihani wa mwisho. Ikiwa uchaguzi utafanyika Agosti, tutayaharibu maisha ya watoto wetu ambapo viwangozi wetu wa baadaye. Tutajiriwa mbali ya masomo yao. Uchaguzi ukifanywa, sio mwisho wa siasi. Baada ya uchaguzi, inachukua karibu mitatuzi mitatu kwa nchi kwa utulivu wa hali ya kawaida.

Kwa hivyo, ni vizuri uchaguzi ufanyike katika mwezi wa kumi na mbili. Kwa mfano, kuna watoto wana samu shughuli zao huko kufanya kazi katika serikali na katika elimu wa watoto. Kwa hivyo, tukitumika ukweli, tulichaguliwa na sheria inayosema tutatumikia katika mwezi wa kumi na mwisho. Kwa hivyo, tutajiriwa mbali ya masomo yao. Uchaguzi ukifanywa, sio mwisho wa siasi. Baada ya uchaguzi, inachukua karibu mitatuzi mitatu kwa nchi kwa utulivu wa hali ya kawaida.

Kwa hivyo, naunga mkono Mswada huu kuhusu kubadilisha tarehe ya uchaguzi. Bunge hili linatunga sheria na ni lazima tufahamua kwamba sheria inakata mbele na nyuma kama msumeno. Kwa hivyo, haiwezekani tuliunda sheria ambayo inasema kwamba MCAs na kila anayechaguliwa, awe ni Mbunge, Seneta au Rais, atatumikia kipindi cha miaka mitano na leo, tunataka kuibadilisha. Kwa nini leo iwe hao watatu watatunguiziwa muda wao na MCAs waachiiwe muda wao? Mswada huu unatulatea uwe sio ili tuweze kuweka hali ya uchaguzi iwe sawa kwa kilatetu mn."}

"Pili, ikiwa tutakuwa na uchaguzi katika mwezi wa nane, kwanza, tutakuwa tumeadhiri elimu ya watoto wetu. Mwezi wa nane ni wakati ambapo watoto wetu katika Darasa la Nane wanaishara mwezi wa nene na mtihani wa mwigo. Wale ambao wakati Kidato cha Nne pia wako katika hali ya matayarisho ya mtihani wa mwisho. Ikiwa uchaguzi utafanyika Agosti, tutayaharibu maisha ya watoto wetu ambapo viwangozi wetu wa baadaye. Tutajiriwa mbali ya masomo yao. Uchaguzi ukifanywa, sio mwisho wa siasi. Baada ya uchaguzi, inachukua karibu mitatuzi mitatu kwa nchi kwa utulivu wa hali ya kawaida.

Kwa hivyo, ni vizuri uchaguzi ufanyike katika mwezi wa kumi na mbili. Kwa mfano, kuna watoto wana samu shughuli zao huko kufanya kazi katika serikali na katika elimu wa watoto. Kwa hivyo, tukitumika ukweli, tulichaguliwa na sheria inayosema tutatumikia katika mwezi wa kumi na mwisho. Kwa hivyo, tutajiriwa mbali ya masomo yao. Uchaguzi ukifanywa, sio mwisho wa siasi. Baada ya uchaguzi, inachukua karibu mitatuzi mitatu kwa nchi kwa utulivu wa hali ya kawaida.

Date 5th August, 2015

Member of Parliament: Hon. (Ms.) Wahome

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. (Ms.) Wahome: On a point of order, Hon. Temporary Deputy Speaker. I have heard the Hon. Member saying that President Uhuru should know that he is the President of Kenya. The point of order here is, is the Member suggesting that the President has in any forum or situation said that he is not the President of the Republic of Kenya. We need a clarification because that insinuation is not correct.

Date 5th August, 2015

Member of Parliament: Hon. (Ms.) F.I. Ali

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. (Ms.) F.I. Ali: Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill. This is relatively a straight forward amendment. It is a simple matter of changing the date from August to December. I commend Hon. Ochieng for fast-tracking this kind of amendment. We are used to last minute amendments which cause a lot of confusion.

Last week, I was in Nyeri and Isiolo counties for public hearings and overwhelmingly, Kenyans said that the December date, which is being proposed, is the most appropriate and ideal date. About 90 per cent of them sought to support moving the election date from August to December. They also deliberated on the likely extension of some few months of Parliament’s life, and said that that is not substantive for them. They said that what is important for them is that August is not appropriate because of a number of activities that take place in that month. Farmers in Nyeri said that August is a very busy month for them. That is when they harvest their crops and prepare to sell them. The pastoralists in Isiolo said that August is the harshest and the most complicated month for them. It is a draught period when animals are far away from most of the urban areas.

They also said that if the date of August is retained, there will be a likelihood of them not turning up for voting in the next general election in 2017. That is very crucial for most of the candidates and Kenyans who will be seeking votes. Kenyans also said that August is a short holiday for schools and colleges, and does not give adequate time for people to participate in the elections. The campaign mood affects the calendar of the students and pupils who sit for their examinations in October and November. This will interfere with serious moments of our students’ life.

Some of the governors whom we met said that their five year strategic plans are likely to be fulfilled by December, 2017. They said the August date, which is in the Constitution, is in the middle of their five year plan. This means that it will not help them to fulfill their five year plans. The date of December might walk them towards the finalisation of their five year terms. Generally, the mood of the people in the constituencies whom we visited is that December is the most ideal time for elections to happen.

I support the Bill.
Date 5th August, 2015

Member of Parliament: Hon. (Ms.) Munene

Contribution She Made On: The Constitution of Kenya (Amendment) Bill

Hon. (Ms.) Munene: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to support this Bill. I am very sorry that my colleague is opposing this Bill. Kenyans need to know that we are supporting this Bill because August is a difficult month. It is in August when our children prepare to go for examinations. We need them to be ready to face examinations. As one of our colleagues said, during campaigns we make a lot of noise. We go round making noise while students are in school revising for examinations. As a result, they are unable to concentrate on their studies. We know that if we go to elections in August, we will not be ready in terms of the Budget. We discuss the Budget in June. We, therefore, do not want this country to come to a standstill because of the election. In August there are many things that happen. Again, we are changing this at the right time, that is the term in office for Members is five years. We are not amending this because of money; rather it is because of the rights of our people. We want to be through with the Budget by the time we go for elections. We cannot say that we are not going to hold elections in December. Traditionally, we go for elections in December. The purpose of this amendment is to set a date for elections; we want to determine when to have elections after five years instead of going round and round in circles.

We are the ones who make laws. We are the Members of Parliament. We need to support this Bill. I know that all my colleagues, including Hon. Simba Arati, are going to support this Bill. He knows about his rights because he also has got children.

Date 5th August, 2015

Member of Parliament: Hon. (Dr.) Shaban

Contribution She Made On: The Constitution of Kenya (Amendment) Bill

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker. As I look at this constitutional amendment, there are some things which have come up that are of major concern. I know there was a task force which came up with Hon. Mutula Kilonzo Constitution (Amendment) Bill. I was part of it but there were some concerns that we had and we have them even now. Even today, I still have the same concerns. Because people say that you look at the letter and the spirit of the law, it is important for us to look at what the letter says in terms of when the elections will be held in this country. It is quite clear that when we talk of the fifth year, essentially we are trying to change the terms of parliamentarians, the President and the governors to be four years even in future. Let us not just look at this coming election. Let us look at future elections also and see whether we have maintained the five years, because there is a contradiction in the term of the Members of the County Assemblies (MCAs) and parliamentarians, considering that is what the presidential and governors terms are tied to. We need to think without emotion whether this is what will serve our purpose.

I agree that the month of August is very complicated if we get a presidential runoff in this country; we will get into confusing the examination period with election time because we shall still be in a campaign mood. By the time our children are supposed to be gearing towards doing examinations they will be so destabilised. It will be difficult for them to do examinations without feeling that fever. It takes time for people to really catch up at a time when they are supposed to be at the climax of planning to do their exams. That is the time when they will be highly destabilised. The reality is with
us and it is up to us to face that reality. I know sometimes politics is about selfishness, but as we are looking at it, who are we serving? We are serving a society which has to be taken into consideration when you are considering all these. Everybody has talked about the arid and semi-arid lands (ASALs) where at this particular time is a drought season. It is very difficult for people in the arid areas, especially the pastoralists, to be involved because they will be busy running around looking for pasture for their livestock.

The other issue that comes into mind is that of the Budget cycle, which will be affected completely. We will run into a constitutional budgetary mess because of having an election in August. I think the December date would make sense, but I would only agree to it if we are specific that the presidential and parliamentarians’ terms, which are tied together, are precisely five years. I agree that we might have to stagger what happens at the county government and national elections in future. However, that will be in future. What is of concern now is: When are we going to have the general elections? I am asking you to look at it holistically and without emotions. If we really have a problem, we might have to go to the Supreme Court for them to give us a way forward instead of fighting over dates. It is not about us but about Kenya. We really have to look at this. I beg to oppose.

Date 5th August, 2015

Member of Parliament: Hon. (Ms.) Wahome

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. (Ms.) Wahome: Thank you, Hon. Temporary Deputy Speaker. I support this Bill. I have three points in support.

I have looked at the Bill and the Mover addressed himself to Article 136. This Parliament has a duty to remove the contradictions that are very glaring in the Constitution. Article 136(2) provides that an election of the President shall be held on the second Tuesday together with the election of Members of Parliament. It goes further to talk of every fifth year. That could be four years and one day. When it says in the fifth year, this Article does not say that it shall be at the end of the fifth year. Automatically that then reduces the term of Members of Parliament and the term of the President to four years. Was that the intention of the Kenyan public when the votes for the Constitution? All Kenyans know that we elect a President, Members of President and Senators for five years. So, this article lacks clarity and is not specific. I have a concern because it is states that the election of the President will be with that of Members of Parliament. It is for this House to look into that and see how clarity can be achieved.

Article 177 specifically provides for a term of five years for members of the county assembly. A county assembly is elected for a term of five years. Why is that specific provision lacking in Article 136? Was there an intention by the Committee of Experts (CoE), or a deliberate move, to reduce the presidential term to four years. That is what it is. If we read that, we will see that Article 177 provides that Members shall be elected on the second Tuesday, being the second Tuesday in August in the fifth year.

I am in support of the parliamentary and the presidential terms of five years, because that is what Kenyans wanted. That is what they intended when they promulgated the Constitution. Any article that purports to reduce that term can be interpreted, or construed, either by a court of law or by any person, to mean that the term of this Parliament or the term of the President is four years; it is be our duty to re-align it.

It becomes very serious in relation to Article 259. I do not know if Hon. Ochieng’ referred to that, but when it comes to calculating time, Article 259(5)(c) provides that the period ends at the beginning of the date of the relevant year. That simply means that the term will end at the end of the four years. If we went to elections on the second week of August, then terms would begin on the
following day of those four years. In short, we are not even looking at extending this term to December. We need to give clarity to the Constitution and provide a specific provision that is similar to the one in Article 177, which clearly provides that the term of Parliament and that of the President is five years and not “in the fifth year”. “In the fifth year” cannot mean five years. Those are two expressions, namely “in the fifth year” and “a term is five years”. So, in the fifth year, for me, could be four years and one day. Kenyans must know that they risk having a President for a term of four years.

Date 5th August, 2015

Member of Parliament: Hon. (Ms.) Amolo

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) BILL

Hon. (Ms.) Amolo: Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill. I also take this opportunity to thank Hon. David Ochieng’ for bringing it up at this right time. As fellow Members of Parliament have narrated, December will be the right time for holding elections. In the past, we have held elections in December, because of various reasons in our country. The month of August, as it has been said, is a very important time because that is when as parents, we are preparing our children for the exams that take place in October and November. It is not only the Form Four or Form Six students who will be preparing for examinations at that time; even diploma and university students, that is the time when they prepare to finish their final exams in the year. It is very crucial that we look into it, so that we all agree that December will be the right time for us, as Kenyans, to hold our elections.

The other issue is on the safety of our children. As parents, or women in this country, we believe in taking care of our children. In August, most children are very busy with exams. If we hold elections in August, most of our children will be all over the place. It is very risky because when vehicles are moving and there is a lot of noise, it is not easy to take care of children. However, in December it is easy to take care of our children because they are in our houses; so, we are able to ensure the safety of our children and prevent them from running all over and following voters who are run left, right and centre. December will be the right time to hold elections.

A lot has been said about our term of office. I listened to my sister, Hon. Alice, and she has come up with a very nice point about the “fifth year”. When is this “fifth year”? We need to determine when it starts and ends. She has raised a very important issue and when we will be moving amendments, we will look at it. Even if we hold elections in December, as Members of Parliament, we will still be within the term of five years. I do not see any issue of us having to be paid in lieu of notice. I do not agree with that. That will be part of our term; we will be within the five years. We are still within the term of office of Members of Parliament, governors and also the President.

With regard to the Members of County Assemblies (MCAs), it is not really an issue. Let us hold our elections in December. We can look at the term of office of the MCAs. If one does not complete their term before the date, then they may have to be paid in lieu of notice - the three months that will be remaining. That is not the real issue at this moment.

I to support that we hold elections in December.
PETITION
Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

Contribution She Made On: COMPENSATION FOR VILLAGE MANAGERS

Hon. (Ms.) Emanikor: Thank you, Hon. Deputy Speaker. I stand to support this petition. Village elders are very important people; they support chiefs and by this House supporting this petition we shall be promoting what the President did by increasing the executive powers of the national structures at the county level for county commissioners, the former District Commissioners, District Officers, chiefs and even these elders. Hon. Deputy Speaker, these elders are critical in curbing crime at the village level, because they know every person and the youth in the village. They can be used even to tackle the security challenges that this country is facing. We really need to go forward and see how we can even remunerate them.
Thank you, Hon. Deputy Speaker.
Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Leshoomo

Contribution She Made On: COMPENSATION FOR VILLAGE MANAGERS

Vile mwenzangu kutoka Pokot amesema, ng’ombe wakiibwa na akina mama au watoto wakipigwa, hawa wazee huwa na korti yao. Hiyo korti huamua kesi. Unaweza kukuta hawa wazee wanaulizwa wafuate nyayo za ng’ombe kilometa 30 ama 40, bila gari ama chakula. Hawana chochote na ndio watapeleka ripoti kwa kamishna, naibu wa kamishna na polisi. Kwa hivyo, unaona ni wazee wanaohitaji kuangaliwa kwa njia zote; inafaa wapewe pesa kidogo ama magari.
Kile ningeomba, kamishna na naibu wa kamishna wawe pia na magari ya kuwapa hawa wazee wayatumie kwa sababu wanaumia na wanatakikana kupeleka ripoti zote. Unajua pia hata chifu na naibu wa chifu hawana baisikeli, gari au pikipiki; pia hao wanawatumia hawa wazee. Kwa hivyo mimi ningeomba sheria itumiwe vizuri ndio hawa wazee wetu wapate kutumikiwa kwa njia inayotakikana.

Asante, Mhe. Naibu Spika; pia mimi naunga mkono zaidi hili ombi litimizwe, na pia kamati ifuate ukweli na sheria ili wazee hawa wapate njia ya kusaidika.
Asante Mhe. Naibu Spika kwa kunipatia nafasi hii.
Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Leshoomo

Contribution She Made On: COMPENSATION FOR VILLAGE MANAGERS


MOTIONS
Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Musyoka

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON GOVERNANCE, JUSTICE, LAW AND ORDER SECTOR POLICY

Hon. (Ms.) Musyoka: Thank you, Hon. Deputy Speaker, for giving me a chance to contribute to this very important Sessional Paper. The rules of law-making require that laws be adopted in accordance with established procedures and that they be made known to the public. They should be enforced consistently and even-handedly. This important policy document will help follow the rule of law. The rule of law is intended to ensure that a government exercises its authority fairly. It is crucial to securing liberty and justice for the people of any nation. This policy will make us move a step forward. As we know, no country is perfect. We should have those factors that will make us move forward and observe the rule of law. Even in the United States of America (USA) where the supreme law of the land is the Constitution and the Federal Law, it protects women, racial and ethnic minorities and other historically oppressed groups. I know they still have racial issues but, because of the rule of law and good policies, they voted for the first time ever, a Kenyan-American to be their president. That is a joy to many people all over the world.

We need to have the policy in place. I thank the committee that has put it in place. It is important for us to appreciate that we need to make people more aware of the laws of this land. As people become more aware of their rights and privileges as citizens of Kenya, we also need to exercise good governance, respect for human rights and recognise the indispensable conditions for sustainable and balanced development in the country. Governance is the way in which the institutions of the state operate. How the state relates to individual citizens, the civil society and the private sector is key to shaping the framework for the development of this country. So, public involvement and participation in law is very important. Having the policy in place will go a long way in involving people and getting them closer to attaining justice.

Good governance means that political systems provide opportunities for all people to influence Government policy and practice. Good governance requires an honest and accountable Government capable of managing public resources responsibly. So, the involvement of people, knowledge and awareness is also very important in achieving what this document is expected to do.

On the issue of accountability in this country, it is important that binding rules define responsibilities of authorities at different levels. They are pre-conditions and benchmarks for accountability. So,
judicial procedures and an independent Judiciary are important instruments to hold those in power accountable for irresponsible behaviour. That has been addressed in this sessional paper. Removal of barriers to access justice, including provision of legal services has become a measurable indicator of sector performance. I support this paper and I recognise that it is something that will help us move a long way in the development of this country.

I beg to support. Thank you very much.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON GOVERNANCE, JUSTICE, LAW AND ORDER SECTOR POLICY

Hon. (Ms.) Kajuju: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak to the GJLOS policy paper that was tabled by our Committee. I also thank the members and Chairperson of the Committee for the work they did, which is going to inform us in the adoption of this policy paper.

I stand to support the adoption of this policy paper because we need these kinds of policies to govern the various institutions that we have created in our country. During the passage of the Constitution, as members of the Law Society of Kenya (LSK) and other people, we were involved in a programme that was named “Kenya Integrated Civic Education Programme (KNICE)”. That programme was fully sponsored by GJLOS. The programme was for us to go into vernacular radio stations to educate the people on what the draft Constitution stated, so that the public could be in a position to make a wise decision, which I believe they made.

This is a good policy because it shows us what we can do as lawmakers and as persons who have been entrusted by the people to deliver the services they require. Sovereignty belongs to the people and we are only entrusted to exercise that sovereignty on behalf of the people. Most importantly, because we exercise the sovereignty as elected persons at the national and county levels, we need this policy so that we are able to know how the two arms of the Government are going to relate at the county and national levels. We also need to understand that, as much as we are exercising that sovereignty, there is need for us to respect various laws through the practice of constitutionalism. We might have a constitution but fail to practice constitutionalism in various institutions. That is why we have this policy to ensure that there is the implementation of various statutes that we pass.

Article 10 of the Constitution is about transparency, accountability and other core values that are expected from us. As persons who have been appointed, elected or who represent their country in a certain manner, it is important for us to know that we must be transparent and accountable to the public. In our capacity, we are trustees of the people. Therefore, I believe that this policy paper is going to demonstrate to us, who hold positions in trust for the people, how we are supposed to ensure that there is transparency and accountability.

There are various bodies that were constituted after the passage of this Constitution. One of the institutions, whose members were vetted by the Departmental Committee on Justice and Legal Affairs, is the National Cohesion and Integration Commission (NCIC). National cohesion in this country is very important. We have witnessed various conflicts within societies, communities and clans that have ended up in the loss and disruption of lives.

Hon. Temporary Deputy Speaker, this paper is going to address some of the issues that are supposed to manage conflict in our communities and also bring about peace-building.
To finalize, let me talk about access to justice. This is a very important paper because the civil procedure rules permit access to justice. We need to have a formula so that if I am pauper and I want to seek redress in court, I am not impeded by the fact that I cannot pay the filing fees. This is one of the areas that is being implemented by this policy—

**Date 6th August, 2015**

**Member of Parliament: Hon. (Ms.) Emanikor**

**Contribution She Made On:** ADOPTION OF SESSIONAL PAPER ON GOVERNANCE, JUSTICE, LAW AND ORDER SECTOR POLICY  
Hon. (Ms.) Emanikor: Thank you, Hon. Temporary Deputy Speaker. I rise to support this policy. The GJLOS policy actually attempts to align institutional policies and strategies with the political pillar of Vision 2030. Fundamental in the realization of Vision 2030 is the political pillar. The reforms that are envisaged by GJLOS will then trigger growth in other sectors, particularly the private sector and hence improve the economic pillar as well. The GJLOS reforms include constitutional implementation, judicial and legal reforms, security and policing reforms, which are very critical in the growth of this country. This policy in turn will enhance enjoyment of the human rights that are enshrined in our Constitution. The policy addresses the fast evolving and dynamic demands of the GJLOS sector. This is notwithstanding the commendable achievement of the GJLOS since its inception or launch in 2003. I support the policy.

**Date 6th August, 2015**

**Member of Parliament: Hon. (Ms.) F.I. Ali**

**Contribution She Made On:** ADOPTION OF SESSIONAL PAPER ON GOVERNANCE, JUSTICE, LAW AND ORDER SECTOR POLICY  
Hon. (Ms.) F.I. Ali: Thank you, Hon. Temporary Deputy Speaker. I support this policy. The GJLO sector is core to any country. Our Committee Members were very passionate about how the Government or country can strengthen the GJLO sector. We felt that the GJLOS programme has been ongoing in this country for a while. I can testify that when I was a Commissioner of the Kenya National Commission on Human Rights, the GJLOS was ongoing. But because of lack of serious commitment by the State, after the donors withdrew, the GJLOS funding came to an end and the Government was unable to implement the programme. There were many beneficiary institutions that were public and semi-autonomous, and which made a lot of progress. The unfortunate part of GJLOS was that they were not implementing the reports of the institutions in the basket funding. It is useful for us to develop a national policy, but the most crucial part is the implementation. Many will agree that this country has a bad history in terms of implementation of such reports. The most affected area is security in terms of sustaining law and order. When our security sector is not reformed, the achievement of justice, law and order is seriously challenged. I have interacted with some security apparatus. Yesterday, I went to Nyayo House to assist one of my electorate and I saw that the police have no regard for the human rights of people who apply for passports and identity cards. They still harass and mishandle people, particularly people with disability, women and members of communities who want to observe their culture and practices in terms of their faith.
Hon. Temporary Deputy Speaker, you used some of my minutes. However, I want to conclude by saying that policies are very important, but implementation is more crucial. The culture of not implementing reports from institutions that contribute to GJLOS will not achieve much for us. The policy is necessary as a starting point in terms of strengthening GJLOS.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL

Hon. (Ms.) Kajuju: Hon. Temporary Deputy Speaker, I thought the Chairman would have referred to me as a ranking Member because that is what you have been saying since morning.

Hon. Temporary Deputy Speaker, I will speak from experience because I have seen what happened after the 2013 elections. Many counties did not elect women representatives in the county assemblies. At the time of electing the Speaker of the county assembly, the Deputy Speakers, the chairpersons of the various committees, we did not have gender representation. There is a reason why in the Constitution we stated that we should have one-third gender obligation in elective and appointive positions. This has to apply within our county assemblies.

This amendment is quite in order. As we have said time and again, the Constitution might not be 100 per cent good but as we progress towards the implementation, these are some of the gray areas we will look at and see how we can amend. This includes the subsidiary legislation. This is because the County Government Act is one of the legislations or statutes that operationalise county governments. The county assembly is a key player towards ensuring that county governments operate. Therefore, we believe that if the county assembly at the first instance was to proceed in the manner that we see Kenyan elections being undertaken and one gender is disadvantaged, we shall have the political voice of the female gender lacking in most of the county assemblies. From the first instant, it is very important to state that any county assembly must await nominations so that if any gender is disadvantaged, at the end of the day, we shall have nominations and a properly constituted assembly that will take care of the interests of the 50 per cent of the population which in most cases would mean the female gender.

Hon. Temporary Deputy Speaker, we are going into elections in 2017, and if we do not legislate now, we are going to have a repeat of what we saw in the last elections. It is important to do it now, just as we are doing in other amendments to ensure that in the next elections, there is a smooth transition and composition of the various bodies comprised in the Constitution as by law established.

I beg to second.

Thank you, Hon. Temporary Deputy Speaker.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Ombaka

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL

Hon. (Ms.) Ombaka: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. I support the move towards including women in the county assembly. Women in the county assemblies have no big roles even though they were nominated. I will take an example from Siaya County where nominated women MCAs have no roles within the county assembly. They are there as flower girls and they have no positions. When elections were done, out of the 30 positions for MCAs, only one woman won the elections and is now the Chairperson of the
Education Committee. So, she is the only one out of the 29 men who has a position. Women have no role to play within the county assembly. That has shown a lot of discrepancy in the manner in which things are done, that even though nominations were done to address the one-third gender rule, that can be done but if you do not give them roles and responsibilities within the county assembly, then we have not achieved what we want.

Having women is good but giving them responsibilities is another thing. So, it is only one woman who is the Chairperson of the Education Committee and the rest do not play any role. This is because nomination to those positions was made when nominated women MCAs were not there.

We hope this will be corrected in 2017, and that nominated women will be there in the right time when nomination is being done so that they are included. This Bill is exciting because it shows we are moving in the right direction. As long as we continue to put this in Bills and laws that will be implemented, we are going to achieve the two-thirds gender rule. We have been talking about this the whole of last week and this week. I do not have much to contribute now. This is a good move to the country and that we are beginning to implement the two-thirds gender rule progressively.

Thank you, Hon. Temporary Deputy Speaker.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

**Contribution She Made On:** THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

**Hon. (Ms.) Emanikor:** Thank you, Hon. Temporary Deputy Speaker. I rise to support the County Governments (Amendment) (No. 2) Bill (Senate Bill No. 2 of 2014). As the Mover said earlier, after elections most county governments and county assemblies did not have the requisite gender parity numbers. It took time for parties to nominate MCAs due to the dynamics of the different parties. Most of these nominations were characterized by squabbles and this disadvantaged female MCAs. They were nominated after the constitution of committees and they were slotted into committees but they did not secure leadership positions in those committees. This amendment will ensure that both the elected and nominated MCAs attain the same status, accorded the same treatment and enjoy the same democratic rights.

In my interaction with my MCAs from Turkana County, whom I am mentoring, I learnt they are treated by their colleagues as lesser MCAs. That means issues of gender mainstreaming and concerns are excluded in county legislations and activities. The exclusion notwithstanding, these female MCAs are some of the most active members who have even moved Bills in the county assemblies. I stand to support.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Chebet

**Contribution She Made On:** THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

**Hon. (Ms.) Chebet:** Thank you, Hon. Temporary Deputy Speaker. I rise to contribute to this Bill. I want to support it from the start. This Bill has come at the right time when we have realised that more women are nominated than elected in our counties. Those who are nominated are normally locked out of business in the assemblies. I come from Elgeyo Marakwet where we have 10 nominated women MCAs and two elected. The only active ones at the time are the
two elected. The 10 MCAs are left silent because they were not assigned any responsibility as chairpersons or vice-chairpersons. This amendment is coming at the right time when we are preparing for the 2017 General Election and we would not like to see a repeat of what is happening currently. We would like to have our women participate in the first meeting of the county assembly when elections for various chairpersons are conducted.

I rise to support the Bill. Thank you.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Muhia

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. Indeed, I was happy with my colleague who has just spoken for speaking very good about women though I was disappointed by the Member for Changamwe for considering women as being given favours by this amendment. I consider this amendment as not based on any gender. It is purely based on constitutional rights of individuals because even men can be a minority in the House to require nomination. I hope that is the where we are headed.

This amendment is very good. It is unfortunate to be pioneers of any eventuality or occasion but it also comes with its own advantages. The current MCAs are the pioneers. There was no path and one has to be cleared. Some of the ways to make this path is to amend some Acts as we are currently doing. So, I want to commend the person who has come up with this amendment.

In Nyandarua, we did not elect any woman MCA and we ended up nominating 17 MCAs. These are potential leaders in their own rights. They will possibly rise to become Members of Parliament, or great leaders in this nation. However, because of the fact that they were not given their democratic right to chair committees or elect the Speaker, they have not made any difference.

In a case where the Speaker won with two votes, maybe if these women were given an opportunity that could have changed. There are circumstances where the Speaker is not leading the assembly in the right direction, but because these women are denied their democratic right, there are repercussions. With this amendment, these women will be given the opportunity to become leaders.

We all know that chairpersons have added advantage compared to those who do not hold those positions. For instance, women who come from upcountry could get a lot of exposure by travelling to other countries. I believe that most of those who travel out of the country are chairpersons because they lead delegations. So, if these women got this opportunity, for instance, if a woman was elected the chair of a committee, by the end of the term that is already a capacity built. That will not happen because this opportunity was not given to the women MCAs.

I also see this amendment in the spirit of equalisation and inclusiveness. That is if the assembly is in place every person in that assembly would have equal chance to contribute from day one. In that case, history would charge the assembly one way or another and all the MCAs would take equal responsibility.

This is a very good amendment which will afford all MCAs justice because there is already injustice in the current assemblies. However, on the first page, I see injustice in four counties in this country, and my county is one of them.

The drafters of this Bill or the persons in charge of the county governments have indicated the county headquarters and their physical locations, but they have left one column. For example, in Mombasa the location of the county headquarters is Mombasa City, but where is it? I take this opportunity to note that we have four counties in this country, Nyandarua being one of them, which do not have any
place to operate from. In fact, the Nyandarua County Assembly is operating from a church. So, it would have been wise if the officers declared---

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Muhia

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

Hon. (Ms.) Muhia: It is unfortunate for the MCAs not to be given their democratic right. Page 2 of the Bill indicates the physical location of the county headquarters. I am aware we are not discussing the county headquarters, but the point I was trying to point out is that together with these problems---Yes, I am referring to the County Governments (Amendment) Bill, 2014. Hon. Temporary Deputy Speaker, I just want to drive a point; it is very necessary. As all this confusion brought by the Constitution was there, there were also other confusions which were brought by the Transition Authority (TA). There are counties like Nyandarua, Tharaka and Tana River which do not even have anywhere to operate from leave alone the issue of nominating women, men or giving them an opportunity to elect the Speaker. These county governments do not have anywhere to operate from, two years down the line. So, I recommend to the person who drafted this Bill that it would be better to state the location of the offices. However, I stand guided.
Thank you, Hon. Temporary Deputy Speaker. I support.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Shaban

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

Hon. (Dr.) Shaban: Asante sana, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi hii niunge mkono sheria hii ambazo ikipitishwa itakuwa imesaidia sana kuwa na uanachama wa bunge za kaunti za ugatuzi.

Date 6th August, 2015

Member of Parliament: Hon. (Ms.) Shaban

Contribution She Made On: THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2)

Hon. (Dr.) Shaban: Asante sana, Mhe. Naibu Spika Wa Muda, ukweli ni kwamba kipengele cha 147 cha Katiba yetu ya Kenya kinahusisha binadamu wa maumbile yote na binadamu wa jinsia zote kwenye maswala ya ugatuzi hasa kwa maswala ya bunge za kaunti. Ninatoa pongezi zangu kwa Seneta Martha Wangari kwa kutukumbusha kwamba bunge za maeneo ya ugatuzi haswa kaunti zetu humu nchini zilivyoanza kazi wakati huu uliopita kama wanachama vile instahili kulingana na kipengele hicho cha Katiba.
Ni tatizo kubwa sana kuwa bunge hizi za ugatuzi zilianza kazi kabla ya kina mama na haswa walemavu kuweko katika bunge hizi ili kuchagua spika pamoja na wale wengine ambao wanamimamia kamati tofauti tofauti.
Jambo la kusikitisha ni kuwa ikifikia swala la wanawake aka swala la kuhusisha vijana ama walemavu, watu wanataka kuangalia ikiwa mtu huyu amesoma kiasi gani ama unasikia watu
wanaongea kama Wakenya wote hawana haki ya kuhusishwa kwenye maswala ya kutengeneza sheria hasa kwa maswala ya ugatuzi ambayo ni maswala mapya na ni maswala ambayo yanatakikana kuangaliwa kwa uangalifu ukihusisha wananchi wote wa Kenya.
Jambo la kusikitisha ni kuwa wakati huu makosa yalifanyika kwa sababu ni mara ya kwanza. Lakini tunavyoelekeza mbele ni lazima tuangalia kuwa bunge zimebeba jinsia zote na kujumuisha wananchi wote ili waweze kufanya kazi pamoja.

NOTICE OF MOTION
Date 18th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: EXTENSION OF PERIOD FOR CONSTITUTIONAL BILLS

Hon. (Ms.) Abdalla: Thank you, Hon. Speaker. As I was saying, the matters have been canvassed as you have clearly stated, and I should not take as much time as they have. I concur with what has been stated by my colleagues, except for the views held by Hon. Kaluma. As you know, Hon. Kaluma is used to not agreeing with the rest of mankind.

Having said that, there is a matter that is really disturbing me - the request by Hon. Chepkong’a asking you to rule on whether the Senate should be allowed to deal with these things. He stated that the Senate is involving itself in matters they have no jurisdiction on. You have ruled many times on the clarity of Article 95 and 96 of the Constitution, but it seems not to be getting through to our colleagues on the other side. Therefore, ruling again would be doing exactly what the Senate is doing with Kenya Airways (KQ). To take up the suggestion by Hon. Chepkong’a - although he had it as a by the way - that it is probably time we take these matters to court to be interpreted for rather than burden you with rulings that will not be binding to the Senate and yet they have no plans of doing that. We must be sympathetic to the fact that those guys are suffering as they do not have work. They need to create work. Unless they are stopped by looking for a way out – and I do not mean a ruling from you which they will not respect. As a House, I suggest we do not go looking for opinions that are not binding. We should look for a clear cut ruling of the Senate role and ours. We do not have to do these rulings just as what they are doing with KQ. They will recommend everything and anything but nothing will happen unless a Committee of this House decides they want to share the same recommendations. I would like to urge Hon. Chepkong’a not to ask you to do exactly what the Senate is doing, by issuing a ruling that will not make an impact.

With those remarks, I want to thank you for giving me this opportunity.
Date 18th August, 2015

Member of Parliament: Hon. (Ms.) Nyasuna

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Nyasuna: Thank you, Hon. Temporary Deputy Speaker. The Chairman of the Departmental Committee on Finance, Planning and Trade is asking me to be very brief. Probably he wants to reply before we finish. I think it is a reasonable request and I will try to be as brief as possible.

I support the Finance Bill, and particularly the exemption of tax for aircraft parts. We have seen what is happening to our national carrier. The most efficient and quickest transport system that we have in this country is quite expensive. I hope that with the exemption of aircraft parts we will see a reduction in the cost of air transport so that more Kenyans can afford it.

I had the privilege of visiting Boeing, the company that makes several aeroplanes that are used by different airlines including our national carrier. Aircraft parts are very expensive even before you add tax to them.

I was surprised to hear that one first class seat for an aeroplane costs US $50,000 which is about Kshs50 million. I hope to see a reduction in the cost of air transport with this exemption. I am a bit concerned from what I saw in the report of the Finance Committee, that we are now excluding Penicillin and its products from exemption. I would like to hear from the Chairman when replying, why this would be the case.

I have tried to look through the harmonised systems and commodities classification code to see whether medication relating to cancer treatment is included in the exemptions. The prominent items are medical supplies which are defined as equipment and accessories. Pharmaceuticals stand on their own. But we want to see medication for cancer treatment included in the harmonised systems commodities code. This should also apply to upgraded medication.

Lately, we have seen many young people die. We saw a young man called “Ezra” die from lymphoma cancer. We have also seen many people in this country who cannot afford treatment of cancer dying. I would like to hear from the Chairman, when he replies, why medication such as penicillin is being removed from the exemption list.

We are happy that the local film industry has now been boosted by tax exemption. I will not go too much into that because it has already been spoken to by many of our colleagues.

Removal of taxation on installation of machines outside Nairobi is a welcome move. We will now see many of our industries moving outside Nairobi and other major cities such as Mombasa and Kisumu. Coming from Homa Bay, I would like to see more industries moving away from these congested cities and coming towards Homa Bay and other places. This will ensure that a number of people will move away from the cities and be employed in these counties. This will also encourage investment.

Removal of taxation on compensation is a welcome move. People are giving away their land for purposes of public development. Therefore, receiving compensation and taxing it does not make sense. The whole issue should be discussed and debated by this House. Right now, you find projects where compensation is more than the actual cost of the project. We want our people to be compensated but when cartels set in, they make compensation go up.

On wayleaves, people want power and high compensation. This compensation should be at fair rates and should not be taxed to avoid extortion from our public resources.

Finally, because I would like to save a bit of time, I cannot sit down without commenting on the issue of increasing core capital for banks. It has been said but it cannot be said enough. We have seen our banks, even the large banks, grow today. Equity Bank, for example, grew from a very small
institution into the great institution that it is currently. Some people would even look at it as crossing the bridge and then removing the bridge so that other people do not cross that same bridge. If we get to Kshs5 billion by 2018, we will definitely be collapsing many of our banks and many of our people will not access banking services. Many people in Homa Bay where I come from, cannot access some of the so-called big banks.
I conclude.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Chairman. We are talking about putting the private sector in the Board. I would just like to inform the House that we have FKE. The said KEPSA also sits on the FKE. So, they are already well represented in the Board. We would not like to add any other person from the private sector while they are already represented by FKE on the Board.
Thank you.
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Munene: Thank you, Hon. Temporary Deputy Chairman. I rise to oppose this amendment because if students are going to be given allowances, they are going to fight among themselves. So, there is no need to give them this chance because they will not study, having in mind that there will be allowances. They will simply fight; we, as parents, are going to get into problems since our children are going to kill each other because of money.
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Seneta

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Seneta: Thank you, Hon. Temporary Deputy Chairman. I stand to support this proposed amendment. I support and insist that the Board should be writing to the institutions to inform them early which students have benefited. This is so that they are not denied opportunity to register or sit examinations.
Thank you.
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Abdalla: Thank you, Hon. Deputy Speaker. I would like to congratulate the Mover, Hon. Kang’ata, for moving the amendments that are going to be useful in ensuring that poor applicants benefit. I would like to note that if there is an award for pro-poor amendments, it needs to go to Hon. Kang’ata because he seems to have the most number of pro-poor amendments sometimes with unintended consequences like what will happen with Clause 4. The issues in Clause 4 are really good but some of the unintended consequences raised by Hon. Dalmas need to be looked into. We have many poor students who do not get a written reason why they do not get the loans. We are not able to help them because the reasons are unknown. There is need for a letter indicating that they did not succeed in getting the loan because they did not give us enough evidence of “X” or “Y” but documentary is a bit on the extreme side. Probably, that is something we need to eventually look into.

With those remarks, I thank the Mover and look forward to a better HELB.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Ombaka

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Ombaka: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I would like to support this amendment that has been brought by Hon. Kaluma. In his presentation, he made a very passionate appeal and I believe he is very right. When I came to this House, I constantly heard many older hon. Members saying that this is a House of debate, customs and traditions. That gave us so much power that this is a very important House. The role we play is very critical. This House of debate exposes you to debates on sensitive matters which should be protected when mentioning certain things or when expressing yourself in a certain way. Without protection or immunity, we cannot perform. I believe this is a role we need to protect all the time. When he mentioned the plight of Hon. Gor Sungu, it came to my mind that if we do not watch out, we many end up in the kind of regime we had in the past. Even when you said that the KANU party is dead, you get arrested and imprisoned and yet, you said it in the House. We do not want to get to that situation anymore. We passed it and the law we are putting in this amendment is going to protect us from going back to the old ages when saying such statements would put you to prison.

Secondly, the role of the Judiciary is critical. We are playing complimentary roles such that whatever debate is going on here may end up in court. There is need for coordination in a manner that one organ handles it much better or first before the other takes it up. There should be no confusion that when an issue is being debated in the House, it is already in court and somebody is pursuing that matter up there. Collision is going to take place. With these amendments, there will be respect between the two institutions - Parliament and the Judiciary. The Judiciary should wait until all the matters they are interested in are handled successfully in this House before they take it up. Otherwise, there is always going to be conflicts and problems. We will not move one inch. We are going to demonstrate ourselves as people who are constantly fighting with the Judiciary. We do not
want to go towards that direction. We want to ensure that whatever reaches the court is something that has successfully been handled by this House.

I support this amendment because it gives us immunity and protection as representatives of the people. Matters that come to this House are matters that can end up in court and can be so sensitive to put somebody in trouble. We should be given that immunity because of the kind of different issues that emerge and that need us to handle.

Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I would like to support this amendment.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I have listened to the Members and especially the Hon. Colleague from Mvita. I think he has some sense though I do not support him. I can see what he was belabouring to say. If we had institutions that were true to their positions and their calling, then this amendment would not be necessary.

Hon. Temporary Deputy Speaker, if you look at the Constitution, it is very clear under Article 117(1). It says:-
“There shall be freedom of speech and debate in Parliament”.

Article 117(2) states:-
“Parliament may, for the purpose of the orderly and effective discharge of the business of Parliament, provide for the powers, privileges and immunities of Parliament, its committees, the leader of the majority party, the leader of the minority party, the chairpersons of committees and Members.

Parliament has by law provided those privileges and immunities.”

So, I would actually want to tell the Hon. Member that, indeed, it is nothing new really that we are initiating because it is there in law. The only difference is that the courts have not stayed true to the mandate that we are given to do by subsidiary legislation and they have over-stepped their mandate or ignored their mandate especially in the famous case of Hon. Gor Sungu. This is because, if you do or say something on the Floor of this House in good faith, then you should not be held personally liable. Indeed, what this House should have done is to take the liability that was charged to Gor Sungu because it was work that he was doing as a Member of this House.

However, I was listening very keenly to the Hon. Member from Mvita. If you look at what the Constitution provides currently and what Hon. Kaluma is providing, he is actually extending the coverage. This is because, currently, if you look at the Article that I have spoken to, it seems to focus on the issue of speech and debate in Parliament. It does not talk to the performance of functions of Parliament. When you are talking to the performance of functions of Parliament, then it basically means that we are not only looking at our legislative roles, but we are also looking at our legislative oversight and other roles including the ones that Kenyans have given us nowadays, which includes development work.

Hon. Temporary Deputy Speaker, should we only be covered with the privilege? Should we only be insulated when we speak? Should it only be our freedom of speech which should be covered? I think there is a level of discretion that is still left to the courts when you say it is work that is done in good faith. That is because good faith is still a subjective provision that the courts will have to interpret. The courts would still have to interpret what good faith is unless by legislation we indicate or expand what we mean by good faith. I am happy that I can see Hon. Aden is actually bringing at the same
time a law that is covering that. So, I think it gives us opportunity when it is fresh and when we are discussing this to actually relook at these issues.

Hon. Temporary Deputy Speaker, one of the things that I had to grapple with is the infamous fight that we had in Parliament on 18th December 2014, when some male colleagues actually attempted to undress me before the Floor of this House. That is actually covered under privilege that if you want to go and prosecute somebody outside, it becomes a legal hurdle. So, for me, I want us to be very clear that it is not an issue of good faith, but things that are criminal in nature. They must be left to the realm of criminal law. Members of Parliament cannot be allowed to perform criminal activities, whether within or outside Parliament, and be covered by privilege. So, to that extent, I would agree with Hon. Nassir, except that I think it is not necessarily a reason that I would oppose this. But it is something that we can cure by the legislation that is being brought by Hon. Adan Keynan. For me, I will not oppose but I would want to say that we provide very clearly, under which part we should exclude so that, as Hon. Nassir says, we do not create potential tyrants.

Hon. Temporary Deputy Speaker, as Members of Parliament, some of the things that we do as part of our representation role is because of the privilege we are covered with, so that we can say things that other people cannot say outside Parliament, for instance. As a lawyer, I will be put to strict proof when I say some things and I would be charged with defamation and a whole manner of things and yet, sometimes, we have *prima facie* evidence over certain issues. If we are not insulated, then the county would stand to suffer and that is why, for me, I want to support Hon. Kaluma to the extent that, so long as there is evidence of good faith, we should insulate members of Parliament.

This is also not only a challenge to our Judiciary. There is something despicable that is going on in the country; that leaders must now live above board. The small bickering that we are seeing is extremely embarrassing for this country. Sometimes, I feel that the Judiciary and Parliament have a sense of competition and that is why even, instead of following rules that are very clear by law, we want to show who is stronger or mightier – the sort of unnecessary wars that I see going on between this House and the Senate. Others calling themselves “upper or lower” House - and I heard my good friend Hon. Nassir yesterday saying that some may want to call themselves “houses close to heaven”. We need to get over that kind of approach and focus on serving Kenyans and on being true to the letter and spirit of the law. But, this coverage should not only extend to Parliament, but to Members of County Assemblies (MCAs). That is one of the reasons why I am supporting these amendments.

But, with the same vein, when we are giving this sought of insulation to Members, then they must also live by higher standards. If you look at the debates and actions that go on in some of our county assemblies, it is embarrassing and, sometimes, you almost feel that we need to lift that veil and reach people who do not honour the dignity of the Houses that they are serving. We need to exclude by subsidiary legislation, again, not only for Parliament, but for county assemblies also.

Another thing that I support – and I know that in court we cover the proceedings of the court through the *sub judice* rule--- Again, this one is even by common law practice in the Commonwealth, you cannot indict Parliament when it is doing its work. If you are dealing with the issue of separation of powers, it sets in when the work of Parliament is already done. I think we have made several rulings in this House.

Unfortunately, sometimes the courts, as I have indicated before, have gone over-board and purported to “injunct” Parliament when they are doing their work.

Hon. Temporary Deputy Speaker, that is unlawful. If the courts did their work, we would not need to do these amendments. But because the Bible tells us: “Remind them even if they know”, by Constitution, we will remind them even if they know.

Hon. Temporary Deputy Speaker, I support.
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. Actually, a sober judgment would go the way you are saying but, I think I understand Hon. Kaluma. The frustration of Hon. Kaluma would be the sort of judgements that are coming out the courts that do not seem to adhere to the law. In all honesty, we do not need this amendment if the courts stayed true to what the Constitution says in Article 117. It is sufficient but, what he is doing is to make sure that there is no doubt whatsoever as to what Parliament intends.
What we have seen in the case of Hon. Gor Sungu is worrying! There is no way that the court should have gone the way it did so long as you are dealing with a matter in good faith. I actually also believe that so long as you have the phrase “in good faith”, you are still not sufficiently insulating. We are basically doing the same thing. By using the phrase “in good faith”, we are still giving the discretion to the courts to determine what is good faith. They can decide that what I am saying now about them is not in good faith. We are still giving them that power and authority. In a sense it cures, but it does not exactly cure.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL

Hon. (Ms.) Odhiambo–Mabona: Hon. Temporary Deputy Speaker, is the hon. Member in order to mislead the House? None of the Members who have spoken or the proposed Bill purports to allow Members to make reckless statements. Nowhere in any Members statement does it talk about reckless statements and nowhere in the Bill does it talk about allowing Members to make reckless statements. So, is he in order to mislead the House?

PETITION
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

Contribution She Made On: EDUCATION CRISIS IN GARISSA, WAJIR AND MANDERA COUNTIES

Hon. (Ms.) Emanikor: Hon. Speaker, I beg to lay the following Paper on the Table:-
SPECIAL MOTION
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Shaban

Contribution She Made On: EXTENSION OF PERIOD IN RESPECT OF LEGISLATION WITH CONSTITUTIONAL TIMELINE OF 27th AUGUST 2015

Hon. (Dr.) Shaban: Hon. Speaker, I rise to second the Motion by the Chairperson of CIOC on the extension of period in respect of legislation with constitutional timelines of 27th August 2015. It is quite important for all Members to be on board, considering the constitutional timelines which have been put in our Constitution. This is the only Constitution in the whole world where there are timelines in terms of implementing certain Articles, or parts, of the Constitution. An extension of 12 months is not a bad idea. In the last Parliament, we passed Bills in a hurry, sometimes up to midnight. In the process, people made mistakes and we had to do a lot of amendments considering the time limitations which were there.

Hon. Speaker, as I am seconding this Motion, I want to ask all my colleagues to be on board because Article 261 is very clear on how this is supposed to be done. We need everybody. This is not an issue of Jubilee alone. This is an issue of all Members of Parliament because the mandate of Parliament is to do legislation. We are a bicameral institution and whatever we do here has to go to the Senate. When it goes to the Senate, we do not have control of whatever the other side will do. We will be required to also give them enough time for them to carry out their legislative mandate.

Hon. Speaker, we do not want to get into a position where Kenyans will be running to courts to ask for dissolution of Parliament.

I beg to second.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Shaban

Contribution She Made On: THE INSOLVENCY BILL

Hon. (Ms.) Kajuju: Thank you, Hon. Temporary Deputy Chairlady. I also support the amendment as it were. Having worked on the Companies Bill and now that we are working on the Insolvency Bill, we need to harmonize both laws so that they do not bring any confusion or contradiction when the courts are applying the law or when the practicing advocates are making interpretations of the law.
I support.

REPORT AND THIRD READING
Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Shebesh

Contribution She Made On: THE INSOLVENCY BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Insolvency Bill and approved the same with amendments.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE INSOLVENCY BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I also want to congratulate the Departmental Committee on Justice and Legal Affairs. In congratulating them though, I would like to urge the Leader of the Majority Party that if you look at the list of Bills that we have and those that we have passed, even though they have enabled us to streamline many pieces of legislation that we have with the Constitution, the hurry with which we pass these Bills is not good. I am, at times, worried as a lawyer. I am hoping he can urge the Office of the Attorney-General to set up a taskforce to look at the correctness of the things that we are passing. In fact, I am a little worried when I see the list of the Bills that we have and are extremely important from tomorrow. I am not sure whether we will do justice especially now that we rushing.

I am also worried - and I hope I can raise the issue tomorrow - that my good friend, the Leader of the Majority Party, as much as he is calling me a mole on the political front, he is also a mole on the gender issue. He is a mole on the gender issue because if you look at the Bills that are up for extension, I have not seen his own Bill. I am only seeing Chepkong’a’s Bill over which I have been persuading my good friend and brother, Hon. Chepkong’a, to reconsider. I am more persuaded with the one for Hon. Duale. So, if he really loves calling me a mole, I am willing to be called a mole if he includes women. Finally, I know he has correctly called Hon. Junet a mole because he was removed as the Director of Elections and he is now the Secretary-General of the moles.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE INSOLVENCY BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill. I hope that this Bill along with the rest that we are getting have gone through public participation which is constitutional. Otherwise, we might have some constitutional challenges. They may be challenged after they are passed. I am hoping that by passing this Bill, we will be providing a synchrony especially in different registration regimes.
I am also hoping that by passing this Bill, we will be enhancing implementation because in Kenya, the challenge is usually not in passing law. In this Parliament, we have passed so many laws. Today, we are likely to pass even more than one but the issue is implementation. If we are able to implement the laws that we are passing, it will ensure that we make business attractive in the country through shorter time and especially on the issue of reduction of corruption. One of the things that is killing this country, and we have spoken on it time and again is the issue of corruption. I want to challenge the President that he came here and we gave a standing ovation on the issue of corruption. However, after that he has gone asleep. I hope that he can take the bull by the horns and give us back our country.

I want to load this Bill on the issue of creating awareness and especially in light of the 30 per cent rule for women, youth and people living with disabilities. I am hoping that it goes beyond just creating awareness but capacity building and assisting women, youth and people living with disabilities so that they are able to register businesses. It is one thing to say that women can access 30 per cent of Government contracts but it is another to build their capacities to register. Just this morning, I was talking to some young people who are trying to do businesses. When I was engaging in a discussion with boda boda guys especially from Nyanza area, I realized that half of them have no business licences and identification cards (IDs). So, it is one thing to pass laws and then it is another to make sure that they are making sense in the lives of Kenyans.

I have a problem and a challenge with the appointment of the four members. My brother Hon. Agostinho Neto has spoken to it. It should be through an open and competitive process. We are giving the Cabinet Secretary (CS) very serious powers. Anybody who is given too much power is subject to abuse. So, I am hoping that we can amend Clause 5.

Hon. Temporary Deputy Speaker, another issue that I have concern over is that increasingly we have been taking a zebra approach in legislation. Where you have a chairperson as a man, the vice-chairperson is a woman and where the woman is the chairperson, the man is a vice chairperson. I am also hoping that we can do an amendment to make sure that we retain this zebra approach. I would also want us to provide for strong language on gender inclusion not only for the staff but also for the board.

If you look at several of the pieces of the legislation that have come before this House--- I am hoping that the drafts people in the office of the Attorney-General will take this more seriously because we keep deleting them and they keep on bringing them back. This issue of co-option of people into boards is a very wrong approach and a wrong way of dealing with things. I want to challenge the Leader of the Majority Party that: Please I know that you would probably be representing the Government interests but sometimes it is good to bring the technocrats here so that they do not take us through the same process over and over again. There is a clause that we keep deleting and they keep bringing it back. It is the issue of co-option. You do not co-opt. You hire consultants. Otherwise, you are bringing a board through the back door whether it is in subcommittees or the main board. They can shorten our process by not bringing us things that we have to automatically delete.

Since my brother, Hon. Agostinho Neto has proposed that he is doing the amendments he can change the wording for establishing of the offices from “may” to “shall”. This will ensure that we pick up the devolved structures so that we do not give it an optional thing. If we want to deliver services under Article 2 of the Constitution that there shall be devolved services as much as possible, then we need to make it mandatory that they are devolved. There is also another issue that I would want to speak to. Earlier on, when we were speaking to Hon. Kaluma’s constitutional amendment, I remember several Members were concerned that we are trying to insulate Members of Parliament from actions that they do as Government. We are one arm of the Government. If you look at Clause 15, this is almost a standard thing that is contained in every Bill.
If you do your work as a Government employee in goodwill or by good faith, then you cannot be held accountable. So, it is a good provision.

Finally, because I know my brother has persuaded me to speak less so that he can hopefully get an opportunity to speak, I want to challenge us as a country. I know that my colleague has mentioned the issue of Rwanda. Dr. Ochuodho who comes from my county and Mr. Oketch have revolutionized the Information Technology (IT) sector in Rwanda and done many strides. I want to challenge us as a country because we keep exporting experts. Why can we not do that at home? I am not blaming Hon. Ochuodho. It basically means that as a country, we do not recognize our own experts. Over and above that, it is the culture of impunity that we think that we can get away with, doing all manner of things in this country. We hope that the presidency can take this issue seriously because change starts with very small steps. I support the Bill with amendments.

Date 19th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: The Insolvency Bill

Hon. (Ms.) S.W. Chege: Thank you, Hon. Temporary Deputy Speaker. I want to thank the Leader of the Majority Party for donating some time for me. I support this Bill. As I was listening to the Hon. Members making their contribution, I was almost worried that we are having another structure coming up that is going to be a burden to the taxpayers. I looked at the merits of the Bill and, we actually need this Board to harmonize what is happening in our business industry. We have had companies transacting business with the Government but when you later try to trace the ownership, you find that the owners are anonymous or not even known. I am bit concerned where we have investors who come and do business in Kenya. You find that they export and come with their own people. Sometimes they do business with us and when they leave, we do not have any expertise left behind. I hope this Board is going to harmonize that. We know our friends who are doing a lot of business and construction in Kenya. There must be some certain percentage of people who will be either shareholders or trained manpower so that when they leave, we will have our own people. As I support, I have seen one of the objectives is proper maintaining of registers, data and records and implementation of relevant policies. We hope this Board is not going to be just another board. We hope it is not going to just sit in Nairobi but that it is devolved to the counties. A good example is what the Huduma Centre has done. I hope this board is going to complement what Huduma Centre is doing.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: The Constitution of Kenya (Amendment) (No.2) Bill

Hon. (Ms.) Tuya: Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute in support of Hon. Kaluma’s Bill. The gist of this proposed amendment to the Constitution is really the entrenchment of the idea of separation of powers which is a good practice in good governance in any jurisdiction.

We are aware that the three arms of Government are constitutionally mandated to make specific interventions in the governance of this country. The Judiciary is confined to the interpretation of
legislation that emanate from Parliament. Here, we are talking about the national Government, the county assemblies and the Senate because Parliament encompasses both the National Assembly and the Senate. The Executive on the other hand is mandated or vested with the implementation aspect of policies and laws which emanate either from itself or from Parliament. For Parliament our mandate is very clear. It is oversight, legislation and representation.

Hon. Temporary Deputy Speaker, in support of this proposed amendment, we want Kenya to be in line with international customs and best practices in good governance, enhancing separation of power and making sure we do not bring confusion and limit this country in terms of effectiveness in governance aspects. Courts should be limited to their clearly mandated role of interpretation. While it looks like we are not supporting the kind of oversight that even the courts provide for the kind of work we do in Parliament, this particular amendment is to streamline internal functionalities of each arm of Government for purposes of good governance and good orderliness in how the three arms of Government function.

With those few remarks, I wish to support the Bill. Thank you.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: ADOPTION OF MEDIATED REPORT ON THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

Hon. (Ms.) Kajuju: Thank you for the opportunity to contribute to this Meditation Committee’s Report, Hon. Temporary Deputy Speaker. I congratulate the Committee for arriving at a consensus and being able to bring a mediated version to this House. It is a version that is agreeable to not only the Committee but also to the National Assembly and the Senate. That is a good beginning and the way to go to ensure that our relationship with the Senate is in the best foot.

I have looked at this version vis-a-vis the entire Act. I find that it was important the Board becomes all inclusive. They have brought in the technical expertise but, if you look at the other members of the Board, you will find that they have taken the fact that agriculture is also a devolved function at the county level. Therefore, there is representation of the Council of Governors and devolution as a process. I have also seen that there is gender representation and representation of farmers. Looking at the composition of the Board as it were, you will find that all the interests of the key persons and stakeholders are represented.

It is clear in the minds of Kenyans that agriculture is the mainstay in this country. Therefore, we should do everything that is possible to ensure that all the relevant structures are put in place so that even as we speak about Vision 2030 and other visions we have as a country, we shall know that we are food secure. The only way we can create food security in this country is to ensure that structures and systems are properly in place so that we can take care of the situations that farmers find themselves in.

Be that as it may, I know issues of fertilizer have disturbed farmers especially in Meru County. We have fertilizers which are being sold at prices that farmers cannot afford. There are times that we have been told that prices of fertilizers have been subsidized but, when you go to the shops or retail outlets at the county level, you will find that the common ordinary farmer is not able to buy the fertilizer yet it is so important for them to get enough food for sale and their own consumption. I have looked at Section 2(b) of this Act and I find that the functions of the Board are well enumerated. The Board is supposed to manage importation and distribution of fertilizer. If we are going to import fertilizer, we have to know the rate at which we expect it to reach the common mwananchi who is the consumer. The Board should look at all these issues to ensure that the farmer does not suffer in the hands of entrepreneurs.
We also have to look at the functions of the Board in as far as accessibility is concerned. Is this Board going to sit in Nairobi or is it going to ensure that it is moving within the country and counties? This is to ensure that information in as far as fertilizers and animal foodstuffs are concerned is understood and accessed by the mwananchi, the common person, the farmer so that they are enriched by it. That way, these people will deliver their mandate.

I also appreciate the functions of the Board because they are also supposed to advise county governments on where to purchase and to deal with the issue of fertilizer. I think those are very important roles.

Over and above everything else, what I have not seen in Section 2(b) is sensitization of the farmer. This Board must be able to go out there to farmers and advise them on how they can access some of the facilities that the Ministry of Agriculture, Livestock and Fisheries is going to be dealing with so that the farmer is the actual beneficiary of this Board and not the middlemen and other persons who are not directly concerned with farming.

This Board is expected to do a lot because agriculture is important in Kenya and we cannot succeed if we do not put our efforts in areas and matters agriculture.

Otherwise, I support this version of the Mediation Report. I say thank you to the team that made it happen. Thank you, Hon. Temporary Deputy Speaker.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Chae

Contribution She Made On: ADOPTION OF MEDIATED REPORT ON THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

Hon. (Ms.) Chae: Thank you, Hon. Temporary Deputy Speaker and the Committee for the good work that you have done. I also want to add my voice that actually the backbone of this country is agriculture. If agriculture is going to get what it deserves, our country is going to have food and the people will be healthy and strong. We will then know where we are heading to as a country that is working, well fed and well taken care of in terms of fertilizers and other inputs.

I also wanted to add on the issue of the administration officers that we have in our counties who have taken the place of the Agricultural Extension Officers. They should be awake and ensure that people in their wards get what they want so that we can improve agriculture.

I do not want to go beyond the two minutes. I thank the Mediation Committee for what it has done and wish it well. I hope that as a House we are going to support this to ensure that the work is done.

MOTION
Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Muhia

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY FOR PEACE BUILDING AND CONFLICT MANAGEMENT

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. I am glad because this Sessional Paper fits me because I am a member of Departmental Committee on Administration and National Security.
Peace building is the foundation of any society. All these conflicts that are listed here are a tragedy to any society. In fact, where we have seen continuous conflicts for instance in areas where we have pastoralists and bandits, the society tends to change. They take this as a way of life. Though my county is not listed as one which suffers from human/wildlife conflicts, I come from Nyandarua County where we suffer a lot. Animals are always in conflict with people. The farmers plant their crops and then animals destroy them. Time and again, hippopotamuses come from Lake Ol Bolossat. For the information of this House, it is good to mention that Nyandarua County is the only county with a fresh lake in Central Kenya. The hippopotamuses either bite old men or young children. The Kenya Wildlife Service (KWS) rarely compensates these people properly. So, as a way of life, the society tends to think that they can also take law into their own hands. In the long run, they also go for these animals. Conflict is key and fundamental to any society. Though we are going to make the policy, it can never be final because it is also a way of life.

The leadership also contributes to the conflicts in many areas. We are aware of the tribal conflicts in many regions. As we speak of a better policy which can improve this, I hope that people will not see the policy as the final solution. I pray that people will see it as a continuous process where they try to think positively, change their attitudes and wish to have peace in all capacities.

I wish that the education system could be the key to addressing some of these issues. Some conflicts come again as a result of way of life. If it is part of the education system and the children grow knowing that conflict is a tragedy to our life, then the conflict management would be better. So, the education system, hand in hand with the policy that would be made, has to work together so that it is a like a culture. Time and again, society lives by way of culture. So, this culture of conflict is there when one is born. If it is a pastoral area, the children grow seeing animals being stolen and there is no law in force. So, it is time even the security system has to come up with clear decisive measures particularly in pastoralist areas. If animals are stolen, they have to be returned and the law has to take course. Otherwise, the young generation will grow knowing that you do not necessarily need to work. You can go to the neighbour, get 10 cows and then go with them. As a result, this conflict remains forever.

I see that this is a very comprehensive Sessional Paper which is speaking of land issues. Again, we are all aware of the land conflicts which have always been there not necessarily in the neighbourhoods but even in the family aspect where you find sons and daughters also in conflict. So, I want to support it. For interest of time, I want to ask Members to support it. I know it will be a saviour for our country. Thank you, Hon. Temporary Deputy Speaker.

COMMITTEE OF THE WHOLE HOUSE
Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. (Ms.) Abdalla: Thank you, Hon. Temporary Deputy Chairman. I rise to support the Committee’s amendment. However, I want to clear a misconception that has been raised by the contribution of Hon. Mbadi that the President has interfered with this amendment. The reality is that this amendment is as a result of the shortcoming of my amendment to have the PSC appoint. So, the President’s amendment is clearing that shortcoming where I was mentioning in my amendment a clause in that Bill that still refers to the panels. So, that means that he is cleaning up a mess on an amendment we had made by referring to something that we had already removed.
Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. (Ms.) Abdalla: I am the one who created the mess and I am very happy about it, Hon. Mbadi. The issue that you have raised on why one commission should be recruiting another commission is what Hon. Baiya has talked about. We were not confident of the independence of the PSC when we were doing these Agenda 4 institutions. We then transported it to this Bill to have panels. If, for example, I, as an applicant, is dissatisfied with the conduct of a panel, whom do I sue? Would I sue the representative from the National Gender and Equality Commission (NGEC) or the Judicial Service Commission? That is what I am trying to cure. Because you have mentioned that other commissions are doing panels, we should clean up that mess because if a rogue representative from any of those institutions comes and is unfair to any applicant, who will be sued? Will you sue the individual or the 12 persons who were involved in that process? When you infringe on any of my rights if I am an applicant, I have the right to seek recourse. So, that is what we are trying to cure. We should cure this in all institutions. We should not transport the fears that we had during the Coalition arrangement to recruitment of persons. If you are not confident with the PSC, we should get rid of it and get one that we are confident with.

With those remarks, I support.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. (Ms.) Abdalla: Hon. Temporary Deputy Chairman, considering how he spoke and the level of awareness on this subject, I do not think he can give me any useful information.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Chairman.

I beg to move:-

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new Clause-

6. (1) Every person who immediately before the commencement of this Act was an employee of the Commission, shall upon such commencement continue to serve in his or her respective position in accordance with the contract of employment:

Provided that the Commission shall,
within the period of one year after the appointment of Commissioners under this Act, using criteria determined by the Commission, vet such employee to ensure that he or she is fit and proper to continue serving as such.

(2) The services of any person who fails to meet the vetting criteria established by the Commission under

Hon. Temporary Deputy Chairman, the import of this recommendation by His Excellency the President is to ensure that there is continuity in the work as the new commissioners come in. They would do the vetting as per the set down criteria.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Abdalla

Contribution She Made On: THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL

Hon. (Ms.) Gathecha: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. The tax regime in this country has been quite punitive and unclear. It has been used to mainly harass a number of businesses instead of growing the businesses. This Bill aims to put in place practices for taxation to ensure that it is clear. Hopefully, the Commissioner-General will be somebody working towards ensuring the tax regime in place and the taxes that will be charged will encourage investment in terms of industrialisation.

The purpose of this Bill is to keep the procedure of administering excise tax in tune with international best practices that currently exist around the world. This harmonisation will assist Kenya to be one of those main participants in regional integration. It will put in line investments within this country so that we do not have those who are trying to evade taxes by importing goods, taking them to other countries and ensuring that raw materials are not exported to other countries and then we end up importing a lot of those goods. It will help encourage industrialisation and growth of industries, which will also create employment in this country. This will be a good thing for our country.

The aspect of the compensation for harmful effects caused by production, supply, consumption and use of goods and services is one that I find helpful. Members of Parliament in the Central region have fought so hard to ensure that at least the youth of this country and of particular counties are saved from the harmful effects of the illicit brews and from the greedy works of those who are only interested in adding harmful additives into the alcohol that they currently sell. This is done to ensure that these youth will become productive members of this society. People sell illicit brews and second generation drinks that have tremendous harm to the revenue of this country because the youth had been rendered ineffective. They are individuals who engage in crime just to get the Kshs50 to ensure that they got a hit which made them unproductive.

I am not even sure that some of those taxes are punitive enough. When you take a look at the impact of illicit brews in the country, it causes 94 deaths a year. In the county that I represent, one death a year is too much for this country.

I also oppose what the Member had mentioned about some of the taxes that have been involved. If you were to take a look at some of the revenue streams--- We are not opposing industrialisation and home grown industries in this country. However, we cannot allow revenue streams to be made from products that are endangering or killing the youth of this country. When we say that the tax regime
that was imposed on Keroche Industries was too much, ethanol should be a very controlled industry. It is supposed to be a substance that is not just sold to anybody. Not everybody should be able to go out and purchase 1,000 litres of ethanol without an institution giving them any guidelines. They then make a concoction of it like they are making a fruit juice and then sell it to unsuspecting members of the public. Before we know it, these people will be blind and will have died and the person just goes off scot-free. We expect those who are sure that they want to engage in this type of industry that provides “sin taxes” or luxury taxes to be in compliance with the established rules and not to be engaged in the activities of providing a raw material to another person who will be used to harm Kenyans. They will in turn be culpable and held criminally responsible for those types of engagements.

Finally, I will speak on the issue of revenue leakages. When we have a tax regime that is compliant, that is clear and one that is understood, it actually ensures that everybody is fully aware of what is available. What has made paying taxes in this country difficult are the enforcement officers simply because the tax bill is so huge and unclear that in order to just get away from being constantly bothered, it is easier to pay somebody as opposed to following the law. We hope that with the introduction of this particular Excise Bill, we will ensure that even those who are hired to go out and do these jobs will be people of integrity and people who when they go to visit these companies will look at if they have paid their taxes as they are supposed to. For those who are paying, they will be in compliance and more willing to contribute to the revenue base of this country so that our taxes will be used in the manner that is clear. We should ensure that the taxes are being used to the advantage of Kenyans and in projects that are tangible and that can be seen as opposed to the black hole that 30 per cent of the taxes of this country have been going into.

With those few remarks, I support.

BILL
Date 20th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: THE EXCISE DUTY BILL 2015
Hon. (Ms.) S. W. Chege: Thank you, hon. Temporary Deputy Speaker. At the outset, I support this Bill. I have been going through the items and where I would like to dwell on is the excisable goods. I actually support the proposal to introduce excise tax on alcoholic beverages. My county is one of the counties where we are now trying to rehabilitate people who were affected by the alcoholic syndrome. It is sad to see the Government spend a lot of money on health and also on broken families while we have a few individuals making a lot of money selling these alcoholic products.

Hon. Temporary Deputy Speaker, when I spoke to the people who were already at the rehabilitation center, most of those who were taking alcohol, were also taking tobacco. I am happy to see that tobacco is one of the items that are going to be impacted by this duty. I am hoping that this will reduce the number of people who were able to access these products. I always say that things like alcohol and tobacco are not things that are a matter of life and death. They are things one can avoid. I would hope that we do not see other companies coming up now. I am very sad to see main companies in Kenya reporting that they are making billions of money out of the sale of alcohol and they all took advantage of the second generation alcoholic beverages being out of the market. Now they are selling and doing booming businesses. The kind of cheap liquor they are giving is going to cause more damage than the second generation alcohol. When beer is served frozen and in a very cold area like it is in Central Kenya yet these people are not feeding very well then it will cause more harm than the second generation alcohol. I am hoping that this House can sit and look at some of the
laws that we can come up with to make sure that whatever any company is selling to the consumers in this country is not going to cause any harm. When alcohol is frozen and is given to a man who has not fed very well and the place is also very cold then we will have a lot of cases of people dying of pneumonia. I support. I was a little bit confused when I saw the issue of mobile cellular phones. You know everybody in Kenya has gone digital and I am a little bit concerned on that issue because it is part of the accessible services. I also support the issue of plastic shopping bags.

**Date 20th August, 2015**

**Member of Parliament: Hon. (Ms.) S.W. Chege**

**Contribution She Made On: THE EXCISE DUTY BILL 2015**

**Hon. (Ms.) S. W. Chege:** I am not proud of cold Tusker. I would have liked Kenya to be known as a country where we have the Eighth Wonder of the World; the migration of the Wildebeests. I would be proud of that, but not cold Tusker. We can say the highest mountain, Mt. Kenya or the wildebeest. I can confirm to this House that I am not proud of the cold Tusker.

Going back to the issue of plastic bags, we know some of our neighbours like Rwanda who by the time you get to their airport you cannot get to their country with plastic bags. Aside from adding more duty on them, I am hoping that this House can also move to save our environment and ban the use of the plastic shopping bags. There are other ways. If we can go back to our traditions, when I did a wedding, my mother gave me a Kiondo. When I am going for shopping I can surely carry Kiondo. We do not need plastic bags to do the same. I am hoping that we can regulate and make sure that we ban the use of plastic bags in this country.

I have seen the duty on food supplements. Everybody is watching weight in this country. I may also be a victim. When I see that we have added 10 per cent of Excise Duty on food supplements, I am a little bit concerned. We need to be healthy. I am hoping this can be amended. I am not sure but I stand to be guided but food supplement should not be included in this category where we are adding the Excise Duty. We know that when our seniors get old, they need a lot of food supplements. I do not support food supplement being part of the items that are going to be affected by this.

Another thing is the issue of fruit juices. This is about health and living healthy. On vegetable juices, unfermented and not containing added spirits or sugar or other sweetening matter, I would also not support the fruit juices to be slammed with this Excise Duty because we are encouraging most Kenyans to take fruit juices and avoid other soft drinks. I am hoping we can do a little bit of amendment if it will be possible.

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

**Date 20th August, 2015**

**Member of Parliament: Hon. (Ms.) Muhia**

**Contribution She Made On: THE EXCISE DUTY BILL 2015**

**Hon. (Ms.) Muhia:** Thank you very much, Hon. Temporary Deputy Speaker. I stand to support this very good Bill particularly to women in Central Kenya. We have been known to be victims. I am hoping that by the end of this Bill, the lives and livelihoods of people in Nyandarua shall improve. As this Bill stipulates, I want to confirm that I am on healthcare currently and I am doing a cancer center. As a result, I have been doing a lot of research because I do not come from a medical background. I can confirm that effects of alcohol and cigarette go to as high as 16 per cent or even
more for those who get cancer. We should not only look at alcohol from one side. It is a health challenge to our people. If you look at those who consume alcohol, particularly what we witnessed a month ago, these are people at very productive age. Possibly they form 60 per cent of the people who determine the future of this country. Once they engage themselves in the lifestyle of alcohol and cigarette smoking then they become very unproductive.

Date 20th August, 2015

Member of Parliament: Hon. (Ms.) Muhia

Contribution She Made On: THE EXCISE DUTY BILL 2015

Hon. (Ms.) Muhia: As I stand guided, I am referring to excisable goods; Part I where the drafter has indicated what should be taxed. I was coming to that point. In the description, you will note that there is denatured ethyl alcohol which should be taxed at Kshs175 per litre. One litre can be divided to half or quarter litres. This will give the illicit brewers an opportunity to imitate. They imitate and make these quarters and the youth think they are taking spirits of a particular brand. I am not very good with the brands but at least I know there is one that is as clear as water. So the youth consume it thinking it is a genuine one but it is an imitation. In a nutshell, we may also speak of illicit brew which is an imitation of the rightful manufacturers.

I will bring very serious amendments because I feel that these charges are too low. A charge of Kshs175 per litre will give an avenue for those quarters to be sold illegally. If it went to about Kshs400 per litre, even if there was an avenue to imitate, then half would go to Ksh200 and a quarter litre would probably go to a Kshs100. This makes it difficult for the youth to get Kshs100 to buy the alcohol but in the event they can buy at Kshs30, the imitation business will rise.

Speaking of cigarettes, we know that even those who do not smoke get affected seriously from a distance. This is another case where I am viewing this country in a vicious cycle. When people smoke or drink, they get ill and seek medication in hospitals. Much as we have collected a lot of revenue and as a Member was trying to illustrate how Government should be fair with industries like Keroche, I would not be fair. I would want to minimize them or possibly discourage other investors to go that direction. I do not understand the cycle where we collect so much revenue from alcohol then we use the same revenue collected in healthcare because people who would be working for this country are lying in hospitals spending the same revenue on drugs.

I wish to say that investment or entrepreneurship is a range and people can diversify so that those who remain in this industry can make pure and hygienic alcohol that cannot be easily imitated.

Hon. Temporary Deputy Speaker, I am concerned about the motorcycles. Today, we know that our youth have become entrepreneurs on motorcycles, not only on transport but on other businesses like carrying cargo. I am concerned and I feel that during the Third Reading, we need to bring amendments and possibly agree as a House if we want to go this direction or not. Why do I say this? I always feel that insecurity in this country is as a result of frustrated youth. So, these youth have gone and joined a group and they have got Uwezo Fund, they have bought motorcycles, then we have taxed them so heavily such that they cannot maintain their business. The next moment, they would be googling the common known Islamic State of Iraq and al-Sham (ISIS) website. On that page, again, they are radicalised. We shall again find ourselves with insecurity issues. I am very concerned like my colleague of juices because we know some parts of this country like the coast region are quite hot. The temperatures are always very high and so people have to keep on drinking these kind of drinks. I would not like the taxman also to benefit at the cost of the ordinary mwananchi’s living standards. Some people may not afford those juices that are costly. However, as a result of the cost, again, the other manufacturers can come on board and try to manufacture.
I am also concerned about the issue of telephone. Today, we have all gone digital. Even my grandmother has a phone. Even the youth who are doing business have phones. Again, I want us to look at the taxman benefiting and the ordinary mwananchi losing business. Which tax should we collect more? Do we go this direction where we get revenue but we get fewer youth operating the phones? If they are not going to be in business of using their phones or changing with the lifestyle—

Today, we have gone all the way to using S4, S6 or iPhones. If the prices get very high, then the youth will maintain their *kabambes*. So, we may lose the revenue from one side as we look at the other side.

I want to compare this country with Europe where people drive very simple cars and in Kenya where we are fond of driving very big vehicles. This is with the exception of politicians because our roads are not good. So, the *Vitz* cannot take me to Kinangop or Ndaragwa constituency. Ideally, we should limit the people from driving the big vehicles unnecessarily. This is one way where Europe has maintained good standards and their environment is safe. This is because they have been regularised by the taxes. You cannot afford to pay so much tax on your vehicle if it is old or polluting the air.

In Kampala, Uganda, people are no longer using plastics. In Kenya, there is always an issue of unemployment. People say that if you do this, we shall lose this and that. In the west people go for shopping carrying their own homemade baskets. They carry their things to the vehicles. In Uganda, they use whichever kind, but they do not use plastics. Time has come that we do not regularise, but put a net. I may possibly want to bring this amendment in the Third Reading.

My view is that if we heavily tax the alcohol, the social life of our people, particularly in Central Province, shall come to the normal. Thank you

**Date 20th August, 2015**

**Member of Parliament: Hon. (Ms.) R.K. Nyamai**

**Contribution She Made On: THE EXCISE DUTY BILL 2015**

**Hon. (Ms.) (Dr.) R. K. Nyamai:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. At the outset, I would like to say that it is a fact that excise duty is an important component of our self-governance. This Bill brings harmonisation to various forms of taxation that are happening in this country. I would also like to point out that by bringing this Bill at this time, it is important because we are able to harmonise with other East African Community (EAC) countries where new laws have already been established. So, this Bill is timely. It has come at a time where we can debate on it and make useful contributions that can make it better than it is.

I would like to point out that this Bill interests me for various reasons. It brings about some controls whereby it provides that excisable goods stored in a factory or by a licensed manufacturer shall be subjected to the control of the Commissioner. It also provides that such goods may only be removed if taxes due are paid or with the permission of the Commissioner. So, it brings some form of control that is necessary so that the country does not lose revenue.

This Bill which enhances resource generation for this country is also important because it brings some control to goods that may be unhealthy for this country. I would like to go to the part where it focusses on handling some of the products which may be increasing the prevalence of non-communicable diseases. This country today is at a rate that it has never been before when it comes to non-communicable diseases. In order to curb the increase of these diseases, the Bill proposes to retain excise duty for sugar sweetened beverages, soft drinks and juices. Some of the soft drinks which are sweetened beverages are highly not recommended in most of the developed countries but they find their way here. So, the fact that it has retained and ensured that they continue to be taxed more is positive.
It is important for this House to be aware of the fact that the biggest burden to this country now is the non-communicable diseases like cancer, diabetes, among other diseases. So, focussing on these kinds of drinks is important. However, for these controls to be done properly, it is important for them to be done in consultation with institutions that have an understanding of the health effects. It is not only the financial department that is involved but also consultation with institutions that have capacity to identify the beverages that might be harmful.

The taxation of tobacco is a positive part of this Bill. According to the World Health Organisation (WHO) estimates today, tobacco accounts for more than 60,000 deaths. I am sure that it is much more especially for a country like this where most people will end up losing lives and we are not sure of the cause of death.

This Bill proposes an increase on excise duty rates on alcoholic beverages in order to reflect the current effective rates. This is positive. I consider and I know most of us consider alcohol as a luxury. It is a positive gesture for it to be taxed more. Alcohol affects productivity of a nation especially when it is uncontrolled. As other Members have said, it is a positive gesture that we saw recently Members of Parliament going out there and handling the alcohol menace especially the second generation alcohol.

From the previous tax regimes, majority of excisable goods had two specific rates. They were ad hoc in nature. So, this Bill brings a regime which brings some sanity than it was before. It proposes to have one rate which is specific with only few items which are not--- It brings sanity by ensuring that there is a specific rate of taxation.

We note that the current taxation regime does not take into consideration pollution that is emitted by different categories of motor vehicles.

I see this as a negative thing because any emissions that are emitted by vehicles, especially the old vehicles that are imported into this country also have a health aspect. This matter needs to be looked at to ensure that we do not have vehicles that are causing respiratory infections among our citizens. The emissions are not good for the environment of our country.

The Bill gives penalties. Any Bill that has clear penalties especially enhancing reduction of loss of money for this country is positive. This Bill provides a penalty of payment of two times the excise duty payable if the licensed manufacturer removes the goods from the excise control without the permission of the Commissioner. This is because, for us to be independent, we must ensure that we are able to raise funds. We know that without these controls, unscrupulous businesspeople can also cheat the country and ensure that they do not pay the excise duty as expected.

This Bill also provides for a refund for duty paid on excise goods where the goods have been damaged or stolen. To me, this is a way of protecting business because there are some of the areas where the payments are high. When goods are damaged or lost, it has a way of ensuring that refunds are done. So, I see it as a positive aspect within this Bill.

With those many remarks, I highly support this Bill.

PETITION

Date 25th August, 2015

Member of Parliament: Hon. (Ms.) S.W. Chege

Contribution She Made On: Amendment of the Constitution of Kenya

Hon. (Ms.) S. W. Chege: Hon. Speaker, I beg to lay the following Paper on the Table of the House:- The Report of the Departmental Committee on Education, Research and Technology on its consideration of the Basic Education (Amendment) Bill 2014.
REPORT AND THIRD READING
Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Laboso

Contribution She Made On: THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL

Hon. (Dr.) Laboso: Hon. Speaker, I beg to report that a Committee of the whole House has considered the Constitution of Kenya (Amendment) (No.2) Bill, 2013 and approved the same without amendment.

Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Odhiambo-Mabona

Contribution She Made On: THE SPECIAL ECONOMIC ZONES BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. My concern is basically on the way the Leader of the Majority Party is moving the amendments. Given that we have a lot of business to deal with before the House, I was just wondering if he could move them the way we normally do, which is: “That, I move that the Clause is amended as per the Order Paper” and then he can give an explanatory note. That way, we will end up saving a lot of time.

Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Odhiambo-Mabona

Contribution She Made On: THE SPECIAL ECONOMIC ZONES BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I congratulate the Departmental Committee on Justice and Legal Affairs for this Bill. Now that we are on the path of extending time for constitutional deadlines, I urge the Leader of the Majority Party together with the Liaison Committee and the House Business Committee (HBC) to ensure that we have the Bills brought in good time. On the Business Registration Service Bill, I had wanted to bring amendments but because of the speed within which we are moving, it is close to impossible to do comprehensive or meaningful legislative work because we have to balance between legislative work and our work in the constituencies.

Hon. Members, now that we have extended the time, can we, please, have the Bills brought in good time? We need to keep the timelines provided by the Standing Orders and law for Bills, so that we can give meaningful input to them.

I would like to thank the Departmental Committee on Justice and Legal Affairs.
Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Sunjeev

Contribution She Made On: THE SPECIAL ECONOMIC ZONES BILL

Hon. (Ms.) Sunjeev: Thank you, Hon. Temporary Deputy Speaker. Clearly, this is a graveyard shift. This is because in many occasions, it is observed that this time is not good time for many people. I salute the important people of this House, who make important decisions, resolutions and laws for this country.

Finally, I would like to support this Bill. If I were in the shoes of Hon. Duale, our Leader of the Majority Party, I would find it difficult to fit in them. He is doing a good job. The few Opposition Members of Parliament seated here right now are doing a good job. At least, they are here.

Thank you, Hon. Temporary Deputy Speaker.

Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Odhiambo-Mabona

Contribution She Made On: THE SPECIAL ECONOMIC ZONES BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. I can see Hon. Chepkong’a purporting to be Hon. Millie Odhiambo. I do not know why. Maybe, it is because he is positive towards the womenfolk. Even though he has said one or two things, he is a good guy who supports us.

I would like to thank the Committee and the Leader of the Majority Party for this Bill, which seeks to enhance the economic potential of this country. As I congratulate them, I would like to inform my sister, Hon. Sunjeev; that right now, the Opposition side has eight Members seated in the House, while the Government side has only five Members. We will be encouraging them to take the business of the House more seriously, like the Opposition is doing.

Date 25th August, 2015

Member of Parliament: Hon. (Dr.) Odhiambo-Mabona

Contribution She Made On: THE SPECIAL ECONOMIC ZONES BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Speaker. Is Hon. Duale in order to discriminate against women? The Constitution says that you shall not discriminate directly or indirectly. What he has done is to discriminate indirectly by only pointing out and praising men when I, Hon. Millie Odhiambo, is equal to 30 Duales. We can take a judicial notice of that in this country. Everybody knows I can deal with Hon. Duale perpendicularly. You need 30 Duales to deal with me. So, let him be warned.
BILL

Date 26th August, 2015

Member of Parliament: Hon. (Dr.) Odhiambo-Mabona

Contribution She Made On: THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Deputy Speaker for giving me this opportunity. I can see my good friend and neighbour, Hon. Mbadi, is wondering why I am given preference, but the Bible says:-

“The Kingdom of God suffers violence and the violent ones take it by force”.

So, when you have a Speaker who is very conscious about issues of gender, then we must be given priority. I support this Bill, of course, with amendments. I will personally be moving amendments in relation to what Hon. Jakoyo has said in relation to Clause 27. There may be one or two other amendments that I will be proposing.

This Bill is coming at the right time especially when we are in the process of passing the proposal by Hon. Kaluma. If you look at the law; that is the Constitution and the existing law, you will find we should not have had Hon. Kaluma’s amendment. We have a Judiciary, unfortunately, because of the push and pull between it and the Legislature, sometimes it does not abide by the law.

Otherwise, the Constitution provides very clearly for shielding of Parliament and Members of Parliament on matters that they discuss or do while in Parliament. Hon. Kaluma’s amendment seeks to expand that provision. The saving grace is that it gives provisions for a matter that is done in good faith. It still gives some discretion to the Judiciary in that when you have a matter that is done in good faith, then it is still okay.

This is not unique to Members of Parliament. As public officers, especially the ones that protect the interests and rights of Kenyans, we must be shielded in our work so that we are not fearful when we are conducting our work. If we strictly follow the technicalities of law and the strict rules of evidence, then the work of this Parliament would not be done. There are times when, what we call prima facie evidence or information is allowable in Parliament, but is not necessarily allowable in court. To me, as long as there is good faith by MPs in conducting their business, then it is okay.

I want to indicate, though, that we must be careful that, even as we shield MPs, there are certain things that cannot be protected, especially acts that are criminal in nature. These cannot be the subject of privilege. The events that happened on 18th of December, last year were an embarrassment to this country and Parliament. I wrote a letter to the Office of the Speaker.

As a person who has worked for years in the women and gender sector, including being the Chairperson of the Coalition on Violence Against Women (COVAW), I was disappointed by the non-action by the Speaker when I reported a case of gender violence against me. I know many people were shocked that I was able to raise that issue. Because I have done this work for years, I understand the will of power, relations and violence against women.

One of the tools that is used is silence - that when you are violated you stay silent. I will not be silent. If my rights are violated, if any woman’s rights are violated to whatever extent or even if I had been raped, I would have spoken. Violence against women must stop. As we speak on issues of privilege, we cannot protect privilege or purport to protect privilege that violates the rights of other people.

One of the other issues that we must look at in tandem with this is the issue of public participation. Now that we have extended the one year period, I am hoping that within that one year period, we must bring to this Parliament a Bill, which is five years in the making, that guides public participation. I want to speak to this in relation to the unfortunate incident that happened in this
House when there was a disagreement between women who wanted to present their views and my good friend Hon. T.J. Kajwang, who was presiding. I know that the women were very well intended but because they were not given guidelines, they may have appeared to have gone overboard. In order for us to be clear, we must give clear guidelines to members of the public who want to appear before Parliament in terms of how they dress and address Parliament, so that when they come here, are unruly and are thrown out, they must have had that information prior, so that we do not have the excuse that they were not informed and they did not know. They were not informed but for those of us who are in Parliament, we know that there are certain standards that must be adhered to, which they were not aware of.

Looking at the definition of staff of Parliament, there is a critical element of support staff of Parliament that is permanently excluded. That includes the staff that serves MPs. It is a crying shame for us as MPs to have our staff having their salaries delayed, every now and then, when we have our own salaries. It is one of those unspoken issues that most of us do not want to speak about. As I speak, many of our staff have not been paid for this month. They have rents and salaries to pay. They would not understand. They would think that we are the ones who are obligated to pay them. It is not right. If we are to talk about our own privileges, they must start by protecting the privileges of those who serve us even as we serve others. Staff of Parliament should be defined to include, even if it is under different terms of service, those who serve us as drivers, personal assistants and other categories because they serve the Parliament of Kenya.

I will be bringing several other amendments but for now, I will just limit my contribution. I want us to look at how we define Parliament. This is a minor one. We have made reference to the definition in the Constitution. Just for clarity, a lot of people think that Parliament is just the National Assembly when Parliament is both the National Assembly and the Senate. For avoidance of doubt, we should define Parliament as the National Assembly and the Senate.

I will stop there. I will push the rest of the issues that I want to comment on as I bring my amendments.

I support the Bill.

Date 26th August, 2015

Member of Parliament: Hon. (Dr.) Kajuju

Contribution She Made On: THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. (Ms.) Kajuju: Thank you, Hon. Temporary Deputy Speaker for this opportunity to speak to this Bill. I thank Hon. Keynan for finding it fit to bring this Bill for us to ventilate and pass it as a House to guide the proceedings of this House and the conduct of Members in as far as the proceedings are concerned.

I have looked at this Bill and there are several very good issues and applicable. However, there are other areas that we need to firm up, so that we can come up with a clean law that is a fit for all purposes.

Like other Members have said, we have the three Arms of Government and each one of them has its own powers to execute. We know the powers that the Judiciary and Executive have. We want to be clear in terms of what the Legislature can do or not do. Therefore, this is one of the ways in which we are ensuring there is clear separation of powers between the three arms of the Government.

This Bill seeks to harmonise the various laws that have been in existence before the passage of the Constitution and after the passage of the Constitution. This will ensure that the clauses that, in any way, contradict or contravene the provisions of the Constitution are harmonized to bring up a proper law for the Members.
The courts have their own ways of exercising their jurisdiction and discretion. When a magistrate or a judge sits, there is something that the courts enjoy. The courts have their dignity that must be respected. They exercise their authority and discretion when they are in session. They have laws that provide for the dignity of the courts to be upheld.

The institution of Parliament must be dignified and respected by all the stakeholders within the institution and those who come in as guests of the House or as witnesses to give their testimonies to the House. For us to exercise the discretion of Parliament and put Parliament in its stature, so that it is respected by Members and especially the people who come from outside, then we must have a *modus operandi* to show how these persons are supposed to exercise the privilege that they have been granted when they enter Parliament.

In the courts, they have something they call “contempt of court”. A judge or a magistrate can exercise his or her powers to cite a person who misbehaves in a court room for contempt of court. We also need to have such a law, so that any person who comes within the precincts of Parliament upholds the dignity of the Houses as it is expected of them. Therefore, this is a good way of ensuring that the conduct of any Member and those who come in as third parties is regulated.

In the professional world, we have a professional code of conduct or ethics that guides the various professions. In the Law Society of Kenya, for example, we have the code of conduct that guides lawyers when they are practicing or appearing before magistrates or judges. Therefore, I am happy to see that even within ourselves, we find it fit to have a code of conduct that regulate the behavior of the Members when they come before the House and when they conduct their businesses in the House and in the manner they relate to each other.

Therefore, this is very important because it sets out the areas in which we should relate with one another. Therefore, the Members will not say that they did not know because there is a code of conduct that guides them in the manner they relate with each other and behave towards each other.

We have very important constitutional duties we must perform, as the Legislature. We have been blessed by our various constituents to serve them. We cannot, therefore, exercise the mandate of oversight in law making if every time we stand up to speak we are worried about what is going to happen to us because of the utterances that we make here as we engage in debate, or we have a sword of Damocles hanging over us. That is why this Bill is very important to Members of Parliament.

When we participate in debate or speaking on issues, we must have the freedom to exercise our minds in the various fields in our capacity as Members of Parliament.

Even though this is a very good piece of work, there are some areas which need to be looked at so that we do not contravene the Constitution on the various freedoms and rights that are guaranteed especially in as far as Chapter Four is concerned. We have been engaging the Mover with a view to re-looking at Clause 34, on freedom of the media and freedom and right to access information.

It is important that we know to what extent we are talking about defamatory matters relating to media publication of matters happening within the Committees or the Chamber of Parliament. We need to know the extent to which we can allow the media to access information because we also want Parliament to be an open institution. Whatever happens in Parliament should be easily accessible to members of the public and the media so that they can know what exactly goes on in this building. I remember that as we grew up, we never used to know what our Members of Parliament used to do. Hon. Temporary Deputy Speaker, when live broadcast was accepted as a form of expression to enable Kenyans follow what their Members of Parliament do in the Chamber, it became a very important tool for educating not only members of the public but also school children. It is a way of telling them: “This is what we do. This is why you elected me. In Meru County, these are the sensitive issues you have allowed me to raise in *Bunge*”. Therefore, this is very important and we really have to look at it and be very clear on what we want.

On Section 36, as raised by Hon. Mbadi, we need to know the extent of the powers we are giving to the Clerk of the National Assembly and the Clerk of the Senate, so that they can have the capacity or
the *locus standi* to refer matters to the Director of Public Prosecutions. Will they be deciding on their own, once an issue has been raised, that it ought to be referred to the DPP or will such decision be arrived at through consultation with other bodies?

I have also pointed out to Hon. Keynan that we need to look at Clause 37 because it talks about every member of staff of the Parliamentary Service Commission enjoying the powers and privileges of a police officer. I know we employ Sergeant-At-Arms, who have the capacity to do what a police officer is supposed to do. However, the reference to every member of staff allows even persons who do not have the capacity to either arrest or summon to deal with members of the public in a manner that they do not have the capacity to deal.

So those are some of the---

**Date 26th August, 2015**

**Member of Parliament: Hon. (Ms.) Amolo**

**Contribution She Made On: THE PARLIAMENTARY POWERS AND PRIVILEGES BILL**

**Hon. (Ms.) Amolo:** Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill and I thank Hon. Keynan for bringing the Bill to this House. It feels very nice as Members of Parliament to know that we have freedom of speech and protection. When I comment or utter any words as a Member of Parliament, with respect of course, I need to be assured of protection according to this Bill. The other thing is the protection of members of staff. This is very important because even as they work with us, yes, they know we are Members of Parliament, but it also feels so good for them to know that they are protected while working with Members of Parliament wherever they are taking their minutes in committees and within the premises of Parliament.

The other thing that makes me support this Bill is the establishment of the Committee of Powers and Privileges. This will enquire into the conduct of Member who, say, could be alleged of having committed assault. This will make Members of Parliament to also style up. Some of us may be working not knowing that we are protected. This Committee will give us powers and structure. We will work knowing that there is a Committee that could call us to explain when things are not right or when our conduct is not right.

The other thing is about enforcement. I want to support the Bill because of the penalties that have been put there. Anytime you know there is a penalty, you have to work according to the laws that have been put there. The other thing is about those who have been aggrieved. They will also have a place to go to. At times, you may not know where to turn to when you know very well that you are working and yet, your grievances cannot be heard. Now, it will be done by the Committee of Powers and Privileges. I stand to support this Bill and I thank Hon. Keynan for sitting down and thinking about the Members of Parliament, the staff and the media around the premises of Parliament.

I stand to support this Bill. Thank you.

**Date 26th August, 2015**

**Member of Parliament: Hon. (Ms.) Wanyama**

**Contribution She Made On: THE PARLIAMENTARY POWERS AND PRIVILEGES BILL**

**Hon. (Ms.) Wanyama:** Ahsante sana Mhe. Naibu Spika wa Muda kwa kunipa hii nafasi. Ningependa kumshukuru Mhe. Keynan kwa ajili ya Mswada huu. Nataka kujiunga na wenzangu kwa ajili ya Mswada huu.
Member of Parliament: Hon. (Ms.) Muhia

**Contribution She Made On:** THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. (Ms.) Muhia: Thank you very much, Hon. Temporary Deputy Speaker. I stand to support and congratulate the Mover of this Bill because it is very timely.

Members of Parliament have many enemies for obvious reasons. Competitors never admit that they were defeated honourably. As a result, even the civil society or the world out there is keen to find any way to embarrass a Member or find a Member in a cornered situation. As this Bill comes into place, it will clearly define in law, how or which situation the Members can categorically claim to be in, and then come out without intimidation.

Time and again, our Members have found themselves in very serious situations. I can recall one Member who was not feeling very well and, as a result, his vehicle over-lapped on the road. He was arrested and a huge scenario was created out of this situation. In an ordinary case, an ordinary Kenyan would also have done the same. But the fact that this was an MP, the situation was surrounded by a lot of intimidation. It is as if an MP needs to live in a different world. All these things come about because of the competition that is always there in political careers. It is very important to have laws that guide and clearly indicate the situations or the possibilities of an MP enjoying the honourable position that they hold.

With those few remarks, I support the Bill.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Tobiko

**Contribution She Made On:** THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. (Ms.) Tobiko: Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill.

In positions of leadership, there are responsibilities that go with them. There are privileges that come with such positions. Though I support the Bill, I want to caution the Members that we must never take advantage of such laws, privileges and our positions. We have also seen scenarios where MPs look like they are obviously not obeying the law or are taking advantage of the good name that they have, which they should not. With privileges, comes obligations and heavier responsibility. To the
Members, we must always equate with the honourable name that we have been given and must not take advantage of any privileged situation that we find ourselves in.

With those few remarks, I support the Bill.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kiptui

Contribution She Made On: THE PARLIAMENTARY POWERS AND PRIVILEGES BILL

Hon. (Ms.) Kiptui: Thank you, Hon. Temporary Deputy Speaker. I also rise to support the Bill. Hon. Members occupy a special position in the society. There are certain things without which we may not be able to perform our duties. I support that the privileges so- indicated should be enjoyed by MPs. As my colleague Peris has said, we should be wary of not abusing the same.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Ng’etich

Contribution She Made On: THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL

Hon. (Ms.) Ng’etich: Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity.

I beg to move that the Engineering Technologists and Technicians Bill (National Assembly Bill No. 07 of 2015) be moved to the Second Reading.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Ng’etich

Contribution She Made On: THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL

Hon. (Ms.) Ng’etich: Hon. Temporary Deputy Speaker, I beg to move that the Bill be now read a Second Time.

The Engineering Technologists and Technicians Bill, 2015 is a Bill that seeks for the establishment of a board that will be known as the Engineering Technologists and Technicians Registration Board (ETTRB). This body will be responsible for the coordination and regulation of engineering technologists and technicians. The functions as spelt out in this Bill will, of course be, among others, look at the requisite qualifications for the registration to practice as an engineering technologist or technician. It will further ensure that high standards are maintained as far as the profession of engineering technologists and technicians is concerned.

I want to say that we have several registration boards that cover and register different types of professions in Kenya. For example, we have the Medical Practitioners and Dentists Board, the Pharmacy and Poisons Board and the Engineering Board of Kenya (ERB), among others.

So, this Bill is actually intended to have a board to be among those listed in Kenya to regulate the profession of the engineering technologists and technicians. Currently, there is no registration body that is registering those types of professionals that exists in Kenya. In the 10th Parliament, a similar Bill was introduced in Parliament by Hon. (Dr.) Kones. However, the Parliament’s session lapsed. According to Standing Orders, once a Bill lapses along with the parliamentary session, it had to be re-started afresh.
Hon. Temporary Deputy Speaker---

NOTICE OF MOTION
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

Contribution She Made On: ESTABLISHMENT OF A COMPREHENSIVE POLICY ON FURTHER STUDES

Hon. (Ms.) Emanikor: Hon. Speaker, I beg to give notice of the following Motion:-

THAT, aware that a sufficiently skilled and trained workforce is an essential pillar for the attainment of Kenya’s Vision 2030; further aware that the number of doctors, accountants, engineers, teachers, nurses, lecturers, scientists and other professionals in the public sector undertaking further studies in specialised skills within or outside the country is on the increase; deeply concerned that quite a number of professionals get demoralised by the fact that on returning from studies abroad, or after undertaking studies locally, they are either deployed to lower positions, placed below supervisors whose skills they exceed, or stagnate in the same positions they were before furthering their skills; further concerned by the fact that most of them thereafter opt to leave the public service for the private sector, civil society, non-governmental organisations or even migrate abroad in search of greener pastures, leading to regrettable brain drain, this House resolves that the Government establishes a comprehensive policy to guarantee career advancement, promotions and security of tenure for public servants and officers who undertake to refine their skills through further studies.

Thank you, Hon. Speaker.

STATEMENTS
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: FATE OF JOINT COMMITTEE ON PRESIDENT’S MEMORANDA

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. I also wish to join in this debate, and state always that the law allows a second chance. It also allows a window and it allows us to rethink. I cannot celebrate enough Standing Order No.62. Having looked and seen how Parliament can take a vote in its wisdom and in the wisdom of the drafters, Standing Order No.62 has allowed a window of opportunity where dissenters do not reach 116, or the one-third; that matter can be brought in for a further vote. I join in asking that you allow this matter to come back, using Standing Order No.62, for a further vote. Hon. Speaker, this is a matter of great national interest and great public interest. It is in the interest of everybody that we have a further vote within five days as envisaged by Standing Order No.62. As I end, I want to just point out that we are working with the new Constitution; we are working with new Standing Orders; we are working with a new National Assembly, and you are called upon to create precedent and show how the country will guide itself in future. Let us not waste that opportunity. This is our time to create precedent; seize the moment and allow a further vote.
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: FATE OF JOINT COMMITTEE ON PRESIDENT’S MEMORANDA

Hon. (Ms.) Kajuju: Thank you, Hon. Speaker. I stand to support Hon. Ochieng in his application before you today. You are being asked to review a decision that was arrived at. There is a reason why Standing Order No. 62 was put in the Standing Orders. When you sit on that seat as the Speaker of this National Assembly, you have the power to do that which is right, especially where a Member feels aggrieved. I sit with Hon. Ochieng in the Departmental Committee on Justice and Legal Affairs. This is a Private Member’s Bill that was brought for the amendment of the Constitution. All of us appreciate that it is not easy to prepare a Private Member’s Bill seeking to amend the Constitution. The Member has undergone a lot of pain and suffering and committee processes to bring that Bill to this House. If we frustrate the hon. Member’s efforts, especially in a situation where he feels aggrieved by a certain decision, then we shall not be walking the talk because we have always said we want more Members to bring Private Member’s Bills. You know between you and I, any person who has the power to make a decision also has the power to review that decision. You are not just doing this for the purpose of Hon. Ochieng’s Bill. There will be other Bills that will come that will concern the Constitution. You will be called upon to make various other decisions. We are asking you to rise to the occasion. Do not be moved by the fact that some persons outside, or inside here, are not happy with the substance of the amendment, or the fact that it is Hon. Ochieng who is bringing this particular amendment. He is doing this for every Kenyan in this country today and for posterity. For the years that I have served in this Parliament, I have seen you make decisions with solomonic wisdom. I am asking you not to look at Hon. Ochieng, or the fact that it is a Bill seeking to amend the date of election of this country; Look at the fact that this is a constitutional matter that you will be required to make similar decisions on over and over again.

Hon. Speaker, the Leader of the Majority Party is saying you look at me. I am not saying you look at me, I want you, as the Hon. Speaker, to look at the substance and lead us in the right manner. I, therefore, beg you to give this opportunity to this House.

Section 62(2) says where the “noes” are not more than a third— Those who opposed are not even 20. Hon. Ochieng was able to raise 216 Members who voted for the Bill. I, therefore, beg you to give the innocent Hon. Ochieng, an opportunity. Reading from the mood of the House, I beg you to review this decision.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: FATE OF JOINT COMMITTEE ON PRESIDENT’S MEMORANDA

Hon. Ms. Odhiambo-Mabona: Thank you, Hon. Speaker. I know Hon. Simba Arati is saying, “Hon. from Zimbabwe”. However, this is an honourable from Zimbabwe who has settled in Lambwe Valley, Mbita Constituency.

I want to thank you because what you have concluded with is what I wanted to start with, that is the issue of form and substance. I know when we go to the High Court we may be forced to look at issues of substance. What the Members are asking you right now is an issue of form. I know for instance, Hon. Ichung’wah is speaking to the issue of substance. Some of us voted one way on the
issue of substance. If a new vote is called I may change my mind on the issue of substance. What you are being called upon now to do is to rule on the issue of form. The reason why you are being told about the issue of form is because we have what I call “a penumbra of law”. It is actually clear in Standing Order No. 62(2), what Hon. Ochieng has alluded to. It talks of the “Noes” being no less than one-third, which was not obtained yesterday. We are going to be faced with similar situations. For me, the issue is that we can borrow from what has been done in other jurisdictions. I would like to give an example of the USA. I would want to refer to a case, even though this one is dealing with penumbra rights. I want you to borrow this and use what I would call penumbra powers. It is the case of Chriswold vs. Connecticut. It is 381/US/479. This case will not only affect this decision, but it is going to affect several other constitutional issues that we will be dealing with in this House.

I would want you, if you could, to direct yourself not just this, but the possibilities of such crisis arising again. Maybe the framers of the Standing Orders had foreseen this and gave you discretion under Standing Order No.1, under which you may exercise discretion. I do not agree with the Leader of the Majority Party when he says that Hon. Ochieng should have stood up; under Standing Order No. 2 Hon. Ochieng did not have those powers. If, indeed, the one-third was reached, then Hon. Ochieng would have been blocked; that is true. He would have been blocked. However, this is a case where he is not blocked and there is no alternative procedure that is given. The only recourse is Standing Order No. 1. Beyond this, I would want to urge the people who are in the relevant committee to relook at it and to give your office guidance for when you will be faced with similar situations.

I thank you. I am not speaking to substance; I am speaking to form.

MOTION
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Tobiko

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY FOR PEACE BUILDING AND CONFLICT MANAGEMENT

Hon. (Ms.) Tobiko: Hon. Speaker, I would also like to thank Hon. Asman Kamama for donating part of his time to me. This is an important Policy Paper. Therefore, I support it. Many Kenyans in various parts of the country have been fighting over resources. I agree with Hon. Midiwo that we have very pertinent border issues. I belong to the Joint Committee on National Cohesion and Equal Opportunity. We have travelled around the country, from Lamu to Samburu and Baringo, trying to bring Kenyan communities together. Hon. Speaker, my constituency borders Makueni and Machakos counties, and we have pertinent border issues. As we speak, women in my constituency are up in arms because they want leaders to address border issues. They have given us less than three months. We believe that the border between Machakos and Kajiado counties is the railway line, but the IEBC seems to have a different opinion. The title deeds read “Kajiado County” but our people are told that they belong to Makueni and Machakos counties. There is a place where our people have been moved. A different community and the Kenya Wildlife Service (KWS) have moved in but, historically, we believe that the land is ours. We must address these issues as a House. We must have this Policy Paper developed into law to address such issues, so that Kenyans can co-exist peacefully. We need to bring Kenyans together; we must also address historical injustices.
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Tobiko

Contribution She Made On: ADOPTION OF SESSIONAL PAPER ON NATIONAL POLICY FOR PEACE BUILDING AND CONFLICT MANAGEMENT

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. I would also like to thank the Mover for the one minute that he has donated to me to quickly support this Policy Paper. I hail the Departmental Committee on Administration and National Security for bringing this Policy Paper to the House. I want to challenge the Mover and the Committee to bring to this House a policy paper on cattle rustling. There are many issues affecting peace in our country. I want to support the Policy Paper because it creates an infrastructure of peace. I had an occasion to work on this Policy Paper before I joined Parliament. The law does not answer questions of peace and cohesion. Therefore, we have concentrated for far too long just on the law. The policies that we are discussing today will be helpful. The Chairperson should guide the country on a good policy on cattle rustling, as cattle rustling has affected our peace. Many of these issues need to be resolved. Issues of sharing of resources and tribalism, among others, should be guided by policy.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Ghati

Contribution She Made On: THE PROHIBITION OF ANTI-PERSONNEL MINES BILL

Hon. (Ms.) Ghati: Thank you, Hon. Temporary Deputy Chairman. When an amendment to a clause is just a matter of grammar, semantics or clarity as the Chairman of the Committee has explained, I do not wish to debate much on this.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: THE PROHIBITION OF ANTI-PERSONNEL MINES BILL

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairman. I just want to support the editorial and the cleaning up of the Bill and to support the Committee for this law.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: THE PROHIBITION OF ANTI-PERSONNEL MINES BILL

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairman. I want to support the proposal. Domestication of international treaties requires the sort of provisions we are including here.
**Date 26th August, 2015**

**Member of Parliament: Hon. (Ms.) Odhiambo-Mabona**

**Contribution She Made On:** **The Fisheries Management and Development Bill**

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. I agree with the Committee’s amendment. I am sorry we were consulting when you raised this but it is because the Bill has several amendments and I just noticed that because of the rush, since we have been at it for long, there are some proposed amendments that have not been carried. I suggest that if we complete the Bill now, we may not have time for recommittal. I would request that we do some amendments because they were agreed between us and the Committee.

**Date 26th August, 2015**

**Member of Parliament: Hon. (Ms.) Odhiambo-Mabona**

**Contribution She Made On:** **The Fisheries Management and Development Bill**

Hon. (Ms.) Odhiambo-Mabona: On this one, I agree with the Committee, save that I notice that there are certain amendments that were agreed between us and the Committee, but which are absent. They are in the background documents but they are not on the Order Paper. I had requested the Leader of the Majority Party that if we complete the Bill now, we will not have an opportunity for recommittal and we have requested for a recommittal on a few things. Otherwise, on this, I support the amendment.

**Date 26th August, 2015**

**Member of Parliament: Hon. (Ms.) Odhiambo-Mabona**

**Contribution She Made On:** **The Fisheries Management and Development Bill**

Hon. (Ms.) Odhiambo-Mabona: On this one, I support the amendment. It is a technical amendment because we are changing the word “Minister” to “Cabinet Secretary”.

Thank you, Hon. Temporary Deputy Chairman. I am very proud to be a fishmonger, given that I represent fisher-folk. You will notice, as we go forward, a lot of our amendments are very similar. It stems from the fact that we sat with the Committee. Originally, our amendments were varying but we sat together with the Committee and agreed. They are fairly similar. The only reason that we have stayed my amendments on the Order Paper is because of a ruling that was made by the Chair that allowed the Chairperson of a Committee, in another Committee not in ours, to drop amendments that were agreed on by a Committee. Because I am very passionate about fishing, I did not want to take any chances.

On this one, I agree with the amendment because the Bill was focusing very heavily on issues of conservation without looking at the end users, who are the people who consume fish. We also want to take into account the people who eat fish, not just conservation. It was very heavy on conservation with very little on livelihoods.
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Munene

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

Hon. (Ms.) Munene: Thank you, Hon. Temporary Deputy Chairman. I rise to support the Chair because even though there are people who do not know about fish, these days fish is eaten by everybody. We are eating fish everywhere in this country because fish is white meat. It is not just in Nyanza where people are eating fish. People are now eating fish everywhere. That is why I support the amendment.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Temporary Deputy Chairman. I apologise that even though we have similar amendments, I would love to speak to them because the bulk of the amendments were originally mine. So, I am very passionate on these issues.

In response to what Hon. Kaluma has said, we did consider. Originally, we had the Ministry of Defence but because of how heavy the body was in terms of national Government representation, we decided to drop that Ministry. A theme that runs throughout the entire amendment is that the original Bill was not devolution-friendly. That is why we decided to include a person nominated by the Council of Governors. We have also included a representative of fishers nominated by a national umbrella body of fishers. This is to basically respond to the issue raised by Hon. Kaluma earlier – that it was not very strong on traditional fishing areas. So, we have strengthened the traditional fisheries.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

Hon. (Ms.) Kanyua: Hon. Temporary Deputy Chairman, I would like to correct you because Nyeri is one of the fishing counties. The Member for Othaya already spoke and we are doing a bit of fishing in Nyeri as well. This particular legislation is going to be of importance to us. Fishing is not just done in the lakes. We must also recognise fishing being done in ponds and other areas where fishing is happening in this country.
Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL
Hon. (Ms.) Kanyua: Hon. Temporary Deputy Speaker, he should withdraw. It would be important that when a law like this one is being passed, we get the concurrence of all the Members of the National Assembly, which comprises of all the hon. Members. It does not matter whether one is from the fishing areas or not.
More importantly, I am worried about the removal of the nine Ministries by this amendment and the inclusion of a body which is not particularly legal. I do not know whether the association of fisher persons exists in another law or whether this is the law that will establish it. If it is, other provisions that relate to it will need to be factored in here. Otherwise, if it does not exist in law, there is going to be a problem in bringing it in law for the first time together with the other members of the Cabinet and Government representatives.
In essence, I give a qualified support to the amendments.

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Mbalu

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL
Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Chairman. I support the amendment to Clause 9 and, more specifically, on the deletion of “implement” and substituting with “monitor the implementation”. It is important that implementation is monitored. I support this clause from sub-clause (a) all the way to sub-clause (o).

Date 26th August, 2015

Member of Parliament: Hon. (Ms.) Ng’etich

Contribution She Made On: THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL
Hon. (Ms.) Ng’etich: Hon. Temporary Deputy Speaker, I beg to move that the Bill be now read a Second Time.
The Engineering Technologists and Technicians Bill, 2015 is a Bill that seeks for the establishment of a board that will be known as the Engineering Technologists and Technicians Registration Board (ETTRB). This body will be responsible for the coordination and regulation of engineering technologists and technicians. The functions as spelt out in this Bill will, of course be, among others, look at the requisite qualifications for the registration to practice as an engineering technologist or technician. It will further ensure that high standards are maintained as far as the profession of engineering technologists and technicians is concerned.
I want to say that we have several registration boards that cover and register different types of professions in Kenya. For example, we have the Medical Practitioners and Dentists Board, the Pharmacy and Poisons Board and the Engineering Board of Kenya (ERB), among others.
So, this Bill is actually intended to have a board to be among those listed in Kenya to regulate the profession of the engineering technologists and technicians. Currently, there is no registration body that is registering those types of professionals that exists in Kenya. In the 10th Parliament, a similar
Bill was introduced in Parliament by Hon. (Dr.) Kones. However, the Parliament’s session lapsed. According to Standing Orders, once a Bill lapses along with the parliamentary session, it had to be re-started afresh. 
Hon. Temporary Deputy Speaker---

PETITIONS

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Juma

Contribution She Made On: WORKING CONDITIONS AT KWALE SUGARCANE COMPANY

Hon. (Ms.) Juma: Hon. Deputy Speaker, thank you for this opportunity.
I, the undersigned, on behalf of the employees and former employees of Kwale Sugarcane Company Limited, Kwale County, draw the attention of the House to the following:
THAT, Kwale Sugar Company Limited was established in the year 2006;
THAT, the Government of Kenya and Kwale Sugar Company Limited had indicated that employment opportunities would be availed to the local community in Msambweni Constituency;
THAT, the Company’s direct hiring strategy for its employees led to the expectation that locals would be considered first, with a focus on gender equality;
THAT, employment opportunities were to be given to the local community members, especially to individuals personally and directly affected by land evictions, but to the contrary workers have not obtained fair opportunities given that some are subjected to casual and contractual terms for a long period, while others are employed on permanent basis.
THAT, employment in the company is undesirable since it exposes the employees to long hours of hard labour with meagre pay of as little as Kshs170 a day, which offers evicted farmers no hope of overcoming the financial and social burdens they face despite the fact that the company came to Msambweni Constituency to use land for sugar production;
THAT, the issues in respect of 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 Labour and Social Welfare:-

1. Investigates the circumstances behind the poor working conditions of the workers at the company.
2. Intervenes to have the terms of workers reviewed favourably and three, makes any other recommendations that may be deemed fit in addressing the plight of the said workers.

Your Petitioners will ever pray.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Juma

Contribution She Made On: THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL

Hon. (Ms.) Kipchoim: Thank you, Hon. Temporary Deputy Chairman. I want to support Hon. Chepkonga’s amendment.
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Emanikor

Contribution She Made On: THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL

Hon. (Ms.) Emanikor: Hon. Temporary Deputy Chairman, I want to support Hon. Chepkonga’s amendment. This legislation is trying to align itself to our new Constitution. As for my neighbour, Hon. Njuki, because he came late, he does not really know how much we have done in terms of the amendments. Most of them are consequential. He has to learn a lesson in terms of coming early and catching up.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Kipchoim

Contribution She Made On: THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL

Hon. (Ms.) Kipchoim: Thank you, Hon. Temporary Deputy Chairman. I also want to support the amendment by the Hon. Chair to remove the word “deposition” in Clause 120. It is also to be removed in the subsequent Clause 128. I support.

Thank you, Hon. Temporary Deputy Chairman.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Wahome

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, as I rise to support this amendment, but my concern is how this will benefit us. Economic zones have been created elsewhere, but my concern is how we can ensure that the Kenyan investors, especially the youth and the women, will draw from this even as we look at bringing in more investors. In markets like these, competition in terms of financial muscle or matters is a big issue. I would have wanted the Chair, and I hope he is listening, to give special rates and incentives to the youth and women, so that then, in terms of that distribution in the economic zone, even as we give this particular tax incentive, then we can draw the youth and the women. The country, as you can see, has a special interest in terms of dealing with special groups. I am looking at the future. The youth is for today and the future. I know Hon. Jimmy may not be very near the youth, but I believe that he represents a large part of the youth. Therefore, his grandchildren need to benefit from the economic zone on a very serious note. If you look at the Dubai and Singapore markets, you may not see very many youth benefiting from this. I think we need to look at that.

I support.
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Gathecha

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Gathecha: Hon. Temporary Deputy Temporary Deputy Chairlady, while I rise to support this amendment to Clause 18, I recommend that we do the tax rate probably at five per cent. If we look at countries like Dubai, where investment and taxation is at zero per cent, in order for us to create a competitive advantage for this country to allow investors to come in, it is important that we stay competitive at the same rates with the rest of the world. If anything, the taxation should come in for companies as a punishment when it comes to areas of pollution and disposal of waste. Those kinds of taxes can be raised or increased to ensure that we maintain our environment. However, corporate tax rate at 25 per cent for a company that is introducing shares, when it comes to creating Kenya as a hub in East African Kenya, we are also in competition with West Africa to create the stock exchange market within Africa. A lower tax rate would definitely be more beneficial and would make Kenya more competitive.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Wahome

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, the point of order is that Hon. Duale is discussing new Clause 43B while the Mover has moved 43A. While I agree with what he is saying, he is ahead. Therefore, we are not able to follow.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Wahome

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Wahome: Hon. Temporary Deputy Chairlady, I rise to support this amendment. It is timely because as other Members have indicated, as a national Government function, we are cleaning this particular provision in the Act and the functions of the Central Bank, such as reporting, is a job by the National Assembly. Of course, it is saddening that there was a complaint from the Senate noting clearly very well that it is not a function they can exercise, but just to be heard to say something against the work of the National Assembly.

I support.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Mbalu

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Mbalu: Thank you, Hon. Temporary Deputy Chairlady. This is just to support the amendment and to define the role of the appointment to the National Assembly and to separate the
two Houses in their mandates. This is really going to give the National Assembly easy work in such a role.
I support.

REPORTS AND THIRD READINGS
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Shebesh

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, a Committee of the whole House has considered the Finance Bill, National Assembly Bill No.27 of 2015 and has approved the same with amendments.
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Shebesh

Contribution She Made On: THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL

Hon. (Ms.) Shebesh: Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015) and approved the same with amendments.

PETITIONS
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) B.N Nyaga

Contribution She Made On: NON-REFUND OF CASH BAILS BY MARIMANTI LAW COURTS

Hon. (Ms.) B.N Nyaga: Thank you, Hon. Speaker for giving me this opportunity to read a petition from the people of Marimanti in Tharaka Nithi County. I will read.
I, the undersigned on behalf of residents of Tharaka Nithi County, draw the attention of the House to the following:-
That, Article 49(1)(h) of the Constitution entitles an arrested person to the right to be released on bond or bail on reasonable conditions pending a charge, and that unless there are compelling reasons be released;
That, arrested persons who deposit cash bail with courts are entitled, upon determination of the cases for which bail was granted, to refund of the amount so deposited;
That, a number of arrested persons who have been charged at the Marimanti Law Courts since 2012 were granted bail and consequently deposited cash bails ranging from Kshs5,000 to Kshs50,000, but have not received their refunds long after their cases were heard and determined by the court;
That, the majority of petitioners are living in abject poverty and have, therefore, been subjected to untold suffering considering that many of them paid their cash bails from funds secured through loan facilities.
That, the petitioners’ representatives have sought redress from relevant authorities, namely court officials, including magistrate and prosecutor of Marimanti Law Courts; the area Criminal
Investigation Department (CID); various human rights groups and the area Sub-County Commissioner, but none of these avenues have helped;
That, the matter in respect of which this petition is raised is not pending before any court of law or constitutional body.
Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Justice and Legal Affairs:-
(a) immediately commences an inquiry into the unclear circumstances under which cash bails due to be refunded to the petitioners have not been paid long after their cases were heard and determined by the court;
(b) intervenes to ensure that the Judiciary reimburses the petitioners the cash bail owed, together with the accrued interest as computed from the date the cases were determined and institute disciplinary action against any officer who obstructed payment of the said cash bail refunds in one way or another; and,
(c) makes any other recommendations and orders deemed necessary in addressing the plight of the disillusioned petitioners.

Your petitioners will ever pray.
It is signed by me, Hon. Beatrice Nkatha Nyaga, HSC, MP, and Member for Tharaka Nithi County.

PAPERS LAID

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) R.K. Nyamai

Contribution She Made On:
Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to lay the following Papers on the Table of the House:-
Reports of the Departmental Committee on Health on its consideration of the Petition on non-payment of clinical officers/interns and the Petition on delay of payment for Interlink Industries for the construction of outpatient block at Igagania Sub-District Hospital.
Petition by the Association of Private Hospitals on their recognition by the National Hospital Insurance Fund (NHIF).
Petition by Mr. Bernard Kiprotich Cheruiyot on review of health care system in Kenya through constitutional amendments.

STATEMENTS
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: BUSINESS FOR THE WEEK COMMENCING 29th SEPTEMBER TO 1st OCTOBER 2015
Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Speaker. I have listened to the brief by the Leader of the Majority Party. I was just wondering because I have seen a practice where we bring Bills and apparently the HBC does not give priority to Bills that have gone through the Second Reading, and should be coming for the Third Reading. Would it not be prudent if we gave priority to Bills that should be coming to the Committee of the whole House like the In-Vitro Fertilisation Bill
for purposes of continuity? This is so that we do not have Bills that are done half way and then create a technicality for the next Parliament.

Thank you, Hon. Speaker.

PERSONAL STATEMENT
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Mbalu

Contribution She Made On: CONGRATULATING KENYAN ATHLETES

Hon. (Ms.) Mbalu: Hon. Speaker, is the Chairperson of the Public Accounts Committee (PAC) in order, as he lists the political parties in this House, to forget Wiper Democratic Movement (WDM), the party that is about to give out a president of this country?

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Kanyua

Contribution She Made On: THE EXCISE DUTY BILL

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Chairlady. My views are actually on the earlier clause. We need to be very careful on the implications of the law we are making. I align myself to the comments of the Budget and Appropriations Committee.

REPORTS AND THIRD READINGS
THE FINANCE BILL

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Mbalu

Contribution She Made On: THE FINANCE BILL

Hon. (Ms.) Mbalu: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the the Finance Bill (National Assembly Bill No. 27 of 2015) and approved the same with amendments.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Mbalu

Contribution She Made On: THE EXCISE DUTY BILL

Hon. (Ms.) Mbalu: Hon. Deputy Speaker, I beg to report that a Committee of the whole House has considered the Excise Duty Bill (National Assembly Bill No. 28 of 2015) and approved the same with amendments.
MOTION
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Kajuju

Contribution She Made On: THE REPORT ON EAST AFRICAN COMMUNITY PEACE AND SECURITY PROTOCOL

Hon. (Ms.) Kajuju: Hon. Deputy Speaker, I beg to move the following Motion:-


As I move this Report for debate, I wish to give a background. On 17th February 2014, the Leader of the Majority Party tabled a Cabinet Memoranda on Peace and Security Protocol and Mutual Peace and Security Pact in the House for consideration and ratification, pursuant to Article 2 of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012.

The Cabinet Memoranda was subsequently committed to the Departmental Committee on Regional Integration for consideration and report to the House. Once ratified, the protocol and the pact shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution. It says that any treaty or convention ratified by Kenya shall form part of the laws of Kenya under this Constitution. During the consideration of the Protocol, the Committee held a total of 10 sittings and met with various stakeholders. Among them was the Cabinet Secretary for Interior and Coordination of National Government and State Law Office. All those stakeholders made various submissions to the Committee which were taken into considerations as at the time of making our decisions in this Report.

The East African Community is a regional inter-governmental organization established under Article 2 as I have stated before, and the five partner states include the United Republic of Tanzania, the Republic of Uganda, the Republic of Rwanda, the Republic of Kenya and the Republic of Burundi. What is before us today is that we are exercising our mandate under Article 151 of the East African Community Peace and Security Protocol that was drafted as per the establishment of the East African Community. That particular provision empowers the East African Community Partner states to establish protocols that are necessary in the areas of co-operation. Article 5 of the treaty states that the objectives of the Community shall be to develop policies and programmes aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defence, security, legal and judicial affairs for mutual benefit.

Further, Article 5(3)(f) of the Treaty states that the Community shall ensure promotion of peace, security and stability within and good neighbourliness among the partner states. Therefore, the objective of the common security policies in the East African Community is to safeguard the common values, the fundamental interest and the independence of the Community, strengthen the security of the Community and its partner states, develop and consolidate democracy, rule of law and respect for human rights and fundamental freedoms which is established under Article 123 of the Protocol.

Hon. Deputy Speaker, if I may slightly go into the background of the enactment of the mutual peace and security pact, the northern corridor is an initiative that is aimed at fast-tracking regional development through joint infrastructure, trade, political and economic development for great integration process within the East African Community region.
Since the inception, the three partner states, that is, Kenya, Uganda and Rwanda, have initiated a number of projects in the areas of infrastructure development, free movement of people and goods and the single customs territory among others. These opportunities however come along with a number of challenges and security is one of them. This has, therefore, necessitated the partner states to come up with measures to ensure that there is peace and security in the region, to create a conducive environment for integration efforts, and hence the drafting of the mutual peace and security pact by the partner States of the northern corridor tripartite initiative. This particular pact and protocol came up as a result of various meetings and tripartite summits that were held between our various heads of State between Kenya, Rwanda and Uganda. Various meetings were held in the different capitals of the three partner states. That, therefore, culminated into this particular protocol and pact.

Hon. Deputy Speaker, the benefits of this protocol and pact that we are seeking to ratify today are going to obligate the partner states to jointly undertake to combat crimes and ensure the safety of their people and safeguard development of member countries against instability that might come with the new development initiatives that we are experiencing within the East African partner States. When you look at the Report, you will find that we have also submitted the various submissions that were made by the Ministry of Interior and Coordination of National Government, the Ministry of the East African Affairs and the State Law Office that was able to guide us on the particular issues that can arise in as far as the ratification of the protocol and the pact are concerned.

It is important to note in the protocol that the objectives of the Community shall be to develop policies and programmes that are aimed at widening and deepening co-operation among the partner States. That is a very key area because that is the vision and the mission of the East African Community on the way that we intend to go as the partner States. In looking at the various issues that were brought before the Committee, we were able to ask ourselves as to where else within the African continent and in the world we have had these kind of protocols being ratified by various agreements that have happened. We did international comparisons. One of those we looked at is the ECOWAS peace agreement that was signed by the West African States - ECOWAS having been established in 1975. When we looked at it, we found that within the West African partner states; they have been able to pass security protocols. One of them was in 1978 and it brought together the region and ensured that there is peace-keeping and security mechanisms within the West African states. This is not sui generis; it is not just one area that applies to East Africa. It is something that has happened within the other continents too. That is why we looked at the West African states.

We also looked at the Common Foreign and Security Policy of the European Union. They have been able also to come together within the United Nations and look at how best they can ensure that there is peace and security within their territories. We thought that within the East African Community, going the same route is going to ensure that there is better integration and more security and peace within the countries. It is also worthy of note that the Cabinet has already approved the East African Protocol on Peace and Security and was submitted to Parliament for ratification. That is why we are asking that this House considers what is before us today. It is also important to note that even as we ratify this particular document, it is not going to interfere with the Constitution of Kenya because it will not need to be harmonized in any way. Neither is it going to contravene or be inconsistent with any of the laws that have been passed in this country so far.

As a Committee, we have made general observations in as far as the pact and the protocol is concerned. We felt even as a Committee, it is important for us to secure countries from threats. Begging from history, as early as in the Roman period, security was regarded as the absence of distress upon which happy life depends. However, presently, most conflicts are civil in nature. They are associated with terrorism which, in the present globalised world, is a threat to the national security of any one state. Therefore, it becomes imperative that we deal with these issues at this point.
in time. It is also necessary that after the passage of this protocol and pact, we harmonize the various legislations within the East African states to be able to fight crime and terrorism together to ensure peace and security throughout East African communities.

There is also a general consensus that the East African Protocol on Peace and Security and the Mutual Peace and Security Pact is of benefit to Kenya and the region in light of the existing and emerging threats to peace and security. I dare say that we as Kenyans have had first-hand experience of what terrorism means. I dare say that even Uganda has also experienced the same. We are saying that if we do this together as the East African Community, we can only emerge as a better people. Defence, security and foreign policy fall in the realm of the proposed political federation whose end game will be transformation of the bloc into a single political territory. As you are aware---

**Date 27th August, 2015**

**Member of Parliament: Hon. (Ms.) Kajuju**

**Contribution She Made On: The Report on East African Community Peace and Security Protocol**

**Hon. (Ms.) Kajuju:** Hon. Deputy Speaker, I will try to summarize. I will take into account your sentiments. As I was saying, we are moving as the East African Community. We have already passed the three pillars that were set up by the East African Community partner states and we are looking at the political federation. We are saying that we cannot go into a political federation without setting up the base upon which that political federation, when it happens, will be able to stand on. Therefore, we were able to come up with a number of recommendations that I am going to indicate to the House in a short while. Note that if we ratify what is before us today, the East African Community will be a better place to be. This particular process will require the entire partner states to fund the initiative. If you have checked, most of the funding for projects within the region is by development partners. The rate is 70 per cent. We are saying that issues of peace and security are matters that must be taken care of by the countries themselves and not development partners.

We are also saying that there are issues that affect our relationships like corruption. That is because corruption can weaken the security infrastructure. We also need to pass a protocol on good governance that is going to ensure that issues of security are not invaded by corruption. The Committee, therefore, came up with various recommendations. Having said that, we are being called upon to ratify the protocol and the pact, I will first of all submit on the protocol, which is the East African Community Peace and Security Protocol.

The Committee, having considered the protocol and examined the presentations from various Government agencies and pursuant to section 8(4) of the Treaty making and Ratification Act, recommends as follows:-

2. The Ministry of East African Affairs, Commerce and Tourism, the Ministry of Foreign Affairs and International Trade, the National Treasury, the Ministry of Interior and Coordination of national Government, Parliament and all the implementing agencies should aggressively sensitize the public on the provisions of the Protocol.

Consequently, the National Treasury and Parliament should allocate adequate resources to the implementing agencies to facilitate adequate public sensitization.

Hon. Deputy Speaker, the Ministry of Interior and Coordination of National Government, the Attorney-General and all other implementing agencies should expeditiously identify the legal reforms to be undertaken to facilitate proper and timely implementation of the Protocol.
All partner states should fully commit to implementing the first two pillars of integration, the Customs Union and the Common Market Protocol. Also the Monetary Protocol as contained in the integration road map and all other protocols of the community. That is as far as the Protocol is concerned.

On the Mutual Peace and Security Pact, the Committee having considered the Pact and examined the presentations from various Government agencies and pursuant to Section 8(4) of the Treaty Making and Ratification Act, the Committee recommends as follows:-

(i) The House ratifies the Mutual Peace and Security Pact.
(ii) The Ministry of East African Affairs, Commerce and Tourism, the Ministry of Foreign Affairs and International Trade, the National Treasury, the Ministry of Interior and Coordination of National Government, Parliament and all the implementing agencies should aggressively sensitize the public on the provisions of the Pact in line with the tenets of the people-centered integration process. Consequently, the National Treasury and Parliament should allocate adequate resources to the implementing agencies to facilitate adequate public sensitization.

The Ministry of Interior and Coordination of National Government, the Attorney General and all other implementing agencies should expeditiously identify the legal reforms to be undertaken to facilitate proper and timely implementation of the pact. Those were our recommendations.

This Committee expresses its acknowledgement and thanks the office of the Hon. Speaker and the Clerk of the National Assembly for facilitation. It further appreciates the technical support offered by the staff of the National Assembly, the State Law Office and the Ministry of Interior and Coordination of National Government in the production of this Report.

I thank the Hon. Members of the Committee who diligently and actively participated in the activities of the Committee and their useful contribution in the compilation of the Report. Therefore, it is my pleasant duty and privilege, on behalf of the Committee on Regional Integration, to present this Report on the East African Community Peace and Security Protocol and the Mutual Peace and Security Pact for consideration and approval by the House pursuant to Section 8(4) of the Treaty Making and Ratification Act 2012 and Standing Order No.199(6).

I, therefore, beg to move and request my Committee Member who is present, and who is none other than Hon. Alloys Lentoimaga, to second this debate.

Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Odhiambo-Mabona

Contribution She Made On: THE REPORT ON EAST AFRICAN COMMUNITY PEACE AND SECURITY PROTOCOL

Hon. (Ms.) Odhiambo-Mabona: Thank you, Hon. Deputy Speaker. I rise to support the Committee Report on the Treaty and the Protocol. The Protocol speaks to issues that are of concern to us on the matters of peace and security.

As the Mover and the Seconder have indicated, there are many issues that affect us in the region, some of which are very unique to Kenya, especially the issues of terrorism and our porous borders. It is one of those crimes that would require joint effort by different countries.

Another issue that would require joint effort by different countries is the issue of trafficking in persons. Kenya has become a source, transit point and destination on issues of trafficking in girls and women. For us to combat this, we must work together with our neighbouring countries to enable us to deal with this.

Even as we have embraced East African co-operation, very recently, you saw the sugar wars that were going on in the country. The East African Community Pact (EACP) that was passed earlier is not covered by the Treaty Making and Ratification Act. It indicates that one of the reasons that we
passed that Act was to ensure that when Kenya is entering into agreements with other countries, Parliament must be involved. Any new agreement or treaty that is signed after 2012 must come to the Floor of this House.

I am the one who moved this Act. Even as I was moving it, it was one of those things you do to ensure that you meet the constitutional obligations. Increasingly, this is one of the laws that I am very proud of having brought before this House. It gives us a chance, as Parliament, to deal with a lot of the protocols and treaties that Kenya is negotiating on our behalf.

I am only saddened that when we are dealing with issues that are of this magnitude and that affect this country, very few of us are usually present in the House. I have noticed that. Whenever people see anything that touches on the East African Community (EAC), it sounds like Greek to them and so, most Members are rarely interested. At least, in other ones, you even see people going through the Committee Stage. Having been a very keen observer of the processes that have been going on, at some stage, we may need to amend the Treaty-Making and Ratification Act so that the protocols and treaties should go through the same processes as those of other laws. The Constitution provides that any treaty that is ratified by Kenya becomes part of the laws of Kenya. They should go through the same processes namely, First Reading, Second Reading and Third Reading and should come by a way of a report. As the Mover of the Act, I did not think about that then but it should be something that we need to think about.

As a Member of Parliament that serves a constituency that borders Tanzania and Uganda, we are always faced with challenges of security. Very many times people from Mbita are arrested by Ugandans. They normally complain that Tanzanians are even more lethal in what they do. They do not even wait to arrest you; they just kill you. I am hoping that this Treaty is not an end in itself. After passing it and it becomes part of the laws of Kenya, we must look at our laws to make sure that they fit within the framework of this Treaty. I am hoping that as a country, we can make sure that we provide patrol boats in border constituencies like mine so that we contain and protect our own people before we look beyond our borders. Let us not look at protecting Ugandans and Tanzanians before we protect our own Kenyans.

However, I urge the Committee that, unless I missed it as they were talking about the report, I do not think that they strictly applied the provisions of the Act. The Act requires that they indicate the national interests that may be affected. They alluded to that to some extent but I do not think they looked at the whole picture. If we are talking about security, I would have expected them to mention issues of border constituencies like mine and Budalangi.

The law also provides that they should have given the financial implications and estimated expenditure for implementing this Treaty. That, I have not heard. One of the things that is provided for by the Constitution is the issue of public participation. I heard the Mover speaking about public participation after the fact. This is a law making process. It would have been important that public participation happens before and not after.

Finally, I want to take this opportunity to congratulate our athletes who did very well and made us proud by bagging many gold medals for our country. I am also very happy that we have at least started the process of the Committee Stage of the Fisheries Management and Development Bill. Hon. Deputy Speaker, you have been telling me that, that may not be relevant to this Bill, but I am just being mindful of the time. Everybody wants to go on recess and so, instead of waiting for the Motion for Adjournment, with your indulgence, I wanted to speak to that.

We should also take time to reflect and think of the women of Kenya so that when we come back, we remember to implement the two-thirds gender rule. Today was the deadline that was given by the Supreme Court and we have not fulfilled that. I hope that when we come back, we will be ready to remember the women of Kenya.

I support the Motion.
MOTION FOR ADJOURNMENT
Date 27th August, 2015

Member of Parliament: Hon. (Ms.) Sunjeev

Contribution She Made On: ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

Hon. (Ms.) Sunjeev: Thank you, Hon. Deputy Speaker, for giving me one minute to contribute. I will use it very well.

As we go for recess, it is important that we remember that most Committees have done their work but some have not. We should form an oversight committee to look into those Committees which do not deliver their reports on time.

Finally, I would like to congratulate the Kenyan athletics team that is representing us in Beijing. I hope everybody will have a great recess.