

NATIONAL ASSEMBLY

OFFICIAL REPORT

Thursday 11th December, 2014

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

ENHANCEMENT OF NIGHT VISIBILITY ON ROADS

Hon. Speaker: This is conveyance of a petition to the National Assembly on enhancing night visibility and provision of advanced warnings on Kenyan roads.

Hon. Members, pursuant to Standing Order No.225 (2)(b), I have a petition to report to the House. The petition is signed by Mr. Anthony Kirori, I.D. No.1031855 and Mr. Ivan Ochieng, I.D. No.9789448, both of P.O. Box 50226 Nairobi, on behalf of Green Pencils Limited.

The Petitioners pray that the National Assembly, *inter alia*, intervenes to have high quality road studs installed on all tarmac roads in the country, and that the component for the installation of these roads studs be separated from the main road contracts. Further, the Petitioners pray that the National Assembly intervenes to ensure implementation of the United Nations Decade of Action for Road Safety (RS-10) project on the improvement of road safety.

The petition stands committed to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee is requested to consider the petition and report its findings to the Petitioners and the House in accordance with Standing Order No.227(2).

I thank you.

REVIVAL OF KENYA PLANTERS COOPERATIVE UNION

Hon. Makenga: Thank you, hon. Speaker. I have a petition and I will be reading it on behalf of hon. Munyaka, Member of Parliament for Machakos Town Constituency.

I, the undersigned, on behalf of the shareholders of the Kenya Planters Cooperative Union (KPCU), draw the attention of the House to the following:-

That, aware that the KPCU Ltd is an institution wholly owned by over 700,000 shareholders registered in over 400 co-operative unions, plantations and estates, and which has played a leading role in the development of the coffee subsector, but was

placed under receivership by the Kenya Commercial Bank (KCB) for failure to service a Kshs.644 million loan that accrued interest to Kshs1.4 billion;

Despite a directive from the former President, hon. Mwai Kibaki, to revive the KPCU in September, 2011, the Commissioner for Co-operative Development has been attempting to scuttle all the revival efforts as evidenced by a serious conflict of interest, since he sits on the board of directors of a competitor; the Kenya Co-operative Coffee Exporters, and as proven by his failure to support the Union in its compensation claim against the Cooperative Insurance Company (CIC). Despite being a board member at the insurance firm, his orders to call for elections allowed persons barred by a National Assembly resolution of August, 2012, to vie for positions in the irregularly convened elections; his deliberately unsupportive approach to all matters concerning the settling of the aforementioned KCB debt and lifting of the receivership of the Union and generally by his failure to faithfully and diligently perform his duties and responsibilities to expected standards, the petition by the shareholders of the KPCU Ltd is for the removal of the Commissioner for Co-operative Development.

Noting that intervention efforts at addressing the myriad of challenges posed by the Commissioner for Cooperative Development and sustaining KPCU's revival are best handled by the appropriate Government agencies, and noting further that issues in respect of which the petition is made are not pending before any court of law, or any constitutional or legal body;

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Agriculture, Livestock and Cooperatives:-

- (i) investigates the conduct of the Commissioner for Cooperative Development with a view to sanctioning, censoring and removing him from his position;
- (ii) urges the Government to support the Union's revival efforts by writing off its outstanding debts, injecting capital and granting the interim board a three-year operational period to allow for stabilization;
- (iii) directs the Co-operative Bank of Kenya to forthwith cease meddling in KPCU affairs and micro-managing the coffee industry; and,

Your petitioners will ever pray.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker I beg to lay the following Papers on the Table of the House today Thursday, 11th December, 2014:-

The Tobacco Control Regulations, 2014 and the explanatory memorandum pursuant to Section 53 of the Tobacco Control Act, 2007.

The Annual Report and Financial Statements of the Transition Authority (TA) for the period 2013/2014.

(Hon. A.B. Duale laid the documents on the Table)

Hon. Speaker: The Chairperson, Departmental Committee on Health, hon. (Ms.) R.K. Nyamai.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. (Ms.) R.K. Nyamai: Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Thursday 11th December, 2014:-

Report of the Departmental Committee on Health on the Kenya Medical Laboratory Technicians and Technologists Board with regard to the Pharmacy and Poisons (Amendment) Bill, 2014.

Report of the Departmental Committee on Health on the Petition by Mr. Barnabas Bargaroria on compliance by the Chief Pharmacist/Secretary to the Pharmacy and Poisons Board.

(Hon. (Ms.) R.K. Nyamai laid the documents on the Table)

Hon. Speaker: Very well. Hon. Mwiru, proceed.

(Hon. Mwiru stood up in his place)

Hon. Mwiru, table the reports. It is not enough to rise in your place and claim to be tabling the reports and hon. Members do not see anything being tabled. Where is what you are tabling? You see, you can easily forget having said you have tabled and walk away with the same. It is now the property of the House.

Hon. Mwiru: Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Thursday 11th December, 2014:-

The Report of the Departmental Committee on disputed Karen land, L.R 3586/3

(Hon. Mwiru laid the document on the Table)

Hon. Ng'ongo: On a point of order, hon. Speaker.

Hon. Speaker: What is out of order, hon. Ng'ongo, about tabling?

Hon. Ng'ongo: Hon. Speaker, you know the main reason why the documents are tabled is so that they generate interest in hon. Members; but when you just mention land, we do not know whether it is in Suba or in Malindi. He should have told us this land is in either Karen or wherever. If it is Karen land---

Hon. Members: He said "Karen."

Hon. Ng'ongo: You know, hon. Mwiru, sometimes--- *Aliponea chupu chupu*; he does not talk loudly.

(Laughter)

Hon. Speaker: Hon. Ng'ongo, the hon. Member said it. In fact, it is indicated clearly: Report of the Departmental Committee on Lands on disputed Karen Land L.R 3586/3. That is what I have on my paper. So, he was right. Do I have a Paper to be tabled by hon. (Ms.) Tuya? Do I see some reports to be tabled by the Chairperson of the Committee on Implementation?

(Hon. Kariuki Ndegwa stoop up in his place)

Who are you? The Chairperson of the Committee is hon. (Ms.) Tuya. You do not look like that.

(Laughter)

Hon. Kariuki Ndegwa, you do not look like hon. (Ms.) Tuya.

Hon. Ndegwa Kariuki: She is my boss.

Hon. Speaker: You are the Vice-Chairperson?

Hon. Kariuki Ndegwa: I am a member.

Hon. Speaker, I beg to lay the following Papers on the Table of the House today, Thursday 11th December, 2014:-

Report of the Committee on Implementation on a study visit to Austria from 22nd to 26th September, 2014

The Report of the Committee on Implementation on a study visit to Japan from 8th to 12th September, 2014.

Thank you.

(Hon. Ndegwa Kariuki laid the documents on the Table)

PERSONAL STATEMENT

REQUEST FOR ADDITIONAL SECURITY

Hon. (Ms.) Kipchoim: Hon. Speaker, pursuant to Standing Order No. 84(1), I wish to give a Personal Statement.

I am on record as one of the Members who have publicly taken a strong stand concerning acts of cattle rustling in Baringo County. Consequently, my political opponents and the perpetrators of cattle rustling have conspired and are now issuing threats not only to endanger my life, but I have also received information that the culprits are threatening to torch my rural home. I wish to request your Office to provide me with additional security to enable me discharge my duties effectively.

Thank you, hon. Speaker.

Hon. Speaker: You said you are threatened by political opponents?

(Laughter)

Hon. Members: And cattle rustlers!

Hon. Speaker: The issue of your additional security is a serious matter. If cattle rustlers are threatening your life, we want to be with you because you belong to this House. So, we will definitely take up the matter, so that you are given additional security.

(Applause)

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 16TH TO 18TH 2014

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Hon. A.B. Duale: Thank you, hon. Speaker, for that communication on behalf of hon. (Ms.) Kipchoim. Many of us have political opponents but they are not cattle rustlers, cattle rustlers are serious.

Pursuant to Standing Order No. 42(2)(a), on behalf of the House Business Committee (HBC), I rise to give the following Statement.

As usual, the HBC met on Tuesday of this week and from the outset and without anticipating debate on the Motion for Adjournment, I wish to note that the House is scheduled to proceed on a long recess commencing today as per our calendar since the House is coming to the conclusion of the Second Session.

Having that in mind, the HBC has not scheduled any business for next week, save to say that, one, we still have three Bills with constitutional timelines that have not been passed. Two of these Bills, the Procurement and Asset Disposal Bill, 2014 and the Public Audit Bill, 2014 went through the First Reading yesterday and have been referred to the relevant committees for deliberation and public participation. They will be given priority for debate after the break.

Two, I would like to thank all hon. Members for carrying out their legislative and oversight mandate diligently, and also for accepting to extend the sittings for this Session by one week to conclude business of the House.

I now wish to lay the Statement on the Table of the House.

Thank you.

(Hon. A.B. Duale laid the document on the Table)

Hon. Speaker: Hon. Gumbo, what is your point of order?

KILLING OF HAJI LUKINDO BY AN AMERICA DIPLOMAT

Hon. (Eng.) Gumbo: On a point of order, hon. Speaker. For quite some time now, I have been seeking a Statement from the Chair, Departmental Committee on Defence and Foreign Relations regarding the sad case of a Kenyan who was killed by a foreign diplomat, an American to be exact.

Last time, I was told that I should appear before the Cabinet Secretary; unfortunately, this was not one of the listed Questions. This is the case of the late Haji Lukindo, who was killed and left an unemployed widow with four children. This matter has been pending for very long and I would kindly request, through you, that the Chair, Departmental Committee on Defence and Foreign Relations, places it before the Cabinet Secretary, so that we can draw a closure on this matter. It is a matter this House and this country must be seized of, especially considering that a foreigner killed a Kenyan and chose to run away, leaving the responsibility of taking care of these children to the widow, who is unemployed and has no means, at all, of livelihood.

Hon. Speaker: What you sought as a Statement should have been converted to a Question, which then should have been forwarded to the Cabinet Secretary concerned. It is no longer the responsibility of the Chairperson to do that. You need to visit the Office of the Clerk, or the Director of Legislative and Procedural Services, to have the Question directly taken to the Cabinet Secretary. It would be easier if the Cabinet Secretary came

to the House, or the Committee, and responded to that Question and you seek clarifications.

Hon. (Eng.) Gumbo: I am obliged, hon. Speaker.

Hon. Speaker: Hon Members, before we move to the next Order, I wish to draw your attention to the existence of a Supplementary Order Paper to which we must now direct our attention to.

Proceed.

BILLS

First Readings

THE GOVERNMENT PROCEEDINGS (AMENDMENT) BILL

THE COUNTY ASSEMBLIES POWERS AND PRIVILEGES BILL

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL

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

Hon. Speaker: Hon. Mwinyi, what are you doing? You cannot even do that?

Hon. Members, debate on Order No.11 was concluded this morning in the Committee of the whole House. What is remaining is for me to put the Question.

Third Reading

THE LAW SOCIETY OF KENYA BILL

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

COMMUNICATION FROM THE CHAIR

Hon. Speaker: Hon. Members, you will recall that today during the Morning Sitting, several Members rose on points of order to seek the Chair's direction regarding the Security Laws (Amendment) Bill, 2014. In a nutshell, the following issues were raised:-

(a) whether the Bill has undergone public participation as envisaged under Article 118 of the Constitution;

(b) whether the relevant Departmental Committees have been accorded an opportunity to consider issues related to their mandates;

(c) whether the following provisions of the Bill are in contravention of the Bill of Rights:-

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(i) whether Clause 4 that provides for the Cabinet Secretary to designate areas for public meetings is contrary to Article 37 of the Constitution, which gives every person the right to peacefully, and while unarmed, assemble, demonstrate, picket and present petitions to public authorities;

(ii) whether Clause 18 that allows the court to extend the holding of a suspect in custody for more than 24 hours contradicts Article 29 of the Constitution on the right of a person not to be deprived of freedom of the person;

(iii) whether Clauses 25 and 26, which provide for stay of an order granting bail to an accused person where the office of the Director of Public Prosecutions gives indication of intention to appeal against such an order contradicts Article 49 of the Constitution on the right of the arrested person to be released on bond or bail; and

(iv) whether the limitation of fundamental rights and freedoms in the Bill complies with the requirements of Article 24(2)(b) of the Constitution as to its drafting style.

Hon. Members, as you are aware the Bill was published on 8th December, 2014, and read for the First Time on 9th December, 2014, after the House approved a Motion for reduction of publication period from 14 to one day. Standing Order No.127(3), which implements Article 118 of the Constitution, obliges that the Departmental Committee to which a Bill has been committed facilitates public participation and takes into account the views and the recommendations of the public when the Committee makes its report to the House.

I am aware that the Clerk issued an advertisement in the daily newspapers which appeared on 10th December, 2014, inviting interested members of the public to give their views on the Bill on or before Monday 15th December, 2014 at 5.00 p.m. The advertisement also indicated that the committee will be holding sittings to conduct hearing on the same Bill on Wednesday 10th, Thursday 11th and Monday 15th December, 2014.

To this extent, the House has complied with the requirements of the Standing Order No.127(3), as read together with the provisions of Article 118 of the Constitution. What is awaited is the report of the committee. However, the precedent of this House has been that the absence of a report of a committee does not prevent any Bill from proceeding to Second Reading.

Hon. Members, the issue of whether the relevant Departmental Committees have been accorded an opportunity to consider the issues related to their mandate--- As you are all aware, once a Bill is read for a First Time, it is committed to the relevant Departmental Committee for consideration. Members and committees of the House, therefore, automatically become seized of a Bill immediately after the First Reading, and Members and the committees are at liberty to bring any amendments as may be necessary when the Bill proceeds to the Committee Stage.

Indeed, at the First Reading of a Bill, there is no Question put. The Bill is deemed to belong to the entire House. It is, therefore, important for the Members and the committees to keep themselves up to date with the proceedings of the House.

Hon. Members, on several specific issues raised notably by hon. Ababu, with regard to the purported limitation of rights and fundamental freedoms in the Bill; I have considered those issues in the light of Article 24 of the Constitution. This Article

contemplates limitation of fundamental rights and freedoms either by the Constitution itself or by law, so long as that limitation complies with the criteria set out in Article 24 (1) of the Constitution.

The said Article 24 (1) provides as follows:-

“A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

(a) the nature of the right or fundamental freedom;

(b) the importance of the purpose of the limitation;

(c) the nature and extent of the limitation;

(d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and

(e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.

Hon. Members, I do not belabour the fact that the limitation by law referred to in Article 24 (1) can only be done by Parliament, as it is the sole law-making authority under Article 94 of the Constitution.

However, Parliament is under constitutional obligation to satisfy itself that the criteria specified in Article 24 (1) are met before curtailing any right or fundamental freedom. It is only fair that the House must be accorded an opportunity to make this determination by way of a decision.

Whereas Standing Order 47(3)(b), empowers the Speaker to either direct that a Motion is inadmissible on account of unconstitutionality or to direct that a Motion be moved with amendments so as to conform with the Constitution, that power of the Speaker must not be used to curtail debate and decision by the House on a matter contemplated by the Constitution itself.

I must exercise great caution not to invoke Standing Order 47(3) (b) at the detriment of curtailing the right of the House to accept or refuse to pass a particular legislative proposal, especially where this right of the House is allowed by Article 24 (1) of the Constitution.

The other constitutional matter raised by hon. Simiyu as regards whether the drafting style of the Bill accords to the requirements of Article 24 (2)(b) of the Constitution, is a matter which can be addressed at the Committee Stage of the House by making the necessary amendments to the drafting style.

I, therefore, rule that the Security Laws (Amendment) Bill 2014 is properly before the House and should proceed to Second Reading, so that the House can make a decision as to whether or not to accept the Bill as proposed or make any amendments as may be necessary to reflect the wishes of the House.

I thank you, hon. Members. Let us have the Mover to move the Bill.

Second Reading

THE SECURITY LAWS (AMENDMENT) BILL

An hon. Member: On a point of order, hon. Speaker.

Hon. Speaker: There can never be a point of order on the Bill; is it on the Bill.

Hon. Abongotum: Hon. Speaker I beg to move that the Security Laws (Amendment) Bill (National Assembly Bill No. 39 of 2014), be read the Second Time.

Hon. Speaker, as I said sometime back in this House, this country is facing a real threat, and it is almost being taken over by terrorists. As we speak, you recall what happened in Mandera; quite a number of Kenyans lost their lives in two incidents. Now, a few Kenyans who do not belong to Mandera County have actually re-located from that county.

I want to inform hon. Members that when the United States of America was attacked during the 11th September, 2001 attack, the Congress sat down and came up with radical reforms to address terrorism in that country. They came up with radical laws to address matters of homeland security. When Mumbai was attacked by terrorists and people were attacked in four hotels, Mumbai State and the Indian Government sat down and came up with serious reforms to address matters of insecurity.

These are desperate times and desperate times call for hard decisions and tough measures. These are hard times and hard times call for hard choices. These are extraordinary times and extraordinary times require extraordinary decisions.

Therefore, I want to call upon the House to support the Committee on these amendments because we have looked at them. Of course, we have several issues and amendments to propose on the Bill. But, I want us to take a bipartisan approach on this issue. This is because security is about everybody; it is not about Jubilee or the Coalition for Reforms and Democracy (CORD), or other small parties like Sisi kwa Sisi, Chama cha Uzalendo and the rest. I plead with the hon. Members to let us not politicise this matter because the terrorists are working round the clock to ensure that this Government is defeated.

Hon. Speaker, for a very long time, we have actually tasked the Executive to solve this nagging problem of insecurity, cattle rustling, terrorism and banditry. However, we have certain laws that have impeded the Government from moving forward. That is why the Bill has come up with amendments to the Public Order Act, our Penal Code, Extradition (Contiguous and Foreign Countries) Act, the Criminal Procedure Act, the Registration of Persons Act, the Evidence Act, the Prisons Act, the Firearms Act, the Radiation Protection Act, Cap. 243; the Rent Restrictions Act, the Kenya Airports Authority Act, the Traffic Act, Cap 403, the Investment Promotion Act, the Labour Institutions Act, the National Transport and Safety Authority Act, Cap. 33 of 2012, the Refugees Act and the National Intelligence Act, No. 28 of 2012.

We have also amended the Prevention of Terrorism Act, No. 30 of 2012, the Kenya Citizenship and Immigration Act No. 12 of 2011 and the National Police Service Act, No. 11 of 2011. I remember bringing many amendments to this House. I am happy and I want to thank hon. Members for approving those amendments.

Hon. Speaker, the last one is the Civil Aviation Act. First of all, I want to start with the issue of prevention of terrorism. The Act was actually passed by this House in 2012 and assented to by the President. We are trying to address facilitation of terrorist acts; those who facilitate them must be dealt with according to law. Matters of radicalization, are so common. Our youth have been promised that when they kill in the

name of religion, they are entitled to 77 virgins of 60 meters each. I wonder whether a lady of 60 meters--- That lady will occupy a whole gymnasium, but those who are radicalised are told they can actually be entitled to her.

Publishing of offending material has also been addressed. Those who attend training for the purpose of radicalisation have also been dealt with. Possession of weapons in public places and places of worship has also been dealt with and penalty provided. We want to say that if this law is passed, we will deal very decisively and conclusively with matters related to terrorists.

There is also the issue of the National Police Service (NPS). I want hon. Members to listen because there has been a major complaint from many in our Committee. Hon. Members are saying that when you go to the counties, you find two parallel commands for the APs and the regular police. This has been cured by ensuring that there is one specific commander, where the buck stops especially in matters of security. We want to recommend that far-flung areas like ASALs, where cattle rustling and banditry are common, should be headed by an officer or a commander from the AP and then deputised by an officer from regular police; this command will cascade all the way to the sub-counties, so that we have one single command and the Chair of National Security will be the County Commissioner. That will address most of the issues that we have been facing in this country.

(Applause)

If you have a problem of insecurity in your particular county, you actually do not know who to call, whether it is the county commander in charge of regular police or the county commander in-charge of the AP. That has been cured once and for all in this law.

We have given powers to the President and this is reflected in Article 245. This Article says that the President has powers to appoint the Inspector-General of Police and recommend the name to Parliament, so that Parliament can approve it within 14 days. That has been done.

The removal of security of tenure of the Inspector-General of Police, the two deputies of the Inspector-General has been done to ensure that whoever is in charge, as the President, has powers to deal with an Inspector-General, or the deputies if they do not deliver on their mandate. With the kind of security of tenure they have, they can actually choose to obey orders or not.

Hon. Speaker, we have also given the Inspector-General of Police some delegated powers, so that he can manage and control officers under him without any hindrance.

On the issue of the National Intelligence Act - I want you and the hon. Members to listen to this - we have removed the security of tenure for the Director-General (DG), so that a DG will serve at the pleasure of the President. If the President does not want him, if he does not deliver on his mandate, he can actually be kicked out and another DG appointed.

There is the issue of giving these officers powers of arrest: Arresting suspects and taking pre-emptive measures is necessary to deter and disrupt serious offences, especially terrorist activities. We have given the NIS officers and officials the powers to arrest. You all remember when we were tabling the debate on Westgate, the police were

saying they did not get information from the NIS and the officers in NIS claimed that information was delivered to the police a week or two earlier. There is that confusion and so we have given them powers to arrest and deal with the terrorists on the spot, instead of saying they should look for an officer from the regular police to deal with terrorists.

We have also given them the powers to have guns and to use firearms. Some hon. Members may claim we are bringing back the Special Branch of the old days, but as we speak, Kenya is the only country with intelligent officers who are not armed.

(Applause)

All countries from South Africa to Egypt possess firearms. We have actually disarmed our officers and that is why we are finding ourselves in this kind of precarious situation.

We also want to ensure that permits issued to foreigners are controlled, so that they are not handled haphazardly. Foreigners with little education, or with little academic qualifications, are not supposed to find their way here. People who are trained in masonry, welding and carpentry are not supposed to come here and get jobs that are meant for our youth. If they have to come from China, India and any other place they must have better qualifications and we can only have them if Kenyans do not have the required qualifications.

(Applause)

The Bill also intends to vet investors. As we speak, every investor can come here with some little money and end up doing some shoddy job. They end up selling groundnuts in Umoja and doing all manner of jobs, including participating in criminal activities like the 77 Chinese citizens found at Runda. We want to deal with this situation.

On the issue of refugees, we want refugees and asylum seekers to report their presence on arrival as opposed to the current 30 days grace period. So, all asylum seekers must report immediately and they should not be allowed to hang around for 30 days before they are registered. We want to also recommend that all asylum seekers should be placed in some designated areas and should not be in all places.

On the issue of the threshold, or the number of refugees that this country should have, we have reduced the number from whatever we have currently, which is over 600,000 refugees. However, in tandem with international standards we want to have a maximum of 150,000 refugees. The National Assembly can vary the number when it deems it fit. The recommended number, according to international standards, is 150,000 refugees.

We have come up with amendments to the Criminal Procedure Code. Here, we are trying to reintroduce provisions for police supervision for persons convicted of some offences, including serious offences of terrorism and sexual crimes. We have recommended that anybody involved in stripping members of the female gender will be liable to imprisonment for 20 years. However, we have not been very keen on the male gender.

On the Evidence Act, we have amended the law to allow admission of digital photographs. We have also ensured that evidence is not excluded on the basis of

technicalities. We have also dispensed with procedures that may require personal presence of a particular officer for admission of evidence when that would be done by other officers.

On the issue of forensic evidence, we have allowed evidence through a video link; we have seen this happening in the International Criminal Court (ICC). On the Penal Code, the Bill seeks to deal with alarming and malicious publications. On Public Order Act, where Members have raised issues, I want to report to you that we have come up with several amendments on where we think certain rights have been taken from Kenyans. These amendments have been proposed by the Committee and you will get them in due course.

On the issue of demonstrations and things to do with meetings, we just want to deal with demonstrations and picketing. As a Committee, we have done some amendments and you will see them. We just want to deal with demonstrations and picketing, so that anybody who wants to demonstrate and picket can go to a designated place, where they will not cause problems to anybody. They can go there in shifts. If we say that Uhuru Park should be the place where people should hold demonstrations and picketing, then people can go there in shifts. They can demonstrate up to 5 O'clock in the evening and go home when they want instead of people demonstrating outside Parliament and on business premises, thereby causing mayhem. Promoters of demonstrations and picketing will be held responsible if they cause any damage to property.

On the Traffic Act, we are saying that we require motor vehicle dealers to maintain a data base of vehicle sales, transactions in stock as sold on a monthly basis. At the moment, we have car dealers who engage in suspicious businesses and we want to eradicate crimes like money laundering; some people are using that trade to launder money.

Lastly, I want to tell hon. Members that this Bill intends to bring security and good order to this country. In fact, the Bill should have been baptized the “*Ushalama* Bill,” because we all know that we are facing threats. We do not live in a vacuum. We know that every day we have threats. This Parliament has faced more than three security threats; I want to appeal to hon Members to approve this. Let us adopt it. Let us approve these amendments but the Committee will still improve on them.

With those few remarks hon. Speaker, if this House passes these amendments, I am sure that the Executive will now handle the issue of insecurity without excuses. As we speak, our brothers on the other side have requested the Executive to resign because they are not handling issues of insecurity. We want you to give them tools, so that they can deliver on their mandate. If you do not give them the tools, then we will have conspired to bring insecurity and terrorism.

With those remarks, I wish to move and ask the Leader of Majority Party to second.

Thank you, hon. Speaker

Hon. Speaker: Let us have the hon. Leader of the Majority Party.

Hon. A. B. Duale: Hon. Speaker, I beg to second. I want to make three fundamental statements. First, I want to thank you because you have made a communication and answered very pertinent questions raised by hon. Members this

morning on matters of public participation, on the Bill going to the relevant committee; on the Bill of Rights; on Article 36 and on Clauses 18, 25, and 26. You did that within the meaning of Article 24(1).

(Loud consultations)

Hon. Speaker, we have rooms behind the Chamber where people can transact any kind of---

Hon Speaker: Hon Members, those of you who want to caucus can do that in the various rooms outside of the plenary hall.

Proceed.

Hon. A. B. Duale: Secondly, within Article 95 of the Constitution, it is the role of this House--- The 349 Members of the National Assembly have a cardinal constitutional duty to look at every Bill and if possible even change its title. The difference between us and the people out there is that they have no opportunity to legislate, decide what is good for the country and disallow what is not good for the country in terms of law making.

Hon. Speaker, at the Second Reading of a Bill even a committee chair and his members can pick every concern of the membership and translate it into an amendment for the Committee of the whole House. The genesis of this Bill--- I said it when I was reducing the publication period. This is not an ordinary Bill; it is a Bill that came as a result of the deaths of our countrymen in Mpeketoni, Mandera and elsewhere. We said as a House, let us look at laws, because our business is to look at laws and the Executive's business is to enforce them. Ours is to find out if there are gaps. If there are deficiencies and challenges in how to provide security to our people and their property, then it is the moral duty of the National Assembly to make sure we look at them.

Hon. Speaker, I will, at least, be different from Chair. This is because I had a session with the Departmental Committee on Justice and Legal Affairs and we looked at each of the 22 laws we are amending. We looked at the Public Order Act, Rent Restrictions Act, the Radiation Protection Act, Cap. 243, the National Police Service Act, the Kenya Citizens and Immigration Act – all the 22 laws. I want to tell my colleagues that, as we debate, we should point out the ones that we feel are very good. The ones we feel the Committee and other stakeholders did not do very well, we build a bipartisan approach. Let us save the Constitution, protect the spirit and the letter of the Constitution and provide good laws that will help the Government and the President to make sure that our country is safe and secure.

With those preliminary statements, let me now take the House--- I will not touch on all of them; I will give only the highlights. In my opinion and that of the legal team and researchers in my office, hon. Members can still look at what we have agreed or disagreed on, and make sure that even if we will be on recess, we will still come back and make this law. That does not mean that we will circumvent procedure and constitutional processes. I want to make it very clear that it is not the intention of the President, the Executive or the Jubilee Coalition to take Kenya back. There are many people out there who want to go and do many things, but the 349 of us must look at this law in a rational way. In the current situation, this Bill is in this House because it is very important.

It is not like the Scrap Metal Bill or the Public Accounts Committee Report we are debating, which we can do in February next year. Let me start with the Public Order Act, Cap. 56. The Public Order Act, Cap.56 makes references to offices and institutions that have been made obsolete in the re-organization of the Government of Kenya under the new Constitution. This Bill makes specific reference to governors, Members of County Assemblies, Cabinet Secretaries for Interior and Co-ordination of National Government, Director of Public Prosecutions (DPP), the Inspector-General of Police (IG) and National Police Service. This is trying to enhance some penalties, but in totality there are people who are left out. Therefore, this amendment is trying to bring consistency with the new Constitution by recognizing some particular officers.

Clause 4 of the Bill seeks to regulate public meetings by empowering the Cabinet Secretary to designate areas and times when public meetings, gatherings and public processions must be held. Hon. Members of the House Business Committee (HBC) will agree with me that, it is in the minutes of the HBC that we have passed that Parliament must allocate a specific place for the public to picket and to demonstrate. It is in the House Business Committee minutes, and it happens in all devolved democracies. We have gone to the United States of America (USA) and United Kingdom (UK)---

In fact in some countries, there is a roll call. Maybe there are ten different groups that in one day want to picket. They may go to the person in charge and say, "Hon. A.B. Duale and his team will picket from 10.00 a.m. to 11.00 a.m. and hon. Mwinyi's team will picket from 2.30 p.m. to 3.30 p.m." If we allow people to go and picket in Westlands, for example, where there are no Government offices or Parliament and property is destroyed--- This is a standard and it is what we are trying to do.

Clause 5 of the Bill creates an offence by any person who unlawfully convinces, organizes, and promotes a public rally, a meeting or a procession. The Constitution has provided for us that if you want to have a public rally or procession, you will go to the nearest police station. It is already provided for. It is not talking about it being lawful.

Hon. Speaker, let me go to the Extradition Act, Cap. 76. The Bill seeks to amend the Extradition Act, to harmonize it with the office and the institution created under the Constitution of Kenya. It is time to harmonize it with the Constitution.

Secondly, it also seeks to enhance co-operation between Kenya and the contracting nations in relation to speedy extradition of persons from Kenya to existing--- A good example is my good friend, journalist Walter Barasa, who is wanted by the ICC. The process is well documented. It has to go through the judicial process.

This Bill seeks to amend the Penal Code, Cap. 63, to make provisions for the offence of a public officer aiding or facilitating the commission of a felony. This is what this country needs. If a police officer hires out his gun for a crime to be committed, that police officer must be liable to punishment; that is what we are saying.

(Applause)

Hon. Speaker, if an Immigration Officer gives a foreigner, a terrorist, our national identification card, passport or visa when he knows Mr. "X" is on a watch list; as much as we can punish that foreigner, we must also punish that public officer. That is what all

this Bill is saying. As I said, there are good parts of the Bill and there might be issues; let us do it in a sober way and in a consensus-building way.

Hon. Speaker, the hon. Member for Changamwe, an old friend of mine--- I was his friend when he was forming the Islamic Party of Kenya (IPK) many years ago. For those who do not know the history of hon. Mwinyi, he is a good friend of mine; let me continue.

Hon. Speaker, I can confess that every public officer entrusted with the security of our nation must be liable for commission or omission of acts that resulted from corruption. That is what the Penal Code is saying. Clause 15 of the Bill provides that a person who publishes obscene material commits an offence.

I have spoken to the Chair. I have seen the submission of Charles Nyachae of Commission for the Implementation of the Constitution (CIC) in my office; we need to relook at it. We need to relook at the language of what is obscene or offensive. If my good friend, hon. Odhiambo-Mabona, looks at me in a different way, I say that it is offensive and I should go to the police. There is a way in which she looked at me, but I do not want to say it here.

(Laughter)

I want to tell the Committee and this House that we need to look at the language and understand what is obscene or what is offensive. I do not even know what is offensive or gory.

Hon. Speaker, if you go to Clause 16 of the Bill, it makes it an offence for a public officer to aid or facilitate the commission of a felony or facilitate the entry of a criminal into Kenya or conceal the whereabouts of a criminal.

Hon. Speaker, a white lady called the “white widow” was going round our country. I do not know if she is late. That lady did not come to Kenya without documents. She must have got a visa. Whoever gave her that visa must be held responsible. That is what the Bill is saying.

If I go to the Criminal Procedure Code Cap.75, this Bill seeks to amend the Criminal Procedure Code by inserting a new provision in relation to the arrest and detention of a person beyond 24 hours as stipulated in Article 18 of the Constitution. That is happening now. The Director of Public Prosecutions (DPP) and other prosecutors are very good lawyers like hon. Maanzo. You know at one time in 2006 he took off with our party certificate. This man took off with the Orange Democratic Movement, Kenya (ODM-K) certificate. He left many of us on the road.

This great lawyer will tell you today that there are many people who after being granted bail, depending on the reasons the prosecution provides, are still kept in custody. So, we are saying if the prosecution or the office of the DPP can provide evidence that the person who is seeking bail is a wanted terrorist, and if he is given bail he is going to commit more crimes--- The DPP must provide reasonable evidence and grounds for him to be kept in custody.

Hon. Speaker, the Registration of Persons Act seeks to amend this Act by inserting a new provision in relation to the establishment of identification committees or identification agents, the cancellation, or revocation of identity cards and the

enhancement of certain penalties. We are trying to enforce it. We are trying to make it stronger. This Government deported 104 persons involved in terrorism, drug dealing and money laundering. What did the Government do? It revoked their work permits, passports and identification cards. That is what this clause is saying.

On the Prisons Act, Cap. 90, this is a very simple matter. It is saying we must separate hardcore criminals from ordinary criminals. Even today, criminals accused of robbery with violence do not stay at the same place with other inmates. What we are expounding on in this Bill is that hardcore terrorists, money launderers and drug dealers should not have an opportunity to mingle with other inmates, because they will have a chance to communicate with the outside world. I hope I am communicating. This is a basic fact.

Hon. Speaker, the Radiation Protection Act 124 anticipates that if our country is attacked by use of nuclear weapons--- I can see hon. Ottichilo, an expert in that area nodding. Basically, what we are amending in the Radiation Act is because of sophisticated imitation by terror groups. What if they use an atomic bomb or a nuclear thing? How do we deal with that? That is why the Radiation Protection Act was amended.

The Bill seeks to amend the Rent Restriction Act to make provision for maintenance. This, in fact, is so important in view of the fact a Kenyan landlord rented his premises to 77 Chinese involved in high cyber crime. When this Kenyan was asked, he said that he was paid over Kshs.5 million shillings for his premises. He did not know that his house had become a dormitory. What we are saying in this law is that every Kenyan involved in renting, or leasing premises, should keep a record or register, and monitor his tenants. That is what the Bill is talking about.

Hon. Speaker, what is the Bill doing to the Kenya Airports Authority Act Cap. 395? It is dealing with prohibition, restrictions, zoning of land around airports and the establishment of an Inter-Agency Security Advisory Committee (IASAC). Today, God forbid, if there is a terror attack, at Jomo Kenyatta International Airport (JKIA), the military and the intelligence must go through the Managing Director (MD) of Kenya Airports Authority. What we are saying is that we need to form an inter-agency body on which the defence and the intelligence services will have a member; every arm of Government will have a member on it, so that they know in case of a terrorist attack how they will react.

The Traffic Act, Cap. 403, says that we must have a register of all the diplomatic vehicles in our country, because criminals and terrorists can use a number plate of a diplomatic nature. If you want to turn your personal private car into a public service vehicle (PSV), you must go through a process. We have seen Kenyans who hire their vehicles out because they want money, which is good. The vehicles which were used at the Westgate were hired from Kenyans. What we are saying is that Kenyans should be cognisant of the environment, and whom they give their vehicles. If you give your vehicle to hon. Duale, he must provide relevant documents.

On hotels, I was a victim. I was denied use of a hotel because I did not carry my identification card. What I was doing there is a story for another day.

(Laughter)

Where it was and what I was doing is a different story. All of us travel out. Is there any hotel you have booked or you have been given without presenting your credit card and passport? Some hotels take the credit card when there is even no fridge in their rooms. You even ask yourself why this, when the hotel room has been paid for. We are saying that every hotelier must present his guest list to the nearest police station.

Maybe 5 per cent of the Bill is contentious, but we can solve the problem. There is 95 per cent which is good for the country. So, let us not throw out the baby with the bath water. Let us throw out the water and the bucket, and spare the baby because it is a living animal.

Hon. Speaker, the Investment Promotion, Act Cap. 485 says, in my understanding, that if you are an investor, you come into the country with people from outside the country and they are given work permits, the day they leave your premises, and do not work for you anymore, you must report their departure to the immigration service, because they were given work permits on the basis of your application. If you say hon. Duale used to work for you five years ago, but you do not know his whereabouts and he is a foreigner then that is wrong.

The Labour Institutions Act, of 2012 is what this House has been crying about since we started. We must have a system in which our workers go to the Middle East and are taken care of. This Bill says that all bureaus must be vetted. Before they even vet the workers they want to pick, the owners of those bureaus must be vetted. If a bureau is owned, for example, by hon. (Eng.) Gumbo, and one Kenyan suffers--- You do not own a bureau but maybe one day after you retire you will own one, even though now you are an engineer. If a lady is molested in a capital somewhere in the world, then hon. Gumbo will be held responsible. That is what the Bill says.

Hon. Speaker, I will go to the Refugees Act. We have one million refugees. Did the United Nations High Commissioner for Refugees (UNHCR) ask us about capacity? This Bill is talking about 150,000 because we have signed the Vienna Convention and we cannot run away from it. We must host refugees, but we must host them depending on the capacity of our country. This Bill says that we will limit refugees in our country to 150,000. This number can only be varied by this House. If we have a problem with our neighbours, then the Government will come back to this House and vary the figure of 150,000 refugees.

The other issue is the security of tenure of the National Intelligence Service and the police bosses. If I become a president, I will not be in a situation where somebody has security of tenure. Today, under the new Constitution, people say that the buck stops with the President. This is true, but the President should have latitude in the recruitment of the Inspector-General of Police or the Director-General of the National Intelligence Service. His hands are tied, as hon. Wamalwa said this morning when we were vetting Maj-Gen. Nkaissery. If I have security of tenure and the President tells me that there are serious problems in Mandera, I will tell him that I will look into that area. I will tell him that I have heard him and because I have security of tenure, I will do nothing. That is what is happening in Kenya. Where does the buck stop? The buck stops with a person who has no powers.

The Committee prepared this document with other stakeholders and I am sure they must have engaged. In my opinion, I will bring a further amendment and say that if

we agree to remove the security of tenure, then everybody who worked with Mr. Kimaiyo must go.

(Applause)

In conclusion, this Bill is before this House because of an emergency; lives have been lost. You saw on television that hon. Kanini Kega lost 14 of his constituents. We do not know whether tomorrow it is going to be hon. Wamalwa or hon. Duale. It can be anyone of us. Why are we here? You know you are the chairman of a party through a boardroom decision; I am saying that we must rise to the occasion. We must look at this Bill with soberness and identify the areas that are okay and those which we need to be looked into. As a House, with the interest of the country and the security challenges we have, I have no doubt in my mind that we will come together at a table, protect the Constitution, the Bill of Rights, the lives of our people and at the end of the day, we will have a law that will make a difference from the current situation. People say that the buck stops with the President when it stops with other different arms of the Government.

I rest my case, hon. Speaker.

Hon. Speaker: Do you second?

Hon. A. B. Duale: Hon. Speaker, I beg to second.

Hon. Speaker: Very well spoken, Leader of Majority Party. Hon. Members, including the Member making her way in, I will propose the Question.

(Question proposed)

Hon. Members, there are many of you who want to contribute. Let me give this indication right from the beginning; I currently have 81 requests. In keeping with what the Leader of Majority Party has said, let us allow everybody, without interruption, to say their bit on what they think about the Bill. We will give as many of you as possible a chance to contribute. I will follow the order on the screen.

Yes, hon. Daniel Maanzo.

Hon. Maanzo: Thank you, hon. Speaker for giving me an opportunity to contribute to this Bill.

I have had an opportunity to practise law under several Acts which have been cited here for amendment. I want to begin with electronic evidence. We are investing a lot in electronic evidence and in CCTV cameras. I would like to refer to a case known by a lot of people in the world, because it was in the social media, where a house-help beat up a baby. That particular house-help, without proper law of evidence and by just merely believing or following the CCTV footage, a good lawyer would get that person acquitted while everybody knows that the person did it. The only solution to that and to many other related crimes is to get a proper law on electronic evidence by amending the Evidence Act. In Kenya, as it is today, CCTV and other electronic devices which may provide evidence are not considered. We are now in a digital era and the law of evidence is lagging behind in this respect.

On extradition, there have been laws in Kenya relating to this. While practising law, at one time I had to deal with a situation where a Kenyan was extradited wrongfully

to stand trial in an international court. When we went to the international court in Kosovo, Pristine, we had to bring back the Kenyan to be extradited properly, which never happened. He went scot free. The extradition law can affect any Kenyan; relatives of Members here can be extradited to stand trial in another jurisdiction; if the process is not properly done, somebody may suffer.

It also happens under the Rent Restrictions Act. I am sure most of the Members here and many Kenyans are landlords. If you do not know the real details of the people living in your premises, activities related to terrorism may take place there as it happened at the Westgate. That happened because we did not have details of the occupants. This is a good Bill. If it not passed, anyone can use the loopholes. If we do not have proper laws, then we are not assisting the country at all. If we do not prepare for terrorism, which is a new crime in the world and Kenya is hard hit now, we will not secure our people. I lost a constituent at the Westgate attack and it was very difficult on me as a Member of the National Assembly. I bore almost the total bill for burying that person. We need to have proper laws and we have to re-look into this Bill, so that it is well done, so that it can serve the right purpose.

I am hoping that it is not being brought in mischievously, or somebody is not likely to take advantage of it and mistreat political opponents, as an hon. Member said earlier today. If we do not take care, somebody can take advantage and declare a political opponent a terrorist, for example. Using the same law that we want to pass here, somebody might take advantage of you politically. I had an opportunity to handle matters in 2002 where during the KANU era, robbery with violence charge was used against opponents and they would be locked up without bail. I would make a lot of effort in courts to get them released on bail. On one occasion, I had a matter reduced to simple robbery, so that somebody could go out and participate in nominations. That was used as a political tool. We need to take care, so that some of the proposed amendments are not used as political tools.

The issue of the Traffic Act is very serious. A lot of times, diplomatic vehicles get into the country easily through diplomatic agencies. We do not have properly safeguarded laws. Also, in terms of Kenyans coming in, recently, we had a security issue where a lot of Chinese citizens were living in a house here in Kenya without proper documentation.

I would like to support this Bill when it is properly amended and we have a right to do so as a House, so that it can serve the greater interest of Kenyans. That is very important. We need to remove any mischief which may have been put in it.

On the issue of investors, many people come into the country pretending to be investors, and giving big stories. I want to admit that as a person who has served the Government before, I had an occasion to see the way things used to work. Although there are safety nets, they need to be tightened because many people can sneak into the country, probably bring in a lot of money, and eventually the money ends up being used in the wrong way to terrorise Kenyans.

Finally, so that other hon. Members also contribute, it is very easy to notice that a lot of lapses occur at the airports which are managed by the Kenya Airports Authority (KAA). It will be good if we have proper laws, so that terrorism does not consume us. As Members of Parliament, we are given permission by the Constitution to make and amend

laws. We owe Kenyans a duty to make proper laws and amend them when necessary to remove any mischief which may be sneaked into them, and which can be used for political purposes, so that we serve the greater interest of the country and the people who elected us.

I beg to support with amendments in future.

(Applause)

Hon. Njuki: Thank you, hon. Speaker for giving me the opportunity to contribute to this Bill. This House has a mandate. As elected Members of Parliament, and as lawmakers, we have a mandate to rise to the occasion if and when we are needed. At a time like this we need to show our value to the members of the community, our voters who elected us, because they are in need of good security in this country.

I will support this Bill with very good intentions and reasons. For the last few years, the security of this county has been wanting and every Kenyan thinks the buck in security stops with the presidency. The paradox of the whole thing is like hiring a guard, giving him a gun, keeping the bullets and still expecting him to shoot. The President's hands are tied because he cannot, in anyway, determine who becomes the Inspector-General of Police. He cannot sack him, and he cannot access security agencies as far as their administration is concerned. We are, therefore, saying that this Bill should be amended to give the President an upper hand, and a clear authority in what goes on regarding security in this country.

If you look at the panel that interviews the Inspector-General (IG), the National Police Service Commission (NSC), the Law Society of Kenya (LSK), the Kenya National Commission on Human Rights (KNCHR) and the Independent Policing Oversight Authority (IPOA), all these are people who normally take us back after doing their work in the appointment of the IG, and they expect the President to be responsible for security. These are the same people who turn round and blame the Presidency for laxity in dealing with matters of insecurity.

I want to point out a very important factor that has been introduced by this Bill. Article 37 of the Constitution gives the right to picket, assemble and demonstrate, so that demonstrators' rights can be heard. One famous entrepreneur one time said "if you want to learn to do good business, you need to go to the poor and see what they do and then you do not do it. Then you go to the rich, see what the rich do, and do it better". If you look at the developed world, there is no one time you will go to America, Britain, Turkey - I was there the other day - and find people on the streets picketing or demonstrating. They have designated places where they picket because Article 57 is not violated in this case. There is actually nothing wrong in having a timetable and an area set aside for picketing, so that we do not have the scenario we normally have here when we have people demonstrating against Parliament with pigs and going to Harambee House to picket at the gate of the President, and then we cannot even access our offices. People will go down the Central Business District (CBD) like Luthuli Avenue, Kenyatta Avenue and even River Road in the name of demonstrating just to loot businesses. This is why we are saying this Bill will give sanity in that area, so that we can have people demonstrate

and at the same time businesses will not be closed; as country, we do not have to lose property, or get our businesses affected.

On the issue of the rogue officers, we know that Kenyans are enterprising, and they include those in the forces. We know at the moment the business that goes on in the better part of north eastern, where we have charcoal that is normally delivered from north eastern to Kismayu. We have lorries that carry sugar from Kismayu and find their way to north eastern.

Hon. Speaker: Your time is up!

Hon. Aden: Thank you, hon. Speaker, for giving me the opportunity to speak to this particular issue. From the outset, I want to say that should this Bill pass, it will, probably, mark the saddest moment in the history of our country.

(Applause)

This Bill, in its spirit and intent, aims to take away from us what we have fought for very hard for many years; it will ruin the freedom that we enjoy today. I am quite surprised to hear somebody saying that this Bill is okay when it takes away some of the very rights which are very clearly stated in our own Constitution.

I will start with Clause 5(a) of this Bill which takes away the freedom under Article 37 for us to be able to freely assemble, demonstrate and do whatever we want to do. Kenyans will wake up to reality when this Bill passes; they will be told that they can only stay in a certain corner of Nairobi, make the noise that they are going to make in that particular place never to be heard again. This Bill goes further on to gag the media, so that they do not report the reality going on in any part of this country; nobody will be aware of what will be going on. Indeed, this particular Bill says that if I decide to lead a peaceful demonstration through the streets of Nairobi, first of all, I will not be allowed; secondly, if I am allowed, all that needs to be done is for certain gangs of groups of people to be given stones to go and stone some few cars that will be packed in the parking lot, and I will be held responsible for the losses that will arise. It will be a very sad day for Kenya if we pass this Bill.

(Applause)

Part VII of this Bill says that the power to impose curfew is now no longer with the police force. It is now going to be a preserve of the Executive. It is going to be determined by the Cabinet Secretary and the District Commissioners in your own places. Those are the people who are going to say that there is going to be a curfew.

The freedom of media in this particular Bill; Clause 15 says; “A person who publishes, or causes to be published or distributed obscene, gory or offensive materials which is likely to cause fear and alarm---” that person shall be liable to certain penalties.

Hon. Speaker, I beg to draw your attention to Article 34(2)(a) and (b); you can see what our Constitution tells us. Look at the rights which are going to be taken away from Kenyans today when this Bill passes. It is a very sad day for our country. Our Constitution in Article 34(2) says: “The State shall not –

(a) exercise control over or interfere with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium.” It further says: “The State shall not -

(b) penalise any person for any opinion or view or the content of any broadcast, publication or dissemination”, that a person expresses. This law says you will be liable to three years jail and Kshs.1 million fine. It will be a very sad day for our country if this Bill passes.

This Bill, amongst many other things, talks of 90 days of detention against Article 49(1) which clearly says that there shall not be a person to be detained for more than 24 hours. This is the Constitution. This Bill says that you can be detained for 90 days. Indeed, I say again it will be a sad day for our country if this Bill passes. Public trial and fair hearing is taken away by this Bill, contrary to the provisions of Article 50(2)(b) and (c) which provides for fair open trial.

Hon. Speaker, I am timing myself---

Hon. Speaker: Your time is up. Hon. Members, next is hon. Shill.

Hon. Shill: Thank you, hon. Speaker---

Hon. Speaker: Hon. Members, just read your Constitution and understand it properly before you misinterpret it and misinform yourself.

Proceed

Hon. Shill: Hon. Speaker, I want to take hon. Members down the memory lane. A year and some months ago, what happened at Westgate, later on in Mpeketoni and currently in Mandera is something that we cannot close our eyes to. We are fighting terrorists and this one is a global and intercontinental war. These are people who have no regard for humanity. They want to fight you psychologically and not militarily. They want to intimidate us directly or indirectly, so that we live in fear and terror. They have used many unconventional tactics. We must fight them. We know very well they also want to win the hearts and minds of potential sympathizers amongst us. We must fight them. We are talking about liberty; there is no liberty in Mandera; there is no liberty in Garissa; there is no liberty in Lamu and there is no liberty in Mombasa. These are people who are consuming us. Some of us who are Members of Parliament when we go to our homes, we always look behind our backs. Our Muslim Sheikhs cannot freely exercise their Islamic faith.

(Applause)

They have been put in terror lists. This is a fact, whether we like it or not. We have a country like Ethiopia which has a very large number of Muslims, and Somalis yet terrorists do not go down there. How can I picket or engage in demonstrations when I fear *Al Shabaab*? Is that really freedom? That is not freedom. What we are going to say as Kenyans is that we cannot win this war with *Al Shabaab* until we have a strategy, operation plans, unite and co-ordinate ourselves. We should forget about our political differences. We must have a political responsibility. We must have a general will and we must be patriotic. That is the way we can only fight *Al Shabaab*. Indeed, the *Al Shabaab* do not profess the Islamic faith. If there are many people they have killed, those people are in Somalia. They have killed many Somalis. Today, they beheaded two Somali police

women. It is a reality. We cannot say we want liberty and at the same time we want to fight terrorism. These two cannot go together. It is a reality and a fact.

Hon. Members: Shame!

Hon. Shill: You can call it shame or whatever it is. Many of us are going to celebrate Christmas. The *Al-Shabaab* have already said that they are going to hit us during this Christmas. It is a reality. Let me tell you that they said that when children go back to school, they will slaughter them. Already 130 of them have crossed the border. It is a reality; we must fight them. We want liberty but we must not compromise our security.

Thank you, hon. Speaker, I support this Bill.

Hon. (Dr.) Simiyu: Thank you, hon. Speaker, for giving me a chance to contribute to this Bill. First, I will say that, yes, we have a problem with security in this country and we must deal with it as a House. It is interesting that this badly drafted Bill was brought to us. In fact, if it, indeed, came through the Attorney-General's Chambers, that office should be the next to be investigated, because the drafting is terrible. What they have done here is not really a Bill. What they have done here is an attempt at making a Bill. When you look at the contents of the Bill, they are not even well sequenced. You find Article 67 being amended then as you go down you find Article 40. Definitely this Bill was not done by a serious drafter.

Another thing that we have gone against even as we debate this is that the Chairman of the Departmental Committee should have reported progress on the report on the Bill under Standing Order No. 127(5). He did not table a report and according to Standing Order 127(5) he should have reported progress on the report.

Having said that, it is not lack of laws that has caused insecurity, but it is lack of implementing and enforcing laws that already exist that has led to the high insecurity.

Hon. Members: No! No!

Hon. (Dr.) Simiyu: Yes, you can shout but that is a fact. It is a painful fact. The fact of the matter is that our security services are so enmeshed in corruption that they will take a few pieces of silver and allow terrorists into our country to harass us. We can make new laws but unless we have got better command systems, we will still be in the same boat.

The Mover of the Bill said we should have a bipartisan approach. That is good but it was rather an afterthought because he should have done that before. He was also supported by the Leader of Majority Party, who said that we should build consensus, which, again, was an afterthought. It should have been done before because security is our responsibility, as a House; whether you are in Jubilee or CORD. I wish they had thought of it earlier than now.

Another issue is that rallies, demonstrations and pickets are not part of our security problem. Why they are included in this Bill, I have no idea except to suspect that there is a sinister motive behind it, because rallies, demonstrations and pickets are not part of the security problem in this country. This Bill essentially wants to aim at enhancing security. Why are rallies and demonstrations coming in here and we are all politicians? Let me alert my brothers and sisters here that you will be the first victims of this. When you receive and distribute your Constituencies Development Fund (CDF) cheques, you will have to get a permit.

We have a real security problem but there is a bit of insincerity in the way this Bill has been introduced in the House, in the sense that when we came here in the morning, it was even listed for Committee of the whole House this afternoon. This was going to happen, long before the taking of the views from the public had been done. How are we going to do amendments in the Committee of the whole House? There was a bit of insincerity here and I think that insincerity can raise a lot of suspicion.

I will only quote one part of this Bill, and I hope my colleagues will listen. When you go to Clause 62, it says: “The National Intelligence Service Act is amended by inserting the following new section immediately after section 6.” This means an officer of the Service may detain any person whom the officer witnesses engaging in a serious offence or finds in possession of any object or material that could be used for the commission of a serious offence. That is good. I want to remind this House, as I did yesterday, when we moved the Procedural Motion to reduce the publication period that the late hon. Jaramogi Oginga Odinga moved this House to pass the law on detention without trial and he---

Hon. Members: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Members, I suspect all of you, if I may borrow his words, intend to contribute by way of raising points of orders. Let us go to the next, hon. Joyce Akai.

Hon. (Ms.) Emanikor: Thank you, hon. Speaker for giving me this chance. Before I make my contribution in support of this Bill, I want to acknowledge the fact that it is true that this Bill needs further amendments. One of them would be to define “terrorism”. As you can see, pastoralists behind me led by hon. Pkosing are wondering whether they are terrorists.

Among the issues that will need amendments include the issue of holding public rallies with a permit and the interception of communication, although the Americans and the Chinese are already doing it on us. Why can we not let Intelligence officers do it for us? One interesting issue, and on a light note, the one that our male colleagues are opposing is the one on hotels submitting the list of their occupants to the police.

(Laughter)

They object it with obvious reasons. We know men have small secrets, but I support this and I am sure all the women support it.

Hon. Speaker: What is the point of order?

Hon. Ichung’wah: On a point of order, hon. Speaker. Is hon. Joyce in order to cast aspersions on the hon. Members of this House, who are of the male gender? The Bill talks about hotel guests and not male hotel guests. It is a fact of life that even women in this country and all over the world also check into guest houses and hotels.

Hon. Speaker: Honestly, proceed.

Hon. (Ms.) Emanikor: Thank you, hon. Speaker. As I said earlier, it was on a light note, but with some truth. I respect the Constitution of this country. I hold it in high regard. I respect Chapter 4 of the Constitution, the Bill of Rights, the freedoms of privacy and the conscious fair hearing and access to justice. This Bill protects the most fundamental human rights, which is life. This is protection, safety and security. If we all

die, who will enjoy these rights that we so vehemently and passionately purport to be defending?

How many more lives are we going to lose before we intervene as leaders of this country? The country is in a crisis. It is in an emergency situation. It is on fire. We have lost lives and property. We are in desperation, but we are not helpless because we can do something through legislation. I come from a region that has been torn apart by conflicts and insecurity. I am a victim of aggression. I have witnessed terrorist attacks, ruthless and brutal cold blooded killings, which all of us have witnessed in the recent past. Indeed, it is going to be a sad day for Kenya, if, after seeing what happened at the Westgate, we are not going to support this Bill. It is going to be a sad day, if, after Mpeketoni, Manderu I and Manderu II, we are not able to decide that we need to deter these occurrences. After Baragoi and Kapado, you only need to be a foreigner not to understand our concerns.

I agree that legislation is only a drop in the ocean. We need to do a lot. We need to make radical reforms, as the Chairperson of the Committee on Administration and National Security has said. Even what the President did is just a drop. We are beginning the process and it will continue. This Bill synchronises the Act to resonate with the Constitution. For instance, it changes terminologies like “Police Commissioner” to “Inspector-General of Police” and “province” to “county”.

Hon. Speaker: Hon. Members, be checking on the lights.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker for giving me this opportunity. I want to agree with the Mover and the Seconder that we should have taken a bipartisan approach. It is very sad that on an issue of security, we would like to come here and go the way we are going. But, unfortunately, the damage is already done. This is one thing that we should have sat, as a House, in a *Kamukunji* and talked soberly about it. Security affects all of us. When you have the Westgate attack and all those issues that the Members are citing, you would be a lunatic to be supporting a system that does not want to end insecurity in this country. Both the Opposition and the Government side are very committed to ensuring that there is security in this country.

Having said that, you would also be very foolish if you hear there is a snake in your house and you light fire in the house with your children and all your relatives in the house. With this Bill, we are setting our house on fire. There may be good things in this Bill, as I have told hon. A.B. Duale, but there are some pretty dangerous things in it. I am one of the people in this country who have fought. I have been beaten by the police. I have fought of a gun, off the hands of the police, so that this country can be free. When I see such things, in my view, this is the Chiefs’ Authority Act reloaded, re-energized and revitalised. We are back to the Chiefs’ Authority Act. In the spirit of bipartisanship, I want the Members to look with me at Clauses 4 and 5, which hon. Duale quoted. I will not read it because we do not have time, but I want the Members in their own time to look at that. When I go to Mbita, the natural reaction, unless you are unpopular, is that the young people and the women will run to you. You will not greet them one by one and quietly tell them go away. You will greet them and they will ask you to address them and tell them what is going on in Nairobi. Even if you do not tell them what is going on in Nairobi, you will tell them: “my dear people”, that is already a meeting. If you do that after this law passes, you will be jailed for 20 years. Do not be misled. This is affecting

us. This is not about terrorism. Let us look at Clauses 4 and 5, which are very dangerous clauses especially for us as politicians.

I want us again to look at Clause 15. Again, hon. Duale referred to it. When you look at the word “offensive”, there are some other words which may be moot, but when you say “offensive” and he used me as an example by saying that I look at him in a given way, what he did not clarify is that I usually look at him very badly. He might consider that offensive if I look at him badly. Sometimes, I even say in my Face Book page that hon. Duale is not a good debater. He may find that offensive. If he finds that offensive and charges me in the police, who determines what is offensive? If we leave room for interpretation, and I am speaking as a lawyer who graduated amongst the top three in my year but do I say, if we leave loose wordings for anybody to interpret the way they want, it is very dangerous. I want us to also look at Clause 17 on the stripping of women. It is very good provision because it takes away the provision of the Sexual Offences Act, which gives stricter penalties. Today, I am told there are guys who are facing death penalty under the Sexual Offences Act, but this law gives 20 years! You are taking away my dignity. I want a person who strips a woman to be sent in for life.

We are gagging the media. We are doing all this because we do not have time. Let us look at Clause 58 on non-involvement, which we are going against our own standards, under Article 27 of the Constitution; Clauses 61 and 62. Because I do not have time, I cannot go through all of it. However, I have said, this is the Chiefs’ Authority Act reloaded and it is very dangerous and I cannot support it.

Hon. Speaker: Hon. Gethenji, you have the Floor.

Hon. Gethenji: Thank you, hon. Speaker. I thank you for giving me the chance to contribute to this Bill. This nation is facing an existential threat to peace and security in this country and its very existence.

In the last 13 months, this House has approved the intervention of the Kenya Defence Forces in internal security situations. This indicates very clearly to a failure of the internal security mechanism to securitise the people of this country. It also points to a failure of the security architecture that governs the security sector in this country. We cannot sit here anymore while the nation burns and the people are crying out for security and pontificate, equivocate and prevaricate on matters of security. We cannot sit here and pretend to discuss and sympathise with insecurity, terror and terrorists in the guise of defending civil liberties. That cannot be counternized.

I heard hon. (Ms.) Odhiambo-Mabona asking what is offensive. It is very clear! Anything that we will not allow our five-year old daughter to witness in the newspaper or on television is offensive. To see dead Kenyans being portrayed there like dead cattle is offensive to any normal Kenyan.

On 21st September 2013, terrorist and gunmen walked into Westgate Mall and killed 61 Kenyans and six security officers. On 15th to 17th June, 2014, 60 people were executed by what is now coming out as a combination of local separatists, *Al-Shabaab*, and some politically motivated and misguided individuals. These Kenyans were called out of their homes by name. Their hands were bound behind their backs and their throats slit like chicken. Those who did not die from those wounds were executed by gunshots to the head.

On 22nd November 2014 in Arabiya, Mandera County, 28 civil servants were pulled from a bus, lined up face down side by side and executed one by one, each witnessing the screams and throws of death of their neighbour.

Ten days later on 2nd December 2014, another group of suspected *Al-Shabaab* terrorists raided a quarry at Koromey in Mandera County and killed 36 miners. You have all heard that 14 of them were from Nyeri County. At each of those funerals, I can be certain that nobody pulled out the Constitution to read and give solace to the families of the victims.

(Applause)

I am certain that no civil society actor was there to comfort the families. However, every single instance, the victims' families and the surrounding communities call for one thing; security and action by the Government in charge. What we are standing here to do today is to give energy and impetus to the Government to create security architecture and to revamp the software that aids the hardware, which we are already fixing in naming a new Cabinet Secretary and a new Inspector General of Police.

I implore all the hon. Members of this House and all the Kenyans in this country. The security operatives in all those instances indicated that the National Intelligence Service (NIS) had advance information. If they had the ability to take action in advance, maybe these terrible atrocities would have---

Hon. Speaker: Hon. Mule, the chance is yours.

Hon. Mule: Thank you, hon. Speaker for giving me this opportunity to speak on this Bill.

From the outset, I want to say that it is not through making laws to please some people that we will be realistic to the security problems that we face in this country. As Parliament, we must make laws for prosperity of this country and which can stand the test of time for this nation.

There are serious issues within this Bill which I believe, as Members of Parliament, we need to think together and do some amendments; though some look very weird. I want to first draw the attention of hon. Members to Clause 345 on police supervision. I find it very dangerous for us Members of Parliament when we are trying to give the police powers to arrest people without a warrant. The police can arrest anyone whom they suspect to have committed an offence.

I want to tell you Members of Parliament, if we pass this Bill, it will be used by our opponents at the hour of need during our nominations. You will be arrested and you will never participate in that nomination to come back to this Parliament.

I am looking at the Refugees Act which we are trying to amend. I realise that we need to have a certain number of refugees within the country. It is correct, but I am wondering, for example if, God forbid, one of our neighbouring countries goes to war, are we going to wait for this House to amend the law to increase the numbers when innocent people are being butchered at our neighbouring country? I want to give a clear example of a member of the France Security Council during the Rwanda genocide. He was very categorical and clear, that the United Nations had to do something before Hutus

and Tutsis killed each other. By the time the world woke up to this realisation, 800 people had already been butchered.

Hon. Speaker, I want to be very categorical on the issue of public demonstrations. If we pass this Bill, I can assure you that it will be very difficult for you to hold some of the public rallies which you do not require permission. If we are going to pass this Bill, my biggest problem is we will need to amend the Act, to make sure that we have specific areas which are completely enlisted to be used.

If we let the law go like this and the Government of the day or officer of the day decides that you should go and demonstrate at Karura Forest, are you going to make it? You will not be able. It is important to look at this law and avoid any mischievous attempts to gag the media or these hon. Members. I wonder how we can gag ourselves using the law. I urge this House to be sober. I urge this House to relook at this law very soberly and immediately do our amendments without pretence and without any coercion so that we can have a law for posterity and a law for this country and without being intimidated by the Executive. We are the people to make a law for the future. I rest my case.

Hon. Speaker: It must rest.

(Laughter)

Let us hear hon. Cheptumo.

Hon. Cheptumo: Thank you, hon. Speaker, for giving me a chance to contribute to this very important Bill. The security of any nation is critical for any country to develop and without adequate security it is not possible to achieve any progress. I stand to support the Bill and in so doing I wish to state that we seem to be putting a lot of emphasis on the threat of terrorism alone. This country is facing various challenges of security. Cattle rustling has been one of the major threats to peace and security in our country. In the pastoral areas where cattle rustling has become the greatest challenge where we have witnessed many people losing their lives, property destroyed and many people now are living as Internally Displaced Persons (IDPs) in their own motherland. So I would like to urge my colleagues in this House that you are addressing a very critical issue that is going to make our country or will not make us proceed the way we ought to as a nation.

Hon. Speaker, this law, it is my submission that it is going to enable the Government to guarantee the Kenyan people the security that they deserve. Let me refer to Article 21 of the Constitution and I want to read it. "It is the fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights." Whereas I agree with that provision of the Constitution, the State has that responsibility. If the Head of State, the President himself, is unable to execute and manage security operations of the country then the Government will not be able to invoke that provision and guarantee the Kenyan people the security they deserve.

I would like to urge my colleagues here that this is a Bill that we need to look at not from our political differences; not from where we stand in our political persuasion. This law is not only going to benefit a section of this nation, a section of a coalition but it

is going to benefit every Kenyan. Every Kenyan is entitled to enjoy the freedom that is set under Chapter 4 our Constitution.

I would like to particularly agree and support the proposed amendments to Section VI of the Public Order Act where it makes it an offence for anybody to destroy somebody's property or cause any harm to anybody. We have witnessed in this country, especially in Nairobi, when we have public rallies during campaign times or even when we have rallies, we have had situations where shops in towns have been closed. They have been destroyed and people have been killed. When this law is implemented and passed it is going to restrict every Kenyan and put in place a measure that will make Kenyans responsible so that they do not go round destroying other people's properties and causing destruction to people's---

Hon. Speaker: Your time is up! Hon. Ababu.

Hon. Ababu: Thank you, hon. Speaker. One fine afternoon, 32 years ago, specifically on 9th June, 1982, the House of Parliament sat and in a single afternoon debated in an accelerated fashion and passed the famous Section of the Constitution - Section 2 of the Constitution - that transformed this country into a *de jure* single party State.

It took almost a decade of sweat, blood, limbs and lives to correct that terrible aberration engineered by a House of Parliament. Tomorrow, we celebrate the 51st Anniversary of our Independence as a nation. On this day, the eve of our Independence Anniversary we should be celebrating our hard won liberties not rolling them back.

(Applause)

I agree with my hon. colleagues who have implored bipartisanship and indeed we must acknowledge that security for our people is not a Jubilee affair; it is not a CORD affair; it is a collective responsibility of all of us as leaders. But we must also acknowledge that the challenge of insecurity in this country is not about the law. We have the law. It is the problem, the challenge of enforcement and corruption that has eaten deep into the structures and the systems of security in this country.

(Applause)

It is not the law that leads an immigration officer to improperly, corruptly and irregularly issue that Passport or Identity Card (ID) to aliens. It is not the law. It is corruption. So rather than go round and attempt to roll back hard fought gains, enforce the law that we have and fight corruption as the Government. Then we will have dealt with this matter.

Hon. Speaker, this Bill is bad law, from whichever angle, from whichever point of the compass you look at it. This Bill is draconian. It is retrogressive. It is unconstitutional and it is a shame; this Bill. This Bill is a violation of the Constitution hon. colleagues and we have given countless examples of just how much it violates the Constitution. This Bill is an epitome, the manifestation and the face of impunity; this Bill. This Bill will lead to securitisation of our State to a level that even you, as representatives of the people, cannot bear. This Bill is an express visa to a return to the autocratic Jomo and Moi States that we thought we had buried in the dustbins of history.

It is a bad law and we have given examples. We have said Sections 4 and 5 of this Bill violates Article 37 of the Constitution in so far as it attempts to constrict the right to assemble, the right to demonstrate, the right to picket and the right to petition. All other provisions we have mentioned like Article 49, Article 29 and many Articles of the Constitution are violated by this Bill. There is absolutely no reason why we should use an ordinary piece of legislation to attempt to amend the Constitution. You should all be supporting *Okoa Kenya* and *Pesa Mashinani* so that we can amend the Constitution in a proper way and in a direct way.

Let me conclude by saying that this is a sad day. That is why I am dressed like a man in a funeral, because today is a funeral in this Parliament. We are mourning the death of all the constitutional gains that we have had.

Hon. Speaker: Let us have hon Kangongo.

Hon Bowen: Thank you, hon. Speaker. On the outset I want to support this Bill. Let me say this: You cannot appreciate this Bill hon Members until when you have an incident such as what we saw in Kieni where 20 people were killed. You cannot appreciate this Bill until when you hear the cries of the Migori or Kisii children whose parents were killed on their way from Garrissa. I know there are some contentious issues in this Bill. 80 per cent of the sections in this Bill are very good. The 20 per cent can be amended at a later stage in the Committee of the Whole House. Otherwise the laws are good.

Let us look at the sections which are trying to restrict the overseas jobs. For the last five months, so many Kenyans have been killed in Saudi Arabia. They go there searching for jobs and come back in caskets. This is very serious. We need to have laws that restricts these agents who are recruiting our brothers and sisters and when they go there they are killed.

On the Investment and Promotion Act which is also amended in this section, aliens are coming into our country in the name of coming to work. They are issued with work permits by the Immigrations Department. These are jobs which can be done by Kenyans. We have a serious unemployment problem in the country. Do we need aliens when we have engineers in Kenya to come and construct the Standard Gauge Railway (SGR)? Do we need civil engineers from outside Kenya to do the construction of roads? This is going to help our youth ensure that they get employment. For those companies seeking work permits, let them advertise in the local dailies at least two times. If we find that there is no Kenyan who can fit into these employment opportunities then we can see on how to get aliens to come and work in this country.

On the National Police Service Act, the Deputy Inspector General (IG) the IG and the two deputies have tenure of office. The IG himself cannot give instructions to his deputies. They can only take those instructions at their own discretion. The President cannot remove an IG. You are talking of an IG with a budget of about Kshs70 billion controlling 300 policemen. This is somebody who can even overthrow the Government since he cannot take instructions from the President. There is nowhere in the world where you can find a Police Commissioner or an IG with a tenure of office. It is only in the Republic of Kenya. The cardinal responsibility of any country is to protect its people and the President must be on the forefront. Therefore, the President must have authority to appoint and to remove the IG when he fails to deliver.

I am happy that the issue of stripping has been factored in this Bill. Many people were laughing but when your daughter or wife is stripped then you will appreciate this Bill. This is a good law. Let us pass it in the Third Reading, amend where necessary and we move on.

Thank you, hon. Speaker.

Hon. Speaker: Let us have hon. Chris Wamalwa.

Hon. Wakhungu: Thank you, hon. Speaker. Matters to do with security should not be given a partisan approach. Security is important to everybody whether you are in CORD or Jubilee. This law is like a hermaphrodite. We have the positive and the negative. In normal circumstances where we have a hermaphrodite, you do surgery. It can be either that way. That is my interpretation so that it can conform to either part.

At the Third Reading, we are going to bring some amendments to make this law to go through. I want to speak soberly without any bias. I will start with the negative part of this law. When you look at Article 31 of the Constitution which talks about freedom to privacy, it is indeed important when it comes to issues of terrorism that the National Intelligence Service (NIS) must access some information. However, looking at Article 31(c), and I want Members to listen to me, it says that every person has a right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed. If we allow the NIS to access information, that open cheque blanket, they are likely to abuse it. At the Third Reading, we want to propose that as they access this information, there must be a guideline so that they do not infringe Article 31 of the Constitution which talks about privacy.

Many Members have talked about freedom of association. We are hoping that as we pass this law it is not going to be used by our political opponents for their own selfish interests. We are here to pass the laws for purposes of posterity and the development of this country. One of the things I am happy about this law is the Refugees Act and I want Members to challenge me on what is wrong with this proposed amendment about the Refugees Act.

(Applause)

Research has shown clearly. I was almost a victim of the Westgate Massacre. My family was there. These people were planning the terrorist attacks in the refugee camps. When you look at the Refugees Act, it says that when a refugee comes here he should be given 30 days to register. Why 30 days? This law says you should report immediately.

(Applause)

What is wrong with a refugee coming to report immediately so that we can monitor that? I want to speak objectively. Secondly---

(Applause)

Hon. Members: You are letting us down.

Hon. Wakhungu: I am not letting you down. I have a right for the people of Kiminini. You also have a right to speak what you want. You cannot tell me that my speaking is letting you down. Yes. Let me say---

Hon. Members: You are letting us down.

Hon. Speaker: Order, Members!

Hon. Wakhungu: No! No! No! Hon Speaker, I sit in the Departmental Committee on Defence and Foreign Relations. When we asked we were given the NIS reports.

Hon. Speaker, I sit in the Committee on Defence and Foreign Relations. When we asked the Director General of National Security Service (NIS) questions, we were given the NIS Reports. He said on the Westgate case they had given the report to the police, but they did not act just like the issue of Mpeketoni. This law is saying, so as to avoid this issue of blame game, where the NIS always comes and says they passed the information to the police, we should give them powers to arrest those victims and take them to the police. I am speaking objectively. I am reading the law.

(Loud consultations)

Another issue about this Act; the National Police Service Act, Article 245, we have said the buck stops at the presidency. Article 245 (7) says the President can fire the Inspector General (IG). The IG and the Deputy Inspector General have security of tenure. How can the President work if he cannot fire these people?

(Loud consultations)

This is the issue and these are some of the amendments that we are proposing in this law.

Hon. Speaker, there is a professor in Harvard who said that 70 per cent of good plans fail because of poor implementation. We need to look at the structures. Where is it wrong?

(Loud consultations)

I am not anybody's sycophant and I will never be one. We are going to pass laws for the benefit of this country. It does not mean when I am in Opposition I should feel anything. This is the reason I was voted. I represent a cosmopolitan constituency.

Hon. Speaker: Order! Order! Hon. Members! Allow everybody to express themselves whatsoever. Hon. Chepkong'a, the Floor is yours.

An hon. Member: Well spoken.

Hon. Chepkong'a: Thank you, hon. Speaker.

From the outset, I must thank hon. Wakhungu. For some of us who speak without blinkers including myself, we want to point out the things that are wrong at times including in this Bill. We have been intimidated here.

Hon. Member: On a point of order, hon. Speaker!

Hon. Chepkong'a: They are eating into my time.

Hon. Speaker: What is the point of order, hon. Mbarire?

Hon. (Ms.) Mbarire: On a point of order.

Hon. Speaker, this is a House where people can speak their minds and are heard without fear. Can you protect hon. Wakhungu from the intimidation of those hon. Members there who think people should just say anything? Please protect him.

Hon. Speaker: Hon. Members, hon. Shimbwa, I know you are new and doing your first term but for sure, two years down the road surely! I also want to urge the hon. Members in the fifth row led by the new Chairman hon. Ng'ongo, you only applaud for a second and allow the others to speak. Hon. Chepkong'a you have the Floor.

Hon. Chepkong'a: Thank you, hon. Speaker for protecting me.

We have been told about the unconstitutionality of this Bill. There could be some sections that are unconstitutional. That is the reason why we have Article 24 of the Constitution which states very clearly that, any law which is inconsistent with this Constitution shall be void to the extent of its inconsistency. The tenets and doctrines of interpretations of the law are quite clear. I was hoping the new Secretary General was here so that he knows what the Constitution states.

Hon. Speaker, we have talked about so many things. There is a particular clause that takes away the rights of an accused person. My own Committee will be looking at some of these. We intend to bring proposals for the amendment to the House. In fact, this law is just purely a proposal not the law. When people speak here, they should be making proposals on what amendments they want. There are so many parts of this law that are very good like what hon. Wakhungu has just said that is; limitation of asylum seekers to 150,000 which we are proposing to make law. If that has to be increased, it must come to this House. What is wrong with that Bill?

The other one is about conditions upon which we place accused persons to be released on bail. We know that there are people who are suspected to be terrorists who have been released on a bail of Kshs.10 million and have disappeared. They have come back to this country to cause mayhem. They might even include those who killed over 70 people in Mandera. Those people do not know whether they were CORD or Jubilee, yet here we are just talking about existence of CORD and Jubilee; those children who are crying because they have lost their parents and here you are telling us stories, shame on them or anyone who is seeking to play around with the lives of Kenyans.

I represent 34,000 voters and only 23,000 voted for me because some voted for CORD. However, I must ensure that those who voted for CORD also are protected. Some people are making a lot of noise here. Some of us have supported their party leader and they owe us here. If I speak, I have supported him more than hon. Ng'ongo and he should see me after this so that I can disclose some information.

(Laughter)

Hon. Speaker, this is a very serious matter and you can see I am speaking with a lot of emotions because I can imagine somebody looking down. If it was me, would I know whether it is CORD or Jubilee arguing about my security yet I am dying? Somebody should be seeking for ways to save others who may be killed. There are some provisions here which we must amend. These are purely proposals. No one should intimidate us and tell us this is unconstitutional. The Constitution provides for interpretation of laws and that is left to the High Court. If we pass anything that is

unconstitutional, I will go to the High Court for interpretation. That is my right and you cannot take it away from me. So, for somebody to tell us it is unconstitutional, tell us what is unconstitutional, come to the Justice and Legal Affairs Committee when we will be looking at the Criminal Procedure Code, the Penal Code and the Evidence Act and we will amend so that it accords with the Constitution.

There are very many good proposals that are in this Bill. All of us must support so that we can save the lives of Kenyans. We are not pushed into a dichotomy of religious divide. We do not want to be fighting here between Muslims and Christians. The Muslims are very good people. I saw people trying to remove Muslims in Mwingi. That should not be the case. It was very good that one of the hon. Members of Parliament who comes from Mwingi condemned it with the energy that it deserves. Therefore, we must provide harmony in this country and this law is the only one which will provide this harmony.

Thank you hon. Speaker, I support.

Hon. Speaker: Hon. Makali Mulu, the Floor is yours.

Hon. Mulu: Thank you, hon. Speaker for giving me this chance. I have looked at this Bill. I plead with hon. Members to take time and read Bills. If you do not read these Bills and just start debating on the basis of general observations and party affiliations, we will have problems. When you read this law, you can realize from what we are hearing, that if we had the Committee Report, most of the issues being raised here would possibly have been sorted out. This is because the Committee would have helped this House to say what we are amending. When you look at this law, there are some areas which really need amendment and that is a fact. If we had seen the proposed amendments from the Committee, maybe this Bill would have been totally different. That is why in future, we need to learn a lesson that, it would be important at times for such sensitive Bills to have the Committee Report.

I would have wished to see my friend, hon. Kamama, taking notes in terms of what Members are saying other than just helping us to shout at each other so that when they sit as a Committee, and hon. Chepkong'a, they take into consideration seriously what Members are saying.

Hon. Speaker, looking at this proposed Bill, one of the general observations is that we are giving too much power to the Cabinet Secretary (CS). A good law demands that this should be in consultation with somebody else. It could be a commission or an authority. That is what we are saying so that even as you amend this law there is need to say that: "The Cabinet Secretary in consultation with" so that we make laws for prosperity.

This issue of stripping and the penalty for 20 years is a very good law. However, in this country, we also have cases where some of the men around are very dirty and they have actually been stripped naked to be washed in order to be clean. Now, if we take that initiative to wash a man to be clean and you send me to jail for 20years, this is going to be very serious. So, even as we clean this law, it is important we ensure that there is clarity in this law because some parts are not clear.

Hon. Speaker, if you go to page 3170 of this law, Clause 21, says: "An accused person who has been called upon to enter his defence, shall disclose to the prosecution the nature of his defence---" I am not a lawyer but I would be very worried to be told to

disclose to prosecution. I would imagine that I need to disclose to the magistrate or to the court and not to the prosecution. So, these are some of the small things. Even some of us who are not lawyers can see that there is a problem. It needs to be amended so that we get a good law.

When you go to page 3201, it talks about covert operations and this is just what I want to say to my case here. It says that the Director General - and this is in relation to the National Intelligence Service (NIS)- can authorise any member of the Service to obtain any information material, record, document and for that purpose enter any place and obtain access to anything. As you go down there it says: "Monitor communication and do anything considered necessary to preserve national security." Hon. Speaker, this is where our fears come in. I am saying that hon. Kamama and his team could sit down and please do an amendment to this so that we feel secure as Members of Parliament. We will have no problems with this side. So, even as we debate, we need to be sober. We all agree that national security is a matter of national importance. None of us is going to talk about insecurity in this country. Let us forget about this Division. Members, I plead with you to take your time to read this Bill.

Thank you, hon. Speaker for giving me this chance.

Hon. Speaker: Well spoken. May I also at this point direct that, as I had indicated in my earlier communication, all Committees are obviously now seized of this Bill and hoping that the House will be adjourning later in the day. Even if we are to come for a Special Sitting, every Committee should have an opportunity to look at this Bill and make proposals for amendments where necessary, either of rejection or deletion as you find appropriate bearing in mind that what hon. Makali Mulu and several of you have also said, that it is all in an effort to ensure that what you pass first of all is in conformity with the Constitution and secondly, is for posterity and in the best interests of the country.

Hon. Jamleck Kamau.

Hon. Kamau: Thank you, hon. Speaker. I rise to support this Bill. What has been happening in this country over the last couple of years is clearly unprecedented. As we sit in this House today, it is the right of every Member of this House to express their views independently and if Members can agree that the views of their colleagues are as important as theirs; that can be the starting point.

Without any question, something is not right with our security system. We have a Government in place but it does not have the teeth to bite, which can only be provided by this House. We know very well that there are people who are claiming that it is not a question of lack of laws but I want to differ on that because sometimes the laws that we have are a big hindrance to the Government being able to fight properly this menace of terrorism.

Hon. Speaker, I want to give an example. Just the other day in Mombasa, we have laws in the country and a terrorist was arrested, taken to court and within 24 hours, he was released. He went out and caused havoc out there. If we had laws in this country that prevented that terrorist from being released from the cells at that particular time, the people he killed in Mombasa would not have died.

I recollect very well after 911 in the United States of America (USA) that they were able to sit down and re-assess their security laws at that particular time. That is why

they came up with the Patriot Act. Ever since 911, you can bear with me that acts of terrorism in the USA have reduced tremendously. The only thing we need to do as a House is to sit and look at the laws very soberly, indeed, that would make the Government not be able to fight terror. All the things that we have to do is to make sure that we de-politicise security. The minute we put politics in security matters, we will be heading the wrong direction. I can assure you that both CORD and Jubilee must fight together to make sure that this menace of terrorism is wiped out from this country. The only way to do it is to look at these laws. This Bill that has been proposed, yes it could be having some problems but we cannot condemn the entire Bill wholesale. Indeed, somebody talked about it being draconian. I want to just quote a very small one here on the Penal Code. It states: "The Bill seeks to amend the Act to make provision for the offence of a public officer aiding or facilitating the commission of a felony." Surely for heaven's sake, what is draconian with that? So, these are the issues that we must look into.

Hon. Speaker, there are quite a number of others as well including the Evidence Act. Today, if you go to court with some materials which are electronic in nature, they will not be accepted. What we want to do is to make sure that they are accepted in future such that even a video clip can be able to have a terrorist put in for life.

Other issues that are in this Bill and which must be looked into seriously is the National Intelligence Service Act. We know very well that this Bill seeks to amend that Act by empowering police officers to be able to stop and detain persons whom they witness engaging in serious crimes. This particular amendment will also provide for the undertaking of covert operations for purposes of neutralising threats. I want to urge Members to recollect exactly what happened and how Osama Bin Laden was killed. Osama was---

Hon. Speaker: Hon. Opiyo Wandayi.

Hon. Wandayi: Thank you very much, hon. Speaker. From the outset, I must admit that, indeed, we are in one of the darkest hours in the history of this country. However, we take consolation from the fact that even the darkest hour of the night is usually just before dawn. As ably put by my colleague, hon. Ababu, this day reminds us of 9th June, 1982. What followed that very unfortunate afternoon is well documented in the history of this country including the abortive 1982 August coup attempt. What this country has gone through to enable us to realise the Constitution that we currently have is not comparable to anything that other countries have gone through.

I saw this coming when attempts were made early in the year to change the National Police Service Act and the National Police Service Commission Act. The intention was to weaken the National Police Service Commission and entrench the Office of the Inspector General of Police. At that point in time, I warned my colleagues across the Floor, from the URP specifically, that the intention was to weaken the Office of the National Police Service Commission, entrench the Office of the Inspector General and later sack Mr. Kimaiyo. That has since come to pass. Now Kimaiyo has been sacked in preparation for installing a more politically correct Inspector-General of Police. The overall intention is to transform the country into a police State. What you see in this Bill is an attempt to---

Hon. Member: On a point of order, hon. Speaker. Is the Member in order to insist that Mr. Kimaiyo was sacked while in fact, Mr. Kimaiyo actually retired voluntarily?

Hon. Wandayi: Hon. Speaker, even a new born baby knows that Mr. Kimaiyo was sacked in order to bring in someone who can be used to control Kenyans like it used to happen.

The leadership of this country is currently having nostalgia for the Jomo Kenyatta regime that was responsible for planting the seeds of corruption and dictatorship. It is now unfortunate that what we have currently is a combination of, in fact, Jomo and Moism, which is hell-bent on turning this country into a police State.

Hon. Speaker: Leader of the Majority Party, what is your point of order?

Hon. A.B. Duale: On a point of order, hon. Speaker. We are dealing with a Bill called the Security Laws (Amendment) Bill, 2014. However, some people in some parts of our country, have a serious disease since the time of Jomo. They cannot go home before they talk about Jomo or his brother. Is he in order? If I am a *Shifta*, the son of a *Shifta* has become the Leader of Majority Party and the son of Odinga has never seen the presidency. The son of a *Shifta* became the Leader of Majority Party.

(Loud consultations)

Hon. Wandayi: Hon. Speaker, hon. Duale is obviously lost. He has no moral basis to castigate hon. Raila Odinga. This country can no longer tolerate---

(Loud consultations)

Hon. Speaker: Order! Order! Order, there! Hon. Outa, you do not have to be agitated. Allow the hon. Opiyo Wandayi to make his point. He was doing very well. Even if whatever names are mentioned, do not get excited about names. I want to say this to both sides of the House, whatever names are mentioned, allow yourselves the opportunity to hear the person. You will also have an opportunity to also say something about the other person. That way, the House will be able to transact business. Let us allow hon. Opiyo Wandayi to make his contribution.

(Loud consultations)

Hon. Wandayi: Hon. Speaker, as I conclude, history has a way of repeating itself. What we did not know is that this Jubilee regime would fail to govern the country in this particular manner. What we are witnessing now in form of terrorism is not something new. The Kenya Defence Forces went to Somalia during the Kibaki regime. Of course, the kind of terrorist attacks that we are witnessing now were never witnessed then. What is happening now is a testament to the fact that this regime has failed to govern. It must do the most honourable thing and step aside. This regime must be forced to step aside if it cannot do so on its own volition. If you cannot secure the country, you have no business pretending that you are governing. Bringing this nefarious legislation is something that Kenyans will not accept.

I conclude by saying that this Bill is unacceptable and unconstitutional. I oppose it. There is no need of even voting on it. There is no point of voting on this Bill.

(Loud consultations)

Hon. Gichigi: Asante, Mhe. Spika. Ninaomba kulindwa kutokana na kelele hii.

Hon. Speaker: Hon. Members, please, I do not see the need for this agitation. You are behaving as though you are in a public rally; a political rally where people carry machetes and other weapons. Here you are only supposed to use your head and your mouth. Just use those two and you will see that you will transact business very smoothly. Even when you are using your mouth, use it in moderation.

Proceed, hon. Gichigi.

Hon. Gichigi: Mhe. Spika, nitaomba uniongezee dakika mbili ambazo zimepotea hapo. Nimesimama kuunga mkono Mswada huu. Huu ni wakati wa kushughulikia mambo ya usalama. Miezi kadhaa iliyopika, kuna shambulizi ambalo lilitokea kwa *matatu* katika Barabara ya Thika na miongoni mwa waliokufa ni kijana mmoja aliyekuwa ametoka kwangu. Alikuwa na mke wake ambaye aliumia miguu mpaka sasa hivi hawezi kutembea. Kila siku anaenda hospitali na imetubidi kurudi kwa mifuko yetu ili tumchangeie. Amewachwa mjane na mlemavu kwa wakati huu.

Juzi, tulihudhuria mazishi ya dada huko Kieni ambao waliuawa. Ungekuwa miongoni mwa wale waliohudhuria hayo mazishi, haungejaribu kuzipinga sheria hizi. Miezi kadhaa iliyopita, Kiongozi wa Upinzani alisema kuwa anataka kuwe na majadiliano kuhusu usalama.

(Loud consultations)

Ilisemekana kuwa Serikali imekataa.

Hon. Speaker: Do not answer! Hon. Wangari, do not answer, please!

Hon. Gichigi: Mhe. Spika, haya mapendekezo ambayo yameletwa na Serikali ya Jubilee, ni mapendekezo gani ambayo yameletwa katika Bunge hili na ule upande ambayo yamepingwa na Serikali ya Jubilee? Hakuna mapendekezo ambayo yameletwa na Upinzani.

Hon. Speaker: Hon. Mbadi, surely, what is wrong?

Hon. Gichigi: Mhe. Spika, jambo la pili ni kuwa huenda kuna mapendekezo ambayo yanatakwishi hapa. Ni nani amekatazwa kuleta mabadiliko ili kubadilisha na kutengeneza hii sheria wakati ufaao? Hakuna mtu ambaye amejaribu kufanya hivi. Wale ambao wanapinga haya mapendekezo wameguzia vifungu kama vitatu. Kwa kweli, tumesikia maoni yao. Mwenyekiti wa kamati ya Utawala wa Mikoa na Usalama wa Ndani amesikia. Ataangalia kuhusu mambo ya mikutano kama hiyo ambayo iko na shida na kutaletwa mapendekezo ya kubadilisha mambo haya.

Kwa hivyo, ninawaomba wenzangu wote tushikane ili tuyashughulikie mambo ya usalama katika nchi hii. Mwaka jana, tuliipatia Serikali pesa nyingi sana kwa upande wa usalama, lakini tumeona kuwa hazitumiwi vyema hata kidogo. Kama afisa ambaye anahusika na mambo ya mipaka anamruhusu mtu kuja hapa nchini baada ya kupewa hongo, anastahili kufungwa. Hivi majuzi nilikua Mombasa, nikaongea na jamaa mmoja

akaniambia ametoka Rwanda lakini akatoa kitambulisho akaniambia alikinunua hicho kitambulisho kwa Kshs10,000 pekee. Mnasema yule ofisa ambaye alipeana kitambulisho tusimhukumu? Mnasema huyo mtu mwenye kitambulisho hicho tusimnyang'anye? Hizi sheria ambazo ziko hapa ni muhimu sana. Tupatie Rais na askari wetu uwezo wa kushughulikia hawa maharamia. Wacha wamalizwe kabisa. Hivyo ndivyo ninasema.

Hon. (Eng.) Gumbo: Thank you, hon. Speaker. The best laws must always be those that all of us will be comfortable with, if they were to be administered by our sworn enemies. Perhaps, nothing highlights this more than the famous sermons of the late Rev. Friedrich Gustav Emil Martin Niemöller who during the time of his life was a protestant priest and a social activist. In his famous sermons delivered in Germany in 1946, Rev. Niemöller had this to say: “In Germany when the Nazis came for the communist, I remained silent because I was not a communist; when they locked up the social democrats, I remained silent because I was not a social democrat; when they came for the trade unionists, I did not speak out because I was not a trade unionist; when they came for the Jews, I remained silent because I was not a Jew; finally they came for me but by then there was no one left to speak for me.”

It is true that insecurity in our country has reached extraordinary proportions and we need extraordinary responses but there should be no room for overreaction. It will be recalled that the overreaction by some of the super powers in the world after 9/11 is what has led to what is now the dysfunctional governments in Libya, Iraq and to some extent even the springing up of the ISIS. Overreaction turns co-operators into rebels and co-conspirators of criminals as witnessed in the cases of Mombasa, Eastleigh and Kapedo.

I want to conclude by quoting again, the late Rev. Niemöller. In his later years and I wish everybody could listen to me, he had this to say about politicians. He said that for politicians “truth and falsehoods are important so I never could become a politician; not even as a church politician”. Ladies and gentlemen, hon. Members, never could be there be a more pregnant opportunity to prove the late Rev. Niemöller wrong on his view on politicians than what this Bill presents to us. I think we have an opportunity to debate this Bill soberly. There are problems with some of the provisions but as has been said by those who have spoken before me, I think we need a by partisan approach so that we can use the provisions of our Standing Orders and the provisions of the Constitution to amend those parts that are unconstitutional but move forward. Clearly, it would be wrong for anyone to assert that this Bill, as provided now, is the answer we have to our problem. The answer to the security problem in Kenya is much bigger. For instance, the other day I was being told, in Kiganjo, in spite of the problems we are facing, the syllabus is still largely what it was in the 1960s. I think the biggest problem that we have had in this country and the problem that we must address is that our security apparatus and particularly those in charge of enforcing security in Kenya have not mutated in tandem with the mutating trend of terrorism and crime. As we go forward---

Hon. Waititu: On a point or order.

Hon. Speaker: What is your point of order?

Hon. Waititu: Thank you, hon. Speaker. I know that the House is ongoing but the new Chairman of ODM is harassing one of my good friends, hon. Wakhungu. I have been watching too closely. Is it in order for that side to physically harass hon. Wakhungu?

Hon. Speaker: Hon. Waititu you are out of order. I can see where hon. Ng'ongo is and where hon. Wakhungu is.

Proceed, hon. (Eng.) Gumbo.

Hon. (Eng.) Gumbo: Hon. Speaker, as I conclude I think we need to look at this thing in a much bigger way. As I have said, the problem is that our security apparatus and those in charge have not mutated in tandem with the mutating trends of crime and terrorism. Also, I think we must have the courage to continue and conclude the police reforms as they were envisaged.

With those remarks, I intend to bring amendments so that we can drive at a bipartisan approach to move this Bill forward. I thank you.

Hon. Waweru: Thank you, hon. Speaker. I want to state from the outset that I fully support this Bill. From the outset I want to say that today Kenyans will have an opportunity to see who are the holders of the franchise of *Al Shabaab*; the holders of the franchise of *Al Qaeda* in this country; those who are not willing to put this country in order are actually betraying what we stand for. We want to say, one, we cannot have, in a disciplined force, an Inspector-General who cannot hire and fire. You cannot have an Inspector-General who underperforms but out there in the streets the Non-Governmental Organizations (NGOs) say the buck stops with the President. We want to ensure that we can hold people accountable. We want to make sure that anybody who is underperforming is held accountable. We also want to make sure that for any crime that is committed in this country, somebody starting from the immigration, all the way to the police, the Criminal Investigation Department (CID) and everybody in the country is accountable for their actions. So, I support the amendment in the Public Order Act, the Penal Code, Extradition, Criminal Procedure, Evidence Act and all of them.

I want to request Kenyans that since we have been saying that we want to take this country to the next level, we have been talking about taking this country to vision 2030, without sorting out security, we cannot get to the next level. So, I compel hon. Members, especially our colleagues on the other side of the coalition, this is a time that we need to stand to be counted. Kenyans are watching your actions. Kenyans are watching; the people who elected us are watching to see what kind of responsible decisions we are going to make as a House. I know there are some amendments and concerns but I would want to suggest that anybody - I am sure hon. Members are conversant with House procedures - who has an issue on the Bill, you will have a good opportunity to bring your amendment so that we can debate them in the Committee of the whole House.

So, I do not see any reason why there is a lot of hullabaloo; people talking about this Bill. We should debate and if you have an issue and I am happy that hon. Ng'ongo and others have issues, you can bring them to the Committee and we can look at merits and demerits of this Bill. Then we can reach a consensus so that we can be able to give Kenyans the security they deserve.

With those few remarks hon. Speaker, I beg to support.

Hon. Nuh: Thank you, hon. Speaker. I stand to oppose this amendment Bill. What I would like to say is that it is very good that people are talking about a bipartisan approach. It is very important that we go that way as, it has been suggested by the Leader of Majority Party. If we do not go that way what I can say is that these amendments can

only be described as a poisoned chalice. This is a very dangerous medicine that the Chairman of the Committee and the Government want to serve to Kenyans. If these amendments pass as they are, this country will witness darkness at noon. They will see darkness at midday. This country was given sunshine by the new Constitution that was promulgated in 2010. If these amendments go through as they are, this will be a suggestion by the Government to throw all the gains that have been made by this country through the new Constitution to the last bit. If you look at amendments that are being proposed in this Bill, if today hon. Wangari Maathai was alive, she would have been declared a terrorist, I can assure you. Rev. Timothy Njoya would have been declared a terrorist.

Hon. Speaker, these amendments, as you see them, are basically meant to circumvent and to hide the incompetence, the laxity, the malaise and all the problems of the people who are responsible for the security of this country and who have abdicated their obligations. It has only one intention to achieve; to hide their incompetence. That is the only thing that these amendments are meant to achieve. This country is not short of laws to protect Kenyans. There are many laws to protect this country but the corruption and the incompetence that is mainly in the security system is what has made this country go down the drain in insecurity system.

I suggest that unless serious amendments are considered to this Bill, I do not think Kenyans will take it lying low. When the drafters of the new Constitution gave tenure of office to the Inspector-General of Police, they had very valid reasons. They wanted to have a civilian police. They wanted to have a police that they have faith in. We are being taken back to the political police of the yesteryears; of KANU where the Inspector-General is nothing but *mnyapara* of the President. We are not going to allow to be taken back to those days where you cannot differentiate between the bodyguard of the President and the Police Commissioner; they are one and the same. The Inspector-General must have tenure of office. This is a regime that is allergic to anything called tenure of office. They want all constitutional offices to be reporting to the President and that will make this country ungovernable. They do not want any---

Hon. Speaker: What is the point of order, hon. Wario?

Hon. Wario: Thank you, hon. Speaker. I hope you have heard my brother, hon. Nuh, say that the drafters of the Constitution gave security of tenure to the Inspector-General of Police. Where in the Constitution was that tenure given?

Hon. Members: Where?

Hon. Nuh: The Inspector-General of Police has four years to serve and there are ways and means in the Constitution that are stipulated, if you want to remove the Inspector-General of Police; that gives him tenure. I am wondering why the hon. Member today spoke in English; he normally speaks in Kiswahili. Maybe he misunderstood me. He did not know what I am talking about. I was speaking in English.

(Laughter)

I am saying this is a regime that is allergic to anything like tenure of office. Very soon they will come for you, hon. Speaker. You will hear that the hon. Speaker should not be given tenure of office. Let us respect offices that are created by the Constitution. As

independent as they are, there is nothing you can do about them. They are constitutionally in place. If the Inspector-General is constitutionally in office, he must remain in office the way the Constitution has stipulated. We do not want to have an IG---

Hon. Speaker: Your time is up!

Hon. (Ms.) R.K. Nyamai: Thank you hon. Speaker, for giving me an opportunity to speak to this important Bill. I would like to point out that I support this Bill highly because matters which are being handled in this Bill touch on my constituents. I would like to say that it is very important to know that things are not in order in Kenya as we are today; matters of security and if the House is not in order, we need to take action for those of us who have a voice so that we can speak on behalf of Kenyans who are out there, who do not have a voice and those who are suffering.

We need to take action today and today is a day which will go into history that Parliament heard the cry of the relatives of Kenyans who have been slain by terrorists. I would like to say that today this Bill is addressing the interception of communication between prisons. As we sit here, people who are already in our prisons are able to communicate with others who are out here. It means that if we do not take action, and if one has to get a court order or justify reasons as to why they are intercepting communication, then it means that we are not taking care of the Kenyans who are out there and all of us are being affected.

Our intelligence officers, once they take note of crime, either people planning to implement crime or people who have already implemented crime, they do not have the tools that they can use. They do not have power. The only power that they have is to pass the information to police officers hoping that they will take action. So, this Bill gives the opportunity to our intelligence officers to take action in incidences where they get to know that crime is being planned.

Hon. Speaker, on matters of demonstration, I would like all of us to reflect on the time when this House and its environs became ungovernable; when all of us were referred to as “Mpigs” within Parliament. So, I believe members of this House and Kenyans who care about our own security and our dignity as Kenyans will be happy if people do not demonstrate all over the country. It is important that we have a Bill here today which is going to designate places where people can hold demonstrations.

We are aware that there is lack of coordination within our forces. We have a situation where the OCPD, if he realizes that an OCS or a junior officer within the forces have made mistakes, he does not have power to properly reprimand or even give proper punishment. So, this Bill is going to give an opportunity for this happen. I would like to go to the issue of women being stripped. We watched with pain as Kenyans - I would not want to say as women but as Kenyans – and our young girls, who are looking up to us, being stripped along our streets in areas where we think it is very safe, especially the Nairobi streets. If this Bill is going to ensure that people who are involved in stripping women are going to be seriously punished, then it is a Bill that I am very happy to support.

As I finish, I would like to say that our constituents are watching us. We are the ones in this Parliament and who can speak on their behalf. As I sit here, I have a border of Kitui South which neighbours Tana River County and my people have a lot of

problems because guns are all over the place. I highly support this Bill and I encourage my colleagues to do so.

Hon. Ng'ongo: Thank you, hon. Speaker, for giving me this opportunity to also contribute to this Bill. First of all, I want to start from the Memorandum of Objects and Reasons. It says that the Security Laws (Amendments) Bill, 2014 is in keeping with the practice of making minor amendments which do not merit the publication of a separate Bill and consolidating them into one Bill. Even from that Memorandum of Objects and reasons alone, are we sure that we are just making minor amendments? The answer is no. We are making fundamental amendments to various laws which even go a long way through back door into amending our Constitution. It is my belief that this Bill could only be passed during the times of Kariuki Chotara and Mulu Mutisya but not in a civilized period, developed democracy, like where the Member for Suba sits. It is going to be of great stress to me to be a Member of the Eleventh Parliament, with all the knowledge in my head; that a Bill such as this will go through this House during my time as a Member for Parliament for Suba. How I wish I was not in this Parliament!

Allow me to say the following: Yes, I have heard reasoning from the other side of the political divide and a few Members from the CORD Coalition, who I do not know for what reason, appear to be confused. The reasoning has been that we are fighting terrorism and we want to secure this country. Not even for a single day have I believed that the insecurity that we are facing in this country is as a result of weak laws. If that were the case, then the insecurity in Mandera and Mpeketoni were as a result of external aggression; people from outside. Why have we not amended the KDF Act? That would have gone to the heart of addressing terrorists who are coming from the neighbouring countries to attack our country. You cannot amend internal laws to protect our territory and our country from external aggression.

Therefore, this is mischief. There is no way you can explain to me that by the Cabinet Secretary, through a Gazette Notice, designating areas and times which public meetings, gatherings or processions may be held, it is going to protect the people who are working at a quarry in Mandera from being attacked by *Al Shaabab*. Let us face facts. This Government is hell bent on taking us back, not even to the 1990s but we are going back to the 1980s and even before.

Someone said, to the discomfort of some of us, that we are witnessing a situation where the reign of Mzee Jomo Kenyatta and that of Mzee Moi are coming back. It is true. We have the biological son of Jomo Kenyatta as President and the political son of Moi as the Deputy President.

Hon. Langat: On a point of order, hon. Speaker!

(Loud consultations)

Hon. Speaker: What is your point of order? Order, Members! Order, Members! It is never done that way in civilised democracies and certainly, it will not be done in ours. So, let us allow hon. John Mbadi to say what he has to say, but hon. Benjamin Langat is on a point of order.

Hon. Langat: On a point of order, hon. Speaker. We were all elected to this House by people from our constituencies. Everybody is entitled to their opinion. Is it in

order for hon. Mbadi to refer to some Members as confused for the fact that they have differing opinions?

Hon. Speaker: Hon. Mbadi has 30 seconds.

Hon. Ng'ongo: Hon. Speaker, as I was saying, the Deputy President is the political son of Moi. Therefore, we have a mix of two leaders. First, this is a price Kenyans are paying. It is a price that we are paying as a country for electing and having in office, through election or rigging, people who do not believe in civil liberty of the people of Kenya. We are going to pay this price for five years.

(Loud consultations)

Hon. Speaker: Hon. Members, remember that you have been talking about some other people in other organizations. I now see you degenerating very close to that level. Please, those assemblies must be allowed to operate the way they operate and we must operate with decorum.

Hon. (Ms.) Mbarire: Tell the Chairman of ODM.

Hon. M'uthari: Thank you, hon. Speaker. We are in extraordinary times and extraordinary times require extraordinary measures. The proposals that we have in this Bill, let the people face the reality and be honest. It is dishonest for people to complain in meetings and say that the Government is doing nothing and when something is being done, they are fighting it because they do not want to face the reality.

The whole idea of our colleagues on the other side is to support anarchy. I cannot understand how somebody, in his right senses, will refuse to support laws that are being put in place to bring coordination. The proposals made in this Bill, for instance, in the prevention of terrorism, clarify a number of issues. This will bring sanity. You cannot be there complaining about people dying. In this House, we have had several Motions for Adjournment to discuss security matters. When we come up with legislation that can bring sanity and order to the country, then people are up in arms. Even if you shout at the top of your voice and you are not taking the country forward, you will not be counted because you are a very serious Opposition person opposing even sanity of your children and relatives.

We have the Inspector General of Police, who cannot designate officers yet he is expected to act. You say that the buck stops at the President, do you expect him to take a gun and protect the people? If he has to take responsibility, then he has to be given the instruments. This is why we are coming up with this legislation that can bring order and give him adequate authority to hire and fire. In that case, we can ask him to take responsibility. We also have the security agents that are fragmented for instance, the KDF, the National Intelligence Service and the National Police Service. There must be a mechanism to bring co-ordination and through this co-ordination, then all the agents can work together. When they work together, then we will not have a repeat of the incidences that we have experienced. You do not defend an ideology that does not exist so that you can be seen to be defending a particular position. When somebody comes up with a way forward in terms of how the Westgate, Mpeketoni and Mandera--- Our National Intelligence Service officers gather information, but they cannot act on it. They can even see people planning and even going to kill, but there is nothing they can do. It is high

time we rose above petty, trivial and partisan politics and come up with legislation that can take this country forward.

I support this Bill. This House makes laws and it can also amend laws. If you are not comfortable, you can come up with proposals to amend, but not to fight and fight just for the sake of being seen by your bosses.

I support.

Hon. Speaker: Hon Omar Mwinyi!

Hon. Shimbwa: Thank you, hon. Speaker. I also wish to voice my support.

Hon. Speaker: Hon. Omar Mwinyi, I wish you could be the one administering this machine to see the way the names appear here now.

Hon. Member: I think---

Hon. Speaker: Continue thinking, but I am trying to look for names from this side and I am not seeing any. What do I do? The ones which are there are hon. Ababu and hon. Millie, who have already contributed. The rest of you come and sit and you do not log in.

Hon. Members: They are there!

Hon. Speaker: Hon. (Dr.) Pukose, what is your point of order?

Hon. (Dr.) Pukose: Thank you, hon. Speaker. Considering that there is an issue of making some amendments and all that, would I be in order to call for the Mover to reply so that we can go into amendments?

(Applause)

Hon. Members: No!

Hon. Speaker: Hon. Speaker, the House is also supposed to discuss the Motion for Adjournment.

(Several hon. Members stood up in their places)

How many hon. Members are for Division? Alright, you have the numbers. Let the Division Bell be rung for ten minutes.

(The Division Bell was rung)

Order, Members! Can you draw the Bar? Hon Members, take your seats. Hon. Members, take your seats so that we can finish!

(Loud consultations)

Hon. Members to my left who are on the third and fourth rows, please, you will have to shift. I am informed by the technical department that some of you have been coming with your gadgets and you pluck out some things and, as a consequence, those on the third and fourth rows cannot vote. Hon. Mule, what I am saying is to enable you to vote because on the third and fourth row, even if you log in, you will not be able to vote. Third and fourth rows, you can either go to the rows behind or the rows in front. Hon. Iringo and hon.

Mwaura, please, just resume your seats. So, hon. Members, all of you log out. Hon. Benjamin Langat, log out. Hon John Waluke, log out. Hon Waluke, what are you doing?

(Laughter)

Order, hon. Members! Hon. Members, we are not in business. Therefore, those that want to adopt the mode of travel used by squirrels are at liberty to adopt it.

(Laughter)

But, on a more serious note, those hon. Members on the third and fourth rows, directly opposite, your cards will not enable you to vote. Please, hon. Iringo and hon. Mwaura, you will not be able to vote from there.

Hon. Odhiambo-Mabona you are okay.

(Loud consultations)

Listen hon. Members, you have 60 seconds to log in. I will repeat the Question. The Question is that the Mover be called upon to reply.

Hon. Members: No! No!

Hon. Speaker: Listen, hon. Ng'ongo, this is not the time for oral votes. You are either voting yes, that the Mover be called upon to reply or voting no, that he should not be called upon to reply, or abstain. Hon. Members, you have 60 seconds to vote either way or otherwise. You can now start.

(Loud consultations)

Proceed.

Hon. Members, this is the result of the Division. The Noes are 41 and the Ayes are 86. The Ayes have it.

(Question carried by 86 votes to 41)

AYES: Ms. Wahome; Messrs. Nderitu, Waititu, Njenga, Lentoimaga, Gethenji; Ms. Gathecha; Messrs Muchai, ole Kenta; Ms. Kipchoim, Ms. Kiptui, Ms. Chepkwony; Messrs. Shill, Kiptanui, Rop, Gakuya, Washiali, Ekomwa, Langat, Kamau; Ms. Machira; Ms. Tuya; Messrs. Omagwa, Kipyegon, Serut, Nakara, J.N. Chege, J.M.Nyaga, Kitungi; Maj-Gen. Nkaissery; Messrs. M'uthari, B.K. Bett; Ms. Mbarire, Ms. Emanikor, Dr. Laboso; Messrs. Njomo, Kariuki Ndegwa, Kemei, Abongotum; Ms. Korere; Mr. Kamanda; Ms. Leshoomo; Mr. Katoo; Ms. Mbugua, Ms. Seneta, Ms. Munene; Messrs. A.B. Duale, Wambugu, Dido, Wario, Mohamed Abdi; Eng. Mahamud; Messrs. Kiaraho, Kuria, Mati, Losiakou; Dr. Shaban, Eng. Gumbo; Messrs. Barua, Waweru, Ngunjiri, Njuki, ole Ntutu, Koinange; Ms. Tobiko; Messrs. Mwangi, Rotino; Ms. Kanyua, Ms. R.K.Nyamai; Mr. Letimalo; Ms. A.W. Ng'ang'a; Messrs. Tonui, Lagat, Chepkong'a,

Gichigi, Ndiritu, Isaack, J.K. Chege, Karani, Ngare, Manoti; Ms. Sunjeev; Messrs. Eric Keter, Opoire; and Ms. Gathogo.

NOES: Messrs. (Dr.) Simiyu, Elmi, Ababu, Wandayi, Aden, Mwadime, Simba, Mulu, Wakhungu; Ms. Ombaka; Messrs. Iringo, Anyango, Mohamed Diriye, Ms. F.M. Mutua; Messrs. Outa, Odanga, Ogalo; Ms. Nyasuna; Messrs. Mwaura, Mukwe; Prof. Nyikal; Ms. Mbalu; Messrs. Koyi, Magwanga, Ndiege; Ms. Keraa; Mr. Ng'ongo; Ms. Odhiambo-Mabona; Messrs. Khamisi, M.D Duale, Sumra, Chea; Mr. Shimbwa; Ms. Muia; Messrs. Bunyasi, Onyango, Mule, Mwadeghu; and Ms. Juma.

ABSENTION: None

Hon. Speaker: Mover of the Motion.

Hon. Abongotum: Thank you, hon. Speaker. I wish to inform you that we have taken note of the concerns from hon. Members. Those who have amendments can still forward them to the Committee or to the Departmental Committee on Justice and Legal Affairs so that they can be effected.

I beg to reply.

Hon. Speaker: Hon. Members, we have the quorum necessary to put the Question which I proceed to do which is that Security Laws (Amendment) Bill, National Assembly Bill No. 39 be now read a Second Time.

Hon. Mule, you are totally out of order. I will not stand that. I know that you are doing your second term in your first term. Please hon. Mule, I know the few days you went out you might have forgotten that bit.

(Question put and agreed to)

(Hon. Members stood up in their places)

Hon. Speaker: Well, hon. Members, I am assuming that those on their feet are claiming for a Division. Is that correct?

Hon. Members: Yes.

Hon. Speaker: You have it. Hon. Opiyo Wandayi, you do not have to shout. You have it. Ring the Division Bell.

DIVISION

(Question put and House divided)

(The Division Bell was rung)

Hon. Speaker: Is the bell ringing?

(Hon. Outa tried to pick the Mace)

(The Serjeant-at-Arms restrained hon. Outa from picking the Mace)

(Loud consultations)

Hon. Speaker: Order, hon. Members! You may now take your seats.

(Loud consultations)

You may now close the doors and draw the Bar. Hon. Members, log out. Hon. Onyango and the hon. Member, who is on the third row, remember you may not be able to vote. Come to the second row so that you are able to vote. Hon. Members including those who feel belligerent, I need to remind you the Question. Is it not?

Hon. Members: Yes. Do we log in?

Hon. Speaker: Do not log in first. Hon. Members, let me remind you the Question. The Question is that the Security Laws (Amendment) Bill, National Assembly Bill, No. 39 of 2014, be read a Second Time. That is the Question. You have 60 seconds within which to log in. Hon. Shimbwa, just log in.

Hon. Speaker: I had put the Question and there was a vote whose results were challenged. Yes. So, I had ruled at that time that the Ayes have it. That is what was challenged. Now, we want to see through the vote who exactly has it in this Christmas mood. Hon. Members, you may now vote.

(Hon. Members voted)

Hon Members, I now announce the results. The Nays have 47votes. The Ayes have 93 votes.

(Question carried by 93 votes to 47)

No abstentions. The Ayes have it.

(Applause)

AYES: Ms. Gathecha; Messrs ole Kenta, Shill, Muchai, Washiali, Langat; Ms. Kipchoim, Ms. Kiptui, Ms. Tuya, Ms. Chepkwony; Messrs Abdinoor, Kiptanui, Rop, Gakuya, B.K. Bett, Ekomwa; Ms. Mbarire; Mr. Kamau; Ms. Machira; Messrs Katoo, Omagwa, Kipyegon, Nakara, J.N. Chege, J.M.Nyaga, A.B. Duale; Maj-Gen. Nkaissery; Messrs M'uthari, Wambugu, Dido; Ms. A.W. Ng'ang'a, Ms. Emanikor, Dr. Laboso; Messrs Njomo, Melly, Kariuki Ndegwa, Bowen, Kemei, Abongotum; Ms. Korere; Messrs Sang, Kamanda; Ms. Leshoomo; Mr. Kiaraho; Ms. Mbugua, Ms. Seneta, Ms. Munene; Messrs Losiakou, Waweru; Ms. Wahome; Messrs Lagat, Mohamed Abdi; Eng. Mahamud; Messrs J.K. Chege, Lessonet, Kuria, Mati, Ngare; Dr. (Ms.) Shaban; Messrs Eric Keter, Barua; Ms. Gathogo; Messrs Ngunjiri, Njuki, Ole Ntutu, Koinange; Ms. Tobiko; Messrs Mwangi, Rotino; Ms. Kanyua, Ms. R.K. Nyamai; Messrs Letimalo, Lentoimaga, Dr. Pukose; Messrs Tonui, Bunyasi, Chepkong`a, Gichigi, Ndiritu, Chumel, Isaack, Nderitu, Karani, Waititu, Manoti; Ms. Sunjeev; Mr. Njenga; Ms. T. G. Ali; Messrs Cheptumo, Opore, Gethenji, and Arama.

NOES: Messrs (Dr.) Simiyu, Elmi, Ababu, Wandayi, Aden, Mwadime, Simba, Mulu, Kitungi, Wakhungu; Ms. Ombaka; Messrs Iringo, Anyango, Diriye, Ms. F.M. Mutua; Messrs Outa, Odanga, Ogalo, G.W.Omondi, Ogolla; Ms. Nyasuna; Ms. Duri; Messrs Mwaura, Mukwe; Prof. Nyikal; Ms. Mbalu; Messrs Koyi, Magwanga, Ndiege; Ms. Lay; Mr. Nuh; Ms. Keraa; Mr. Ng'ongo; Ms. Odhiambo-Mabona; Messrs Khamisi, M.D Duale, Sumra, Chea; Eng. Gumbo; Mr. Shimbwa; Ms. Muia; Messrs Onyango, Mule, Mwadeghu and Ms. Juma.

ABSTENTION: None.

Hon. Speaker: Hon. Nooru, I know it is many years since you last sat here until now. I appreciate the Christmas mood that is already beginning to prevail in the House. On 4th December last week, you voted to extend your regular sittings until today, Thursday, 11th December 2014. You amended the Calendar. In fact, I am being given the Motion which reads:-

“THAT, pursuant to the provisions of Standing Order No.28(4), this House resolves to alter its Calendar for the Second Session 2014 as adopted on 26th February 2014 and resolves to hold sittings until Thursday, December 11th 2014.”

It, therefore, means at the rise of the House today, the House adjourns until 10th February 2015. That is in keeping with the regular calendar as altered by your own resolution of last week. However, in order to get some parting shots from a few of you, I will use my discretion to allow a few of you to say one or two things relating to adjournment.

Leader of Majority Party, you have the Floor.

(Loud consultations)

Sorry, hon. Members, there is a small procedural issue. After declaring the results, the Clerks-at-the Table, as it normally happens, are supposed to proceed to read the Title of the Bill.

Proceed.

(The Clerk-at-the-Table read the terms of the Bill)

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER
THAN THE NEXT NORMAL SITTING DAY

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

THAT, pursuant to the provisions of Standing Order 28, this House adjourns until Tuesday, February 10, 2015 in accordance with the Calendar of the Assembly (Regular Sessions).

Hon. Speaker, allow me to take you through a short memory lane of the legislative tasks we have performed. Firstly, Nine Bills have been passed. They include: The Kenya Qualifications Framework Bill, the Scrap Metal Bill, the Mining Bill, the

Physiotherapists Bill, the Statute Law (Miscellaneous Amendments) Bill, just to mention a few.

Hon. Speaker, allow me to specifically congratulate the House for passing three Bills with constitutional deadlines. They include: The Persons Deprived of Liberty Bill, 2014, the Environmental Management and Coordination Bill, 2014 and the Public Service (Values and Principles) Bill, 2014.

Hon. Speaker, four Bills have been passed and forwarded to the Senate for consideration, as required by the Constitution of Kenya. These includes: The Mining Bill, the Environmental Management and Coordination Bill, 2014, the National Drought Management Authority Bill, 2013 and the Public Service (Values and Principles) Bill, 2014. Secondly, 14 Bills are waiting the Committee of the whole House; 26 Bills are waiting the Second Reading and we have received 10 Bills from the Senate, which we shall prioritize after the recess. These include the Political Parties (Amendment) Bill, 2014, among others. The Committees have done several reports; key among them is the Report on the Committee on Defence and Foreign Relations, in which we did a vetting of 24 High Commissioners.

Hon. Speaker, the Committee on Appointments vetted the Cabinet Secretary for Interior and Coordination of National Government this morning in accordance with Standing Order 2004 (4). It is our view that we will use the provision of Standing Orders 29 and 61 to call for a Special Sitting of the House to discuss the Report of the approval of the nominee for Interior and Coordination of National Government.

Secondly, we intend to discuss the Third Reading of the Security Laws (Amendment) Bill and lastly to seek the approval of the nominees for the Constituencies Development Fund (CDF) Board.

You have seen what hon. Outa has done. If it is about bull-fighting or about camel rearing that I usually do, I will do it after we go for recess. I have about 200 camels, just like my good friend, hon. Odhiambo-Mabona will go and rear fish. I will rear the camels. It was in very bad taste. Hon. Outa recently suffered a petition and was saved by the Supreme Court of the land. I have no doubt in my mind that I served with him in the last Parliament. I am sure that the people of Nyando Constituency who were watching hon. Outa were not impressed. When he goes for recess, as a good friend, I will do a lot of counselling so that next time we should not play around with the Mace. For us, this is the symbol of dignity and power; the way the President receives instruments of power. The only instrument of power apart from the Constitution in this House is the Mace.

Hon. Speaker, we can do better. Hon. Outa and hon. Duale can do better. We can do a lot of other semantics at the bar, at the lounge and in our rallies, but I want to ask everybody, including hon. Outa, that let us respect the symbol of authority in this House. If we do not respect this symbol of authority, then the people of Kenya have no moral ground to respect us. Why should our constituents respect us if we do not respect the Constitution and the symbol of authority?

Hon. Speaker, I ask my colleagues when we go home, please, let us preach peace. Let us turn and be part of those to be counted in helping the Executive to maintain law and order and ---

Hon. Speaker: Minority Whip, hon. Thomas Mwadeghu.

Hon. Mwadeghu: Ahsante Mheshimiwa Spika. Naomba nichukue nafasi hii kupongeza Bunge la Kitaifa wakati huu ambalo linatarajia kwenda likizo kwa kazi ambayo imefanyika, vile imeelezwa hapo na mwenzangu ambaye ametangulia kusema.

Mheshimiwa Spika, wakati kama huu, Waheshimiwa Wabunge wanatarajiwa kwenda katika maeneo yao wanayowakilisha ili wakae na wananchi wao wapate kuwaeleza yale ambayo wamekuwa wakifanya kwa muhula huu wote Bungeni.

Ni ombi langu kuwa tutaweza kujistili na tufanye kazi ile ambayo tumepatiwa na wananchi. Hivi leo mchana, tumechukua muda mwingi sana tukiangalia vipengele kadha wa kadha kutokana na Mswada huu ambao ni wa sheria za ulinzi. Imebainika wazi kuwa Mswada huu unahitaji marekebisho kadha wa kadha. Nashukuru Mwenyekiti wa Kamati. Amekubali kuwa marekebisho haya yataletwa. Ameyaweka maanani na yataletwa hapa yajadiliwe na Wabunge.

Mheshimiwa Spika, si nia yangu kuchosha kila mtu hapa jioni ya leo. Nashukuru Kamati ya Bunge ambayo inahusika na wale wanakuja mbele yake wakiomba uwaajiri, kama Mheshimiwa Nkaissey ambaye amepewa wadhifa ama amependekezwa apewe wadhifa na hivi leo, amepitia kwa Kamati. Ni ombi langu kuwa---

Hon. Speaker: Hon. Peris Tobiko.

Hon. (Ms.) Tobiko: Thank you, hon. Speaker. I also wish to contribute to the Adjournment Motion and say that it has been a long year. A lot of good tidings have come our way even in the midst of a lot of challenges also in terms of security.

One of the major things that have happened in this country in this year was the International Criminal Court (ICC) finding that there was no case on the charges preferred against our President, and that the President is now free to work for Kenyans. I believe he is going to have a better time working for Kenyans.

Hon. Speaker, also in the year, we have seen challenges in terms of security with people losing lives in Mpeketoni, Mandera, Baringo and in many other parts of this country. However, as we go home for the holidays to visit our constituents and our families, I would say that I am a happy Kenyan today because of the Security Laws (Amendment) (Bill that has just gone through the Second Reading. I am happy because it will go a long way in addressing the security challenges in this country.

Hon. Speaker, one day I walked into my house and two of my daughters sat me down. They told me: "Mum, we need to speak to you because we feel unsafe. We are going to speak to you not as a mother but---"

Hon. (Prof.) Nyikal: Thank you, hon. Speaker, for giving me this opportunity. As we go home on recess, there are only three issues that I would like to raise that I have observed.

One is the issue of processes regarding the work of the Committees in line with Article 127 of the Constitution. I know hon. Speaker that, more than once, you have ruled against that. We have come here to discuss issues when we do not have the reports of the Committees. My observation is that in Committees, people tend to be less partisan. They observe facts and are more rational. Better work is done in the Committees. It is important that important Bills like this should pass through the Committees where a lot of heat will be taken out. That is an important point.

The other point on the Bill we have just passed is this: I am still convinced from my experience that we have a problem of structures and administration when we pass

laws. I have seen it with the implementation of the Constitution. I am seeing it with the structural changes we have made in the security system. It is important that we sit down. Even if we pass this law and we do not look at those structures, we will still have a problem. We must look at the administration and structures once the law has been put in place.

Third, it may be important that, sometimes, the House is at war. However, we should look at Standing Order No.107 because there are certain things that people mention that actually raise the heat unnecessarily. From your seat hon. Speaker, you should invoke Standing Order No.107. There should be a limit when we are having jests and when we are making statements---

Hon. Speaker: Well spoken, Prof. Nyikal, about Standing Order No. 107. For those other Members that may wish to refresh their memories, it is the one that deals with gross disorder in the House. I have tasked some people to have a fresh look at it because we need to deal with certain situations more firmly.

The hon. Member for Emurua Dikirr Constituency.

Hon. Kipyegon: Thank you, hon. Speaker. Right from the beginning of this year until today when we are actually adjourning for recess, this country has never had peace or happiness. We have been saddened by deaths, killings, stripping in the streets and so many other issues that we have had in this country, and which have not made us happy.

I am a very happy person today. Although we have not passed these amendments, I believe the stage that this amendment Bill is in at the moment is a stage where we can only amend and pass it. We do not need laws that make us comfortable. The laws that we need are laws that will help this country move forward. We have amended a law that has been in place for more than 40 years. We are dealing with a situation where even terrorists are digital. Everything has gone from the old age to the current age. I wish to thank hon. Members for the much we have come through. Although we have had so many challenges together, we still need to do a lot to change this country. We need not allow our daughters, sons, brothers, sisters and mothers to cry while we are in this House to make laws. We need not allow this country to bleed while we are in this House to make laws.

As we go for this festive season, I wish each and every Kenyan a Merry Christmas and a Happy New Year.

I thank you and I support.

Hon. Mohamed Diriye: Thank you, hon. Speaker. As we close for recess, I wish all Kenyans a Merry Christmas and a Happy New Year. As we close this year, I wish to condole with the people who lost their loved ones in Mandera 1, Mandera 2 and many other places in the country. Indeed, it was a very eventful year for us. We lost people to terrorists who, as a country, we must fight and fight to the bitter end! Some of these laws that are being brought to this House to fight terrorism might take us back to the old days. Remember, we do not know who those terrorists are. Honestly speaking, as I go for my recess and to my constituency, I am a bit scared! If some of the laws being proposed here are passed, many of us might become victims.

I wish to state that, as country, we have minorities, Muslims and a Somali population which might feel that some of these laws will directly target them. As a country, we will be judged by how we treat our minorities. As a country, we have done

tremendously well over the years and we have achieved success. I can tell you that in marginalized areas like northern Kenya and many other areas where people claim they are marginalized, there is a lot of development that will make you proud as a Kenyan. If you go there, you will feel that you are in Kenya because of the development that has taken place, particularly in the last 10 years of the former President, hon. Mwai Kibaki. We want this regime to continue building on the successes that were achieved by the Kibaki Administration and the Rt. hon. Raila Odinga - the former Prime Minister.

(Applause)

Hon. Speaker: Your time is up. Hon. (Dr.) Pukose! Hon. Members, be checking the lights.

Hon. (Dr.) Pukose: Thank you, hon. Speaker, for allowing me to make my comments as we adjourn for the long recess up to February. It has been a long year. It has been hard work for all hon. Members in this House. I want to say that everybody made his contribution in one way or the other and, as hon. Members, we have to respect each other.

As we go out there today and as we make the amendments to the Security Bill, one of the key issues that those who are charged with the responsibility of security in this country need to look at is the morale of our officers, especially the junior officers. There was a promise to give them a 45 per cent pay increase. This has not been implemented and it needs to be looked into so that, as much as we work on making sure that they are able to deliver, we must also make sure that they are equipped and they are well paid so that they can do their jobs well.

With those few remarks, I want to wish my constituents and the rest of Kenyans a Merry Christmas and a happy New Year.

Hon. (Eng.) Gumbo: Hon. Speaker, I thank you for giving me the opportunity. First of all, let me start by wishing you and hon. Members of this House a very Merry Christmas and a happy 2015.

I think in spite of the arguments that have been traded across the Floor, today, in my view, this House has started the process of taking tangible steps to address the problems of the security sector. I believe as we reach the Third Reading stage, we can embrace a bipartisan approach so that the amendments that we seek from this side can be incorporated so that we move forward.

I think the problems bedevilling the security sector in Kenya are much bigger than just the laws. Like I said in my contribution, I think we must address the bungled police reforms. We must address the issues of poor integration of the Administration Police (APs) and regular police. The horrendous and demoralizing conditions under which the police live in is still a question to be addressed. On integration, I feel that the Somali community in this country needs to be integrated more in our security sector, particularly on intelligence gathering. It is a shame that up to now, those who are gathering intelligence in Eastleigh are people from up-country and not the Somali community. I feel that with more integration, we will be able to get useful intelligence which can help the security of this country move forward.

Hon. (Ms.) Gathogo: Ahsante sana Mhe. Spika kwa kunipa hii nafasi ambayo nimengojea sana. Kwanza, ningetaka kushukuru sana kwa mwaka ambao tumekuwa nao. Nataka kukushukuru Mhe. Spika kwa sababu umekuwa na sisi na umetuelekeza kwa njia nzuri. Nataka tena kumshukuru Katibu wa chama cha ODM ambaye alichaguliwa juzi. Ashikane na Serikali ndio tuweze kulisadia na kulijenga taifa hili la Kenya. Hata Mwenyekiti naye namshukuru sana.

Mhe. Spika, kuna mambo mawili au matatu ya muhimu ambayo ningependa kuyasema. Mimi niko katika Kamati ya CDF na tumejaribu sana. Wabunge ambao wako katika maeneo yao ya Bunge siku hizi hawateti sana kwa sababu tumejaribu sana. Mimi na Mwenyekiti tutahakikisha ya kwamba kila Mbunge ako na pesa zake na anazitumia. Ningependa kuwaambia kwamba ukiwa na Kshs10 milioni katika akaunti yako ya CDF, hakuna vile utapata pesa zingine. Kwa hivyo, wale walikuwa wanauliza ni kwa nini hawajapewa pesa zao, waangalie katika akaunti zao. Meneja wa fedha wako ndiye anaweza kujua ni kwa nini hauna pesa. Tuko na mambo mengi ambayo tutafanya.

Mhe. Spika, ningependa kusema jambo moja, ya kwamba tunaelekea katika msimu wa Krismasi. Tukumbuke kwenda na kusherehekea na wale ambao wako chini. Kuna wale ambao hawajui ni nini kinaendelea kwa sababu wako chini sana katika maisha. Tuangalie wale ambao hawawezi kuwekelea hata sahani moja ya chakula katika meza zao. Mimi ningetaka kuomba waheshimiwa wenzangu hivi: Ukikaribia Ruiru hata hautalipa pesa ya kuja! Hata ukikosa gari, unaweza kutembea ili tusherehekee pamoja. Watu wangu wa Ruiru ni wakarimu sana. Tena, Ruiru ni hapa karibu. Nahuzunika sana kwa sababu tunaelekea Krismasi na wale ambao wako kwa maofisi yetu bado hawajapokea mishahara yao na wengine wanalia. Wengine wamefungiwa manyumba na wengine hawana---

Hon. Speaker: The hon. Member for Kibwezi East.

Hon. (Ms.) Mbalu: Thank you, hon. Speaker, for giving me this opportunity to add my voice to this Adjournment Motion. Let me appreciate and thank, as we close our Session, the hon. Speaker of the National Assembly, hon. Justin Muturi, for the good work that he has done for this Parliament. I am not forgetting the Chairpersons of Committees and, very importantly, the Chairperson of the Public Accounts Committee, who did a very good job of moving three PAC reports yesterday. I must appreciate that since I came to this House, those are the best reports I have ever read. Again, he is the Secretary-General of ODM and as he keeps on saying:-

“You Jubilee, we are not coming to you, but we are coming for you.”

Let me also appreciate the hon. Members in this House, for the conduct that they have shown during this Session. I must appreciate that. Even as we preside over the House, I have really seen a lot of improvement in this House. The procedures and the Standing Orders are getting into the minds of these hon. Members. I must appreciate these Members of Parliament and even as they go for recess, I know the people they represent in this House now know what they do in this House. I am not referring to the noise-making that we do in the Chamber, but the good work that we do in the committees.

Before I forget, I want to wish all the Members of Parliament, starting from the Speaker of the National Assembly, the Deputy Speaker hon. (Dr.) Laboso, the Members

of the Speaker's Panel, Chairmen of Committees and all Kenyans a Merry Christmas and a happy New Year.

Hon. Wambugu: Thank you, hon. Speaker for giving me this chance to make one or two comments as we close. First, is to thank all hon. Members for their determination, devotion and passion during the debates that we have had throughout the whole year. It is good for people to realize that when we are debating, it is not because we have a different view; it is not because we hate one another; it is because we want to get the best for this country. I also want to thank hon. Members for the Bill that has gone through the second stage. Hon. Speaker, the only thing that I would request is that you call back the House as soon as possible so that we can clear with this Bill and also deliberate on the Report on hon. (Maj-Gen.) Nkaissery so that he can start working. As we go for recess, yes, there was a comment by one of the officers within the CDF Committee. It is good to know that most of the constituencies requested for funds about two or three months ago, but we have not yet received them. We would like to have that money as soon as possible so that we can continue working.

Hon. Speaker, on the issue of security, all of us should monitor what is happening on the ground and report where necessary. The things that are happening in this country should not make us proud. If we all remain together, we can move forward. I wish all Members of Parliament and all Kenyans, especially the people of Mathioya, a Merry Christmas and a happy New Year.

Just to remind you, we are having a requiem mass for the late MP J.J. Kamotho on Tuesday at Consolata Shrine. The burial will take place on Wednesday in Mathioya. Thank you and may God bless you.

Hon. Speaker: Member for Kabondo Kasipul.

Hon. Onyango: Thank you, hon. Speaker. As we break for recess, I would like to thank the people of Kasipul Kabondo for voting for me. I am now almost two years old in the National Assembly. As a young man, being protocol order No.7 of the Republic of Kenya is not a small thing. Thank you, hon. Speaker for steering us for this long. We have learnt. We are no longer new. I would like to request all Members that, as we break for recess, let us take our time to get the feel of what our citizens want us to do so that, when we come back in February, we can adopt the spirit of working harder than what we have done this year. I thank the Chair of PAC for the effort he has made to clear the backlog of PAC Reports from the Auditor-General. That gives us the opportunity to add more money to the counties. That does not mean we will drop the quest for the referendum unless certain things are achieved. Security is a challenge. Wherever we go, let us use our leadership to address the little we can do as we move forward to make the country a better place to stay. God bless you all till we meet again.

Hon. Speaker: Member for Turkana South.

Hon. Ekomwa: Thank you, hon. Speaker. I am a very happy person finally, because I almost got discouraged. I want to wish the people of Turkana South a Merry Christmas and a happy New Year. Secondly, I want to thank you hon. Speaker, because you have created order in this Parliament. Every time you take your position, order has been in this Parliament. Thank you, also, for being the most highly trained Speaker ever in the history of this nation.

I know the issue of security. I come from an area which is mostly affected by insecurity. I know the issue of security is key. Even before you talk of human rights in this Constitution, you cannot enjoy them if there is no security. You cannot enjoy the right of privacy if you have no security. Security comes first. For us to have security, we need to have vertical order. Even in our neighbouring nation, there is a dictator. It is better to have a dictator but have security. I want to finally say this: What we need in Kenya is security and order. Whether you infringe the Constitution or not, Kenyans require security. At the end of it, I want the Government to investigate some leaders. Some leaders are actually linked to *Al Shabaab*. The *Al Shabaab* are their supporters and relatives. They also fund *Al Shabaab*. They are cheating Kenyans. They must come out. They are part and parcel of the problem of insecurity in this nation. The Government needs to investigate them. They are in this Parliament! They are outside this Parliament and they are the problem. They are pretending.

Hon. Ababu: On a point of order, hon. Speaker.

Hon. Speaker: Hon. Ababu Namwamba.

Hon. Ababu: Hon. Speaker, this is a House of records, honour and dignity. The Member for Turkana South has uttered very reckless words. In fact, it is surprising that he has uttered those words just after praising you, hon. Speaker, for bringing order and decorum in the House; sentiments that I associate myself with.

This allegation that there are leaders who are associates of *Al-Shabaab* and who are party to what is ailing this country is a matter which the hon. Member must be asked to substantiate. Indeed, if he has that information and the Government is grappling with collection of intelligence and acting on it, then he must be required to offer that intelligence to the National Intelligence Service (NIS). Most importantly, for the record of this House, the hon. Member must either substantiate or be asked to withdraw. Otherwise, that is an affront to the dignity of this House.

Hon. Speaker: May we know what type of leaders he had in mind.

Hon. Ababu: Hon. Speaker, he actually said that some of those leaders sit in this House. Those were his words. So, if he is sharing a forum here with *Al-Shabaab* associates---

Hon. Speaker: Hon. Ekomwa, did you say that those leaders sit in this House? Give him the microphone.

Hon. Ekomwa: Hon. Speaker, I know what I said and I will repeat it. I have said that some of the problems faced by this nation on the issue of security are linked to some leaders. Yes. I have not specified anyone and if I specified, I withdraw that.

Hon. Speaker: Did you say that they sit in this House?

Hon. Ekomwa: No, hon. Speaker.

Hon. Speaker: Did he say some of them are in this House?

Hon. Members: Yes.

Hon. Ekomwa: No! Hon. Speaker, I have withdrawn that.

Hon. Speaker: Very well, let us get hon. (Ms.) Odhiambo-Mabona to make her contribution. Hon. Members, I want us to rise at 7.30 p.m.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker. I take this opportunity to thank hon. Members and the hon. Speaker for leading us for a very able

Session in Parliament. I would want to encourage that as we go, hon. Members keep on saying that we preach peace but utter divisive words.

I would encourage the Leader of Majority Party to take this opportunity to bring hon. Members together so that we can agree on the Bill that has passed the Second Reading. It is not a done deal. Let us look at it. Both sides of the House have raised very serious issues with it.

Finally, I want to say that I saw hon. Mohamed Diriye and hon. Outa trying to go for water and, unfortunately, they fell down. That should not be misread as anything. The reason why I say that is because I have been a victim. I was even saying earlier that I hope the systems that are behind here, I will not be accused of spoiling them.

Otherwise, I wish every hon. Member a Merry Christmas and a happy New Year. May the Lord bless you.

Hon. Speaker: Hon. (Dr.) Shaban, you have the Floor.

Hon. (Dr.) Shaban: Ahsante sana, Mhe. Spika kwa kunipatia fursa hii kuunga mkono wenzangu na kuzungumzia suala hili la kuelekea likizoni.

Mwaka huu ulikuwa mgumu sana kwa sababu Wakenya wengi sana wameuawa bila sababu; ni kama ilikuwa kitubio. Lakini Mwenyezi Mungu ametujalia kufika wakati huu ambapo mwisho wa mwaka uko karibu. Tunaomba kwamba mwaka ujao utakuwa mwaka wa amani na wa mafanikio kwa Wakenya wote.

Sisi viongozi ambao tunajua matatizo Wakenya wanapitia, hatutaki kuona tena Wakenya wakiumizwa ama wakiuawa. Nawaomba viongozi wenzangu kwamba tukienda katika likizo hii, tuzungumzie kuhusu amani na haswa kuhusu maendeleo wakati huu tunapoelekea manyumbani.

Nawatakia Wakenya wote Krisimasi njema na mwaka mpya wa mafanikio haswa wale Wakenya wa Kaunti ya Taita Taveta, ambao walinipatia nafasi hii ya kuja Bunge hili la Kumi na Moja.

Ahsante sana, Mhe. Spika.

Hon. Speaker: The Member for Suba, hon. Ng'ongo, the chance is yours.

Hon. Ng'ongo: Thank you, hon. Speaker. I would also want to wish my colleagues, together with their constituents, a Merry Christmas and a happy New Year as we go on recess. I hope that during this recess, we will have a complete recess because I suspect we may be called back to this House very soon to approve one of my hon. Members who has been poached by the Jubilee Administration. I do not know for what reason, but I suspect it is because of lack of human resource in the Jubilee side, which has occasioned that appointment.

Hon. Speaker, allow me to say this, especially to hon. Members on the Jubilee side; even as you celebrate the passage of this law or these various amendments, I want to advise you to talk to the Executive to rein on theft that is going on in the Office of the President with regard to money allocated for security operations. If those billions that are being stolen are put to proper use, probably, some of the insecurity we have encountered in this country would not occur. Therefore, there would be no need for the laws.

Sometimes, we over-legislate in this country. We do too much legislation but no one implements and no one comes up with proper structures to help actualise what we legislate. Some of these things just need regulations. You do not need to put a lot of our time debating here acrimoniously. I hope that you will keep your promise of amending

the provisions of the Constitution. Use your tyranny of numbers in a positive way and not in negative energy.

Thank you, hon. Speaker. I wish everyone, including the hon. Speaker, a Merry Christmas.

Hon. Speaker: Hon. Waititu.

Hon. Waititu: Thank you, hon. Speaker, for giving me this chance. I want to echo the words of my fellow colleagues. As we go on recess, this Eleventh Parliament has done a lot of work both in the Committees and in the sittings of this House.

On security, this is an issue that is everywhere in this country. When we talk as a team about what we should do to see Kenyans living peacefully, it encourages Kenyans. Hon. Members who have Constituencies Development Fund (CDF)--- When I went to Kilifi, I was very impressed to see hon. Mung'aro opening a police station. Those are some of the things we should learn from some of the hon. Members in this Parliament, instead of putting all the blame on the Executive. I am happy because some hon. Members of this National Assembly - even when we are not in this Parliament - talk about insecurity. Like in my constituency; Juja, when I visit the police station, I find that insecurity is high. I have even written letters to the Inspector-General complaining of one OCS who cannot be removed by the Inspector-General until they sit with the Kavuludi Commission. He has not even gone to Kiganjo for any training. Those are the changes that we want---

Hon. Speaker: Hon. Members, I may have to disappoint you. The next on the list is hon. Nuh.

Hon. Nuh: Thank you, hon. Speaker.

Hon. Members: Ah!

Hon. Speaker: Hon. Members, I have no other way other than following the list on the machine.

Hon. Nuh: Hon. Speaker, first, I would like to take this opportunity to congratulate hon. Members for the Session. They have done a very good job. Secondly, I wish them a happy New Year 2015.

We have just passed the Second Reading of the Security Laws (Amendment) Bill. I would like to tell hon. Members to look at this matter at the Third Reading positively and come together as both sides of the House and propose amendments that are beneficial to Kenyans. That law looks very dear to Kenyans. It looks very important.

Hon. Lessonet: On a point of order, hon. Speaker

Hon. Speaker: What is your point of order, hon. Lessonet?

Hon. Lessonet: Thank you, hon. Speaker. I just want to put across my point of order and as I put it, just take note that I did very well in mathematics. With that in mind, you know very well that for every two people on the Jubilee side, there is one from the Opposition. So, when your distribution of contributions is one to one, we continue to be marginalised on this side. I have seen you are giving us equal chances. However, at the end of the day, because of our tyranny of numbers, we are marginalized. Just put that consideration in mind.

Hon. Speaker: Hon Members, this is really an issue of Members speaking to what has happened in this Session. If you like, I can still exercise my discretion to allow

every one of you who is present to say something, so that nobody can claim that by end of the year, they were never on the HANSARD.

(Applause)

Hon. Speaker: Let us have hon. Shaaban.

Hon. Isaack: Thank you, hon Speaker, for giving me this opportunity to contribute to this very important Motion for Adjournment. It has been a very hard time for Kenyans particularly this year, because many have lost their lives and loved ones. I take this early opportunity to pass my heartfelt condolences to the various families who lost their loved ones. There have been reported many serious security problems in many parts of our country, from Mombasa, North Eastern Province, Rift Valley and even in Nairobi. As we usher in the New Year 2015, we hope that the insecurity that we have witnessed this year will come to an end or it will be reduced drastically with the passage of this Security Bill. We will bring many amendments so that it conforms to our Constitution and other important Acts that have already been passed in Parliament.

[The Speaker left Chair]

[The Deputy Speaker took the Chair]

We hope that we will be able to reduce the insecurity that we are witnessing all over the country.

Hon. Speaker, having said that and as we go home to our constituencies---

Hon. Deputy Speaker: Hon. Shaaban, have you not noticed that there is a change of Speaker?

(Laughter)

Hon. Isaack: Oh! Yes, hon. Madam Deputy Speaker.

Hon. Deputy Speaker: Now your time is up. Let us have hon. Grace Kiptui.

Hon. (Ms.) Kiptui: Thank you, hon. Deputy Speaker, for giving me this opportunity. I also join my colleagues in wishing Kenyans and, particularly the people of Baringo County who voted me to this hon. House a Merry Christmas and a happy New Year 2015.

It is amazing that we are done with one year but I am proud that we were able to pass several Bills. I am particularly willing and ready to come back if we are recalled to deal with the Security Laws (Amendment) Bill. I come from one of the counties that have a lot of security challenges. I want to call upon my people in Baringo to be security conscious. For the bandits that cause insecurity, their days are numbered. We will use this moment of the recess to ensure that we engage with our people. Majority of them are good but there are a few who are bad. Therefore, I want to ask Kenyans to pray for us and support us where necessary.

Thank you.

Hon. Deputy Speaker: Let us have hon. Cyprian Iringo.

Hon. Iringo: Thank you. Let me take this opportunity to thank the substantive Speaker, you hon. Deputy Speaker and my colleagues in this House. I wish you a Merry Christmas and a prosperous New Year.

I want to wish my constituents of Igembe Central a Merry Christmas and a prosperous New Year. I also want to thank hon. Members for the deliberations we have done this year albeit the challenges we have encountered as a country. We have lost so many country men and ladies because of banditry and other issues.

I believe that the Bill we have passed today will address those issues. At the same time, I will request that when we are finalizing this Bill; when it comes for the next reading, as hon. Members of this House, let us put our heads together and make corrections where necessary because there is nothing which is perfect. I believe even this Constitution we have today is also not perfect. There are those who belong to the school of thought that it is 20 per cent faulty. I believe even the Bill which has passed for Second Reading today also is not perfect. Let us not use the tyranny of numbers to pass it just like that. Let us make it good and polish it, so that it can be used to effectively control the runaway insecurity in this country. It should also give the offices concerned with security power which can make this country a better place to live.

I wish you all a Merry Christmas and a happy New Year.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Benjamin Washiali, the Floor is yours.

Hon. Washiali: Thank you, hon. Deputy Speaker. I would like to add my voice as we adjourn. When listening to hon. Members who have wished Kenyans well - and I am wishing the people of Mumias a Merry Christmas - sometimes I wonder whether hon. Members know what the people of Mumias are going through right now.

Hon. Deputy Speaker, as we adjourn, I would like to let the House know that Mumias, the former giant in sugar production, is on its knees. Electricity has been switched off for two weeks now. The security team that used to take care of Mumias is already withdrawn, and we do not have any Christmas to celebrate.

It is quite unfortunate, especially for those of us who come from the sugar sector that a report that was meant to address issues in the sugar sector has not been tabled in this House. Therefore, as we adjourn two months down the line, I know that the problems will continue affecting us.

Hon. Deputy Speaker, it is unfortunate that the people who presided over the mismanagement of Mumias are still holding very senior positions. When we come back, I would just request the House to pass laws that would make sure that those people pay for whatever wrongs they have done.

Thank you, hon. Deputy Speaker

Hon. Deputy Speaker: Hon. Moses Lessonet, the Floor is yours.

Hon. Lessonet: Thank you, hon. Deputy Speaker. I am happy that my mathematics are now adding up.

Hon. Deputy Speaker: You are finishing your two minutes.

Hon. Lessonet: I really want to thank hon. Members, first for their patience, especially with regard to issues of CDF.

I chair the National Assembly Select Committee on CDF and hon. Members have been patiently waiting for resources. The CDF Committees were able to submit their

project proposals on time. I want to confirm that over 280 constituencies have had their project proposals approved and over 200 constituencies have received their first quarter allocation. Before my time runs out, I want to confirm that today; the CDF Board has received Kshs.4 billion from Treasury for onward transmission to various constituencies. By the time it reaches Christmas, at least, all the 290 constituencies will have received 50 per cent of their allocation. I want to request hon. Members to be ready to promptly disburse bursary funds so that by January, those students joining colleges, Form One and proceeding on to Form Two, Three and Four will have received their bursary on time.

With those remarks, I thank you and want to wish everybody a Merry Christmas; of course, including the people of Eldama Ravine Constituency who elected me to this House.

Thank you, hon. Deputy Speaker

Hon. Deputy Speaker: Hon. Stephen Mule, the Floor is yours.

Hon. Mule: Thank you, hon. Deputy Speaker for giving me this opportunity. First and foremost, I want to wish all Kenyans and the people of Matungulu a Merry Christmas and a Happy New Year.

I want to thank all Members for the good work and the commitment that you have shown. Sometimes, you may find that we differ on opinions. I believe as we come back from this long recess, the *aluta continua* to make Kenya better will continue.

I wish to thank the people of Matungulu for the support that they have given me during this time and the serious number of projects we are launching from January. I would wish to invite Members during the recess time. If you get my text message, please pass by. We will be opening five new schools built through the Constituencies Development Funds (CDF). I want to urge this House that once we come back, we need to think of increasing the CDF money so that we can make sure that the projects in our constituencies are improved.

I wish to thank hon. Deputy Speaker and the entire Speaker's Panel for the good guidance of the House. I believe that this House is standing tall and it will stand tall in 2015. May God bless all of you. I wish you all Merry Christmas and a happy New Year.

Thank you very much, hon. Deputy Speaker.

Hon. Deputy Speaker: Onesmus Njuki.

Hon. Njuki: Thank you, hon. Deputy Speaker. I would like to add my voice to the Motion for Adjournment which will enable this House to go for recess.

I want to say that it has been a very good Session. Even though the temperatures rise very high, we would like to call for tolerance. Today, I watched my friend, hon. Outa, who is a very good friend of mine. He actually came to my constituency the other day when I had a petition. I felt sad when he was kicked in the ribs by one of the Members of Parliament. Although he may not want to say it, because when you are caught on the wrong side and you are hit, you may not be able to say, it was bad. If we can have tolerance, such kind of thing that was done by hon. Millie Odhiambo and repeated today by hon. Outa, would not happen. We would be a much better House. Even as we debate and we get to those very heated moments, we can still have composure and compete on ideas rather than trying to go physical and applying those monkey tactics that are applied when you are losing elections.

Hon. Deputy Speaker, having said that, I want to take this opportunity to wish all Kenyans a Merry Christmas and a happy New Year, especially you, hon. Deputy Speaker and my constituents of Chuka/Igambang'ombe. Thank you.

Hon. Deputy Speaker: Alois Lentoimaga.

Hon. Lentoimaga: Thank you, hon. Deputy Speaker for giving this time to contribute to this Motion. I want, first of all, to wish all Members of Parliament, hon. Speaker, hon. Deputy Speaker and all Kenyans, including Samburu North residents, a Merry Christmas and a happy New Year.

I want to say that we have gone through a very hard year. I pray that this coming New Year, things will change. I want to appeal to our colleagues to work together to ensure that we bring new changes.

We cannot run away from the fact that, even though we are bringing a law and some of us are saying that they cannot help anywhere, but something has to start somewhere. We need to start somewhere so that we can make a good legislation and regulation that can change the security of this country.

Somebody said that Mr. Kimaiyo was sacked but in my view, he was not sacked. He had a problem because of the poor architecture of the security in this country. He was frustrated by the fact that he was unable to continue and he felt humiliated that he can supervise an institution that he is not able to manage well and to make results come out. So, as we go along, we need to make sure that those command structures that are impeding the performance of the police are done away with so that we can address insecurity in this country.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Jude Njomo.

Hon. Njomo: Thank you, hon. Deputy Speaker. I would like to commend the Speaker's Panel and the Substantive Speaker for the good work that they have done this year. This has been a very busy year for the National Assembly.

Hon. Deputy Speaker: If you notice, hon. Ababu, it is now five to one, from the number on the other side.

Hon. Njomo: Hon. Deputy Speaker, my very able Chair is eating into my time and he could be a little bit poor in mathematics. There is something called ratio and he should use it.

Very many Bills have been passed by this House. Many hours have been spent on the Floor of this House, in Committee Rooms and seminars in trying to make laws that will govern and lead this country to greater prosperity. I must congratulate and commend the Members. This is a House of order, which is supposed to have dignity. What we saw on the Floor of this House is very sad, where the instruments of the House are not respected. This country went into war in 2008 because leaders did not show dignity and respect for the law. We should not go in that direction again.

Because of lack of time, I would like on behalf of myself, my family and the people of Kiambu Constituency, to wish all Kenyans a Merry Christmas and a happy New Year. I wish them safe stay without any accidents and insecurity incidents.

Hon. Chea: Thank you, hon. Deputy Speaker for giving me this opportunity. I must begin by thanking the substantive Speaker, you, hon. Deputy Speaker and the

Speaker's Panel for the guidance and direction that you have given to this House. It has been a wonderful Session.

As we now take a break and proceed for recess, this is another opportunity where, as leaders, we must unite this country. Even after the 2013 elections, it is still apparent that we are a divided nation. As we proceed for this recess, this is another opportunity for us to tell our people the need for us to unite. One such opportunity is even tomorrow, when this nation celebrates the Jamhuri Day. This is an opportunity for us, as leaders, to preach peace and bring our people together. This recess provides an opportunity for me, just like the other Members, to basically go to the ground and look at the various projects that we have initiated. I will use this opportunity to officiate some of the projects that I have initiated and are ready for use.

This will also be an opportunity for us to address the security situation. Coast Province has been one of the areas where insecurity has prevailed. As leaders, we have a duty to talk to the various groups that have been rebellious, so that they can understand the need to have a peaceful nation.

Hon. M'uthari: Thank you, hon. Deputy Speaker. I want to take this opportunity to thank you, the Speaker and the Speaker's Panel for the good work in moderating this House. I want to take this opportunity to wish all the Members a Merry Christmas and a happy New Year. For the people of Igembe North, I appreciate them for giving me the opportunity to serve them. I wish them a Merry Christmas and a happy New Year.

As we go for the recess and the Christmas break, it will not only be a festive period, but we can take it for reflection, so that when we come back, we can think of how to take Kenya forward beyond our individual interests. It should be for the good of the country.

Issues of security are issues of concern, as we have discussed them here. It is a major challenge. Transport for *Miraa* for the people of Igembe North has been hampered. It is restricted to specific time of transport and that is hindering and affecting our livelihood.

Hon. Deputy Speaker, on the issue of insecurity, yesterday, we were somewhere and my colleague's friend lost his vehicle. It was stolen by robbers. So, we need to tighten security so that we can move on. But the sad thing is that we have our parliamentary staff who are working with us in the constituencies. We have raised these issues again and again. All the monies are available for other things, including the money for us, but our staff members have not been paid and this is very sad. I think the leadership of Parliament, the Parliamentary Service Commission (PSC) is wrong to undermine the lowly. They are not paid a lot yet their money is not available to be reimbursed so that they too can also enjoy their Christmas. I think this word should reach the people it is supposed to reach. We cannot be told that the Treasury has not released the money and so our staff members have no money.

Hon. Deputy Speaker: Your time is up.

Hon. Outa: Thank you, hon. Deputy Speaker. First, I want to take this opportunity to thank the people of Nyando and Kisumu County, especially the people of Nyando, for trusting in my leadership for the second time.

Today is a dark time in the history of Kenya. I want to say categorically that the security or insecurity in this country is a matter of national importance and we do not

want to play politics with the matter of security. What happened here today is because the Jubilee Coalition purports to have the tyranny of numbers. They can just push a Bill in this House that will take us back to the dark ages. Some of the people we know suffered during that time and under this new Constitution, and we cannot allow, especially me, those dark ages to come back. It is my plea that the Jubilee Government should think positively and look keenly and soberly so that we can come to a consensus and make some amendments on the Security Bill. I want to say categorically that people have spoken about me; I do not know what they are saying. I was just taking water and people must be trained not to be pushing others around. Those who are talking to me as if something happened; it is very unfortunate for them. But this is a House of discipline and order.

Hon. Deputy Speaker: Your time is up.

Hon. Kariuki Ndegwa: Thank you, hon. Deputy Speaker, for giving me this opportunity to contribute as we are adjourning the House. It has been a pleasure for us to be here to do our mandate; to make sure that the country is well governed. I would like, on behalf of my family and my constituents, to wish Kenyans a Merry Christmas and a happy New Year. All the same, I would like to, once again, give my condolences to people who lost their beloved ones and who they expected to be with at this particular time, including people from my area. I lost about a 100 people. It is very painful when I see some people in this House playing around with rules and regulations which will stop the unnecessary killings.

After our long recess, I hope we will come in one piece and work for Kenyans irrespective of our political party affiliation. It is our responsibility to see Kenyans who elected us, irrespective of their parties, develop. We are here to serve Kenyans. I belong to the Kenya National Congress (KNC) Party and so, I am neither in Jubilee nor CORD. I am a Member of Parliament in this House. I would like to join hands with all others to make sure our citizens are well protected by rules of this House.

I wish you and the entire Speaker's Panel---

Hon. Chumel : Ahsante Naibu Spika kwa kunipa nafasi ili nichangie pia hali ilivyo leo. Kwanza, nataka kushukuru na kupongeza watu wa Kapenguria na West Pokot kwa jumla. Nawatakia kila la heri Wakenya na Wabunge wakati wanarudi nyumbani. Nataka niseme kwa ufupi kwamba watu wamelalamika na kulia sana juu ya suala la usalama. Leo tumejadili kuhusu jinsi ya kurekebisha sheria na kutengeza hali ambayo itasaidia kudumishwa kwa mambo ya usalama. Lakini nataka kuwaeleza Wabunge wenzangu kwamba hata tukitengeneza karatasi nzuri namna gani, hakuna kitu ambacho kitafanyika. Lazima tuanze kusafisha nyumba ya wale ambao wanasimamia mambo ya usalama. Bwana Kimaiyo na Bwana ole Lenku wameumia kwa sababu wanatoka jamii ndogo. Wale wanaotoka katika jamii kubwa--- Mimi niko katika kamati ya usalama. Wakati mwingi hawa maafisa wakija katika mikutano yetu, huwa pana shida. Hii ni kwa sababu mkuu wa polisi anaweza kusema jambo lakini wale wenzake wawili wanakanyagia hilo jambo. Sharti tuanze kutengeneza mambo. Kwa sababu ya ukabila ambao umejaa katika Kenya hii, hakuna mahali tutafika. Wakati tutaanza kujadili vizuri suala hili kama nyumba nzima, lazima tuangalie vitu kama hivyo kuhakikisha kwamba hatufanyi mambo ambayo hayasaidii.

Hon. Deputy Speaker: Your time is up.

Hon. Dido: Thank you, very much hon. Deputy Speaker. From the outset, I want to thank you and the hon. Speaker for providing leadership to this House. This House must continue to offer leadership more than the Executive and the Judiciary because all our constituents and all Kenyans look up to this House for efficient and effective running of the Republic of Kenya.

There are important Bills which have come to the Floor of the House. They are important because they make sense to every Kenyan - the small, the big, the rich and the poor. We must look at those Bills with a tooth-comb. But more importantly, across the divide, we must come together and be non-partisan when we are addressing the issues of the Republic of Kenya. Every Kenyan has a responsibility wherever they are sitting, walking or in their day to day chores. This House also has a greater responsibility in assisting the leadership to provide what they have been elected to do. When we talk of terrorism, I think Islam is not terrorism and terrorism is not Islam. That is one thing that must come out very clearly.

Kenya is a unitary State and that is what we must preach. As we go to---

The Deputy speaker: Thank you, your time is up.

Hon. Ababu: Thank you, hon. Deputy Speaker. This has been a very momentous Session that we are bringing to a close. A lot of momentous things have happened during this Session. I want to use this opportunity to congratulate His Excellency the President for getting the shackles of ICC off his mind. I also wish the Deputy President well as he continues to face this challenge. But I also want to challenge this House that when we return, may we consider how we can deal with the issue of delivering justice to the victims of the post-election pogroms; whether it is through a local tribunal or any other process that can be initiated by this House.

I am also happy that during this Session that is closing, the Public Accounts Committee (PAC) was able to clear a backlog of accounts going back over three years and I am challenging the Auditor-General, now that PAC is waiting for him to deliver the accounts of Financial Year 2013/2014. I am sad even as we close that we have ended on a very sad note. There is a reason why today I came to this House Chamber dressed as a man going to a funeral or a requiem mass. I am mourning the Constitution. The action we took today to pass the security law truly is an affront to the Constitution and unless we make considerable drastic changes to that law, we will certainly have started the journey of emasculating and destroying our new proud constitutional order. I wish the leadership of the House well and my hon. colleagues and all my constituents of Budalangi the best wishes this festive season.

Thank you.

Hon. J.K. Chege: Thank you, hon. Deputy Speaker. Let me take this opportunity to wish you and your family and all the Members of this honourable House, a Merry Christmas and a happy New Year.

This has been a fruitful year. We had to make major decisions particularly, in investment. We had the most expensive project, namely, the Standard Gauge Railway project, approved by this House. We also had to raise the debt level, so that this country can have hope in addressing some of the pressing issues that face our country.

For the people of Limuru and this nation, at least, we have heard that this country is going to address matters of terrorism. In every hotel and building that we have to enter

in this country, we have to undergo security checks. We have to refuse to give in to terrorism. I believe that from now on, we will send a signal to every person out there who wants to terrorise this nation to know that this country will not give in.

As we approach the festivities of Christmas, it is my plea to Kenyans that they should not be intimidated and should travel to every part of this nation, including Mombasa, where people normally go for Christmas and Lamu and other places. By not going to those places, we will be playing into the hands of those people who would want to curtail the movement of our people. As we travel, it is my plea that people should travel safely.

Hon. Deputy Speaker: Thank you. Hon. George Muchai.

Hon. Muchai: Thank you, hon. Deputy Speaker for giving me this opportunity to make some comments on this Motion for Adjournment. First, I want to congratulate the substantive Speaker and the entire Speaker's Panel for the manner in which he has steered the affairs of this House. I also want to congratulate this House for delivering on its mandate in making laws; while noting that very few of them did not meet the express Presidential assent.

I also want to express my dissatisfaction with the conduct exhibited by hon. Outa. He has walked out and I wish he could have remained here. He has said that he was going to reach for a bottle of water whereas he pushed me aside in order to reach for the Mace and grab it. Nothing could be as shameful as what he has done in this House. It is lowering his dignity to the lowest ebb.

On the issue of security, I want each Member of this House to ask himself whether our security laws are complete. Once you find an answer to that question, then you will see the merit of what has been done by the Legal Department in critically examining our laws.

Let me end by congratulating the people of Kabete Constituency and Kenyans in general, as we head towards the Christmas celebrations. I wish them enjoyable Christmas holidays and a happy New Year. I thank them once again for giving me an opportunity to come and serve them in this august House.

Hon. Deputy Speaker: Hon. Moitalel ole Kenta.

Hon. ole Kenta: Thank you, hon. Deputy Speaker. I first want to thank you for staying late to listen to us. I also thank you for the good work that you have done, together with your colleagues. I would also like to commend my colleagues on this side of the House for the good work they have done over the year, especially in passing very important laws that will assist this country.

Hon. Deputy Speaker, I want to comment on the issue of security. I would like to call upon all Kenyans to know all the time that this is their country and they must make sure that we are safe and that they follow the laws. We should defend ourselves from internal and external aggression because if we do not do that, then we will have no future and no country. We have seen countries going to the dogs. We must use all the resources available to ensure that our country does not go that way.

I would like to send a message of condolence to the families who have lost their loved ones. The worst part is that we are losing innocent people who are not combatants. I believe it is our duty to look at these laws. Even though they might actually offend the

Constitution, we must sieve through them and ensure that what we pass is constitutional, but must also be firm, especially when it comes to terrorism.

Thank you, hon. Deputy Speaker.

Hon. Deputy Speaker: Hon. Bunyasi, you have the Floor.

Hon. Bunyasi: Thank you, hon. Deputy Speaker. First, I rise to express thanks to hon. Speaker, the Deputy Speaker and Members of the Speaker's Panel. I also thank the people of Nambale and wish to express their hopes and aspirations.

They just launched a strategic plan the other day. We are critically depending on funding from the Constituencies Development Fund (CDF). I hope the promise that I will get 50 per cent by Christmas will bear fruit. Thereafter, it should be predictable so that we can carefully plan how to spend our funds.

Secondly, Kenya is at war whether we like it or not. We have troops in Somalia. We have *Al Shabaab* and cattle rustling which is now commercial rustling all over the place. Kenya is at war. Clearly, we need to tighten our belts from the point of view of the law and also from the point of view of accountability.

As we tighten the laws, indeed, we must also seek to increase accountability. Of course, it is going to be a challenge to tighten the laws and in the process lose some civil liberties. I would be happier if I see some clauses that are very tight but are time bound. They would expire after some time or after certain conditions are met. However, we must do something about that because everybody knows that security has been a major challenge.

I wish everybody a Merry Christmas. Thank you.

Hon. Deputy Speaker: Hon. (Ms.) Kipchoim, the Floor is yours.

Hon. (Ms.) Kipchoim: Thank you, hon. Deputy Speaker. I also rise to say that as we go for recess, I thank my people of Baringo South for standing with me during the most difficult time after their livestock was stolen because of cattle rustling. We are expressing the support and we want to give our electorate the best law that can protect them and their properties.

I want to assure Kenyans that we are here because of them. As we are here, we are ready to protect them with their property. That is why we were fighting to see that we pass this law today.

Hon. Deputy Speaker, I thank your office together with the Speaker's Panel for the good leadership you have shown throughout the Session. I wish all Members of Parliament and staff of Parliament a Merry Christmas and a happy and prosperous 2015.

I wish the people of Baringo South and Baringo County all the best and God's blessings as they prepare to usher in the New Year.

Thank you, hon. Deputy Speaker.

ADJOURNMENT

Hon. Deputy Speaker: Thank you hon. Members, as there is no other hon. Member who wishes to contribute, this House stands adjourned until Tuesday, 10th February, 2015 at 2.30 p.m.

The House rose at 8.05 p.m.