

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 25th September, 2014

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

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

PRAYERS

STATEMENTS

The Speaker (Hon. Ethuro): Hon. Senators, there are two statements that are due. We can start with the one by the Chairperson of the Committee on Finance, Commerce and Economic Affairs as directed yesterday.

I see the Deputy Majority Leader is in the House. The Vice Chairperson of the Committee on Finance, Commerce and Economic Affairs is also in the House.

Sen. Keter: Mr. Speaker, Sir, I managed to trace the Chairperson and he said that he would pass over the statement to the Vice Chairperson. Apparently, I have just walked in and the Vice Chairperson is seated right near me. Maybe I could start with the other statement as he prepares himself and also owing to the fact that Sen. Kembi-Gitura is also not in the House.

The Speaker (Hon. Ethuro): Sen. Keter, you can proceed.

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 30TH SEPTEMBER, 2014

Sen. Keter: Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45, I wish to give a statement on behalf of the Senate Majority Leader on the business of the Senate for the week commencing 30th September, 2014.

Hon. Senators, the Rules and Business Committee will meet on Tuesday, 30th September, 2014, at 12 noon to schedule business of the Senate for the week.

Subject to further directions by the Rules and Business Committee, the Senate will continue with the business that will not be concluded in today's Order Paper, focusing on debate on Bills at the Second Reading.

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On Wednesday, 1st October, 2014, the Senate will continue with the business not concluded during Tuesday's sitting and consider any other business scheduled by the Rules and Business Committee. The Senate will also deliberate on the following Motions:-

(1) Motion by Sen. Sammy Leshore on Establishment of National AIDS Control Council County Offices.

(2) Motion by Sen. (Dr.) Boni Khalwale on actions to be taken against those perpetrating acts of genocide in South Sudan.

(3) Resume debate interrupted on the Motion by Sen. Karaba asking the National and county governments to take measures to mainstream education and training for learners with special needs and disabilities.

On Thursday, 2nd October, 2014, the Senate will continue with the business not concluded on Tuesday and Wednesday, in particular, deliberating on Bills at the Second Reading and Committee stage and any other business scheduled by the Rules and Business Committee.

In this regard, I appeal to Senators who intend to propose amendments to the Public Procurement and Disposal (Amendment) Bill, National Assembly Bill No.31 of 2013 and the Public Finance Management (Amendment) Bill, Senate Bill No.10 of 2014 to forward them to the office of the Clerk as soon as possible for incorporation into the Order Paper.

Mr. Speaker, Sir, I hereby lay the statement on the Table.

(Sen. Keter laid the document on the Table)

The Speaker (Hon. Ethuro): Let us move to the next Statement since I see no interest in the statement by the Deputy Majority Leader.

The Vice Chairperson, Committee on Finance, Commerce and Economic Affairs, you may now proceed.

ESCALATING BANK INTEREST RATES

Sen. Mositet: Mr. Speaker, Sir, regarding the issue of the statement on bank interest rates, we had responded to the statement on 14th July, 2014. After that, there were a lot of interventions on the statement. The person who had asked the statement--- The answer we got was not satisfactory even to the Committee. Up to now, the Committee is still trying to do its best to get in touch with the National Treasury so that we can conclude the issue and bring the answer to the Floor of this House.

Mr. Speaker, Sir, we request for more time.

The Speaker (Hon. Ethuro): Sen. Kembi-Gitura.

Sen. Kembi-Gitura: Mr. Speaker, Sir, Sen. Mositet mentioned to me that he is not satisfied with the further answer. You will recall that this statement was delivered

some time ago. The response was not even satisfactory to the Committee, so they asked for further information which they have. I also have a copy. Now that the Vice Chairperson says that the Committee is not satisfied with it, I will be quite happy if they can interrogate the Cabinet Secretary further so that we can get a proper answer. This is so important so that we understand this issue fully. I do not know when he hopes to give the answer.

Sen. Mositet: Mr. Chairman, Sir---

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

Sen. Mositet: Sorry for that, Mr. Speaker, Sir.

I would like to request Sen. Kembi-Gitura to give us about two weeks. I believe within that period, we will have spoken to the National Treasury. If possible, we will sit with them and get the correct response.

Sen. Kembi-Gitura: Mr. Speaker, Sir, in fairness, it will be good to indulge the Committee so that they can get a full answer. One of the reasons I had raised this issue of escalating rates of interests is because you have heard Sen. Obure, Sen. (Prof.) Lesan, Sen. Okong'o and myself asking about the drop in the payment of tea. If you think about the increasing rates of interest and the falling payments from tea and these people are deducted money from the source, you find that a lot of Kenyans will go bankrupt this season because of the non-payment of the bonuses they were expecting, banks will deduct their money from source and children will not go to school. The issue of rising interest rates is a matter of national importance. Coupled with other economic factors in our country, you find that the impact is so big. We do not know when this will end.

The reason I indulge my colleague is so that they should be given the opportunity to get to the bottom of the matter, understand the escalating interest rates and the impact they have on the economy particularly in the counties.

The Speaker (Hon. Ethuro): Let us have the statement in two weeks time, taking all that into account.

(Statement Deferred)

Next Order!

BILLS

First Readings

THE PUBLIC FUND RAISING APPEALS BILL,
SENATE BILL NO.28 OF 2014

THE NATIONAL POLICE SERVICE (AMENDMENT) BILL,

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SENATE BILL NO.29 OF 2014

THE NATIONAL GOVERNMENT CO-ORDINATION
(AMENDMENT) BILL, SENATE BILL NO.30 OF 2014

THE UNIVERSITIES (AMENDMENT) CO-ORDINATION
(AMENDMENT) BILL, SENATE BILL NO.31 OF 2014

THE COUNTY EARLY CHILDHOOD EDUCATION BILL,
SENATE BILL NO.32 OF 2014

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

MOTION**ESTABLISHMENT OF CAPACITY BUILDING PROGRAMME
FOR TEENAGE PARENTS**

Sen. Ongoro: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, aware that the number of the teenage and pre-teen parents is increasing by the day; noting with concern that majority in this category are girls from poor households and that this problem compounds the vicious cycle of poverty in Kenya; recognizing the socio-economic challenges facing this special category of parents including lack of income and entrepreneurial capacity, inadequate parenting skills, low educational levels and lack of health care; appreciating that Article 45 (1) of the Constitution of Kenya recognizes the family as a fundamental unit of society that enjoys protection of the State; cognizant of the fact that the Government has a duty to cater for the youth and children of Kenya; the Senate urges the National Government and the county governments to:-

(a) put in place mechanisms that will help establish a comprehensive capacity building programme for teenage parents to ensure they practice responsible family life;

(b) come up with non-discriminatory back to school or training programmes and initiate necessary legal and policy framework that will identify persons within this group to benefit from the programmes; and

(c) guarantee funding and sustainability of the initiative and other child welfare programmes aimed at benefiting teenage parents.

Mr. Speaker, Sir, I rise to present this very relevant Motion to this House today. I believe that we have all had occasion to witness or engage with pre-teen and teenage parents. In my own words, I call them babies. You go to a function and see a baby carrying another baby only to be told that the person you were thinking was a baby carrying another baby is actually the mother of that baby. This issue of babies with babies must be stopped. We must put in place policies that protect our babies and children from becoming parents at the ages of 11, 12 or 13. What do you call a 12 year old girl who has already had a baby? Is it not a baby with another baby?

Mr. Speaker, Sir, let me share with you experiences that have really disturbed my conscience. I recently called for a youth meeting in Nairobi. According to the Constitution, the youth are those below the age of 35. In that room, a very interesting scenario unfolded. I ended up with four generations of women all of them falling below 35 years of age. The story behind this was very shocking. When I interrogated the youngest mother in that room who was herself only 12 years old, holding a three month old baby, I came to realise that her mother, the grandmother of that child was also in this youth meeting. The mother was 24 years old. Shockingly, the great grandmother of this child, who was herself three months to celebrating her 35th birthday was also in this room. I took my time to talk to these three generations of women languishing in poverty. The story was that the great, great grandmother, herself just about 35 came to Nairobi at the age of 11 when she had just completed her primary education to look for school fees. Since she could not locate her auntie, she ended up in an uncomfortable scenario that led to a pregnancy. She gave birth at the age of 12 and ended up in one of the slums of Nairobi. That baby girl that she gave birth to, by the time she was eleven-and-a-half years, because of the same vicious cycle of poverty, fell pregnant and had her child at just around 12 years. That child also fell pregnant at 11 years. So, we had four generations, the great grandmother at 35 years, the grandmother was 24 years, the mother was 12 years and the baby girl was three months.

It is not enough for us, as a society and as Government to state that we have back-to-school policies. I applaud the Government for that. We have very good policies that afford anybody the opportunity to go back to school. I also want to applaud the Government for our very good policy of free primary education, but let us face the reality. There are certain scenarios that cannot allow somebody to go back to school even if you offer them free education and accommodation. These young mothers will not go back to school if you will not put in place policies that will also take care of the children that they have already borne. Once a mother, always a mother; so, by the time a baby of 12 years gives birth, her motherly instincts will not allow her to take advantage of the opportunity to go back to school and drop her child in the streets.

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

[The Deputy Speaker (Sen. Kembi-Gitura) took the Chair]

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Mr. Deputy Speaker, Sir, I want to plead with this House to help me in supporting this Motion, so that we prevail upon the national and county governments to come up with comprehensive and holistic policies that address this issue in a holistic manner. We must have policies that afford these babies – and I call them babies – the opportunity to go back to school while we also take care of the babies that they have already given birth to if we want to stop and to break this vicious cycle of poverty. When you have women who are completely incapacitated; without skills or employment but who have to take care of their babies; what do you expect them to do? That was one example that really pricked my conscience.

Mr. Deputy Speaker, Sir, another example is when I went for my December holiday in my home county of Kilifi, and I wanted to engage in some activity. So I called for a meeting. In my mind, I wanted to engage with women of my age so we could form a Savings and Credit Co-operative Society (SACCO). To my surprise, when I stepped out of my house, there were all these young girls with babies strapped to their backs in my compound, holding two or three other babies and all of them were in their teenage years.

Sen. Leshore: Problems!

Sen. Ongoro: This was my first experience with the young mothers of Kilifi County. The story again was the same; dropping out of school, having no other opportunity or engagement, being married off at an early age, ending up with six children at age 19 with no employment, with nothing and, so, the vicious cycle continues.

Mr. Deputy Speaker, Sir, as if that was not enough, in just about the same month, there was a funeral I attended in my other home county of Siaya. After that, I felt that we should initiate a programme for widows to support themselves. Again, the same scenario unfolded. I ended up with teenage widows. They were already married off, the husband has already died. She is 16, 17, or 19 with two, three or four children. So with all these examples from Siaya, Nairobi and Kilifi counties, to me, that is representative of what is happening in all other counties in this nation.

Mr. Deputy Speaker, Sir, this social ill of having in our midst babies with babies, is so prevalent, complex and it has far-reaching socio-economic implications that require a comprehensive and integrated approach; a realistic approach in terms of programmes and policies if, as a nation, we are to effectively deal with it. If we are to break this vicious cycle of poverty; if we are to put in place policies that are realistic and can be taken advantage of, we must give these girls – and I even feel sorry calling them girls – we must give these babies or these children an opportunity to go back to school while we also have policies and programmes that take care of the other younger babies that they have.

Mr. Deputy Speaker, Sir, may I take this opportunity to remind all of us of our very good Chapter 4 of the Bill of Rights of the Constitution of Kenya, Article 53. I want to take this opportunity to read it. It states:-

“(1) Every child has the right –

(a) to a name and nationality from birth;
(b) to free and compulsory basic education;
(c) to basic nutrition, shelter and health care;
(d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;”

Mr. Deputy Speaker, Sir, This Motion talks directly to our conscience. We have to take care of our children. As a nation, we do not have to wait until somebody takes us to court because every child has rights. All these mothers within this age group still qualify to be referred to as children and as babies. It is our responsibility to create a scenario that is conducive for their going back to school.

Mr. Deputy Speaker, Sir, looking at the global situation, the UN report states that three out of 10 teenage girls will have fallen pregnant by the age of 18. Can you imagine that? We are told in that same report that worldwide, 7.3 percent births are by girls aged between 15 and 19 years. Shockingly about 2 billion of those births are by girls below 15 years old. Another shock is that 90 percent of all these births were by girls who are already married off at an early age; half of them, again, because of having fallen pregnant. Another shock is that 95 percent of these cases are found in Africa, Asia and the Middle East.

Mr. Deputy Speaker, Sir, I would even rest my case at that because this, really, is a situation that I believe every parent and adult Kenyan can identify with. You either have a relative, a neighbour, a friend or you have met them on the streets – these babies with babies. We have to do something about it. In our own Kenyan situation, it is outrageous that in this modern world, Kenya still has one of the highest prevalence of pre-teen and teenage pregnancies in the world. According to the 2013 Kenya Population Situation Analysis Report, which I stumbled upon when I was researching on this, it is estimated that nearly 10,000 pre-teen and teenage girls die from complications of pregnancy and child birth. Can you imagine; 10,000 girls per year? That is something that is worse than Ebola, malaria and everything put together. We are losing 10,000 silent voices. These are statistics amongst statistics; we have to do something about them.

Mr. Deputy Speaker, Sir, I also came across another publication by one Prof. Ben Jarabi, who is a renowned population studies and researcher from the University of Nairobi. He has a report titled “Motherhood in Childhood: Facing the Challenges of Adolescent Pregnancies of 2013.” In this report, Prof. Jarabi estimates that if the more than 200,000 pre-teen and teenage girls who become pregnant and mothers were to be gainfully employed, Kenya would save a whopping US\$3.4 billion annually. Now, instead of saving or creating this wealth, we use that same amount in healthcare and related issues.

Mr. Deputy Speaker, Sir, talking about this is very difficult, because in my mind, I have a picture of people I can call by name. They are former schoolmates and very brilliant girls that we were with in primary and secondary schools, who fell pregnant and

did not have the opportunity to go back to school. When I go back home and look at the kind of lifestyles they are leading, knowing very well that these were some of the best brains in my class, it brings tears to my eyes. For some strange reason, it happens that most girls who fall pregnant early are always the most brilliant in class. I really do not know how that happens. Those who really get top marks somehow are always the victims by the age of 14. When you ask about your childhood friend, you are told that she fell pregnant and is now somebody's wife somewhere. It is a very sad scenario. We must find a way of breaking this vicious circle.

Mr. Deputy Speaker, Sir, even as you give contributions to this Motion, I want you to just remember and create in your mind's eye that mental picture of four generations of women, languishing in poverty, all under the age of 35, because of one incident which might not have been their own making. It might have been a consequence of the unfriendly environment that they found themselves in. This is because when I interrogated that particular example that I have just shared with you, the lady told me: "What am I supposed to do, *mheshimiwa*? I ended up with my teenage girls in the slums and my neighbours are all bachelors – five or ten in a room. The only separation between my girls and I and these bachelors is a cardboard, and I have to live in this environment everyday, because I have to fend for them". In that kind of scenario, no girl celebrates her 13th birthday before having a baby, and it is not of their own making.

Mr. Deputy Speaker, Sir, I want to rest my case, because I want the hon. Senators to support this Motion.

Mr. Deputy Speaker, Sir, I beg to move.

*(Sen. (Prof.) Kindiki and Sen. Elachi
stood up in their places)*

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator. Who is seconding the Motion?

Sen. Ongoro: Mr. Deputy Speaker, Sir, this Motion will be seconded by the Senate Majority Leader. You can see the interest. Both the Senate Majority Leader, Prof. Kindiki and the Senate Majority Whip were on their feet.

The Deputy Speaker (Sen. Kembi-Gitura): You must decide who is seconding your Motion.

Sen. Ongoro: Mr. Deputy Speaker, Sir, I am excited. The Senate Majority Leader, Prof. Kithure Kindiki, will second this Motion.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I rise to second this Motion.

Mr. Deputy Speaker, Sir, from the outset, I want to thank Sen. Ongoro for bringing this Motion that addresses a very important issue that is affecting our children and the future of our country. The only sure way of ensuring that Kenya remains a society that is thriving and full of ideas, innovative and progressive is to make sure that

our children are safeguarded from harmful practices that can cut short their dreams and curtail their capacity to contribute to the national development, as educated and competitive adults.

Mr. Deputy Speaker, Sir, one of the challenges which this Motion addresses directly that is affecting our children is teenage pregnancies. Sometimes, these pregnancies affect even children who are not yet teenagers. It is that bad. I read somewhere in the newspapers a case of some girl somewhere of 11 years or thereabouts, getting pregnant. There is nothing as devastating as a pregnancy that has come too early. It has physical and biological effects. It disrupts a child's emotional growth. For a very long time in our country, these pregnancies have shattered the educational aspirations of our children.

Mr. Deputy Speaker, Sir, as this Motion suggests, the majority of our children that are affected by this problem of early parenthood are girls. Not only are they girls, but they are girls from poor backgrounds. The reasons girls from poor backgrounds are more vulnerable than boys generally and girls from well-off families are mainly around poverty and lack of awareness, exposure and the naivety, which complicates and surrounds our children, especially in the not so well-to-do social setups, whether urban areas or even in the rural areas.

Mr. Deputy Speaker, Sir, for a long time, there has been a conspiracy of silence. That is why I think a Motion like this one opens the doors for a more robust discussion. We cannot underestimate what the law can do to protect citizens and our children. Maybe, the time has come for us to ask ourselves whether, for example, the Children's Act adequately protects our children from some of these socio-economic effects of early pregnancies. Maybe we need to sponsor or introduce some amendments to the Children Act to address the very specific issues that are being raised in this Motion.

Mr. Deputy Speaker, Sir, we have our Constitution – and I know that the Mover of the Motion referred to Article 45 on the rights of children – but I think that the legislative framework around the Children Act and the Education Act, especially the Basic Education Act of 2012, can help us realize the rights that are secured under Article 45 of the Constitution.

Mr. Deputy Speaker, Sir, I will not overemphasize the effects of early pregnancy and parenthood. The effects are far-reaching and social, economic, biological in nature. Therefore, perhaps, other than just looking at the education of these children, we should actually look at this issue holistically and include the other aspects which are affected by early pregnancy and parenthood.

Mr. Deputy Speaker, Sir, this Motion urges very specific things. One is the need to ensure that there are back-to-school programmes. There is need for the Government to partner with other agents of development, especially social and community development, to ensure that we have nationwide back-to-school programmes that are well funded, crafted and anchored within the education policy and other sectoral policies that we have as a country.

Mr. Deputy Speaker, Sir, this Motion also speaks to the need for funding of child welfare programmes, so that our children who are affected by this challenge or problem are assisted. The Motion also speaks to the need to exercise this responsibility that has come a bit too early. We can exercise this responsibility within the constraints that are posed by their age and other factors as I have said before, including poverty and deprivation which sometimes is a connecting factor to early pregnancy and early parenthood.

This Motion also speaks to the need for capacity building programmes for teenage parents. This is a very specific intervention. Therefore, I want to say that as a leader, a father of girls and a relative to parents who have girls, I think this Motion is timely and requires – if adopted – further action. I want to encourage my sister, Sen. Ongoro, to actually think through this and come up with further legislative, administrative and other measures that can be put in place to make sure the noble objectives of this Motion are realized.

Mr. Deputy Speaker, Sir, finally, I want to say that we have passed many Motions in this House, and I think time has come for this House to be updated. I will be happy to know how many of our Motions have required the national Government or other players to do certain things to support the subject matter of those Motions. How many of those Motions have been implemented? The law is very clear that the Senate as a House of Parliament cannot be speaking in vain. Anything that is resolved in this House by way of Motion or by way of passage of a Bill has legal effect and therefore, we hope the Committee on Implementation should be able to tell us where we are. We have passed a number of very good Motions, and I hope this one more Motion will go a long way in putting together the good record of the Senate in the area of Motions and in the area of Bills which we now are happy to note we have had a bit of traffic during this session.

Without much ado, I beg to second.

(Question proposed)

Sen. Elachi: Mr. Deputy Speaker, Sir, I also rise to thank Sen. Ongoro and also support this Motion knowing very well that for some years now, we have had challenges in terms of dealing with teenage pregnancies. Today, I want to bring to this House the issue of Chepkurkur Primary School in Mt. Elgon where last year, we saw 18 young girls get pregnant. These young girls were between the ages of 13 and 11 years. When you look at the research that was done, it is so shocking that today, we have different conceptions on how young people look at sex. The young people, especially in the rural areas have no one to turn to in order to get that awareness and education on how to manage themselves.

When you read a paper on a research that was done by the Centre of the Study of Adolescents, it is a study that concerns us, one as parents and even as leaders of this country. We still have a misconception that today when you mix Coca Cola with some

other concoctions and drink it, you cannot get pregnant. This is besides so many other conceptions. It is very sad when you listen to them. Some of those young girls had not received their first menstrual period and therefore they do not understand what pregnancy is. So, this Motion is seeking to find a way forward and bring in mechanisms to deal with culture. I know that within our cultures, there is also fear that when you are raped and you become pregnant, you are not supposed to humiliate your family by taking the case to court for a man who has refused to take responsibility. Parents also choose to keep quite.

Mr. Deputy Speaker, Sir, today, many parents fear to engage with their young ones in terms of giving them the knowledge on how a girl can manage herself during the rites of passage to another level. Most of the time, the young men are the ones who undergo rites of passage. After initiation, the young boys are told that they can now roam all over to prove that they are men. This is when they find themselves in all this mess. Nobody trains them to know that they can make young women pregnant and, therefore, leading to two babies having a baby. Today, in our country, we have 15 year old girls who are pregnant. We also have 25 to 29 year old mothers who are pregnant and 30 to 40 years old grandmothers who are also pregnant. This is an issue that must worry us. It is very unfortunate that most families which go through that life are always poor.

At the moment, the Government is making interventions with regard to reproductive health and other health issues. Parliament is also playing its part and there are a lot of funds circulating. We now need to manage those funds properly. When we talk about youth and women funds, we should consider priority areas. This is money not just to purchase sanitary pads but to also deal with other serious issues, for example, controlling early pregnancies and taking the young girls back to school. There was a policy which is still working in the universities that when you are pregnant, you go home, give birth and then go back to continue with studies. However, many young people fear stigmatization. Parents are also afraid to take their children back to the universities because they think they will become pregnant again.

This becomes a big challenge to the young girl who would wish to go back to school. I have met a few; in Baringo one girl has gone back to school and has completed Form Four, in Kajiado within Maasai land, there is a girl who the father literally refused to let her go to school. But now that the girl is going to Form Three, he has accepted and started to appreciate that they can give birth and still go back to school and continue with their education. We have many of these cases out there and there is nobody who is making a follow up. This is when they come to follow up the case. We have nobody following up with that case.

The other challenge we are facing is with medical institutions and especially the pharmacies we have today. I know that we have the e-pill, the Morning After pill and in Sen. Sijeny's Bill, we will deal with these matters more broadly. However, if you carry out a research and visit most pharmacists on Monday, you will find that these pills are not available because young people took them over the weekend. Unfortunately, nobody has

advised them on the side effects. They take the *Morning After* pill as they go out on Friday and another one on Saturday morning and another on Sunday morning. This is a very serious trend in our country.

I am a Catholic and we may not want to talk about reproductive health with regard to young people. I have come out and said that we must also look at the issue from the church perspective. Most parents who are affected by this scenario hide in the church. They keep quiet about it because they do not want the priests to get annoyed with them. They also do not want to be seen as if they are not doing the right thing since they belong to the Catholic Women Association (CWA). They do not want to be seen doing the wrong things. However, this is an issue that we need to address. We need to address the issue in our schools or institutions of learning with openness and see how we will deal with the Maputo Protocol. How do we deal, as Kenyans, with the African Charter Article 14? I know that when we were signing the Protocol, we made sure that Article 14 was not part of what we signed.

We have a challenge today with regard to reproductive health. These are our young people who are supposed to propel and move the country to the next level. However, most of them are facing the challenges we are discussing today. I have read many articles by researchers where young people are reported to say that they would rather become pregnant than get infected by the HIV/AIDS virus. This is a challenge at the university level.

As we speak for the young ones, this is a challenge across the board that we need to address. We need to bring back sex education to schools without fear. At times, when we talk about these issues, people wonder. Some say that we are in the digital age and probably should not talk about them. However, the young people explore and learn about these issues through their phones and laptops. When you are not at home, they switch on your laptop and once you check your history, you will be surprised at how many sites they have visited. You will be shocked because some of the children are primary school students. However, because they have listened to a certain song that makes them understand these issues, you will find them watching serious stuff that you thought they did not know.

Our Chairperson is trying to bring in an issue about reproductive health and early pregnancies. I think we need to support her. We need to look at different case studies as we discuss teenage pregnancies. We need to look into the issues we have witnessed.

I support.

Sen. Okong'o: Thank you Mr. Deputy Speaker, Sir, for giving me an opportunity to support this Motion which has been brought here by a mother, educationist and above all, a legislator.

These kinds of Motions are long overdue considering the magnitude of cases affecting the young ones in the countryside. If a policy like this is effectively enacted by both the national and the county governments, the young mothers could also live

productive lives. Some of them could also excel very well in the area of sports, especially athletics, if there was a policy to take care of their children who are a burden to them.

This Motion complies with the constitutional requirement of education to our citizens. The Constitution of Kenya 2010 gave hope, aspirations and dreams to all Kenyans. That is why I support this Motion and encourage others to support it so that that our children who have children can also be part and parcel of our society.

Three years ago, I watched a clip on television of a very visionary leader in the North Rift who had come up with a secondary school of young mothers. Subsequently, when the examination results were released, young mothers who had two or three children each scored a “B” plain. This Motion is in line with that. We need to engage the national and county governments to come up with mechanisms of caring for the young children – who are a burden - who have made the young mothers to become beggars. This has also made young mothers to engage in illicit sex so as to take care of their young children.

As you move in the streets of Nairobi, Nakuru, Kisumu and Kisii, you will get astonished by these tragedies. Parents have failed. Schools have also failed to enact systems to arrest these kinds of unfortunate scenarios. It is important that the Government intervenes so that we move towards a direction where our young ones will be part and parcel of the development of our counties.

The society, as it were in the times of our able Senator, Senator No.1, G.G. Kariuki, looked at these scenarios extensively. However, now that we have adopted capitalist ideologies, some matters have been left to individuals. During the earlier days of the 1960s and 1970s, there were systems of addressing these situations. However, now that we have moved to follow the Western culture, these are the calamities we are facing.

Recently, I visited Kisumu and met a girl who got a child at 15. She came from a very poor background and was yearning to go to school. The girl is now 19 and can be enrolled in a school to nurture some education and talent instead of selling *mandazi* and doing odd jobs to take care of the baby. It is very important that we support this Motion.

As the Senate Majority Leader put it clearly, it is important that we follow up the Motions we have passed in this House. I wish the Senate Majority Leader was around. I would have told him that he is the Government representative in this House and that he is supposed to follow up on the issues we pass so that we know whether we are making headway in achieving our mandate.

The national Government should be guided by the Basic Education Act and the Children Act. What we are asking for is not a very big favour from the national and county governments.

Mr. Deputy Speaker, Sir, I know most of my friends here want to support this Motion, therefore, with those few remarks, I thank the proponent of this Motion.

I beg to support.

COMMUNICATION FROM THE CHAIR**VISITING DELEGATIONS OF STUDENTS FROM KYUMBI
HIGH SCHOOL, TIMBILA HIGH SCHOOL AND
KISII HIGH SCHOOL**

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators. Before we proceed to the next speaker, I would like to take this opportunity to announce that in the gallery we have three schools namely: Kyumbi High School from Machakos County, Timbila High School from Taita Taveta and Kisii High School from Kisii County. I would be appreciative if you welcome them in our usual manner in the Senate. I hope that they are going to learn something from their visit to the Senate. Feel welcome.

Sen. Wako: Mr. Deputy Speaker, Sir, thank you very much for giving me this opportunity to make a few remarks on this very important Motion which has been brought by a Member of the Panel of Speaker, Sen. Ongoro. I listened to her and as far as analyzing the problem is concerned and as far as various statistics are concerned, they reflect the gravity of this problem.

I have been very much concerned with the rights of children ever since I was appointed the Attorney-General. I remember my first taskforce which I appointed was to look into all the issues relating to children and make recommendations on the laws that should be put in place. One of the legislation that we put in place was the Children Act, which in effect was ratifying the United Nations Conventions on the Rights of the Child. I also want to inform you that---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wako. I can see that Sen. G.G. Kariuki has a point of order.

Sen. G.G. Kariuki: Mr. Deputy Speaker, Sir, this thing is not working.

The Deputy Speaker (Sen. Kembi-Gitura): What thing?

Sen. G.G. Kariuki: The machine. I hope you now have my name there?

The Deputy Speaker (Sen. Kembi-Gitura): I do not have it. I saw you trying to intervene by way of point of order.

Sen. G.G. Kariuki: I was trying to intervene to get my name there.

The Deputy Speaker (Sen. Kembi-Gitura): It is not here yet.

Sen. G.G. Kariuki: What do I do now?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, you may proceed.

Sen. Wako: I hope that the two or three minutes that Senator number one has taken will not be counted against me. I want to take this opportunity to add a welcome to the students from the three high schools who are here today. I want to inform them that they have come at the right time when we are discussing a very important Motion relating to the rights of children. Children are defined as those who are under the age of 19 years. I want to believe that anybody in high school today is under 19 years old and therefore he or she is a child. Therefore, what we are discussing now is relevant to them. I hope that in

their own debates, they will continue with the discussions on how the rights of children can best be protected in this country.

Mr. Speaker, Sir, I was saying that I was involved in the drafting of the African Charter on Human and People's Rights. I remember drafting sections in that Charter which relate to the rights of children. Due to that, I was also asked to draft the African Charter on the welfare and protection of children which again is now in force. When I became the Attorney-General, my first duty was to set up a task force on the rights of children which resulted in the Children Act.

What we are discussing today is very important because under our Constitution, under the United Nations Charter for the rights of children, under the African Charter on Human and People's Rights, under the African Charter on the Rights and Welfare of Children, one fundamental issue is recognized; that the family is the fundamental unit of any society. As has been said, it is also recognized under Article 45 of our constitution that the family is the natural and fundamental unit of society and the necessary basis of social order. What that means is that if there is an attack on the family, then it will ultimately affect the social order in any society. That will ultimately lead to the downfall of that society. That is why under our Constitution, it is provided that the family as a unit must be protected by the state. I am emphasizing this because the right to "found" a family is a right under our Constitution which is confined to an adult. An adult is one who is above 18 years of age.

What I am trying to say is that a person who becomes a parent when under the age of 18 years remains a child under our laws. Therefore, that person remains under the protection of the state. The laws which relate to that protection must be implemented so long as somebody is under the age of 18 years. Some of these rights are elaborated in the Children Act. I can also pick two articles from our constitution: Article 53 provides for the right to free and compulsory basic education. Therefore, if somebody becomes a parent under the age of 18 years, that person must continue to have the basic education which will be useful to that person, to enable her play a useful role in the society. In that regard therefore, a person who becomes pregnant under the age of 18 years should not be abandoned by the state. That person compulsorily must be given that education. Therefore, policies must be put in place to ensure that education takes place.

Mr. Speaker, Sir, the other rights include the right to basic nutrition, shelter and health care. This means that if somebody is under the age of 18 years, he or she is entitled to basic nutrition, shelter and health care. What we are lacking in this country is the focus on ensuring that children enjoy their rights, whether or not they have given birth to other children. They require special care, protection and everything that goes with it. This basic education is compulsory; it is basic and, therefore, it is up to the state to provide the necessary protection under whatever regulations.

I am glad that the Mover of the Motion actually identified some of the areas which are giving rights to some of these things. But what one sees today is a whole threat to the family as a unit. Only yesterday or the day before yesterday, we were reading in

the newspapers that Kenya has the highest number of single mothers in this continent. In other words, the men of Kenya have adopted the policy of “hit and run.”

(Laughter)

So, some of these men are over 30; some of them are in their 20s; some are aged 18 while others are over 18. This is the policy of “hit and run.” When the ladies were asked, they said that the men are reluctant to enter into the institution called marriage. Men said that the ladies are now educated; they are earning, hence they have an independent source of income and, therefore, they are not also ready to enter into this thing called marriage and yet the family is a basic unit of our society. So, what we are discussing here is not something small; it is quite big. But within that, the children must get special protection.

Therefore, Mr. Deputy Speaker, Sir, like other speakers before me have stated, would we say that the Government has a duty to cater for the youth and children of Kenya? The Government does not just have a duty; it has a constitutional duty to take care of the children. Now, we do not see that focus on the part of Government policies when it comes to children. Generally, of course, poverty is being dealt with, and so on, but that duty to ensure that the child gets basic education; that constitutional responsibility to ensure that the child gets health care; that duty to ensure that the child is properly sheltered and is not a street child so that we have a whole line of street children whose grandmother is maybe in her twenties but the child and the mother are all children, and so on, and so forth---. The duty on part of the Government is to provide shelter for these particular children; not necessarily for the adults because they are supposed to take care of themselves. But for children, policies must be put in place to take care of them.

Therefore, Mr. Deputy Speaker, Sir, to the extent that this Motion highlights that duty on the part of the Government, I fully support it because it is just coming up with something that the Government is not doing. We must have proper and effective mechanisms that will help establish a comprehensive capacity building programme for teenage parents to ensure that they practice responsible family life. But even more than that, we need to provide for these teenage parents to ensure that they complete their education so that they can play a youthful role in society. In fact, if I may say so, as far as those children of children are concerned, I think the law actually permits that in appropriate circumstances – I noted what the Mover of the Motion said – that the teenage mother is a teenage mother with motherly instincts and will not want to leave the child to somebody there and go to school. She will be concerned with that---

The Deputy Speaker (Kembi-Gitura): Order, Senator! Your time is up.

Sen. Wako: Oh, my time is up?

The Deputy Speaker (Kembi-Gitura): Your time is up.

Sen. Wako: With those few remarks, Mr. Deputy Speaker, Sir, I beg to support.

The Deputy Speaker (Kembi-Gitura): Sen. Fatuma Dullo.

Sen. Adan: Thank you, Mr. Deputy Speaker, Sir. First, I would like to congratulate Sen. Elizabeth Ongoro for bringing this timely Motion. According to me, this Motion is long overdue because this is a big problem that we are facing in this country both at the urban and rural areas. First and foremost, I would like to say that there are so many children who are affected in our rural areas, and most of the time, you will find that the people who are responsible for fathering the babies from the babies are elderly people. In some instances, you will find that even parents or relatives are responsible for this kind of problems.

So, Mr. Deputy Speaker, Sir, it is really important, as my colleagues said, that we must have proper structures in place to make sure that those who are fathering those babies should be held responsible. The challenge we are facing in this country is both from the Judiciary and the police. When these matters are reported, the police do not take any action. Again, when it comes to maybe a relative or people who are known within the community, most of the time you will find that they run to courts and say that “can we settle this matter out of court” and yet the child whose rights have been violated is not represented at all in this matter. It is the community actually making a decision for her and yet she is the one whose rights have been violated. So, we must put a stop to this. I think in these instances, the buck stops with the relevant institutions that we have in this country; the police, the Judiciary, the communities and even the chiefs. I am sorry to say this; the chiefs are also partisan in this matter. So, we must crack the whip.

Secondly, Mr. Deputy Speaker, Sir, as a country, we must take up the responsibility of taking care of both children – in this instance they are both children. So, in areas, for example, where I come from, sometimes you will find that it is even hard to get children welfare centres where these children can be taken. So, I think it is important that this country comes up with a system where we establish child welfare centres for these babies and also for the children because if we do not have these centres, sometimes it is a big problem. Again, as the Mover of the Motion has said, we must be able to separate the children who are affected because of the peer pressure and again also the stigma that follows them. Sometimes you can ask a girl to go back to school and she says “I am scared of my friends.” So, for me, it is important if we build or devolve the rescue centres that we have in this country. For example, county governments have a lot of money; why can we not build rescue centres for such girls, which is really very important?

Finally, Mr. Deputy Speaker, Sir, there are complications as a result of this birth. I remember I had a similar case last year with regard to a girl who had actually been impregnated by a teacher whom she was working for as a house girl. She developed complications and at the end of it, she suffered from fistula yet nobody was there to take care of her. The wife of the teacher actually told her to go to a herbal doctor to remove the pregnancy.

So, clearly, Mr. Deputy Speaker, Sir, children in our country are being devastated because they do not have anywhere to turn to; not to the courts, not to the parents, not to

any institution or community. I think this Motion is very critical in terms of what we really need to do for these children because if a child drops out of school or if a child bears a child, I mean, that is violation of their rights in the first place.

So, finally, Mr. Deputy Speaker, Sir, we need to introduce amendments to all existing legislations, especially the Basic Education Act, the Children Act and various other legislations that are going to be affected by this particular Motion.

Finally, Mr. Speaker, Sir, I support this Motion and congratulate Sen. Ongoro.

Thank you, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you.

Sen. Boy Juma Boy.

Sen. Boy Juma Boy: Asante sana, Bw. Naibu Spika. Kwanza ningependa kumsifu Sen. Ongoro kwa kuleta Hoja hii ambayo ni muhimu. Ukiangalia kwa undani, utaona kwamba Hoja hii ina mambo muhimu sana. Ina mambo yanayohusu watoto ambao wanakuwa wazazi wakiwa na umri mdogo. Hili ni tatizo ambalo sisi kama viongozi ni lazima tulivalie njuga. Lakini kwanza, tutafute sababu.

Tukubaliane ya kwamba hivi sasa mazingira yamebadilika na sio yale ya zamani. Huu ndio ukweli wa maneno. Mfumo wa *digital na dot-com* unaleta haya. Hivi sasa kuna simu na mitandao. Wanafunzi wanafahamu kila jambo. Kuna kitu kinachoitwa *Facebook*. Pia kuna kitu kinaitwa *WhatsApp*. Haya ndio mambo ambayo yanaleta madhara haya. Maendeleo huja na madhara yake. Hapa kuna mambo mawili; kuna watoto wa shule kwa watoto wa shule. Hili ni jambo ambalo ni lazima tulikemee kabla ya kutafuta suluhisho. Pili, kuna watoto wa shule ambao wanapata uja uzito na akina baba, ilhali wanajua vizuri kwamba wale ni watoto wa shule. Kazi ya akina baba hawa ni kufuata watoto wa shule na kuwadanganya hapa na pale. Hii ni hatari. Siku hizi watoto wa miaka 12 wamenona na kujaza kila mahali. Utafikiri kwamba ni mtu wa miaka 20 kumbe ni mtoto. Hii ni kwa sababu ya kula vizuri. Ni lazima tuhakikishe kwamba akina baba kama wale hawaruhusiwi hata kidogo kucheza na watoto wa shule.

Bw. Naibu Spika, pia tunafaa kukubaliana kwamba tabia za wazazi wengine sio nzuri. Wewe una mtoto wako lakini una mpenzi huyu, mara yule mwingine. Je, mtoto atafuata tabia gani? Ataona kwamba labda kuna mambo mazuri pale. Kwa hivyo, sisi wenyewe kama wazazi ni lazima tuzingatie mambo fulani. Tunajua kwamba maendeleo yana taabu. Tangu enzi ya televisheni kufika, wengine wetu tumeacha mila zetu za Kiafrika na kuwa kama wazungu. Hii imetuharibia. Wengine wetu tunavaa suti na kufunga tai kama wazungu wa London. Tunataka mambo ya kizungu. Kwa kuwacha mila zetu za Kiafrika, ule mwongozo wa zamani uliokuwa ukitumiwa kulea watoto umepotea.

Kwa hivyo, tunafaa kuweka mikakati ya kuhakikisha kwamba watoto wanaopata watoto wanaangaziwa. Pia, tunafaa kuweka mikakati ya kuzuia mambo haya. Hii ni kwa sababu kuna watu ambao wanaweza kutafuta mwanya. Akijua kwamba mtoto akipata mimba atalelewa na Serikali, nia yake itakuwa kuwapachika watoto mimba. Kama kutakuwa na hatari ya kufanya kitu kama hicho itakuwa vizuri. Yule anayefanya kitendo kile hafai kuachiliwa huru. Ni lazima tuyatilie mkazo mambo hayo.

Bw. Naibu Spika, dini zote zikiwemo Waislamu na Wakristo zinafaa kutilia jambo hili mkazo ili kuhakikisha kwamba watoto wetu wanapata elimu ya dini. Hii itawaondoa kwa haraka ya kupapia maisha. Hii haraka ndio inaleta madhara haya. Waswahili husema: “Mramba asali harambi mara moja, maanake anasikia utamu.” Sasa hii ndio hatari ambayo iko hapa. Ni lazima tuhakikishe kwamba watoto hawakimbili hiyo asali. Asali hii ambayo wanataka kulamba haraka haraka ndio inaleta madhara haya. Kwa hivyo, tunafaa kutilia mkazo mambo ya dini. Watoto wetu wanafaa kufundishwe maadili ambayo ni sawa.

Bw. Naibu Spika, pia siku hizi mwanafunzi akiadhibiwa na mwalimu ni balaa. Wanafunzi hivi sasa wanaweza kuwaeleza walimu kitu cha kufanya. Tumewapatia uhuru mwingi sana ikilinganishwa na zama zile. Mwalimu alikuwa mwelekezi wa mwanafunzi, lakini hivi sasa mtoto wako akiadhibiwa, wewe unakuwa mtu wa kwanza kufika shuleni na kulalamika.

Bw. Naibu Spika, naunga mkono Hoja hii kwamba kuna haja ya watoto hawa kurudi shule baada ya kujifungua. Pia, kuna haja ya kuweka mikakati iliyo na tahadhari. Kuna watu wanaoweza kutumia mwanya kuhakikisha kwamba mambo hayaendi vizuri.

Bw. Naibu Spika, kuna vipindi vingi kwenye televisheni. Kuna kipindi kama *Tujuane*. Kipindi hiki ni cha kutafuta wapenzi. Sasa mwanafunzi anatafuta mpenzi. Je, ni nini kinatafutwa hapa kama sio mimba? Haya ni mambo hatari na huu ni ukweli ambao lazima usemwe. Mtoto akitoka shule anaangalia vipindi hivi kwenye televisheni. Hii inachangia kuenea kwa mambo haya. Mimi sishutumu kipindi cha *Tujuane* lakini ni lazima mambo haya yafanywe kwa mpango. Ni lazima tujue ni mambo gani yanadhuru umri gani. Tukiwacha hali iendele, basi tujitayarisha kuwa na wazazi wengi ambao ni watoto. Jambo hili ni lazima litiliwe mkazo.

Bw. Naibu Spika, naunga mkono pendekezo kwamba pesa ni lazima zitengwe ili kushugulikia jambo hili.

Bw. Naibu Spika, kwa hayo mengi, naunga mkono Hoja hii na kumpongeza Sen. Ongoro.

Sen. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir. This Motion does not need a lot of time to explain its implications because all of us are aware of this problem. It is not a new problem and neither is it a new discovery. It is something that we all know is happening under our watch. This is one of the statements we should take very seriously because it is happening under our watch. We have heard a very good academic explanation from Sen. Wako. I listened to him very well. It was like we were in a classroom. I must say that he did a good job to explain to us how other nations have been dealing with this matter.

Looking at the Motion, it has been moved by Sen. Ongoro, but this is a challenge to the whole nation because she is reminding us that we have a problem which has not been solved for all the years we have been independent. Therefore, it is a challenge to all the institutions of Government because we are all elected by the people of Kenya with the hope that we shall see to it that we reduce most of the problems being experienced by

Kenyans. After being elected as Government and also as Members of the Senate, the National Assembly and county assemblies, we have abdicated our responsibilities. We are cunningly waiting for somebody to come with a Motion here as if we have never had the opportunity to do what the Motion is urging the Government to do.

Mr. Deputy Speaker, Sir, the Government of Kenya and the county governments are elected by the people of Kenya for the people and to serve the people of Kenya. This does not just mean mere security and protection at night, but also food security and societal security. Our people must live in harmony in their homes. I have been a Member of Parliament for quite a number of years. However, it does not please me because, probably, I will leave this world having not found solutions to those problems and hoping that we shall see them come to an end. The way things are moving on today, Sen. Ongoro can be here for the next 40 years, but the solution will not have been found. We have to change our perception of life in Kenya. Either we are here as traders or for the people of Kenya.

Mr. Deputy Speaker, Sir, I look at the Senate and see a Member banging the table because he has heard a new thing and can condemn it in the best language that he knows. There are two ways where some people are very good at criticism. To them, this is a virtue. There are other people who believe in seeing solutions. I feel sad that we are now debating this Motion. After a half an hour, we will all leave and forget about it. None of us or the Committee on Implementation has been able to even at one time force any implementation. I think the only thing that the Committee of Sen. Wako can help us with is to sit down with that bulky Constitution that he was holding in his hands and invite other Senators like Sen. Ongoro and others to come and give advice so that we can venture into a new mechanism that can control the entire situation. It does not matter how much it will cost us.

Many of us come from the rural area and see children carrying babies whereas the well-to-do women are not carrying babies because they know how to protect themselves. Therefore, this problem only affects the poor in society. We know too well that in almost every village, drugs are being sold openly, but there is nobody who can stand firm to oppose it and take some people to court. Maybe that is the time we shall have seen the light so that we can move forward. I do not believe in making many statements. I have made many statements in my life and even talked for two hours in Parliament while the late Martin Shikuku and hon. Mwithaga used to talk for a whole day. However, looking back at the HANSARD reports, what have we achieved other than the same problems? It is about people coming in and leaving.

People have a lot of hope in the intelligence of Senators here, for example, the Deputy Speaker, Sen. Wako and Sen. Ongoro, all in the hope of having a beautiful country. But after being sworn in, you will find the House empty after 15 minutes. There is nothing new that we bring in; we only wait and bring up something to condemn certain institutions and then we speak as if we have just come from the moon.

Mr. Deputy Speaker, Sir, this matter is very serious. We must know where we are going to and stop pretending. The issue of drugs is very critical. My friend from Kwale, Sen. Boy Juma Boy has talked about gadgets that all girls use and here we are pretending that we do not know what they do. These girls and boys know more than what I knew at the age of 50 years. What do you expect in a situation like that one? What kind of solution are you going to propose to get this matter resolved? We have to accept that new technology has come and there is nothing we can do. We should live with it, but design the mechanism on how to deal with this matter no matter how serious it is.

But we should not pretend that we can make a breakthrough when we talk about sex education in our houses with our children and yet they know more about sex than we do. We do not need to waste our time telling our children what to do. Instead we should design mechanisms to control their lives and make sure that this society is different from the past society.

Mr. Deputy Speaker, Sir, if Sen. Wako's Committee cannot deliver, we should form an ad hoc committee to come up with a new law which will force the county governments and the national Government to do exactly what the statute law says, but not to be misdirected by the Constitution all the time. Once you mention the Constitution, it is like you are talking about a very huge and important thing in this country. To me, it is nothing unless it helps the people of this country.

Thank you and God bless you.

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir, for allowing me to support this good Motion from our hon. Senator. This is a very serious issue of children having babies. It is happening all over the country. I have just listened to the hon. Ongoro narrating what she sees whenever she goes home and at times when she visits counties like Kilifi. I was also expecting her to mention my county. It appears as if every county in this country has this problem. Thank you, Senator for this Motion. This is a big problem that this Senate should fix and ensure that we have responsible citizens in the country.

Mr. Deputy Speaker, Sir, one of the contributors of children bearing children is the Female Genital Mutilation (FGM). In pastoral areas, immediately children go through this, this almost becomes a certificate for girls to move around with men. Out of that, the results we get are children getting pregnant. After that, they drop out of school. Thereafter, you will find them in the situation that the Senator was explaining. I remember one time when we were making a joke out of some governors who had set aside some money to fight pornography. We said that such amounts of money should not be set aside for that. However, having heard what Sen. Boy Juma Boy was explaining, I was about to say that, probably, we need to allow some Governors some funds to fight some of the activities that have come about as a result of the information age.

[The Deputy Speaker (Sen. Kembi-Gitura) left the Chair]

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

Mr. Temporary Speaker, Sir, this Motion tries to suggest that some funds are set aside so that we have counselling centres in our counties and make sure that children who bear children are shown love and feel part of the citizenry of this country. Out of that, life would continue and the children would mature to a point where they can contribute to build this nation. This is a good Motion. We need to encourage and to make sure that the national and the county governments become responsive so that we do not watch our children bearing children and just leave them on their own.

Mr. Temporary Speaker, Sir, when we talk about 30 per cent of all tenders and businesses going to the youth, we should also see how we can ensure that, at least, children who have babies can be nurtured to become mature and responsible citizens. They should be allowed to continue with their education so that they achieve whatever they always dreamt. They should be allowed to build their nation. If possible, we should find them in this Senate.

If you look at the people we have in our homes--

(Loud consultations)

The Temporary Speaker (Sen. Murkomen): Order, Sen. Amos Wako, Sen. Mutula Kilonzo Jnr., and Sen. Abdirahman! You are allowed to consult, but in low tones so that we listen to our colleague.

Sen. Mositet: Thank you, Mr. Temporary Speaker, Sir. This Motion reminds us that we are not observing what is in the Constitution. In the Constitution, you find that the Government is supposed to be responsible and to make sure that it protects those kinds of children, but that is not happening. Time has come when we need to carry out a lot of civic education regarding those issues as provided for in the Constitution. We need to know our responsibilities and learn about the rights of our citizens so that they do not suffer.

Mr. Temporary Speaker, Sir, whenever I visit my county, one of the problems I encounter is that many of these children visit my office or home asking for assistance. I always go out of my way to assist them. I believe that all leaders equally face the same issues.

This Motion comes at a time when we have resources going to our counties. Therefore, we should come up with institutions or tools to ensure that such children are rehabilitated or counselled so that eventually, they get the best education and help in building the economy of this country.

With those few remarks, I support the Motion.

Sen. Nabwala: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion which has been moved by Sen. Elizabeth Ongoro. This is a very important Motion as it touches on our children who are underage and who happen to get pregnant. Why do our children get pregnant when they are young? This could be because of the

surrounding environment. This depends on how a child was raised. Some of them are from very poor backgrounds. Their parents are very poor.

Mr. Temporary Speaker, Sir, at times, you will find that parents have to brew illegal alcoholic drinks so as to fend for their families. In that process, drunken grown-ups end up committing sexual acts with children who are underage. This Motion is very important. I want to suggest that people who are responsible for impregnating children should be brought to book; be it a parent or a small boy. The parent of that boy must also be held responsible. We should not only condemn the girl because she does not engage in the sexual act on her own. There is a school I visited in my county and the chief stood to speak. It was a closing day and all the parents were seated there. He said that the drop-out rate for girls in the school was very high. Whenever he raised the matter with their parents, they told him that the girls were already used to these acts and that they should be left to continue doing it.

Mr. Temporary Speaker, Sir, the programmes that have been proposed by the Mover of this Motion are very important. Parents and grandparents need civic education. I imagine my underage child having a baby. This can stigmatise, depress and even embarrass.

The child is also embarrassed and isolated by other children in the school. You can get a child dropping out of school because of such reasons. Some even refuse to go to school. Under-age children do not know about sex education. Some of them have not been exposed other than seeing it when the parents are doing it because they live in a small house where there is no bedroom. So the parents sleep on the Floor and the children are there. You may think that child is asleep, but it may not be. So, when the parents are doing it, the children hear about it. This is a fact in the slum areas.

We laugh about it, but it is here with us. The problem is there and we need to find a solution to it. What the Mover of the Motion has suggested about setting out programmes and mechanisms by the Government is very key. When we pass laws, we need a follow up. If we do not do so, the trend continues. Our children continue getting children while still young. Sometimes you will find a small girl of 15 years getting a child and before you realise it the three of you are in the same category of parenthood. This is a serious matter which we need to consider critically.

This Motion should be made into a law. Sen. Sijeny is coming up with a law on reproductive health which also touches on children and age-appropriate measures. When she tried to sell the Bill, some people branded it the “condom” Bill although it has nothing to do with the condom. What she was trying to state was that there is need to create awareness so that our children are aware that if you do “a”, “b”, “c” and “d” then the consequences are this. If we keep our children in the dark and avoid talking to them about sex education, there will be repercussions.

As parents we need to be more careful so that our children are brought up in a nice manner until they finish their education so that they are useful citizens. I can imagine a child of ten years from a poor background getting a baby. That is adding problems to

problems. How are we going to stop this? We need to have these policies enacted and when we go to our counties we should sensitize people. When a parent values the education of a child, he will do whatever is required to safeguard the child.

Mr. Temporary Speaker, Sir, programmes for sex and HIV/AIDS are very key in this case. It is a reality that children engage in sex. It is a reality. One time I tried to counsel a girl child and she asked me; “what are you trying to tell me and yet these things are all over the television?”

I agree with Sen. Boy Juma Boy because television has brought a lot of rot to our children. Our children did not know about these matters, but it is now so open. We cannot even counsel a child without him counseling us. I think it is important to continue talking to our children. We urge our national government to come up with programmes and policies which can help our children particularly those from poor families. This is the group that cannot fend for themselves. People in the “elite” areas are aware and know how to cater for their children. It is not so much of a problem in Nairobi, but it is a big problem in the rural areas.

I support the Motion.

Sen. Leshore: Mr. Temporary Speaker, Sir, I would like to register my voice in congratulating Sen. Ongoro for coming up with this Motion which is long overdue. For those of us who have been in the game of politics for quite some times now, you know we have been talking about these things. I am not like my good old friend Sen. G.G. Kariuki, but I have been there for about two decades now. What I have realized as a politician is that we must eradicate poverty. We must try and control the digital technology or the new technology we have these days. Those two things are the ones which spoil our children.

Most of us in this House either have a daughter, a sister, a cousin, a relative or a community where all these sins are committed. In some communities, it is a taboo for a young girl of 10 years to 18 years to get pregnant. It is a shame. What can we do as leaders? That is why we should congratulate Sen. Ongoro for coming up with this Motion. We must come up strongly and urge our national Government and county governments to set up institutions and policies which will protect and also rehabilitate the young girls. When they become pregnant at that tender age, what will they do? When I talk about poverty, most of these young mothers are either selling *chang'aa* or charcoal to earn a living. That is why most of these young girls who come from poor backgrounds are victims of the problems facing the nation.

Mr. Temporary Speaker, Sir, HIV/AIDS is a national problem. Population increase is also a national problem. When we talk about population increase in our nation, we do not address the problem of teenage mothers. It is time to take this matter seriously because we are facing a time-bomb. When you walk down the streets, you will see very many children sitting beside their mothers and they are not going to school. What is the national Government doing and the county government of hon. Kidero doing? We still have street children. You will find one mother in a corner with ten children and you do

not know where they come from. This is a problem caused by men. There are sugar or honey daddies. We must bring them to book as one Senator has said.

Mr. Temporary Deputy Speaker, Sir, the other day when I was in my county, an old man whispered to me that a leader had impregnated four girls from a certain school. What a shame! We must bring those men to book. The other issue as one of my colleagues said is that we must punish those young boys. I do not think we are going to punish the parents because with modern technology such as *WhatsApp*, these girls and boys with their small smart phones can see anything and share everything. Therefore, they may decide to practise what the Europeans are doing. We must also come up with proper controls of the media, especially what is conveyed through smart phones.

Mr. Temporary Speaker, Sir, the other issue is drugs. I spoke about *chang'aa* earlier, but we have drugs being a major problem facing our youth. These drugs make our children "have fun" and be over-excited. This leads them to do silly things like those ones. We, as parents of this nation, cannot continue to be proud when our children are bearing children. There are girls who are 24 years old who are grandparents. At the age of 24, one should be in their first year of university or busy building this great nation of ours. So, what do we say? We must fast track some of these laws from the United Nation (UN) and the African Union (AU) to Kenya. I am not pro-abortion. So, from day one when you realize that a young girl is pregnant, the county governments and national governments must take care of that baby and the baby in the stomach.

Mr. Temporary Speaker, Sir, the other issue is about Article 45 of the Constitution. We, as Kenyans, are proud to be a nation. This nation is made up of communities and families. If we want to be proud legislators and leaders of this nation, we must start from here. This legislation must be put in place so that our future generations will be happy to say that one day, the Senators of the Eleventh Parliament did this and brought glory to our nation.

Mr. Temporary Speaker, Sir, with those few remarks, I thank you for giving me this opportunity.

Sen. Sijeny: Thank you very much, Mr. Temporary Speaker, Sir, for giving me this chance to comment on this Motion. I wish to state that I do support it. Probably the reason I am calling it a Bill is because I wanted to assure my sister, Sen. Ongoro, that there is actually a Bill on the Order Paper which will help implement some of these wonderful ideas that she has; it will help the young persons, especially from adolescence.

Mr. Temporary Speaker, Sir, what this states or emphasizes is that there is a group in our community called the young persons, which we have to deal with cautiously. Their needs are so special. We have discovered that unless we give special, careful, keen and detailed attention to them, we shall lose them. We shall lose them in very many ways as we sit, observe and watch.

Mr. Temporary Speaker, Sir, I, therefore, wish to state that these young persons have various challenges. They live within our midst. As adults, we have done our best to protect them as parents. We have done our best as Church leaders, the State or any other

stakeholder. However, the best is not good enough because they still need more attention, involvement or intervention.

Mr. Temporary Speaker, Sir, when we say that we need to come up with clear policies and guidelines to take care of our young persons, it means that even though we have enacted several laws---. Section 4 of the Children Act says that the State has the powers and the best interest of the child shall be paramount. We have Article 53 of the Constitution which is on the rights of the children. It says they have the right to the care and love of both parents. However, the Government, the State or the legislatures have also come to the reality that there are situations where the young persons need special care and protection from the State itself because their parents are either not in a position to take care of them or they are too sick.

Mr. Temporary Speaker, Sir, in some cases, we find some young persons or teenagers who are heads of the families and who, themselves, are parents. Sometimes the parents are so old, weak or sick that they cannot give any care. Just the other day when I was first giving an interview in one of the television stations, there was a lady from the Parents Association who told me that they are now coming up with a parent's manual. When we were becoming parents, we did not have that manual to read, saying that these are the stages that you will be going through with your child. We learnt on our own. We learnt through the doctors, neighbours and many other people. We know every situation is different. Therefore, that is why we need everyone's expertise.

Mr. Temporary Speaker, Sir, we need programmes which will help the children attain all that they require. I am aware that that the Government has tried to come up with policies geared towards improving the wellbeing of these young people. For example, there is the adolescence reproductive health care programme which came up in 2003. It has been in force for quite some time. Since I presented the Reproductive Health Care Bill, it has come up clearly that, that policy needs to be renegotiated and amended; further consultations should go on so that we take care of all these needs.

These are instances where the children have been exposed. They need protection and education on how to cater for their health. When you talk about the young persons or adolescents, we are talking about growing up or the whole process that makes you a human being. These are children who are coming from one stage to the other. They are no longer babies, but they are not adults yet. They are just teenagers and we need to understand them. That is why in my Bill, I have said that the adolescent friendly reproductive health care services should include a lot of counseling. This is counseling on issues of growing up, issues of why they should not engage in unsafe abortions and all those things; counseling on drug and substance abuse and all these things which will injure them and make them become a bit more careless.

They need to know what it means to have relationships. There are lady to lady relationships or even relationship with a person from the opposite gender. However, they must know their limits. We have to teach them, not only spiritual, but also moral values. The last time I was presenting something in a public place, someone told me from the

crowd “start with the adults, we must teach them moral values. They are the ones who are abusing these young children of ours”. Yes, I agree. We must go back to the drawing board and find out where did we go wrong? Why are our children going astray?

Mr. Temporary Speaker, Sir, just as I believe I have read this Motion; it is not blaming the children. It is not victimizing them, but it is a means of protecting them, helping them grow, helping them understand and deal with the pain and bitterness which they have found themselves in. Being a parent, having gone through the pain of childbirth, I know that a 10 year old or a 13 year old should not go through such excruciating pain, the aftermath and the way even the body becomes. I remember there was a time, they had shown a child who was in Standard Five and had given birth through caesarian section. I heard a child screaming out “Mum, look at that girl; her body is deformed.” So, if a baby like that feels that the body is deformed, it means that they need a lot of counseling and care after giving birth. The most important issue that we must fight for in our society is going back to school. The Government, through these adolescent friendly programmes, has tried to engage all stakeholders. However, it is the time for implementation.

Like the Ministries, whether it is the Ministry of Education, Ministry of Agriculture and Fisheries, because the statistics show that children who come from places where a lot of fishing is done, slums and border towns are involved in a lot of illicit and unnecessary sex. They get babies, HIV/AIDS and many other sexually transmitted diseases which are unnecessary. If these children can be protected and given means of earning which are controlled by the experts in finance--- For example, in areas where fishing is done, children can do fishing, get little money and have specific timetables and time for studies.

Mr. Temporary Speaker, Sir, I know of some schools which provide daycare, so that the young girls who have babies can breastfeed their babies after lessons. It is very painful, but it is a way of helping these children to move on to the next level. For example, you will find a village where it is only girls who are not in school. In future, there will be a generation of only men who are politicians, doctors and lawyers. The girls will drop out of school at the age of 12, 13, 14 or 15 and get children. Who will marry them? How will they prosper? These are serious social-economic situations that we are creating under our watch, as Sen. G.G. Kariuki has said. We must come up together, as legislators, and ensure that these children are protected.

Mr. Temporary Speaker, Sir, when we were growing up some of us had the privilege of having programmes. We were kept very busy during holidays, not only by the Government, but also the church, schools and other institutions. For example, over the weekends, we had netball, cookery or foreign dances. We were kept busy and learnt the right things.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to support.

Sen. Madzayo: Asante, Bw. Spika wa Muda kwa kunipatia nafasi hii kuchangia Hoja hii.

Bw. Spika wa Muda, kwanza nampa hongera dada yetu, Sen. Elizabeth Ongoro, kwa kuleta Hoja hii. Jambo la kwanza la kuzingatia kama Wakenya ni kwamba familia ni msingi mkubwa sana wa maendeleo. Biblia inasema kwamba familia inayoomba pamoja inaishi vyema kwa muda mrefu. Ukiwa na familia ni lazima uwaelimishe watoto wako kama kiongozi ama mama wa familia.

Bw. Spika wa Muda, naunga mkono Hoja hii kwa sababu wengi wa vijana wetu hivi sasa katika sehemu mbalimbali, hasa Kilifi kule ninatoka wameingilia mambo ya mihadarati. Watu wanapitia njia za vichochoro vya nchi kavu au kando kando ya bahari na kuleta mihadarati mbalimbali. Mihadarati hii inaleta madhara makubwa kwa watoto wetu.

Nachukua nafasi hii pia kumpongeza Rais Uhuru Kenyatta kwa kazi aliyoifanya katika Bahari ya Hindi. Sisi wakaazi wa Pwani na watu wote wa Kenya kwa jumla walimuona akienda kule Bahari ya Hindi. Kulikuwa na meli ambayo ilikuwa imeshikwa kwa kupatikana na mihadarati yenye thamani ya zaidi ya bilioni moja. Hii ni mihadarati ambayo ingeharibu au kuua kizazi kizima cha vijana wetu. Waswahili husema, “Mgala muuwe lakini haki yake pia umpatie.” Alichofanya Rais ni kitendo ambacho kiliokoa maisha ya vijana wetu katika Kenya.

Bw. Spika wa Muda, akina mama wetu wanafaa kuwafunza watoto wao, hasa wale wa kike maadili mema. Ni rahisi sana kwa mtoto wa kike kuharibika akiwa mdogo. Akina mama wetu wanafaa kuwajibika. Ni lazima waelimishe watoto wao wa kike na wa kiume kuhusu madhara ya kujihusisha na mambo ambayo hayafai kama utumizi wa mihadarati.

Bw. Spika wa Muda, pia katika jamii zingine kuna wazee ambao wanaoa watoto wa hata miaka minane. Wanaishi nao mpaka watakapofika miaka 11 ama 12 na kuanza kufanya mapenzi nao. Tabia kama hizi za kuoza watoto wetu wa kike mapema zimekithiri sana katika taifa letu la Kenya. Ni lazima tuwe na njia za kuandaa mabaraza ili wazee wetu waweze kuelezwa kwamba vitendo kama hivyo haviwezi kuendeleza taifa letu. Pia kuna wazee ambao hawana adabu. Wanaishi na watoto ndani ya nyumba kisha kulala na watoto wao wa kike. Tunafaa kutunga sheria ya kuangazia mambo kama hayo pia. Hatua kali inafaa kuchukuliwa dhidi ya wazee wenye tabia kama hizo.

Bw. Spika wa Muda, vijana wetu ndio msingi wa maisha yetu ya kesho. Ukitembelea nchi za Ulaya utaona ya kwamba wazee ndio wengi. Hivi sasa watu wanalipwa kuzaa katika mataifa ya ulaya. Lakini sisi tunazaa zaidi na wazee wetu ni wachache. Lakini ili taifa liwe na uchumi bora ni lazima liwe na vijana wenye elimu nzuri. Ni lazima wajiepushe na njia mbaya ili kesho yetu ya Kenya iwe bora.

Bw. Spika wa Muda, pia nataka kuzingatia sana Wizara ya Elimu. Wizara hii inafaa kuanzisha taratibu za kuwafundisha watoto wachanga, hasa kuhusu kujiepusha na mambo ya kufanya mapenzi wakiwa bado wachanga. Jambo la kushangaza ni kwamba unaweza kupata mtoto wa miaka kumi ambaye anajua mambo ya tarakilishi na mitandao. Wakati baba anaangalia televisheni, mtoto anaangalia mambo ya mapenzi katika simu yake ama tarakilishi kwa sababu ako na uwezo wa kuingia ndani ya mtandao. Jambo

kama hili ni la kusikitisha kwa sababu linazorotesha uwezo kwa kujua vile Kenya yetu ya kesho itakuwa, hasa watoto wetu wakianza kujihusisha na mambo ya ngono wakiwa wadogo.

Bw. Spika wa Muda, pia makosa yako katika mipangilio yetu katika Serikali. Serikali yoyote ambayo inahitaji kuwa na maendeleo zaidi ni lazima iwe na mipangilio ya kuona kwamba vijana wanaomaliza masomo katika vyuo vikuu au *polytechnic* wanapata kazi. Vijana wengi hasa wasichana wanapomaliza masomo hawapati kazi. Inakuwa rahisi sasa kwa mtu kama yule kuwa “chuo” cha shetani. Wanajihusisha na mambo ambayo hayafai. Kwa hivyo, Hoja hii ni muhimu kwa nchi yetu ya Kenya. Ni lazima tuwe na mikakati ya kuweza kuzindua njia za kuhakikisha kwamba vijana wetu wanapata kazi punde tu wanapomaliza masomo yao.

Kwa hivyo, ningependa kuunga Hoja hii ya dada yetu Sen. Ongoro. Ni Hoja muhimu sana. Nina hakika tukichukua mwelekeo kama huu, nchi yetu ya Kenya itakuwa nchi ya kuigwa.

Asante sana.

Sen. Ong’era: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity so that I can contribute to this Motion. I would like to congratulate and commend my sister, Sen. Ongoro, for bringing a Motion that really touches on the very core of the family. These are our children and it is said that one in every three households is faced with problems and issues of pre-teen and teenage pregnancies. This has arisen because the social norms of our society have now been eroded. African traditions and customs are no longer being followed. If you go back to the rural areas, especially in the villages, you will find that we do not even have elders. What we used to call the elders are now the young boys and girls.

When you come to the clergy, the churches that used to give us moral guidance are no longer doing so. Last night, I was ashamed to see on national television a pastor being arrested after being caught with his neighbour’s best friend. We have not forgotten the other incident involving pastors who were caught in sexual acts somewhere in Nyeri. This is very shameful. These are the very people who are supposed to help our children to come up with good morals and educate them on how they can live a good life; a life that can bring some results to them.

You will find that for the very first time in our country we are faced with another social ill that was supposed to be good technology. This is the social media. The Senator for Kwale, Sen. Boy Juma Boy spoke very well. I want to commend him for saying that *Facebook, Downface, WhatsApp, et cetera* are ills on the social media. They are taking our children to the wrong direction. In fact, they are draining them. If you go through Facebook you will find that out of say, ten stories that are being circulated on *Facebook*, one is on explicit sex. You are being shown pictures of naked girls and even explicit pictures of how to perform. Social media is ruining our children in this country.

Mr. Temporary Speaker, Sir, I do not know why the Government cannot regulate content in the social media. In other countries, for example, the Arab speaking countries,

the content in the social media is always regulated. This is also happening in China. I do not see anything wrong for us in the African context, that we cannot regulate social media in this country.

When it comes to the electronic media, especially the television, there are Mexican soap operas like “*No One But You*”, *the Rich Also Cry*” and “*the La Tempestad*”. These are not programmes that you can sit with your children and watch. I am wondering why the people who are responsible in Government allow such content. I do recall that in the 1970s, the kind of content that we used to see on national television was content that you could sit and watch with your children. This is how our teenagers are being encouraged to try and behave like those girls they are watching in the soap operas; maybe they will get boyfriends. This is something that needs to be seriously addressed in our country.

There is child prostitution that is going on right under our eyes. It saddens me to know that child prostitution is actually being encouraged by rich men who are busy luring the children by giving them smart phones and buying them expensive gifts like hand bags and buying them laptops. If only our very top leaders in society could address these issues, it would be brought to an end.

Mr. Temporary Speaker, Sir, I want to propose that we should have a welfare system for these children. We should not condemn them for being caught in the act. Instead we should assist them by rehabilitating them. I want to suggest that the money that is being used to tender for laptops that are neither here nor there should be allocated to such programmes.

Mr. Temporary Speaker, Sir, finally, I want to encourage my sister, Sen. Ongoro to, perhaps, consider looking at legislations that she could bring into this House so that we could pass them as law in order to protect our girls. We, as leaders, should be in the forefront on a name and shame campaign of our leaders or rich men who are luring these girls.

I beg to support.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I rise to support this Motion with reservations, but say that it is timely. My reservations are as follows: The definition given to a child under the law is a person below the age of 18 years. This Motion quotes Article 45 (1) as the basis on which it should be recognized. Article 45 (1) provides that the family is the natural and fundamental unit of society and the necessary basis for social order. However, this law did not intend this family to be made up of children below the age of 18 years.

While I support the Motion, I am a little cautious that we do not recognize teen-hood families as a basis for giving them protection. I propose that the category that is suggested by Sen. Ongoro should be a proviso so that we do not create for ourselves as legislators, an avenue for two teenagers to begin a family under Article 45(1) because we have given them protection.

This issue is, in fact, a problem that we must address a little more seriously. These young girls in my county are the ones who are entertaining the truck drivers who come from Mombasa the whole night. These truck drivers are the ones that lead these girls into various destinations of this Republic and outside the country. The result is that in every town along Mombasa Road, you will find teenagers who have families. It also means, and by extension, that the phenomenon of HIV/AIDS along Mombasa Road is real. It is also a problem in Makueni County.

Mr. Temporary Speaker, Sir, while we are attempting to assist this category of people, we must, in fact, try to condemn the act of teenagers purporting to be leaders of families. This is becoming a problem. I wonder why people who are technologically advanced have not found a method of tracking our children when they are out at night. There must be a way that parents can have a peaceful night on weekends when their children leave home.

It has become a trend for parents to go home and for their children to leave in the evenings to have a good time. It has also become a phenomenon that parents are now dropping their children to what we call social joints and monitoring them. Parents stay in the car while their children have fun. I really wonder why we are having teenage parents. As we think that these practices are only rampant in places where bedrooms are separated by bed sheets or cardboards – where as described by one famous author; - *you can hear your neighbour thinking* – the situation is much worse with persons who are said to be “able.”

Parents who are well-to-do are facilitating their children to have vehicles, some of which are “souped up” cars that are very nice. These children have very nice phones too. Some parents offer their children television sets and very advanced telephones. Therefore, I am being cautious as I support this Motion because I know it will create a problem. The problem will be that we will have recognised a practice that we, as parents, should not recognise.

It is an aberration for people of this category who should either be in form one, two, three or four to have families. What do they know about families other than the fact that they had what is referred to as “carnal knowledge” of each other? There is nothing good about this discussion. It is a discussion that we should hold quietly. However, if you look at the Constitution, you will see that as we attempted to recognise families; under Article 45(4), Parliament is only supposed to enact legislation on marriage.

Mr. Temporary Speaker, Sir, the protection of families under Article 45(1) is not given an avenue for legislation. Therefore, as Sen. Ongoro supports this amendment to the Constitution in some form, I think that one of the things we must do is to find a method of protecting this fundamental unit of society under Article 45(1) through legislation. I do not agree with Sen. G.G. Kariuki that the Constitution is not supposed to have everything. The basis of any society is law. Otherwise, as Hobbes stated; “a state without law is nasty, brutish and life is nasty, brutish and short.” Therefore, we must go back to the basics unless we want to live in the jungle where we all left a long time ago.

The position taken by the Mover of this Motion should be supported by more legislation. I would like to see, apart from capacity building and necessary legal framework and funding, civic education included in our curriculum to say that there is nothing called teenage families. This is an aberration. We must go back to basics and do this in class during the day with our eyes open and tell teenagers that it is not acceptable for them to leave school and start families with young men simply because it appears to be fashionable.

We, as a society, must say that it is not fashionable. It is an aberration and against religion and good order for children to have children and for them to become mothers, grandmothers and grandfathers. We have defined who a child is.

In saying that a teenager should be given recognition as a family under Article 45 is at a very bad corner of my legal training or even moral training. It is not right and cannot be right.

I support the Motion and say that although we want to start a welfare state, it is fair that we give an exception. Recently, in Western Kenya, a lady gave birth and the father of the child was the father of that girl. It is a taboo for that child to live. In fact, they wanted to kill the child.

An hon. Senator: It was an uncle!

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, these are the exceptions we should allow for people to be recognized and to be offered welfare. However, other than that, we should provide, as Sen. Ongoro has stated, an opportunity for them to go back to school because that would make them understand that starting a family before getting to the age of 18 or 20 should not be condoned in this Republic.

(Sen. (Dr.) Khalwale stood up at his place)

The Temporary Speaker (Sen. Murkomen): What is it Sen. Khalwale? We moved from the analogue to the digital system. I saw you making gestures, but I cannot see any request on my screen.

However, I will allow you because you must be undergoing some struggle.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I did not want to interrupt Sen. Mutula Kilonzo Jnr. who has made very important assertions. However, it is wrong for him to---

The Temporary Speaker (Sen. Murkomen): Sen. (Dr.) Khalwale, you are now speaking like Sen. Mong'are Okong'o.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, he has made very important assertions that it is wrong for children to be parents and we agree with that. However, he has gone further and said that it is wrong for children to become grandparents. Could he substantiate what he meant by saying that children can become grandparents?

The Temporary Speaker (Sen. Murkomen): Order, Sen. Khalwale! Unfortunately, we have already passed that issue. The only way that a point of order

comes in is through an interruption. We have already passed that point. I think he was giving an example of a scenario that was reported widely in the papers.

Yes, Sen. Philomena Agnes Zani!

Sen. (Dr.) Zani: Thank you, Mr. Temporary Speaker for calling me Sen. Philomena, the other name that I do not use and letting everybody know that is my name as well.

Thank you, Sen. Ongoro. This is such a sad Motion. I am happy that it has come to this House at this time because we need to protect our children. There have been many stories in the media and people talking. This is happening every single day. The same phenomenon happens over and over again.

It was a shock for this country when a ten year old girl gave birth at the Kenyatta National Hospital (KNH). We are looking at a situation where a child gives birth to another child. The issue of pre-teen and teenage pregnancy has become more and more rampant as days go by and you might think there must be something wrong somewhere. Is it about sexual reproduction education that is not being received, well articulated and processed? What is really happening? The first thing that comes to my mind is where are these men because it must be men? These girls are getting pregnant by men. The question is: Are they getting pregnant by their boyfriends, relatives, their fathers or grandfathers?

Sometime back, it was a bit unusual to talk about pregnancies from fathers, but it is no longer so. This is something that we have to be bold and talk about. We have to talk about it very loudly and very clearly. I think we have the forum to do so. There are families and girls in this country who are suffering because their fathers have decided to prey on them. There is a report produced some time back showing that most of the girls' first experiences is actually with their fathers. I was speaking to somebody yesterday and saying that if fathers cannot protect their daughters, I do not know who will protect them.

This is, probably, one thing that we are not talking about. I remember some time back, we had a problem of families killing each other. You find father, mother, daughter or son being killed. At that point, I reflected that the reason might be inter-conflict that happens either through incest or people doing what Sen. Mutula Kilonzo Jnr. was talking about, that these are children who should not survive so they are killed. There are also conflicts between husbands and wives who realize that some of these children being born by their daughters are the children of their fathers. I think we have a big problem. This is the time to discuss it.

Mr. Temporary Speaker, Sir, there are various angles and reasons for this phenomenon. The statistics are also worrying because according to the National Council for Population and Development Report, 2012, Nyanza led in teenage pregnancies at 27 per cent. Unfortunately, where I come from, the coast region, it was 26 per cent. When I was listening to Sen. Mutula Kilonzo Jnr. talking about girls who go with trucks and park overnight at Makueni, I could not help, but wonder whether some of them are from that particular group.

You can see a direct association between teenage pregnancies and educational performance. Speaking for the coast region, education performance has been a problem for both boys and girls, but especially so for girls. This could be some of the leap over effects in terms of children not valuing education and not striving to achieve as a result of wanting to move very quickly into parenthood.

Sometimes it is caused by social and cultural practices that encourage young girls to get pregnant; for example, cultures like the Female Genital Mutilation (FGM) where immediately after the exercise, it is seen to be the right thing for a girl to do. This becomes a norm in those societies. The girl is not encouraged to be something worthwhile in this life. Therefore, she does not strive for education. Such a culture makes it look like it is only marriage that is important. Some of these teenage pregnancies could come up in a marriage set up because some of them are married off as early as 12 years old. What happens when the girl gets her first or second baby? She might be kicked out of the marriage ending up as a single mother who cannot go back to school, her opportunity is gone.

Mr. Temporary Speaker, Sir, I remember some time back, I went to Baringo to visit a lady who had six children, but she had had a chance to go back to school. She was very appreciative and focused in her educational pursuit. I am happy that she got that opportunity. That is what Sen. Ongoro is trying to encourage. It does not matter what the circumstances are. What we have not done is to deal with the environment to allow her to remain there. Most of the time she will go back to the environment and she will be teased and made fun of. Unless somebody is very focused, they sort of lose it and are not able to proceed with what they want to do.

Poverty has been mentioned as a fact and it is true. It is unfortunate that many girls are lured into sexual activities because they do not have money. Most of them come from poor families. There is also the issue of early engagements, especially for young girls as a result of media and internet influence. This is a key cause that pushes them to the level of trying to move into relations which they are not ready to handle.

Considering that out of 960 million people who are illiterate, two-thirds are women, I think illiteracy contributes to the problem as well. At the end of the day, there is a co-relation between high levels of education, infant mortality, pregnancy and child mortality. If somebody continues with education, chances that they will move away from these phenomena tend to be higher rather than lower.

In many cultures, there is a demand for more children, more than the women are ready to have, especially in West Africa. In West Africa, birth rates among teenagers and pre-teens tend to be higher than in East Africa because more men want to have more children. What happens in a situation where the family would like to have more children and the man decides to marry another wife? Some of those married are young girls. It is very unfortunate, and I think somebody went to court this week, that some people are coming from the developed world to marry child brides. They pay dowry and go on to impregnate them, but unfortunately take off immediately. They live this person with a

scourge and a reality that she might not deal with and yet we do not have the infrastructure to help her. She cannot do much because she does not know how to practise agriculture, she does not have training in tailoring or computers.

This is a subset of our population that we must narrow down to and come up with programmes to focus on them. Having gone through those experiences, they become better learners and they feel that they can change their fortunes. Since they have already seen the situation they are and will be happy to change their fortunes and make things better for themselves. Moreover, that will help them to take care of their own children who become a liability to them. Therefore, some sort of capacity building needs to be put into place. I think a Bill is coming from Sen. Sijeny to deal with the area of reproductive health. It addresses problems encountered by teenagers, what they are doing right or wrong, what needs to be discussed and so on.

We, as a Senate, should not shy away in being frank and very clear about sending a message so that we save the next generation. By getting pregnant, it shows that they are not using any sort of protection. It means that the chances of getting HIV/AIDS are higher. It also means that they will give birth to children who are also infected. So, it becomes a vicious cycle for this society to deal with.

The issue of funding, therefore, becomes critical and how those programmes are going to be made sustainable. What sort of kitty are we looking at?

The Temporary Speaker (Sen. Murkomen): Your time is up!

Sen. Obure: Thank you very much, Mr. Temporary Speaker, Sir, for giving me the opportunity to support this Motion. First, I want to start by thanking and congratulating Sen. Ongoro for bringing this Motion up and for highlighting the predicament of young girls around the country. I want to thank her for highlighting the anguish, pain and challenges which these young mothers are facing.

Mr. Temporary Speaker, Sir, we have been told that three out of 10 girls become pregnant before attaining the age of 18 years. This should be a matter of great concern for all of us and the Kenyan society as a whole. This really demonstrates that we are dealing with a social problem of a major scale. Sen. Ongoro has illustrated the magnitude of this problem in Nairobi, but I would like to say that the situation in rural Kenya is much worse than in Nairobi. I know what happens in my own county, the situation in the villages is such that the frequency of these incidents is very high, indeed.

I appreciate that this Motion will help to highlight the kind of challenges we are facing as a society. This Motion now will go a long way in showing that actually the family unit has failed in protecting these young girls. It will also help to show the extent of the moral decay in our society and that the degree of social disorder in our society has gone to very high levels.

Mr. Temporary Speaker, Sir, we are dealing with reality. I know that Sen. Mutula Kilonzo Jnr. talks about the law and so on. However, we are dealing with real situations and what is happening in society and in our counties on a day to day basis. The truth of the matter is that young teenage girls are now becoming mothers. The truth of the matter

is that these young girls and young mothers are Kenyans. The truth of the matter is also that even those who are being born are Kenyans and it is our duty as leaders and as responsible Members of society to understand their situation and to help where we can. This is why I am so grateful that this Motion was brought so timely.

Mr. Temporary Speaker, Sir, this has been mentioned earlier by the various Senators who have contributed to this Motion; that we need to understand why this is happening and why incidents of this nature are on the increase. What are the causes? Parents have failed in their work, duty and responsibility? We have not guided and counseled our children. We have not spent enough time with them and we have not shown love to these children. Therefore, in the absence of that, the children, particularly the girls, have sought help elsewhere. They have gone to friends who are showing them new ways of getting that love. That way is early sex, leading to unwanted pregnancies. Our education system should focus more on this aspect. We should even introduce formal sex education as part of our curriculum, so that girls and boys understand the consequences of engaging in premarital sex.

Mr. Temporary Speaker, Sir, the issue of drug and substance abuse is also on the increase and we all know about it. Again, this is brought about by peer pressure and the kind of friends we engage with. All these have contributed to early sex and unwanted pregnancies. The issue of drugs is a major menace in all our towns; it is now pervading the rural areas and destroying lives. We, as a nation, need to be awake to this huge challenge as it is contributing to this problem of early sex and unwanted pregnancies.

Mr. Temporary Speaker, Sir, somebody has talked about sugar daddies. These are responsible members of the society who will tempt these young girls into sex and thereafter, leave them condemned, abandoned and neglected completely. I think we should device ways of ensuring that we deal with this problem and, therefore, minimize the impact of this problem.

Mr. Temporary Speaker, Sir, we talked about the social media, especially *Facebook*, and internet; all these things that our children have access to. Of course, I do not think we can run away from that in our present age, but I think we could help our children to understand what they should expose themselves to. The explosive movies and all these have contributed to this menace. Of course, the biggest of the contributors is poverty. The increase in poverty incidents has directly contributed to this menace because our girls are tempted to look for opportunities to make money and earn themselves a livelihood. In the process, these are the consequences.

Mr. Temporary Speaker, Sir, rather than blame the girl child, we need to appreciate that we have all contributed to creating an environment which makes them very vulnerable. Rather than blame them, I think we should take responsibility for what we have helped to create ourselves. We have a duty to educate the youth on the consequences of early sex and unnecessary pregnancies.

Mr. Temporary Speaker, Sir, we were told that early pregnancies actually pose a danger to the health of the girl child. We were told this afternoon that up to 10,000 girls

die in a year because of complications in pregnancies. This should be a worrying statistic – 10,000 people losing their lives in a year – which is more than all the road accidents on our highways that we have been talking about. It is even more than those who are killed through HIV/AIDS and more than any epidemic we have known in the last few years. This is a matter that we should be concerned about. I think this issue should be brought out to our young people so that they can understand---

The Temporary Speaker (Sen. Murkomen): Sen. Obure, your time is up!

Sen. Obure: Mr. Temporary Speaker, Sir, I beg to support.

Sen. Gwendo: Mr. Temporary Speaker, Sir, I rise to support this Motion by Sen. Ongoro on the worrying trend of teenage pregnancies, more so, considering that the problem is here with us.

Mr. Temporary Speaker, Sir, when we try to do something concerning teenage pregnancies, for example, by providing condoms in schools and introducing sex education, some people shiver and start murmuring and whispering. We shy away yet this is a problem here with us. We live in a society where a 13 or 14 year old already knows about sex. This is because of the way the world has exposed them to it. It is not anybody's problem in particular, but because of the way that the world has grown. The world is bound to grow and life will go on. This Motion is asking us to do something about it.

Mr. Temporary Speaker, Sir, I like particularly the fact that this Motion is asking us to put in place a programme for teenage parents, to ensure that they practice responsible family life. This means that we can arm these children with information. We can do capacity building for teenagers. When we arm them with information, they will know what to do when they are in a situation where sexual intercourse is involved. They will know when to have and not have sex and what to do. They will be armed with information.

Mr. Temporary Speaker, Sir, there is a report that was done in 2013 by the National Council for Population and Development. In the former Nyanza Province where I come from, the prevalence rate of teenage pregnancies was 26 per cent. We can do something about this. We can train and teach them what to do. This will help them. This is a tricky Motion because if we do something to cushion those affected, then some teenagers may not fear the repercussions of getting pregnant, since something will be done for them. Therefore, we just need to arm them with the right information, because they are exposed to sex.

Mr. Temporary Speaker, Sir, about two weeks ago there was a page on *Facebook* that was exposing irresponsible fathers. Parenting is not about one person, but two people. Sexual intercourse is about a man and woman. This page was exposing fathers who have neglected their responsibilities of parenthood. If we arm these teenagers with the right information, we can avoid such things. We can know what to do when a teenager gets pregnant. The father will not run away from his responsibilities and the mother will have somebody to assist her in taking care of the child. Also, teenagers will

know the right time to get a child. We do not want to have a 13 year old who is a mother. This is because at 13 years, they are expected to be in school. This can only happen if we give these children the right information.

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

The Temporary Speaker (Sen. Murkomen): Sen. Musila, you have two minutes from Sen. Gwendo.

Sen. Musila: Thank you, Mr. Temporary Speaker, Sir. Two minutes will be too short for me, but I will try.

Mr. Temporary Speaker, Sir, first, I want to congratulate Sen. Ongoro for bringing this Motion. I rushed to this Chamber when I realized that it seemed like ladies were fighting for this, whereas, just as the good Senator has just said, this is a matter of two people. So, we rushed in here to come and tell our sisters that we are together in this issue.

Mr. Temporary Speaker, Sir, we must start by recognizing where the rain started beating us. It started beating us due to moral decay. I was watching news last night where a pastor was caught red-handed with a wife of one of his worshippers. When he was asked to explain, he said that she had asked him to go and pray for her; prayers in a hotel while naked. We have not been role models to the youth. Only a few weeks ago we were treated to the Machakos Sevens Rugby. We saw things that we could not have imagined that our youth could be involved in. We are to blame for the irresponsible behaviour of the society. I want to congratulate the Non-Governmental Organizations (NGOs) who have worked very hard to rescue children who are being married off early. I saw one of them graduating the other day.

Mr. Temporary Speaker, Sir, but most important is poverty. Our living conditions are such that children start seeing their parents having sex very early. Therefore, they try to copy them. There is no privacy. There is also the issue of drugs, alcohol and so on.

The Temporary Speaker (Sen. Murkomen): Order! Your time is up!

Sen. Musila: Mr. Temporary Speaker, Sir, I beg to support.

The Temporary Speaker (Sen. Murkomen): Sen. Musila, just for your information, we did not deny you time. It is a timed Motion and its time has come to an end. So, it is now time for the Mover to reply. You have ten minutes.

Sen. Ongoro: Mr. Temporary Speaker, Sir, I would like to donate two minutes of my time to Sen. Lesuuda, two minutes to Sen. Martha, two minutes to Sen. (Dr.) Khalwale and then I will reply.

Sen. Lesuuda: Thank you very much, Sen. Ongoro, for donating the two minutes. Due to the limited time, I will go straight to some of the points that I have.

Mr. Temporary Speaker, Sir, one of them is just to agree with Sen. Musila who said that as a society and a people, we need to ask ourselves where the rain started beating us. How then do we correct the issues that affect us? We also have to target the boys, so that as we talk to the girls, we also talk to our boys. How do we bring up our

boys in our society to respect and protect their sisters? In the past, boys used to protect the girls not because they were weaker, but vulnerable.

Mr. Temporary Speaker, Sir, as my other colleagues have mentioned, there is the issue of poverty. When most of our girls are sent home for lack of school fees, they stay there for four weeks or even a month. What do you expect them to be doing during that time? I think it is important that we also talk to our schools and see how we can manage those girls in our schools, so that they are not exposed.

Mr. Temporary Speaker, Sir, there are very many complications that come with teenage pregnancy. There are issues to do with fistula. Also, the children who are born will most of the time be malnourished. So, we will have an unhealthy society. We will need to cater for their health in addition to dealing with these teenage pregnancies.

Mr. Temporary Speaker, Sir, even in our urban areas and cities, it is so unfortunate that when you go to some places to have lunch, you will meet our young girls and boys whenever on midterm or holiday break. You cannot even sit there because you feel so embarrassed. It is a shame that there are people in this country who sell alcohol to teenagers, which, of course, is a catalyst that leads these young people to engage in sex. We are selling alcohol to teenagers under 18 years old just for the money. This is something that we, as parents and even people who have children, should be ashamed of.

Finally, Mr. Temporary Speaker, Sir, it is important that we also promote---

The Temporary Speaker (Sen. Murkomen): Your time it up!

Sen. Wangari: Thank you, Mr. Temporary Speaker, Sir. I want to thank the Mover of the Motion for giving me two minutes and also congratulate her for bringing this timely Motion here.

Mr. Temporary Speaker, Sir, in an ideal situation, we should not be talking about children having children, but today we are in a world where this is happening. In fact, in the recent statistics, out of the new HIV/AIDS infections, a third of them are of people aged 14 to 24 years.

Mr. Temporary Speaker, Sir, we, as a country, are dealing with a big crisis. I know a lot has been put in place in terms of preventive measures by mainstreaming sex education in the schools, but I think the Children Act and the Sexual Offences Act, 2006, look at how to punish the perpetrators, but they do not look at how to rehabilitate the victims. That should be actually what we should be looking forward to, in terms of enacting new legislation or amending the existing legislation so that we are able to deal directly with sex offences. First of all, the very act of a teenager becoming pregnant is actually an illegality.

Mr. Temporary Speaker, Sir, today if you are taken to court for a traffic offence, the case is usually fast tracked because there is a whole department at the police stations dealing with traffic issues throughout the country. I think even as we look at our Judiciary, we need to ask ourselves whether we need a whole department to fast track cases dealing with sexual offences.

The Temporary Speaker (Sen. Murkomen): Sen. Wangari, your time is up!

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, as an expert in this area, I can strongly confirm to you that out of 1,000 pregnancies in this country, 103 are by children aged between 12 and 15 years. The good news is that the causes are such that there is something we can do about it. Therefore, I want to congratulate the Mover of the Motion and urge her to go beyond the Motion and come up with a Bill and, probably, call it the Teenage Mothers Support Bill which will become an Act of Parliament. That Bill will address all the cases and solve them.

First, this problem of teenage pregnancies is caused by peer group pressure, rape, cultural practices, broken families, poverty, lack of sexual awareness, alcohol and drug abuse. All these things; we can do something about them. Because this is so important, as an expert again, let me bring to your attention the fact that this situation impacts so seriously on a youth to the extent that of all these mothers, you find that they are depressed, left in isolation or stigmatized. Some of them even die. The appalling thing about the deaths is that up to 70,000 mothers who are teenagers die in developing countries every day.

The Temporary Speaker (Sen. Murkomen): It is now time for the Mover to reply.

Sen. Ongoro: Mr. Temporary Speaker, Sir, I want to take this opportunity to thank all the Senators who contributed very ably to this Motion and who have supported it.

Even as we support, we must consider the views that have been raised by Sen. Mutula Kilonzo Jnr. I want to agree with him in totality. But maybe to take him back to the Motion, if you read the Motion, I am actually agreeing with him that the basis for recognizing the family should be as contained in Article 45. That being the case, the reality out there is different and this Motion simply states that even though the scenario we wanted was contained in Article 45 where only those who have the capacity to raise families will have children, however, that is not the scenario obtaining out there. Therefore as a nation we have the responsibility to take care of these children who go against the spirit of Article 45 as contained in the Constitution to start their own families. That is the spirit of this Motion.

However, even as we support, let us also go by what Sen. Boy Juma Boy and Sen. Ong'era brought to our attention, but we also have to put a check to the levels of exposure that we subject our children to, especially Sen. Boy Juma Boy's passionate plea that the social media, the television, access to mobile phones and all the other items be controlled.

There was also a plea by Sen. Sijeny that even as we support this Motion, we should consider bringing to book the perpetrators of these heinous acts. There is no woman or girl who will fall pregnant on her own whether by consent or not. We are here talking about, not adults, but children that we are referring to as babies. Therefore, the person involved, whether another child, an old man or a young man should also be held accountable.

Mr. Temporary Speaker, Sir, having said that, it is largely agreed by all that even as we make extensive reference to our Constitution, we should also consider the African Charter on People's Rights and the Children Act which is domesticating the UN Convention on the Rights of the Child.

Having said that, Sen. (Dr.) Khalwale was not here when I shared my experience of having been in the same room with four generations of women; under 35 years of age. These were; a child, her mother, her grandmother and her great grandmother, all within that same age of 35 years that the Constitution refers to and recognizes as the youth.

Finally, Mr. Temporary Speaker, Sir, I would like to urge the Government and the county governments to consider redirecting some of the funds that they have put towards poverty eradication. Let them be directed to the root causes. These early pre-teen and teenage pregnancy is a catalyst to poverty. Therefore, if we want to stop this vicious cycle of poverty and all the social ills that come as a result of the ripple effect of this process, then we should direct these funds towards programmes and policies that support this cause.

(Question put and agreed to)

The Temporary Speaker (Sen. Murkomen): Next Order!

Second Reading

THE COUNTY ASSEMBLIES POWERS AND PRIVILEGES
BILL, SENATE BILL NO.11 OF 2014

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that the County Assemblies Powers and Privileges Bill, Senate Bill No.11 of 2014, be read a Second Time.

Article 196(3) of the Constitution says that Parliament shall enact legislation providing for the powers, privileges and immunities of county assemblies together with those of their committees and members of those county assemblies. I note with concern that this legislation is supposed to have been enacted three years from the date within which the Constitution came into force; meaning that this is a Bill that should have been passed and enacted by 27th August, 2013.

For some time now, county assemblies have been enjoying certain limited immunities and privileges by virtue of Section 40 of the County Governments Act that provided a Transition Clause to the effect that pending the enactment of this Bill – which is now before the House – county assemblies would enjoy immunities, privileges and powers of the national Parliament contained in Cap 6 of the Parliamentary Immunities and Privileges Act.

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Mr. Temporary Speaker, Sir, the transition provision provided a very interesting, but common way of enjoining county assemblies in these immunities and privileges. It said that those powers, privileges and immunities of the Parliament of Kenya under Cap 6 would apply to county assemblies *mutatis mutandis* with necessary modification. That is where the problem is. When we say that they will enjoy the same powers, immunities and privileges with necessary modifications, that gives room to all manner of interpretation. It also gives room to a possibility of people exploiting that proviso to defile the precincts, processes and personnel that assists county assemblies to run their business.

This week, Kenyans watched with horror and dismay as a group of Kenyans stormed the Makueni County Assembly. It does not matter what grievances those Kenyans had. The precincts of a County Assembly, just like those of Parliament are immune and inviolable. They cannot be ingressed without the express permission of the head of the institution, in this case, the Speaker.

This Bill has come at an appropriate time. It has come at a time when Kenyans remember, about a month ago, that a Governor of a county I will not name literally walked into the chambers of a county assembly uninvited and tried to influence the outcome of the proceedings that were discussing the budget of that county. Why should we have such behavior which we do not expect within the precincts of Parliament?

My suspicion is that there are Kenyans who still live in the past where they believe that county assemblies are an extension of the defunct local authorities. They think it is some sort of county council or something without realizing the constitutional paradigm of governance, especially with regard to devolution and separation of powers. This makes county assemblies parliaments at the level of counties.

In fact, just to underscore my point, the Constitution talks about the arms of Government and says legislative authority vests in the people of Kenya, but is exercised by Parliament at the national and at the county level. Therefore, the county assemblies are not some kind of county councils or parastatal committee meetings where you can storm in with other Kenyans when you feel angry.

This Bill tries to restore, recognize and put a stamp of approval on the sacredness of county assemblies as parliaments and as legislative arms of our county governments.

Let me also say that, unfortunately, we have spent a lot of time, in the past, especially one and a half years protecting, discussing and highlighting challenges that are faced by the executives at the county level forgetting that out of the three arms of Government, two of them are already devolved; the Executive and the Legislature. The only organ that has not been devolved is the Judiciary.

We need, therefore, to spend an equal amount of time, energy and legislation to protect the interests of county assemblies the same way we protect those of county executives. At times, when we talk about county governments, our minds go to the county executive. However, under Article 96(1), protection of our counties and the representation of their interests should extend to both arms of Government as I have said.

Very quickly, this Bill does a number of things. First, it defines the precincts of the county assembly to include the chambers and other buildings where the chamber is situated, where the staff of county assemblies are housed, including the press and public galleries. This also includes any building that is being used by the county assembly either in plenary or by a committee of the county assembly even if the building is outside the physical building that is ordinarily used by the county assembly. In other words, if a committee of a county assembly meets in Kisumu or Nanyuki for purposes of discharging parliamentary work, the meeting or place that the meeting is taking place is included in this definition.

Two, this Bill allows officers of the national security organs with the permission of the Speaker to enter and remain within the precincts of county assemblies. For purposes of maintaining law and order, police officers and other officers of the national security organs may enter with the permission of the Speaker and remain within the precincts for purposes of maintaining law and order.

Three, the Bill provides for access to the county assembly precincts by members of the public. This is an important provision. It allows the Speaker to make guidelines on how the public can access the precincts of county assemblies.

Section 5 gives access but according to Section 6, there is a limitation which is; process servers in a civil matter may not serve the county assembly or its committee when it is sitting. I am sure Sen. (Dr.) Boni Khalwale had a similar encounter last week when some people purportedly tried to serve a committee of the Senate when it was in session. That is not allowed because it is a violation of the integrity and the dignity of the Senate. That provision is there.

Thirdly, even in the limited situation where a process may be served, that is, if somebody has a court order in civil matters, they may serve within the Assembly but not when it is sitting and not when the committee is sitting. It can only be so if it relates to the attachment of the salary of a member of staff. For example, if somebody is not taking care of some of the children who do not live with him in the same house, their salaries can be attached. Such service is allowed because that is a civil issue but even then, that should not interfere with the proceedings of the Assembly or its committees.

Mr. Temporary Speaker, Sir, before I talk about freedom of debate, let me talk about the right of the public to petition the county assemblies. This is a new thing and as we modernize our own Parliamentary Privileges and Immunities Act, this is something that we also need to take on board when that time comes. Today, the Constitution allows the public to access Parliament and to petition because it is a constitutional right. However, this Bill proposes that the Speaker would designate a specific place where members of the public can exercise their right to picket or petition a county assembly.

We had an issue last year where some people wanted to express themselves about us. That time, it was the National Assembly because the Senate was at the Kenyatta International Conference Centre, (KICC). Some people carried livestock of various types which they slaughtered on the road. That is not acceptable because as much as you want

to express yourself, there must be some dignity. First of all, you do not inconvenience other Kenyans who have nothing to do with your petition or with Parliament. This Bill requires that the Speaker designates a particular place where members of the public can go and petition, picket and air their grievances but they must do so in a dignified manner. There should be no slaughtering of animals and screaming in the middle of the streets. If they do not do it in a dignified manner, the law allows that they be removed from the identified designated area.

Mr. Temporary Speaker, Sir, the next thing is to do with freedom of debate---

Temporary Speaker (Sen. Murkomen): Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: On a point of order Mr. Temporary Speaker, Sir, as our leader of Government Business in this House, could the Majority Leader substantiate how he reconciles the lack of a designated place for picketing in this Senate with the one that he is advocating for in the county assemblies? Could you reconcile the two?

The Temporary Speaker (Sen. Murkomen): The Senate Majority Leader (Sen. (Prof.) Kindiki).

The Senate Majority Leader (Sen.(Prof.) Kindiki): Mr. Temporary Speaker ,Sir, I agree with Sen. (Dr.) Khalwale that up to now, even for us in the national Parliament, we are operating under a very old law called National Assembly Immunities and Privileges Act, Cap. 6. This does not even talk about the Senate. We are in the process of introducing before this House a bill as soon as it is ready, a Parliamentary Immunities and Privileges Act that will take care of both the Senate and the National Assembly. It will also take care of the modern realization, under the new Constitution especially, that it is the right of the public to express their views about their leaders. Therefore, a similar provision in the proposed Bill has been included to make sure that Kenyans, as much as they want to express themselves, they do not interfere with the rights of other people. They should also not do despicable things, some of which actually include cruelty to animals. There is a law in this country; what is called the Prevention of Cruelty to Animals Act which says that if you have to slaughter an animal, you must do it in certain conditions and for certain purposes.

You cannot just carry an innocent pig to the middle of the road when vehicles are passing, slaughter it there and you are not even eating that pig; you just want to express yourself. We have taken that on board. Our people must know that you can express yourself without doing despicable things. You do not have to break gates, shoot people or shout yourself hoarse. Demonstration and picketing is a worldwide issue. I have been to some places where people are picketing just outside the British Parliament. This was a small group of people; they had their posters which spoke for themselves and they were dignified.

Mr. Temporary Speaker, Sir, in this country, it has become very bad, especially for us, leaders, who are being attacked while presiding over functions in the country side. Somebody just comes with a machete, storms in and wants to kill you. I always ask myself; these Kenyans are the same people who elected us. If they do not want us

anymore, they should have the patience to wait and remove us from office, but not through a machete. If they want to express themselves, let them stand somewhere, shout and say, "Kindiki is not a good leader. The other person is not a good leader." They do not have to carry a cow, slaughter it in the middle of the road and splash blood around. It is despicable and unacceptable in the modern society.

This thing cuts both ways. Our own conduct as leaders must also be matched by dignified conduct from the people whom we lead.

Mr. Temporary Speaker, Sir, I want to talk about freedom of debate ---

The Temporary Speaker (Sen. Murkomen): Order! Sen. Khalwale!

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, thank you for the indulgence. Whereas we are very sorry for what happened to the Member of Parliament (MP), where he was almost killed by that man who was holding a machete, could the Senate Majority Leader tell us what the Government is doing about a group of leaders belonging to the ruling coalition who led people in Nandi to attack and actually physically injure the proponents of the referendum? This is a very serious matter. Or is it only bad when it is the Government people who are being attacked? In this case, it was the opposition which was being attacked in Nandi. Could he substantiate?

The Temporary Speaker (Sen. Murkomen): Sorry. Sen. Kindiki, you do not have to respond. It is not relevant to the debate, therefore, it is not a point of order.

Sen. Kindiki, proceed.

(Laughter)

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Temporary Speaker, Sir, thank you for protecting me from Sen. (Dr.) Khalwale, who is notorious for using every opportunity to bash and perpetuate the *Okoa Kenya* ideology, everywhere, anywhere, anyhow.

Mr. Temporary Speaker, Sir, the freedom of debate ---

Mr. Temporary Speaker (Sen. Murkomen): Sen. Musila.

Sen. Musila: Mr. Temporary Speaker, Sir, I am not challenging your ruling, but it is not irrelevant. The Mover of the Bill made a very relevant reference to the issue at hand. The subject is tolerance. He even referred to leaders who do not tolerate the views of others, like it happened in Narok, where the Governor of Bomet was told: "*Pesa sio ya mama yako au baba yako.*" That is the kind of tolerance that he is very ably articulating. Therefore, would I be in order to ask the Mover to tell us why this is happening under his watch as the Leader of the Majority?

(Sen. (Prof.) Kindiki stood up in his place)

The Temporary Speaker (Sen. Murkomen): Order, Sen. (Prof.) Kindiki. I have not given you the Floor.

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Sen. Musila, whatever Sen. Kindiki shared earlier was by way of example. He was not supposed to be put to task to substantiate anything. If Sen. Khalwale wanted to give more examples, he should have stood on a point of information, as additional information to the examples that Sen. Kindiki had used. But to be required, in a Motion where he is discussing completely something else, to substantiate other things other than if someone wanted to substantiate the veracity of the information he was sharing, was completely out of order. But Sen. Khalwale and you, however, have a right by way of information to add to the examples. That is what you are trying to do using the back door and I am not going to allow that. So, I rule both of you out of order.

Sen. (Dr.) Khalwale: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker, (Sen. Murkomen): Do you want to be informed, Sen. Kindiki?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, this is one of those rare moments where I would be interested to be informed by Sen. Boni Khalwale.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I want to remove my hat for the Senate Majority Leader for accepting information from a humble bullfighter. Kenyans speaking to us are shocked because they are waiting to see the Director of Public Prosecutions (DPP) or the Government say or do something about the violence that was meted against the proponents of the referendum in Nandi, and nothing has happened. Kenyans are similarly appalled that nothing has happened to the Leader of the Majority in the National Assembly for what he visited upon the Chairman of Council of Governors.

That is the information I am giving, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Murkomen); Order! Sen. Khalwale, is that a point of information? You have not informed the Senate Majority Leader at all.

Sen. (Dr.) Khalwale: Mr. Speaker Sir, the information I am then giving him is that his Government is truly committed to being intolerant---

The Temporary Speaker, (Sen. Murkomen): Order, Sen. Khalwale! What information do you want to give the Senate Majority Leader in furtherance of the Motion he was moving? Sen. Khalwale, resume your seat first.

(Sen. (Dr) Khalwale resumed his seat)

You know very well what a point of information is. It is to add to information that is not in the knowledge of the Senate Majority Leader. I do not think that the events that occurred in Machakos, Makueni or Kapsabet-Nandi are not in the knowledge of the Senate Majority Leader, but if you have another angle of the same information that you thought would assist in his debate, you just inform him. Do not engage in a debate. This Bill is here and you will have the time to share what you want to share, even if you want to traverse a little bit but within the contents of the Bill.

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Sen. (Dr.) Khalwale: Mr. Temporary Speaker Sir, I am, therefore, informing him that you should not be economical when you are speaking to the issue of intolerance, by avoiding the atrocities that are being perpetuated by high-placed officials of the Jubilee Government. Where else do you want us - the small people of this country - to go to if you do not protect us? Why has the Director of Public Prosecutions not ordered for investigation or arrest of certain individuals?

The Temporary Speaker (Sen. Murkomen): Order! Resume your seat.

(Sen. (Dr) Khalwale resumed his seat)

You are not helping yourself at all. You are traversing a different terrain. If you have issues, you can come with a proper Motion on those issues. Sen. Kindiki may now proceed, because chances are that someone would have asked you to substantiate all that you are saying. The Director of Public Prosecution is not an official of Jubilee Government, but an independent office.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, just to highlight quickly some of the remaining provisions, the freedom of debate is provided for, and there shall be no civil or criminal process against a Member of a County Assembly for matters said in debate, petitions or other proceedings of the County Assembly. In other words, sections 8 and 11, a civil or a criminal suit cannot be brought against MCAs for expressing themselves.

Another important provision is Section 10. I saw that there was a lot of debate even in the media about it. I expect through debate in this House, we will be able to reach an appropriate consensus. Section 10 speaks to proceedings in an assembly. This includes the committees of this assembly, not being questioned in any court. This is a tradition the world over, and to support this immunity of parliamentary proceedings being privileged, a number of other provisions have been included; including that no civil suit may be instituted against the Speaker, the Leader of Majority, Leader of Minority or a Chairperson of a committee for acts done in performance of their functions. To paraphrase, 'no civil suit can be brought against Sen. (Dr.) Khalwale when he is performing the functions of chairman of the County Public Accounts and Investments Committee of the Senate of the Republic of Kenya. There is immunity from all manner of suits. No arrests may be made. This has been there even in the old law; there can be no arrest of a Member of a County Assembly while going to, attending or returning from a sitting or a committee of the county assembly.

Along those lines is Section 13; that no staff member of the county assembly shall be compelled to give evidence, to produce minutes that have been taken or any document that has been tabled before a county assembly unless with the permission of the county assembly. In fact, this *proviso* is so strong that it only allows the permission of the Assembly, not that of the Speaker. Any document that has been tabled before the House,

or minutes which have been written in a *Kamukunji* or in a committee cannot be produced in court, unless the county assembly approves.

Sections 14 and 15 talk about the breach of privileges. If a Member breaches the privileges of the House, there is established under Section 14, a committee of powers and privileges which shall investigate the alleged breach and mete out the necessary punishment which includes a formal warning to the Member who has breached the privileges, a reprimand, an apology, withholding specified facilities. For example, the Member may be told not to enjoy the club or restaurant facilities for a while and a fine paid by attaching the salary or allowance of such Member just to make sure there is discipline and Members do not abuse their privileges.

I want to speak to three other things quickly. One is the provisions that allow county assemblies and their committees to summon witnesses and this Bill gives them powers to compel witnesses to appear before them, to produce documents, to give evidence. It provides for sanctions if somebody fails to produce documents or to appear before an assembly to give information or evidence that is required.

Mr. Temporary Speaker, Sir, the next thing is Section 26; which is the enforcement part. This one provides for the hard part which is to instill responsibility on Members of County Assemblies (MCAs). Allow me to say that, equally, there are certain Members of County Assemblies who are still living in the past. They think that county assemblies are an extension of the defunct county councils where people used to fight, throw chairs and overturn tables. That is giving this country a bad image. Parliaments battle with ideas, opinions and debates. This is not a House for physical battles and violence.

This Bill has very harsh provisions on the conduct, probity and decorum of MCAs. Any person or member of an assembly who assaults, obstructs or insults another member during proceedings commits an offence. Any person who forces another Member to take a position in debates or during voting with menaces commits an offence. Any person who induces— even inducement is prohibited.

(Laughter)

Also provided in this Bill is that a Member – even here we have some issues but they have not reached this level – who fails to take instructions from an authorised staff or police officer in the precincts of an assembly, for example, when a Speaker throws somebody out, he must obey. That is the work of the Serjent-at-Arms and other security officers. They should ensure that the Member leaves the precincts.

All those offences attract a fine or even imprisonment including an imprisonment term that can make the Member vacate their seats. It is that serious. What we saw in Isiolo County Assembly in August; people fighting physically and what has happened in other assemblies will not happen when this Bill comes into force. That should not happen even in Nairobi County.

Failure to attend committee sessions by a witness when they are called or summoned - for example, what we are seeing now with some of our friends in the County Executive - without reasonable cause is also an offence that is punishable under the law. Any person who disobeys or fails to satisfactorily answer questions – some people also come and evade answering questions and beat about the bush – commits an offence; and so is the refusal to produce documents. More important, if any public officer is required to produce a document or information but refuses, that is a ground for removal from office under Chapter 6 of the Constitution. That will make public officers respect county assemblies and later when we enact our own law, respect the institutions and committees of Parliament.

Mr. Temporary Speaker, Sir, I would like to end there. I want to thank you and other Members. I beg that the County Assemblies Powers and Privileges Bill be read a Second Time.

I request Sen. Khalwale, Senator for Kakamega, to second and say the things that he wanted to say.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I rise to second that the County Assemblies Powers and Privileges Bill, 2014, be read a Second Time. I will be very brief because this is a very important Bill. I do not see any strong areas of contention. However, I would like just to point out a few things:

Mr. Temporary Speaker, Sir, the first thing I want to point out is about Clause 4 which reads:-

“An officer of a National Security Organ may, with the permission and authority of the Speaker;

(a) Enter upon or remain in the precincts of a County Assembly for the purpose of performing any function of that National Security Organ.”

Mr. Temporary Speaker, Sir, we have to think about it carefully because we want to be sure that Members of the County Assemblies are not harassed by members of the national security organs by way of arrests and carrying out vendetta. In some occasions, we might have Members of County Assemblies, (MCAs) who will say bad things about big people in Nairobi. We would like you to think about that. This is not just theory; I know an MCA in Busia who has been arraigned in court for criticizing the President. These things are real. Therefore, I would urge that we think about these things. If I may quote Sen. Wetangula, who likes quoting the retired Justice Ringera. Justice Ringera said that the best way to test a good law is if that law was to be used against you. Today, we are big people in Nairobi; we might retire as MCAs in Kakamega. We want to be sure that we leave good laws in Nairobi.

Mr. Temporary Speaker, Sir, the second issue in the Bill is Clause 8. This is about the freedom of speech and debate and it reads:-

“No civil or criminal proceedings may be instituted in any court or tribunal against a Member of a County Assembly by reason of any matter said in any debate, petition, Motion or other proceeding of the County Assembly.”

Mr. Temporary Speaker, Sir, I would like us to remember that Members also say such things not just in the Plenary, but also in Committees. I will give you an actual example of hon. Eric Sungu, who was my colleague in the other Parliament. He led us in a Committee that was investigating the death of Dr. Robert Ouko. While seated in the Committee and as a chair, he made certain remarks. Then, a lawyer, a very senior counsel in this country whose name I do not want to mention because he is in the habit of suing people, I do not know whether I am protected now, he approached the High Court and won the case. Now, Hon. Eric Sungu has been running all over the place since. He is not a rich man but humble like me. It started with Kshs3million but it has grown to Kshs9 million. The last time I saw him, he was looking like a 70 year old man when he is actually about 55 years. We have to look at these things seriously.

Mr. Temporary Speaker, Sir, the last point that I would like to bring to the attention of the Senate Majority Leader (Sen.(Prof.) Kindiki as I support this Motion is Clause,16 which talks about the conduct constituting breach of privilege. It reads:

“The Committee of Powers and Privileges may find a Member to be in breach of privilege if the Member---

I want us to think about it also. There are times when, pursuant to the provisions of this Constitution, I might choose to address the County Assembly of Kakamega or the Speaker might allow me to address the County Assembly of Turkana. If I am not cushioned here as a Senator, some of the things I might utter in those meetings could put me into trouble. This is the time for us to dissect these small things even if it means splitting hairs. That is why we are here to make laws.

Mr. Temporary Speaker, Sir, having said those things I had seen, I want to thank the Senate Majority Leader for leading us here. I also want to assure him that the issue of intolerance is real. We are waiting for the case of Nandi, which has touched me because Nandi and Kakamega, we are brothers and sisters. The Leader of Majority may not know that because he comes from the other end. Nandi and Kakamega share so much in common. We have inter-married and we do a lot of trade, just like our ancestors used to do barter trade. The issue of Nandi is worrying us.

(Loud consultations)

Mr. Temporary Speaker, Sir, please, protect me from the senior most Member of this Senate.

At a rally in Nandi, on the issue of intolerance---

Sen. Hassan: On a point of order, Mr. Temporary Speaker, Sir. I am rising on a much unrelated point of order and I am sorry for doing that to my senior. There is a clock

showing 06.28 p.m. and we have these smart phones which read time automatically; and they are showing 06.32 p.m. Therefore, as a Senate, we need to synchronize them.

The Temporary Speaker (Sen. Murkomen): I think the Clerk has heard.

Sen. (Dr.) Khalwale: Thank you. In that rally, there is a leader in this Republic who is fighting for his life in hospital. The rally was attended by a Senator and Members of Parliament who said that they could not allow that man to keep on supporting something which is not supported by the Deputy President. This country is waiting for the Deputy President to take the earliest opportunity to offer an apology and clear the air that these people were not acting at his behest. These are very serious matters unless we are tolerating impunity and that some people are above the law---. Nobody is above the law.

The Temporary Speaker (Sen. Murkomen): Order, Sen. (Dr.) Khalwale. You should not drag in names of people or offices in this country that are not represented here on matters that cannot be substantiated. Therefore, that was completely out of order.

Considering therefore that you still have several minutes, Sen. (Dr.) Khalwale can continue with that story when we resume because he still has another eight minutes.

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, it is now time to adjourn the House. Therefore, this House stands adjourned until Tuesday, 30th September, 2014 at 2.30 p.m.

The Senate rose at 6.30 p.m.