

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 3rd March, 2016

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

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

PRAYERS

PAPERS LAID

SENATE CALENDAR FOR THE YEAR 2016

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 3rd March, 2016:-
Senate Calendar for 2016.

(Sen. (Prof.) Lonyangapuo laid the document on the Table)

REPORT ON THE COUNTY OVERSIGHT AND NETWORKING ENGAGEMENT TO MIGORI, BOMET AND NAROK COUNTIES

Sen. Kagwe: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 3rd March, 2016:-
Report on the County Oversight and Networking Engagement to Migori, Bomet and Narok counties.

(Sen. Kagwe laid the document on the Table)

REPORT ON THE PROPOSED EXTENSION OF THE TERM OF THE TRANSITION AUTHORITY

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 3rd March, 2016:-
Report on the proposed extension of the term of the Transition Authority.

(Sen. (Prof.) Lesan laid the document on the Table)

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FINANCIAL REPORTS OF VARIOUS PARASTATALS

Sen. Wamatangi: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 3rd March, 2016:-

Annual Report and financial statements for Moi University for the year ended 30th June, 2012.

Report of the Auditor -General on the financial statements of Kenya Marine and Fisheries Research Institute for the year ended 30th June, 2014.

Report of the Auditor-General on the financial statements of Kenya Ferry Services Limited for the year ended 30th June, 2014

Report of the Auditor -General on the financial statements of Rivatex East Africa Limited for the year ended 30th June, 2014

Report of the Auditor-General on the financial statements of Postal Corporation of Kenya for the year ended 30th June, 2014

(Sen. Wamatangi laid the documents on the Table)

The Speaker (Hon. Ethuro): Let us move on to the next Order.

NOTICES OF MOTIONS

ADOPTION OF REPORT ON THE COUNTY OVERSIGHT AND NETWORKING
ENGAGEMENT TO MIGORI, BOMET AND NAROK COUNTIES

Sen. Kagwe: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate adopts the report on the County Oversight and Networking Engagement to Migori, Bomet and Narok counties laid on the Table of the Senate on Thursday, 3rd March, 2016.

APPROVAL OF THE SENATE CALENDAR 2016

Sen.(Prof.) Lonyangapuo: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, pursuant to Standing Order 28(1), the Senate approves the Senate Calendar (Regular Sessions) for the year 2016 (*February to December, 2016*), laid on the Table of the Senate on Thursday, 3rd March, 2016.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, I would like to request you to also give notice on the County Public Accounts and Investments Inquiry.

ADOPTION OF REPORT OF CPAIC ON THE FINANCIAL OPERATIONS OF
HOMA-BAY COUNTY EXECUTIVE FOR THE FINANCIAL YEAR 2013/2014

Sen.(Prof.) Lonyangapuo: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Homa-Bay County Executive for the Financial year 2013/2014 laid on the Table of the House on Wednesday, 4th November, 2015.

ADOPTION OF REPORT ON PROPOSED EXTENSION OF
THE TRANSITION AUTHORITY

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I beg to give notice of the following Motion:

THAT, the Senate adopts the report on the proposed extension of the term of the Transition Authority laid on the Table of the Senate on Thursday, 3rd March, 2016.

The Speaker (Hon. Ethuro): Next Order.

STATEMENTS

The Speaker (Hon. Ethuro): Hon. Members, according to the annex on page 176, under item (iii) Statements, let us begin with the first statement. Every Member must be having an Order Paper.

STATUS OF THE KENOL-MAKUTANO-MARUA ROAD

Where is the Chairperson of the Committee on Roads and Transportation? What about the Vice Chairperson? We will visit this statement later.

Let us move on to statement listed as “b”.

KILLINGS IN KITUI COUNTY

The Member is not here. Let us move on.

STATUS OF CASH TRANSFER PROGRAMME

This statement also concerns the same Member who is not here. Let us move on.
Sen. (Prof.) Lesan, if you could respond to the next statement.

ALLOWANCES AND FACILITIES PROVIDED
TO NOMINATED MCAS

Sen. (Prof.) Lesan: Mr. Speaker, Sir, we have sought an answer from the Chairperson of the Salaries and Remuneration Commission. However, we have not yet

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received a report from them. I would like to beg the indulgence of the House to give us another week as we continue to chase for this answer.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you directed last time that we should get this statement. The nature of the inquiry was so urgent because for the last nearly four years now nominated Members of County Assemblies (MCAs) have never benefited and they have been discriminated. I am surprised that this new Chairman, Sen. (Prof.) Lesan, instead of taking his work with gusto and move with speed, having been elected one week ago, is letting himself down by saying that this statement is ready. I do not know how you deal with somebody who has just been appointed to office and he is needed to prove that he is capable.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I want to accept the sentiments expressed by my colleague Senator. I only disagree that he says that I have not taken this responsibility with gusto. But I want to tell this House that we have---

The Speaker (Hon. Ethuro): Order, Sen.(Prof.) Lesan. What are you accepting?

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I am accepting that we have approached this task seriously in that we have twice inquired within the last one week from the Secretary of the SRC to give us an answer. That is as much as I could do at the very start. I am sure with similar effort we should be able to give an answer within the week.

Sen. Abdirahman: Mr. Speaker, Sir, this is not a matter which is supposed to be delaying much more. The nominated County Assembly Members are really suffering. The chairperson representing the rest of the committee seems to be helpless. He now says they will write again and again. We seek your intervention. If they are not willing to give the information, there opportunities which he can still explore. It is about time we implored upon you or look for other options instead of saying they look helpless.

The Speaker (Hon. Ethuro): Order, Members! Let us allow the Chairperson in a position of his newness, one more week, then those other options will be available to him.

Let us proceed to Statement (e).

ALLEGED ASSAULT OF A POLICE OFFICER BY
CAPTAIN ALLISTER BROWN IN KINANGOP

Sen. Adan: Thank you, Mr. Speaker, Sir. With you indulgence before I proceed, I have a request from yesterday. I wonder at what stage I can proceed. However, let me answer this particular statement first.

The Speaker (Hon. Ethuro): You have no option Senator. This is not the time for your requests. It is the time for responses.

Sen. Adan: Mr. Speaker, Sir, 23rd February, 2016, Sen. Kittony requested for a statement on the alleged assault of a police officer who was on duty by Captain Allister Brown in Kinangop, Nyandarua County on Sunday, 21st February, 2016. The hon. Senator sought to be informed the circumstances that led to the assault of the police officer, the measures that the Government has put in place to ensure that police officers on duty are protected and the action that has been taken against the captain.

I wish to answer as follows; On 21st February, 2016 at around 10 a.m. a helicopter registration no.5YDSN piloted by Mr. Allister Lynn Patrick landed at Ndunyu Njeru

playgrounds. On board was His Excellency the Deputy President Hon. William Ruto who was attending a fundraising event at Ndunyu Njeru Catholic Church. However, an exited crowd of onlookers surged forward to get a closer look of the chopper.

The police officer who had been deployed to secure the area and chopper strived to control them. When the pilot disembarked, he walked straight to 90944 Corporal Mercy Wandera. He snatched her swagger cane and used it to hit her left leg.

The Speaker (Hon. Ethuro): What is it, Sen. Khaniri?

Sen. Khaniri: Mr. Speaker, Sir, I rise to seek your guidance under then *sub judice* rule in our Standing Orders. The matter being canvassed is active in a court of law and pour Standing Orders prohibit us from discussing any matters that are active in a court of law. I seek your guidance on this particular one.

The Speaker (Hon. Ethuro): Even just thinking on top of my head, I will not agree with your statement that the *sub judice* rule does not allow Parliament to discuss any mater before the law. It depends on the particulars being canvassed before the House. The onus is on the one involving the *sub judice* rule to state that those matters being sought are actually before court. This has been a long debate in Parliament. That is the last resolution of it and it is what is provided for in the Standing Orders presently.

Let her proceed until you find the particulars that you may wish to challenge.

Sen. (Dr.) Khalwale: On a point of Mr. Speaker, Sir. I thought the Senator for Vihiga was actually helping the Chair. He is drawing to your attention that the House might be proceeding contrary to the *sub judice* rule. It is up to you to challenge the Member to indicate whether the matter is actively before court or not. That is why you are the Speaker, to either give the microphone or deny.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, I have immense personal respect for the Senator for Vihiga, your good self and the rest of the Senators. More particularly, to the two of you, when it comes to the Standing Orders. However, I will not allow you just to demonstrate that you know the Standing Orders, especially when I have invoked them in order to mislead the House.

(Laughter)

I could have understood that initially, but surely not after I have already pronounced myself on it. At the very minimum, you should have made reference to then Standing Orders then point out the contradiction. Therefore, let me help you. Sen. Khaniri was not helping me. You are the one who needs my assistance now.

Standing Order No.92(4) says:-

“A Senator alleging that a matter is *sub judice* shall provide evidence to show that paragraphs (2) and (3) are applicable.”

That was the essence of my intervention to Sen. Khaniri, That is the correct position.

Proceed, Sen. Dullo!

Sen. Adan: Thank you, Mr. Speaker, Sir. The crowd was agitated by the incident and became hostile forcing the pilot to take refuge in the chopper, after which he took off to the air, but he landed back shortly thereafter.

During the security coverage for such events, the following measures are employed to ensure law and order prevails.

Adequate police officers are deployed to provide security. The officers are divided into different sectors. Each sector is under the command of a senior officer who is able to issue appropriate orders in case of a threatening situation. That is, a situation which poses a threat to the members of the public or the officers themselves.

Depending on the prevailing situation in any given area, officers are equipped with appropriate uniform for their protection and that of a colleague.

Appropriate punitive and deterrent laws are also in place to deal and prosecute persons who violate to attack police officers while on duty. Following the incident, the victim reported the matter at Engineer Police Station. An investigation commenced immediately vide Case No. 245/31/2016.

Subsequently, the suspect was arrested on 23rd February, 2016 in Nairobi and escorted to Ndunyu Njeru where the crime had been committed. He was presented before court and charged vide Court File No. 67/2016 with assaulting a police officer contrary to Section 103(a) of the National Police Service Act (2011) and creating disturbance in a manner likely to cause a breach of peace contrary to Section 95(1)(b) of the penal code. He was denied bail and remanded.

On 29th February, 2016, he was given bond of Kshs 700,000 with two Kenyan sureties or cash bail of Kshs 250,000, but on condition he surrenders his travel documents. He was remanded after failing to produce the documents. The case will be mentioned on 14th March, 2016.

The pilot is a United Kingdom nationality, but possesses an alien card. He has since been released on 1st March, 2016 on cash bail of Kshs 250,000 after depositing his passport. The hearing is scheduled for 26th April, 2016.

Sen. Kittony: Mr. Speaker, Sir, I commend the security forces of this country for the action they took promptly to save the integrity, especially of the challenged police woman. It was not only demeaning for the police woman, but for Kenyan women. I wonder what my two colleagues had in this case unless, they have been compromised. This is a national issue. We have to protect our dignity in all manner possible.

Therefore, I am satisfied with the response given. I commend the police for acting very promptly on this issue.

The Speaker (Hon. Ethuro): What is it, Sen. Khaniri?

Sen. Khaniri: Mr. Speaker, Sir, I still revisit the point I raised. Sen. Kittony has imputed improper motives on myself and the Senator for Kakamega that we have been bribed to raise the issues we have raised. I have gone through Standing Order No. 92 that you have just taken us through. I would like you to make a ruling on what Sen. Kittony has said.

However, the drafters of these Standing Orders had a reason to put this particular clause in our Standing Orders that when a matter is actively in court, it should not be prosecuted in the Floor of Parliament because this may interfere with the proceedings in

the court. While issuing the statement, the chairperson has clearly stated that the said person was released on bond and a hearing date has been set for 26th April, 2016. That is proof enough that the matter is active in a court of law.

It is public knowledge that the matter is active in court. Paragraph (4) was put there to provide for situations that are not very clear. We are contravening our own Standing Orders by discussing or canvassing on a matter that is actively in a court of law.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, described at the very best, Sen. Kittony has nothing against me. Could you give her an opportunity to substantiate her allegations that we have been compromised? We have had many opportunities in our lives to be compromised, but we have refused. Could she substantiate? If she is unable, could she withdraw and apologise?

The Speaker (Hon. Ethuro): Sen. Kittony, on the first one, did you make reference to the two Senators that they have been compromised?

Sen. Kittony: Mr. Speaker, Sir, it is my right to get the answer I sought. I do not why they are saying that the Standing Orders do not allow. If it is an issue in court, it is you to rule but I deserve my answer.

The Speaker (Hon. Ethuro): Order, Sen. Kittony. I did not ask for justification. I asked for your confirmation as to whether you stated those words or not. So, do I take it from your justification that you actually stated them?

Sen. Kittony: Okay, Mr. Speaker, Sir, I withdraw.

The Speaker (Hon. Ethuro): Order, Senator. You do not withdraw what is not there. Did you refer to them? You need to confirm first.

Sen. Kittony: I said I withdraw and I still insist that it is my right to get the answer.

The Speaker (Hon. Ethuro): Hon. Senators, this is a straightforward matter. I direct Sen. Kittony to own up. Please own up the words so that you may withdraw them and then give unconditional apology. That is the procedure.

(Loud consultations)

Order, Senator. Why are you finding that to be difficult?

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. When a Question is raised in the House, it becomes the business of the House and not an individual's.

The Speaker (Hon. Ethuro): Order, Sen. Abdirahman.

Sen. Abdirahman: Allow me and I will make it much lighter. Let me explain a little bit more so that she could be helped here. I am only saying that it should be taken personal and as you have rightly put it, one must own up because human is to error. When you make mistakes, you own up and apologise. Our humble Senator should do that so that we can proceed with business.

Sen. Kittony: It is not my business to offend anybody. If there is an aggrieved person the other side, I withdraw and apologise, sincerely.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, although Sen. Kittony seems to be satisfied with the response given in this statement but it is not fully answered to the satisfaction of this House.

The Speaker (Hon. Ethuro): Order, Senator. I want to dispose the matter of apology first.

(Loud consultations)

Order, Senators. It is not for you to determine.

Sen. Kittony, you need to do what is supposed to be done. I do not understand why you are so reluctant to do the obvious. Sen. (Dr.) Khalwale, made it easier for you that he believes you have nothing against him, but you have found it extremely difficult, you have been reluctant to tender the apology even after the Chair directed you to do so.

Sen. Kittony: Mr. Speaker, Sir, I have said I withdraw and apologise. I do not know whether I am in order or not. If they are not accepting, I have no other words, you can throw me out.

The Speaker (Hon. Ethuro): Order, Senator. I know that is what you want me to do but I will not give you that benefit for today. There is no punishment when it is desirable. Let us leave it there but I want to confirm that everybody has a right to demand and seek whatever they need from the Chair. You have a right to the answer, that was never in question, but they also have a right to object. The objection was on the basis of Standing Orders and it was clarified.

Let me now revisit the issue of *sub judice*, they are also challenging the Chair, Sen. Khaniri, to go read his Standing Orders. I also challenge him to go and read his Standing Orders properly tonight. This is not the first time this matter is coming before this House and also in previous parliaments. In addition to what I had said earlier, I am not taking away a single iota from what I had ruled earlier.

Paragraph 5 says;

“Notwithstanding this Standing Order, the Speaker may allow reference to any matter before the Senate or a Committee.”

So, whatever else is there, the Speaker can and I allowed. I think that is final. Even more importantly for me, just on the specifics, if you look at paragraph 1 and 2, then you have paragraph 3 giving the determination on how you can determine that a matter is active. Paragraph 4 now puts the burden on the Senator. When the issue has been raised on the Floor you intervene and specify what particulars are *sub judice*. You cannot just fail to proceed just because the matter is in court. You can proceed, that is what I am saying and I hope I am clear.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I would like to get some clarification on the same. Even though Sen. Kittony accepted that the answer was good, I was going to raise a related question which is; this is not the first time that a police officer has been beaten in the streets. You recall that a while back, a *matatu* conductor or was it a driver, beat up another policeman in the streets of Nairobi. My question is; what level of training are our police officers getting where civilians are able to thrush them around. I thought that they are trained in hand to hand to combat. It is the policewoman who should

have been beating Mr. Alister and not the other way round. In self-defence, she should have crushed this man. What happened? What sort of training are we giving our police officers?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I will not take the angle my brother has taken – you do not return an eye for an eye. I wanted the Chair to delve further. In the report we heard that this pilot is a foreigner. Are we saying that we can employ a driver from outside Kenya to drive our own vehicles? It is indeed perplexing and intriguing that with so many pilots in Kenya, we have to import one person to fly the helicopter. This must be a foreign firm, could we hear more?

The Speaker (Hon. Ethuro): Senator, you know this is statement time. You can only interrogate the statement but not to look for more information. So, I disallow the question by Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I know it takes two to tango. I would like the Vice Chairperson to clarify because from the information that we have, the police officer was not concentrating on her duty. She was taking photographs of what was going on and, perhaps, this was what precipitated the scene. Could the Vice Chairperson clarify the incident that happened before the incident?

Sen. Abdirahman: Mr. Speaker, Sir, when the incident happened, the first information that we got with regard to the nationality of the pilot was that he was an Australian. However, the statement read that he is a national of the United Kingdom with an alien identification. What did the Vice Chairperson mean by that? Does it mean that he is an alien married to Kenyan? What is he exactly nationality of the pilot?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, when this matter first came to light, there was an amateurish video that went viral and was trending on social media. Listening to it, audibly the pilot was captured saying: “You will have to explain to the Deputy President.” Could the Vice Chairperson explain to us what the findings of the investigation are? Did the pilot make the remarks out of passion or was he suggesting that he was taking instruction from the Deputy President.

Could the Vice Chairperson further explain what action will be taken against the two police officers who were on duty at that time; the one who was assaulted and the other gentleman for failing to arrest that man on the spot after the man visibly broke the law? They had the power under the police powers to arrest him. Why did they fail to do so?

Sen. Haji: On a point of order, Mr. Speaker, Sir. Is Sen. (Dr.) Khalwale in order to give his own interpretation that the pilot was given instruction by the Deputy President? That is his own interpretation.

The Speaker (Hon. Ethuro): Order, Sen. Haji! You are Vice Chairperson of that Committee. However, in your infinite wisdom, you delegated this task to the Vice Chairperson of the Committee. Therefore, you cannot midstream take it back. Could you allow your Vice Chairperson to complete the response?

(Laughter)

Sen. Haji: Mr. Speaker, Sir, with all due respect, I am elected by the people of Garissa County. I am not speaking as a Chairperson of a Committee, but as the Senator of Garissa County. I have that right.

The Speaker (Hon. Ethuro): The people of Garissa County elected you as their Senator. With that delegated authority, the House also gave you a responsibility of being the Chairperson of the Committee on National Security and Foreign Relations. The matter before the House now is from a Committee that you are the Chairperson. This matter happened in another county not Garissa County. I will now take the loftier position of being the Chair. You will have another opportunity to deal with matters pertaining to Garissa County.

Sen. Haji: Mr. Speaker, Sir, I will be careful next time.

The Speaker (Hon. Ethuro): Please, proceed Vice Chairperson.

Sen. Adan: Mr. Speaker, Sir, I am restricted to the information that I was given and to the statement requested.

I will start by responding to the issue raised by Sen. Kagwe. The issue of police officers being beaten or assaulted is something that has been happening in the country of late. I believe that the police department is taking action. The law is also very clear on what actions the police officers are supposed to take in such situations.

Having worked with the Kenya National Human Rights Commission (KNHRC), the same the Members of Parliament will make a lot of noise when a police officer beats a member of public. However, according to the Police Act, the only instance where a police officer is supposed to defend himself or herself is in when his or her life is in threat.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Sen. Adan has insinuated that Senators make noise. Is that a parliamentary language?

Sen. Adan: Mr. Speaker, Sir, I did not get what Sen. (Dr.) Machage has said because I was consulting with the Senator next to me. Let him repeat or kindly allow me to proceed.

The Speaker (Hon. Ethuro): This House does not operate at your own convenience where you choose what to hear and what not to hear. When you know that you are being put to account, you choose not to hear. What Sen. (Dr.) Machage asked is if Senators make noise? You said as much.

Sen. Adan: Mr. Speaker, Sir, when I said that Senators make noise, I meant that they complain. Let me correct my sentence and say that Senators will complain.

The Speaker (Hon. Ethuro): Order, Senator! The question is making noise is not a parliamentary language. Kindly own up. What happened to dignity?

Sen. Adan: Mr. Speaker, Sir, I apologize.

The Speaker (Hon. Ethuro): Order, Senator! I also observed that the Members were not asking you or the Inspector-General to invite members of the police force to beat up civilians. The question was for self defense purpose, the civilian seem to be beating up police officers in uniform more easily. You said that police officers are allowed to defend themselves. This was a case where they were under attack. We expected the same self defense.

Sen. Adan: Mr. Speaker, Sir, this is a matter that we need to discuss with the department of police to ensure that such a situation does not happen again. I believe that this is as a result of loss of confidence by the members of public with the police officers. This is a matter that has been addressed severally.

Concern was also raised by a Member concerning the company that owns the helicopter. I do not have this information. However, according to what I know, the pilot must be holding an employment permit in this country. I will follow up on the matter and let the House know. From the information that I have, the individual is a citizen of the United Kingdom who owns an alien identification. The issue of whether he is married is not known to me, but I can investigate and let the House know.

I believe that the pilot is out on bond because the investigation is not over. If you direct, I can come back with the finding of the investigation to the House later. I will also investigate and find out what action the police department has taken on those police officers and report to the House.

The Speaker (Hon. Ethuro): There was a specific matter inquired by Sen. (Dr.) Khalwale on the words that the pilot uttered, which your Chairperson was said that it was his interpretation.

Sen. Adan: Mr. Speaker, Sir, I do not have information as to whether the pilot uttered such words. However, it is a matter that I can request the officers who are carrying out the investigation to give me the feedback.

The Speaker (Hon. Ethuro): What is it, Sen. Boy Juma Boy?

Sen. Boy Juma Boy: Bw. Spika, Nidhamu yangu ni kwamba Sen. Adan hakujibu swali liloulizwa na Sen. (Prof.) Lonyangapuo. Ameulizwa kama rubani huyu ni mgeni. Katika jibu lake alisema, “ndio ana paspoti ya Marekani.” Ni wazi kwamba yeye ni mgeni. Sen. (Prof.) Lonyangapuo aliuliza, kwa nini rubani wa kigeni anapewa kazi ilhali kuna rubani wengi hapa nchini? Lakini amelihepa swali hilo.

The Speaker (Hon. Ethuro): What is it, Sen. Kagwe?

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. Is it in order to propose what private business people who have private planes should do? That; their businesses can be interfered with? Is it in order for us to go into the business of private planes owned by private people's pilots?

Hon. Senators: Yes!

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, the children of Kenya go to school in order to get jobs. The Jubilee Government came up with a big programme to employ the people of Kenya. So, it is in order to query how this person was employed yet we have many people who can take up the job.

Sen. Billow: Mr. Speaker, Sir, I agree that we have a free market and to some extent, there is free movement of labour in some professions. However, the fundamental point is that according to our laws, where the skills are available locally, officers dealing with immigration are obliged by law not to issue work permits. That is very clear. I think that is the issue is being raised here.

Sen. Kembi-Gitura: Mr. Speaker, Sir, although Sen. Billow has stated as well as I would have, Sen. Kagwe misses the point because it is an issue of employing foreigners when we have people who can be employed in that job. It means there is a Kenyan

helicopter pilot who is not employed because this foreigner has a job that can be taken by a Kenyan. It is a fundamental issue as pertains to who can be employed to work in Kenya and get a work permit in Kenya when there are Kenyans who are competent to do that job. We talk about joblessness every day.

Sen. (Dr.) Machage: Mr. Speaker, Sir, my concern is the high handedness that was meted on this pilot.

The Speaker (Hon. Ethuro): Order, Senator. Let me exhaust the points of order and then I will come back to you.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. I would be the first person to accept that every job available to Kenyans should be given to them. However, we do not know the circumstances; whether this person owns the plane. Surely, we cannot even propose that even if a foreigner has got his own plane, then he is duty bound or obligated to hire somebody else.

The Speaker (Hon. Ethuro): Order, Sen. Kagwe. If this was a Motion, Bill or Sessional Paper, you can argue the way you wish. However, this was a specific issue. Your colleagues have already stated the basis of that question. So, let us hear the rest from the one who has information. However, it is a stated Government policy, legally binding that you do not issue work permits for skills that already exist in the country. That is a fact both in word and law.

Proceed, Vice Chairperson.

Sen. Adan: Mr. Speaker, Sir, regarding how this fellow came into the country and got the job, I need to find out from the relevant department and give the same information to the House. However, currently I do not have that information.

Sen. (Dr.) Machage: Mr. Speaker, Sir, my concern is the heavy-handedness with which this foreigner was subject to. He committed a bailable crime. Was it fair to detain him for that number of days? Is it because he was a foreigner or that is the normal way to handle such crime?

Sen. Adan: Mr. Speaker, Sir, if Sen. (Dr.) Machage listened to the statement, conditions were given which the pilot did not fulfil. That is why he was detained. Once he fulfilled the conditions, he was released on bond. That is the position.

The Speaker (Hon. Ethuro): Next statement.

SHOOTING OF *BODA BODA* RIDERS BY POLICE AT KILINGILI

Sen. Adan: Mr. Speaker, Sir, this statement was requested by Sen. Khaniri. On 16th February, 2016, Sen. Khaniri requested for a statement on the Shooting of *Boda Boda* Riders by Police at Kilingili, Vihiga County, during a peaceful demonstration where one person died and two others were injured.

Sen. Khaniri sought to be informed on the circumstances of the incident and the action being taken by the Independent Police Oversight Authority (IPOA) to ensure that the officers involved are held accountable for their action.

Lastly, he sought to be informed on the measures being undertaken by the Government to ensure that the affected families get compensation.

Mr. Speaker, sir, I wish to respond as follows:-

On 10th February, 2016 the Deputy Officer Commanding Police Station (OCS), Kilingili Police Station, and other officers were on their way back to the Station from Hamisi Law Courts aboard GKB269E, Toyota Land Cruiser, when they found a motorcycle parked dangerously on the highway at Chavakali Market, though it was not manned. The officers loaded the motorcycle, Registration No. KMDS 370U, make TVS; to their vehicle and drove to the station where it was booked in the occurrence book. Shortly thereafter, a group of four young men came to the station complaining that the motorcycle recovered by the police belonged to the chairman of the *boda boda* operators at Stendi Kisa Stage. They were advised to inform the owner to go personally to the police station.

Mr. Speaker, Sir, the following day, the owner of the motorcycle accompanied by five of his colleagues visited the police station where they demanded for the release of the motorcycle. However, he was arrested and later charged in court.

He was, however, arrested and later charged before the court vide file No.15/2016, with riding a motorcycle without insurance and causing obstruction. He was released on a cash bail of Kshs10,000. The case will be coming up for hearing on 26th April, 2016. Meanwhile, the other operators went back and requested the area Member of the County Assembly (MCA) for his intervention. The MCA drove to the police station and demanded for the unconditional release of the *boda boda* operator, but Officer Commanding Station (OCS) declined. The MCA proceeded to Chavakali where he held a meeting with the *boda boda* operators. Immediately thereafter, about 200 *boda boda* operators from Chavakali and Stand Kisa drove to Kilingili Police Station. The police officers blocked the riders from accessing the police station, although the crowd was very defiant and rowdy, which prompted the officers to use teargas as they strived to protect the station and prisoners. However, the rowdy riders overpowered them and forced their way into the station. In an attempt to ensure that safety of the station and the officers, the police officers shot several rounds of ammunition, which resulted to injuries of four persons who were taken to Vihiga Referral Hospital. Unfortunately, one of the victims, Victor Inonda aged 31 years succumbed to the injuries, while the rest were treated and discharged.

An inquest file No.1/2016 was opened by the Vihiga County Criminal Investigation Officer and has been forwarded to the Director of Public Prosecutions (DPP) for advice. The Independent Police Oversight Authority (IPOA) is fully independent and has the mandate to investigate any police officer on its volition or on receipt of a complaint from members of the public.

Lastly, the Ministry has no vote in its expenditure that can cater for the compensation of the victims.

Thank you.

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF MEMBERS AND
STAFF FROM TURKANA COUNTY ASSEMBLY

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The Speaker (Hon. Ethuro): Order, Senators. Before I allow interventions on that particular Statement, let me acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members and staff from Turkana County Assembly. The delegation from Turkana County Assembly Committee on Legal Affairs and Human Rights is here on a benchmarking visit and attachment.

I request each member of the delegation to stand when called out, so that they may be acknowledged in the usual Senate tradition.

1. Hon. Lawrence Lotomon - Chairperson
2. Hon. Lillyrose Akori - Vice Chairperson
3. Hon. Jacob Nakuwa - Member
4. Mr. Francis Ekunoit - Serjeant-at-Arms
5. Mr. James Kuya - Research Officer

I wish them a fruitful programme in the Senate. On behalf of the Senate and my own behalf, I welcome and wish them well.

I thank you.

(Resumption of Statements)

Sen. Khaniri: Mr. Speaker, Sir, I thank the Vice Chair for the Statement, but will be quick to say that I am very shocked by the Statement that she has just issued. I am shocked by the way this Government disregards the lives of its own citizens. The Government that is expected to protect its citizens and their property is the same one that is now killing them. I thought that the days of trigger-happy police officers were long gone with the coming into operation of the new Constitution.

Could the Vice Chair justify the use of live bullets on innocent Kenyans, exercising their right of demonstration? This is provided for in our Constitution. Why would police officers use live bullets on innocent Kenyans, exercising their democratic right? What the Vice Chair has done is just to confess what happened. She has not answered the substantive issues that I raised in my request. I wanted her to explain what IPOA is doing and she has only told us that it is independent. We have a right, as the Senate, to get the progress report of investigations. I am informed that the police officer who committed this heinous crime is still walking free on the streets, after killing an innocent Kenyan. We have only been told that IPOA is independent and they are carrying out investigations. Could we be given a progress report on the investigations because, as the Senate, we have a right to this information?

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

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

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I wish to refer the Vice Chair to Chapter Four - Bill of Rights - Article 26 (1) and (3) of the Constitution. Article 26 (1) says:-

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“Every person has the right to life.”

Article 26 (3) says:-

“A person shall not be deprived of life intentionally, except to the extent authorized by this Constitution or any other written law.”

Our memories are still very vivid on the cases of “Kwekwe” and Kwale, where the life of a young child was taken away by trigger-happy policemen. Now, we have another citizen from Vihiga whose life has been taken away. Could the Vice Chair confirm that this criminal will be arrested immediately to face the law, because he has breached the Constitution?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, in her Statement the Vice Chair has confirmed that on 10th February, 2016 none other than the Deputy OCS of Kilingili Police Station, while driving from Hamisi Law Courts, decided to steal a motorbike that was parked and waiting for passengers on the roadside at Chavakali. Secondly, she has told us that in an attempt to ensure the safety of the station and officers, the police officers shot several rounds of ammunition, which resulted in injuries to four persons, who were taken to Vihiga Hospital.

I have two questions to ask. When will the Deputy OCS be arrested and charged for theft of a motorcycle? By the way Kilingili is in Ikolomani. The *boda boda* operators were merely carrying twigs and singing Luhya songs to mobilize one another to persuade the police. What are these dangerous weapons they had apart from twigs that caused the police officers not to fire in the air, but fire several rounds into a crowd? The Vice Chair should come here with an answer and show that the OCS, who was commanding the shooting at people carrying twigs using live bullets has also been arrested and charged alongside the officer who actually pulled the trigger.

Sen. Boy Juma Boy: Bw. Spika wa Muda, naomba Naibu Mwenyekiti atueleze kama anajua kwamba katika Katiba Kifungu 37 kuna haki ya watu kufanya maandamano. Ameeleza vizuri kwamba wakati maandamano ikienedelea, vitoa machozi vilifyatuliwa. Kwa nini askari waliacha kufyatua vitoa machozi? Viliisha ndio wakaamua kupiga risasi mara kadhaa.

Sen. Adan: Mr. Deputy Speaker, Sir, I totally agree with Sen. Khaniri because we briefly shared this Statement before it came before the House. I informed him that the answer was insufficient. On the issue of investigation, I will request the police to give me more information before I come back to present to the House. I also agree with Sen. Khaniri and the Committee that the matter should be referred to the Independent Police Oversight Authority (IPOA), a body that properly investigates this matter and further consider the compensation matters.

The use of live bullets is not allowed unless under particular circumstances. The arrest of the criminals who were involved - especially the Deputy Officer Commanding Station (OCS) and Officer Commanding Police Division (OCPD) - is a matter that needs to be investigated and the culprits brought to book.

Mr. Deputy Speaker, Sir, the information about the motorcycle that was stolen, is not available so far but I will find out if it was stolen or not and give a feedback by next week. The information will also include the reasons why live bullets were used against the demonstrating members of the public.

The Deputy Speaker (Sen. Kembi-Gitura): Before we protract the question further, it is evident Sen. Adan would like to get more information before giving a proper answer. You have said you wish to go back to IPOA and the Inspector-General of Police to get a satisfactory answer. Is that the case? If that is the case, then you may leave the matter at that and tell us when you will get back. Sen. Khaniri has raised several pertinent issues and we may be forced to defer.

Sen. Adan: Mr. Deputy Speaker, Sir, with your indulgence, I prefer that this matter be referred to IPOA because it is the right institution to investigate it properly. The Police Service cannot investigate themselves and give us clear information to this House.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, you read my mind. This Statement is not complete. When the Vice Chair says that this must be referred to IPOA, I assume we are dealing with the relevant Ministry which the Vice Chair speaks for. She either undertakes to deal with it firmly by referring the matter to IPOA and or do further investigations. It is not about Sen. Khaniri writing to IPOA or an aggrieved person in Ikolomani doing it. Can the Vice Chair do an undertaking that this matter will be sorted out and action taken by the relevant authority?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, are you satisfied to defer this issue?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am satisfied but because of the window that you have given, it will be useful if the Vice Chair came up with a satisfactory answer to account for why the police officers who were under the County Police Commander of Kakamega County were taking criminals to Hamisi law courts ended up policing in Chavakali which is in Vihiga County? They pretended they were taking a motorbike that was dangerously parked. That was theft because Vihiga County is not under the command of---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you have made your point. Sen. Khaniri, are you satisfied that the matter comes at a later date.

Sen. Khaniri: Mr. Deputy Speaker, Sir, yes. The Vice Chair should give an undertaking as to when she will come with a comprehensive answer to address the issues that we have raised.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan, when can you do that?

Sen. Adan: Mr. Deputy Speaker, Sir, Thursday next week. As a Committee, we undertake to take this matter to IPOA.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): It is scheduled for Thursday next week.

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Deputy Speaker, Sir. I am standing on behalf of the Senate Majority Leader. This is important because the Senate Majority Leader is in Kericho campaigning and he is talking badly about Kenya African National Union (KANU) claiming that I am in the opposition. The Members in the opposition can witness that I am the true Senate Majority Leader today.

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. (Prof.) Lonyangapuo. Kindly, issue the Statement.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, did you hear Sen. (Prof.) Lonyangapuo alleging that the person he is purporting to be representing is in the field fighting him? Is he in order to represent the same fighter?

Sen. Murungi: Mr. Deputy Speaker, Sir, I have only one concern. Did you hear the Senator describing himself as the true Senate Majority Leader in this House? He is reading the Statement for and on behalf of the Senate Majority Leader. He cannot be the true Senate Majority Leader. They are not identical.

The Deputy Speaker (Sen. Kembi-Gitura): Order Senators. Sen. (Prof.) Lonyangapuo, had you read the Statement, all these would not have arisen. You are doing it on behalf of the Senate Majority Leader.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, simple English shows that we belong to the same coalition. For that reason, anybody alleging that KANU is not a party forming the Government's party coalition is a liar.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 8TH MARCH, 2016

Hon. Senators, pursuant to the provisions of Standing Order No.45, this is to present to the Senate business for the coming week, Tuesday, 8th March, 2016.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. Are you satisfied that the distinguished Senator for West Pokot has competence to read the Statement under Standing Order No.45(2)(c)? Standing Order No.45(2)(c) states that:-

“The Senate Majority Leader or, in his or her absence the Senate Minority Leader or, in the absence of both the Senate Majority Leader and the Senate Minority Leader, a member of the Rules and Business Committee designated by the Senate Majority Leader for that purpose shall, every Thursday or on the last sitting day of the week, present and lay on the Table, a statement informing the Senate of the business coming before the Senate in the following week;”

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, where is the mistake?

The Senate Minority Leader (Sen. Wetangula): The Standing Order states that in the absence of the Senate Majority Leader, the Senate Minority Leader should read the statement.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, you have just walked in.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, he started reading when I was seated here.

The Deputy Speaker (Sen. Kembi-Gitura): You have just walked in and that is the reason I had granted him permission.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, now that I am here, he has got no right to read the Statement.

(Laughter)

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, you need to guide the leaders that they need to be here in time. If not, the business of the House will not fail to proceed.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Prof.) Lonyangapuo. The point being made by Sen. Wetangula is not an idle point. But Sen. Wetangula, you were not here when I authorised him to read the Statement. The Standing Order does not say the Deputy Majority Leader or the Deputy Minority Leader. The Standing Order talks about a member of the Rules and Business Committee (RBC) and Sen. (Prof.) Lonyangapuo is.

(An. hon. Senator spoke off record)

Order! We need to be orderly and that is important.

Sen. Wetangula, if you take your right very seriously, you can issue the Statement because I have no issue with that but the fact remains that you were not in the Chamber when I authorised Sen. (Prof.) Lonyangapuo. You cannot really have your cake and eat it. Not at the same time.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am sorry I came slightly late. However, when I arrived---

The Deputy Speaker (Sen. Kembi-Gitura): I have finished that issue. I have said that if you take your strides very seriously, I will allow you to issue the Statement but the truth is you were not here when I authorised Sen. (Prof.) Lonyangapuo to issue it.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I know how strict you are about rules and we appreciate that. That is why I brought it to your attention. The moment I was seated here, then, the little competence that was bestowed upon the Senator for West Pokot---

The Deputy Speaker (Sen. Kembi-Gitura): Order! Sen. Wetangula! I will not allow you to continue discussing an issue I have disposed of.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Sen. Wetangula is completely out of order to refuse to read the Statement and say that Sen. (Prof.) Lonyangapuo can go ahead and read it. The Standing Order does not contemplate late arrival. Instead, it says "in the absence." To all who can see, Sen. Wetangula is not absent.

The Deputy Speaker (Sen. Kembi-Gitura): So, what are you saying now?

Sen. (Dr.) Khalwale: That the Chair compels Sen. Wetangula to read the Statement. Otherwise, he tenders his resignation as the Senate Minority Leader.

(Laughter)

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, the business of the House does not start immediately a Member arrives but it is planned earlier.

Hon. Senators, pursuant---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Prof.) Lonyangapuo. Sen. Wetangula will issue that Statement at the appropriate time in obeisance to Standing Orders. It is so ordered.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am most obliged.

The Deputy Speaker (Sen. Kembi-Gitura): We have other statements to be issued. Statement (b) was stood over because Sen. Musila was not here. Is the Vice Chairperson of the Committee ready to issue the statement?

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. There is another statement before Statement (b) and that is Statement (a). It was stood over because the Senator to issue it was not there. Now that she has come and I am here to listen, could we deal with it before moving to Statement (b)?

The Deputy Speaker (Sen. Kembi-Gitura): All these statements will be issued.

Sen. Sijeny, you will issue the statement when I come back to you because I can see you are seeking the Floor. Let us move to Statement (g).

Sen. (Dr.) Kuti.

STATUS OF THE NATIONAL GOVERNMENT'S
PROJECT TO LEASE MEDICAL EQUIPMENT

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, I stand to issue a statement on the Status of the National Government's Project to Lease Medical Equipment sought by Sen. Khaniri. Firstly, he required that we explain the status of the project's implementation in terms of equipment disbursement, training of doctors, technicians and infrastructure development. Secondly, he wanted us to state when Vihiga County will get the equipment. Thirdly, he asked us to state the expected date of completion of the project roll out in all the 47 counties.

This is response to the first question. The equipment is divided into several groups. There is theatre equipment, theatre sterile equipment, renal equipment, Intensive Care Unit (ICU) equipment and radiology equipment.

Theatre equipment was provided by a company called Mindray Company Limited. They were supplied to Machakos, Homa Bay, Kakamega, Thika, Nakuru, Murang'a, Chuka, Malava, Kangundo, Kapenguria, Iten, Kisii, Gucha, Kisumu East, Tharaka-Nithi, Garbatula, Mama Lucy, Isiolo, Kilifi and Malindi. A total of 20 facilities have already been equipped with theatre equipment.

Theatre sterile equipment was supplied to Machakos, Homa Bay, Kakamega, Thika, Nakuru, Kapenguria, Kapsabet, Naivasha, Eldama Ravine, Kisii, Gucha, Isiolo, Nyambene, Chuka, Taveta, Malindi, Msambweni, Kilifi, Coast Provincial General Hospital (PGH), Murang'a, Maragua, Mama Lucy, Spinal Injury, Garissa, Jaramogi Oginga Odinga Training and Referral Hospital, Bondo, Iten and Ishiara hospitals. A total

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of 28 facilities have been installed with the sterile equipment by a company called Esteem Industries Incorporated.

Regarding renal equipment, only four facilities have been completed. That is Machakos, Homa Bay, Kakamega and Thika and they were done by a company called Bellco SrL.

Regarding ICU equipment, only two facilities have been equipped, that is, in Machakos and Nakuru.

Radiology, that is X-ray and the rest, was done by General Electric in Machakos, Mama Lucy, Homa Bay, Kakamega, Malindi, Kilifi, Taveta, Chebiemit, Murang'a, Kiambu, Nakuru, Jaramogi Oginga Odinga Teaching and Referral Hospital, Rachuonyo, Gucha, Ziwa, Kisumu East, Naivasha, Malava, Emuhaya, Ol'kalou, Kisii, Bungoma, Webuye, Engineer, Coast PGH, Voi, Moi Teaching and Referral Hospital, Thika, Kericho, Kangundo, Iten and Nyahururu. A total of 32 hospitals have been equipped with radiology equipment.

On the second issue of training on theatre equipment, a total of 52 officers from 52 hospitals have been trained in China for biomedical personnel. The on-site training for all the users – nurses, biomedical officers and doctors – has been carried out for a total of 263 officers from 18 hospitals.

Regarding training on sterile equipment or the user pre-acceptance training, it was done for 764 officers from 72 hospitals. These are nurses, biomedical personnel and support staff. For the training on renal equipment, 20 biomedical personnel from 14 hospitals have been trained on pre-installation. On-site training has also been done for 32 officers from four hospitals and a three months nursing training for 8 nurses from two hospitals, four nurses per hospital.

About the Intensive Care Unit (ICU), the training has been conducted on biomedical personnel for two officers from two hospitals because there are only two hospitals that were installed with the equipment. Further, 28 nurses from seven sites were also trained on a three week nurses' orientation training. On the x-ray or radiology equipment, 73 officers from 19 facilities have been trained together with their biomedical personnel. Radiographers/radiologists totaling to 173 from 36 hospitals have been trained under application training. Generally, the project is progressing well with the timelines being observed by most of the contractors.

On the third question, the hospitals that will be equipped in Vihiga County under this project are Vihiga Level 5 and Emuhaya Level 4 hospitals. Both hospitals are expected to be fully equipped by the end of May, 2016. Emuhaya Level 4 Hospital has already received x-ray equipment that has been commissioned and service delivery is ongoing.

On the fourth question, the response is that the project started in May, 2015 and is expected to end in May, 2016. Below is a list of hospitals in between these two periods of May, 2015 and May 2016.

Expected Completion Dates

Timeline	Hospital
Inaugurated in	Machakos Level 5 Hospital

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May, 2015	
Hospitals fully equipped	Homa Bay, Gucha, Kilifi and MTRH
By end of March, 2016	Nakuru, Homa Bay, Thika, Kakamega, Gucha, Malava, Kisumu East, Isiolo, Naivasha, Kangundo, Voi, Tharaka, Nyahururu, Engineer, Kisii, JOOTRH, Masalani, Lamu, Faza, El Wak, Chebiemit, Taveta, Griftu, Emuhaya, Webuye, KerugoyaKianyaga, Murang'a, Nyeri, Karatina, Siaya, Bondo, Migori, Kehancha, Ziwa, Burnt Forest, Kericho, Sigowet, Longisa, Ndanai, Narok, Transmara, Embu, Kiambu,Ishiara, Kitui, Mwingi, Makueni, Makindu,Lopiding, Kacheliba, Endebess, Ol'kalou, Kapenguria, Kulacha, Gabartulla, Nyambene, Chukka, Nyamira, Keroka, Msambweni, Nanyuki, Mbagathi, Kabarnet, Eldama Ravine, Iten, Baragoi, Likoni, Kajiado, Loitokitok, Bungoma, Rachuonyo, Nandi Hills, Malindi, Mama Lucy and Kenyatta National Hospital (KNH).
By end of May 2016	Garissa, Hola, Garsen, Mandera, Wajir, Busia, Kocholia, Vihiga, Kapsabet, Turkana, Kitale, Marsabit, Meru, Kinangop, Coast PGH, Spinal Injury, Mathare and Maralal.

The number of facilities which will benefit by the end of the project is 94 county and two national hospitals will be fully equipped with theatre equipment; 94 county and two national hospitals will be equipped with state of the art sterilization equipment; there will be five dialysis machines, 3 dialysis chairs, 2 dialysis beds and unrelated dialysis equipment will be provided for each of the 47 counties and two national referral hospitals. Also, 94 county and four national hospitals will be equipped with state of the art digital x-ray, ultra sound and other imaging equipment and 11 Level 5 hospitals countrywide to be equipped with ICU facilities. This is supposed to be complete by May, 2016.

I think these are the statements sought by the hon. Senator.

Sen. Khaniri: Mr. Deputy Speaker, Sir, allow me to, first, thank the Chairperson for the statement. I am afraid that this is another “National Youth Service (NYS)”, “Eurobond”, and “Anglo Leasing” in the making. The whole contract agreement is shrouded in a lot of mystery and there are so many question marks that should be answered. We are even aware that governors were coerced to sign these particular contract agreements under very strange circumstance. I want the Chairperson to table the contract agreements that were signed. We just hear about these contracts but never had a chance to look at the contents of the actual contracts that were signed. Could he assure this Senate that he has those documents and that he can table them?

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Khaniri! I think we also have to be fair to Chairpersons of Committees. You have sought three specific questions. You did not ask for the tabling of the contracts. So, if you want to expand the issues, then, you must do it at a different forum. This statement time might end up becoming a contest. You must deal with the issues that you have raised. If you raise new issues, then

expect that the Chairperson can only answer them when you have brought out a new request for a new statement.

Sen. Khaniri: Mr. Deputy Speaker, Sir, you and I were in the old system where we used to answer questions as Ministers and Assistant Ministers. You know that when a Member asked a question on a particular matter, you had to come with supplementary information.

The Senate Minority Leader (Sen. Wetangula): Exactly.

Sen. Khaniri: Mr. Deputy Speaker, Sir, the issue of the contract was bound to come. However, I will respect your ruling but I want to know, if the Chairperson has this contract agreement, we will still insist that we want it tabled.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It would be wrong for Sen. Khaniri to deny the people of this country and especially the people of Vihiga County an opportunity to hear an answer on the issue of contracts. This is because even in his own answer, the Chairperson has spoken to contracts. He has said that there was no contract ---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, let me make this clear because in the old dispensation, you were an Assistant Minister. So, you also answered question like we did. That was the old dispensation. Even when we came with supplementary information, it was not just wildly gathered. It was relevant to the issue of the question raised. Sen. Khaniri agrees with me and I do not know why you want to push the issue. In his question, he did not ask about the tabling of the contracts. He asked specific questions and if you want the contracts tabled – I have nothing against them being tabled – then bring it out as a different issue so that the Chairperson of the Committee is not ambushed. The reason why we keep deferring statements and telling them to come back with a better statement, is because many times we raise issues that are germane to the actual questions that have been raised initially. It is important.

Sen. Khaniri: Secondly, Mr. Deputy Speaker, Sir, we all know that health is a devolved function. Different counties and health facilities in counties have different needs. I want the Chairperson to explain to us what informed the decision of the Government usurping that role of counties to equip their facilities. The Government should have allocated these monies to counties so that counties can make their own decisions on what they want to purchase. Why was it deemed necessary to do central purchase of this particular equipment?

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Musila.

Sen. Musila: Thank you Mr. Deputy Speaker, Sir. I want to make a follow-up on the issue of equipment. First of all, I want to note, like Sen. Khaniri, that the governors were not consulted when these equipment were bought. In fact, some were vilified; those who did not sign until they were coerced to signing in fear that the people they represent would be made to understand that they do not want them to receive this service.

Mr. Deputy Speaker, Sir, I have been listening carefully to the lists that have been read and I did not hear Kitui County being mentioned, unless I was mistaken. It is not only that but I heard many counties being repeated, having received every equipment

but I did not hear any equipment going to my county. I would like the Chair to clarify why it is that some counties are being repeated and others are not appearing.

Thank you.

Sen. (Dr.) Khalwale: Thank you Mr. Deputy Speaker, Sir. I am glad that the Chair is a doctor of medicine. Unless the Jubilee government was having its eye on the procurement for the sake of making their usual kick back, how on earth would you purchase---

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. (Dr.) Khalwale. Which word did you use against the Government?

Sen. (Dr.) Khalwale: Kick back, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): That their usual kick back?

Sen. (Dr.) Khalwale: Yes, Mr. Deputy Speaker, Sir.

*(The Senate Minority Leader (Sen. Wetangula) spoke
Off record)*

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I have not addressed you. I can see you but I have not addressed you and I do not think Sen. (Dr.) Khalwale needs your support.

Sen. (Dr.) Khalwale: I love it Mr. Deputy Speaker, Sir. I was saying that unless Jubilee was bent on the kick back from these contracts, how on earth would they expect service to accrue from a contract from a dialysis unit and a contract of Intensive Care Unit (ICU) knowing that they have not signed the contract of laboratory? You cannot run an ICU or a dialysis unit without the laboratories. Were they keeping an eye on the 10 per cent or the kick back?

Secondly, the Chairman has informed us that they have trained over 200 personnel. Can he clarify how many of these personnel are renal nurses, renal physicians and radiologists? For all you know, you might have been training cleaners on how to wipe those tubes and tell us that they are their personnel. You cannot run these specialized departments without specialized nurses, physicians and radiologists. How many were trained?

The Senate Minority Leader (Sen. Wetangula): Thank you Mr. Deputy Speaker, Sir, for the opportunity. I want the Chairman of the committee to first confirm that under Schedule 4 of Article 23, the National Government is only responsible for national referral health facilities. The rest of the health sector is devolved. I would want you to indulge me to ask the Chairman, and if he does not have the details, I am willing to wait for an answer at a later date.

Mr. Deputy Speaker, Sir, I want to produce to this August House the following:-

1. Minutes of the meeting of the summit where an agreement was reached for the National Government to equip county hospitals with equipment.

2. The Chairman should bring to this House - even if it is not today - all the contracts signed because we have 47 governments of counties and one national Government.

The Council of Governors cannot---

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The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula---

The Senate Minority Leader (Sen. Wetangula): But I am seeking a clarification, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, but you know you will not get an answer. Let us not because you have said it correctly that even if it is at a future date. Is it not so?

The Senate Minority Leader (Sen. Wetangula): It is so, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): You know that he does not to have those 47 contracts now and because they are important, my advice to you is that you seek a Statement specifically for the issues you want to raise. Now, we are spending time but you know very well you are not going to get any answer on that.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, if I may refer the House to the proceedings we had this morning---

Sen. (Dr.) Khalwale: On a point of order Mr. Deputy Speaker, Sir. At the pain of being seen not to be respectful to the Chair, in view of the experience we all have in this House - over four years at the very least - the Chairman has not said that he is unable to respond to the issues we are raising. The Chair should wait and if he says so, then you grant the Chairman that request.

The Deputy Speaker (Sen. Kembi-Gitura): Order Sen. (Dr.) Khalwale. The one thing I will not allow to do is to purport to teach me on how to do my work. I will allow you lee way to raise many questions on points of order but I will not allow you to appear to interfere with the way I will run this House when I am sitting here. I have told you before. I told you not more than 15 minutes ago that you have the opportunity not just to ride on other people's statements but also to raise pertinent issues by seeking for a statement about the issues you are now raising? But you expect Sen. Kuti to give you some answers and not defer them to another time - I do not have to be a genius. I can anticipate that he will not be able to table 47 contracts here today. I know that because it is obvious that he will not be able to table 47 contracts here today because it is not one of the things that were sought.

Sen. Wetangula!

The Senate Minority Leader (Sen. Wetangula): Thank you Mr. Deputy Speaker, Sir. This morning, this House had a *Kamukunji* with the Governor of Central Bank on a matter that I brought here that because of the immense interests that it generated and Members asking questions, the Chair directed that over and above, the answers we received that day, the governor be called and we spent three hours with him to interrogate a furtherance of a Statement that we had sought on the Floor.

Mr. Deputy Speaker, Sir if I may proceed, I would want the Chairman - apart from the minutes of the summit - to table in this House contracts between each individual county government and the national Government detailing the request, the nature, the value, source, the delivery time and acknowledgement of deliveries for the equipment. That is how business is done. You are a consummate lawyer more senior than me and you know this better.

I also want to ask the Chairman to confirm that the purpose for which this equipment was hurriedly procured at a whopping Kshs38 billion without any tendering process. It was single-sourced. I want him to confirm that the principal driver of this process and the eventual delivery and the signing of the agreements after the fact was engineered by a well known notorious consumer and purveyor of corruption in this country using an offshore company whose details we are at liberty to bring to this Chamber.

The doctors of this country are up in arms and have filed several petitions demanding to know the person who chose this equipment, when there is better and superior equipment in the market. I can tell the House for free---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, seek your clarification.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I visited my county hospital in Bungoma. The equipment that was delivered in furtherance of this contract was there, installed and dysfunctional. It has never worked and cannot work. The people of Bungoma County are paying for it, in a contract that they did not participate in negotiating and did not ask for. Could you the Chairman, therefore, table all these documents and tell the House why a devolved function was hijacked by the national Government without going through the constitutional requirement of the two levels of Government sitting down and signing an agreement to share a function that is bestowed on one level?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, whereas I appreciate your concern that the Chair may not have these answers now, I am inclined to think that you are likely to order that either another day is picked for the answers or the Cabinet Secretary is invited to come and throw some light on this. I beg to ask my questions. What criterion was used to determine the order in which the hospitals received this equipment? Why has Migori County not received this equipment? How many hospitals have been able to actualize the use of the equipment that was delivered? From your own report, you said that right now, there are staff who have been sent for training in China and elsewhere. It is a matter of putting the horse before the cart. What was the need of ordering for equipment whose operationalization was impossible, instead of sending staff for training first before delivering the equipment to the hospitals?

Sen. Obure: Mr. Deputy Speaker, Sir, is the Chairman aware that many governors have been complaining about the fact that they were not consulted before this arrangement was put in place? They have also expressed the view that they should have been left alone to buy this equipment at a time when they are ready. Is the Chairman also aware that in a number of healths of facilities, patients continue to die because the hospitals where they go for treatment do not have diagnostic equipment? Even in facilities where this equipment have been supplied and installed, there are no trained personnel to handle them. Is the Chairman aware that this whole arrangement is a fiasco?

Sen. Nabwala: Mr. Deputy Speaker, Sir, I would like to know the cost analysis of leasing the equipment; whether it is cheaper to lease or buy. Last year we paid Kshs4.5 billion for leasing, yet the equipment was not used because the counties were not well prepared. They did not have the human resource to operate the machines. Secondly, the

Government has entered into the habit of leasing police vehicles, as per the Budget Policy Statement (BPS), which was not debated on this Floor. What happened to the arrangement where the Ministry of Works used to carry out the maintenance of vehicles? We would like to know how much this will cost the taxpayer.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Kuti, those are many issues. Can you now deal with them?

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, I appreciate the interest this matter has generated because of its importance; it concerns the health of our citizens.

You have already ruled on the issue of tabling the contract. But I wanted to clearly know from Sen. Khaniri whether it is the contract between the Government of Kenya and the private suppliers or the one between the Council of Governors and the national Government, as stated by Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): All of them, Mr. Deputy Speaker, Sir.

Sen. (Dr.) Kuti: Okay. This is a different question, but since it is important, I will undertake to at least bring an answer on that matter in a week's time.

The other issue was why the equipment was centrally procured, yet this is a devolved function and whether it is a matter of diversion of funds. Sen. Wetangula only read a portion of the role of national Government in the Constitution. There is the aspect of standards. The national Government is also charged with the issues of standard. The reasoning behind policy and standards was to maintain the same standards and quality of equipment that has informed the purchase of that equipment.

Many Senators asked whether the governors were consulted. I took it upon myself and my Committee to form a team to interrogate this matter with the previous Cabinet Secretary for Health, Mr. Macharia. He clearly told us that a meeting was initially held with all the governors in Naivasha. In that meeting, an agreement was made and an okay was gotten by governors for the procurement of this equipment. Following that, another meeting of all the County Executive Committees (CEC) Members in charge of health was held in the Multimedia University. The CEC Members in charge of health, following the governor's acceptance, were also consulted. Therefore, the governors were consulted initially in Naivasha, followed by a meeting of CEC Members in charge of health in the Multimedia University. Obviously, the governors did an about turn when they realised the kind of resources involved. We went specifically to say that this is a devolved function and he stated that two consultations meetings had happened before the matter was advertised.

Regarding the laboratory, I fully agree with Sen. (Dr.) Khalwale, being a senior doctor, that a laboratory is important, especially for renal issue. It is important to check the levels of urea electrolyte, for which we need laboratory equipment. I would like to announce that the tenders floated for laboratory equipment, which were supposed to accompany this other equipment, were all non-responsive. But it is now ongoing.

On the issue of training; how many renal doctors do we have? We do not have renal specialists. I went to Coast General Hospital with a friend who was involved in an accident. The technicians had difficulties utilizing the newly installed equipment. They had to fumble in front of us severally. May be it is a teething problem. However, there is

a deficiency in the utilization of the equipment due to the inadequacies of the staff skills to utilize them adequately.

On the issue of the Constitution and Devolution, I have addressed myself to it. I will try to deliver the minutes of the meeting as well as the contracts for the 47 counties. If Members have more information that we do not have, they can provide to the House and tell us who the well-connected wheeler dealers who pushed this deal are. According to the information we have officially, is that this was a well-thought programme which is cheaper than purchasing those equipment.

This is an issue where for seven years there will be 28 quarterly equal instalments of payments totaling to Kshs38 billion. The companies who own the equipment will continue to run them as members of the public get service. They will continue to maintain, service and repair them until seven years are over. Then they can sell the equipment to the Government USA\$1 each. The benefit of buying and leasing should be compared. I will present that when I will be presenting the list.

On the governors' issues, the House must understand that the governors beat a retreat after a formal agreement with the National Government.

I cannot answer on the cost analysis. We have to ask. However, it is much cheaper than buying the equipment. Sen. (Dr.) Khalwale can bear me out that sometimes equipment lie there due to lack of a very small part. This arrangement ensures that the person given the contract stays with the equipment throughout the seven years. That machine must work throughout those seven years. He or she is to provide the parts, service it and ensure it is working. The training component is having a teething problem. I am also an interested party in this matter. This way of handling these equipment will benefit us more because most of the time they like in hospitals, say, for lack of films in X-rays. In this case, the films will be provided for the seven years. It will be ensured that it is working.

For the few issues that I am unable to provide to allay the anxiety of the House, I will provide information later.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Dr.) Kuti. That matter is finished. However, Sen. (Dr.) Kuti, there is the issue which you have undertook to do. Is a week enough for you to table the things that the Leader of Minority asked for and other issue you said you would deal with? Is one week sufficient time?

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, the main thing is the tabling of the contract between the National Government and the constructors and the contract between the National Government and the Council of Governors. That is the one that is raising a lot of interest. The other one is one cost-analysis.

The Deputy Speaker (Sen. Kembi-Gitura): No! Sen. Wetangula also raised the issue of the minutes.

Sen. (Dr.) Kuti: Yes, Mr. Deputy Speaker, Sir. I am to table also the minutes of the meeting of the Council of Governors. I will seek those issues between now and next Thursday.

(Sen. (Dr.) Khalwale spoke off the record)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen (Dr.) Khalwale! You address the Chair. That is the normal way of dealing with business in the House. Sen. Musila, what is your Point of Order?

Sen. Musila: Mr. Deputy Speaker, Sir, with tremendous respect to the chairperson, I raised some clarification. He has totally ignored to respond.

The Deputy Speaker (Sen. Kembi-Gitura): Sen (Dr.) Kuti, you have taken a lot of time on this statement. It is very important. Be brief, Sen. Musila.

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, there is a very long list that for the sake of time, I did not go through. However, in short, all hospitals from Kitui to Siaya and all other counties are due by end of March, 2016. That is in exception of Garissa, Hola, Garsen, Mandera, Wajir, Busia, Kocholia, Vihiga, Kapsabet, Turkana, Kitale, Marsabit, Meru, Kinango, Coast Provincial General Hospital- Spinal Injury, Mathari, and Maralal which are due at end of May.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, Sen (Dr.) Khalwale!

Sen (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir. Could you also direct the Chairperson to table the posting of specialists to those hospitals that have equipment so that we confirm whether they are operational as units or not? Or is it simply a question of public relations?

The Deputy Speaker (Sen. Kembi-Gitura): I hope Sen. Kanainza you are not raising something new because I will not allow it. You were not here when we were debating this. You have just walked in and I will not allow you to take me back.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I beg for your indulgence. Looking at the sought of questions that have been asked the Chairperson, would I be in order to request you change your ruling and instead allow us to be addressed by the Cabinet Secretary? This would shorten this debate for the convenience of this House.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Kuti, what you are saying is very logical and it makes a lot of sense to me. I have not changed the ruling, but I just want to know whether one week is sufficient. This issue touches on all the 47 counties and you can see the interest that it has generated. I am of the opinion that it will be prudent for you to procure the attendance of the Cabinet Secretary here in the Chamber at a *Kamukunji* so that he can deal with all those issues. When he does so, hon. Senators will not come back to the Floor of the House to spend so much time on the issue. Any Senator who is interested in the matter will be invited at the *Kamukunji*. Is that agreeable?

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, that is not the best way to go. We called the Cabinet Secretary here last time on a very important matter of mismanagement, the issue of doctors' strike and the public outcry. You were present here and about seven other Members.

The Deputy Speaker (Sen. Kembi-Gitura): Those who are interested in this matter will come, but those who are not interested will not come.

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, that an issue affecting us a lot. In fact, they made a comment that they thought that was a very important matter because we had pressured them so much. All in all, I undertake to convince the Cabinet Secretary and his health team to come and shed light on the whole matter.

The Deputy Speaker (Sen. Kembi-Gitura): All interested persons will be here. Talk to the Cabinet Secretary and give the Speaker's Office sufficient notice on when he will come so that communication can be made from the Chair followed by the issue of notice that Members receive through texts.

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, I am obliged.

The Deputy Speaker (Sen. Kembi-Gitura): I hope that will not go beyond two weeks as you can see the interest that is there.

Let us move on to the next Statement.

STATUS OF THE KENOL-MAKUTANO-MARUA ROAD

The Deputy Speaker (Sen. Kembi-Gitura): We have two statements to be issued. Statement No (a) in the Order paper that has to do with the Status of the Kenol-Makutano-Marua Road. Sen. Sijeny, are you ready to issue it?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I am ready.

The Deputy Speaker (Sen. Kembi-Gitura): I direct that the statement be deferred to Tuesday, next week, because of a simple reason. Although I am sitting here as the Deputy Speaker, I am also the Senator for Muranga County. I have an interest in that statement. Therefore, it will be issued when I am also able to interrogate it on Tuesday, next week.

Sen. Karaba: Mr. Deputy Speaker, Sir, you said the same thing last time. You then promised me the following week, but it did not happen.

The Deputy Speaker (Sen. Kembi-Gitura): I will still say the same thing if I will be seated here if the issue comes up. The point I am trying to make is that I am the Deputy Speaker, but I am also the Senator for Muranga County. Therefore, I would like to interrogate that statement and I can only do so if I am sitting where Senators sit. That will be Tuesday, next week. That is reasonable.

Sen. Karaba: Mr. Deputy Speaker, Sir, the best thing is that whoever is issuing the statement should come early. This would not have happened if she came earlier.

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Karaba in order to continually stand and exchange with the Chair in breach of Standing Order No.110?

The Deputy Speaker (Sen. Kembi-Gitura): Yes, Sen. Karaba is out of order! But I need to explain to him that the statement is ready because I have seen it. I am sure he has also seen it. However, it will only be issued when I am also able to interrogate it as the Senator for Muranga County.

(Statement deferred)

The next statements to be issued were requested by Sen. Musila. These are statements Nos (b) and (c) on the Order Paper. You will not get the response to Statement No.(c) because the Chairperson is not here. Sen. Adan is here and she will respond to Statement No.(b).

KILLINGS IN KITUI COUNTY

Sen. Adan: Mr. Deputy Speaker, Sir, I do not have the statement with me. I, therefore, request Sen. Musila to give the Committee time until end of the next week.

Sen. Musila: Mr. Deputy Speaker, Sir, as you are aware, this is a matter that has been in this House for a very long time. The Vice Chairperson has done her best. As you may recall, when I raised this matter two and half weeks ago, the Vice Chairperson undertook to give the statement after two weeks which are already over. Be that as it may, I am obliged to agree, but insist on this statement coming next week.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan, can you tell us why the statement is not ready and see whether it will be able to come next week? What is the problem, are you having challenges?

Sen. Adan: Mr. Deputy Speaker, Sir, I spoke to the Clerk of the Senate this afternoon and he confirmed that he was in touch with the officer who is following up. He confirmed that the statement has not yet come. All in all, let me undertake to Sen. Musila that he will have his statement on Thursday, next week.

The Deputy Speaker (Sen. Kembi-Gitura): Is there any other statement? What is it, Sen. Karaba?

LACK OF CASH FLOW AT THE HIGHER EDUCATION LOANS BOARD

Sen. Karaba: Mr. Deputy Speaker, Sir, for the record, I have the Statement on the cause of lack of cash flow at the Higher Education Loans Board (HELB). Only that the Senator who had requested the statement is not here.

The Deputy Speaker (Sen. Kembi-Gitura): That is not noted.

(Statement deferred)

Please, proceed Sen. Wetangula.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 8TH MARCH, 2016

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.45 to present the Business of the Senate for next week; the week starting Tuesday 8th March, 2016.

On Tuesday, the Rules and Business Committee (RBC) will meet to schedule business for the Senate for that week subject to further directions by the RBC, the Senate will continue with business that will not be concluded in today's Order Paper focusing on Bills at the Committee of the Whole Stage.

On Wednesday 9th March, the Senate will continue with business not conclude during Tuesday's Sitting, including Bills that will be have concluded at Second Reading and further consider the following Bills at Committee of the Whole stage.

- (1) The County Hall of Fame Bill (Senate Bill No.33 of 2014).

- (2) The County Assemblies Services Bill (Senate Bill No.27 of 2014)
- (3) The County Governments Disaster Management Bill (Senate Bill No.40 of 2014)
- (4) The Petition to County Assemblies Procedure Bill (Senate Bill No.35 of 2014)
- (5) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No.8 of 2015)

The Senate will also consider any other Business Scheduled by the RBC.

On Thursday 10th March, 2016, the Senate will consider Bills at Second Reading, Deliberate on Motions and any other business scheduled by the RBC.

I take this opportunity to thank all the Senators for a job well done this week. You may wish to note that we passed three Bill, namely;

- (1) The Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014).
- (2) The HIV/AIDS Prevention and Control (Amendment) Bill (Senate Bill No. 4 of 2015).
- (3) The County Industrial Development Bill (Senate Bill No. 7 of 2014)

We also adopted three three crucial reports namely;

- (1) Report on the Budget Policy Statement 2016
- (2) The Mediation Report on the National Drought Management Bill (National Assembly Bill No. 42 of 2013)
- (3) Report of the Ad-Hoc Select Committee on County Headquarters

I urge hon. Members, in keeping with this spirit, to continue to avail yourselves to dispose of business pending before the Senate, especially Bills at the various stages.

I thank you and hereby lay the Statement on the Table.

(Sen. Wetangula laid the document on the Table)

(Sen. Kagwe stood up in his place)

The Temporary Speaker (Sen. (Dr.) Machage): Very well.

Have a seat and press your gadget. I will give you a chance to rise on a point of order.

Proceed, Sen. Kagwe.

Sen. Kagwe: Mr. Temporary Speaker, Sir, I apologise for standing abruptly. I had requested to be allowed to seek a statement.

The Temporary Speaker (Sen. (Dr.) Machage): Yes, that is what I was coming to.

Sen. Kagwe: Okay, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): I will go by order of precedence of requests. I will start with Sen. Adan.

Sen. Adan: Mr. Temporary Speaker, Sir, I have three requests for statements to make, if you may allow me.

The Temporary Speaker (Sen. (Dr.) Machage): So long as you allow me to rule on every request, you are allowed.

PROVISION OF ELECTRICITY AT OLDONYIRO
TRADING CENTRE

Sen. Adan: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Energy regarding provision of electricity at Oldonyiro Trading Centre and its environs in Isiolo County. In the statement the Chairperson should explain:-

(a) Why Oldonyiro Trading Centre which is a fast growing centre in Isiolo is not connected to electricity whereas the main electricity grid is just 41 kilometres away at Il Polei in Laikipia North Sub-County.

(b) State when the Government will connect the trading centre and its environs with electricity bearing in mind that the area is prone to insecurity.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): I am afraid you will have to give only the second one. I only have two approved statements. I do not see the third one. Proceed, with your second statement.

Sen. Adan: Mr. Temporary Speaker, Sir, the second one is---

The Temporary Speaker (Sen. (Dr.) Machage): Poor mobile network services.

POOR MOBILE TELEPHONE NETWORK COVERAGE IN
OLDONYIRO WARD

Sen. Adan: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Information and Technology regarding poor mobile telephone network coverage in Oldonyiro Ward and its environs in Isiolo County.

In the Statement the Chairperson should explain:-

(a) Whether he is aware that mobile telephone network coverage in Oldonyiro Ward and its environs in Isiolo County is weak making some people walk for more than 20 kilometres to make mobile phone calls, including calls for emergency medical assistance.

(b) Why the mobile network is so far poor and state when strong and reliable mobile telephone network will be availed to the ward and its environs bearing in mind that the area is prone to insecurity.

The Temporary Speaker (Sen. (Dr.) Machage): Very well.

Proceed, Sen. Kagwe.

Sen. Kagwe: Mr. Temporary Speaker, Sir, first of all, we will undertake to give the a response to that statement that has been sought by Sen. Adan in two weeks' time because there is quite a bit of work to be done there.

Secondly, I rise---

The Temporary Speaker (Sen. (Dr.) Machage): Before you do that, there was an undertaking on electricity. Where is the Chairperson? Have a seat, Sen. Kagwe.

Sen. Mwakulegwa: Mr. Temporary Speaker, Sir, I undertake to issue the statement in two weeks' time.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. It is so ordered. What is it, Sen. Adan?

Sen. Adan: On a point of order, Mr. Temporary Speaker, Sir. The third statement was also approved. I do not know whether the Clerks-at-the-Table have a copy.

The Temporary Speaker (Sen. (Dr.) Machage): Okay, go ahead. I give you the benefit of doubt.

OPERATIONALIZATION OF THE COUNTY WILDLIFE
CONSERVATION AND COMPENSATION COMMITTEES

Sen. Adan: Mr. Temporary Speaker, Sir, I rise under Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the operationalization of the County Wildlife Conservation and Compensation Committees.

In the Statement, the Chairperson should state:-

(a) Whether he is aware that the Kenya Wildlife Conservation and Management Act establish the County Wildlife Conservation and Compensation Committees.

(b) Whether the Government has set up the County Wildlife Conservation and Compensation Committees in all the 47 counties.

(c) Whether all the Committees from the 47 counties are operational, and if not, state the reason why they are not.

(d) Indicate the amount of money allocated to the County Wildlife Conservation and Compensation Committees in the Financial Year 2015/2016 budget.

(e) Explain the immediate measures that the Government is taking to ensure that all the Committees become operational so as to execute their mandate as per the Kenya Wildlife Conservation and Management Act.

The Temporary Speaker (Sen. (Dr.) Machage): Where is the Chairperson of the Committee on Land and Natural Resources?

Sen. Obure: Mr. Temporary Speaker, Sir, you will appreciate that the information requested is quite detailed. However, we will bring a response in two weeks' time.

The Temporary Speaker (Sen. (Dr.) Machage): It is so ordered.

Sen. Kagwe, I do not see your approved request.

Sen. Kagwe: Mr. Temporary Speaker, Sir, we agreed with the Speaker that he will allow me to seek the statement.

The Temporary Speaker (Sen. (Dr.) Machage): I have not been given that information.

Sen. Kagwe: Mr. Temporary Speaker, Sir, the statement is there.

The Temporary Speaker (Sen. (Dr.) Machage): Let me look at it.

Please, approach the Chair. You might be having a time bomb. I have to look at it.

(Sen. Kagwe approached the Chair)

Very well. Sen. Kagwe, I can see that it is approved.

ONGOING VOTER REGISTRATION BY THE IEBC

Sen. Kagwe: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights regarding the ongoing voter registration by the Independent Electoral and Boundaries Commission (IEBC). In the Statement, the Chairperson should:-

(a) Explain why registered voters are not allowed to transfer their registration in polling centres electronically. They are travelling from far unnecessarily.

(b) Explain why the registration application form, 4(d), is not uploaded in the IEBC website for ease of access by citizens.

(c) State the mechanism put in place to register potential voters who are in institutions of higher learning, especially universities and cannot travel to their constituencies to apply for registration.

(d) Explain the technical steps undertaken during voter registration to ensure that electronic voter identification device will not fail during voting.

The Temporary Speaker (Sen. (Dr.) Machage): Where is the relevant Chairperson of the Senate Majority Leader?

Sen. Karaba, you are the leader of majority now in the House.

(Sen. Karaba spoke off record)

Are you surprised?

Sen. Karaba: Mr. Temporary Speaker, Sir, yes, I am the only one left. I will follow it up with the relevant Chairperson and ask him to respond next week.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. Kagwe?

Sen. Kagwe: On a point of order, Mr. Temporary Speaker, Sir. I beg your indulgence on this one in getting the clerks to push this matter because it is urgent. It relates to the fact that if you are a Kimathi University student from Kuria---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Kagwe. You are preempting my ruling. Relax. Warm your chair. I order that a response be issued in one week's time. So, can you communicate the same?

Sen. Karaba: Mr. Temporary Speaker, Sir, the same will be communicated but it is important for the Senator for Nyeri to note that last week there was communication from the same Chairperson that the Managing Director in charge of Identification Cards (IDs) was to come to Continental House. That question could have been answered if he was there.

The Temporary Speaker (Sen. (Dr.) Machage): Order Sen. Karaba. Do not go that way because you do not seem to know what you are talking about.

MOTION

APPROVAL OF SENATE CALENDAR FOR 2016

THAT, pursuant to Standing Order 28(1), the Senate approves the Senate Calendar (Regular Sessions) for the year 2016 (February to December, 2016), laid on the Table of the Senate on Thursday, 3rd March, 2016.

Sen. Nabwala: Mr. Temporary Speaker, Sir, most of the Senators have seen the calendar. It sets out the dates when we shall be on Sessions as well as recess. It provides the Senate with a guide to plan for its activities.

I beg to move.

I request Sen. Kanainza to second.

Sen. Kanainza: Thank you Mr. Temporary Speaker, Sir. This is a straight forward Motion and I beg to Second.

(Question proposed)

(Question put and agreed to)

COMMITTEE OF THE WHOLE

THE KENYA NATIONAL EXAMINATIONS COUNCIL
(AMENDMENT) BILL (SENATE BILL NO. 7 OF 2015)

(Bill deferred)

THE OFFICE OF THE COUNTY ATTORNEY BILL,
(SENATE BILL NO. 37 OF 2014)

(Bill deferred)

THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)

(Bill deferred)

THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)

(Bill deferred)

THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

(Bill deferred)

BILLS*Second Readings*

THE NATIONAL CEREALS AND PRODUCE BOARD
(AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)

(Bill deferred)

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILL NO. 6 OF 2015)

(Bill deferred)

MOTIONS

RENEWAL OF MANDATE OF *AD HOC* COMMITTEE TO INQUIRE INTO THE
RIGHTS OF PERSONS IN PRISONS AND BORSTAL INSTITUTIONS

AWARE THAT the Senate on 22nd October, 2015, resolved to establish a Select Committee (Ad hoc Committee on Prisons and Borstal Institutions) consisting of eleven (11) Senators to enquire into the rights of detained persons, persons held in custody and other imprisoned persons under the law, requiring Parliament to enact legislation to provide for the human treatment of such persons with due regard to the relevant international human rights instruments and report back to the House within three months of its establishment.

REALIZING THAT the three month period lapsed today 25th February, 2016 and owing to the magnitude of the work involved, the Committee was not able to complete its work within the stipulated period;

NOTING THE NEED for more time to carry out a thorough inquiry into this matter;

NOW THEREFORE, the Senate resolves to renew the mandate of the Committee for a further period of forty-five (45) days to enable the Committee complete its work and report to the House.

(Motion deferred)

REPORT OF THE ACP-EU JOINT
PARLIAMENTARY ASSEMBLY MEETINGS

THAT, the Senate notes the Report of the ACP Parliamentary Assembly and the 29th Session of the ACP-EU Joint Parliamentary Assembly held at the Grand Pacific Hotel, Suva, Fiji from 10th to 17th June, 2015, laid on the Table of the House on Wednesday, 25th November, 2015.

(Motion deferred)

ESTABLISHMENT OF SELECT COMMITTEE TO INVESTIGATE THE
THE CRITERIA USED TO PROFILE AND PAY
INTERNALLY DISPLACED PERSONS

THAT WHEREAS the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act makes provision for the prevention, protection and provision of assistance to internally displaced persons and affected communities and gives effect to the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons, and the United Nations Guiding Principles on Internal Displacement;

OBSERVING that the Act establishes the National Consultative Coordination Committee on Internally Displaced persons whose mandate is to inter alia, ensure registration of internally displaced persons and maintain a data base of such persons and advise the Cabinet Secretary for Devolution and National Planning on the exercise of his or her powers and functions under the Act;

CONCERNED that the Statement delivered to the Senate on 30th September, 2015 by the Chairperson of the Standing Committee on Labour and Social Welfare as a response to inquiries on the status of IDPs resettlement points to the fact that the distribution of the Internally Displaced Persons Fund, which was approximately kshs15 billion, was done in a discriminatory manner and the criterion for profiling the IDPs was skewed;

NOW THEREFORE, the Senate resolves to establish a Select Committee to investigate the operations of the Ministry of Devolution and National Planning and the National Consultative Coordination Committee on Internally Displaced Persons as far as resettlement process and criteria used to profile and pay IDPs is concerned and further determine whether the Kshs15 billion was used for the intended purpose and report back to the Senate within three months;

AND FURTHER that the Members of the Select Committee are-

1. Sen. Boy Juma Boy
2. Sen. Stephen Sang'
3. Sen. Muriuki Karue
4. Sen. Anyang' Nyong'o

5. Sen. Peter Mositet
6. Sen. George Khaniri
7. Sen. Naisula Lesuuda
8. Sen. Janet Ong'era
9. Sen. Emma Mbura

(Motion deferred)

BILLS

Second Readings

THE MICRO AND SMALL ENTERPRISES (AMENDMENT)
BILL (SENATE BILL NO. 12 OF 2015)

(Bill deferred)

THE COUNTY STATUTORY INSTRUMENTS
BILL (SENATE BILL NO. 10 OF 2015)

(Bill deferred)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, we have come to the end of today's Business. The House stands adjourned until Tuesday, 8th March, 2016 at 2. 30. p.m.

The Senate rose at 5.05 p.m.