

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 12<sup>th</sup> June, 2014

*The Senate met at the County Hall,  
Parliament Buildings at 2.30 p.m.*

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

### PRAYERS

### POINT OF ORDER

#### ABSENCE OF SENATORS ON THE OPPOSITION SIDE

**Sen. Kivuti:** On a point of order, Mr. Speaker, Sir. Is it in order that the Opposition does not seem to take the business of this House seriously, as they were doing as late as yesterday? Could we get some directions or response?

**The Senate Majority Leader (Sen. (Prof.) Kindiki:** Mr. Speaker, Sir, while I was away yesterday, some Members of the Opposition raised hullabaloo about the seriousness of Jubilee Senators with regard to the business of the House but looking at the composition of this House this afternoon, I think that you should guide us. I am told that yesterday the Majority side had, at least, a number of Senators. But until Sen. Khalwale walked in, there was only one Senator from the Opposition. I am told that they are calling one another by Short Message Service (SMS.) Is it in order for the opposition to pretend that they take the business of the Senate seriously, while they are not attending sittings, as can be evidenced from today's sitting?

**Sen. Ong'era:** On a point of order, Mr. Speaker, Sir. I find the contention by my dear brothers on the Majority side very frivolous. This is because, indeed, as I see, Members of my Coalition are actually coming in, as you can see. So, I do not see how the question of being late arises. Indeed, if you might recall yesterday, there were actually only two Member of the other side in the House.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I want to agree with the Senate Majority Leader that this afternoon we are fewer compared to the Government side but that does not in any way say that we do not take parliamentary business seriously. Indeed, we do. I want to apologize on behalf of the Senate Minority Leader;

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that we are very busy adjusting our alternative people's Budget, so that as soon as that people-unfriendly Budget has been read, we will then unveil ours in a rally in Migori.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order! Order, Senators! When the Senator for Embu rose, I was expecting to report to the House. This is because you will remember yesterday he committed himself to improve the numbers on his side. Then instead of doing so, he started accusing the other side of what he had been accused of yesterday. Sen. Ong'era stood and also said that what the other side pointed out was frivolous, because the Members were coming. But the time that the observation was made, the Members were not in the Chamber. So, I think that, at least, Sen. Khalwale, has done the needful. It is good just to admit the truth, because the House begins at 2.30 p.m. That is the time that everybody is expected to be present. It is good to admit and the other side admitted yesterday that they did not have the numbers that qualified them for the title that they hold of Majority. We can agree on how to improve on that.

So, what I said yesterday remains true even today, irrespective of which side is affected. But I also note, at least, that the Members have been coming in as we have been here. So, I would not want to be so hard today like yesterday.

Proceed, Sen. Karaba!

### NOTICE OF MOTION

#### ESTABLISHMENT OF INSTITUTION FOR CHILDREN WITH SPECIAL NEEDS AND DISABILITIES IN EVERY COUNTY

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

THAT, aware that learners with special needs and disabilities in Kenya are faced with serious challenges including inadequate educational institutions, facilities and specialized teachers to cover all levels of learning; noting that the UN Convention on Rights of Persons with Disabilities became part of Kenyan law in 2008; appreciating that Article 54 (1) (b) of the Constitution gives persons with disabilities the right to access educational institutions and facilities that are integrated into society to the extent compatible with interests of such persons; further appreciating that Article 53 (1) (b) of the Constitution provides for free and compulsory basic education to every child; noting that the Basic Education Act, 2013 emphasizes the need to provide equal opportunities for education to all children including those with special needs and disabilities; the Senate urges the National and County Governments to take immediate measures to mainstream education and training for

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learners with special needs and disabilities by establishing and equipping at least one institution for children with special needs and disabilities in every county.

## STATEMENTS

### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 17<sup>TH</sup> JUNE, 2014

**The Senate Majority Leader** (Sen. (Prof.) Kindiki: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.45 to give the Statement relating to the business of the Senate next week.

Mr. Speaker, Sir, on Tuesday, 17<sup>th</sup> June, 2014, the Rules and Business Committee (RBC) will have its usual meeting at 12.00 o'clock to schedule the business of the week for that week. On that day, the Senate will continue with the business that will not have been concluded in today's Order Paper and will also commence the Second Reading on the following Bills:

1. The County Governments (Amendment) Bill No.2; and,
2. The Political Parties (Amendment) Bill

Mr. Speaker, Sir, on Wednesday, 18<sup>th</sup> June, 2014, the Senate will continue with the business that will not have been concluded on Tuesday, but it will also consider business that will be scheduled by the RBC on Tuesday next week. There will also be, before this Senate, a number of Motions which will be discussed, including the following Motions:

1. Motion by the Chairperson of the Standing Committee on ICT on the adoption of the Report of the Standing Committee on Education, Information and Technology on the retreat with county executive committee members in charge of education and ICT.
2. The Motion by Sen. Halima Abdille on the need for affirmative action to construct boarding facilities in schools in Arid and Semi-Arid areas as a means for facilitating nomadic children to access education.
3. Motion by Sen. Peter Mositet on restructuring the Kenya Urban Roads Authority (KURA) and expanding its mandate to cover road infrastructure in all the 47 county headquarters.
4. Motion by Sen. Elizabeth Ongoro on the need to give incentives to coconut farmers.
5. Motion by Sen. Henry ole Ndiema on addressing the concerns of medical practitioners in the counties.
6. Motion by Sen. Daniel Karaba on measures to streamline education and training of learners with special needs and disabilities.

Finally, Mr. Speaker, Sir, on Thursday, 19<sup>th</sup> June, 2014, the Senate will continue with business that will not have been concluded on Tuesday and Wednesday and consider any other business that will have been scheduled by the RBC.

Mr. Speaker, Sir, I hereby lay the Statement on the Table of the Senate.

Thank you, Mr. Speaker, Sir.

*(Applause)*

*(Sen. (Prof.) Kindiki laid the document on the Table)*

*(Several hon. Senators stood up in their places)*

ADMITTANCE OF CABINET SECRETARIES TO THE SENATE TO  
RESPOND TO SENATORS' STATEMENTS

**The Speaker** (Hon. Ethuro): What is it, Sen. Lenny Kivuti?

**Sen. Kivuti:** Thank you, Mr. Speaker, Sir. While appreciating the business of the House laid on the Table by the Senate Majority Leader, I am very concerned that whereas the National Assembly has allowed the Cabinet Secretaries (CSs) to answer question and make Ministerial Statements in the National Assembly, I would need your guidance as to whether a similar arrangement can be made for the Senate so that the kind of questions and statements that give us problems such that we keep on repeating, going back to Committees to go and get more answers, it may be prudent that CSs are allowed – I do not want to use the words “to be grilled” – but to make statements and answer questions, if not on the Floor of this Senate, but somewhere within this Senate.

I need your guidance, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): I am just wondering, Sen. Kivuti, how does that relate to the Statement by the Senate Majority Leader?

**Sen. Kivuti:** Mr. Speaker, Sir, I was trying to get your guidance since we have just finished with statements, and the business which is being brought by the Senate Majority Leader does not seem to have cognizance of the fact that we are having so many statements and questions which keep on going round and round. Your guidance is very necessary on this matter as a matter of the way our Standing Orders go.

**The Speaker** (Hon. Ethuro): Okay.

Yes, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I would like to commend the Senate Majority Leader unreservedly. The way he has starting leading us is very impressive, at least over the last two weeks.

*(Applause)*

In fact, when you look at the Order Paper today, we now have as many as 10 Bills that we lack the time to deal with.

Mr. Speaker, Sir, for those who thought that the Senate was just an appendage in this Parliament; they now have an opportunity to start seeing us working. We would like to encourage the Senate Majority Leader.

STATUS OF BILLS PASSED BY THE SENATE  
AND REFERRED TO THE NATIONAL ASSEMBLY  
FOR CONCURRENCE

But having said that, Mr. Speaker, Sir, I would also like, with your permission; I am still waiting for the communication from the Chair, where you promised us that a Bill that went through all the three stages of reading in this House and which was taken to the National Assembly for concurrence; and then the National Assembly started a new process of exactly a similar Bill which has never come here. We hear from other quarters that, that Bill has eventually gone to the Office of the President, which has returned it to the National Assembly with a memorandum. We would like to know all these unconstitutional movement of Bills, including the unconstitutional behaviour by the Head of State in terms of the way Bills are assented to, what is the official position?

Indeed, Mr. Speaker, Sir, I will be looking forward to a pronouncement from the Chair as to whether the Senate is still convinced that the President is still committed to the bicameral system of Parliament as envisaged in the Constitution of Kenya.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, those are quite heavy matters that you are raising. Maybe you need to look for the proper procedure; canvass them and you will get the necessary sponsors.

I think that is it.

What is it, Sen. Sonko?

**Sen. Mbuvi:** Mr. Speaker, Sir, is it in order for Sen. Daisy to dress in party colours, yet this is a national House?

*(Laughter)*

**The Speaker** (Hon. Ethuro): I do not think we have discriminated against any particular colour.

*(Applause)*

There is nothing to indicate to me that Sen. Daisy is in party colours, because I would equally imagine that if we took that to its logical conclusion, the dressing of Sen. Mike

Sonko himself, the hairstyle, the way you put your *shades* on the head can be attributed to some party. So, let us not go that way.

(Applause)

Sen. Kiraitu Murungi.

Are the microphones still not working? Approach the dispatch box, Senator.

**Sen. Murungi:** Thank you, Mr. Speaker, Sir. I rise to make a request for two statements from the Chairperson of the Committee on Roads and Transportation.

#### CURRENT STATUS OF ISIOLO AIRPORT PROJECT

Mr. Speaker, Sir, request is hereby being made to the Chairperson, Committee on Roads and Transportation for a comprehensive Statement from the CS explaining:

1. The current status of Isiolo Airport Project
2. The cost of the project, the contractor and the cost of the delay in completion of that project.

Thirdly, we would like to know the amount of money allocated to the project this financial year and whether Kenya Airways will make regular commercial flights from Nairobi to Isiolo once this airport is completed.

#### STATUS OF MIKINDURI-MAUA ROAD

Mr. Speaker, Sir, I also want to make a request to the Chairperson of the Committee on Roads and Transportation for a comprehensive Statement from the Cabinet Secretary explaining the current status of the Mikinduri-Maua Road, the cost of the project and the contractor, why it has taken so long to complete this short road, how much money has been allocated to this road this financial year and when the road is expected to be completed.

**The Speaker** (Hon. Ethuro): Chairman, Committee on Roads and Transportation. Who is the Chair of that Committee?

Sen. Chiaba? Vice-Chair? Any Member? Sen. Keter

**Sen. Keter:** Mr. Speaker, Sir, we will inform the Chair so that in the next one or two weeks, we will have it ready.

**The Speaker** (Hon. Ethuro): Is it next week or next two weeks?

**Sen. Keter:** Two weeks, because the Committee will be out next week.

**Sen. Murungi:** Mr. Speaker, Sir, we have no problem waiting for two weeks so long as the Statement is comprehensive and it comes under the hand of the Cabinet Secretary.

**Sen. Keter:** Mr. Speaker, Sir, we will bring a comprehensive Statement but as the rules are, it has to be the Chair of that Committee who will deliver it unless it has been changed but if the Senator so wishes we can invite him to the Committee.

**The Speaker** (Hon. Ethuro): Indeed, Sen. Keter you are correct. I made a ruling on this matter; the Statement is being sought from the Chair of the Committee. The Cabinet Secretary is just but one important source of that information. So, a Member cannot demand that it should be under the Cabinet Secretary. So, the Statement will come in two weeks time.

POLICY ON USAGE OF INDIGENOUS LANGUAGES  
IN PRIMARY SCHOOLS

**Sen. Murungi:** On a point of order, Mr. Speaker, Sir. It is about the Chairman of the Education Committee, Sen. Karaba, who is my very good old friend and who usually sits next to me. I requested a Statement from him as the Chair of the Education Committee on the use of indigenous languages in our primary schools, which is covered both by the Constitution and the Education Act. We wanted to know when that policy is going to be implemented and how much money the Government has allocated to it so that the programme can start next financial year. He has ignored that request. He has failed, neglected or otherwise refused to provide that Statement. Could the Speaker take some action against him?

**The Speaker** (Hon. Ethuro): Let us hear from your good neighbour first.

**Sen. Karaba:** Mr. Speaker, Sir, it is surprising that the Meru King is trying to insinuate that I refused or ignored but that is not true. I had indicated to him that the matter has since been taken to the Cabinet Secretary. I have been to Jogoo House twice seeking for the answer. That is the reason why we need to know who exactly should be blamed in case of a failure of that nature. We are appearing that we are errand boys because every time we have to seek answers for such requests. So, I am doing all I can to make sure that I get the answer as soon as it is brought to the office of the Clerk but for now, I have not received an answer from the Cabinet Secretary. That is the position.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. My point of order relates to the request that the distinguished Senator for Meru made that he required the Statement to have the hand of the Minister and your ruling goes counter to a ruling you made earlier in this House that you are not going to receive Statement written and signed by junior officials in the Ministries who cannot be subsequently called to be interrogated by Committees in case the answers are inadequate and that such Statement should have the hand of the Minister himself or herself. Your response to Sen. Kiraitu appears to reverse your earlier direction which we were very happy with.

**The Speaker** (Hon. Ethuro): Sen. Wetangula, your only salvation is in the use of the word appears because I can assume that it is highly subjective to the way you view it. There is no contradiction in what I have said now and what I said that time. The issue of the signature is different from demanding that the Statement comes from the Cabinet Secretary. I have said that the Statement is from the Chairperson of the Committee. The Chairperson is at liberty to explore all sources of information available to him or to her. I said that the Cabinet Secretary is definitely a very important source of that information. So, when the Cabinet Secretary submits a report to the Committee, that report must be signed by the Cabinet Secretary. I have been clear all along.

**Sen. Kajwang:** On a point of order, Mr. Speaker, Sir. There is a matter that is bothering the Chair of Education Committee and I am sure it is bothering all other Chairs of Committees. The Cabinet Secretaries may delay or refuse to co-operate for some reason and the Chair would be roasted for not doing his job, and the Committee would be embarrassed here as the country watches. There must be a way in which the House can assist Committee Chairs in case of a Cabinet Secretary who ignores or refuses to co-operate for unspecified reason so that we can come back here and say that we have tried everything that we could do as a Committee. Can you now help us so that we can find a way in which to deal with it?

**Sen. Murungi:** On a point of order, Mr. Speaker, Sir. I know the Cabinet Secretary for Education and is a man who respects the Constitution and the law. I am very surprised that the Chairman of Education Committee says that the Cabinet Secretary has neglected or failed to provide that Statement. I believe our friend, the Chair, has not made these requests in serious terms that would make the Cabinet Secretary see the seriousness of this matter. Could the Chair give guidance and the deadline when that Statement should be delivered and if it is not, then the House can consider what further steps to be taken? This also bring to the fore the issue which was being canvassed by Sen. Kivuti earlier on that maybe time has come for us to revise our Standing Orders so that the Cabinet Secretaries can also appear before us and answer questions directly to the Questioners in this Senate like they are doing in the National Assembly.

**The Speaker** (Hon. Ethuro): Sen. Murungi, just come back to the Dispatch Box, because you will need to respond.

Just refresh your memory, when did you seek the Statement and when was it due?

**Sen. Murungi:** Mr. Speaker, Sir, if you look at the Statement tracker, the Statement was sought in April and was supposed to be responded to in that month but May has passed and June is in the middle. So, it is quite clear that there has been unreasonable delay.

**The Speaker** (Hon. Ethuro): Okay, I have seen it.

**Sen. Wako:** Mr. Speaker, sir, would I be in order to kindly request Sen. Murungi, otherwise known as the King of Meru, knowing very well that the Cabinet Secretary comes from the Kingdom of Meru and maybe when he says the Cabinet Secretary has not received a serious request from the Senator of Kirinyaga on this matter?

Maybe he is speaking from the point of knowledge in that capacity. Would I therefore be in order to request him to kindly request in his own way as a king to answer a polite request from the Sen. Karaba? You know Sen. Karaba is a very polite and does not want to fight. You see this big-bodied people are normally very soft and polite.

**The Speaker** (Hon. Ethuro): Order, Senator!

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. Sen. Kiraitu is just not an ordinary politician in this country because there is quite a number of firsts about him. He was the first person from Mt. Kenya area to be elected on a FORD-Kenya ticket. Sen. Kiraitu broke ranks with Mt. Kenya and joined us in the second liberation. Sen. Kiraitu was the Minister for Constitutional Affairs in this country. So, when he says in a very flowery language that the Cabinet Secretary for Education respects the Constitution and is very competent in all those words that he used, is he in order to mislead this country, because the country can think it is the Senate speaking when the country knows that this Cabinet Secretary has not delivered on laptops for Standard One children? He has not been very friendly to universities and has been forcing our children to pay extra fees. Is he in order to mislead the country and use such a flowery language on the Floor of this House?

**The Speaker** (Hon. Ethuro): Order, Senators!

Sen. (Dr.) Khalwale is completely out of order. I do not see how laptops and teacher, the lecturers' salaries is related to the respect of the Constitution. Let us get the final one from the Chairman himself and then we conclude this matter.

**Sen. Karaba:** Mr. Speaker, Sir, for all intents and purposes, it is important that we make this very clear. When a Statement is sought by a Member through the Chairman of a Committee, what is expected of the Chairman to do so that he can bring the answer? What is the procedure? The moment it is sought, it is not the responsibility of the Chair to go looking for the Minister. The moment it is sought here, it is supposed to be relayed to the Minister through the Clerk's office, then we get the answer in our office which we read to the House. That is the procedure, otherwise---

**The Speaker** (Hon. Ethuro): Order, Senator. You have made your point. Let me just clarify a few things that have been sought by Senators. I think it is Sen. Kivuti who started, canvassed by Sen. (Dr.) Khalwale, contributed to by Sen. Kiraitu in terms of the difficulties expressed by Chairs in getting responses. That matter is under active consideration. We are looking at how we can make those responses more accessible and thorough. So, discussions are going on between Parliament and the national Executive. I would also like to urge Chairs that what is happening in the case of this particular Statement is where if you look at the time, this was April, the Chair should do a follow up. If that response is not forthcoming, you have the right to lodge your complaint either directly to the Cabinet Secretary or through my office. Failure to do so, you summon the Cabinet Secretary to the Committee. You should also inform the House and tell us your frustrations so that we can assist you in good time.

That is why Sen. Kiraitu is also apportioning blame that you have not demonstrated sufficient willingness and you have not expended sufficient effort to try to get a response. I, therefore, order that a response should be brought to the House on Thursday next week. My office will facilitate you to do so. You have one week.

**Sen. Karaba:** Mr. Speaker, Sir, I would be out of the country leading another team. Could you add me one week?

**The Speaker** (Hon. Ethuro): Order, Chairman. Are you going with your entire Committee?

**Sen. Karaba:** Okay, it will be done if that is the way.

**The Speaker** (Hon. Ethuro): Delegate. I think that is the end of Statements. Next Order.

### *First Readings*

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL  
THE NATIONAL HONOURS (AMENDMENT) BILL  
THE REPRODUCTIVE HEALTH CARE BILL  
THE COUNTY GOVERNMENTS (AMENDMENT) BILL

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

### *Second Reading*

THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL

*(Sen. (Prof.) Kindiki on 10.6.2014)*

*(Resumption of Debate interrupted on 10.6.2014)*

**The Speaker** (Hon. Ethuro): Who had the Floor? Sen. David Musila had a balance of 10 minutes but I do not see him in the House. We can get any other Senator who is interested in contributing to the Bill.

**Sen. Mugo:** Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this very important Bill. I wish to congratulate the Senate Majority Leader for bringing it for debate in this House. I think we all know the havoc that overdrinking has caused in this country. You just need to go to a market place or any small village and you will see all the young people, those who should be providing productive labour gathered there from as early as 9.00 a.m. or 10.00 a.m. drinking.

As a Member of Parliament for Dagoretti where, unfortunately, this practice is rampant, I used to go to the market for development activities very early and would find young men in the bars. When I asked them about it, they would tell me; *mheshimiwa, sisi tunafungua* locks which means we are unlocking ourselves. This is when they were locking themselves in despair into becoming useless citizens in this country.

If all able or most of the strong people are lost in drinking—

Mr. Speaker, Sir, the consultations are too high.

**The Speaker** (Hon. Ethuro): Order, let us consult in low tones so that the Member who is contributing can be heard.

**Sen. Mugo:** Thank you, Mr. Speaker, Sir. The greatest effort that Kenyans are making and, of course, the Government, is to reduce or eradicate poverty. We want to reduce poverty in our country and we cannot realise this goal as long as all the productive age of our young people are lost in drinking. They are the ones who are supposed to participate in farming and other productive activities that are going on in their areas. There is still a lot of land which is lying idle. You will find an old man who has sons with land. However, the land is not productive because the people who are supposed to work on it, not just the sons to the owner but also the young villagers, do not want to do manual jobs and would rather spend time in *chang'aa* dens. This is an area we all have to work very hard to deal with. I call upon NACADA to put in more effort, the chiefs, DOs, the administration to see that we reduce the scale of drinking in this country. We all saw how many people died in various parts of the country, spreading from Kiambu, Embu and Machakos after drinking illicit brew which had been produced. You wonder how widespread the distribution of this illicit brew is if it reached all those areas of this country and killed people. That shows that somebody is sleeping on their job. Somebody is not doing their job. We have officers who are charged with this work. We have chiefs and District Officers (DOs) who are supposed to ensure that this kind of drinking does not go on in our villages. They should ensure that all bars are licensed and that all the illegal *chang'aas* are eradicated. Owing to *kitu kidogo*, the police, chiefs or whoever is charged with this, it is common knowledge, are bribed and do not do what they are supposed to do.

We want to call on the Government and the Ministry in charge, the chiefs and the DOs. We appreciate the move that was made to sack chiefs who were serving in areas where the deaths occurred. We would like to see the same happening in areas where deaths have not occurred. We cannot wait and act only when deaths occur. We would like to see villages, townships and cities cleared of this undesirable practice. This can be done if our officers, whether in the police or chiefs did their work the way they are supposed to do it.

I want to commend officers who use the alcoblow to arrest drunken drivers. At least, we see people being arrested and charged. We are told road accidents have gone down. That could be one of the contributing factors. We want to see other areas also put that kind of effort. As a nation, we cannot afford that level of drinking. We know that the

World Health Organisation (WHO) also has rules on control of alcohol and the platform for this. I would like to call upon the Ministry of Health to rally the Cabinet Secretary to follow that and to make sure that we domesticate the WHO law here in Kenya.

That would help to reduce and control alcoholism. Alcoholism is a disease. As one honourable Senator said here, almost all families are affected by this. This is such a grave problem and all of us should put in some effort. This is not just the responsibility of the Government or National Authority for Campaign Against Alcohol and Drug Abuse (NACADA). It is our responsibility to see that this country does not go to the dogs. If all our young people get to a point where they cannot do anything, where will we be heading as a country?

Mr. Speaker, Sir, as I commend Sen. (Prof.) Kindiki for this Motion, I think the problem mostly lies with implementation. We should, as a Senate, make sure that whatever we pass here gets implemented. We want to call for more money to be voted into this area. The Treasury should give more money and Parliament will allocate the funds so that we develop more rehabilitation centres. We do not have enough. In fact, they hardly exist. What is there is poorly managed because we do not have enough funds. We should treat this illness just as all other serious illnesses. We cannot even fight diseases like HIV/AIDS properly because when young people – they are the ones active in this area – get drunk to a point where they do not know what they are doing. This is a way of spreading the HIV/AIDS to young people. I support the Bill and commend the Mover and request that implementation takes place. We have a lot of good laws that lack proper implementation.

I beg to support.

**Sen. Murungi:** Thank you, Mr. Speaker, Sir. I rise to support this Bill. In so doing, I would like to thank the Senate Majority Leader for providing good leadership to this House as it was recognized by Sen. (Dr.) Khalwale earlier on. When you read this Bill, you will see that there is a lot of learning that is reflected in it. We want to thank the Senate Majority Leader for his able and learned leadership that has been demonstrated in this Bill.

In terms of drafting this Bill, I can see that there will be very many amendments. Had the Emeritus Attorney-General been consulted; he would have proposed that the old Bill be repealed and replaced with a new one because of the extensive nature of the amendments which make it untidy. However, the substance is good. That can be looked into later.

Time has come for Kenyans to recognize alcoholism as a national disaster. Every home and village is affected by this disaster. The disaster is costing us very heavily. I am happy that the Bill has recognized alcoholism as a disease of the mind. We have the Mathare District Mental Hospital for those affected by diseases of the mind. However, we have a lot of sick people in the villages that we are stranded with. We do not know what to do with them.

Recently, we met our Bishop who was saying that we are powerful men. He said that the Senator, Governor and County Commissioners are powerful. However, how come we are defeated by a few *walevis* in the village who are terrorizing people begging for money and yet there is nothing we can do about it? This Bill is in the right direction because it provides us an opportunity to do something about the problem. Just like we have the Mathare District Mental Hospital, time has come for us to establish alcoholism rehabilitation centres in all the counties.

I am happy that a Fund is already being established. The money we collect from fines and licences could be enough without affecting the usual allocations from the Treasury to establish rehabilitation centres in all counties.

Recently, I read a book called *The End of Men and the Rise of Women*. It is true that men are finished, not only in central but everywhere. There are more *walevis* in western because of *chang'aa* and *busaa*. Men are in trouble; everywhere in this country. Men are not producing. The economy is surviving on the backs of women. Time has come for us to bring this production capacity back. I think time has come for us to be very strict with men. Alcoholism is a problem for men. I had an occasion to travel. I visited Iran three years ago. The City of Tehran is three times the size of Nairobi with 14 million people. However, in that city, there no single bar; there is no single night club. We drove there at about midnight and found very happy people drinking orange juice and taking girlfriends and their wives out.

Therefore, the junk entertainment that has captured the minds of Kenyans is not good for us. It is time for us to introduce Kenyans into more civilized forms of entertainment which does not destroy our people.

With regard to the issue of licensing, in my local village, Murunguruni Village, we have 23 shops. Out of these, 18 are bars selling all manner of drinks. We had an inspection with the chief. We walked round the market to see each and every one of them. Surprisingly, all the 18 were licensed and we wondered how come because some of them do not even meet basic health standards. They should be closed by the public health officers but they were displaying documents to show that they were registered.

Time has come for us to stop fearing the electorate. Sen. Khaniri says that *tunaharibu kura*. It is better if our votes are destroyed but our people live. Most of the people who dance for you are drunk. They do not even hear the policies that we are giving them to transform our counties. I like the provision that says that; at least a few days before the elections, there should be no alcohol being sold.

Since you know the kind of things that happen during campaigns---

The licensing system has to be looked at afresh because there has been a lot of corruption in it. A lot of unprincipled licensing of all manner of clubs and that is why we have 18 clubs in a market of 23 shops. I think the right thing is maybe to give them some time and then all the licenses to be allowed to expire. We support entrepreneurship, but not entrepreneurship for killing Kenyans. We cannot allow mass suicide of our society under the guise of providing entrepreneurship.

**Sen. Kajwang:** On a point of order, Mr. Speaker, Sir. Is it in order to allow a very senior Member of this community of Kenya to attack legitimate business and actually almost destroy it? What comes from the Senate is a very powerful voice of a very senior Member of this community attacking legitimate business of people buying and selling brew and using the emotion of illicit drinks which everybody actually says they are illicit anyway, that we do not want to talk about them. Illicit things should be dealt with illicitly. But now we use that emotion of people who have taken illicit drink and have died, and we are now attacking serious business of him and me who love the single malt 1821. I do not know whether he takes it.

*(Laughter)*

**Sen. Murungi:** Mr. Speaker, Sir, we should not discriminate.

There are a lot of alcoholics who have drunk that single malt, a lot of alcoholics on vodka and even very senior educated people are getting destroyed by alcoholism; people who have Phds. These are people who this country has invested in so much. I am not saying that we should only target the poor with this Bill. Alcoholism is alcoholism irrespective of your social class and origin. So, this is a good Bill because it is saving Kenyans a lot of resources.

**Sen. Kajwang:** On a point of order, Mr. Speaker, Sir.

**Sen. Murungi:** Mr. Speaker, Sir, can you protect me from Sen. Kajwang? I know he is trying to impress those people who vote for him.

**Sen. Kajwang:** Mr. Speaker, Sir, that is my job; to protect my voters, but not the drunkards. If I look at this Bill properly, it is not about alcoholism and how to deal with alcoholism. This Bill is about control of liquor and now he is talking about emotional points like alcoholism which are very complex. This is because you cannot legislate against alcoholism because that is somebody's weakness or problem and it is even medical. You cannot legislate against it unless you say that you ban the consumption of alcohol. But if you are talking of control or consumption of alcohol, you cannot bring these big terms like alcoholism. Is he in order to bring this moral and emotional things which are not in the Bill?

**The Speaker** (Hon. Ethuro): Order, Sen. Kajwang. If there is anybody becoming emotional on this subject, it is you and not Sen. Murungi. Alcoholism must start from somewhere and I thought Sen. Murungi disposed the matter by saying that you can do it through what you call the illicit liquor or you can actually even get it from the normal ones. He even referred to professionals who have suffered and that is a fact. So, I think Sen. Murungi should now be protected from Sen. Kajwang and I am going to protect Sen. Murungi from you.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Kajwang to mislead the House on alcoholism and yet it is in the Bill? It says that one of the objectives of the Bill is to ensure that alcoholism is declared a disease. Did he read it?

**The Speaker** (Hon. Ethuro): Proceed, Sen. Murungi!

**Sen. Murungi:** Mr. Speaker, Sir, I know many Senators want to contribute. The law is not enough. The amendments that we are pursuing in this House will not be enough to solve this social problem. I think there is need for us to start a national campaign and support NACADA beyond the law. I think time has come for us to involve other social actors; the religious organizations and women groups which have done quite a bit, if you can remember the group that we saw in Kangemi. Over and above the law, we need social mobilization. We need to be able to campaign against alcohol just the way we are campaigning against HIV/AIDS. It is because this country will lag back and all the reforms in the Vision 2030 will not happen because we cannot develop this country with drunkards. We cannot develop this country with sick and dying people. Alcohol just means doom. Alcoholism is dark and a retrogressive step for this country.

With those few remarks, I beg to support.

**Sen. Muthama:** On a point of order, Mr. Speaker, Sir. In line with my work as a Minority Chief Whip, I am concerned about the numbers of Members in the House to pass the two Motions. So, would I be in order to ask the Mover to be called upon to respond so that we can vote?

**The Speaker** (Hon. Ethuro): Order, Sen. Muthama! That procedure is not followed that way. It is not because of your work. You have to determine it in another way. Even your own Leader of Minority who has assigned you that work is in total disagreement because he wishes to contribute. So, Sen. Wetangula, you may contribute.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the Sen. Muthama, the distinguished Senator for Machakos is very sorry for that unhelpful interlude.

I want to thank Sen. (Prof.) Kindiki for bringing this Bill in this House, but I also want to oppose it for several reasons. First, if the Senate Majority Leader wanted to enhance the powers of NACADA, give them a fund and deal with the issues to do with NACADA. He should have been courageous enough to amend the NACADA law and not this.

Secondly, I hope the distinguished Senator for Tharaka-Nithi has read the history of the war against alcohol in the United States of America when the State came down with brute force to fight consumption of alcohol, more particularly in New York and Chicago. What emerged is the now famous phrase boot legging. You appear to be controlling something and you send it under and create even more dangerous trends of consumption with more dangerous consequences. So, I would have urged my brother to consult widely on this before he brought this Bill here. Reading through the Bill very quickly in the last ten minutes, I can see the hand on one Mututho in this Bill. This is a man who soldiers in a hate campaign against anybody who consumes alcohol regardless of what happens after consumption.

Mr. Speaker, Sir, I say this because this afternoon, the Cabinet Secretary for Finance is reading the national Budget across the road and one of his biggest sources of income; the second largest source of revenue for this Government is alcohol.

**Sen. Kajwang:** On a point of information, Mr. Speaker, Sir.

**The Senate Minority Leader (Sen. Wetangula):** It is okay.

**Sen. Kajwang:** Thank you, Mr. Speaker, Sir, for allowing me to inform my leader one or two things. I have just known this afternoon that in Nairobi alone, pubs and restaurants and entertainment joints registered ones with the association are 30,000 units in Nairobi alone. The youth that are employed in those units are 1.5 million plus. So, when we talk about the industry, we must be very careful not to sometimes destroy the goose that lays the golden egg.

**The Senate Minority Leader (Sen. Wetangula):** Thank you for the information, Sen. Kajwang.

**Sen. Murungi:** On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Kajwang to come and mislead Kenyans and this House with cooked bogus figures? Could he table the source of these figures he was reading in this House?

**The Senate Majority Leader (Sen. (Prof.) Kindiki):** Mr. Speaker, Sir, further, is it in order for my brother, Sen. Wetangula and company to use extraneous matters to debate a Bill that is doing very specific things without addressing those specifics? This Bill is not about alcoholism and revenue, it is about specific things like when you should advertise. Those are the things we should be speaking to. I suspect without really imputing improper motives that somebody somewhere outside this House could be feeding the kind of unsubstantiated information that we are now receiving here via SMS and twitter conveyed through Sen. Kajwang and company.

**The Senate Minority Leader (Sen. Wetangula):** Mr. Speaker, Sir, that is imputing improper motives on colleagues and it is unacceptable.

**Sen. Kajwang:** On a point of order, Mr. Speaker, Sir. First of all, I am not registered on those things called twitter and facebook. But is it in order for the Leader of the Majority, a professor of law who should protect my human rights to suggest that I can only speak here because somebody is feeding me with some unsubstantiated facts and statistics? Another senior lawyer who was also a professor at the university is calling my statistics bogus without having any statistics himself. Is it in order to allow the Government side to speak carelessly?

*(Laughter)*

**The Speaker (Hon. Ethuro):** Order, Sen. Kajwang. First, you cannot ask Sen. Murungi to confirm something that he does not have and he has not given. It is you who gave the figures and that is why the source of the figures is needed.

**Sen. Kajwang:** Mr. Speaker, Sir, he did not ask me to give the facts. He said that they are bogus. So, he made a substantive statement.

**The Speaker** (Hon. Ethuro): After he said that, then he challenged you to substantiate.

**Sen. Kajwang:** No, no, no. He only said that I was giving bogus statistics. If he asks me to substantiate where I brought them from, I could very well have said that.

**Sen. Murkomen:** Now do it!

**Sen. Kajwang:** You have not raised a point of order. Do not talk to me across the bench.

**The Speaker** (Hon. Ethuro): Order, Senators! That matter should rest there. I only want to make the observation that it was actually Sen. Wetangula who went on the offensive by attributing the source of the Bill to not Sen. (Prof.) Kindiki, the Mover, but to some gentleman called John Mututho. At that time, nobody challenged him. So, I think Sen. (Prof.) Kindiki in return also decided that since other sources beyond what you see are required, he postulated that Sen. Kajwang may also be receiving some current information.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, if I may proceed, you probably were not watching the whole House. When I mentioned the name of Mututho, you should have seen the molar tooth of Sen. (Prof.) Kindiki. He was so happy that actually I know the facts.

I was pointing out about the law being used to come down heavy on inevitable habits of the population. All you do is you send them under. I mentioned boot legging in the United States of America (US). When the State purported to outlaw the consumption of alcohol in the US, it went up by more than 100 per cent. Profiteers joined in, criminal gangs joined in and all manner of people joined in because in many countries people enjoy doing what the State does not like.

Mr. Speaker, Sir, I had said that if the professor wanted to amend the NACADA law, he could have had the courage to do so instead of purporting to give more authority and more money to NACADA through a different law when they have a law that governs them. More importantly, consumption of alcohol *per se* is not an issue in this country. Out of 40 million plus Kenyans, the number of Kenyans who consume alcohol cannot be more than 15 to 20 per cent. You cannot call that a crisis.

The alcohol that has been killing, blinding and maiming people is illicit as Sen. Kajwang put it. It is already illegal to brew, to sell, to keep, to purvey and to hawk illicit alcohol. So, you cannot ban what the law has already banned or purport to control what is banned by law. Illicit alcohol is illicit alcohol. It is like bringing here a Bill purporting to ban cocaine. You cannot do that because cocaine itself is banned.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I did not want to disrupt the Senate Minority Leader, but there is a fundamental statement he has stated here which is misleading the House. This Bill is not dealing with illicit alcohol alone. It is dealing with cases where you buy genuine alcohol, then you over drink when you are driving and then you kill yourself or people. There are situations where people drink genuine alcohol

and they become alcoholics and we want to declare them as patients. So, it is not true to say that the Bill is just focusing on illicit brews. I think that is a misleading statement.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, these two young Senators cannot pretend that they can read this Bill better than I have done; I have read the Bill.

**The Speaker** (Hon. Ethuro): Order! You made an assertion and they are responding. What is it the other second young Senator?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order Mr. Speaker, Sir. I am proudly young and competent Senate Majority Leader. Is it in order for the aged Senator to pretend that for ten minutes he has gone through my Bill which has taken months if not more than a year to reflect on, and now purports that miraculously, he understands it so thoroughly as to mislead this House especially with the statement he made here which is misleading that drugs and psychotropic substances are not banned simply because they are already illegal? That is why we have the Narcotic Drugs and Psychotropic Substances Act of 1995.

Is it in order for the aged Senator for Bungoma County to mislead this House?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, when you are old you are wiser and less excitable than what we are seeing. I hope the interruptions, my time has been saved. In any case, I am entitled much more than the minutes you are giving me. You should know that.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. The Minority Leader, who claims to be an aged Senator and therefore, wiser, the other day he was calling another old person “Baba”. Did you see him threaten the clerks at-the-Table?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, now there is no doubt that the Government brigade is conspiring to interrupt my contributions and you have to protect me. I can assure you----

**The Speaker** (Hon. Ethuro): Order, Senators. You will be protected but the fast line of defense is for you to protect yourself from some Statements that invoke immediate response.

**The Senate Minority Leader** (Sen. Wetangula): If you do not hear me now, you will hear me at the Committee Stage. We will throw it out.

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula. You cannot direct the clerks-at-the-table, that one is a fact.

**The Senate Minority Leader** (Sen. Wetangula): I did not direct them. I only asked that as a Minority Leader, I am entitled to more time, through you.

**The Speaker** (Hon. Ethuro): You cannot also ask them.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, let me carry on.

In this Bill, for example, they are talking about the content of alcohol in a drinker to warrant disqualification from driving. It is foolhardy to say that a person who has consumed two or three beers is drunk and incapable of driving. It depends on the

individual. There are people who would get drunk by just sniffing alcohol. There are people who will get drunk by just taking one beer, others by taking ten and others who do not get drunk at all. So, we cannot throw a blanket net and say that anybody who has taken some quantum of alcohol is incapable of driving. That does not make any logic both in law and in fact.

Mr. Speaker, Sir, the Government license people who run business of selling alcohol and we have enough law, including the law he is purporting to amend that regulates drinking hours, we have a law that regulates the age at which people can buy alcohol. The problem is not the law, the problem is corruption in this Government. Where we have seen these days the people armed with television crew, go to position themselves outside pubs with instruments called alcoblow, humiliate people regardless of whether they are drunk or not. That is a toll station and the purpose is to frisk money from the public.

The purpose is not to control consumption of alcohol. That is why I talked about Mututho. He tried in the last Parliament and failed to bring a law that two days to elections there should be no consumption of alcohol in the country. That is an absurdity of the highest order. Now it has come through Sen. (Prof.) Kindiki. This is the same issue; that two days before elections, no consumption of alcohol. Is there any evidence, scientific or otherwise that people who drink cannot vote or do not vote? Is there any evidence scientific or otherwise to show that people who drink a day or two elections do not vote properly or at all? There is none. Why do we want to kill entrepreneurship simply because we are going to an election? It does not make sense. If this Government is idle and has nothing to do, they should not bring us these Bills that are an assault and an affront to the freedom of Kenyans.

If one is concerned about illicit brews, when did we get visited in this country by illicit brews that are crippling and blinding them in the last about ten years? Were people not drinking from colonial days? Did you hear at any time, in Turkana County or anywhere else, 20 years ago that people were drinking and saying “hata mkizima taa nitaendelea kunywa tu” because they have lost their sight? There was no such thing because of greed which we can control through public education. Another reason why this is happening is due to corruption. People who have been given a chance to license are not doing the right thing. It is because we have made this country be a country of rich people who can enjoy their single malt as you hear and purport to bring here a law to deny the ordinary man the opportunity to enjoy a drink. Where I come from, we brew *busaa* and I can confess here that I grew up because my mother was brewing and selling *busaa* to raise money for my fees. I also know Sen. (Dr.) Khalwale. I have been to his home. His mother brewed and sold *busaa* and *chang’aa* to take him to school. This also applies to many others. Why do we now want to criminalize entrepreneurship?

I know the distinguished Senator for Elgeyo-Marakwet because I visit his county, people enjoy *busaa* like other Kenyans elsewhere. I hope he is not here to sign himself

out of Senate in the next elections by supporting such an embarrassment in the name of legislation that has been brought to this House through a conspiracy.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. There is no doubt that Sen. Wetangula is a great debator but once in a while, he loses it. Is it in order, for example, for the Minority Leader to say that there is a possibility that this Bill or any other legislation that is before this House that has come here through the effort of various Members of this House that it has come here through a conspiracy? This is not the first time, Sen. Wetangula is using this term. I remember we had a fierce exchange here in the last session for using demeaning, outrageous and unfounded terms against other Members. So, where does conspiracy come from? I propose that the Senator for Bungoma County be named for using unparliamentary language and abusing his position and the privilege he has as Minority Leader in this House to actually demean and bring down the dignity of the Senate.

**The Speaker** (Hon. Ethuro): Order, Senators. I tend to agree with the Majority Leader. I think the Minority Leader, you have persistently, instead of addressing yourself to the clauses in the Bill, you are all over the place looking for some conspiracy theories. You are trying to describe some other motives that are not part of the memoranda to the Bill. You can still speak without really imputing improper motives on other Members and in particularly the Mover of a Bill because this time it is the Majority Leader and next time you might wish to bring a Bill. Do we really wish that we suspect every intention of the Mover?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I will consult widely before I bring it. I will consult everybody including him and I can tell you he did not consult me. Not that he had to but he did not.

Mr. Speaker, Sir, Clause 34 purports to amend Section 47 so as to outlaw giving away free alcoholic drinks in promotions. How can we do such a thing? How can we pass such a law? Marketing includes and is founded on promotions. What is the difference between Safaricom giving away free handsets when they are promoting their business and Kimbo giving away sachets of Kimbo to *mamas* in the villages or Royco giving sachets to *mamas* in the villages and breweries going for an organized and structured promotion and telling people “this is a new drink, test it and you may like better than Tusker” How can we ban such a thing? The next day, this Government will walk to breweries and saying “haujalipa ushuru.” How are they going to pay taxes to keep the economy running if we stifle their business? These are the things I am pointing out. The fact that I have not said “clause this or that” does not mean that they are not in the Bill. I have read it properly and thoroughly and you know I read well.

Mr. Speaker, Sir, how can we, for example, say in Clause 31----

*(Laughter)*

Even Senators who are incapable of debating are all over a sudden very active. You heard the distinguished Senator for Meru wander around for ten minutes without any reference to any clause in the Bill, praised Sen. (Prof.) Kindiki because they come from the same place and sat down. He did not mention anything in the Bill.

**Sen. Murungi:** On a point of order, Mr. Speaker, Sir. We know the Minority Leader is a very learned and intelligent person, but if he has not read or does not know, he should just sit down. He does not have to talk. He did not interrupt me when I was contributing to say that I am not referring to the Bill. He was very impressed by what I said. So, is he in order now to change his mind and tell Kenyans the opposite?

*(Laughter)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, trust the distinguished Senator for Meru to bring commic relief to the Floor of the House. If there was anything that could have been brought to deal with this Act that he is purporting to amend, is even to abolish the Alcoholic Drinks Control Fund. We do not have to burden Kenyans anymore than we have already burdened them. We were told here that alcoholism is a disease, so let it be dealt with through medical channels.

Mr. Speaker, Sir, if you read this, it is like saying that when you go to court with an offence and you are fined, that money remains the money of the judiciary. It is like saying that if you go the Ministry of Lands and you appear before a tribunal and you are penalized, that money belongs to the department of lands. You cannot run a country like that. That is why Parliament passes the Budget. That is why it is important that if it is NACADA, they should submit their budget, it would be looked at by the National Assembly and be given money to run the outfit. You cannot say that you are going to license drinkers and those who run pubs and those who distribute alcohol, then that money goes into a fund called the Alcohol Drinks Control Fund. We are completely losing the picture and we are completely losing the national fabric. Even the idea being floated that we are going to have authorities, some at the county, some at the national level, this does not add up. Devolved functions include regulation of consumption of alcohol. While it is a national problem, I would want us to understand that Wajir where my distinguished deputy comes from does not have a drinking problem. So, we cannot come here and purport to pass a law and say that it is going to uniformly cover the country. Garissa does not have a drinking problem. Murang'a has a serious drinking problem; Narok has a serious drinking problem near Mai Mahiu where people drink and get blind. In my county, people drink *busaa* and there nobody who has ever lost sight for drinking *busaa*. So, let us go to the issue.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. Is it in order for the Minority Leader to mislead the House that the reason why we pass a national legislation is unless every single county has that problem? I do not know how in Kisumu poaching of elephants is a problem but we have a national legislation that deals with that issue.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, you know very well that we do not have a county committee for controlling poaching of elephants in Kisumu. We do not have a county committee in Kericho to control the poaching of lions because they are not there. I want to point out what is in the Bill---

**The Speaker** (Hon. Ethuro): Order, Senators. When you make a law against something, it does not mean that all of you can commit that particular crime.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, if you want to see my line of argument, it is important---

**The Speaker** (Hon. Ethuro): I am appreciating your line of argument, but if the problem is not in Wajir, you cannot tell me that you cannot legislate.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the problem that I am trying to cure is that when you say there shall be county and national authority on alcohol, even in Wajir where there is no alcohol, they will set up an authority and consume public money in the name of controlling alcohol which is not there.

**The Speaker** (Hon. Ethuro): That is a point.

**The Senate Minority Leader** (Sen. Wetangula): What I would have expected the distinguished and learned Senator from Tharaka-Nithi to bring to this House is to encourage county assemblies to pass laws to regulate licensing, consumption and so on to do with alcohol. If I turn up with this law in my county, people will think I have gone bananas because we do not have any such issues. I have already, as I expected all Senators here to do, addressed my county assembly and told them the following: They started drinking in clubs and shifted from private homes to market centres. They are regulated so that people drink at given hours, as licensed by the law. If it is from noon to 5.00 p.m. as our grandfathers used to do, they would then go to the market and take four cups of *busaa* and walk home. What happens today is that drinking places, in spite of the law, open at 9.00 am and do not close at all. They station somebody out there and leave the door open to---

**The Speaker** (Hon. Ethuro): How do you open and do not close at all?

**The Senate Majority Leader** (Sen. Wetangula): Mr. Speaker, Sir, what I mean is that they only close when the last patron leaves. As long as there is someone buying alcohol, they do not close.

This is a failure of our system. I am not attributing this to the Jubilee Government which has only been in office for one-and-a-half years. This is a systemic problem that has run through this country for several years. All we need to do is to find out how to regulate the situation.

If the Inter-Continental Hotel only sells alcohol at particular hours, why do we allow people in Korogocho, Mathare and other areas to drink for as long as there is no policeman to chase them away? That is what we should be addressing. However, saying that we do not want people to drink is not a valid argument. I want to ask the distinguished Senator, who sponsored this Bill and accepted to carry the Bill to this House to rethink his position. If you want to know what I am saying, just look at clause---

**The Speaker** (Hon. Ethuro): Sen. Wetangula, I have directed you not to impute improper motive. In any case, you cannot describe the other Senator as distinguished and you describe him as a conveyor or mover of things.

**The Senate Minority Leader** (Sen. Wetangula): I want him to struggle and agonise with the irony. If you look at page 48, you will see what I am saying. The National Alcoholic Control Fund shall be administered by National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) and not the Accounting Officer. How did NACADA find its way into this Bill when it has an Act of its own which could have been dealt with? There are many more Senators who want to speak.

“Clause 28 seeks to amend Section 31 of the Act so as to clarify that fortified wine cannot be packaged in sachets and containers of less than 250 millimetres.”

Manufacturers carry out market surveys. We used to have a much bigger bottle of Keringet. Keringet must have carried out a survey to show that reducing the size of the bottle would make more economic sense. How can we license entrepreneurs and go back to micromanage them to the extent of telling them that they cannot package their products to the smallest units that an ordinary person can afford?

There are some of us, in this House, who can walk into a pub and spend Kshs1,000 without feeling it. There are those Kenyans out there who would like to enjoy a drink like all of us do but can only spend Kshs5. The producer and the manufacturer give them an opportunity to have access to the same goodies as you and I do. How can we take away that from the ordinary Kenyan? I find that totally unacceptable.

The distinguished Senator for Homa Bay has assured me that he has carried out a comprehensive amendment to this Bill. When it comes to Committee Stage, I will add on to it to the extent that when the Mover of the Bill sees the amendments, he will have to rethink his position and see whether there will be any Bill left to prosecute before this House. Let us not pretend that since we are Senators, we can sit here and do what county assemblies are supposed to do. Let us not pretend that we can come here and say that we will regulate Kenyans’ behavior and do it anyway regardless of the consequences. That is called inconsiderate attitude. I could have used a much stronger term but I can see my distinguished colleague looking at me wondering whether I will use---

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. Since this is a House of record and what the Senate Minority Leader is saying goes to cast doubt on our responsibilities as a House to protect counties, had the Senate Minority Leader found ten minutes to read the Bill, he would have seen a clause regarding that. He is the one who has said, before the House, that he has ten minutes to do it. He is on record and the HANSARD can bear me witness. Had he had time to read it, he would have seen a clause that marries Article 191 of the Constitution that says that county legislation prevails over this legislation. That means that it takes care of the areas where county legislation is put in place to prevail because this is a county function. This is there and I submitted it in my discussions yesterday.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir that is logic, upside down. There is no way that county legislation can prevail over municipal legislation. That is perverted logic. Municipal legislation is the one that prevails over county legislation. What our distinguished colleague is saying is that county legislation will prevail over municipal legislation.

**Sen. Murkomen:** Mr. Speaker, Sir, Article 191(4) of the Constitution says that county legislation prevails over national legislation if either of the circumstances contemplated in Clause 2 apply. So, there are situations where county legislation prevails over national legislation.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, it can only do so if it is a narrow legislation that deals with issues that are of county and not of national agenda. That is why he is not reading beyond what he has read. That is selective quoting of the law.

Clauses 37, 38, 39 and 40---

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula. We cannot leave that at that level. The question – you were very eloquent about it – is about municipal legislation. When it is pointed out there are circumstances, where county legislation prevails over national legislation, you should not have an argument over that. You were arguing about the principle. If you want talk about the circumstances, go ahead. However, of more concern to me – you have used words that are against Senators and you are now harming the institution itself. You are saying that this Senate cannot purport to legislate for so-and-so and cannot be considerate and cannot assume this.

Surely, what is your role? This is a legislative proposal. There is a Mover proposing his views and your job is to counter them. You are still a Member of the Senate and it is the final outcome that will determine our position.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I cannot propose this Bill without putting forward arguments. My arguments are not in general terms. My arguments are only in relation to this Bill. That is why I saw you nodding when I said that we cannot and we should not purport to do work that county assemblies can do. I also said that we cannot come here and purport to regulate the lives of Kenyans because as protectors of counties and devolution, we must make life easier in the counties and not make draconian laws that will make the police raid our constituencies and harm people even more.

*(Laughter)*

I was only limited to that. Your boisterous laughter and smile is an appreciation of what I am saying.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, since the Senator for Elgeyo-Marakwet wanted to set the record clean, in the same legislation that he is referring to, in the issue of conflict of laws, it is clear that national legislation prevails over county legislation and

“a” and “b” give the reasons. It goes as far as No.3 and tells us that the following Commission is referred to in Clause 2. Could you tell us what you make of that and especially in the meaning of the hierarchy of laws?

**Sen. Murkomen:** Mr. Speaker, Sir, this is an issue that requires more time than just reading the provisions. However, what is more important is that Clause 2 is the rule. The exception is Article 191(4) which says that whatever is contemplated in Clause 2 applies. If you go to clause 2, you will see that it talks about situations where the national legislations prevail. If the circumstances provided there---

You can read subclauses 2, 3 and so forth. I wish we had time to go through that. But the point I want to make before the Senate Minority Leader is that it is not true that in all situations, the municipal law prevails over the county law. That is clear. There are situations where the county law prevails. If you take time to read this Bill, you will see that this is provided for. Where there are situations where there is a specific county legislation on regulation of alcohol, then that regulation prevails over the national legislation.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, we are not interpreting the law. However, if the distinguished Senator read that Article carefully, 191(1), (2) and (3) which set out the conditions that are referred to in Clause 2, he would realise that I am right and he is wrong. But we are not here to debate Article 191.

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula. We are not debating Article 191 but there was an assertion that you made which Sen. Murkomen was trying to counter. I want to dispose of that matter now. You are wrong and he was right. That has been confirmed by your able lieutenant known as Dr. Khalwale who was satisfied by that expiation from Sen. Murkomen.

**The Senate Minority Leader** (Sen. Wetangula): He was not. He was opposing it.

Mr. Speaker, Sir, there is what we call narrow interpretation of law and the broad interpretation of the law. What Sen. Murkomen is doing is to very narrowly interpret the Constitution. However, that is not an issue. I will move on.

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula, you better move on.

**The Senate Minority Leader** (Sen. Wetangula): If you looked at Article 36, you would see that it amends Section 50 to empower the Authority and to recommend to the Cabinet Secretary the list of officers to be appointed as authorized officers or persons for the purpose of this Act.

I have already said that regulation of consumption of alcohol should be left to the counties. Why should the Cabinet Secretary sitting in Nairobi be the one to gazette and authorize officers to regulate alcohol in the counties? Why do we have county governments? We have two levels of government in Kenya. What is the role of the Governor of Kajiado if he cannot appoint people to regulate alcohol consumption? Does that issue have to come to Nairobi? This should not be accepted.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I do not want to interrupt my senior. However, these are issues that will go on record. The reason why the Bill is

coming into this House is for us to turn provisions that were of the national Government to counties. That is why the Bill says in several situations; where it reads District, read it as County. The county takes a primary role in those matters.

Even if Sen. Wetangula is unhappy with the Bill, the primary role of this House – Sen. Khalwale said yesterday that he would bring amendments – should be to bring an amendment to strengthen the responsibilities of counties in dealing with alcohol. That is what the Bill is attempting but it is not as strong as it should be. It is removing districts and replacing them with counties.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, this is what the clause says;

Clause 36 seeks to amend Section 50 of the Act so as to empower the Authority to recommend to the Cabinet Secretary the list of officers to be appointed as authorized officers for the purpose of this Act.

That is what I am saying. Why should the Authority recommend to a Minister sitting in Nairobi when in the same Bill, the Mover has recommended that the Authority shall have a county level and a national level?

The county level should regulate itself and the Cabinet Secretary should have nothing to do with it.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. The authorized persons contemplated by the Act include people who are going to carry out enforcement. This also includes places where testing can be done. This is national in nature and has nothing to do with interfering with county responsibilities.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, is that an argument, a point of order or a point of information?

**The Speaker** (Hon. Ethuro): That ideally should have been a point of information.

*(Laughter)*

**The Senate Minority Leader** (Sen. Wetangula): Which I would have rejected. Clause 43 is tautologous.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): I have hardly said anything.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. Just as a matter of procedure, I know that the lights are not working. However, I was just wondering whether the Senate Minority Leader has limitless time because he has spoken for nearly an hour now.

**The Senate Minority Leader** (Sen. Wetangula): That is not true. When I raised a question, they jaded me for directing Clerks. Now, they are doing exactly the same thing.

**The Speaker** (Hon. Ethuro): The Senate Minority Leader definitely does not have unlimited time. However, he has quite a lot of time. He has one hour. He started 20 minutes to 4.00 pm. So, he still has another 10 minutes.

**The Senate Minority Leader** (Sen. Wetangula): I intend to exhaust it. Thank you, Mr. Speaker, Sir.

(Applause)

Mr. Speaker, Sir, I will not stand here, praise you and sit down on the basis of regional affiliation.

**The Speaker** (Hon. Ethuro): Sen. Wetangula, you may be mindful that the language of the Standing Order on the limitation of debate says that the Senate Majority Leader and Senate Minority Leader may each speak for a maximum of 60 minutes. The word is “may” and “maximum.” I think I have instructed you. One, you do not have to speak and two; you do not have to exhaust.

**The Senate Minority Leader** (Sen. Wetangula): And when I choose to speak, I have the maximum time. Right?

**The Speaker** (Hon. Ethuro): Yes.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, in the Fourth Schedule, so as to specify the prohibited substances under the Act, there is a new Fifth Schedule in the Act so as to provide for the laboratories recognized for the purposes of ascertaining alcohol, I have a problem with this. You and I have been in Parliament for a long time and when you want to make a point, you first read the offending clause then you analyze it and then you say why it is offensive like I am about to do. But my good colleagues here are giggling and obviously excited about small things.

**The Speaker** (Hon. Ethuro): Actually, they are appreciating what you have just described.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, this is one thing that again shows the reverse thinking of the sponsor of the Bill because the national laboratories under the Constitution remain the preserve of the national Government. If there is a killer brew in Murang’a, Mai Maihiu, Nyeri, Homa Bay or wherever, we should not pass a law that allows substandard laboratories to be established in the counties to purport to test alcohol or any offending substances. If we want standardization in the country, that must be done at the centre and any alcohol that renders Kenyans blind or kills them must come to the national laboratories. To allow different levels of testing is, in fact, to exasperate the problem because what will happen is that where the counties are not able to set up a laboratory, they will hire a quack next door who runs a third rate laboratory and whose verdict on any alcohol or substance will depend on who pays him. This will even be making the problem bigger.

If we are going to have 47 laboratories around the country, each laboratory will be passing the test in accordance to who visited who and so on. Let us just have the national laboratory because Nairobi is not too far from everywhere. There is air transport and if there is a substance that is offensive, bring it to Nairobi and test it. If we have the culprits, jail them after due process. If it is a drink that we have to ban, let us ban it but let us not go that route. I am sure they can now appreciate that we have read through this.

Mr. Speaker, Sir, I want to end so that I can give time to others to contribute by saying the following: If there was any Act to be amended, it was the NACADA Act. The NACADA Act is what gives the Mututho team or whoever will be there--- Mr. Kaguthi was also there and the other day, they expelled a man from western Kenya in order to leave Mututho with all the authority. If this was to be done, then that was the Bill to look at. If the philosophy of the Senate Majority Leader in bringing this Bill was born and predicated on the recent events of reckless consumption of alcohol and the casualties that are coming out of it, it is noble. But this is what we call doing the right job wrongly because he should have looked at the other laws that are available in regulation of alcohol. Some of the things being purported to be done, if you look at the NACADA law, they are already provided there.

Like I said, and I want to end on this note, this country does not suffer from a shortage of relevant laws. This country suffers from the lack of will to enforce the law. That is our biggest problem.

When you say that when you are drunk to the extent of being unable to control a machine you should not drive--- I have been horrified in many situations to see a person who drinks until he is comatose and then he is carried to his car, placed on the wheel, helped to insert the key in the ignition and then he ignites and drives away. This is the irresponsibility and the lack of will that we are talking about. You remember when the NARC Government came to power and Kenyans were the most hopeful people in the world---. You remember *wananchi* arresting a policeman who was soliciting for a bribe and frog marching him to the police station. What happened to Kenya? If NARC was corrupt, I do not know what we can talk about Jubilee. Look at the railway project, the laptop project and everything else.

**Sen. Murkomen:** Tokyo!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I have told you many times before and I can tell you for free here now that I can assure that if you think yours truly had anything to do with Tokyo, I am ready to walk on my own to court to be prosecuted. I am ready to do that. Those who speak with a tongue in the cheek, chiding me on matters that were investigated by Parliament, the Controller and Auditor-General, KACA and the inter-Ministerial committees and found that I knew nothing and did nothing about that transaction---. When Sen. Murkomen with a cheeky smile looks at me and starts talking about Tokyo, I feel very sad about it because he has a duty to respect his seniors.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. I thought he was just enumerating a list of scandals or purported scandals, some of which like the standard gauge railway as purported was cleared by Parliament, many people were cleared by Parliament on Goldenberg, many people were cleared by various institutions on Anglo Leasing and I thought he was just listing. Even the maize scandal was cleared by Sen. (Dr.) Khalwale in Parliament.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir.

**Sen. Murkomen:** It was defeated in Parliament. Let me complete!

Mr. Speaker, Sir, I was just saying that as Sen. Wetangula was enumerating a list of purported scandals, I said Tokyo and it is only him who raised his urn up and said that Wetangula was an issue but I did not say it.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I just want to set the record clear and without any prejudice. While discharging my duties as the Chairman of the Public Accounts Committee, I approached this House in the last Parliament and we lost the vote. I did not clear anybody and so to give the impression that I cleared the perpetrators in the corrupt deals of maize is to assume that I was part of that group of parliamentarians that eventually defeated my Motion.

**The Speaker** (Hon. Ethuro): That was a different time; let us deal with the issues now. You know how to deal with the past. For now, we are here.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, as I conclude, I invite these young Senators to go and read all the reports around the Tokyo scandal. I want to make it very clear that the distinguished Senator for Meru there was forced out of office on the alleged Anglo Leasing and we stood with him and we knew he was innocent and he was declared innocent and he is sitting here. He is a close friend of mine.

Why are these young Senators not talking about Anglo Leasing when they are fraudulently paying out money belonging to Kenyans to crooks?

I want to oppose this Bill with all the might that I can muster and assure the House that we will defeat it because it serves no purpose and those who think they can gloat and gloss over mischievous, misguided and malicious insinuations and malice against others, I want to tell them that *chuma chao kimotoni*.

**The Speaker** (Hon. Ethuro): Hon. Senators, since there is no other contributor, I will ask the Mover to reply.

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Speaker, Sir, I thank you. I also thank all my colleagues who have contributed to the Second Reading of this Bill. I want to thank profusely those Senators who have supported this Bill. At the same time, I also want to thank those who have supported this Bill with qualifications including the Senator for Kakamega whose only main problem was the issue of drinking within Parliament precincts and the premises of the disciplined forces.

Let me also thank those who have opposed this Bill---

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. The Senate Leader of Majority is saying that my only problem with this Bill which I qualified was my refusal that we cannot remove the exemption for drinking at Parliament and in the military barracks. He should not give that impression because I spoke for the whole period qualifying why we needed to amend. I have many reservations including a provision here that bars be opened from 5.00 p.m. to 8.30 p.m. when we are still in the gym. We have not even started to go drinking. I cannot support that. I cannot---

**The Speaker** (Hon. Ethuro): You have made your point.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I appreciate. All that I said was that the Senator for Kakamega County actually supported this Bill, seconded this Bill but said that he had issues about a few things some of which he has mentioned. In fact, for the comfort of Sen. (Dr.) Khalwale, I want to say that I even thank those who have totally opposed this Bill from the first clause to the last one including my brother, the Senate Minority Leader, because really that is the purpose of the legislative process. The purpose of debate is to either support legislation or oppose legislation so long as that is done within the confines of a justified and reasoned opposition or support for legislation.

This Bill is about a number of things which have been brought out by various Senators who have spoken. We are not going to allow people to sell liquor in our country outside primary schools and secondary schools when our daughters and sons are watching. It does not matter how much money you are making. We will not as a nation allow, you. If you must sell that liquor at whatever time, our children in schools and colleges must not see what is happening because in consumption of alcohol, I am told---

**The Senate Minority Leader** (Sen. Wetangula): On a point of information, Mr. Speaker, Sir.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, the point of information is rejected in totality.

We cannot allow our children to watch people consuming alcohol and getting drunk and engaging in obscene and disorderly behaviour and we pretend that that is in support of enterprise.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Is it in order for Mover of the Bill to single out those who sell alcohol when in fact, part of the problem is that those who license schools do not even check whether the schools they are licensing are close to already established drinking or alcohol places or not?

**The Speaker** (Hon. Ethuro): Order, Sen. Wetangula, that is completely unnecessary because he did not say he was being exhaustive, he was just singling one aspect.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I speak as a legislator and a parent. My 12 years old daughter, Imani, and her sister, Neema, who is

six years and all the boys and girls of their generation, we want to give them time until they reach the age of maturity and decide whether they want to take alcohol or they do not want to take. We are not going to allow advertisements and glorification of alcohol throughout the day. We are not really against advertising, but we should wait until Imani and Neema and the children of their generation have gone to bed. Then from 9.00 p.m. or 10.00 p.m., you start advertising your alcohol because the Senate Minority Leader will still be in Westlands imbibing alcohol with his friends and his age mates until after 1.00 a.m. We must regulate.

**Sen. Muthama:** On a point of information, Mr. Speaker, Sir.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I want to be informed by the Senate Minority Whip, one of the most respected Senators in this House.

**Sen. Muthama:** Mr. Speaker, Sir, I want to inform the Senate Majority Leader that the bars around learning institutions do not just sell alcohol to students, but even cocaine. So, they are just killing and spoiling our children.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Sen. Muthama. Time has come when, as politicians, we must be able to balance our different responsibilities. We must not be misguided that the only thing that matters in our lives is the votes we get. I am a Senator for those who take alcohol and also a Senator for those who do not take it. I am going to balance and say that it is okay if you choose to take alcohol but there is a line I will not allow you to cross. If that costs me votes, so be it. I will go back to the university and lecture law. I think this House requires sobriety. This hyper protective approach where you think everything has to do with votes must be rejected. We must go beyond that.

Mr. Speaker, Sir, I agree that there are some provisions in this Bill that need to be looked into afresh and that is why we have the Committee Stage. For example, when I discussed this with the Seconder of the Bill in the Second Reading, Sen. (Dr.) Khalwale, he actually convinced me that when you say to a villager that if you are caught with alcohol related offences, we are going to fine you Kshs10,000, you are actually sending that person to jail, because not very many people who vote for us can afford Kshs10,000 as a fine. That is the kind of feedback I would appreciate so that if we lowered that maybe to Kshs3,000 or Kshs2,000 and then you give a bit of flexibility where if you pay a fine, that should be punitive enough and you can continue with your business.

As leaders, we will not allow – this is what this Bill does – people who are drunk and they are carrying and transporting life including their own lives to continue killing themselves and fellow Kenyans on the roads in the name of enjoyment. That is why we are saying that if you must drink and get drunk, look for someone to drive you home. It is that simple. But saying that there are people who get drunk and once they are on the steering wheels, their cars know their way home is not right. We have enough funerals every weekend and a majority of those funerals are caused by young people who leave

behind young spouses who turn to us to help them educate their children. We must be firm. No country in the world can be run through recklessness and indiscipline.

This Bill is also talking about the relationship between national Government and county governments in matters liquor. In fact, the very argument that Sen. Wetangula brought here about the two levels of government is the very essence of this Bill. This Bill is trying to say that under the Fourth Schedule, the only function that counties have is licensing of liquor. So the entire ambits of liquor control are actually within the national Government.

Liquor control has many aspects. It has transportation implications, for example, drunk driving. It has security implications especially if you connect the commission of offences and the operation and sale of alcohol and drugs. So it is not true to say that through this legislation, there will be an attempt, for example, to absorb the work of county governments. In any case, such a Bill will be unconstitutional. Therefore, this Bill is trying to create that harmony and to make sure that the two levels of government discharge their functions and that we have a sober society; a society where people enjoy themselves but do so responsibly.

Mr. Speaker, Sir, finally, I remember listening to my brother and senior, Sen. Amos Wako, former Attorney-General of Kenya, when he was supporting this Bill. After supporting it, he quoted some verses in the Holy Bible. He said that Jesus made wine and on that basis, alcohol is good. I just want to conclude my remarks my reminding Sen. Amos Wako and those who believe that through that provision that he read from the Bible, alcohol is glorified. I want to refer them to the Book of Proverbs 23:29-35. Here, the Bible poses a few questions.

For example; it asks the following question. "Who is this that is quarrelsome? Who is this that is bubbling words? Who is this that has redness of eyes? Who is this that tarries at wine? Who is this that gazes at strange women?"

It concludes by saying, it is the drunkard.

Therefore, it is not true that---

*(Laughter)*

**Sen. Wako:** On a point of order, Mr. Speaker Sir.

**The Speaker** (Hon. Ethuro): What is it, Sen. Amos Wako?

**Sen. Wako:** Mr. Speaker Sir, is it in order for the Senate Majority Leader to mislead the House in stating that I quoted a few verses in the Bible and more or less endorsed drunkenness?

I said that the first miracle of Jesus Christ was to change water into wine. He challenged me and said that the wine of those days was not alcoholic. I want tell him that the Bible, in fact, confirms that the wine of those days was alcoholic.

The Book of John 2:10 states that the master who was getting married on that day complained that the good wine is always served at the beginning so that when people are

drunk, they do not recognise the inferior wine which comes later. However, in this case, the good wine came at the very end. The great Apostle, Saint Paul, told Timothy in the Book of Ephesians 5:24 that to get drunk on wine is wrong. Jesus Christ himself was accused of being a glutton and a wine drinker. It proves to me that even the wine of those days was alcoholic and not non-alcoholic as the Senate Majority Leader was asserting regarding that particular day. Is it, therefore, in order for him to mislead the House on those issues?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, is the Senate Majority Leader further in order to purport that the wine of those days was not good, while even in the Old Testament, Noah and his three sons consumed wine? It was so potent that that he was found in his birthday suit. The fate that befell his sons depended on how they treated him when they saw him. Was that not potent wine?

**The Senate Majority Leader** (Sen. (Prof). Kindiki): Mr. Speaker, Sir, in reply to the matters raised by the two Senators, I will just say one thing; they have just confirmed my thesis. For example, the story of Noah is a sad story for parents and children. A father, a grown up man with sons and daughters, because of alcohol, can remove his clothes and expose his children to an eternal curse. This is the more reason why even today, we should control ourselves by making sure we do not drink in Parliament. Parliament is a working place. Why do you want to sell alcohol during working hours in a work place, or even sell it at all? The Military Barracks is a working station for our disciplined forces. Why do you want to sell alcohol in a working place?

Mr. Speaker, Sir, this Bill is well intended. This Bill does not criminalise drinking. It says that if you must drink, drink at the right time, with the right people and do not carry your children to bars. These days, especially the younger parents – this is a big abomination - I have seen fathers, people with their spouses, carrying little girls and boys and entertaining them the whole day in a bar and these children are watching horrible things that should only be left to parents and adults who can choose what to see and what not to see.

So with those very many remarks, I want to say that despite the vehement opposition by the Senate Minority Leader - who is not even reading from the same scripts with his troops because some of the troops from the Minority Side like the Sen. Muthama – are completely sold out that this Bill will help this society. I wish the Senate Minority Leader the best of luck in his opposition.

**Sen. Muthama:** On a point of order, Mr. Speaker, Sir. Is the Senate Majority Leader in order to say that he knows from the bottom of his heart that I am supporting this Bill when I did not even contribute on it? My quietness speaks volumes. It is wrong for you to conclude. Wait for the time when we will vote on this Bill. The only thing that I agreed with him is that we need to control use of alcohol in this country.

**The Senate Majority Leader** (Sen. (Prof). Kindiki): With the remarks of the Chief Whip, that we need to control alcohol in this country, this Bill which is coming for Second Reading is called the Alcoholic Drinks Control (Amendment) Bill.

I beg that this Bill be read the Second Time.  
I beg to move.

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

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

**The Temporary Speaker** (Sen. Murkomen): What is it Sen. Kindiki?

**The Senate Majority Leader** (Sen. (Prof). Kindiki): Thank you, Mr. Temporary Speaker. I am rising under Standing Order 54(3). It is evident that we do not have the numbers for purposes of voting for this Bill, so, I request that you use your discretion under Standing Order No.54 (3) so that the question be put the day following today; and in which case, you can nominate a specific time when voting will take place so that the different whips can mobilize Members so that we have adequate numbers to carry on with the voting.

**Sen. Muthama:** On a point of order, Mr. Temporary Speaker.

**The Temporary Speaker** (Sen. Murkomen): Yes, Sen. Muthama.

**Sen. Muthama:** Mr. Temporary Speaker Sir, the Senate Majority Leader is not giving reasons why the voting cannot be done today. He has not indicated whether this is a county Bill or whether it is just a postponement which does not have supportive ground. He should give reasons why the vote cannot be called for.

**The Senate Majority Leader** (Sen. (Prof). Kindiki): Mr. Temporary Speaker, I have given the reason. We do not have the numbers. The assumption is that this is a matter concerning counties. However, that discretion on whether this is a Motion concerning counties or not is not my discretion. It is the discretion of the Speaker. So, you can guide us accordingly.

**The Temporary Speaker** (Sen. Murkomen): Thank you. Sen. Lesan.

**Sen. (Prof). Lesan:** Mr. Temporary Speaker, along the same lines really, all Bills that are considered in this House concern counties. Therefore, there might not be any necessity to just indicate that. All the Bills we consider in this House concern counties. So is the Minority Whip in order to mislead this House that we could at one point in time consider Bills that do not concern counties in this House?

**The Temporary Speaker** (Sen. Murkomen): Hon. Senators, first of all, I would like to point out that this is a Bill concerning counties. I am inclined to agree with Sen. (Prof). Lesan that, indeed, you cannot have a Bill in this House that does not concern counties. The fact that the Speaker has already admitted a Bill to be debated in the House means that it is a Bill concerning counties.

Our Standing Orders require that before any Bill or Motion is put on vote, it is the responsibility of the Chair to remind you which I will. This is a Bill concerning counties and, therefore, pursuant to the request of the Senate Majority Leader, I would like to rule.

I do not have a lot of leeway because the Standing Orders talk about the next day. It does not say give me the leeway to appoint any other day other than the next day.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, on the same issue.

**The Temporary Speaker** (Sen. Murkomen): Basically the Standing Order No. 54(3) limits that discretion of the Chair to the next day which in this case will be on Tuesday next week.

What is it Senate Minority Leader?

*(Sen. Wetangula spoke from the  
Government Side of the Dispatch Box)*

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, what we are doing is just academic. We have precedence where the Rules and Business Committee and even the Speaker from the Chair ruled that all matters concerning counties, once we finish debate, there is no contemporaneous vote. They are simply passed onto something else so that they are listed for voting together with others. That is what we have been doing. In fact, the Mover did not even have to say that this is a matter concerning counties and so on because we have precedence and ruling from the Chair that whenever we finish debate on a Motion or a Bill that concerns counties, we simply put it aside and wait for it to be listed for voting on an appropriate date and we used to vote – you will remember - on Wednesday afternoons.

**The Temporary Speaker** (Sen. Murkomen): Well, procedurally, we might have that precedence but our Standing Orders are very clear. They say the next day. It is something that we might have to consider substantially. However, in keeping with that Standing Orders, I would like to rule that on both business and Orders No.s 12 and 13 be deferred until we vote on them on Tuesday, 17<sup>th</sup> June, 2014 next week at 3.00 pm. We will vote for both the business listed under the Orders number 12 and 13,

*(Putting of the Question on the Alcoholic  
Drinks Control (Amendment) Bill deferred))*

#### THE COUNTY GOVERNMENTS (AMENDMENT) (NO.1) BILL

*(Sen. Dr. Khalwale on 4.6.2014)*

*(Resumption of Debate interrupted on 4.6.2014)*

*(Putting of the Question deferred)*

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. The Senate, just like the National Assembly, is a House of traditions, strong traditions and etiquette. Did you notice that the Senate Minority Leader, who for all purposes is the leader of the Opposition, has approached the Dispatch Box and spoken from the position of the Government Side? Is it permissible in our practice that the Senate Minority Leader can speak from there and the Senate Majority Leader can speak from our side? Is it our practice? Could we set the record clear?

We are very much worried that we might have lost our Senate Minority Leader.

*(Laughter)*

**The Temporary Speaker** (Sen. Murkomen): Thank you, Sen. Khalwale. I can see the Senate Minority Leader is scared away from a discussion he has been having with Senate Majority Leader. There was a ruling from the Chair, in the past, that it does not matter which side a Member sits. The sitting arrangement is not confined to a Member sitting in a particular area.

I have been notified that business under Orders No.14 and 15 are also deferred until a day and time that will be decided by the Rules and Business Committee.

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

**The Temporary Speaker** (Sen. Murkomen): Okay, proceed with your point of order.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. Last night, I was rang by the Office of the Clerk and asked to prepare myself with regard to Motion No.15, just in case the preceding Motions did not take off. So, if for any reasons Order No.14 cannot take off, I have not been consulted on whether I am ready or not.

**The Temporary Speaker** (Sen. Murkomen): Order, Sen. Khalwale. Whereas you must be ready, any time, as the Bible says; “you must be ready for the coming of Jesus.” The fact that you were notified by the Clerk’s Office, this is a House of traditions and rules.

Under Standing Order No.39 (2), I am empowered to alter the business of the House in the best interest of the House in a reasonable manner. For that reason, I would like to invite the Chair of the Standing Committee on Information and Technology to proceed with the next Order.

## MOTION

### ADOPTION OF REPORT ON COUNTY OVERSIGHT AND NETWORKING ENGAGEMENTS IN THE COASTAL REGION

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THAT, the Senate adopts the Report of the Standing Committee on Education, Information and Technology on the County Oversight and Networking Engagement (CONE to Lamu, Tana River, Kilifi, Mombasa and Kwale Counties on 29<sup>th</sup> August – 5<sup>th</sup> September, 2013 laid on the Table of the Senate on Thursday, 3<sup>rd</sup> April, 2014

*(Sen. Boy Juma Boy on 11.6.2014)*

*(Resumption of Motion interrupted on 11.6.2014)*

**The Temporary Speaker** (Sen. Murkomen): Mr. Chairman, you have 13 minutes left.

**Sen. Karaba:** Thank you, Mr. Speaker, Sir, for that chance to continue with debate on the Motion regarding education, science and technology and particularly so, in the various---

*(Sen. Sang crossed the Floor without bowing)*

**The Senate Majority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, did you see the distinguished Senator for Nandi walking from this side, standing near the mace and purporting to bow near the Chair after which he went across? He has to go right to the door and bow to the House.

**The Temporary Speaker** (Sen. Murkomen): Sen. Sang, there is a reason why there is a mark near the door. So, you know what to do.

**Sen. Sang:** Mr. Temporary Speaker, Sir, I thought that you---

**The Senate Minority Leader** (Sen. Wetangula): You must show obedience.

**The Temporary Speaker** (Sen. Murkomen): Order, Sen. Sang. The Chair has ruled. That is an order for obedience and not for debate as the Senate Minority Leader has said.

*(Sen. Sang went to the bar and bowed to the Chair)*

**Sen. Karaba:** Thank you very much, Mr. Temporary Speaker, Sir. This debate started yesterday. It was well moved by the Senator for Kwale, Sen. Boy Juma Boy, and seconded by the Chairman, Mutahi Kagwe. Quite a number of Senators contributed towards it.

I am here as a Member and also Chairman of the Committee on Education contributing also towards this very important Motion on the County Oversight and Networking Engagements (CONE).

This is a Motion that reports on the Committee's visit to the counties of the former Coast Province; Lamu, Kwale, Tana River, Mombasa and Kilifi. A lot of work was done by the Committee by trying to engage the ECDE class teachers and we saw a lot. This is in light of what is already enshrined in the Constitution; trying to act as an oversight authority particularly to the counties. The county governments should also feel that there is a Senate which is to oversight. We travelled under very harsh conditions. We slept in very odd places at times, particularly in Tana River and we saw what people in these places go through.

My Committee noted quite a lot of problems and we came up with recommendations. That is what is contained in the Report. I hope that most of you have read that Report which is moving to a very great extent. If we looked at this Report, we would come up with very many recommendations. That is what we are asking the Government to look into. The Government should come up with recommendations so that we have the ECDE children and teachers doing what they are supposed to do.

There is lack of ECDE classrooms and some children even study under trees. We did not see a lot of improvements and there are no physical facilities. There were no playing fields and toilets. To a great extent, most children were neglected by teachers. This is because the teachers there are not respected. There are no regulations from the Ministry and this is quite wanting particularly in Kwale and Tana River counties.

We noted that a lot of these children sit outside and wait for their seniors in classes two, three up to eight to accompany them on their way back home after they have done their school work. This is what we call wasted manpower and time for children. This is very serious.

We are, therefore, recommending that the history that has existed about people in the coast is seen as an example of a proactive historical development. Historians like Krapf were among the first persons to pass through Rabai while on his way to other regions like central and western Kenya. He was an explorer.

He started his first class in Rabai. He was a missionary and an historian. We have made history out of this. That is what we are saying---

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. I am sorry to interrupt *mwalimu*. However, is he in order to distort facts of history?

Ludwig Krapf, a German man, who came to the coast of East Africa in the 16<sup>th</sup> Century, was a missionary. He was not a historian. He was a missionary and he doubled very modestly as an explorer. He was not a historian and it is good for us to have our historical facts right.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, one thing I know is that the history he is giving us is also wrong. He did not come here in 16<sup>th</sup> Century. He came here in the 18<sup>th</sup> Century. To be specific, he was here in 1848. That is exactly what happened.

**The Temporary Speaker** (Sen. Murkomen): Sen. Karaba, all communication should be through the Chair.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, we had quite a lot of historical engagements across the coast which they should have used to develop schools. However, that was not possible. We noted that most of those schools have been neglected for a long time. We are asking residents of the area to seriously consider the plight of the young boys and girls who stay in those classrooms unattended.

In this case, we are asking the county governments to provide toilet facilities. In some areas, we noted that children did not even have toilets. Several bushes were designed for the girls while others were for the boys. Teachers had makeshift toilets which were a preserve for adults; men and women. There is a very serious omission of order and that is what was exposed to us; hence, the Report exposes all these things.

We also noted that the teachers who teach in these areas are of low cadre and are not trained through any ECDE programmes. Some of them are school dropouts from various levels and, therefore, cannot articulate what is taught at the ECDE classes. This is a very serious omission.

We have made a recommendation asking the Teachers Service Commission (TSC) to step in and employ the necessary teachers so that teachers who are trained from various institutions can teach the children there.

We also noted, as we went round, that there was a meeting for all County Executives Committee (CECs) members for Education drawn from various counties in the Republic. We had a meeting with them in Mombasa and we also met the Chairman of MCAs attached to the education sector in various counties. We exchanged ideas with them and they came up with a recommendation that it is important to have ECDE classes started as a matter of urgency.

We made a recommendation that the best classroom in a school should be that of the ECDE level. The classroom should be friendly to the growing children so that they grow liking school and education. This is important and the Government, therefore, should step in and provide the teachers.

I, therefore, recommend that the teachers who number 2, 888 who are already engaged by the Government should get an additional category of teachers numbering up to 80,000 so that they teach nursery schools. This is a very important development stage of children. If they are neglected, you will realise that their development will be negatively affected, from class one onwards. By the time they do their Kenya Certificate of Primary Education (KCPE) in Class eight, children who have not undergone ECDE perform very poorly. Hence, the reason why regions like Nairobi, where ECDE is taken seriously, have better results than any other region. We recommend that ECDE teaching be spread all over the county so that we provide better results where we have regulated curriculum. We should have teachers going through ECDE classes; they should be taught at the same level so that we continue teaching in the proper guided manner as provided for in the TSC Code of Regulations.

I support the Motion.

**Sen. (Prof.) Lesan:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to make some comments on this Report. I am one of the Members of this Committee. I had the opportunity to tour the coast with this Committee.

First, I want to congratulate the Committee for the work that they have done in visiting and interacting with the people of the coast in matters education. We visited the five counties at one go and this, I think, is a very good thing in terms of Committee work. Similar problems facing similar counties can be addressed together. This visit, which went through five counties, was very useful in highlighting the problems of education and finding a way of tackling them.

The problems we found in the four counties were more or less similar. The only difference was that they were different in terms of their extremes. Tana River County, in reality, has very severe problems which affect education and other sectors of the economy of those counties. They were very apparent in terms of educational facilities which we could see needed to be addressed to provide education.

I want to commend the County Executive Committee member (CEC) for Education in Mombasa County, one Mtana Lewa, a very young brilliant man who has looked at education at the coast in totality and drew out a programme which was very impressive. They have already designed how they want to carry out their education.

In Mombasa County, ECDE means education of a child from the age of one to eight years. That involves, therefore, children in classes one, two and three. This is in conformity with what education psychologists tell us. Children in standards one, two and even three are still in their early childhood in terms of their education and probably require similar things like the ones between ages three to six. Therefore, I thought that this programme was very commendable. We recommended that other counties look at this arrangement in terms of education so that they produce similar students or standards of education with regard to the same level, throughout.

We also saw fairly serious problems at the coast. One of them, of course, was the dwindling number of students. The dropout rates in all the counties of the coast were higher than any other part of the country. I think there are several reasons why we should try and rebut this. One of them was the poverty levels. Although we do not have the figures, this is like a paradigm which arises from different standards of education. There is a high population and, therefore, high level of poverty at the coast.

This also has a bearing on the children who are attending schools and dropping out.

There was also another problem which was mentioned by the leaders at the coast. Although there are no statistics, it was mentioned in a few forums that we attended that the drug problem had started to creep in and it affects the education system at the coast. This is being manifested in the level of dropouts, not only in the lower classes but in the entire education system as noticed specifically in the upper primary and secondary schools. I think there were no statistics for this at that time. However, this is an issue that

we, as the leaders of the country, knowing the concerns that drugs can pose to the society, we probably need to look at this closely and nip it in the bud.

The recommendations that have been made by this Committee are hands on. They are drawn from expressing and feeling the problems at the coast in real life. Therefore, I am in support of the recommendations that have been made. I am hoping that the Committee will go further and enrich this in a more detailed Committee of Education. This Report was done under the Committee of Education, Information and Technology. Now that we have a Committee on Education, we will probably go into details and probably expound on these things and make far reaching recommendations on how to improve.

I support this Report and hope that the recommendations made will be useful to the nation.

**Sen. Wako:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to speak on this very important Report. It is very important and in fact, I want to congratulate the Committee on Education. I think they have been very proactive and within a very short space of time, they have criss-crossed Kenya really knowing the problems being faced by the county governments, the people of this country, the teachers and the students at the grassroots level. I really want to commend you for that. The importance of this Report as I see it – I do not come from the coast region – as I go through it, I realize that what they have recommended for the coast region as solutions to the problems they are facing are really cross cutting issues. You could remove the names of all these counties and put there Busia County and the Report will still be valid for Busia County.

I want to focus on the ECD Programme which the pre-primary and, of course, a function under the Fourth Schedule of the County Governments. When I was doing my campaign and so on, that is when for the first time I came across the problems being faced by the ECD teachers, what is happening on the ground and so on. That is a much neglected area. Although it is a function of the county governments, the national Government cannot wash its hands off it particularly in terms of setting the education policy and the standards which will apply throughout Kenya, which is a function of the national Government, what I get from here is that there are really no standards in the counties and teachers teach what they want. Some counties, particularly Lamu, do not have a single college for training of ECD teachers. That is why for Lamu, you can even read that the teachers there cannot control their pupils and lack the skills to teach the children. At least in Kwale and Mombasa, there are some training colleges for the ECD teachers, but Lamu and other areas, there is nothing. This means that any person who has either failed the examinations or any person who went up to Standard Seven and could not sit any examination at all, has his only hope as an ECD teacher at the local level.

Therefore, that sets our children on the wrong footing all together.

Mr. Temporary Speaker, Sir, I would like to appeal to the Jubilee Government, much as the Laptop Project is a priority for them, let this also, before children join

Standard One, be a priority for them. Unless you have a proper foundation in education, I can tell you that all these others are only superstructures and if the foundation is wrong, everything is wrong. Maybe I can say that I managed to do very well in my educational career because my father was educated and we went through this sector of school before I joined Standard One and, therefore, I ended being number one throughout. Others came in without going through this sector and I was ahead of them. So, this is an area which has been neglected by all of us. I want to take this opportunity to emphasize that particular area.

I have seen that the recommendations are very good and I would commend and support them. I can see that one of the recommendations is that the communities do not clearly understand the importance of the ECDE centres, thus making the children skip this stage of education. So, really, the community must be made aware of the importance of this. What normally happens when you go to the roots of the community, you will find that the children of the educated teachers know the importance of education. Although they may not be taught before they go to Standard One, because their parents are teachers, they begin being taught at home. So, they have a head start when they go to primary school. That is how classes begin being created in our communities; the classes of the educated and those who are not educated. It now coincides with those who are earning some money and those who are not earning and then those who have it and those who do not have it. We should correct it at that level. Let every student go to this early training programme.

Mr. Temporary Speaker, Sir, I entirely agree with the recommendation for the county governments to particularly carry out sensitization programmes to ensure that the children are enrolled for pre-primary education. I do not know which counties have done that, but I have seen one or two counties in the newspapers which are now focusing on the pre-primary education. I would like other counties which have not taken this pre-primary education seriously to really take it seriously because ten years down the line, those who would have taken it seriously will be above those who would not have taken it seriously.

There is also the issue about the training of the teachers. That is very important. There is the issue of not having a very clear curriculum. Again, that is very important and an issue which I felt that the national Government should take seriously. Then there is the issue of employment and remuneration. There are some of those who have been trained at that level. They are actually self educated; they pay for their own fees to go there and when you are campaigning and they come to you, you also try to assist so that they are trained and in the process, they can assist you in getting a few votes here and there. So, some training has happened but after the training, again, they do not have jobs and because the Senators are not there, they cannot be paid. Therefore, it is important that this issue be taken seriously at the county level. In fact, with proper training, it can provide some employment for the idle youth who are just idling at the market place. Maybe they cannot afford the high fees of proper teacher training colleges. So the county

governments, at a cost effective way, establish some of these training programmes at the county level.

Mr. Temporary Speaker, Sir, to sum up, I do agree and I support the Report of the Committee on Education and in fact, recommend that what they have recommended there cuts across the entire country and that the education policy decision makers should now take the issue very seriously. The county governments should now allocate adequate funds for this particular programme.

I support.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, thank you for the opportunity to contribute to the debate on this beautiful Report from the Committee on Education, Information and Technology which is one of our committees which has done very well in terms of keeping the spirit of devolution alive. I say so because this is one of the Committees which has been conducting countywide tours across the country, which for me is the game changer in the way Parliament relates with the people we represent. I am very certain that if the Senate continues, through its committees to increasingly engagement with our counties at their level and where they are, we are going to make the Senate the engine and the apex body that will drive devolution to the next level in accordance with the Constitution. It is for this reason that I want to commend the Chairman of the Committee, the Vice Chairman and all the Members for doing a good job and coming up with a great Report which I have had the opportunity to read through.

Allow me to say from the outset that when I looked at the objectives of the visit, I thought that perhaps the Committee was a bit ambitious. But reading through this Report and the recommendations, I am happy that those broad objectives were realized and this is a Report that we can use as a House either to generate legislation or policy that will help the drive the early childhood education, information and technology to the next level.

Mr. Temporary Speaker, Sir, this visit was about assessing the progress that counties are making in the area of ECD and also in the area of training especially at village polytechnic level. The other objective was to look at the challenges that various counties are facing because counties are not equally placed. The circumstances in the ECD situation in Nairobi are very different from the ECD situation in Tharaka-Nithi, Busia or Garissa. I say so because whereas some of the recommendations of this Report look like general recommendations, a recommendation like the need to ensure that we tackle the problem of hunger among our young children in early childhood education may look like a simple matter maybe in some parts of Nairobi County. But in some counties, unless we compel the Government to ensure that at least for the nursery school and early childhood education that they are fed in school, we are exposing these children to grave risk of dying from hunger or not even attending early childhood education at all. This is a Report that can help us tackle some of these problems by looking at the

experiences of different counties with regard to early childhood education but also with regard to training at polytechnic and technical training generally.

What has come out from this Report as I look at it is that there has been a perennial problem of poor pay for ECD teachers yet these are the people we entrust with the most vulnerable stage in the learning life of our children. So, I think there is need for a policy on remuneration as the Report suggests the way we compensate those who teach our small children.

In fact, in some countries, teachers of nursery schools get more pay than teachers in primary and high school because over and above impacting the curriculum on these young lives, these people are actually more of parents, care givers, teachers, spiritual leaders and many other things combined in one person. So, I am looking forward to a situation where our teachers in early childhood education will be more paid than their counterparts in primary schools and even if possible in secondary schools.

Mr. Temporary Speaker, Sir, also appalling is the neglect that we have seen across this country on the infrastructure which is available to children of tender years in school. If you want to inspect or to see the most dilapidated building in a school, the most untidy, unkempt, rundown building in a school, it is most likely going to be the nursery school or the early childhood education class. Those are the ones you find the children are in mud walled buildings yet the other older boys and girls are having permanent or semi-permanent classes. I want to take this opportunity to thank some of the development organizations. I am aware, for example, that in my own county of Tharaka-Nithi, an organization called Plan International has been having a programme of actually building a permanent class for early childhood education children or nursery schools even in schools where no other class exists in terms of a permanent building. I think that is the tone of this Report. I have even seen one of the recommendations of this Report referred to as the “best classroom model”. The nursery school should be the best class because that is when the children are tenderer, they need a lot of care; that is when you need to entice them to like school as this Report suggests, so that they can see that school is a great thing. If they are coming from homes which are not so comfortable, they can find comfort in school and that will encourage them. The first impression our children get about school really informs a lot in their journey in the education pilgrimage.

I have also seen in this Report with gratitude that the issue of ICT has been addressed. I think this is one area we cannot run away from. You cannot talk about modernizing this country unless we go out of our way in mainstreaming ICT at all levels. At the county level, I want to assure you that except for a few counties with regard to specific centres in urban centres like county headquarters, there is not much ICT in the countryside yet we know ICT can be an engine of springing economic activity. If people can communicate and be able to use their mobiles which in some places we have seen on television; people climbing rocks, trees, hills and mountains and looking for some specific spots in some cliff somewhere so that they can make telephone calls. In the 21<sup>st</sup> Century, we cannot talk about making Kenya a middle income country by 2030, if our

people are still looking for rocks and cliffs and trees to be able to communicate by telephone or by other means of a modern nature.

Mr. Temporary Speaker, Sir, the awareness and capabilities in matters ICT of the older teachers is wanting. Some of the young boys and girls who have just finished college and have been employed to teach are quite apt with ICT except for the older teachers especially in the countryside in our counties. There is need to target that category if we have to mainstream ICT in our education sector especially within the teaching fraternity. It is sad that what the Jubilee Government wanted to see, and this is to have young children from the time they enter school even in the early childhood education class, to have some kind of exposure to technology. This has lagged behind mainly because of disputes in courts and controversies and we hope that going forward, these controversies can get cleared so that the Jubilee Coalition Government can move with this noble idea.

I also want to say that the issue of ICT curriculum is very pertinent as it has been raised in this Report, because without a curriculum, you cannot really assess capacities. You cannot be able to access the levels of knowledge and competencies by those who undergo this training.

Mr. Temporary Speaker, Sir, if I were asked the peak of this Report, I would pick what is in the last paragraph on page eight.

“The Committee noted that the polytechnic sector in the region was neglected with very low enrolment, poor infrastructure, insufficient and unskilled instructors, lack of innovation in the courses offered and high poverty levels among residents.”

For me, that paragraph about the state of the polytechnics in our counties is the game changer. If we can address the challenges that the Committee has noted, then we will transform Kenya in a much more rapid manner. In fact, we can reach unimaginable levels of progress within a very short period of time. For a long time, we have invested in the notion that if you do not go to university, then you are useless and that the more degrees you have, the better and the more productive you are as a citizen.

I speak like this with full knowledge that I am a professor. For one to be a professor, as they would know, one needs to have many degrees. I have many degrees and that is not bad in itself. However, time has come for us to ask ourselves why our country today, in spite of the many universities that have sprouted across the country, has problems. There are very few counties that do not have a university, a university campus or a learning centre. There are some counties which are being serviced through distance and extramural centres by some universities like the University of Nairobi.

Why is it that until now, we are struggling with very basic development issues? We are unable to solve very small technological issues. Why is that? This is because as much as getting five degrees in Anthropology, Law, Sociology, Archeology and Music is good in itself, this country will not develop its economy until we put adequate resources to revamp especially the polytechnics and technical training institutions. Today, if you

ask for ten qualified electricians in Nairobi, you will not find them. These are people with certificates in electrical engineering. You will not find them. You are likely to find probably five electrical engineers. Electrical engineers are good. They deal with the macro solution level of tackling our problems in development.

These are the everyday things such as, what to do when your microwave is not working and take care of your fridge when is not working. These are the everyday things. These are things done by people called technicians. Look at the human resource profile of any country that calls itself developed. There will be many times more technicians than there are engineers. Time has come when we must refocus on Technical Industrial Vocational and Entrepreneurship Training (TIVET), our polytechnics. Those are the engines of our innovation. They should be the engine of skills and competence development.

Today, I am told that some airline was asking for some people to do some basic work. People came with Masters degrees and some with PhD degrees. Some came with five Bachelor of Arts degrees while some had even a degree in law. One person had three Bachelor of Arts degrees.

These people want someone with very specific skills, someone who can bake a cake and serve it to customers who are enroute from Nairobi to Doha.

I am told that the graduates of Utalii College, which on average used to produce 400 graduates of certificate level in hospitality, are booked for the next ten years by foreign countries; countries in the Middle East. Last year's class of about nearly 300 certificate graduates of that college were hired before they graduated by Qatar and other countries like the United Arab Emirates (UAE), among others. Let us refocus on skills and competencies. We have very many people who carry bunches of degrees; very bulky curriculum vitae but are not helping this country.

I am not against any discipline. We need anthropologists to tell us where we came from and what happened to us one million years ago. However, we do not need one million anthropologists to say the same things. We just need a few. We also need lawyers to help us interpret the Constitution. However, we do not need volumes and volumes of lawyers. Within the technical and technological fields, I am willing to help the Government reduce its attention and funding at university level training and invest more in middle level and even in certificate and diploma courses.

Therefore, this recommendation about rejuvenating and providing infrastructure for our polytechnics cannot be overemphasized. The enrolment rate is very poor. Why is this? This is because the students cannot afford. Why are you giving bursaries everywhere else? We give bursaries in secondary schools and universities. However, there are no bursary schemes for children or students who want to go and study plumbing; the things that affect us on a daily basis.

There are many Kenyans in Nairobi who can afford a plumber. However, how many Kenyans, building apartments in Westlands, will require a structural engineer? There are very few. If we had a carpenter, mason and plumber, they would have work to

do because even in the poorest parts of Nairobi, there is some furniture of some sort. When one leg is broken, a fellow can be called in, fix the problem and be paid Kshs100 which would help them fend for their families. The issue of poverty would then be tackled in a very simple manner.

The issue of bursaries to polytechnic students is something that, perhaps, I want to encourage the Committee to think of developing a Bill to tackle. You can take this country very far if you bring a law to force the Government to put some money to fund polytechnic students and also to invest in the infrastructure of the universities. Some of them use outdated technologies; machines that were used by Vasco da Gama to find his way to India are the ones that you will find in some of these polytechnics.

I also agree that the term “village polytechnics” has demeaned a very---

**Sen. Karaba:** On a point of information, Mr. Temporary Speaker, Sir. I would like to inform my very good friend that starting this night, the Committee on Education will proceed to Mombasa to draft a Bill aimed at regularizing ECDE teachers, pupils and schools in the Republic. This one is likely to be tabled here next week.

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Thank you for that information. That is very encouraging and it is the direction that we should look at. I would also like to speak to drug and substance abuse.

In the previous order, we were speaking about a Bill which had all these things. Let us be honest. Let us face it. We are losing some of our most productive people, pupils and students and that is the future of Kenya. We have to be bold. I know that I am speaking for many of my colleagues. Anything that threatens the survival, wellbeing, health and safety of our people, we as leaders, must come out openly and fight it whether it is popular or not. Leadership is about responsibility. You cannot lead from the back. The rate of drug, substance and alcohol abuse in some counties, for instance, at the coast and in Nairobi is very great. It is going to become worse until we tackle these things like I was trying to do with a Bill that was before this House a few minutes ago.

It is horrible to watch adults, a man and his wife, on a Saturday, at 10.00 a.m, going with their children, some of ECDE age, girls and boys of about seven years driving to the nearest bar and sitting there from 10.00 a.m. to midnight drinking. They drink there and get drunk. After they get drunk, medical doctors say that their balances are lost and they end up doing shameful things. That is how we are losing our younger generation; our children. This is the responsibility of adults. The issue of drugs and substance abuse is something that should be looked into.

Very quickly, I would like to speak about the issue of curriculum. The problem is not with the ECDE. The problem we have in this country, around the quality of the people we are producing from our colleges emanates from one thing called curriculum. I would be happy to see – I am told that the Kenya Institute of Curriculum Development (KICD) is working for a curriculum for the ECDE. I have been asking myself, 51 years after Independence, what has the KICD been doing that this is when we are working for a curriculum for ECDE? What has that institution been doing? We do not even know what

we are teaching our children. Therefore, children in one county will be taught this while those in another county will be taught something different.

Let me speak to this issue of curriculum development because over and above ECDE, we need to look at our curriculum in primary and secondary schools because we have lost it. Every day, I try to be home by 8.00 p.m so that I can sit with my six year old girl who is in Class One, who is grappling to do homework. The poor girl has homework in Mathematics, and Kiswahili. She is very terrified and tells me, daddy, please, help me finish this work because if I do not, I will be in detention. There is something that they say happens to them when they do not complete their work. They are kept outside in some *banda* for most of the day. This is traumatizing young children who are now being exposed to complex mathematical formulae and scientific phenomenon that are irrelevant, intrusive on the development of these children and repressive.

Countries that have strong and patriotic and productive populations are very careful on what they teach their children. My vision for this country is that one day I will see children in nursery school, standards one up to five all the way to standard six spending more time singing and making friends. Since the singing, making friends and playing will be done outside class, when they go to class, instead of teaching them the Pythagoras Theory and telling them that  $a^2 + b^2 = c^2$  and teaching standard four girls and boys about obtuse triangles and about the geometry which should be introduced at Form Three, tell them that their country is called Kenya; tell them that Kenya is a great country; tell them that in the western part of Kenya, we have the great people called Luos and others called the Luhyas. They should know that among the Luhyas, there are many dialects like the Idakho and the Maragolis. In the northern part of the country, we have the Tirikis.

**Sen. Wako:** On a point of order, Mr. Temporary Speaker, Sir. Is it in order for the Senate Majority Leader to say that in western Kenya there are great people called the Luos? Are the Luhyas not classified as great?

The other point of order is that the western part of this country belongs to the great Luhya nation. The other side is called Nyanza. Our children should know properly where the Luhyas come from, the Luos and so on. Is he in order to mislead young people that great Luos come from western?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. On greatness, all Kenyan communities, big and small, many and few are great. On the other issue, I did not mention Western Province. I talked about western part of Kenya which includes Nyanza and the great County of Busia, where Sen. Amos Wako comes from.

The things we are struggling with in this country – I am persuaded - can be confronted in the first six years of school. You can kill tribalism by the time a child is in Class Six and there will be nothing like tribalism.

Mr. Temporary Speaker, Sir, with regard to corruption, instead of using the initial years of childhood as it happens in the oriental countries, Japan and China, these are countries that have done so well. The first five years, the Japanese child is taught how it is great to be Japanese. They are taught the history of their country and where they have come from; the bad, the ugly and the beautiful part of their history. They are taught how you can be a proud citizen of Japan even if you do not like the people who are leading at that time. That is where the difference is. That the country, therefore, becomes bigger than the person leading it.

Mr. Temporary Speaker, Sir, the other day, I was in London. Some British people will tell you that they do not like Prime Minister David Cameron. I did not say all of them but some. However, even if he is the Prime Minister, Britain is greater than Mr. Cameron, and greater than the political party he represents. The things built around the greatness of The Great Britain and Japan are instilled in young people.

You cannot wait to catch fifty year old men and women through a Truth, Justice and Reconciliation Commission (TJRC), to teach them tolerance and forgiveness when they have known vengeance, violence and tribalism all their lives. That cannot work. However, these children can be taught tolerance and the National Anthem. If you ask an average university student today studying Law, Medicine or Commerce to sing for you the third line of the second stanza of the National Anthem, you will realise that they do not know it. Some know, but the average students do not know.

I say this because nations are created. I know, as a country, we are struggling to create a nation called Kenya, where any person or citizen; whether from Mandera, Makueni or Homa Bay know that they are citizens of a great country called Kenya. However, we are using the wrong interventions. You think by-passing the Ethics and Anti-Corruption Economic Crimes Act (EAEC) Act of 2003, you can change the mindset of a sixty year old person who has known that he can never thrive until he is corrupt. What do other countries do?

People are taught to abhor corruption and not just in the public sector. That is why you see the Chief Executive Officer (CEO) of a private company, whose company has made losses committing suicide if they are suspected to be corrupt or if there are things they could have done to save the company and they did not do. That is self enforcement.

That starts very early in the indoctrination of people; to love their country and to respect themselves. Of course, that is an extreme measure where people commit suicide if they are suspected of engaging in corruption. You will find a judge or even a Minister who has committed suicide. That is one extreme. However, there is another extreme that we have to drag you out of a public office. You know very well that you have looted, you been cornered, the evidence is glaring, but you will not budge until we drag you through the Ethics and Anti-Corruption Commission (EACC), haul you to court and prove you.

Mr. Temporary Speaker, Sir, we should use education systems to transform our country. If there is one thing that can transform Kenya, then it is education, especially in the early years. You should teach children that at the coast, we have different

communities and that forms the history of Kenya. You should show them where we came from and tell them that at one time, we were colonized. Show them how people of this country fought to liberate the country. Some people, university graduates, even Senators here, probably, do not know who the first Minister for Education was in this country. We have forgotten and we have no history. People with no history are people going nowhere.

Mr. Temporary Speaker, the education system is a great shaper of civilization. It can stop corruption, it can help us solve tribal animosity, it can help us solve leadership problems and help us get solutions. So, instead of wasting time--- I am talking about the curriculum where we tell small girls about the reproductive system of a man and this child is in Class five and they draw body organs. When my daughter comes home from a Standard Seven class and has diagrams of the nakedness of men and women which is irrelevant and obscene, how do I even help that child to do that homework? Supposing the mother has travelled and I am the only one with my daughter, what do I do? I cannot help her! I am an African man.

Mr. Temporary Speaker, Sir, we are saying that curriculum- I hope that through the Committee on Education - we will go beyond Early Childhood Development Education (ECDE) and start addressing primary and secondary school curriculum because we are wasting time with complex chemical formulas - Milky Way - where we teach children about the planets. That is a complication. Why should they know about astronomy? What for? Teach them about Kenya. Teach them about Jomo Kenyatta and Dedan Kimathi wa Ciuri, Mekatilili wa Menza, Elijah Masinde, about the first African headmaster of Alliance High School, about the first Kenyan to get a Doctorate of Philosophy (PHD), about all the Ministers and Attorney-Generals that we have had in this country, about great Senators and about our country. This way, we can inculcate the right values through the curriculum.

Mr. Temporary Speaker, because of time, I want to say that the school feeding programmes must be compulsory especially for nursery school children. You cannot send young boys and girls especially in the rural areas to school and expect them to stay on empty stomachs the whole day and then expect them to love school. Scientists tell us that that the first two or three years of school, that is where the major formations of human being are made.

The kind of human being that one turns out to be takes place within the first three years of school. So if they are hungry and not concentrating, they hate school and they do not see it as rewarding, then we are wasting generations.

Mr. Temporary Speaker, Sir, finally, we need to standardize EDCE through an education policy and also drop the term “village polytechnics.” I support this, and they are just polytechnics. This village polytechnic term gives a connotation of failure locality, primitiveness and non-exposure. This is just a polytechnic only that it is located in a certain locality, period. If you equip it well, give bursaries, motivate students and modernize the equipment, Kenya can leap so fast. We need more electricians and more masons. The other day someone asked me; “Do you have a diploma holder from your

county in Mechanical Engineering?” I could not get. However, I have Curriculum Vitae (CVs) in my office of four mechanical engineers who are degree holders. However, this one required a diploma. This is a very sophisticated project in an institution that deals with very sophisticated energy generation. Do you have a diploma holder in Mechanical Engineering? I asked all the Members of the National Assembly from my county whether they know of any person in their constituencies with a diploma in Mechanical Engineering and they told me that there was none. They would all come and tell me that they had first degree holders, Masters Degrees and even professors in Mechanical Engineering. So, let us stop this craze that you must have a degree in order to succeed. I say this as a holder of many degrees.

Secondly, as much as learning about Vasco Da Gama is a good thing, this country requires something different; something over and above the study of arts and the humanities. Science and technology is not negotiable for me. Finally, just to emphasize once more that it does not help a primary school child to be taught about the blank constant, Pythagoras theorem and high sophisticated issues in Physics, Chemistry, Biology and Astronomy. We are wasting our children because those are things that should be introduced in secondary school. In fact, in primary school, there should be only two subjects; one, playing and bonding and two, forming a critical mass within our children of people who believe that Kenya is the best nation on earth with all its problems; people who believe that they can directly contribute to transforming their nation. That is why the Americans with all their challenges as a nation, when they sing the national anthem, they put their hands on their chests and they cry and weep. Here, we do not even know that national anthem properly. We do not even know what it means, but we sing it and do not live it. When the national anthem says that we will defend our heritage as a country, what that means, nobody cares to know and we cannot introduce the software that forms humanity, that is the value system in old age. We must do it as early as possible.

With those many remarks, I support this Report and I highly commend the Chairman and the Committee Members for a wonderful Report and recommendations. Thank you.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Murkomen): Hon. Senators, since there is no other business and no other Senator willing to contribute, and pursuant to Standing Order No.32, I interrupt the business of the Senate.

The Mover of the Motion will be called to reply when the Motion next appears on the Order Paper.

The Senate now stands adjourned until Tuesday 17<sup>th</sup> June, 2014 at 2.30 p.m.

The Senate rose at 6.30 p.m.

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