

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 17th March, 2016

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

[The Temporary Speaker (Sen. Ongoro) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

THIRD ANNUAL DEVOLUTION CONFERENCE

The Temporary Speaker (Sen. Ongoro): Hon. Senators, as you are aware, the Annual Devolution Conference is an event which brings together all implementers of devolved governance including representatives from both levels of Government, independent commissions, academia, policy practitioners, civil society and the media.

The Conference presents an opportunity for the participants to celebrate the gains that have been made in devolution, to deliberate on how to optimize on the emerging opportunities presented by devolution and to identify challenges that can be addressed collaboratively amongst stakeholders for the welfare of our country.

The inaugural Devolution Conference was held in Kwale County in April, 2014 and the second was held in Kisumu County in April, 2015. The Third Annual Devolution Conference is now set to be hosted in Meru County from 19th to 23rd April, 2016 at the Meru Technical Training Institute.

Hon. Senators, the overall theme of this year's Devolution Conference is "*Celebrating Devolution*" while the guiding theme is: "*The Promise of Devolution: Consolidating the Gains After Transition and Looking into the Future.*"

A total of ten sub-themes have been selected to guide deliberations over the three-day period. These themes are as follows:-

- (1) Strengthening county governments, competence and capacity for sustainability of devolution;
- (2) Civic education and its role in effective public participation;
- (3) ICT as an enabler for economic growth and development;
- (4) Localization of Sustainable Development Goals (SDGs);
- (5) Regional cooperation for sustained economic development;
- (6) Conflict management and mitigation;

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(7) Electoral integrity in a devolved system;
(8) Sustainable urbanization for transformative development;
(9) Unity of objective; diversity of approach; and
(10) Achievements made by the Constitutional Commissions and other implementing statutory bodies in realizing the devolution process.

In this regard, I request all Senators to attend and participate in this important Conference, which goes to the core of our mandate as the Senate.

Additional information on the arrangements for this event will be provided through the Office of the Clerk of the Senate. Senators who intend to participate in the Conference are requested to give their confirmation, in writing, to the office of the Clerk for purposes of planning.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Madam Temporary Speaker. Thank you for that Communication. However, as we look forward to the Third Devolution Conference, we must reflect on how the previous conference in Kisumu was managed. Many of us closed our offices to go to Kisumu for the Conference and we found that the Senate had absolutely no role in the Conference. As a matter of fact, the Senate looked like a nuisance hovering around the Conference. When we went there, our colleague, the host Senator was not even acknowledged at the official opening. It turned out to be an event between governors and the Executive.

Article 96 is very clear on how we are an important pillar to devolution and in the protection of devolved units, their governments and their people. In preparation for this Conference, we want your office, representing the importance and dignity of the Senate, to be involved and to have a *Kamukunji* prior to the Conference so that we are told when we go there what, for example, the role of my brother the Senate Majority Leader, the various committee chairpersons and that of Senators will be.

Madam Temporary Speaker, from the word go we can see that Senators are being asked that those who are interested in attending the Conference can enroll at the Clerk's office. That determines already that our role is peripheral. It is important that we be told clearly what we are going to do at this Conference.

Sen. (Prof.) Lesan: Madam Temporary Speaker, Sir, we are all aware about the Devolution Conferences that have taken place in the past in Kwale and Kisumu counties. The experience that the Senate has is as has been mentioned by the Senate Minority Leader. It was unpleasant.

As the new Chairperson of the Committee on Devolved Government, we are getting engaged in the preparation of the current Conference. In fact, Sen. (Dr.) Zani and myself have been nominated by the Speaker to sit in the steering committee, which will be meeting tomorrow in Meru, to plan for the participation of Members, including Members of the Senate. In fact, from the tentative programme which I have seen, quite a number of Senators have a role to play in this Conference in that there will be topical issues. The issues which are very relevant to Senators are included in the programme. It will be fair and appropriate that we, as Senators, participate in this Conference because the role we will play will be more significant than it has ever been in the last two Conferences.

As a Member of the steering Committee, I want to urge my colleagues that we

open a new page in terms of relations with the governors and play a part in assessing and evaluating devolution up to this point. I encourage Senators to participate in this Conference.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I want to thank my brother, the Leader of the Minority for raising this point of order. I also thank you for the Communication.

I am of the opinion that time has come for this House to stamp its authority. This Conference, for the last two or so years, has pretended to be a celebration of governors. This is a celebration of devolution. It is not a celebration of governors or county governments. We are demanding an equivocal commitment from the organizers that there is a role for this House and its leadership. That commitment must be in writing. It is not enough to invite governors---

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, consult quietly.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Indeed, Madam Temporary Speaker, this is very important. All of us should make it very clear that what has failed us in the past is lack of a firm and united position when the Senate is intimidated as it has been done in this scenario. I saw last year my brother, Sen. (Prof.) Anyang'-Nyong'o, looking like a stranger in Kisumu County.

Hon. Senators: Shame! Shame!

The Senate Majority Leader (Sen. (Prof.) Kindiki): Some busy bodies were trying to market themselves because nobody knows them other than in the village where they roam.

I want to go on record that I will be urging my colleagues to give this Conference a wide berth until and unless there is a written commitment from the leadership of the Council of Governors (CoG) that recognizes the role, place and prestige of the Senate, not just the leadership, but the entire membership of this House. Otherwise, we are just auctioning our dignity to people who are very quick to support us when we are arguing their case but eternally they are demeaning us and marauding the country trying to show how useless this House is.

Finally, I would like to ask the Chair to assure us that there will be no formal Communication on our position on this matter until and unless that commitment and clarity has been provided.

The Temporary Speaker (Sen. Ongoro): Thank you, Majority Leader.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to thank the Leader of the Minority abundantly for this point of order and for you allowing him, I want to use this opportunity to send Sen. (Prof.) Lesan to Meru where they seem to be going to decide on how the conference will be arranged. Please go and remind them that the two previous conferences have been funded by taxpayers' money. I am disappointed by how a decision was made on how the conference will be carried out. You are going all the way to Meru Hotel to go and burn the taxpayers money, but we will forgive you. We will

forgive you if you come back with a firm confirmation to this House not to repeat the words of the Leader of the Majority that we will have our rightful place in the celebration of devolution for the last three years.

As we condemn the bad manners of governors, may I remind the House that there is a symposium going on from 17th to 22nd March, 2016. It has brought together all the Ministries of Kenya. It is called the Jubilee Inter-ministerial Symposium: Remind the Jubilee people that the only thing they do is to appoint those Ministers. The moment they become Ministers, they do not belong to Jubilee but Ministers of Kenya. Therefore, if there is an inter-ministerial symposium, we have to be invited as the Opposition. We have to be addressed and be heard.

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Order, let us listen to Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you. I have followed sections of that symposium and I could see the Cabinet Secretary for Roads, for example, bragging about one of the flagship projects of Vision 2030 of constructing a decker road. That they have certainly found a spark of thought and they are going to do decker road from the airport to Rironi. May I clarify, for the sake of history of this country, that when Parliament approved this project, we never talked about Rironi. It was from Machakos Junction to Westlands. Some people in this country seem to be on a spree of taking superhighways to certain villages and leaving out the villages of Kakamega, Bungoma, Wajir, Mandera and so on. What is so special about the villages of--- We are the House of equity and we must tell the President to steer the Republic of Kenya. He is now steering a region of Kenya. He is breaching the Constitution of Kenya. One day, we will pass a vote of no confidence in him.

Sen. Murkomen: Madam Temporary Speaker, I was one of the committee members in the last conference. As the Chair of the Committee on Devolved Government then and Sen. Kerrow Billow, the Chairman of the Committee on Finance, Commerce and Budget, we were lied to that we could have a situation where the programme is going to accommodate Senators and all actors in matters of devolution.

While in Kisumu, I suspected that it was not going to go that way because having interacted with the governors, I know their ego is bigger than this country. I realised that the conference was about massaging the ego of governors and lying to each other. The conference lacked a clear objective. They knew that if you give a person like Sen. (Dr.) Khalwale a chance, in his lucid moment, he is likely to say things that governors may not be so happy to the extent that---

The Senate Minority Leader (Sen. Wetangula): On a point of order, Madam Temporary Speaker. Did you hear the distinguished Senator for Elgeyo-Marakwet calling Sen. (Dr.) Khalwale, in fact, a lunatic? It is only a lunatic who can enjoy a lucid moment and this is a serious improper motive. He said "Sen. (Dr.) Khalwale in his lucid moment". Only a deranged person gets a lucid moment once in a while. Is that proper?

Sen. (Dr.) Khalwale is a distinguished, respected and admired Member of this

House. I know once in a while we get carried away and use extravagant language, that is not language that is befitting of reference to a colleague. Even those who use strong language, like me, have never called a single Senator here, a lunatic.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I heard you very well and I think this is a House where we must maintain use of parliamentary language. Therefore, before you proceed, you must apologize and withdraw.

Sen. Murkomen, please apologize and withdraw before you proceed.

Sen. Murkomen: Madam Temporary Speaker, I did not say that the Senator of Kakamega is insane. It is only the Minority Leader who has said so. What I said is that when Sen. (Dr.) Khalwale is in a lucid moment---

The Temporary Speaker (Sen. Ongoro): What exactly does that mean?

Sen. Murkomen: Let me complete and explain. I did not use the word lucid in the sense of *Banks versus Goodfellow*, which the Minority Leader is talking about.

The Temporary Speaker (Sen. Ongoro): Order, Sen. Murkomen. You will have to withdraw and apologize. By implication, the use of that word implies that the person who is in that state is somebody who is mentally deranged. So, apologize, withdraw and proceed. It is as simple as that.

Let me give Sen. (Dr.) Khalwale, the opportunity because he has been mentioned adversely.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I look at the distinguished Senator for Elgeyo-Marakwet and I really sympathize with him because; consistent with people who have never proved themselves in politics, when they reach a particular stage in their political life, they become bloated in attitude, bloated in the sense of "I am who, I am not". May I confirm to the young Senator that I, Dr. Khalwale, I am a doctor of medicine. That means that at every level from nursery school up to the medical school, I did not only pass exams but I did so with distinction. If you think that you can hide in the English language, please go and google Dr. Boni Khalwale, 1978. I achieved Distinction 1 in English. I know English and I speak it very well, maybe, better than you.

Madam Temporary Speaker, because the young man has chosen to insult me, I want to tell you, young man, that when we came here---

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Khalwale, please make your point.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I cannot be insulted and then the same young man who does that thinks that he can control my airtime. I will only be controlled by the Chair.

Madam Temporary Speaker, may I inform you that where you are today, we were there 17 years ago. We have been leaders not just in this House---

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Order, Senators. He is on a point order. Allow him to conclude then you proceed.

Conclude your contribution, Senator.

Sen. (Dr.) Khalwale: We have not only proved ourselves as leaders, not just in

this House but even in the institutions where we learnt at the university; we were leaders of students. Some of you the highest you went in leadership was to be a chairman of a prayer group in a university. We are the sons and daughters of the change movement in this country and we will change this country and you will get yourself where people like Biwott found themselves. Your time is coming. Behave. Otherwise I will punch you, you have no idea.

Sen. Murkomen: On a point of order, Madam Temporary Speaker. Did you hear Sen. (Dr.) Khalwale saying that he is intending to fight me physically?

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Order, Senators! Please take your seat. I beseech you to allow sanity to reign. Let us have some decorum in the Senate. That is actually enough intervention on that.

Sen. Murkomen, I will simply ask you to apologize, withdraw and proceed. Let us allow sanity to reign in the Senate.

Sen. Murkomen: Madam Temporary Speaker, it cannot be that when I am insulted, I am the only one going to apologize. Let us start by putting facts where they belong. In law, what makes people to have lucid moments---

Sen. Muthama: On a point of order, Madam Temporary Speaker. Leaders in this House need to demonstrate respect. The Chair has made a ruling that Sen. Murkomen should apologize and withdraw the remarks he made. That is the ruling of the Chair, we cannot go beyond that. The position now is that the Senator should apologize and withdraw the remarks, if not, the necessary steps must be taken. The orderlies are ready and they must be dutiful.

The Temporary Speaker (Sen. Ongoro): Please conclude.

Sen. Muthama: He should not continue with his contribution from that point.

The Temporary Speaker (Sen. Ongoro): You have made your point, Senator.

Sen. Kerrow, you have one intervention. There is somebody on a point of order.

Sen. Billow: On a point of order, Madam Temporary Speaker. My concern is the definition of lucid moments in English. We are not in a court of law. English is very simple. It does not contain all those stories we have been told. I want you not to accept some legalistic definitions used in courts. The issue about lucid is somebody who is unintelligible or who is--- I do not quite understand when somebody says it is an insult. It is not an insult. In a situation where both of them have exchanged words; because what the Senator has told Sen. Murkomen is far worse than what you are asking him to withdraw.

The Temporary Speaker (Sen. Ongoro): In order of precedence, we would still follow up on anybody else who made any parliamentary remarks. To allow sanity to reign, sometimes, it is important to have the humility to apologize, withdraw and we proceed.

Sen. Murkomen: Madam Temporary Speaker, I want first to know that you are telling me to apologize for using an English word, which means in the dictionary - I want this to go on record so that, in future, we will be apologizing for using correct English

words here. If you look in the dictionary, the word “lucid” which I used means bright, luminous, comprehensible and understandable. Do I have to apologize for calling Sen. (Dr.) Khalwale bright or comprehensible? Honestly, if I will apologise for calling Sen. (Dr.) Khalwale bright or comprehensible---

The Temporary Speaker (Sen. Ongoro): Can we have a dictionary for quick reference?

Sen. Murkomen: Madam Temporary Speaker, if the Senate Minority Leader understands it in the legal sense then it is the definition achieved in *Banks verses Goodfellow*, that is a different thing all together. In English words---

The Temporary Speaker (Sen. Ongoro): Hon. Senator, you can only refer to somebody in a word that they are comfortable with. Even if it is a positive term that is not comfortable with the Hon. Senator and he demands an apology, why would you not just apologize and withdraw?

Sen. Murkomen: Madam Temporary Speaker, we only apologize for unparliamentary language. If the word “lucid” has become unparliamentary then you declare so and I will apologize.

Sen. Orengo: Madam Temporary Speaker, you have made a ruling. What is happening right now is that your ruling is being undermined. You have to assert the authority of the Chair. This is because whenever you are held to be in contempt by anybody who is excising legitimate authority, that contempt must be purged before you can proceed to try and rationalize what the Senator is trying to say.

In any case, if the Senator had used the word “lucid” only, it would be understandable. However, he has used it conjunctively with the word “moment.” This is something else. When he is referring to the dictionary, he is just looking at the meaning of the word “lucid.” However, the moment he uses the two words conjunctively, it cannot suggest anything other than that Sen. (Dr.) Khalwale normally has moments where he is not lucid and others where he is lucid. Therefore, you should assert the authority of the Chair and let the Senator apologize; then we can deal with any other matter.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, I will not express myself again on that matter. The manner in which you used the word is what gives that implication that Sen. (Dr.) Khalwale suffers from mental derailment at times. I have already ruled that you should apologize and withdraw before you proceed. Had you used the word correctly, it would have been positive. However, if my memory serves me right, you used the word ‘illucid’ which is not even an English word.

The word “lucid” is a positive in this context. However, the way you used it, it was not positive. Do you want us to have the benefit of going back to the HANSARD? Meanwhile, I would like you to apologize, withdraw and proceed.

Sen. Murkomen: Madam Temporary Speaker, to the extent that I have been misunderstood, I apologize and withdraw.

The Temporary Speaker (Sen. Ongoro): Sen. Wako has a point of order.

Sen. Wako: Madam Temporary Speaker, Sen. Murkomen is out of order in what he says, particularly if you take into account that the definition of “lucid moment” in the Oxford Dictionary means “during a period of illness or confusion.” That means that when he says “a lucid moment”, he is actually saying that Sen. (Dr.) Khalwale is in a period of

illness or confusion all the time. Therefore in that period, he has some lucid moment. That is a very serious accusation to make against a Senator. In all honesty, Sen. Murkomen should just stand up and apologize politely because I know him as a man who would apologize in such moments.

Sen. Orengo: Madam Temporary Speaker, it looks terrible because I can read here that the meaning of lucid moments is fluctuating awareness and dementia, coping with emotional moments. In fact, it sounds worse than the way it was said. If he is a gentle man, he should just apologize so we can move forward.

The Temporary Speaker (Sen. Ongoro): Sen. Murkomen, kindly apologize and withdraw.

Sen. Murkomen: Madam Temporary Speaker, I have said that to the extent that I have been misunderstood, I withdraw and apologize.

I am hoping that what follows is that the same Senator will apologize for the unprintable insults that he directed to my direction.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, it is unfortunate that we are getting this far. When the Chair asks a Member to withdraw and apologize, it should be unconditional. He cannot say that "to the extent that he has been misunderstood" which actually adds insult to injury; that we are incapable of understanding and that is why he is apologizing. If you are as widely read as some of us, you will find the writings of V.I. Lenin when he was telling the Russians to be eternally vigilant. He said that even when a madman speaks, listen to him; it may be his lucid moment. Therefore, he is saying that a person who enjoys lucidity is a mad man. Sen. Murkomen, given the rank that has been bestowed upon by your side recently, I hope that your level of responsibility and dignity will also rise. At every time, when the Chair tells you to withdraw and apologise, you set an example to the flock that you lead. That is what we do this side. Simply withdraw and apologise.

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Order! Sen. Murkomen, I allowed that intervention because it is according to the rules. Please withdraw and proceed.

Sen. Murkomen: Madam Temporary Speaker, I cannot apologise three times. I have done it twice.

The Temporary Speaker (Sen. Ongoro): Order, Sen. Murkomen! Instead of proceeding, you keep interjecting and giving people an opportunity to still contribute more.

Proceed and I apologise or I will have you withdraw from this House.

Sen. Murkomen: Madam Temporary Speaker, I hope that at a particular time, you will also ask the Senators who have insulted me to apologise.

The Temporary Speaker (Sen. Ongoro): I have not heard any insults directed to you.

Sen. Murkomen: Madam Temporary Speaker, what do you mean?

The Temporary Speaker (Sen. Ongoro): make reference to that particular insult.

Sen. Murkomen: Madam Temporary Speaker, Sen. (Dr.) Khalwale has insulted

me again and again.

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, this House will not be turned into a market place. If you feel that you have been insulted, you have the Floor and your microphone. Could you be specific and accurate and tell us the words that he used to insult you. You cannot stand in your place and keep pointing at Hon. Senators insisting that they insulted you. This is a House of reason. You have to follow the procedure that was followed by Sen. (Dr.) Khalwale. He made reference to a particular word that you used. You have the Floor. Why can you not take use that opportunity in your contribution to pinpoint to the particular word that he used in insulting you, then, the Chair will act appropriately. However, we cannot turn this House into a market scenario where everybody points to the other person yet we are live on television. You have the Floor; make your contributions or sentiments.

(Loud consultations)

Order, Senators! Can we listen to Sen. Murkomen? Let him contribute and if he has any issue to raise, let him do it appropriately.

Sen. Murkomen: Madam Temporary Speaker, if you did not hear any insult on me, I will let it pass.

The Temporary Speaker (Sen. Ongoro): You can bring it to my attention. That is why you have the microphone.

Sen. Murkomen: Madam Temporary Speaker, I will let it pass. Let me make my contributions.

Sen. Sang: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Why do you not allow Sen. Murkomen to contribute?

Okay, proceed, Sen. Sang.

Sen. Sang: On a point of order, Madam Temporary Speaker. When you directed Sen. Murkomen to apologise and withdraw, you made it clear that you were starting with him because he started whatever it is that he said. However, you made a commitment that after Sen. Murkomen does the same, you would ask the other Senator. Which other Senator were you referring to?

Madam Temporary Speaker, you seem to have changed your mind.

The Temporary Speaker (Sen. Ongoro): Sen. Sang, we are all reading from the same script. That is why I have given Sen. Murkomen the Floor. I am keenly listening to him to bring it to my attention. That is why he has the Floor. I do not know why everybody does not want to give him that opportunity. He is free to bring to my attention any unparliamentary word that was used against him.

Proceed, Sen. Billow.

Sen. Billow: On a point of order, Madam Temporary Speaker. Any Member of Parliament can stand on a point of order. It is not necessarily the party. That is whey Sen.

Wetangula said it on behalf of Sen. (Dr.) Khalwale.

Madam Temporary Speaker, the Senator for Kakamega referred to Sen. Murkomen as a boy and that, he will beat him. Those are the words he used. He has to withdraw and apologise. This is the distinguished Senator for Elgeyo-Marakwet. He is not anybody's boy and cannot be threatened with a beating on the Floor of this House. It is a very serious matter.

The Temporary Speaker (Sen. Ongoro): Sanity is now reigning. That is what I have been waiting for. We have to follow the procedure. I said that I will deal with this one because it was the first instance, and that was raised. Then, I thought by giving Sen. Murkomen the Floor, he would go straight to point out that fact; which you have done. We now come to that because it is true that while Sen. (Dr.) Khalwale was responding and raising the reference used by Sen. Murkomen, he also used the word "boy." I heard it. It is now time to ask Sen. (Dr.) Khalwale for the use of the word "boy" in reference to Sen. Murkomen, that it would only be honourable and in order for him to also apologise and withdraw. There is no boy or girl in the Senate. We only have hon. Senators and Members. I heard the use of the word "boy" and that is what I am referring to.

So, Sen. (Dr.) Khalwale, simply and honourably withdraw and apologise for referring to Sen. Murkomen as a boy.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, thank you for that opportunity - because we respect the Standing Orders, we will continue leading in respecting the Standing Orders. May it be forever clear for the record that I said that his bloated behaviour of bigness is consistent with the behaviour of a boy.

The Temporary Speaker (Sen. Ongoro): Which is wrong; so, apologise.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am concluding. It is consistent with the behaviour of a boy. It is up to him to raise his stature to be above the stature of boys.

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I have already given my ruling.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, for that reason---

The Temporary Speaker (Sen. Ongoro): No! Hon. Senator, simply apologise and withdraw. That is unparliamentary. I want to bring this to a close. Apologise and withdraw.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I therefore, with those words, withdraw and apologise.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we bring this to a close. I want us to revert to what was on the Floor of the House. In your contribution, please, do not make any further reference to what has taken place.

Sen. Murkomen, proceed with your contribution.

Sen. Murkomen: Madam Temporary Speaker, if a bright Senator will be given a chance, those governors - I will not refer to anybody anymore---

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, can we have some

silence?

Sen. Murkomen: Madam Temporary Speaker, as I was saying, many governors know that if you get a bright Senator like Sen. Billow to make a presentation in that conference, they are likely to point out the real issues that are affecting devolution. Most of them are uncomfortable with facts, truth and the fact that we will point out matters particularly related to oversight. Therefore, it is not possible for us to continue going to a conference where the objective is basically to add to the numbers so that people can use us for either fundraising or colouring their conference.

It is also important to inform the Chairman of the Committee on Devolved Government, that the fact that one member of the organizing committee of the conference is dragging all of them to Meru – Meru is not a bad place, it is a wonderful county – is already an indication of who calls the shots. It is important if this conference as was suggested last year will be considered to be equal for all of us, there should be a committee working on the functions of county assemblies, another one on the issues that deputy governors want to raise, another one on issues of the Senate and another one for governors. Already, even the adverts in the newspapers are already pointing to the fact that it is a conference of governors.

Madam Temporary Speaker, unless that is restored; that we are discussing devolution, not individuals – if you saw what happened in Kisumu, bill boards were erected bearing names of governors and pamphlets praising individuals were distributed - we are going in the wrong direction on matters of devolution. So, I agree with the Senate Majority and Minority leaders that until sanity is restored in the process – we own the process not just the product – so that when we reach that conference, there is an equal status that is enjoyed by county assemblies, Senators, deputy governors and governors so that no one of them will be lording it over the others. It is only then that we can say it is a devolution conference; particularly when we are talking about the third year where the Constitution referred to the transition period being three years. This is the true year for us to look back and ask ourselves, “in the three years of transition, what have we done on matters of devolution?” What is the contribution of which sector and institution? We need to make that a conference that is worthy.

The Temporary Speaker (Sen. Ongoro): Thank you.

Proceed, Sen. Hassan.

Sen. Hassan: Madam Temporary Speaker, my Chairperson of the Committee on Devolved Government, Sen. (Prof.) Lesan is quite optimistic. We have tried this in the last two conferences, sat in those committees with optimism. In fact, I remember that in the first devolution conference, we threatened not to participate before some of our concerns were taken on board. So, these are some of the challenges. We do not want to simply go and glorify people; and that conference is managed in such a manner that it tries to glorify and not necessarily give a very objective critique of devolution and even take up issues that governors do in this country; which must be noted by everybody.

Madam Temporary Speaker, I would like to advise Sen. (Prof.) Lesan; as we go there - the last time I was in that conference, I was put in a panel of nine people; four governors – in other words even your view will be in a minority. Everybody is told to go round and speak fast. That is all about public relations. I have never seen a conference

where there are nine panelists. That is madness. I have not seen the results of the last two or three conferences in terms of how they have been mainstreamed into devolution. Kindly tell them to give us a report of how the first and the second conferences have benefited devolution process before they can talk of the third conference.

It should not be about assembling a thousand or two thousand people so that a few people can enjoy the profile and limelight over a small period of time. Conferences are about results. Until and unless these conferences produce results, Senators will not participate. I have seen many Members who have participated looking miserable in an audience of over 1,000 participants. That is not what we should do. We want to go there and make an impact. If a Senator must go there, there must be tangible and deliverable results, apart from just following the proceedings of their consultants. Half of the people who participate in those conferences are consultants of the CoG. They cannot say anything negative because they want to continue reaping from these conferences. Last time, when Sen. (Dr.) Khalwale tried to critique certain issues, he was heckled. I watched it live on television.

Madam Temporary Speaker, we cannot subject ourselves to embarrassment live on television because some media houses are also looking for opportunities to benefit from governors. Therefore, they do not want the governors to be subjected to any critique. They transmit their proceedings live. When you are on live TV, you cannot allow an audience that you do not have control over to boo or heckle you. In the panel, they must allow discussions and discourses that show that devolution has been made worse because of the conduct of the governors in their counties. Devolution today is almost becoming a pipedream because of what governors are doing. It is only the Senate which can save the situation.

Unless Sen. (Prof.) Lesan- you come back with a brief and a water tight proposal- we cannot be among the numbers. We need our impact to be felt and the decorum of the conference to change. Kindly tell them that there is no panel that wants results that has nine panelists to massage the ego of all governors who want to be in panels. Some of them are not experts because they were elected by default or design. However, they must know that they should listen to others. The governors should take the back seat and listen to others giving them a feedback. I know you are over enthusiastic about it, but trust me; the governors might not have the goodwill that you appear to exercise. I know when you are a new person anywhere, you think you can change the world. I hope you will make a difference in this one.

(Loud consultations)

Sen. Njoroge: Thank you, Madam Temporary Speaker. I need protection from the Chair. The Senator is harassing me.

The Temporary Speaker (Sen. Ongoro): Proceed because you are safe.

Sen. Njoroge: Madam Temporary Speaker, we need to understand the circumstances under which the meeting is scheduled to be held in Meru. They need to come up with a report to this House because Nairobi is a Capital City. The Chairman of CoGs has formulated a habit of asking the Senators to go to this home area so that he can

address an issue which is national, that is not in order. It is like demeaning this House.

I urge the Chairperson of the Committee on Devolved Government to be careful so that the Chair of CoGs does not demean this House. He must have the spirit of his predecessor, Sen. Murkomen, if he wants to succeed in this. If he is not careful with the current Chair of CoGs, Governor Peter Munya, he may end up travelling to Meru to meet Governor Peter Munya and discuss the conference alone.

Sen. Orenge: Madam Temporary Speaker, I was a bit taken aback by what Sen. (Prof.) Lesan was saying on this matter because he seemed excited about an invitation to go to Meru.

(Laughter)

I thought I would be more excited to go to Meru than him because of the political reasons that the Sen. Hassan knows.

In this Constitution, if you look at the hierarchy of institutions and State organs, it is the people first, Parliament, Executive and then the Judiciary. We should not forget the order in which State organs are set up in the Constitution is not by accident. That order is very deliberate. In the old Constitution, the order was the Executive, the Judiciary and then, finally, Parliament. However, this was changed totally. It is not only in the provision of Article 1, but if you go through the Constitution, Parliament always comes first.

Madam Temporary Speaker, what I would urge the Speaker of the Senate is that when the Senate is invited as an institution or as a State organ, it should confer with the leadership of the House. This is because the Chairperson should not make a decision without consulting the leadership. This meeting is out of consultation by the CoGs. They sat and decided to hold this meeting in Meru. In this one, the Speaker has ordered the Senator for Bomet to go to Meru. I urge him that before he gets excited about it, he needs to find out first. A lot of times, you will realise that "meetings are made before they are held". Decisions are made before meetings are held. He may be walking in a place like Kisumu--- when I saw the banners about the conference that was held there, I decided not to appear there because I knew I did not belong there.

The leadership of the side opposite side may not agree with me. I am directing this to the Senate Majority Leader, Sen. (Prof) Kindiki) because he is the one who can protect this House since he has a nexus with the Executive. This idea of the Speakers of the National Assembly and the Senate taking Bills to be assented to by the President and they stand as the President sits, is a mockery of democracy. Even in a monarchy, it does not happen that way. These two institutions are co-equal in the legislation process. By that fact, we are undermining the Parliament. We should think through this properly so that in the competition for power and authority, we should never undermine the authority of Parliament, irrespective of the parties we belong to.

Madam Temporary Speaker, I urge the Speaker to summon Sen. (Prof.) Lesan and put a caveat so that he does not go to Meru until further consultations about the process are carried out with the leadership of the House.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, there is still a lot of

interest in this by Senators. However, we need to move on to the next Order of Business. So, for the remaining Senators use two minutes each.

Sen. Okong'o: Thank you, Madam Temporary Speaker. I echo the sentiments of Sen. Hassan on the reports of the first two conferences. Secondly, the Senator for Bomet does not have to go there. He can even write a protest note.

We have seen conferences being held whereby the nerve of the devolution units are Senators. I have never seen Senators given their rightful place in those conferences. We have conferred with my colleague, Sen. Ndiema. He told me that yesterday he went to his county for a conference. However, when he realised he does not belong there, he left in a huff. This conference is a way of wasting taxpayers' money. This money can be spent on provision of essential services to our people. I feel that Sen. (Prof.) Lesan should not go to Meru.

Sen. Ndiema: Thank you, Madam Temporary Speaker. In my view, unless such a conference is organized by the Senate, it makes no sense to go there. This is because there has never been a conference with the Governors that has ended with any form of respectable protocol. We have always come out disappointed. During the devolution conference in Kisumu we were lumped together with the Members of the County Assemblies (MCAs). The MCAs were even openly challenging the Senators and cheering for the people they are supposed to be oversighting. We were treated as strangers and subjected to ridicule.

Even the investment conferences are turning out to be campaign forums for the sitting governors. In fact, those investment conferences are named after the governors. The governors invite their fellow governors and the Senators are not given an opportunity to also invite their colleagues, yet they represent the counties. Therefore, our place must be considered.

Sen. Mositet: Madam Temporary Speaker, I support all the Senators who have spoken before me in urging the Chair of the Committee on Devolved Government that the Senate should not participate in that forum.

We need to ask ourselves what came out of the first conference and how much was spent. What happened in Kisumu was more of a show of might by the governors. The Senate Minority Leader was there and could not even be recognized. In fact, there was no seat reserved for him and other Senators. The governors chest-thump yet we are the people who protect and provide for them. Instead of them organizing a forum where they can explain to us the challenges they are going through, they try to show how powerful they are.

Last year our President was in Meru and there was a major showdown regarding who is powerful in Meru. Of course, everybody knows how powerful Sen. Kiraitu is there. Now that Chair of the Council of Governors is inviting all governors and Senators to Meru, I want to believe that this will be a forum for the governors to campaign for the Governor of Meru and show the Senators how powerful they are. They are using the money that we allocated them to campaign for re-election.

The Chairman of the Committee on Devolved Government needs to tell us how much was used by the governors in the last forum. We also need to know where those funds came from.

Thank you, Madam Temporary Speaker.

Sen. Wako: Thank you, Madam Temporary Speaker. I start from the premise that every institution involved in devolution has a right to organize a workshop or an annual meeting on devolution to assess the achievements of that devolution from their perspective, taking into account their mandate under the Constitution. If you start from that premise, then the governors have the right to organize their devolution conference, which will assess the achievements of devolution, taking into account their mandate under the Constitution. The Senators also have the right to organize such a conference, taking into account our mandate under the Constitution. The county speakers have a similar right and so on. Part of the problem has been that we have taken the governors' devolution conferences to be ones that assess everything on devolution.

During the first conference there were issues of protocol and most of us did not appear. In fact, only Sen. Gideon Moi appeared at that first conference. In Kisumu, similar issues arose, but we have to take into account that, that is their conference. Should we not also organize a devolution conference to assess ourselves and the achievements that we have made under the Constitution? Can we not also invite the Council of Governors or whoever wants to come to join us? Can the county speakers also not do a similar thing? If we can do that, we will get somewhere.

The way forward, taking into account that next year is the fifth year---

The Temporary Speaker (Sen. Ongoro): Senator, I will give you one more minute.

Sen. Wako: Thank you, Madam Temporary Speaker. Taking into account that there will be the last such conference next year, I would like the leadership of the Senate, Council of Governors and county speakers to come together and organize a devolution conference to assess the achievements over the five-year period. Let next year's conference be organized by all of us – the Senators, governors, county speakers and the national Government – so that we can have a proper assessment on the success of devolution during the period that we have been Senators.

Thank you, Madam Temporary Speaker.

Sen. (Prof.) Lesan: Thank you, Madam Temporary Speaker. I have been a Senator for the last three years and was in this House when the first and second conferences were organized. The Chair of the Council of Governors then was my governor. Those meetings were chest-thumping forums for the governors.

I have listened to the sentiments of the Senators, including senior Members of this House and have no reason not to take their concerns seriously. During the last conference the Parliamentary Service Commission spent Kshs10 million. I am sure that the Senate is not excited about this year's conference and not even a cent has been allocated for it. Therefore, the expressions by the Senators are valid. I am already worried about this meeting as I go to Meru, in that it has taken a new dimension. One of the things we are going to discuss already involves the *Nchuri Ncheke*. We will meet them tomorrow. Even the conference itself is known as "The Governors' Devolution Conference." It certainly has---

The Temporary Speaker (Sen. Ongoro): I will allow on intervention by Sen. Omar.

Sen. Hassan: On a point of order, Madam Temporary Speaker. Did you hear Sen. (Prof.) Lesan escalating this situation further by stating that they will have a meeting with the Njuri Ncheke? As he concludes, could he give us a synopsis of how the Njuri Ncheke connects to the Devolution Conference?

The Temporary Speaker (Sen. Ongoro): Senator, could you clarify that point before we bring this to a close?

Sen. Sang: On a point of order, Madam Temporary Speaker. Could he also confirm which faction of Njuri Ncheke and whether the Kalenjin Council of Elders and all the other councils of elders within this country are also part and parcel of this?

The Temporary Speaker (Sen. Ongoro): Sen. (Prof.) Lesan, make that clarification to the Senate.

Sen. (Prof.) Lesan: Madam Temporary Speaker, I have no reason to disobey the instructions given to me by my Speaker. I got a letter requesting me to join two other governors in the steering committee. We will deliberate on the programmes of devolution. The letter at the end indicates that there will be a meeting with the business community in Meru. The business community includes and, in fact, it is organised by the Njuri Ncheke. The letter did not specify which of the functions of the many Njuri Nchekes in Meru, but that is what it says.

Madam Temporary Speaker, as to my own plan of visiting Meru, I have already excluded being part of what the Njuri Ncheke will discuss with governors in the conference. That is as per the instructions given to me. However, it is very unfortunate that this Senate has been left out of a very important discussion that we need to have with the rest of the Members of the Committee on Devolved Government.

During the discussion with the Speaker, it was noted by the Speaker that we ought to organise our own conference where the Senate will be the prime mover of the conference. I thought that is an idea that needs to be solidified or held very firmly by this Senate so that we can do that. In the meantime, it will be nice to have first-hand information delivered to this Senate, so that we can make a very firm decision as to whether we should or not participate in the conference. I am at the disposal of the House. Members of my Community on Devolved Government are senior Members of this House. I am sure we can deliberate at the committee stage and report to this House whether we should participate or not.

Thank you.

The Temporary Speaker (Sen. Ongoro): Thank you, Senator. However, you have taken note because you listened to the Senators very well. Your Committee has been put on notice by all Senators. They said that they have no intention of being in attendance if a clear function or role is not indicated in the programme or if they are not recognised or do not have a role to play. So, I believe that you will see how to juggle around that in your proceedings.

Hon. Senators, we have to move to the next Order.

*(The Temporary Speaker (Sen. Ongoro)
consulted with the Clerk-at-the-Table)*

PAPERS LAID

The Temporary Speaker (Sen. Ongoro): Sen. Gwendo, are you ready with the paper you were supposed to lay?

Sen. Gwendo: Yes, Madam Temporary Speaker.

REPORT OF THE COMMONWEALTH WOMEN
PARLIAMENTARIANS' REGIONAL CAPACITY
BUILDING WORKSHOP

Sen. Gwendo: Madam Temporary Speaker, I beg to lay the following Paper on the Table of the Senate today, Thursday, 17th March, 2016:-

The Report of Commonwealth Women Parliamentarians' Regional Capacity Building Workshop held in Dar es Salaam, Tanzania from 20th to 23rd January, 2016.

Thank you.

(Sen. Gwendo laid the document on the Table)

The Temporary Speaker (Sen. Ongoro): Thank you, Sen. Gwendo. You may take your seat.

Let us proceed. Sen. Khaniri.

THE ANNUAL REPORT OF THE NLC FOR THE YEAR 2014/2015

Sen. Khaniri: Madam Temporary Speaker, I beg to lay the following Paper on the Table of the Senate today, Thursday, 17th March, 2016; The Annual Report of the National Land Commission for the Year 2014/2015. Thank you.

(Sen. Khaniri laid the document on the Table)

The Temporary Speaker (Sen. Ongoro): Let us proceed. Next Order.

NOTICES OF MOTION

APPROVAL OF NOMINATION OF SENATORS TO THE
COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

The Senate Majority Leader (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I beg to give notice of the following Motion:-

THAT, pursuant to Standing Order No.177(3) and 179(1), the Senate approves the following Senators nominated by the Rules and Business Committee (RBC) to be

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Members of the County Public Accounts and Investments Committee (CPAIC):-

- (1) Sen. (Prof.) Anyang'-Nyong'o.
 - (2) Sen. George Khaniri.
 - (3) Sen. Henry ole Ndiema.
 - (4) Sen. Kennedy Okong'o Mong'are.
- Thank you.

NOTING OF REPORT OF THE COMMONWEALTH WOMEN
PARLIAMENTARIANS' REGIONAL CAPACITY
BUILDING WORKSHOP

Sen. Gwendo: Madam Temporary Speaker, I beg to give notice of the following Motion:-

THAT, the Senate notes the Report of the Commonwealth Women Parliamentarians' Regional Capacity Building Workshop held in Dar es Salaam, Tanzania, from 20th to 23rd January, 2016, laid on the Table of the House today, Thursday, 17th March, 2016.

Thank you.

The Temporary Speaker (Sen. Ongoro): Thank you Senator.
Let us proceed to the next Order.

STATEMENTS

EXPENDITURE OF KSHS15 BILLION SET ASIDE FOR *EL NINO*

The Temporary Speaker (Sen. Ongoro): The Chairperson of the Standing Committee on Finance, Commerce and Budget, Sen. Billow, is not in the House. So, that will be skipped.

(Statement deferred)

IMPLEMENTATION OF THE BASIC EDUCATION ACT (2013)
ON OUTLAWING CORPORAL PUNISHMENT IN SCHOOLS

The Temporary Speaker (Sen. Ongoro): The Chairperson of the Committee on Education, Sen. Karaba, is also not in the House. Therefore, we shall also skip the Statement.

(Statement deferred)

Let us move to the next statement which was directed to the Chairperson of the Standing Committee on Energy. The Statement was requested by Sen. Adan and she is in the House.

PROVISION OF ELECTRICITY TO OLDONYIRO TRADING CENTRE

Sen. Mwakulegwa: Madam Temporary Speaker, I beg to reply. On 4th March, 2016, Sen. Adan requested a statement on the provision of electricity to Oldonyiro Trading Centre. She wanted to know why the trading centre has no electricity while it is 41 kilometres away from the supply point. The response is as follows. The Government, through the Rural Electrification Authority (REA), has been focusing on electrification of public facilities including trading centres, secondary schools, health centres and water supply systems. However, in the past three years from 2013 to 2016, the focus has been electrification of public primary schools in preparation for digital learning. Currently, it is estimated that 87,864 public facilities are in the county countrywide. Out of that, 59,604 have been connected with electricity making it 68 per cent. The remaining 32 per cent, which is 28,261 including Oldonyiro Trading Centre, are yet to be connected.

The second question was: When will the Government connect the trading centre and its surrounding facilities with electricity taking into consideration that the area is prone to insecurity?

The Government will embark on electrification in the remaining public facilities in the next two years, by June 2018. However, after I got this response, the Government has confirmed that they will supply electricity in the next Financial Year, 2016/2017.

Thank you.

Sen. Adan: Madam Temporary Speaker, first let me take this opportunity to thank the Chairperson of the Committee. However, my question was specific on the connection of electricity to Oldonyiro. Unfortunately, the Chairperson is giving me what the department has been doing in Isiolo County. So, I would request him to be specific in terms of the urgency of this matter especially given that this is a matter that concerns that county in terms of security. Connecting electricity from Laikipia to Oldonyiro is not far. I would urge the Chairperson to give me a specific period within which electricity will be connected. He is talking about 2016/2017 and 2018 but 2018 is very far. Rural electrification is taking place in the country. Could he, please, connect the people of Oldonyiro with electricity as urgently as possible?

Sen. Mwakulegwa: Madam Temporary Speaker, I said, specifically, they will be connected in the next Financial Year, 2016/2017 which is about three months away starting from July 2016. So, it is budgeted for and it will be connected in the next financial year.

The Temporary Speaker (Sen. Ongoro): Sen. Adan, are you satisfied?

Sen. Adan: Madam Temporary Speaker, I think it is in order if it is the next financial year.

The Temporary Speaker (Sen. Ongoro): Thank you, Senators. Let us move to the next Statement sought by Sen. Adan from the Chairperson of the Committee on Information and Technology.

POOR MOBILE TELEPHONE NETWORK
COVERAGE IN OLDONYIRO WARD

Sen. Mwakulegwa: Madam Temporary Speaker, In March 2016, Sen. Adan requested a Statement from the Chairperson. In that Statement, she wanted to know:-

1. Whether the Chairperson is aware that mobile telephony network coverage in Oldonyiro Ward and its environs in Isiolo County is weak, making people walk more than 20 kilometers to make mobile phone calls including calls for emergency medical assistance.
2. The causes of poor network.
3. When strong and reliable mobile telephone network coverage will be availed to the ward and its environs bearing in mind that the areas is prone to insecurity.

I beg to reply. One, yes, we are aware that there is poor network coverage in Oldonyiro Ward and its environs in Isiolo County.

Two, the poor coverage has been mainly due to the challenging geographical terrain and commercial viability of mobile telephone business in the area.

Three, to address the poor network coverage in the area, the Government, through the Communications Authority of Kenya (CAK), in its licensing obligations to mobile telephone services providers – Safaricom Ltd and Airtel – has made it mandatory for the two operators to extend their infrastructure coverage to Lonkopito and Kipsang sub-locations of the ward by 2018. In addition, the Ngoruma Sub-location is considered marginal for smart subsidy as it provides for only 14 per cent of viability ratio. Therefore, the Authority has considered it for Universal Service Fund Support in the FY 2016/2017.

Four, further, the Ministry has written to the mobile network operators through the Communications Authority of Kenya (CA) to provide clear actions being taken on the service quality within 14 days. Failure to which the Ministry of Information, Communications and Technology shall provide other measures to ensure service quality is improved.

Thank you.

Sen. Adan: Madam Temporary Speaker, I appreciate the response given by the Member of the Committee on behalf of the Chairperson. I have no further clarification on the same. I hope the department will take action on that matter come FY 2016/2017.

The Temporary Speaker (Sen. Ongoro): Thank you. Let us move on to the next statement---

Sen. Khaniri: Madam Temporary Speaker, I have a request.

The Temporary Speaker (Sen. Ongoro): Sen. Khaniri, do you have a request? Okay, I had not seen it.

Sen. Khaniri: Madam Temporary Speaker, I know the questioner says that she is satisfied with the answer. However, let me make it clear that the Chairperson says that the Government has made it mandatory for Safaricom Ltd and Airtel to extend their services to those areas. Safaricom Ltd and Airtel are business enterprises and the reason they are not extending service to that area even if you force them, is because it is not profitable. That is why when I was at the Ministry, we established the Universal Service Fund which the Government controls so that they can assist such areas where it is not profitable for a company or service provider to take service. We access money from the Fund to give them services.

I do not think Safaricom Ltd and Airtel will extend services there because it is not

profitable since these people are in business. It is up to the Government to make use of the Universal Service Fund to ensure that the people of this region get the services.

The Temporary Speaker (Sen. Ongoro): I hope the Member of the Committee on Information, Communications and Technology has taken note of that critical input.

Sen. Mwakulegwa: Madam Temporary Speaker, yes, I have.

Sen. Hassan: Madam Temporary Speaker, just to inform Sen. Khaniri, Safaricom Ltd is a public entity largely owned by Kenyans – taxpayers. As much as their interest is making profit, I think some of those profits can be diverted to ensure that these services get to some of these areas as catalysts for growth. If you want to grow these areas, you must provide them with electricity, communication and build infrastructure. Just because an area has been marginalized, it does not mean that in the scheme of business particularly of public entities like Safaricom Ltd, they should marginalize these areas further because they cannot maximize on profit. I think these are some of the areas in which commerce and things like basic needs should take root.

We have gotten to a point in our lives today where mobile telephony and Wi-Fi are almost becoming a basic right because it allows you access to very many other rights. You will find that you are asked to register online or go online to get forms. So, to access many other rights, it means that we must reach out to our brothers and sisters in areas that have been hitherto marginalized. Therefore, I think it is important for that directive to be effected with immediate effect.

The Temporary Speaker (Sen. Ongoro): That is very useful information and observation, there. Let us move on to the next Statement.

Where is the Chairperson of the Legal Affairs and Human Rights? Sen. Wako was in the chamber, I think he has stepped out.

Sen. Mositet: Madam Temporary Speaker, I had requested to speak.

The Temporary Speaker (Sen. Ongoro): I am not seeing any request. Ok, proceed but nothing is reflecting here.

Sen. Mositet: Thank you, Madam Temporary Speaker. I want to join Sen. Adan. It is not only part of Isiolo which is having this problem. My county which is just next to Nairobi City County, in fact, an area like Mosiro and some parts of Magadi, we do not have networks. What is much worrying is that any time you see the Safaricom adverts; you will see them using a very handsome Maasai man with their regalias receiving phone calls. Other than that, I do not think the network within Nairobi is good. Any time you receive calls, you will not be sure that you are going to finish the conversation without the drops. So, I think there is a major problem with Safaricom because we cannot be assured that any time you are on a call that you will manage to finish without the drop.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, could the Chairman also tell us why Safaricom services are deteriorating day by day? Even when they advertise that they cover the entire highway from Mombasa to Malaba, there is hardly any coverage. The system is so erratic that when you are on phone, another call comes in and terminates the call on which you are. This happens continuously. Can he tell us why Safaricom has deviated from the work of providing mobile telephony to Kenyans to being a partner in provision of security services and conniving in rigging of elections in this country?

Sen. Mwakulegwa: Thank you Madam Temporary Speaker. From the request made by the Minority Leader, this is a new request; I do not have adequate information as to why they are interfering with elections. If I get a new request, I will be able to deal with that but for now, I can only pass the sentiments of this House to Safaricom and to the other providers to ensure that the quality is improved. This Universal Service Fund was set up because of the areas which are not covered like Kajiado, and it is going to be used to ensure that the entire country is covered and the services are improved. That is why the fund was set up by the Government.

The Temporary Speaker (Sen. Ongoro): We move to the next statement.

ONGOING VOTER REGISTRATION BY IEBC

The Chairperson of the Committee on Legal Affairs and Human Rights is not in the House and the person who asked the question is also not in the House. So, we move to the next.

(Statement deferred)

OPERATIONALIZATION OF THE COUNTY WILDLIFE CONSERVATION AND COMPENSATION COMMITTEES

Sen. Kivuti: Thank you, Madam Temporary Speaker. I wish to make a Ministerial response to a statement request on the operationalization of the County Wildlife Conservation and Compensation Committee. Pursuant to the provision of Standing Order No. 45 (2), at the sitting of the Senate held on Thursday 3rd March, 2016, Sen. Adan requested for a statement from our committee.

In the statement, the Senator sought the following information:-

1. Whether I am aware that the Kenya Wildlife Conservation and Management Act establishes the County Wildlife Conservation and Compensation Committee.
2. Whether the Government has set up County Wildlife Conservation and Compensation committees in all the 47 counties.
3. Whether all committees from the 47 counties are operational and if not, state the reasons why they are not.
4. Indicate the amount of money allocated to the County Wildlife Conservation and Compensation committees in the financial year 2015/2016 budget.
5. Explain the immediate measures that the Government is taking to ensure that the committees become operational so as to execute the mandate as per the Kenya Wildlife Conservation and Management Act.

Madam Temporary Speaker, in response to question one, I am aware that the Wildlife Conservation and Management Act calls for the establishment of the County Wildlife Conservation and Compensation committees. This is clearly stated in part 11 Section 7 (c) of the Wildlife Conservation and Management Act, 2013. That calls for the setting up of the County Wildlife Conservation and Compensation Committee in respect

of each county. Section 18 spells out the composition of this committee and Section 19 states the functions on the committee members.

On question two, Madam Temporary Speaker, concerning the setting up of the County Wildlife Conservation and Compensation committees in all the 47 counties, Section 18 of the Wildlife Conservation and Management Act 2013 provides for the formation of a County Wildlife Conservation and Compensation Committee in respect of the 47 counties. The Chairperson of each County Wildlife Conservation and Compensation Committee will be appointed by the Cabinet Secretary through a competitive process. In line with this provision, the Ministry through the Kenya Wildlife Service declared 47 vacancies in the positions of the chairpersons of the County Wildlife Conservation and Compensation committees. Applications were invited for suitably qualified Kenyans wishing to be considered for appointment to the post of the chairperson of the County Wildlife Conservation and Compensation committees.

Madam Temporary Speaker the interviews were conducted in the respective counties and suitable candidates were recommended for appointment. The Gazette notice No.1467/06/03/2015 appointed chairpersons and the four community members to the committees while the ex-officio members were appointed by the respective Government agencies and the respective county governments.

However, Madam Temporary Speaker, Kiambu, Nairobi and Mombasa county committees members were not fully constituted as per the Gazette notice. For Kiambu and Nairobi, the chairpersons had been gazetted but did not have the four non-public servant members of the committees. That means the committees were not complete. In the case of Mombasa County, the four non-public servant members were gazetted but the responsive candidates during the chairpersons recruitment did not satisfy the requirement of the need to hail from the respective county. As such, it was agreed that this was the criteria adopted in the concluded recruitment exercise.

On part three, due to financial constraints, only a total of 35 counties are operational as of this date. These committees were inducted into their roles and responsibilities. Hence, they are able to undertake their functions. The selection of the 35 counties was on the basis of the magnitude of human wildlife conflicts as experienced in the counties. They are as follows: Nyeri, Kirinyaga, Laikipia, Embu, Nakuru, Meru, Nyandarua, Tharaka Nithi, Taita Taveta, Kwale, Kilifi, Lamu, Tana River, Machakos, Trans Nzoia, West Pokot, Elgeyo Marakwet, Turkana, Baringo, Kisumu, Homa Bay, Wajir, Mandera, Marsabit, Samburu, Isiolo, Kajiado, Murang'a, Garissa, Makueni, Kitui, Siaya, Kakamega, Kericho and Narok counties.

Regarding part four, a total of Kshs8,901,200 was allocated to 35 Committees to hold a two day meeting within a month, in February 2016. The committees were advised to deliberate and determine the backlog of compensation claims dating back to 2014.

With regard to part five, the following measures are in place to ensure that all Committees become fully operational so as to execute their mandate as per the Kenya Wildlife Conservation and Management Act.

(a) Plans are underway to induct all the 12 remaining counties in order to undertake their duties.

(b) Recruitment for the Chairperson for Mombasa County is underway while the

four community persons named for Kiambu and Nairobi counties have already been submitted for gazetement.

(Loud consultations)

Madam Temporary Speaker, I request your indulgence so that the consultations can be a bit low.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, consult in low tones to allow the Senator to proceed.

Sen. Kivuti: Thank you, Madam Temporary Speaker, Sir.

(c) The estimated budget to fully operationalize the 47 Committees has been prepared.

In conclusion, the Ministry requests to be accorded support by the Senate, in the provision of a comprehensive budget, on human wildlife compensation.

Sen. Adan: Madam Temporary Speaker, I thank the Chairperson of the Committee for the response. The reason why these committees are supposed to be operationalized is for the purpose of compensation for victims of the wildlife and human conflict. There is so much violation of human rights by wildlife in this country.

In question 3, in Isiolo County, we have a lot of backlog in terms of the cases that are before the Committee. Unfortunately, apart from establishing the Committee, they have not been operational. That is the true picture because they do not have budgetary allocations. Secondly, they were not given honoraria to start working on those cases that are before them.

With regard to question four, Ksh8,901,200 was allocated to 35 counties. This money will not be enough to deal with matters that are before the Committees of 35 counties. The Ministry should be serious enough and allocate enough funds and compensate those individuals whose rights are violated as quickly as possible.

The Temporary Speaker (Sen. Ongoro): Sen. Adan, in essence, you are not completely satisfied with the answer given?

Sen. Adan: Madam Temporary Speaker, I am not satisfied because that is not the true picture of what is on the ground.

The Temporary Speaker (Sen. Ongoro): Chairperson, in view of that, when will you bring a satisfactory answer that can be convincing to Sen. Adan and other Senators?

Sen. Kivuti: Madam Temporary Speaker, I do not think there can be any other satisfactory answer than this. Sen. Adan has said that we do not have money. In both comments, on the Isiolo County backlog, she said that there has not been any budget. In her other comment she said that the allocation of Ksh8,901,200 is little which is true. In my answer, we are requesting that the forward budget supports the Ministry to make these committees operational. Even if we seek another Statement, we will just be asking for more money. I do not think there is anything else that we can do at this moment other than to get money in the forward budget. This particular request is contained in my last Statement.

The Temporary Speaker (Sen. Ongoro): Senate Majority Chief Whip, do you have an intervention on the same?

Sen. Elachi: Madam Temporary Speaker, while the Chairperson is really lobbying for the Ministry to get more resources, I do not understand why the Ministry has not taken the initiative of mobilising business men and women who would wish to help in the crocodile industry. They have had a lot of challenges especially in Tana River, where a businesswoman wishes to take wildlife crocodiles and then give incentives back to the community. The same Ministry has ignored her letters and denied her to do the business. While they look for incentives, they are also leaving out good incentives. They would have worked together with communities to ensure that they have the monies to compensate the affected people.

Sen. Mositet: Madam Temporary Speaker, it is sad that the Ministry has not managed to get funds to give to the committees or to make them functional. In my county, we have more than a thousand cases of compensation claims from people living within Loitokitok area. The marauding elephants have been killing people and destroyed their farm inputs. The latest issues of elephants conflict with the people was last week. We lost some children and other people last year. There seem not to be mitigation measures which Kenya Wildlife Service (KWS) or the relevant authorities have put in place to make sure that the conflict is eradicated. It is saddening when we are told that these Committees cannot function because of funds and because of that, our people cannot be compensated. The Chairperson should tell the relevant Ministry to make sure that we get funds so that those Committees can function.

Sen. Okong'o: Madam Temporary Speaker, it is not in order for the Chairperson of the Committee to tell us that he is satisfied with the answer but the person who sought the Statement is not satisfied. Is it in order for the Committee Chairperson to tell us that he is very satisfied, with the answer, while the person who sought the request is not? Wildlife conservation in this country is a national matter. There are people who are willing to partner with the Government of Kenya to conserve wildlife. These county units which have been created are very vocal for this kind of conservation.

I request the Committee Chairperson to call the Cabinet Secretary (CS) to come and explain. Maybe the CS is sleeping on the job and does not understand what he is doing. One does not have to ask for taxpayers' money from the Government. There are other partners who are willing to assist us conserve our wildlife.

[The Temporary Speaker (Sen. Ongoro) left the Chair]

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

Sen. Hassan: Mr. Temporary Speaker, Sir, it is a travesty for the Committee Chair to say that this answer is very satisfactory. There is a demand that more money should be allocated to these compensation committees and that they should be operationalized. It must be noted that most of these conservancies are in some of the most marginalized and under-developed parts of Kenya. It is important that the Government commits its resources to shield some of these most vulnerable societies.

These wildlife conservancies bring this country enormous revenue in terms of tourism. Therefore, it is only prudent and right for us to commit some monies back in

terms of uplifting the standards of these societies, including mitigating some compensation when they occur.

Madam Temporary Speaker, in future, we must review whether these compensations are fair.

The Temporary Speaker (Sen. Mositet): Order, Sen. Hassan! I am not a madam.
(Laughter)

Sen. Hassan: Sorry. Mr. Temporary Speaker, Sir. I hope there is a day in this country that we can use words majestically. Where 'he' can connote 'she' and 'she' can connote 'he'. That way, people would not feel offended. That when I refer to you as madam Mositet, madam, can also mean mister in a majestic way. However, I take note.

The Temporary Speaker (Sen. Mositet): Sen. Hassan, I will never be proud of that. No! You must know where I come from.

(Laughter)

Be orderly.

Sen. Hassan: Okay, Mr. Temporary Speaker, Sir. We should interrogate whether these compensations that KWS gives families upon death and injuries are reasonable and proper. When a life is lost, the compensation is just about Kshs100,000. This is not enough. It is so immoral as a country, that we can expose our own citizens to harm by failing in our responsibility to protect them in areas that are of wildlife nature.

The fact that when a life is lost, the compensation is Kshs100,000 is the reason we do not do much to protect our people. If today the Government of Kenya knew that for every life, they will pay Kshs10,000,000, no life will be lost. One can easily part with Kshs100,000. Most of us here, a sum of Kshs100,000 is a cup of tea. Most of us spend Kshs100,000 for very mundane activities here and there, once in a while. These families are poor. These areas are poor. Therefore by paying Kshs100,000, we relegate them to further poverty.

Sen. Sijeny: Mr. Temporary Speaker, Sir, this wildlife conservation issue is very important and must be taken seriously. We have two Government systems. Every level of Government must be empowered and must nurture this issue. There was a time in Kenya, tourism was the highest earner of Government resources. We took that for granted. We have relaxed. Even Tanzania is doing better now. Many people are going for tourism business elsewhere because we have not taken good care of our wildlife. Animals are dying and migrating as forests are being cleared.

Mr. Temporary Speaker, Sir, the other day, residents of Langata were being terrorized by wild animals. This is because someone somewhere has done something wrongly. We ought to take this seriously. Had those animals killed the residents of Langata, how would they be compensated? Was the Government able and ready? Why should we wait for that? The Committee Chair should look into this matter. Serious steps need to be taken on this. We should protect the residents of Langata and Kenyans at large.

Sen. Kivuti: Mr. Temporary Speaker, Sir, I agree with some of the sentiments

expressed by the Members. On the comments by Sen. Elachi, the observation that we can do partnerships for commercialization of wildlife conservation is a very good welcome point.

However, how do we do so? Do we have to amend the existing law to allow for that partnership? If so, I request either the Senator herself or any other Member to come up with a proposed Amendment Bill. A Bill that would amend some of the areas where we need to enforce issue like amount of money paid for loss of life. People in my county have been eaten by crocodiles. It does not make sense to tell someone that their life is equivalent to Kshs100,000.

We have a problem here about budget. The problem of budget does not affect this law alone. It does not affect this Ministry alone. In this House, we have been having long debates for the last few days on management of public funds. We have been having long debates on security issues other than just from wildlife. Most of what we talk about goes down to availability of the money.

I wish we were in a position to make Senate to be the House that reviews whatever budget that is done in the “lower” House. That way we could be able to resolve as the elder people of this country, some of the laws and budgets that we pass. For most of these laws, we later find out that they do not work for the benefit of Kenyans. That goes for the comments by Sen. Hassan and Sen. Sijeny.

Mr. Temporary Speaker, Sir, you also commented about the quality of life *vis-a-vis* the compensation that we get, if at all we get. In many cases we will not get. Right now, the budget given to the Ministry of Environment and Natural Resources is not adequate. Only Kshs9 million has been set aside to operationalize the committees.

Sen. Okong'o: On a point of order, Mr. Temporary Speaker. Sir. The Committee Chair is speaking as if he is the CS. The Senator who asked for the question is not satisfied. He has told us about policy issues at the Ministry. Many donors in this country are interested to conserve our wildlife. Ours was to request the Committee Chair to sermon the CS here to explain those policy issues. We can then advise him on where to get the money. Is he in order to start explaining policy issues from the Ministry to us?

Sen. Adan: Mr. Temporary Speaker, Sir, this issue of wildlife is a very sensitive issue. It is really unfair for the chairperson to tell us that he can only carry out compensation when the money will be available. This is a constitutional provision. It is really important for the families who have lost their dear ones to be compensated or otherwise.

We have a lot of issue concerning KWS. I request the chairperson to sermon the CS so that all the counties that are affected by the issue of KWS can have a one-on-one with the CS when he appears before the Senate.

Sen. Elachi: Mr. Temporary Speaker, Sir, I wish to give a Statement on behalf of the Senator for Kajiado.

The Temporary Speaker (Sen. Mositet): Order, Senator! We have not reached there, please.

Mr. chairperson, before you respond, the Senators are in order to tell you that you should not talk like the CS. We have a CS whom you can bring to the Senate to address the Committee of the Whole. If you feel powerless, then through the Chair, I am ordering

you to do that. However, you had a very good point that we should revise the Act so that the valuation of human life can be quantified at a higher rate. That also needs to go on.

Sen. Kivuti: Mr. Temporary Speaker, Sir, you have rightly put it. I am also wearing the same shoe. I feel the same pinch. Therefore, I will write to the CS to appear in this House as requested by the two Senators. At that moment, I may also ask a few questions.

The Temporary Speaker (Sen. Mositet): The Senator for Machakos says that there was a statement which was supposed to be issued by Sen. Dullo. However, it is not in the Order Paper. I cannot see it. One cannot say that the temporary Speaker allowed it yet she never communicated to me.

The Senate Majority Leader (Sen. (Prof.) Kindiki): This is a statement on the business of the House.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY 22ND, MARCH, 2016

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, this is to present the Business of the Senate for next week. Ordinarily, on Tuesday, we will have the Rules and Business Committee (RBC) meeting to schedule the business for the next week. However, subject to that meeting, we expect the Senate, on Wednesday, to discuss the following Bills, among others:-

1. The Kenya National Examinations Council (Amendment) Bill (Senate Bill No.7 of 2015).
2. The Office of the County Attorney Bill (Senate Bill No.37 of 2014).
3. The Office of the County Printer Bill (Senate Bill No. 42 of 2014).
4. The Water Bill (National Assembly Bill No.7 of 2014).
5. The Universities (Amendment) Bill (Senate Bill No.31 of 2014).
6. The County Assemblies Services Bill (Senate Bill No.27 of 2014).
7. The County Hall of Fame Bill (Senate Bill No.33 of 2014).

On Thursday, any Business that will not have been concluded on Wednesday will continue, including deliberations on various Bills that are on Second Reading, deliberation of Motions and any other Business that will be rescheduled by the RBC. I request colleagues to show up so that we can deal with it, especially with the voting which has been problematic this week. Hopefully, next week we can dispense with a number of Bills that require division.

I thank you. I now lay this Statement on the Table of the Senate.

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

The Temporary Speaker (Sen. Mositet): What is your point of order, Sen. Orengo?

Sen. Orengo: On a point of order, Mr. Temporary Speaker Sir. The Senate Majority Leader does well in giving us a Statement every Thursday about the Business of the House in the following week. However, he does not do the converse which is equally

important. That is, what is the result of the Business that we pass through Senate, particularly Bills?

How many Bills get stuck in the National Assembly? Together with giving us business for the near future, he should also be dealing with the achievement. This will help us monitor whether we are making progress or not. If there are difficulties in implementing our decisions in the National Assembly, he should be telling us.

The Temporary Speaker (Sen. Mositet): Sen. (Prof.) Kindiki, that is straightforward. Do you want to respond to that now or will you do it next week when you will be issuing the statement?

Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, Standing Order No.45(2)(c) is the relevant Standing Order for the matter that has been raised by my senior, Senator for Siaya County, Sen. Orengo. In brief, it talks about what the Senate Majority Leader or other leaders listed there may do, on Thursday. That is to present and lay on the Table, a statement informing the Senate of the Business coming before the Senate, in the following week. Therefore, it is very clear what that Statement is supposed to contain.

There is no harm in using that time to also comment on where we are in terms of progress. There is nothing purely unlawful in even reviewing the past week. Most of this is discussed at the RBC. If the feeling of the RBC, which Sen. Orengo is Member, is that, that should also be discussed in the plenary, I have no objection.

SHOOTING OF INNOCENT CITIZENS BY ADMINISTRATION
POLICE IN UGUNJA TOWN AND ITS SURROUNDINGS

Sen. Orengo: Mr. Temporary Speaker, Sir, I beg to request the following Statement from the chairperson of the Standing Committee on National Security and Foreign Relations. She is not here. However, there are Members of that Committee here who could give me an indication as to when the Statement requested will be responded to.

The request is;

1. Will the Chairman confirm whether the Government is aware that there have been numerous instances of members of the public being fatally shot or injured by gun fire from the police; particularly, the Administration Police in Ugunja Township and the surrounding areas in Siaya County.

2. Is the Government aware that there have been police-related acts of robbery in the same area for nearly two years? This has caused anger, animosity and despondency from the members of public against the police.

3. What was the number of deaths caused by the use of arms or fire by the police on the 11th and 12th March, 2016? That is just last week.

4. How many killings or acts of homicide have taken place in the period between and including 1st December, 2015 to 14th January, 2016 arising from the use of fire arms by the police in Siaya County?

5. Will the Government consider change of police personnel in Siaya County and Ugunja Police Division as well as the arrest and prosecution of officers involved in the

killing of innocent citizens?

The Temporary Speaker (Sen. Mositet): Is the Chairperson or any Member of that Committee in the House?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I am a Member of that Committee. I will inform her to issue the Statement. However, I had also wanted to ride on it as well. Could you allow me to ride on it?

(Laughter)

The Temporary Speaker (Sen. Mositet): It is alright. Go ahead.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, she will read the HANSARD as she prepare her response.

In answering the concerns of the distinguished Senator for Siaya County, the House will also be interested in knowing from the Chairperson relaying the message from the Cabinet Secretary, why we have increased misuse of firearms by, not just the police, but armed public servants, particularly Kenya Wildlife Services (KWS) officers who have been shooting helpless unarmed villagers every time they encounter them in conservation areas? The law is very clear that a lawfully armed police officer or any other public servant can only use his arm against an unarmed civilian when there is imminent danger and the use of the firearm should be to disarm and not to kill the citizen. I will inform the Chairperson whom I think will give a response in two weeks' time.

Sen. Hassan: Mr. Temporary Speaker, Sir, in addition to that, I would like to know what effort the Government is taking, including reference of some of the shooting to the Independent Policing Oversight Authority (IPOA), to determine the circumstances of the shooting. In other countries, whenever a police officer uses a fire arm, there is an inquiry as to the circumstances of the shooting. In fact, to be precise, Kenya has adopted international standards on the use of firearm. One can only use a firearm when your life or the life of another is under threat and no other time. Therefore, I would like to know whether any action was taken to investigate the circumstance of the shooting.

EXPENDITURE OF KSHS15 BILLION SET ASIDE FOR *EL NINO*

Sen. Khaniri: Mr. Temporary Speaker, Sir, I am not riding on the same, but I am rising in regard to Statement No.(a). We expected that this statement would be issued today because it was on the Order Paper yesterday. The Chairperson was here, ready with the answer, but we requested for time to interrogate the written reply and that it be issued today. The Chairperson has been here and immediately we came to the Order of Statements, he disappeared. This was very deliberate and in contempt of this House. He should be reprimanded or some sanctions be taken against him because he is taking the House for a ride.

The Temporary Speaker (Sen. Mositet): I can see some Members of that Committee; Sen. (Dr.) Khalwale and the Senate Minority Leader are Members of that Committee and the Statement is on the Table. Could I ask one of them to respond?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, it

is the cardinal responsibility of Chairpersons of Committees to bring Statements to the House. It is contempt of the House for a Chairperson of a Committee to sit in this House awaiting the order and the statement is on the Order Paper and then sneak out of the House, without even the courtesy of informing the Chair that the Statement was coming today and that it is on the Order Paper, but he has a pressing engagement elsewhere and that he should be allowed to go. That is the only way that we can be decent to the House. Where the Chairpersons do not do so, then the Chair must sanction them.

The Temporary Speaker (Sen. Mositet): I order that all Chairpersons of Committees to be serious with their responses to statements.

Sen. Orenge: Mr. Temporary Speaker, Sir, I stand because the Chair had already directed that the statement be made today. Therefore, it is not a matter of pushing the issue back to the Committee. The Speaker should order that particular Chairperson to be ready with the statement at the next sitting which will be on Tuesday together with an explanation as to why he walked out without excusing himself.

The Temporary Speaker (Sen. Mositet): I order that the Chairperson of the Committee on Finance, Commerce and Budget be in the House on Tuesday, next week, to issue that Statement.

THE KILLING OF TWO PEOPLE IN KAJIADO COUNTY BY MARAUDING ELEPHANTS

Sen. Elachi: Mr. Temporary Speaker, Sir, I have a request for a statement on behalf of the Senator for Kajiado County.

Pursuant to Standing Order No.45(2)(b), I rise to seek a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the killing of two people in Kajiado County by marauding elephants. In the Statement, the Chairperson should:-

(1) Explain the circumstances leading to the death of Mr. Saitoti Santamo ole Ku and three year old Ntomo Ntoipo Nchaiyo within Kajiado East Constituency, Kajiado County on 2nd February and 6th March 2016, respectively.

(2) Explain the status of compensation claims for the two victims and measures taken by the KWS to keep watch over wildlife and ensure that they do not pose danger to people living around wildlife conservancies, game reserves and national parks.

KILLING OF TWO PEOPLE IN KAJIADO COUNTY BY SUSPECTED KWS RANGERS

Pursuant to Standing Order No.45(2)(b), I rise to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the killing of two people in Kajiado County by suspected KWS rangers. In the statement, the Chairperson should:-

(1) Explain the circumstances leading to the death Mr. Ntere Ntaki and Mr. Mpiti Kenkune on 2nd April, 2016 at Musire in Kajiado West Constituency in Kajiado County.

- (2) Explain the status of investigations into the killings.
- (3) State what actions have been taken against the alleged killers.
- (4) Explain the measures taken by KWS to ensure that communities living around wildlife corridors are not mistaken for poachers and killed.

The Temporary Speaker (Sen. Mositet): The first Statement was directed to the Chairperson of Lands and Natural Resources and we are privileged to have him in the House to tell us when he get us the response.

Sen. Kivuti: Mr. Temporary Speaker, Sir, we have to write to the Ministries who have to get details from the source, I request for two weeks.

The Temporary Speaker (Sen. Mositet): The second statement was directed to the Chairperson of the Committee on National Security and Foreign Relations. Is the Chairperson or any Member of that Committee present in the House?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I will inform the Chairperson. I hope that he can bring a response in two weeks.

The Temporary Speaker (Sen. Mositet): Next order.

MOTION

APPROVAL OF NOMINATION OF SENATORS TO THE COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Standing Order Nos. 177(3) and 179(1), the Senate approves the following Senators nominated by the Rules and Business Committee, to be members of the Sessional Committee on County Public Accounts and Investments -

1. Sen. (Prof.) Anyang' Nyong'o
2. Sen. George Khaniri
3. Sen. Henry Ole Ndiema
4. Sen. Kennedy Okong'o Mong'are

Mr. Temporary Speaker, Sir, in the last few weeks, there have been some developments in relation to the Committee on County Public Accounts and Investments (CPAIC), a very critical Committee in this House; not that other committees are not critical but given that our principal function as the institution that oversees the use of public funds within county governments, then this Committee becomes so critical. It helps this House to do that oversight.

I do not want to belabour the developments because that is now history behind us. There were small political issues and they have been addressed. We have had to engage with my brother, the Senate Minority Leader, on how to proceed. Therefore, we have these four names because – if Members may want to know – of what had happened, some of the colleagues resigned from the Committee because of the disagreement, but now they have accepted to serve once more. I appeal for compromise because this list is a result of political compromise that has been done on both sides. I can point out just one

because I do not want to belabour the points; for example, the Jubilee Coalition felt strongly that the law and the Standing Orders are very clear; that we must retain a majority in this Committee. It is in Standing Order No.178.

We also felt that other than the position of Chairman, which is specifically provided for under Standing Order No.212 to be from the Opposition, the Vice Chairmanship should be open for election and so on. However, we have realised that sometimes it is good to make political compromise so that the Senate can function and the greater good can prevail. So, through these changes we have accepted, for example, if Members approve, we will have shared the positions between Jubilee and CORD equally, six Members from each side. That is the compromise that we have decided to make in good faith in the hope that this Committee will move fast and let the Chairperson put his House in order and consider the backlog which is pending on the Auditor-General's Reports, 2013/2014 and very soon, we will talk about 2014/2015. We cannot afford to keep the country waiting any longer.

Therefore, Mr. Temporary Speaker, Sir, I beg my colleagues to support this compromise, endorse these names and wish the Committee well.

Mr. Temporary Speaker, Sir, I thank those who served in the previous Committee, especially, the Senator for Kakamega County, Sen. (Dr.) Khalwale. I appreciate the role and the leadership he played in that Committee. It went a long way in profiling this Committee and helping this House in asserting its authority. As the Senator for Tharaka-Nithi and the Senate Majority, I am indebted. I speak on behalf of many colleagues and many Kenyans – I am indebted to those who served in the last Session and particularly the Chairman, Sen. (Dr.) Khalwale. We are grateful to each one of you.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to move. I request the Senate Minority Leader to second this Motion.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to second the Motion.

The brief history narrated by my brother, the Senate Majority Leader, is absolutely factual and true. We move and second this Motion---

(Sen. Chiaba gestured towards Sen. Cheruiyot)

Mr. Temporary Speaker, Sir, this is misconduct.

The Temporary Speaker (Sen. Mositet): Order, Sen. Chiaba.

We understand that he is excited.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, the distinguished Senator for Lamu and I entered Parliament the same day in 1993. We have been here for quite some time. He is a good friend. He got overawed by the presence of a person young enough to be his son.

Mr. Temporary Speaker, Sir, this Motion is designed to get the CPAIC back to the rails to do its work. I salute the outgoing CPAIC under the stewardship of Sen. (Dr.) Khalwale, the distinguished Senator for Kakamega, for putting the oversight activity and role of the Senate firmly on the national map. They did a sterling job. It was well received by the public and well publicized. Every single Senator who leads a delegation

into this House appreciates that, indeed, within the context of our mandate under Article 96, this House can truly hold governors to account. That is our duty. We are soon voting for more money to go to the counties. We have a duty to ensure that money is put to good use for the benefit of the people of Kenya.

Mr. Temporary Speaker, Sir, I also acknowledge the bipartisan manner in which we have approached the reconstitution of this Committee. We had ran into a quagmire with the possibility of reaching a stalemate and, therefore, paralyzing the oversight work of the Committee. Once we approve this Motion, I urge the Committee to get down to business, elect its leadership and continue with examining the reports of the Auditor-General so that we can hold those who are entrusted with administering public funds to account.

We are seeing all manner of things going on and as we hold people to account, sometimes you cannot help being unhappy with what you see. Instead of the Ethics and Anti-Corruption Commission (EACC) arresting a governor and charging him with corruption; they arrest him and charge him with obstruction. EACC is a body set up to fight corruption; not to deal with obstructions. Obstructions are the work of the police. If the Governor for Murang'a obstructed the EACC from doing their work; the correct procedure is for them to report to the police to arrest him and prosecute him for obstruction. However, it makes it look succinctly clear what PLO Lumumba said, that when he was appointed to head the EACC, he thought he was being appointed to fight corruption. He later realised that he had actually been appointed to appear to fight corruption but not to fight corruption. That is what we are faced with. Those diversionary high profile empty looking activities like arresting a governor in hospital – I thought they were arresting him because they had now fingered him on corruption; only to tell the country that they have arrested him for obstruction.

That brings us back to the House. It is only this House through this Committee that can dig into what is going on in the counties and bring it to the fore. The Committee on Implementation chaired by Sen. Orendo can routinely and regularly hold institutions that are supposed to implement our recommendations to account. Otherwise, we shall spend-like we spent-two hours talking about how governors want to hijack important public organs and organisations like the devolution conference and make it look it is like a showcase on what they have done even when they have done nothing. They will be there displaying obscenities and grandeur; very grandiose behaviour like what we saw in Kisumu. The governor had more than 15 billboards of himself in one town showing what he has done and yet he has done nothing.

I visited another county. At every turn, there is picture of a governor showing what he had launched. One was showing him launching a nursery school, commissioning a borehole and so on, with a full picture. I want this Committee to find out whether the money being used on those billboards has been budgeted for and approved by the county assemblies. I do not think any of the governors was elected to put up about 100 billboards of himself in the county. It is disheartening.

This is a matter that is not contentious, therefore, I beg second. I urge the Members to approve the list so that we get down to work.

(Question proposed)

Sen. Elachi: Mr. Temporary Speaker, Sir, I thank the Senate Majority and Minority Leaders because they have brought the House in order after they consulted. I am sure the Committee will now do its work. As the Senate Minority Leader said, we will be going to a very serious campaign in 2017. With these billboards, governors have already started campaigning for themselves. However, we need to sensitise Kenyans to understand what has been happening in the counties.

As we celebrate the third year of devolution, this Committee will have an opportunity to analyse reports from the counties. I hope Sen. (Dr.) Khalwale will support them. This committee is critical in the Senate, especially when the term of the Transition Authority (TA) has come to an end. We need to see them taking care of counties' assets and identify where they are. The Auditor General must ensure that every county has an inventory of their assets and liabilities.

The other time we saw governors pushing for more resources to be developed to counties. They were even calling for a referendum. When they put a lot of pressure on the national Government over this, issue we got worried. They know well that it is the Office of the Controller of Budget that determines the money to be allocated to each county and not them.

I beg to support.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I thank you. I also beg to support this Motion on the membership of the CPAIC. I congratulate the membership of the Committee. I thank the RBC together with the leadership of this House because the mood in this House is better than what prevailed when this matter first came up. This is evidence that when we sleep over matters, we are always in a position to resolve and that this House is a serious House as Kenyans expect.

The delay in the proper constitution of this Committee has meant that reports from the CPAIC of the last session cannot be considered. When we started this session, there was a Notice of Motion requiring the House to adopt the Report of CPAIC on the affairs of Homa Bay County. The people of Homa Bay have been waiting for it to come before the House so that they establish whether the money that was given to the county has been used properly. At the same time, there are some vultures and hyenas that rotate around the county governments. They have been happy that there has been a vacuum in CPAIC, and therefore, nobody would hold them to account. The reputation of the Senate has taken a beating. You must have seen some editorials talking about the confusion and delay in setting up of the CPAIC. Therefore, it has been a matter of national concern.

I congratulate and thank the leadership of the House for getting to a position where we have clarity. As we proceed to elect the Chairperson of the Committee, I urge that democracy prevail because, at the end of the day, all Members of this Senate are qualified. Therefore, I pray that we will not have another circus where there is a reversal of the decision that the Committee has come up with.

Mr. Temporary Speaker, Sir, I have a lot of respect for the CPAIC because it is one of the strongest tolls we have for oversight. I can cite an example that when the CPAIC visited Homa Bay County and for the first time, the county government had to sit face to

face with the then Chair, Sen. (Dr.) Khalwale, the whole town came to a standstill. The people of Homa Bay County thought that CPAIC was coming to Homa Bay County because they had a new Member of the Senate. May I tell the people of Homa Bay County that I am not the one who brought CPAIC to Homa Bay, but the Committee was doing its constitutional mandate. They were going round all counties trying to establish whether the county governments had done a good job. When CPAIC was in Homa Bay County, things changed overnight. Suddenly, people became serious. They started appearing in offices and staying in office from 8.00 a.m. to 5.00 p.m. This is because they were afraid that Sen. (Dr.) Khalwale could come anytime and find them on the wrong side.

The CPAIC is a powerful oversight tool. I hope that as it discharges its mandate, let us not forget that primary oversight lies with the county assemblies. It worries me that the Senate is capable of looking at the Auditor-General's Reports on 47 county governments and 47 county assemblies yet, the county assemblies that are looking at only two reports rarely finalize their work in time.

Mr. Temporary Speaker, Sir, I pose this challenge, particularly to my Homa Bay County, because I know the Homa Bay County Assembly Public Accounts Committee has not processed the work of the Auditor-General. Primary oversight is the responsibility of the county assembly. In my view, the Senate should undertake secondary oversight. It is not for us, as a Senate, to be the ones finding out that wheelbarrows, pens or in the case of Homa Bay that hatcheries were bought at inflated prices. Such issues should have already been established by county assemblies, so that the Senate just comes in to provide the second layer of oversight. I hope that the County Public Accounts and Investments Committee (CPAIC), as newly and properly constituted, will also find ways of empowering their counterpart committees at the county assemblies so that they do their job.

Whenever we go back to the counties and talk about poor utilisation of funds, they tell us that we were voted to go to Nairobi. Therefore, we should criticise President Uhuru Kenyatta but not governors. I pray that the CPAIC donates copies of the Constitution to all Members of County Assemblies (MCAs), particularly, counterpart members of CPAIC, so that they understand that our role as Senate is not just limited to criticising the ruling Government but it also extends to oversight over the national revenues that have been sent to the counties.

I support.

Sen. Chiaba: Asante sana Bw. Spika wa Muda kunipa fursa hii kuunga mkono Hoja iliyoko mbele yetu. Kwanza kabisa, natoa shukrani za dhati kwa Kiongozi wa Wengi katika Seneti na vile vile Kiongozi wa Wachache katika Seneti kushirikiana pamoja kuunda hii Kamati ambayo ni umuhimu sana. Viongozi wengine kama magavana wamepewa madaraka makubwa. Wametoka katika mipaka ya kuangalia haki na usawa katika kaunti zote za Kenya.

Nasema hivyo kwa sababu nikiziangitia Kaunti ya Lamu, shida nyingi zilizoko kwa sasa zinasababishwa na Gavana wetu kwa sababu zamani, ardhi ya Kaunti yetu ilikuwa ya Serikali. Miradi mikubwa mikubwa iliyofanywa na serikali zilizopita ilikuwa halali. Hivi sasa, Gavana wetu anawachochea watu kuingia kwenye mashamba usiku

kisha wadai kuwa wao ni maskwota ili wafidiwe. Hiyo inazorotesha mipangilio mikubwa mikubwa ya Serikali kama vile *the Lamu Port Southern Sudan-Ethiopia Transport (LAPSSET) Corridor* na uchimbaji wa makaa ya mawe kule Lamu. Baada ya wiki moja, alituma *County Land Board (CLB)* kuhalisha wale wahamia kwenye mashamba hayo wiki moja au mbili kuwa hao ndio maskwota waliohalishwa na lazima walipwe pesa za kutosha. Hivyo ni kuzorotesha mipangilio ya Serikali.

Kitu kingine zaidi ya hiyo ni kwamba Gavana anafanya kazi peke yake bila kushauri watu wote.

Sen. Hassan: Nidhamu, Bw. Spika wa Muda. Nimekuwa nikimsikiliza Seneta wa Lamu ambaye ametoa shutuma katika maongezi yake. Hili ni Jumba la itifaki na lazima uwe na ithibati kwa kila jambo unalosema. Amesema kwamba Gavana wa Lamu alichocha maskwota na kuwaambia wafanye vitu fulani. Ni shutuma kubwa kusema kuwa Gavana anaporomoshwa maendeleo. Sisi hapa, katika Sheria zetu za Seneti, tunasema kuwa huwezi ukataja mtu kwa namna mbaya bila ya kutoa ushahidi ua kuthibitisha kile unachosema. Kwa hivyo, ningependa ndugu yangu ambaye ni mzee wetu na sote wapwani tunamheshimu, akithibitishe shutuma hizo ama aziondolee mbali. Nimefundishwa Kiswahili na Kiongozi wetu, Sen. Wetangula.

Sen. Chiaba: Asante sana Seneta. Ninakushukuru na kukuheshimu vile vile. Mimi najua yale yanayofanyika Lamu kushinda wewe. Hiyo ni thibitisho kamili. Kisha tena---

Sen. Hassan: Nidhamu, Bw. Spika wa Muda. Hata mimi ninaweza kuja hapa na kukuambia kuwa hiki na kile kinafanyika kule Mombasa na gavana anafanya hivi na vile halafu niseme kuwa kwa vile mimi natoka Mombasa na nayajua zaidi kukuliko, hakuna haja kufafanua zaidi. Hizi shutuma kuhusu gavana, zitawekwa kwenye kumbukumbu tunazoita *the HANSARD*. Huenda zikatumiwa na mtafiti kusema kuwa hili jambo liliongelewa katika Seneti na likathibitishwa. Kwa hivyo, kuna dharura kwa sisi kuthibitisha hizo shutuma ama ziondolewe mbali.

Sen. Chiaba: Namshukuru tena. Nataka kumjulisha kwamba kuna mahali panaitwa Manda Settlement Scheme iliyoundwa na serikali zilizopita; kuanzia serikali za marais wastaafu Daniel Arap Moi na Mwai Kibaki. Walipeana hekari kumi kumi na ishirini ishirini kwa watu wengine. Hivi sasa, Gavana wetu amekuwa akibadilisha hiyo na kuanza kuwapa watu robo hekari. Hiyo itachochea watu kupigana.

Vile vile, jambo jingine linalofanyika ni kuwa kuna *settlement*---

The Temporary Speaker (Sen. Mositet): Sen. Hassan alitaka kujua ikiwa una thibitisho ama vitu kama vile cheti cha kuonyesha kuwa Gavana alimpa mtu fulani ardhi.

Sen. Chiaba: Bw. Spika wa Muda, thibitisho ni yale ambayo ninasema kwa sababu mimi ni Seneta wa Lamu. Ninajua zaidi yale yanayofanyika Lamu kushinda Sen. Hassan wa Mombasa. Sitaki niingile mambo mengi sana lakini nakuhakikishia kuwa imeshawahi kufanyika mara moja. Mabilioni ya pesa imelipwa na Serikali asubuhi na kupotea jioni.

The Temporary Speaker (Sen. Mositet): Sisi sote tunajua kuwa wewe ni Seneta wa Lamu. Ili kuthibitisha yale unayosema, unafaa kutuletea ushahidi ama cheti ambacho kitaonyesha kwamba mtu fulani alipewa cheti fulani na Gavana. Hiyo itakuwa thibitisho tosha ya kwamba Gavana alienda kinyume na mkataba. Kama hauna, kulingana na

Kipengele Nambari 94 cha Sheria za Bunge la Seneti, basi lazima uombe msamaha na kuondoa hayo matamshi.

Sen. Chiaba: Bw. Spika wa Muda, nina uthibitisho kamili. Wiki iliyopita, watu walikuwa na maandamano nami niliunga mkono kuwa maandamano hayo yalikuwa ya haki kwa sababu hawafai kupokonywa kitu ambacho walipewa miaka 15 iliyopita. Vile vile, niliwachukuwa na kuwapeleka kwa Kamishna wa Kaunti. Yeye mwenyewe alithibitisha kuwa karatasi zenyewe zilikuwa wakati wa serikali hiyo.

The Temporary Speaker (Sen. Mositet): Je, unazo karatasi unazosema zilipatikana kwa Kamishna wa Kaunti? Kama huna au kama ziko nyumbani, ni lazima kwanza ukubaliane nasi kwamba hujathibitisha hilo kulingana na Sheria zetu. Kwa hivyo, huwezi kumtaja bila thibitisho.

Sen. Chiaba: Asante sana, Bw. Spika wa Muda. Nakuheshimu na kukujulisha kuwa nitakuwa hapa miaka karibu 25. Hakuna siku hata moja---

The Temporary Speaker (Sen. Mositet): Order, Senator! I will not allow you to go on like that. You should either substantiate or withdraw. You could repeat the same remarks on the day you can substantiate that. As of now, you have to withdraw.

The Senate Minority Leader (Sen. Wetangula): Point of information, Mr. Temporary Speaker, Sir. Let me inform the distinguished Senator for Lamu that the rules of the House require you, if you do not have the substantiation on the spot, to promise the House to substantiate at the next sitting which is next week on Tuesday.

Sen. Chiaba: Asante, *Senate Minority Leader* na nitaleta uthibitisho kamili wiki ijayo. La zaidi ni kwamba, Gavana wetu hasaidii kaunti yetu.

(Applause)

Kenya Defence Forces (KDF) wameuliza sehemu ya kujenga kambi yao ili kulinda watu wetu na kudumisha amani katika nchi yetu. Kila mtu anataka amani lakini imepotea siku hizi. Jambo la kushangaza ni kwamba Gavana wetu ameandika barua kukataa ombi hilo kutoka kwa *KDF*. Nitaleta huo uthibitisho ambao pia umezungumziwa na taifa nzima.

Kwa hayo machache, ninaunga mkono Hoja hii.

The Temporary Speaker (Sen. Mositet): Ninakubaliana na wewe kwamba kikao kingine ambacho ni wiki ijayo, Jumanne, saa 2.30 p.m. uje na thibitisho zote.

Sen. Sang: Mr. Temporary Speaker, Sir, I rise to support this Motion. From the outset, I state that it is regrettable that we are in this stalemate in terms of setting up this Committee. One of the greatest Committees in this House, especially in this period moving towards the elections is this Committee on County Public Accounts and Investments. We ask the team in this Committee that they need to take their mandate more seriously and ensure that they hold many governors and county governments accountable.

You will notice that we want to congratulate this Committee. Initially, Members of the County Executive (CECs) and governors refused to appear in this Committee. It took the intervention of this House to go all the way to court to obtain orders favourable to the Committee. Now, it is a settled fact that this Committee can summon governors and anybody to appear before it. We ask them to take their responsibilities seriously

especially now that we are moving towards the elections and we are seeing serious misappropriation of resources in the counties. Most governors are preparing themselves for elections and many of them are using county resources to prepare and induce citizens and voters to support them in the next elections. We hope that this Committee, in this Session, will take up this matter and ensure that all these county governments are held to account.

Therefore, I support.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I rise to support this Motion. I thank the Senate Majority and Senate Minority leaders for having created a middle ground that has enabled us to move forward. As I thank them, I am even more glad to note that Sen. Okong'o is a proposed Member of the reconstituted Committee. To my mind, this removes any hard feelings that our colleague might have had for initially having missed out on the Committee.

I just have two comments. The first one is to my colleagues in the Committee – I am still sitting on it – and the second one is to the leaders of political parties. To Members of the Committee, you never know. There can be a temptation that because of whatever consideration like friendship and what have you, you help a certain governor who might have fallen short of glory. As you consider that, the best check is for you to know that sooner or later, your own county will come. So, would you also want a deal to be cut so that your own county is shortchanged by just one individual at the expense of millions of people? It is a very important self-checking tool that one can apply.

My final comment is to five leaders of this country namely, His Excellency President Uhuru who leads The National Alliance (TNA), His Excellency Deputy President, William Ruto who leads the United Republican Party (URP); former Hon. Prime Minister who leads ODM; His Excellency former Vice President, Kalonzo Musyoka who leads Wiper Democratic Party and the distinguished Senator for Bungoma, Sen. Wetangula, who leads FORD-Kenya. Why do I state these particular distinctions? It is because they all have governors and because we are approaching the next election, the intention is the mother hen instinct – protectionism. You want to say: "Let me be seen as a strong party leader to protect my governors who found their way into office through my party, FORD-Kenya," or whatever other party. The temptation might be, because you are very close to us you can easily intimidate us. The Senate Minority Leader is now my party leader. He can very easily want to intimidate me and make it difficult for me to be independent while in that Committee. Please, party leaders, keep out of the Committee on County Public Accounts and Investments for it to be felt and be effective.

I support.

The Temporary Speaker (Sen. Mositet): That is very good advice.

Sen. Okong'o: Mr. Temporary Speaker, Sir, let me also take this opportunity to support this Motion from the outset. Even though there was a democratic mishap, the leadership has now come to a consensus on the constitution of this Committee. Secondly, I request that the leadership of this House must consider everybody for the membership of this Committee. Maybe, Members of this Committee should be relieved from all the other Committees so that they can serve this particular Committee because of time. We are running out of time considering that the reports that we have been looking at were of

FY 2013/2014. This is a very serious consideration. The Committee can even be given two sittings a day so that we can deal with these issues.

County assemblies also need to pull up their socks. For some of us who have been in the Committee for the last three years, we have engaged with them. They are learning, though slowly, but we will be assisting them greatly.

For those governors who are running for painkillers from the courts, they need to keep watch. They can run and hide for a long time and get painkillers from the courts in terms of injunctions but at the end of the day, they will meet us at the Committee to deal with these issues.

Last but not least, at the Committee, we have been considering taking very punitive actions against governors who have squandered money from their counties. I know, with consensus, this Committee has been working very harmoniously. I hope we will do the same but we might take the inevitable high road. The governors whom we will find unfit to hold public office, I think we will have to come up with appropriate recommendations for adoption by the House to stop pilferage of public resources.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. Mositet): Sen. Muthama, nafasi ni yako.

Sen. Muthama: Bw. Spika, ninashukuru sana kwa nafasi hii niweze kuunga mkono majina ya waheshimiwa waliopendekezwa kuhudumu katika Kamati hii ya maana sana. Ninamshukuru sana Mheshimiwa (Dr.) Khalwale kwa kazi tangulizi aliyofanya wakati alikuwa Mwenyekiti. Alifanya kazi yake bila uoga wala shauku. Alitumikia taifa na kuleta Miswada hapa Bungeni kuangalia kwamba mali ya umma inatumika vizuri.

Sote tunaamini kwamba uzembe na kuharibu mambo katika taifa letu umeenea katika sekta zote. Wakati Rais Uhuru Kenyatta alipozuru nchi ya Uyahudi, alisimama na kuongea na Wakenya huko. Badala ya kuwapa salamu na kuwaeleza jinsi Wakenya tunavyoishi--- hakuweza kupata matamshi hayo. Hayo maneno hakuyapata katika fikira zake. Alienda moja kwa moja na kusema kwamba taifa letu ni kama limebarikiwa kwa baraka za jinsi ya kuiba.

Bw. Spika wa Muda, wanaoharibu na kuiba sio wageni kutoka nje. Ni watoto wetu wanaosomeshwa na mali ya umma, wazazi wao ni mali ya umma, wanawasomesha lakini mwisho inakuwa ni patashika. Kwa hivyo, ni matumaini yangu kama kiranja wa bunge ambaye nimesimama hapa, na niliweza kuchangia kuleta majina ya watu watakahudumu katika kamati hii, kwamba watakaokuja watafuata nyayo za Sen. (Dr.) Khalwale kwa sababu sisi hapa tunaweza kupiga kura moja kwamba kuna waliojaribu kumhonga Sen. (Dr.) Khalwale asiweze kuwakashifu lakini alikataa na huo ushaidi upo. Kwa hivyo, wanaoingia sasa waangalie, watunze na wafanye kazi ya wananchi.

Bw. Spika wa Muda, kazi na hesabu ya kaunti, ni ya kaunti ya kila mtu hapa. Jambo la kushangaza ni kwamba, nimetembea katika sehemu mbalimbali ya taifa letu na nilianzia kwangu Machakos na nilifikiria gavana wangu ndiye tu akifanya mradi hata kama ni nusu au robo, anabandika kibao na picha yake hapo. Katika hesabu ya pesa za umma zilizotolewa kuenda katika kaunti, hakuna maksio ya kwamba gavana aweke kibao. Magavana wamekosa heshima kwa sababu wantatumia pesa wanazopewa kutumia kwa wananchi kutengeneza vibao kwa zaidi ya Ksh200,000. Hiyo pesa inatumika kufanya siasa zao pia.

Bw. Spika wa Muda, tufikirie hapa. Kama hayati Mzee Jomo Kenyatta angelikuwa anaweka vibao katika miradi iliyofanywa na serikali yake, halafu aingie Moi miaka 24, halafu Kibaki miaka 10, na hatimaye Uhuru miaka mingine 10, kweli tutakuwa na nafasi hata ya kujenga choo katika taifa letu? Nchi nzima itakuwa ni vibao tupu vya kutangaza watu ambao hata mbele ya macho ya Wakenya hawana heshima ata kidogo. Kwa hivyo, ni matumaini na mategemeo yangu kwamba kamati inayokuja, mwenyekiti na naibu wake na wale washiriki wote wawaite hao magavana na kuwauliza pesa waliotumia kutengeneza vibao, waliuza shamba gani au walilipwa mishahara gani au nani aliwapa hizo pesa, kama ni ya ukoo yao au jamii yao? Wanafaa waambiwe waende wang'oe na walazimishwe warudishe hizo pesa walizotumia kutangaza majina yao katika taifa letu kwa sababu hii ni mali ya umma na haifai kutumiwa vibaya.

Bw. Spika wa Muda, nikimalizia, nataka kuunga mkono Sen. (Dr.) Khalwale kuhusu maneno aliyosema ya vyama kwamba kamati hii isiingiliwe na vyama na isigawanyike kwa misingi ya milengo ya kisiasa. Kuna watu wanajihisi kwamba wako upande wa Serikali na wengine wako katika upinzani. Bado ni vuta nikuvute katika mazungumzo yetu na majadiliano yetu lakini la muhimu ni kwamba, tunapovutana, ni mwananchi anayeumia. Tunataka usawa ufanyike ili kamati hii itumikie wananchi ili waweze kupata haki yao. Tuliweza kuvurugana upande ule na huu kwa majina, wengine wakahamia huko na wakapata viti huko lakini tunasema sisi sote ni watoto wa mtu mmoja, nchi moja na akili yetu na mategemeo yetu ni kitu kimoja.

Naunga mkono.

(Question put and agreed to)

BILLS

Second Reading

THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2014)

(Sen. (Prof.) Kindiki on 8.3.2016)

(Resumption of Debate interrupted on 16.3. 2016)

The Temporary Speaker (Sen. Mositet): I am told Sen (Prof.) Anyang'-Nyong'o had 14 minutes remaining. If he wishes to continue, we can allow him. In the mean time, let us have the Senate Minority Leader.

The Senate Minority Leader (Sen. Wetangula): Thank you Mr. Temporary Speaker, Sir. Fisheries in this country has been a critical department since independence. Fish farming, fishing and fisheries have always been a peripheral agenda for successive governments. It is now that for the first time, we are having a comprehensive Bill to guide the country on how to manage our fisheries. In the past, we have had very active fishing activities as it is expected along our coastline where we have very strong fishing

communities, along the shores of Lake Victoria, along the shores of Lake Naivasha, Lake Turkana and other smaller Lakes like Baringo and others.

Mr. Temporary Speaker, Sir, then came the mania of fish farming where somebody sat somewhere and thought that we have to engage in fish farming and in so doing, we saw some crudity and madness of wild expenditure of public resources. I have said here before that even if you want to do fish farming, go and farm trout on the slopes of Mount Kenya, Mount Elgon or Cherangany Hills but you do not wake up and go to some of our marginal counties including your own, Mr. Temporary Speaker. You have seen empty holes in your county where people started to go and dumped money in a county where the level of evaporation of water is 95 percent. Somebody wants to do fish farming by digging ponds and purporting to put there fish fingerlings and farming fish.

Mr. Temporary Speaker, Sir the upshot was a monstrous loss of public funds. They started fish farming in Mandera, Garissa, Kajiado, Narok and Turkana without caring. That is the culture of our country. When it is time to eat, the eating chiefs must eat, regardless.

Mr. Temporary Speaker, Sir, the comprehensive statute being debated here has to guide the country. I believe you know that the fishing that goes on in this country has never been harnessed properly to be translated into a serious economic activity. Lake Victoria, the largest fresh water lake in Africa and the second largest freshwater lake in the world, has plenty of fish. The fishing communities around the lake are the poorest people you can come across. There has been no effort to help fishermen earn a decent living from their activities. There has been no effort to help those fishermen market their products. Even as the European Union (EU) is ready to consume fresh water tilapia and other species of fish from Kenya, we have left the management of fishing products to middlemen who want to milk every single drop of blood from fishermen. Fishermen who hung precariously on the lake throughout the night to make a catch land on the landing bays and the shylocks are there waiting to take the fish virtually for free.

[The Temporary Speaker (Sen. Mositot) left the Chair]

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

Mr. Temporary Speaker, Sir, equally important is the neglect that we have visited on the fishing communities to the extent where in Tanzania, our much less endowed neighbour, the fishing activities, the protection of fishermen and the processing of fish in Mwanza, is much better than you can ever think we can do in Kenya. The Board being proposed to be set up is composed of men and women of goodwill who will help to protect our fishermen. We want to see a vibrant marketing outfit to help fishermen. Fish has been certified by medics to be almost a risk free meal. If you eat meat, there is the danger of having gout or cholesterol but fish does not have those attendant risks, hence the need to help Kenyans understand and appreciate it more.

We cannot talk about fishing in Lake Victoria without visiting the issue of Mgingo Island. Our country has treated the Mgingo Island issue with terrible neglect. In the last Government, while I served as Minister for Foreign Affairs, my President then

and the President of Uganda set up a committee co-chaired by myself, the late Prof. George Saitoti and our counterparts from Uganda. We sat and looked at historical maps which clearly indicate that Migingo Island is on Kenyan territory. We went to the Constitution of Uganda where they meticulously describe their international boundary and it puts Migingo Island on the Kenyan side. We looked at the Kenyan territorial description by colonials and we found that Migingo Island was firmly on Kenyan territory. For avoidance of doubt, we even agreed that the two governments put together international surveyors to survey our boundary from the north, where Uganda, South Sudan and Kenya confluence down to the lake, where Kenya, Uganda and Tanzania confluence. Money was put in the kitty but the survey was never completed although the money was spent; this is typical of Kenya.

Mr. Temporary Speaker, Sir, our good neighbor, Uganda, sends its army to Migingo Island at will. Sometimes, Ugandan security forces walk into Migingo Island, they collect taxes and arrest our fishermen. There is a chief there who has been arrested more times than probably any chief anywhere in the world. As this is happening, the Government of the Republic of Kenya went against good advice from some of us; we told the Government to deploy some marine detachment at Migingo Island. The work of our navy is to carry out their maneuvers on water. Lake Victoria is a water mass. They should take one small ship and put it in Migingo Island to protect our fishermen. It has been proven that around Migingo Island is where there is the highest concentration of fish within the lake. It takes six hours for Uganda Navy on Lake Victoria to travel from their base in Entebbe to reach Migingo Island. It takes 30 minutes for Kenyan Navy to travel from Karungu to Migingo Island. Ugandans do their six hours every day to come and arrest our people but Kenya cannot do 30 minutes to go and protect our fishermen. This is a terrible indictment of ourselves as a country. If we cannot protect helpless fishermen, who else can we protect? No wonder the Jubilee Regime is busy stealing every morning, afternoon and night. If it is not Eurobond, it is the National Youth Service (NYS) saga or the laptops project. They cannot protect Kenyans. Our fishermen are at the mercy of our neighbours.

How can we talk of promoting fishing as a viable economic activity capable of putting money in the pockets of people, when we cannot protect the primary actors in the industry? Fishermen go to the lake without life saving equipment. Nobody is bothered about standards. What country are we building? We tell this Government that its duty is either to govern us or get out of office. It is better for Kenyans to run their country. Look at our boys being killed in Somalia like flies. Operation *Linda nchi* has now become operation occupy *nchi*. The President of Somalia can announce the casualties of Kenyans who died in El Ade. The President of Kenya cannot announce the number of casualties of his own people. Somalia, a country at the mercy of Kenya to be helped to come to normalcy, the only failed State in the world, is doing better than us.

My distinguished young colleague who has come in from Kericho, tell your mandarins in Jubilee that they have lost direction and network. They can hire six helicopters and run all over helter skelter but they cannot protect Kenya. As we talk about fishing, we must protect our territorial integrity. Part of our largest fishing arena is the Indian Ocean. Somalia is claiming half of our marine territory. When I was a Minister for

Foreign Affairs, I complied with the African Union (AU) requirement and had our maritime boundary extended under the auspices of the United Nations (UN) direction for an extra 245 kilometres running latitudinal from our confluence of the boundary with Somalia across the ocean. Somalia is now claiming that at the elbow of Kipini, the boundary must run longitudinally. That means that Kenya is going to have such a small maritime territory.

Mr. Temporary Speaker, Sir, how can Somalia threaten Kenya yet what we see is a conspiracy of silence? Knowing the kind of corruption that is running through this country, probably somebody is making money on the Somali claim to keep quiet and say nothing. The world over, you establish your legitimacy on territory with presence. Somebody does not claim that your part of the territory is theirs and you run to The Hague court to file a case and you do not even have presence in the territory.

When Nigeria and Cameroon went to the World Court to fight over the Bakassi Peninsula, the big question was who was present there. It was established that the Bakassi Peninsula was occupied by Cameroonians. They had their police officers and other things there. Nigeria was trying to bully them. The World court ruled that on the basis of presence, occupation and historical data which was the third limb, the territory belonged to Cameroon.

Somalia is now claiming our maritime area belongs to them and yet we have no navy officers there patrolling and warning Somali bandits, that if they go there, they will torpedo their boats. Nobody is talking. All we hear is the Attorney General saying that we are going to The Hague which does not give anybody territory. You have to occupy your territory. Our fishermen are routinely arrested and terrorized as they fish in our territorial waters in the Indian Ocean and yet we have a Government in place. Kenyans pay taxes which must help protect them. We can now see through very opaque procurements that they are busy buying armored vehicles for police officers. Armored vehicles are not for police officers, but they are meant for the army. Police officers should be trained well, have sufficient numbers, integrate them in population and use intelligence. Armored vehicles do not gather information about criminals. Intelligence is what infiltrates criminals to have them arrested. Which robber will stand on the streets to wait for an armored vehicle to come and burst him? We have our priorities upside down.

Mr. Temporary Speaker, Sir, fishing in this country has made certain categories of people billionaires while the fisherman at the shores of Lake Victoria cannot afford school fees for his children. All this is because of lack of policy and programmes by the Government. A good Government would have set up decent landing bases and cold rooms so that when a fisherman arrives in the morning from the lake, his *Omena* goes to the women who go to sell it because nobody exports it. The rest of the catch is weighed and they are given their record and then the Government takes responsibility from there on, marketing and paying the fisherman value for money.

Mr. Temporary Speaker, Sir, we have systematically destroyed every production sector in the country; for example, coffee is gone. You and the young Senator from Kericho County will be shouting yourselves hoarse that you are Jubilee; you can see what is happening in the tea sector. Bonus to your farmers is half what other farmers are getting and yet you are busy clapping and saying: “*Sisi ni Jubilee. Tutatawala milele*”.

Mtatawala milele gani na watu wanaumia?” You must represent your people. Shouting that you belong to Jubilee Coalition will not help a tea farmer get his or her rights? We have seen questions here about the banks. For example, Imperial Bank has gone under with money that belongs to tea farmers. It went under which Kshs3 billion of farmers' money was stashed in an unstable bank without authority and yet nobody has been arrested, questioned or opened a file on the people at the Kenya Tea Development Authority (KTDA). Who gave them authority to deposit farmers' money in an unstable bank? The tea farmers in Kericho and Nandi County are suffering. Your duty as representatives of the people is to ask even the difficult questions to the side that you belong to. At the end of the day, your duty is to represent, legislate and oversight.

We want to see the management board being proposed to be a representative of the people of Kenya. You have seen the disheartening things that the Jubilee Government is doing. On Friday, seven appointments were made by the President; four from the President's community and three from the Deputy President's community. Some of the appointments were as a reward for those who helped to campaign for our brother from Kericho County.

The Temporary Speaker (Sen. Sang): Order! Senator, which appointments are those? Could you substantiate?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, these are appointments of people like Hon. Franklin Bett. It is public knowledge.

The Temporary Speaker (Sen. Sang): You mentioned that seven appointments were made; four from one community and the other three from another community. Could you table the list to confirm the same?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, I can bring the list at the next sitting because it is public knowledge. In fact, it was followed by a further appointment of Mr. Eric Kiraithe, the police officer, to make five appointments from the President's community. I will bring it on Tuesday.

The Standing Order No.94(2) requires that if I am challenged to substantiate, I must produce evidence. What I am wondering is whether the Chair is challenging me or a Member has risen on a point of order to ask me to substantiate?

The Temporary Speaker (Sen. Sang): Just bring the evidence on Tuesday, next week.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I want us to remember procedure that the Speaker does not see. The Speaker is prompted to see. I am worried. Who prompted the Speaker for him to demand that Sen. Wetangula substantiates his claim that appointments were made of seven officers. Five of them were given to one community and another two to another community? The Chair's demand is fair, but who demanded for that substantiation? If that is the case, do you think that your directive that Sen. Wetangula comes with that list next week still holds?

The Temporary Speaker (Sen. Sang): Sen. (Dr.) Khalwale, what Standing Order are you referring to?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I have not bothered to go through the Standing Orders. However, Standing Order No.1, speaks to traditions, customs and usages. That has been our tradition and custom in this House. It is important

that we remain a House of rules.

The Senate Minority Leader (Sen. Wetangula): Indeed, since I entered Parliament in 1993, this is the first time the Chair is requiring me to substantiate. Normally, it is just like when the Chair is seated, he is completely oblivious to matters of quorum unless somebody brings to the attention of the Chair that there is an issue of quorum in the House.

The Temporary Speaker (Sen. Sang): So, we still proceed under Standing Order No.94. You had already made a commitment that you will do that. Standing Order No.92(1) states:-

“A Senator shall be responsible for the accuracy of any facts that the Senator alleges to be true and may be required to substantiate any such facts instantly.”

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I will do that but I do not know if you seriously want to go that route. I will do that.

The Temporary Speaker (Sen. Sang): Perfect.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, but I will bring much more damaging information than what you are probably seeking to protect. We have the facts.

The Temporary Speaker (Sen. Sang): Order, Senator! The Senator is not protecting. I have just requested you, according to that Standing Order, to proceed and on Tuesday provide that information.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I will not only bring the five names, I will bring many more names.

The Temporary Speaker (Sen. Sang): I order you to provide what is required here.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, it may probably make the Chair very uncomfortable.

The Temporary Speaker (Sen. Sang): Order, Senator! The Chair is giving directions. So you will provide evidence---

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, in any case, there is---

The Temporary Speaker (Sen. Sang): Order, Senator! I am giving you directions.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, in Parliament in the 1970s, hon. Jean Marie Seroney, one of the most respected legislators and parliamentarians this country has ever produced, was sitting in the Chair. One of the most distinguished debaters in our history, the late hon. Martin Shikuku, made a statement to the effect that the Government of the day was trying to kill Parliament the way they had killed KANU. A Member challenged him to substantiate. I invite you to go to the annals of history and remember the words of hon. Jean Marie Seroney who happens to come from the county you represent. He ruled that under conventions, precedence, rules of debate and rules of procedure, a Member cannot be required to substantiate the obvious.

Mr. Temporary Speaker, Sir, even as I am willing to comply, as a lawyer you know what we call judicial notice, matters of public notoriety and matters of public

domain. Who does not know that in this country that the President and his deputy share out appointments to the exclusion of other communities all the time, then blend it with one or two fellows from here and there; maybe one *Mmeru* from Tharaka-Nithi.

The Temporary Speaker (Sen. Sang): What is it, Sen. (Prof.) Kindiki?

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Temporary Speaker, Sir. I have just been notified by Kenyans who are watching the Senate proceedings that something totally peculiar is happening. When I entered the Chamber, I had the privilege to listen to my brother. Is he in order to mislead this country? Is he in order to take advantage of a very solemn responsibility of debating the Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014) to politically attack communities and people who are not here to defend themselves? In particular, I would request the Chair to direct the Senate Minority Leader either to substantiate that all appointments in Kenya are shared between two communities; which is not true, not even in the last set of appointments he is talking about. Could he substantiate? If he does not, could he withdraw? He is the Senate Minority Leader.

The Senate Minority Leader is the leader of Opposition, but that does not mean he should use the privilege on the Floor to politic and mislead Kenyans instead of debating the proposed Fisheries Management and Development Bill. This Bill is trying to correct the anomalies that his colleagues caused this country when they were heading the Ministry of Livestock and Fisheries.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, the danger of jumping into a fray without knowing where it started is that, you can end up being bruised badly.

I said there is a Board proposed in this Bill. I went further to say in composing such a Board, I want us to move away from what we have seen happening. On Friday and Saturday morning, appointments were carried widely in the media. They were seven appointments. Three were from one community and the rest were also from one other community. They were followed by additional appointments of a new government spokesman from the same community. These are facts, but I have no difficulty with some of the appointees. Hon. Frankline Bett is my friend because we were in the same university though he was ahead of me. Mr. Eric Kiraithe who has been appointed the Government spokesman is my friend. I have no problem with him too.

Mr. Temporary Speaker, Sir, what my brother did not understand is that most appointments---

Sen. (Dr.) Khalwale: On a point of information, Mr. Temporary Speaker, Sir. It will help the Senate Majority Leader to note that he stepped in when we were almost at the end of this point of order. It has been well calculated, debated and directions have been issued by the Chair that substantiations are to be made on Tuesday, next week.

However, when the Senate Minority Leader rose, he said that since there is a Board to be established by the Bill, he hopes that the new membership will be based on the face of Kenya.

Therefore, the Senate Minority Leader need not wait for Tuesday, next week, because there is an example of a Board that was formed called National Oil Board. The members are all qualified. They come from two communities. The first community has

the following members:

1. Daniel Wamahiu
2. Andrew Kamau
3. Kamau Thuge
4. Stanley Kamau
5. Timothy Muraya
6. Margaret Kinuthia
7. Samuel Kagunga
8. Timothy Macharia

The other community has two members namely:-

1. Dr. Joseph Rotumoi
2. Benard Kitur Rono

Mr. Temporary Speaker, Sir, that information helps you to send home the message that, yes, there should be a Board, but it should be composed of Kenyans.

The Senate Minority Leader (Sen. Wetangula): Thank you, Sen. (Dr.) Khalwale. I do not think the Chair requires me to bring more information on Tuesday. However, I will comply with the order.

The Senate Majority Leader (Sen. Kindiki): On a point of order, Mr. Temporary Speaker, Sir, the information by Sen. (Dr.) Khalwale has just confirmed my hypothesis. I agree with the Senate Minority Leader that because I was not here when the discussion was starting, I stood a big risk of---

The Senate Minority Leader (Sen. Wetangula): Of being bruised!

The Senate Majority Leader (Sen. Kindiki): Mr. Temporary Speaker, Sir, not really of being bruised. We are rarely bruised. We are told long time ago, the chicken used to eat the mongoose and the assumption was that the chicken had teeth. So, what happened is that, one cockerel was late and that he was not there when the decision was made that when they go to the meeting, they should not laugh. So, since it was not there, it ended up crowing. When it crowed, the mongoose discovered that the chicken did not have teeth; that is how the reverse happened.

I stood a big risk of doing the wrong thing. However, what Sen. (Dr.) Khalwale has said in the pretext of providing information has confirmed that, what the Senate Minority Leader and the opposition is trying to do, is to mislead the people of Kenya that by getting a list of either seven Kenyans of a particular Board, then there is diversity.

Mr. Temporary Speaker, Sir, the Constitution and the law - for purposes of record - is clear that the issue of national diversity should be looked at in the context of an entire organisation or arm of government. It does not say every time you release two names, then national diversity would be there. How do you make sure the face is reflected in two names?

Therefore, Mr. Temporary Speaker, Sir, is the Senate Minority Leader in order to be assisted by the Senator for Kakamega to mislead Kenyans that by isolating one committee, you can prove that the face of Kenya has not been adhered to?

Mr. Temporary Speaker, Sir, you have already directed that evidence be provided and this is important because we are also Kenyans. We will want the right thing done by the Government because governments come and go but the country remains. The issue of

diversity can only be proved to have been breached if the Senate Minority Leader provides a list of all appointments that have been done by the Government on Tuesday. He could, for example look at appointments in parastatals and then use that as a basis of saying that it is only two communities that have been appointed to offices.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, our understanding during this debate was that the Senator for Tharaka-Nithi stood to challenge the information I had given Sen. Wetangula. If he rose to challenge that information, he should have told us what is wrong or that there is a lie in this list of the board of directors of the National Oil Board, and that we are misleading the nation. I have read out actual names of qualified Kenyans from only two communities. What is wrong with it? You should rule him out of order because he has not sufficiently---

The Temporary Speaker (Sen. Sang): We have to make progress on this one. Lastly, Sen. (Prof.) Kindiki.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I think I have not been understood by my brother. I was not trying to challenge what he has provided. Of course, he has the list in his mobile phone and I do not know where it is from. However, assuming the list is correct, the National Oil Board is not the only board in the parastatals of Kenya because there are hundreds of parastatals in this country. If you want to talk about the diversity of Kenya, you should take all the over 300 parastatals and look at the constitution of the boards. In totality, you could say that these counties or regions have not been reflected in the appointment. You cannot take one board and use it as a basis of arguing about national diversity. It is in the context of the entire appointments among the parastatals.

The same applies to the Judiciary. You could have more women or people from one region in certain offices of ranks. However, the totality of all staff in the Judiciary, for instance, must reflect national diversity, gender and other considerations that are in the Constitution and the law.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, a writer called Molière said most patients do not die from the diseases they suffer from but from complications arising out of the treatment of the diseases they suffer from.

Mr. Temporary Speaker, Sir, you directed me to confirm appointments that were made on Friday, carried on Saturday and loaded on the appointment of Mr. Kiraithe and I will do that. If it is the desire of my distinguished colleague and the Senate Majority Leader that I bring the totality of appointments, I am very happy to do that. My brother is a professor of law. The National Cohesion and Integration Act says that no single community shall occupy more than one third of any appointments in any particular entity but not the totality of Government.

No single community should take more than one-third of any appointments and leadership in any entity. In what Sen. (Dr.) Khalwale has read here, one community has taken 70 per cent and the other one has taken 30 per cent. We can isolate and bring the list right from the Cabinet Secretaries (CSs) and Principal Secretaries (PSs) down to everywhere. If that is the route that you want to go, we are quite happy to do that. We are ready to let the chips lie where they fall. I can assure you that it will be like the case of a doctor who went to amputate a cancerous leg of a patient and locked himself in the

theatre. At the end, he emerged and said, “I have a problem. One, the operation was successful but two, I realised after the successful operation, that I cut off the wrong leg.” I do not know if my brother has to cut off the wrong leg.

(Laughter)

Let me go back to where I was. This Board must represent the face of Kenya.

Mr. Temporary Speaker, Sir, I urge the Senate Majority Leader, for example, in Clause 8, fisheries is an activity that must address the issues of fishermen. Why would you want to put in the law that the headquarters of fisheries shall be in Nairobi where there is no fish?

(Laughter)

Honestly! At the Committee Stage, we must bring an amendment to either have the headquarters at the coast or even Homa Bay, Port Victoria or Sio Port. Why would you want to have the headquarters of fisheries, dealing with matters of fishermen, in Nairobi? So, a fisherman who has a difficulty on the shores of Lake Baringo, Kiunga or Vanga should come to Nairobi? With devolution, we must contextualize what we are doing so that we help the people that we want to help.

So, I still propose that the members of the board must be drawn from --- I want to see a Turkana and even an El Omolo, for the first time, on aboard. I want to also see a person from Tharaka so that when you go to Meru, you do not begin and end with Imenti. You can also look at Tharakas and put one on the board. We want to see a Njemps on the board. I would have no difficulty at all if we can go that way. Tharakas also supported Jubilee. Was there any Tharaka in those names that Sen. (Dr.) Khalwale read?

(Laughter)

We must make our country better.

On a serious note, we also want a serious marketing arrangement for fishermen. It is not enough to fish. The Government must be proactive, sign agreements with the European Union (EU) and make sure hygiene standards are adhered to. Now that we have international airports in Kisumu, Mombasa, Malindi and Eldoret, soon we hope with oil finds and so on, we will have an international airport either in Loyangalani or Lodwar so that fish from Lake Turkana can be exported to the deserving markets so that the fishermen can also get value for their sweat.

Mr. Temporary Speaker, Sir, when my brother from Tharaka stood up to challenge me, I thought he was going to boisterously argue and prosecute a case for farming of trout in the Mt. Kenya region. We used to have very good trout coming from those swift streams that flow from Mt. Kenya and most of which run through your county, Kirinyaga and Embu counties. However, there is hardly anything towards Isiolo and Nyeri counties. Now, there is no trout. When you go to any first class restaurant in Nyeri, you cannot get trout because fishing there has been killed. I hope this will help to

revive the industry so that people can be able to make their living.

Finally, Mr. Temporary Speaker, Sir, I want to see counties that have fishing potential also take advantage of the new environment within the context of devolution. If you go to the counties today, every governor is struggling to put up streetlights because it is easy to eat from that. Everywhere you turn, they are putting up streetlights. They single source. They do not put up adverts for people to compete so that they award the tender to the lowest bidder. However, if you tell them that since they are in a well watered area, they should help establish fish farming, because there is no eating there, they will not go there. We must have our priorities right.

Mr. Temporary Speaker, Sir, I support this Bill to the extent that it is a good idea which we will have to look at closely at the Committee Stage so that we can make it better to benefit the people of Kenya.

I beg to support.

The Temporary Speaker (Sen. Sang): Thank you, Leader of Minority.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. I am glad that, finally, the Leader of Majority has seen the wisdom of sitting in the Chamber, but unfortunately, my pleasure is quickly eroded by his own confession that he did not come to listen to the debate but because he was provoked by a Kenyan that there was an interesting debate going on in the House.

Mr. Temporary Speaker, Sir, may I inform him under parliamentary practice the meaning of “May the mover respond”, means that the mover, throughout the report has been listening to the contributions, now he is responding--- *Sisi tukiwafundisha hii vitu hamtaki kusikia.*

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order Mr. Temporary Speaker, Sir, I know the *bullfighter* Senator for Kakamega is unhappy that I have come back. I was just taking tea in the lounge. Is he in order to mislead Kenyans further by suggesting that we have not followed the debate? In any case, the office of the majority Leader is an institution. This Bill was moved by the Deputy Leader of Majority but we have been taking turns to listen to the debate and follow it. Is he in order to mislead Kenyans that there is a gap in terms of following up the debates of this House and is he in order to pretend that he sits here daily from 2.30 p.m. to 6.30 p.m?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I did not intend to impute any improper motive on the Leader of the Majority who is my leader in this House. But I wanted to remind him that there is meaning to that phrase “May the mover respond”. One of the best leaders of the majority in the history of this country was Martha Karua when she was the leader of Government Business. She painstakingly did her work so much that she ended up having a condition called *lumbago*. They had to create a special sit for her because she had sat in the Chamber for too long. But that is not important. What is important is that there is a new young Member here, the distinguished Senator from Kericho. Please, do not learn their manners. They have bad manners.

(Laughter)

I, therefore, want to support this Bill. I can see I do not have much time, so let me

go to the Bill itself. Having read it, I am happy with it. I would like you to reflect on Clause 11 (c) which forms the membership of the Board. In Clause 11(1) (c), after the members that are to be appointed by the President, you have then given five members in (c) to be appointed by the Cabinet Secretary. Leader of Majority, I would like you to amend it. That opportunity should be given to the Council of Governors (CoG). Reading this Bill, in its fullness, it tries to have an intergovernmental set of structure. Therefore, if it is the President appointing those members in (a) and (b), then, the members in (c) are appointed by the Cabinet Secretary, where do you leave the CoG, in view of the fact that fishery is a fully devolved function under the Constitution?

Having said that, allow me to make the following general comment. First, I want to congratulate Prof. J. M Ntiba, who I believe is a distant cousin of the Leader of the Majority. Since he came into this Ministry, after being appointed by President Kibaki, he revolutionized fishing industry in this country. In fact, we give him credit for coming up with the fish ponds that were not successful. I want professor to know that the noble thing failed because he failed to follow it up with legislation. If there was legislation, he would not have taken fish ponds to places like Kieni, where there is no rain. Obviously, the water dries up and the fish dies. He is the one who brought those things using the economic stimulus.

I support this Bill because it will support development, governance and investment into oceans and fishery resources. This is a noble thing. One can begin to see the importance of fish when you remind them about the history of the United States of America (USA) and the United Kingdom (UK). In the UK, fish is such a critical entity. There is a phrase in good English, that when you tell somebody something that they think does not matter a great deal, they tell you; "after all, what you have said does not change the price of fish".

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

Sen. (Dr.) Khalwale: Inform me, my able Leader of the Minority.

The Senate Minority Leader (Sen. Wetangula): That point is so important. In the UK, they have a Ministry called the Ministry of Agriculture, Fisheries and Food. Fisheries, is given a critical distinct component in the structure of Government.

Sen. (Dr.) Khalwale: Thank you for making me richer in knowledge. If you visit the head office of the State in Boston (USA), you will find that in the office of the governor, they have a big symbol of a fish to demonstrate the seriousness of fish in the lives of the people that are governed by the governor. I support this Motion because there is a deliberate attempt to align the governance of our fishing industry to regional and international instruments. The importance of this alignment is as follows; the regional instrument in the East African Community (EAC), you will find that the easiest thing a Luo, Kuria or Luhya fishermen fishing in Lake Victoria can expect is to be harassed. In Mgingo Island, that harassment climaxes into what the Leader of Minority said. What a shame? President Museveni said Mgingo is in Kenya but when you drop in the water---

The Temporary Speaker (Sen. Sang): Order Senators. Sen. (Dr.) Khalwale, you will have nine minutes to contribute to this Bill the next time it appears on the Order Paper.

ADJOURNMENT

The Temporary Speaker (Sen. Sang): It is now 6. 30 p.m, time to interrupt the business of the Senate. The Senate stands adjourned until Tuesday, 22nd March, 2016 at 2.30 p.m.

The Senate rose at 6.30 p.m.