

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 17<sup>th</sup> September, 2015

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

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

### PRAYERS

### PETITION

#### HEAVY BLASTING AND DUST FROM A QUARRY IN TARU LOCATION, KWALE COUNTY

**The Speaker (Hon. Ethuro):** Order, Members! I have a Petition to the Senate by the residents of Taru Location, Kinango Sub-county, Kwale County, on the heavy blasting and dust from a quarry near Taru Trading Centre.

We, the undersigned residents of Taru Location, Kinango Sub-Location, Kwale County, wish to draw the attention of the Senate to the following:

1. THAT, we are aware that pursuant to Article 42 of the Constitution, every person has a right to a clean and healthy environment, including the right to have the environment protected for the benefit of present and future generations through legislative and other measures.
2. THAT, there are quarrying activities being undertaken at a quarry near Taru Trading Centre which are adversely affecting residents of the area due to negative physical, health and environmental impact resulting from the activities.
3. THAT, due to the quarrying activities:-
  - a) almost all buildings in Taru Location have developed cracks and if the activities continue, the damages will be irreparable;
  - b) there is a lot of dust which has led to upper respiratory tract infections and eye problems to the residents; and,
  - c) the residents of Taru Location have developed ear problems due to the noise pollution and the ecosystem has also been negatively affected.
4. THAT, we do here confirm that efforts have been made to address the matter with the Kwale County Government, the National Environment Management Authority (NEMA) and the involved company and have failed to give satisfactory responses.

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5. THAT, we do here confirm that the issues in respect to which the Petition is made, are not pending before any court of law, constitutional, or legal body. WHEREFORE, your humble petitioners pray that the Senate intervenes and –

- (i) investigates the matter with a view to having the quarrying activities that are going on stopped;
- (ii) requires the company that is undertaking the quarrying to compensate all the affected residents; and,
- (iii) requires the company that is undertaking the quarrying to rehabilitate the dilapidated environment.

The Petition is signed by 54 residents, dated 12<sup>th</sup> July, 2015.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Zani Agnes Philomena.

*(Laughter)*

**Sen. (Dr.) Zani:** They are all my names in the correct order.

Mr. Speaker, Sir, I just want to stand in solidarity with these petitioners on this Petition that has come from Kwale County that is on a very key and important issue. We wonder, especially in the light of having bodies like NEMA, for example, and the extent to which residents and communities still have to suffer because of exploitation of resources in those counties.

Whereas we know, through exploitation of those resources, there should be gain, what we are seeing more and more is the flouting of specific provisions that have been given, for example, even regarding quarrying. When it comes to things like blasting, it is meant to be done very far off, away from areas where people live, because the drastic effects of all these are very well known and have been very well documented. It is very bad when communities have to be put at risk because the natural resources that should bring them gain is what is being used to their disadvantage.

The petitioners are very clear on the disadvantages and we hope that this Petition can be handled expeditiously. Apart from the residents of Taru, there are other residents also in areas where the exploitation of natural resources is causing much headache in terms of health and opportunities. We gather from the Petition that even houses have developed cracks. We are going to have a catastrophe in Kwale because those buildings will come down and kill people. Is that the time when we will act?

I am happy that this Petition has come because I am sure that the Senate will look at it and give a good way forward for the people of Kwale County.

Thank you, Mr. Speaker, Sir.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I want to support the Petition and say that similar actions or grievances have been in Makeni because of the Standard Gauge Railway (SGR), where the contractor is blasting rocks and blowing dust next to schools and homes. People can no longer cook or have quiet time at home at night.

Mr. Speaker, Sir, since it will take 60 days before the Petition comes back to us for determination, at the first instance, I thought and would ask that you issue directions, that the NEMA report issued to this contractor be tabled in the Senate. This is because that itself will tell us whether or not an environmental impact assessment report was prepared before this contractor was allowed. I say so on the strength that when I first

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joined the Senate, I requested for a statement with regard to the logging of trees in Makueni. Because of the environmental impact assessment report that was not done, we stopped logging of forests. So, I would urge that as you commit this Petition to the relevant Committee, the NEMA approval be brought to this Senate before we get the answer.

Thank you.

(Applause)

**Sen. Obure:** Mr. Speaker, Sir, this Petition has been signed by 54 people, but I am sure that the number of people affected by this menace is far bigger than the 54 who have signed this Petition.

Mr. Speaker, Sir, we know that the materials being exploited are important and required for the development of important infrastructure, in this case, the SGR. But it is important to know that the safety, welfare and health of our people are more critical than even the development of the infrastructure. I also know that the contractors may have been given specific conditions before they embarked on the exploitation of these resources, but many times, there is no follow up. They infringe on those conditions.

I want to urge that even as this matter is going to be referred to the relevant Committee, the Committee should do its work faster so that we can avoid the suffering of more people affected by this project.

Thank you, Mr. Speaker, Sir.

**Sen. Okong'o:** Mr. Speaker, Sir, let me also take this opportunity to support these petitioners. The rampant degradation of the environment and other hazards in this country is huge. Maybe the NEMA is sleeping on its job.

Recently, in Laikipia County, three children died in a quarry which was left unattended to. We have raised so many issues in this House, for example, where in Nyamira County a contractor went to a catchment area and constructed without NEMA intervening and enforcing such requirements. I, therefore, request this House, as the defender of devolution, to consider maybe having a select committee which will visit the entire country and look at the issues and especially, educate the county assemblies. This is because some of these matters are supposed to be addressed by the county assemblies. But since we understand their teething problems in grasping some of these issues, it is important that we also play our role.

Thank you, Mr. Speaker, Sir.

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, I stand to support this Petition and urge that action be taken expeditiously. The NEMA was established in good faith and with good intentions, but I think that organization is not doing its job at all.

Before the commencement of any major project, there is supposed to be a report prepared by NEMA. Sure, enough, they do actually give a report, but it looks like these reports are just for the sake of the contractor or whoever is building to go ahead. In that Petition, they have also cited the aspect of buildings in the neighbourhood developing cracks. For a building to develop cracks due to blasting, it means that the shaking or vibrations have affected the foundations. It is not just on the walls that the cracks are happening.

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This means the contractors will do their job and go away leaving behind an everlasting problem to the people of that area. We need to revise the mandate of the National Environmental Management Authority (NEMA) so that not only do they look at the possibilities of these activities affecting the residents but also what happens after the construction process is finished. You will find that quite often, a road is constructed, the quarries are dug but after the constructors go away, the pits where they dug are left open and there is no NEMA report of what will happen so that they reinstate the ground as it was.

Thank you.

**The Speaker** (Hon. Ethuro): I had said finally. I do not know whether Sen. (Prof.) Lesan heard me.

**Sen. (Prof.) Lesan:** Thank you, Mr. Speaker, Sir, for considering me in making a contribution on this. I also wish to support this Petition and suggest that in this country, we know NEMA is not doing as we would want it to. There is a body for disaster management in this country. I think some of the disasters in this country are manmade, they are designed by our negligence and it is important that we consider this as a disaster.

There are things that do not wait like the infectious diseases arising from this dust. They cannot wait for the Petition to go through until we give a resolution after several months. I think it is important that the Disaster Management Agency be involved in looking at some of these issues even as NEMA continues to make its erroneous judgments on the issue of the people's health.

Thank you.

**Sen. Sijeny:** Thank you, Mr. Speaker, Sir. I wish to support this Petition and applaud them because these Kenyans have chosen to follow the right channel; non-violent and very professional ways of solving their problems. I am sure after this Petition is determined in detail, these problems will be sorted out once and for all. The people will be given a chance to consider the challenges NEMA is experiencing, if any. This is dealing directly with *wananchi* or what we call "Wanjiku". It looks at their health, economic and social status which cannot be ignored because we are pro-poverty. We are trying to eradicate poverty and if the innocent or poor *wananchi* in the rural areas cannot enjoy their peace quietly, then why are we here as leaders? It cannot be accepted. I support and believe that we will get the final answer or solve the dispute.

**The Speaker** (Hon. Ethuro): Order, Members. According to Standing Order No. 227 (1) (2), we will refer it to the Committee on Land and Natural Resources and they have not less than 60 days to report. For the matter raised by Sen. Mitula Kilonzo Jnr., on the production of the Impact Assessment Report, I will order the Chair of the Committee, and I can see the Vice-Chair is present, that the report should be tabled before the House on Tuesday next week.

**Sen. Khaniri:** Mr. Speaker, Sir, we will take your directive but I am not really sure if the report is ready, but let me make a commitment that if it is not ready, we will report back to the House.

**The Speaker** (Hon. Ethuro): Order, Sen. Khaniri. Do you know what you are referring to? The report to the Petition; you have up to 60 days. This is the report on the Environmental Impact Assessment, if any, as requested by Sen. Mutula Kilonzo Jnr. in his contribution to the Petition. That is the one I have directed to be brought on Tuesday.

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Next Order!

### PAPERS LAID

ANNUAL REPORT OF THE NATIONAL COHESION AND  
INTEGRATION COMMISSION: JULY 2013 TO JUNE 2014

**Sen. Wako:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table:-  
Annual Report of the National Cohesion and Integration Commission: July 2013  
to June 2014.

*(Sen. Wako laid the document on the Table)*

THE ANNUAL REPORT OF THE MINISTRY  
OF INFORMATION COMMUNICATION AND  
TECHNOLOGY FOR THE YEAR 2014 TO 2015.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I beg to lay the following Paper on  
the Table of the Senate:-  
Annual Report of the Ministry of Information Communication and Technology  
for the year 2014 to 2015 dated August 2015.  
Thank you.

*(Sen. Mutula Kilonzo Jnr. laid the document on the Table)*

### NOTICES OF MOTIONS

ENACTMENT OF LAW TO ADDRESS  
HISTORICAL LAND INJUSTICES

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

THAT, whereas the National Land Commission was established following the  
enactment of the National Land Commission Act, 2012, to, among others, give effect to  
the objects and principles of devolved government in land management and  
administration;

NOTING the principles of land policy as set out in Article 60 of the Constitution  
including equitable access to land and encouragement of communities to settle land  
disputes through recognized local community initiatives consistent with the Constitution;

RECOGNIZING that land ownership and utilization is at the centre of many  
interpersonal and community conflicts in the country since Independence;

ALSO NOTING that section 15 of the National Land Commission Act mandates  
the Commission to recommend to Parliament appropriate legislation to provide for

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investigation and adjudication of claims arising out of historical land injustices for the purposes of Article 67 (2) (e) of the Constitution;

FURTHER NOTING with concern that the envisaged legislation has not been enacted five years after promulgation of the Constitution;

AND NOTING that historical injustices on land matters was among the main justifications for the new Constitution; this Senate urges the National Land Commission to urgently recommend to the Senate a Bill to address historical land injustices to provide a framework to ensure that land is properly utilized for the economic benefit of the affected communities.

Thank you.

#### POLICY INTERVENTIONS TO MITIGATE TRAFFIC CONGESTION IN NAIROBI METROPOLITAN REGION

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

THAT, AWARE that traffic congestion in Nairobi Metropolitan region is increasingly becoming worse leading to increased costs, longer travel times, constrained economic productivity and adverse health and environmental externalities;

CONCERNED that the economic cost of the congestion is estimated to be Kshs.1 billion annually on account of wasted man-hours and wasted fuel due to vehicular queuing;

APPRECIATING the Government's effort in mitigating the problem by expanding infrastructure and initiating other interventions such as installation of traffic lights in the Central Business District; the Senate now calls upon the Government to consider formulating additional policy interventions to mitigate the problem by:-

1. Enacting legislation to allow only high capacity public transport to operate in the city; and

2. Creating regulations to:-

- a) Require all deliveries to business premises to be done at night;
- b) Require construction on roads that are in use to be done at night; and
- c) Reroute heavy commercial vehicles to use the bypasses

Thank you.

**The Speaker** (Hon. Ethuro): Next Order.

#### STATEMENTS

##### DETENTION OF MR. DON BOSCO OOGA GICHANA IN ARUSHA, TANZANIA

**Sen. Okong'o:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on

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National Security and Foreign Relations regarding the detention of Mr. Don Bosco Ooga Gichana in Arusha, Tanzania. In the Statement, the Chairperson should:-

1. Explain why Mr. Don Bosco Ooga Gichana, a young Kenyan businessman has been held in custody in Tanzania since his arrest on 12<sup>th</sup> April, 2013 up to now.
2. Explain why the case has had so many adjustments leading to its stalling.
3. Explain why the charge sheet has been amended several times by adding new counts and enjoining new persons.
4. Explain why the prosecuting state attorneys have without notice failed to appear in court and on some special dates.
5. Explain what the Government of Kenya is doing to help Mr. Gichana who has been held for more than two years with no sign of real evidence to sustain his trial thereby denying him justice.

Thank you.

**The Speaker** (Hon. Ethuro): The Vice Chairperson or any Member of that Committee can respond.

Please, proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, on behalf of the Chairperson, I request for two weeks to provide the Statement.

**The Speaker** (Hon. Ethuro): It is so ordered.

Please proceed, Sen. Wangari.

#### DETERIORATION OF STANDARDS IN THE MEDICAL PROFESSION

**Sen. Wangari:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 45(2)(b) to seek a Statement from the Chairperson of the Committee on Health on the deteriorating medical standards with specific reference to quack doctors and medics. In the Statement, the Chairperson should:-

1. Enumerate the statistical figures of registered genuine medical practitioners and quack doctors and medics in Kenya.
2. Explain the action that is taken on quack doctors and medics who are netted in the swoops by the Ministry of Health.
3. Enumerate the number of cases of quack doctors and medics before the courts of law and state the outcome of cases before the courts of law that have been heard and determined in the last ten years.
4. Explain what Kenyans should look out for in authenticating credentials of doctors and medics in both private and public hospitals and the steps that the national Government is taking to educate Kenyans on how to distinguish between genuine legally registered and quack doctors and medics.
5. Explain the steps that the Government has taken, if any, to enforce the medical policy that a male doctor should always be accompanied by a female colleague when attending to a female patient.
6. Explain the measures that the Government takes to continuously regulate and harmonise the curriculum used in private medical colleges.

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7. Give the status of the recent cases of children who were injected with wrong vaccinations and the rape case against Mr. Mugo wa Wairimu.

Thank you.

**Sen. Kittony:** Mr. Speaker, Sir, I realize that the Statement has a lot to deal with, and the Committee on Health has been quite active on some of these issue. The Committee will give a reply in two weeks.

**The Speaker** (Hon. Ethuro): It is so ordered.

What is it, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, as you have heard, Sen. Wangari has referred to the matter of qualified and quack doctors and with specific reference to one Mugo wa Wairimu. As a qualified doctor, registered, trained, examined and practising; on behalf of all the doctors and nurses in Kenya, I would like to give our unreserved apologies to the whole country how our profession has been abused in the process of advancing that criminal activity against our women of Kenya. The doctors and nurses in Kenya are not involved and we condemn this act.

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

**Sen. Billow:** Mr. Speaker, Sir, the apology by the honourable doctor, whom I did not know was still practicing, is too late and misplaced. There is no other organ other than the Kenya Medical Practitioners and Dentists Board (KMPDB), which he is a member of, which licenses medical practitioners. The Board is singularly responsible for the proliferation of qualified or purportedly qualified and unqualified people practising medicine. In fact, it is the Board that has the culture of allowing people who are semi-qualified or, in fact, not qualified at all to practise. So, an apology is not enough. The Board ought to ensure that the profession is properly regulated so that it does not have such kind of people. Patients are also dying in the hands of qualified people in hospitals because of professional negligence which members of the Board hardly admit even when they are taken to court.

**Sen. Kembi-Gitura:** On a point of order, Mr. Speaker, Sir.

*(An. hon Senator spoke off record)*

*(Laughter)*

**The Speaker** (Hon. Ethuro): I hope that it is not part of what I have heard.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I do not know what you had heard. However, I would like to reiterate what Sen. Billow has said. In the Statement, we should also know whether the KMPDB has a policing agent because it has become a reactionary institution which only acts when other people complain. If it had taken time, it would have found out that such like people are there to cheat and inflict pain and suffering upon fellow Kenyans. However, it waited until that happened then apologised on television like we are hearing from one of its members, Sen. (Dr.) Khalwale. That is unfortunate because we cannot afford to continue having institutions that only react to situations instead of taking precautions to see that such kinds of things do not happen. This is a very extreme and unfortunate situation that has happened in our country.



**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, I support my colleague's sentiments about the apology. I am sure that he was apologising on behalf of those who are legally registered and fully trained to practise medicine. We know that a large number of such cases arise from unregistered and unqualified persons.

However, Mr. Speaker, Sir, the Senate Committee on Health is currently considering a small amendment to the Kenya Medical Practitioners and Dentists Boards. Penalties for some of the acts have been small with some being fined as little as Kshs3000. We are coming up with amendments and hope that we will improve on the penalties. We should assist the medical personnel not to engage in some of the legal activities. We are coming up with amendments which will help KMPDB to take action against the unqualified persons who pretend to be medical practitioners and hurt the public in the process.

However, Mr. Speaker, Sir, the apology by my colleague is warranted and acceptable.

**The Speaker** (Hon. Ethuro): Order, Sen. (Prof.) Lesan. I do not remember for a moment Sen. (Dr.) Khalwale directing himself to one Sen. (Prof.) Lesan. In any event, you are all reading from the same side. How do you say that you accept what should be coming from you?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I agree with the concerns of the Deputy Speaker and the Senator for Mandera County. It is true that it is too little, too late. It is also true that the responsibility of regulating medical practitioners lies squarely with the KMPDB. The reason I apologised is because we have a privileged platform in this House and the National Assembly. Those of us who are lucky to be here and come from respective professions can do our bit because it is clear in our minds that there is need for an apology. However, what Sen. Kembi-Gitura has raised will be the answer from the Ministry of Health on what the Government and KMPDB is doing to ensure that there is no proliferation of such clinics.

It is also true that there is a very active branch within the Board that is responsible for quality assurance. Members of the Board visit clinics on a regular basis. If they find that somebody is not qualified and there is no evidence for the same, then, the clinic is closed down.

Thank you very much, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. While the House will appreciate your privileged position and knowledge, the responsibility to respond is not yours for now. Therefore, let us wait for the responses and we will interrogate them.

However, I agree with Sen. (Dr.) Khalwale on one issue. We should not be so hard on him. I do not know whether he belongs to the professional body but I believe he does. I do not think he is the executive but just a member who has taken a bit of care to at least apologise professionally. We must accept it at face value.

For the benefit of Sen. (Prof.) Lesan, your Vice Chairperson told us that the response will come in two weeks. However, you went ahead to tell us about the deliberations of the Committee. The Standing Orders are very clear; you do not divulge information until it is ready for consumption.

Proceed, Sen. Nyongesa.

DEATH OF MS. MAUREEN TATA AND THE DETERIORATING  
HEALTH STANDARDS IN THE COUNTRY

**Sen. Kanainza:** Mr. Speaker, Sir, I had sought a Statement from the Committee on Health on 23<sup>rd</sup> July, 2015 before we went on recess concerning a very serious matter about the death of Maureen Tata at St. Francis Mission Hospital in Kasarani which was caused by the doctors' mistakes. I am still waiting for the response.

**The Speaker** (Hon. Ethuro): Vice Chairperson of the Committee on Health.

**Sen. Kittony:** Mr. Speaker, Sir, I remember very well giving the answer to the House before we went on recess. I think the Senator was not in at that time.

**The Speaker** (Hon. Ethuro): Sen. Kittony, when did you do so?

**Sen. Kittony:** Mr. Speaker, Sir, it was before we went on recess. If we check in the HANSARD, I am sure that we will get the exact date. At around that time, she was busy making arrangements for her wedding. So, she is excused.

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

*(Laughter)*

She has not complained.

Sen. Kanainza, we will check the HANSARD and advise appropriately.

*(The Speaker (Hon. Ethuro) consulted  
with the Clerk-at-the-Table)*

**Sen. Sang:** Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek for a Statement from the Chairperson---

**The Speaker** (Hon. Ethuro): Order. Unlike some of the places they look for records, we keep ours on a daily basis. Therefore, I can confirm that you, the Vice Chairperson of the Committee on Health, are yet to give that Statement. The Statement was requested on 22<sup>nd</sup> July, 2015 and it was due on 28<sup>th</sup> July, 2015. However, the column on the "date issued" is blank. When did you issue it?

*(Laughter)*

**Sen. Kittony:** Mr. Speaker, Sir, I had the Statement. I think I issued it.

**An hon. Senator:** No!

**Sen. Kittony:** Mr. Speaker, Sir, I apologise.

**The Speaker** (Hon. Ethuro): Since the statement is ready, you can issue it on Tuesday. In the spirit of our Constitution, gender and a family-friendly Parliament, that if the Member was busy, she was busy for a very important national duty.

**Sen. Kittony:** Most obliged, Mr. Speaker, Sir.

INSECURITY IN NANDI COUNTY

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**Sen. Sang:** Mr. Speaker, Sir, I rise, pursuant to Standing Order No.45(2)(b), to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations on the rising insecurity in Nandi County, particularly Kapsabet and its environs, Mosoriot and Mosoriot Town Centre.

In the Statement, the Chairperson should state the following:-

(1) Whether the Government is aware of the increased cases of motorcycle theft and general burglary within Kapsabet and Mosoriot areas.

(2) Whether the Government is aware of the public outcry on the alleged collusion between the police officers and known criminal rackets and syndicates within the stated areas.

(3) Whether the Government is further aware of the alleged release by police of suspected criminals that were apprehended and delivered to the police by members of the public at Mosoriot Police Station and that there exists serious mistrust and lack of confidence in the police by the public leading to the public taking the law into their own hands and by so doing, killing three suspects.

(4) Explain the reckless and indiscriminate shooting of two innocent school going children by police in the name of dispersing rowdy crowds and what action has been taken against the concerned police officer(s).

(5) Explain whether suspected criminals are colluding with county government staff to issue fake *boda boda* operating licences and stickers to unsuspecting and law-abiding *boda boda* operators.

(6) Explain what action is being taken against any persons who are attempting to incite communities against each other in the quest to avoid accountability in relation to the fake *boda boda* licences and stickers scandal.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, my condolences to the families of those who lost their lives in Nandi. Allow me to ride on the Statement sought by the distinguished Senator for Nandi. When the Chairperson brings the answer; he should address the issue of what is happening to *boda boda* riders in counties proximate to Uganda border; Bungoma, Trans Nzoia, Kakamega, Busia, Uasin Gishu, Nandi and Siaya.

We have inexplicably high rates of hijackings and killings of *boda boda* riders. In Bungoma alone; I am sure you saw some story on KTN that highlighted the plight of *boda boda* riders. Three months ago, one of my youth who was also a *boda boda* rider was hijacked and murdered. When I went to the hospital to check and identify his body, I found 11 other bodies of *boda boda* riders. This is going on. Motorbikes are taken, never to be found. The boys are murdered yet the police do nothing. We have lost them now in their hundreds. The trigger of the Nandi incident has also opened up another angle to show that the police have not quite been doing the right things in this matter.

Could the Chairperson bring a very comprehensive Statement touching particularly on Nandi as the focal point of the question but also on Trans Nzoia, Bungoma, Uasin Gishu, Kakamega, Siaya and Busia? These are the most affected counties; and whether this has anything to do with cross border smuggling and trade between Kenya and our neighbouring state, Uganda.

**Sen. Murkomen:** Mr. Speaker, Sir, like Sen. Wetangula, I send my condolences to the families that lost their loved ones in the Kapsabet incident. However, like the Senate Minority Leader, let me also ride on Sen. Sang's question to ask wholesomely what policy is being put in place to ensure that the issue – because there seems to be a crime that is directly related to motorbike riders. That is also happening in Elgeyo-Marakwet, bordering Trans Nzoia. I have also heard many other places where that is happening. Is there need now for a policy on the *boda boda* sector?

The Chairperson of that Committee should come up with recommendations in whether there is need for policy, legal interventions or mechanisms that specifically address that sector. I know that at another time, we will discuss about other things related to motorcycle accidents and so on. However, when it comes to the security, that is, either a motorbike is being used or the motorbikes are being targeted specifically, where are those motorbikes which are being stolen taken to? Who are the buyers? Who are in this business? If that question goes to the Inspector-General of Police, we must be told in no uncertain terms that police are not part of that racket and business, so that Kenyans can be confident that they are safe.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, Kakamega County has the longest border with Nandi County. Reports filtering from Kapsabet to Kakamega are indeed very worrying. I would like this Statement to clarify the role of the Office of the Governor. Reports reaching funerals is that the Governor either directly or indirectly has introduced an element in Kapsabet of ethnic profiling of the youth so that in an incident where two sets of receipts are issued so as to cover up for fraud, when there is discontent someone is setting up Luhya and Nandi youth against each other. We would like a comprehensive report on that.

In Kakamega, the harassment is such that the Office of the Governor has set up an elite force in the name of enforcement officers. These people move around with Administration Police who give them security and they seize *boda bodas* and beat the young men. The young men are literally at the mercy of these so-called enforcement officers of the Governor for Kakamega.

The Statement should also indicate whether there is any law passed in this Senate or elsewhere that gives governors the power to form an alternative police force. I remember that it is the Senate Majority Leader who attempted here through legislation to form a metropolitan police force. We had to pass that law. Where do the governors get the power to create the so-called enforcement officers who end up doing policing but they are just goons? They harass people; take merchandise from *mama mbogas* and so on. This matter must be brought to light.

**Sen. Adan:** Mr. Speaker, Sir, I understand the challenges faced by the motorbike riders and also the accidents that have been caused as a result of usage of motorbikes. I understand that this requires a comprehensive answer. I request to be given three weeks so as to give a comprehensive answer to this particular Statement.

**Sen. Sang:** Mr. Speaker, Sir, I appreciate a number of the riding questions that have been raised by several Senators relating to my Statement. This Statement touches on security. We are talking about residents---

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

**Sen. Sang:** Mr. Speaker, Sir, would I be in order to request that the Vice Chairperson splits the question into two? The issue of *boda boda* can wait but she should respond to the element of security within one week because this is a very serious issue. We have animosity between the police and the residents within Nandi. This is something that needs to be addressed in the shortest time possible.

**Sen. Adan:** Mr. Speaker, Sir, I request Sen. Sang to bear with us because we can do his Statement in two weeks but the *boda boda* rider's Statement will take three weeks.

**The Speaker** (Hon. Ethuro): Order, vice Chair. Sen. Sang asked for your indulgence to prioritize the insecurity bit of the Statement. You can do the other Statements in the three weeks that you wish, which I think is fair because we are talking about the loss of lives. You would not want to see that continuing.

**Sen. Adan:** Mr. Speaker, Sir, one week is okay. I will try.

**The Speaker** (Hon. Ethuro): It is so ordered.

#### STATUS OF VARIOUS PROJECTS IN NAROK COUNTY GOVERNMENT

**Sen. Ntutu:** Mr. Speaker, Sir, this is the fifth time I am demanding a Statement from the Chairperson on County Public Accounts and Investments Committee (CPAIC) concerning some contracts in Narok County. It is about two months and I have not received any response.

The longer this Statement delays, the more the people of Narok suffer because their properties are being auctioned and some people are sickly. I request you to order the Chairperson to address this issue as quickly as possible.

**The Speaker** (Hon. Ethuro): Which Committee was it, Sen. Ntutu?

**Sen. Ntutu:** County Public Accounts and Investments Committee.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I committed myself to the House to give this answer. We have been ready until yesterday when we were told of the quality of the answer. I looked at the issues the Senator had raised and we refused. The County Secretary of Narok was ordered by the national office to improve on the answer because the answer was coming from there. He asked for two weeks but after I consulted with the Senator, he said that two weeks was not acceptable. I went back to the county secretary and he has confirmed that he is doing everything possible and the answer would be here next week on Tuesday at 2.30 p.m.

**The Speaker** (Hon. Ethuro): It is so ordered.

#### ACCESS TO FINANCES BY THE YOUTH, WOMEN AND PWDS TO EXECUTE TENDERS WON

**Sen. Chelule:** Mr. Speaker, Sir, I stand to inquire about a Statement that I requested before we went for recess from the Standing Committee on Labour and Social Welfare regarding access to finances by youth, women and people with disabilities.

**The Speaker** (Hon. Ethuro): Where is the Chair, Vice Chair or a Member of that Committee?

**Sen. Wangari:** Mr. Speaker, Sir, I was not there when that Statement was requested but I will follow it up to make sure that we respond within a week.

**Sen. Chelule:** Mr. Speaker, Sir, it is okay.

KILLINGS IN MT. ELGON CONSTITUENCY  
IN BUNGOMA COUNTY

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, before we went for recess, there was a question you re-directed back to the Chairperson to give a comprehensive answer relating to the killings that took place in Mt. Elgon Sub-County, Bungoma County. The response is long overdue.

Sen. Karaba is still sitting and yet he has not given an answer to the request that I had sought concerning the problems in Moi University and the University of Eldoret.

**The Speaker** (Hon. Ethuro): Order, Senator. On the second one, what do you expect Sen. Karaba to do? You do not expect him to stand when he has not been given the chance. You may recall that we are taking requests first. Do not impute improper motive on your colleague.

The first Statement was a request to which Committee?

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, the Committee on National Security and Foreign Relations.

**Sen. Adan:** Mr. Speaker, Sir, I was consulting on something. I did not hear what Sen. (Prof.) Lonyangapuo wanted. Could he kindly repeat?

**The Speaker** (Hon. Ethuro): Order. You will approach Sen. (Prof.) Lonyangapuo where he is. When you are ready, you let me know.

ONGOING PROPERTY DEVELOPMENT AT THE JUNCTION OF  
LORESHO RIDGE ROAD AND KAPTAGAT ROAD.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, at the end of July, I sought a Statement from the Committee on Land and Natural Resources regarding a resumed construction on the junction of Loresho Ridge and Lower Kabete Road. I am wondering whether the Statement is now ready because it was supposed to be given on Tuesday, 15<sup>th</sup> September, 2015.

**The Speaker** (Hon. Ethuro): By whom?

**Sen. Kembi-Gitura:** The Chairman of the Committee.

**The Speaker** (Hon. Ethuro): Which Committee?

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, Committee on Land and Natural Resources.

**The Speaker** (Hon. Ethuro): Is the Chair, Vice Chair or a Member of the Committee on Land and Natural Resources here?

**The Senate Majority Leader** (Sen. (Prof) Kindiki): I will liaise with the Chair and provide the report by Tuesday.

THE DIFFERENCE BETWEEN FINANCIAL STATEMENTS AND  
REPORTS ON OPERATIONS OF COUNTY GOVERNMENTS

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, on Tuesday, I tabled reports of the accounts of various county executives and county governments. I also tabled the financial statements of county governments. I was asked by Sen. Billoo to clarify why on the same government I am giving three sets of reports. That is the financial statements, county executive and county assembly.

I was able to discharge the county executive and county assembly report. I was then ordered by the Chair to clarify further the difference between those reports and the financial statement. I have a very quick response. After checking through those reports, I have seen some fundamental difference. The difference between the report of the county executive and the county assembly is that those ones contain the reservations of the Auditor-General on the state of the accounts in the Government, which are expressed as audit queries. They also contain the opinion and conclusion of the Auditor-General. When he does so, he either concludes with a disclaimer to qualify or not qualify.

The last thing is that in those reports, the Auditor-General suggests recommendations. Then the Committee, after listening to witnesses, gives action-oriented recommendations; either by way of surcharging officers, disciplining them or recommending them for further investigation by the Criminal Investigations Department or the Ethics and Anti Corruption Commission (EACC).

On the other hand, I have found that financial statements emanate from the raw financial statements that are given at the point of entry for audit into the county that are given to the auditor. When the Auditor-General receives these raw statements, he then cleans them up by guiding the accounting officer on how best to treat issues. Those cleaned up statements are then sent to us together with the reports so that we are enriched when we are looking at the audit queries. For the benefit of the Members, those cleaned up queries, as it is on record, have a statement on the financial position that sometimes people call the balance sheet. This shows the assets and liabilities within those institutions. They also contain a statement of profit and loss, which some people call a statement of comprehensive income. They contain the budgetary estimates as weighed against the actual expenditure that was made.

Finally, they contain footnotes which help the person who is being audited to explain certain things including break-down on expenditure not necessarily in that particular financial statement.

**Sen. Kembi-Gitura:** Mr. Speaker, Sir, I want to take this opportunity to thank Sen. (Dr.) Khalwale on what I consider to be a good job that the committee is doing. I am getting extremely flustered because it is becoming very difficult to some of us to properly do oversight role in the counties because we are not receiving the audited accounts in good time. I know that a batch was given on Tuesday. I checked and the one for Murang'a County Executive is still not there. Time is running out and yet we should be reacting to issues. You know very well that there are a lot of issues going on in the

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counties at the moment regarding the use and misuse of finances. We cannot talk unless we do it carelessly in meetings. We need to have the details and the proper tools of trade to conduct our oversight role.

Therefore, I would like the Committee to take the issue more seriously, so that those counties that have not received their audited accounts can do so immediately. I would also like to have an explanation on what is causing the delay because a lot of things could happen due to the delay. A lot of suspicion is in the counties when they know that some of these reports have not come out.

**Sen. Billow:** Mr. Speaker, Sir, I am actually surprised about what the Senator for Kakamega has read where he talks of financial statements. To the best of my knowledge, there are no financial statements of any county that has been submitted to this House. The reports which were submitted before we went for recess are the financial reports of the executive and the financial reports of the assemblies. Those are audit queries or irregularities. A statement showing the income and expenditure of a county, showing how much income or revenue that county earned or received, how much expenditure was on salaries, how much was on rent and on office expenses and so on. It is the kind of thing showing the net surplus or loss; a balance sheet showing a statement of assets and liabilities of a county has not been submitted to this House. That is a fundamental thing because when an auditor is auditing, he actually express his opinion on those set of accounts. It is actually a surprise that what we were given is a set of audit queries like a management letter.

I would appreciate it if the Chair could explain when we will get the financial statements showing the assets and liabilities and income expenditure for each of the 47 counties, so that we can actually know how counties spend their monies and what are the status of their liabilities, debts and credits, creditors, and so on.

**Sen. (Prof.) Nyong'o:** Mr. Speaker, Sir, I want to raise a much wider issue, regarding what we are doing in the Committee on Finance, Commerce and Budget and the County Public Accounts and Investments Committee (CPAIC). The English saying that "seeing is believing" is very important. When we are doing oversight, we cannot just stick to reports from the Auditor-General as the only way of doing oversight. Quite often, issues are raised as to what extent what is reported on paper is true. I will give you an example; in many counties, there is a controversy over construction of roads. County governments claim that they construct the roads, Constituencies Development Fund (CDF) say that they construct the roads and so on. I do not know what the Auditor-General sometimes audits. The same road apparently was constructed by two sources of funds from the Government.

The only body that can allay the fears of the public to double-auditing or double-claim is the Senate. Therefore, I would like us to spend much more time on discussing the oversight role of the Senate and the means to do oversight. It is something that is being fudged over but in the final analysis, this nation will hold us culpable for not having risen up and asserted this role so that it is financed properly so that we can stop the financial haemorrhage in the counties.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, allow me to start with the clarification sought by Sen. (Prof.) Anyang'-Nyong'o. When I see what we are going through in the Committee, I see the wisdom of having that fund that was to enable Senators to have

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oversight activities to look like almost real time. Whether we like it or not, if I call the Auditor-General here, he will give you the same excuse that he gave me in his office, that is, that he is overwhelmed by the volume of work since he has a shortage of human resource. That has remained his answer. So, until he has more money, he will remain less efficient.

On the issue raised by Sen. Kembi-Gitura, I take this House so seriously that today, after struggling to get the Auditor-General, I reached out to him and I wish to table the texts. I reached out to him at 1108 hours and I could not reach him but he sent me a message to say I will call you as soon as possible. Then at one o'clock, again, I reached out to him and from the ring tone, it was clear that he was out of the country but still he told me he is in a meeting. He has not come back to me and I did not know what I was going to tell Sen. Kembi-Gitura especially on why the accounts for Murang'a County are not here. For the very final time I want to request, Senators whose county accounts have not come to give me time to interact with Auditor-General.

The last time I checked, the rules of this Parliament do not expect us to bring answers from people who are not responsible. We are expected to extract an answer from the accounting officer himself or the responsible officer. In this case, it is the Auditor-General himself who is responsible so, he must speak to this very important matter. As you have heard, Sen. Kembi-Gitura has clearly imputed – not improperly – that people are starting to fear that there could now be deals taking place and that it is the reason reports are being delayed. These are serious concerns.

Mr. Speaker, Sir, regarding the issue of Sen. Billow, yes, he is right. An ideal financial statement should, among other things, have the position of assets and liabilities. Since counties started, this aspect cannot be part of it, because when you look at our recommendations since we have started tabling them, one of the challenges that we have is that the process of handing over and sharing assets and liabilities between the devolved units and the national Government has not been concluded by the Transition Authority (TA). So, we have directed for the formation of a special committee to expedite the process of handing over and sharing of assets and liabilities between the two levels of the Government.

According to the recommendations that we have made, that process is supposed to be concluded on or before 31<sup>st</sup> December, 2015. The assets are so vast in terms of land and machinery. The liabilities are so serious that you cannot fast-track it in any way and it must be done professionally. That is the reason, Sen. Billow.

**Sen. Billow:** On a point of order, Mr. Speaker, Sir. I appreciate what the Chairperson has said on the last item on the need to determine the assets and liabilities of counties first. Let me bring to your notice that although TA has actually obtained the inventory of all the assets and liabilities in all the counties, the issue has been an audit of the same for which they have not been able to do for lack of financing or whatever. However, I think in financial audit, the procedure is that the Auditor-General can still take on the current assets and liabilities that these counties have and even those others when they are actually available even without an audit. He should have qualified his audit report that the brought forward assets and liabilities of each of these counties have not been verified or audited and, therefore, put a disclaimer on it. You must record.

Mr. Speaker, Sir, we have 47 counties which are buying assets, land, and properties, there is no record anywhere and this is the second year of an audit and we are going to the third year. Next year, people will be preparing for elections. So, there is a risk that assets will disappear unless we do that.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! I think Sen. (Prof.) Anyang'-Nyong'o said that this is a matter for debate. It shall proceed along those lines.

Let us proceed.

CLOSURE OF MOI UNIVERSITY AND THE  
UNIVERSITY OF ELDORET

**Sen. Karaba:** Thank you, Mr. Speaker, Sir. Before we went on recess, Sen. (Prof.) Lonyangapuo had requested for a Statement from me and my Committee on Education relating to the management of Moi University and University of Eldoret which had been closed indefinitely. I was supposed to inform the Senate of the following issues:-

- (1) The circumstances that led to the closure of the only public institution of higher learning in the North Rift.
- (2) What has the Ministry of Education Science and Technology has done to ensure normalcy returns to the University of Eldoret, which has been faced with challenges related to management disputes?
- (3) When will the universities reopen?
- (4) What long-term measures has the Ministry put in place to avert challenges of this nature which are common in institutions of higher learning in this country?

Mr. Speaker, Sir, the response is as follows:-

The University of Eldoret experienced chaos and it was closed on 8<sup>th</sup> July, 2015. Students went on rampage and destroyed property. A full estimate of damages is not yet complete. Preliminary estimates put damages at approximately Kshs2.08 million, according to the County Clerk of Works, Uasin Gishu County. After deliberations, the University Management Board closed down the university at 2.00 p.m. on the same day. This closure was ratified by the University Senate on 9<sup>th</sup> July, 2015.

The disturbance was caused by students who alleged that the tuition fees had been increased without their consultation. The university management immediately called a meeting with the Students Governing Council in order to give dialogue a chance. However, other students who were part of a group accompanying the student council were left out of the meeting. They managed to convince the rest of the students into moving around the university and as a result, massively destroyed university property. The destruction affected hostels and the student centre which houses shops and various offices which were perceived to be friendly to the administration. Windows were shattered and several cars, furniture and computers were also destroyed. This prompted the University Management Board to close down the university as the situation was getting out of hand.

Mr. Speaker, Sir, the true position according to the university is that tuition fee had not been increased since the award of its charter in 2013. The fee was revised during the 2012/2013 academic year and all stakeholders were involved. They included schools,

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committees of deans, University Senate and the University Management Board before the approval was made by the University Council.

Regarding the second aspect, the Ministry of Education, Science and Technology has held several meetings with the University Council to resolve the various issues affecting the university. Investigations are underway to establish exactly who incited the students to participate in the recent strike. Action will be taken against anyone found to have directly or indirectly incited the students. The Ministry will continue to engage with the University Management Board, University Council and other relevant stakeholders to ensure that normalcy returns to the university.

The University of Eldoret experienced a series of unrests in 2013, 2014 and in February, 2015, occasioning closure and reopening. The causes of the unrests then revolved around various allegations against the university administration such as high handedness and mismanagement. Issues of nepotism, tribalism and promotions, appointment and recruitment of staff and political interference with the learning institution were also cited.

Mr. Speaker, Sir, the Ministry constituted a team to investigate the cause of the disturbances. Investigations were carried out and comprehensive report compiled. The Ministry will further make a follow-up with a view of ensuring implementation of the recommendations of the said report.

The other question was about when the universities will reopen. The University Senate met and resolved to open the university progressively from 1<sup>st</sup> August, 2015. Assessment of the damages and subsequent repair of the hostels and property that were destroyed will be done and thereafter, the students will be recalled. I have learnt that they have since been recalled.

Mr. Speaker, Sir, regarding what long-term measures the Ministry will put in place to avert the challenges in the country, the Government will continue to conduct recruitment of heads of institutions and management boards in a transparent manner and in adherence to the provisions of the law. The Government has always demonstrated goodwill by involving stakeholders including leadership of the areas where these institutions are located in providing solutions in case of problems. For instance, in the appointment of the University Council members, diversity in terms of community and regional representation, expertise qualification, experience and gender, among others are considered.

Students are incorporated in the councils through provision for students' representative in the membership. They also have various students' bodies which link them with the university management. Some universities have put in place proper and appropriate students' governance structures, including modalities of expanding leadership positions to have more student leaders on the board. These measures enable interactions and addressing issues of concern in order to avoid misunderstandings and frequent unrests in institutions of higher learning.

Lastly, the report on the students' unrest, temporary closure and death of a student of Moi University is attached herein. The unrest arose as a result of misunderstanding regarding students election campaign matters. The university was closed on 13<sup>th</sup> July, 2015 and reopened on 20<sup>th</sup> July, 2015. Operations in the university are currently back to normal. I have a report from Moi University to table.

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Thank you, Mr. Speaker, Sir.

*(Sen. Karaba laid the document on the Table)*

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I want to thank the Chairman of the Committee on Education for the answer that he has delivered today although it has been pending since yesterday. Regarding the case of Moi University, I want to thank the Moi University management for quickly moving to arrest the situation and restore normalcy. The fracas occurred on 15<sup>th</sup> July and students were sent home. Five days later, they were back in campus to continue with their studies. This is what is expected of an institution.

However, regarding the University of Eldoret, the scenario that the Chairman is giving is completely misplaced. It totally does not rhyme with what is on the ground. It appears like the Ministry of Education, Science and Technology is listening verbatim to the version of the Vice Chancellor and the management of the university. The Chairman has said that the university was closed on 8<sup>th</sup> July, 2015 and the students stoned the management together with the students' leadership when they were in a meeting---

**The Speaker** (Hon. Ethuro): Order, Senator! We heard all those; just seek a clarification.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I am clarifying because the version which is known by most people is that the Vice Chancellor locked herself in a room for five hours when the students were waiting for her to address them. Instead of addressing them, she called the Officer Commanding Station (OCS), who is also her cousin, to send police officers to disperse the students. The Ministry, through the Chairman, is giving us a completely variant position, pointing fingers at the students.

Secondly, the Chairman says that the university has now been opened progressively. What is "progressively?" The students had only one week to do exams. So, I expected all the students that were preparing for the exams to have reported to the university, finished their exams and maybe now staggered to open. When you say "progressively", it could mean that some of them will report next year. So, the exams that were supposed to be done in a week will now be done one year later. This is the scenario which is on the ground and the Chairman is not giving us that version.

Lastly, could he define what political interference is? It looks like the leadership of Uasin Gishu and the North Rift is being maligned for nothing because leaders point fingers and nothing happens. Instead of addressing the issue, it is said that leaders are interfering. I want to exonerate political leaders from the top to the bottom in this matter. We need a substantial and proper procedure for all students to report back to the university. The Vice-Chancellor should actually pay the Kshs2 million for damage herself instead of loading it to the students, because she is the one who caused the riots by sticking in her office.

**Sen. Sang:** Mr. Speaker, Sir, I want to appreciate the response given by the Chairman but I also want to agree with Sen. (Prof.) Lonyangapuo that this Statement seems to be absolutely one-sided. I was part of the team led by the Chairman himself that went to the university. The Chairman can confirm that a number of issues were raised when the Committee toured the university. Could the Chairman indicate whether the answer that he has given and the report that we compiled after visiting the universities

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agree? I was part and parcel of the team and he was the team leader of the group. Now he has presented in this House a totally different version of occurrences at the university.

Mr. Speaker, Sir, secondly, you actually directed that the Chairman would present the report of the Committee as a Motion before this House, so that we are able to interrogate and discuss the issues that were found by the Committee. Why has the Chairman not brought that Motion before this House, so that we can debate it and contrast it with the report that he has received from the Cabinet Secretary? I request that you direct that the Chairman actually honours his word and tables that report in this House, so that we can discuss what the Committee found out rather than relying on a lot of interesting sideshows from the Cabinet Secretary.

**Sen. Karaba:** Mr. Speaker, Sir, I would appeal to anybody who has additional information to the report to forward it to the Committee. But what has already been tabled is a report on the disturbances at Moi University, which was compiled by the Ministry of Education, Science and Technology and not the one on The University of Eldoret. The report on The University of Eldoret will be tabled next week. What we are yet to table is the report that Sen. Sang is alluding to. If he is a Member of the Committee and accompanied us, he should be very useful in compiling that report.

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

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

Mr. Temporary Speaker, Sir, as far as I am concerned, the management of the university is led by the Vice Chancellor and her team of administrators who are charged with the responsibility of running the university. The micromanagement of the university is not the responsibility of anybody else apart from the said management team and people who are employed to do that job. There is also the University Council and the Senate which ensures that the university runs smoothly. Those are the people who are charged with the responsibility of running the universities in the entire Republic. I would, therefore, appeal to Members to avoid making some allegations which cannot be quantified here in the Senate. There are some things which we cannot do. We leave the management of institutions to the key administrators. We cannot, therefore, micromanage them from the Senate.

**Sen. Musila:** On a point of order, Mr. Temporary Speaker, Sir. I seek the guidance of the Chair because when this matter came up last time, the Chairman attempted to read a report that they had compiled by visiting the university. A point was raised that whenever we seek statements from Chairs of Committees, we do not ask them to go and investigate. We ask them to go to the Ministry and get the version of the Ministry and cross-examine their story, unless a select committee was appointed by this House to go and investigate the matter.

In this case that we are dealing with, I think we must be contented with the report that we have gotten from the Chairman or the Cabinet Secretary for Education, Science and Technology and not information that was gathered by the Committee. This is because the Committee had not been given the mandate to go and investigate from the ground; rather, we requested for a Statement from the Cabinet Secretary. What the Chairman has

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read is what is genuine and that is what we should seek clarification on. Could I get your guidance on this matter?

**The Temporary Speaker** (Sen. Mositet): You have explained it very well. When a Statement is sought, the Chairperson is supposed to consult the Ministry to get it and issue it in this House. A select committee may also go and investigate the matter. But in this case, the Statement that you are reading is from the Cabinet Secretary, and I think it has been interrogated well.

**Sen. (Prof.) Lonyangapuo:** On a point of order, Mr. Temporary Speaker, Sir. I thought that you were to revert back to me again, because the Chairman is not supposed to speak with finality, as though he is the Cabinet Secretary. I am from the ground where the problem is. I represent the entire region academically and the students who were affected come from my county as well. Whatever I am saying is the reality and my version also needs to be listened to.

Seven out of nine employees at the senior management level were suspended. The Vice Chancellor and the Deputy Vice Chancellor were left. The Chairman is not telling us in the report that the seven who were suspended are from one region and the other two are from a different region. One person, Dr. Mary Chepkite Lopokoiyit, got shocked and died as a result of the suspension. She was alleged to have addressed students when they were agitating to see the Vice Chancellor. I agree with Sen. Musila that we need the report to be tabled on the Floor of the House, for us to interrogate it in details, including the circumstances that led to the death of that senior officer.

Mr. Temporary Speaker, Sir, the Vice Chancellor and the other two are not bothered. This is a serious matter and the people of Uasin Gishu and the North Rift in particular would want to exhaustively know how the situation at the University is being handled and why the other people have been suspended and they have not gone back to duty.

**The Temporary Speaker** (Sen. Mositet): Senator, because you had requested for a Statement and I believe it is the one which was read, unless you want to come with a Motion to probe the matter where we will have a select committee; that is the only way now you can talk of a report to be brought here. If that is the way you want it, then you have the right to come up with a Motion and then it will be discussed in the House. If it gets the numbers, then you can have a select committee to do the probe.

I think you had another Statement you were to issue with regard to education.

#### CIRCUMSTANCES SURROUNDING THE TEACHERS' STRIKE IN KENYA

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I want to give a Statement sought by Sen. Abdirahman. The Statement is with regard to the ongoing teachers strike. I thought that yesterday we had a whole afternoon devoted to debate on this issue, and I do not know whether it will be prudent for me to continue to issue this Statement.

**The Temporary Speaker:** (Sen., Mositet): Yes, proceed.

**Sen. Karaba:** Temporary Speaker, Sir, on Tuesday, 15<sup>th</sup> September, 2015, Sen. Abdirahman requested for a Statement from the Chairperson of the Standing Committee

on Education regarding the ongoing teachers strike. The Senator requested me to explain the circumstances that have led to the strike;

- (a) explain what the Government is doing to address the demands of teachers and or remedy the situation;
- (b) state when learning will resume in public schools;
- (c) update the House on the measures undertaken by the Ministry of Education in addressing the education crisis in the counties of Wajir, Mandera and Garissa.

I beg to respond as follows:

The strike was occasioned by the ruling of the Employment and Labour Relations Court on 30<sup>th</sup> June, 2015, which awarded a salary increment to teachers of between 50 to 60 per cent, backdated to 1<sup>st</sup> July, 2013 and spread to 30<sup>th</sup> June, 2017. The Teachers Service Commission (TSC) appealed against the court ruling seeking for stay of execution but the Court of Appeal during it sitting on 23<sup>rd</sup> July, 2015, gave a conditional stay that the TSC effects teachers basic salary effective 1<sup>st</sup> August, 2015. The matter is coming up for hearing on 22<sup>nd</sup> September, 2015.

The above notwithstanding, the Kenya National Union of teachers (KNUT) and the Kenya Union of Post Primary Education Teachers (KUPPET) used the ruling to call on teachers to go on strike if the TSC would not honour the Employment and Labour Relations Court ruling. According to the school's learning calendar, the third term was scheduled to open on Monday 31<sup>st</sup> August, 2015 for both day, public primary and secondary schools. Boarding schools were to open on 2<sup>nd</sup> and 3<sup>rd</sup> September, 2015. However, the two unions went ahead and declared the strike asking parents not to take their children to school and teachers to keep off from the schools.

The Ministry has so far held a series of consultative meetings with Cabinet Secretaries of the Ministries of Labour, Treasury, Interior and National Coordination, Office of the Attorney-General, TSC and the Salaries and Remuneration Commission among others, all aimed at resolving the salary increase demanded by the two unions on behalf of the teachers.

After lengthy deliberations, it was noted with concern that meeting the demands of the teachers would have the following implications:-

1. Far reaching economic consequences as other public servants would be prompted to ask for the same. The Public Service Commission has already indicated that other public servants would demand for a similar salary increase if the teachers' salaries were effected.
2. Further, the Salary Review Commission confirmed that salaries for teachers and other civil servants had already been harmonized.
3. The wage bill for public servants would be a heavy burden to the country.
4. An increase in taxes sharply raising the prices of basic commodities pushing up the cost of living, burdening the citizens who are already heavily taxed.
5. The Government would be required to source for additional funding to mitigate the resultant budget deficits.

To remedy the situation, the following measures have been taken with regard to the ongoing teachers strike. The TSC is an independent commission and the teachers' employer is already in court appealing against the ruling of the High Court to increase

teachers' salaries and the case is still pending before court. The TSC has also issued instructions to all teachers to go back to school, failure to which necessary disciplinary measures will be taken against them. The Ministry has issued instructions to county and sub-county directors of education to liaise with the security agents on the ground, monitor the situation and ensure safety of learners, school property and teachers who turn up to teach and forward daily reports to the Ministry. So far, learning is partially taking place in most of the learning institutions and the Ministry of Education, Science and Technology is monitoring the situation.

The Cabinet Secretary has so far made several press releases urging teachers to go back to class so that children are not denied their constitutional rights, stressing that schools remain open as planned. Further, he publicly made it very clear that the mandate to open or close schools largely lies with the Cabinet Secretary and not any other person or authority.

Lastly, the Ministry in liaison with the Kenya National Examinations Council (KNEC) has put in place structures to ensure that the national examinations take place as scheduled, uninterrupted. The launch of the National Examinations Cycle for 2015 is scheduled to take place tomorrow.

The Ministry of Education, Science and Technology and the TSC will continue to appeal to the teachers to resume their duties, to return learning and teaching in schools to normalcy. Some partial teaching is still ongoing in most schools, many with pupils in Class Eight and students in Form Four. Information from the field indicates that teaching is taking place in teacher training colleges, technical training institutes and national polytechnics.

With regard to the measures undertaken by the Ministry of Education, Science and Technology in addressing the education crisis in the counties of Wajir, Mandera and Garissa, the Ministry recently held a high level meeting with the leadership of the north eastern region and agreed to engage 800 untrained teachers to cover the shortfall as the TSC puts in place other measures to arrest the situation. The Ministry has assured that the security crisis in the region has improved.

Thank you.

**Sen. Abdirahman:** Mr. Temporary Speaker, Sir, I want to, first of all, thank the Chairman of the Committee on Education for the quick response he has given. I only sought this Statement on Tuesday and as directed by the Speaker, he was ready on Wednesday and had you been given a chance yesterday, you would have given the Statement.

The Statement, though seeming detailed has very little solutions to the ongoing strike. In particular, I want to say that the Ministry is very insincere on this matter. The salary rise for teachers has been agitated for since 1997. Looking at the second part of your response, you go on to say: "the Ministry is holding consultations and then you go on and say that after lengthy deliberations, it was noted with concern that the demands of teachers will have the following implications". None of those four implications will actually be in favour of getting a solution to these problems. The Ministry is very insincere. If they really wanted to be pro-active, they would have stopped this strike long ago, but they did not do it.



Looking at Item No.4, you have said that the Government will be required to source for additional funding to mitigate the resultant budget deficits. The Ministry does not need to source for more funding because if I remember, there was about Kshs17 billion that was meant to go towards providing laptops to primary school pupils at the lower level. Why can they not reorganize their budget and sit down with the teachers' unions and agree on a formula that will actually stop the current crisis in the country?

**Sen. Billow:** Thank you Mr. Temporary Speaker, Sir. The Chairman's response is a gross understatement of the crisis that we have in learning institutions. I do not know whether the Chairperson lives in this country. To suggest that learning is going on in most institutions in this country, I think is to play on the intellect of the people of Kenya. The teachers are at home and there is no learning going on. If learning means having students play in school and sending security personnel to look after the children playing in the school, then I think we have people who are not in touch with reality.

Could the Chairperson explain whether the Cabinet which constitutes the Government of Kenya has met as a matter of urgency to discuss this matter of the crisis of teachers, because that would have provided the Ministries an opportunity to determine how much each Ministry can release in terms of funds to address this emergency? Has there been any Cabinet meeting to discuss this crisis?

With regard to schooling in north eastern Kenya, he says that it was agreed that 800 untrained people – they are not teachers – were to be recruited, could he clarify whether indeed those 800 that have been agreed upon more than a month ago have been recruited and are now in the classes teaching?

**Sen. Musila:** Mr. Temporary Speaker, Sir, obviously this is a grave matter which has taken a lot of time. Yesterday, we spend quite a lot of time with a Motion for Adjournment from the Senate Minority Leader. Everywhere you go in this Republic, people are talking about their children not learning. While thanking the Chair, it would not be misplaced for me to say the matter has not been taken as seriously as it should.

The Chairman said, and I believe he was reading a Statement from the Cabinet Secretary, where he had said in public that examinations will go on regardless of the strike. Who will be the invigilators of these examinations? Who will mark examinations when they are done? You cannot ignore teachers and pretend to do examinations without them. Rumour has it that you want to use the National Youth Service (NYS) of Ann Waiguru to invigilate and mark. Is this Government serious?

The Chairman also said that learning is going on partially in some schools. Could he tell us which schools? In the whole of Kitui County which I represent, I know of no public school other than private schools where learning is taking place.

Finally, the issue of the schools in the north eastern region has been discussed on the Floor of this House. It has now taken nearly a year since we started talking of no learning in schools in that region. What is happening now is just that the problem has spread everywhere in Kenya. It is time the Government addressed this matter in totality. You cannot under-estimate the importance of teachers in education. There can be no education without teachers. Therefore, the earlier the Government meets teachers and agrees on a formula to return to work, the better for all of us. I submit that we are actually wasting a lot of time.

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, I want to temporarily interrupt the statements for about three minutes to allow the Senate Majority Leader to tell us what he has for the House next week.

*(Interruption of consideration of Statement  
by Sen. Karaba)*

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 22<sup>ND</sup> SEPTEMBER, 2015

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, thank you for your indulgence.

Mine is to briefly give the Statement of the business of next week, pursuant to Standing Order No.45. First and foremost, I welcome hon. Senators from the recess. I hope that the recess has provided a good opportunity for us to refresh and reconnect with our counties and also to plan for the months ahead. At the same time, I congratulate Sen. Kanainza for getting married during the recess. She was here, but she has left. We are happy for her.

I want to bring to the attention of the House that on Tuesday, next week, 22<sup>nd</sup> September, 2015, the Rules and Business Committee (RBC) will meet at 12.00 noon to schedule the business of the week. Subject to the directions of the RBC, the Senate will give priority to the Bills that are going through the Second Reading and Committee of the Whole, including but not limited to the following:-

- (1) The Climate Change Bill (National Assembly Bill No.1 of 2014).
- (2) The Tobacco Control Regulations which are actually subsidiary legislation, but very important.
- (3) The County Early Childhood Education Bill (Senate Bill No.32 of 2014).
- (4) The Universities (Amendment) Bill (Senate Bill No.31 of 2014).
- (5) The County Assembly Appointments Bill (Senate Bill No.20 of 2014).
- (6) The County Assembly Services Bill (Senate Bill No.27 of 2014).
- (7) Parliamentary Powers and Privileges Bill (Senate Bill No.15 of 2015).

Hon. Senators, on Wednesday, the Senate is expected to continue with the business that would not have been concluded on Tuesday during the sitting. We will continue with discussing Bills that are at the Second Reading stage and Committee of the Whole and any other business that may be scheduled by the RBC.

On Thursday, the Senate will continue with Bills that are at Second Reading, Committee of the Whole and discuss any other business that will be scheduled by the RBC.

Once again, I am grateful that we are back. Going by the record of the number of Bills we passed during the last term of this session, we are able to meet the 20-Bill mark for this session this year, January to December. Therefore, I sincerely thank colleagues for commitment, dedication and quality input into the debates that have been going on here on legislation and Motions.

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

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

*(Resumption of consideration of Statement  
By Sen. Karaba)*

**The Temporary Speaker** (Sen. Mositet): We now go back to the Statement which had been issued by the Chairman, Committee on Education.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, thank you for the opportunity. First, I want to thank the House as a whole for standing together yesterday in a bipartisan manner on the matter of teachers. I particularly want to thank the Chairman of the Committee on Education, who spoke very well. Everything that he said yesterday is the complete opposite of what he has been given to come and read to the House. My first question is whether he believes in what he has read to the House because, yesterday, he was extremely eloquent, forceful and purposeful in what he said.

This statement says in part, that the Salaries and Remuneration Commission (SRC) has confirmed that the salaries for teachers and other civil servants had already been harmonized. This is a false statement and the Chairman of the Committee told us as much yesterday. I brought here information and statistics that a junior clerk at Jogoo House in the Ministry of Education earns three times more than a teacher at the same level out there in the field.

The highest level of a headteacher; the Principal of Alliance High, Mang'u High School, Maseno School and in other big schools, earn a salary of Kshs109,000 maximum. That is why this statement about harmonization is false. The secretary to the Teachers' Service Commission (TSC) who is, in fact, in every respect at the intellectual level a little lower than those senior teachers, earn Kshs526,700 per month. This is more than three times than the highest paid teacher. Is that harmonization of salaries?

Mr. Temporary Speaker, Sir, I want the Chairman to clarify whether he believes in this statement that has been bandied over a period of time that the wage for the public servants would be a heavy burden to the country, when we have said and we have statistics to show, that if the increment of 50 per cent and 60 per cent as directed by the highest court in the land is met, it will occasion an extra expenditure of only Kshs1,330,000,000 per month aggregating to Kshs17 billion per annum. By any stretch of the imagination, that cannot destabilize our budget.

More importantly, is the Chairman satisfied that the Executive, particularly the exhibition of arrogance that we have been seeing from TSC; issuing threats upon threats to teachers and the unhelpful arrogance exhibited by the Cabinet Secretary for Education in this matter, that they are helping the cause of resolving the stand-off between the teachers and the Government?

Each Member here represents a rural constituency apart from Nairobi. Even in Nairobi there are so many pockets of what is worse than rural constituencies where children are suffering because teachers are on strike. We want a solution. If the Chairman is not satisfied with this answer, and I believe he is not because we know his thinking from yesterday's debate, could he tell us what will be done to get this matter resolved, once and for all?

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**Sen. Adan:** Mr. Temporary Speaker, Sir, let me say that we have a big problem here and it is important for us, as a country, to accept that fact. The only way we can solve this problem is by sitting down together to come up with an amicable solution. Again, we have to accept that teachers encounter many problems, especially those who work in the rural areas where I come from. They face many hardships. This is a negotiation that has been going on for a long time. The TSC and the Government have accepted the contract signed between themselves and the teachers. It is important; this has to be honoured. We cannot just sit and say that we cannot solve the problem.

Again, we need to have a structure where we can say how much we can afford now and the rest be pushed forward, but saying there is no money is not solving a problem. This afternoon I was listening to the radio and the teachers were saying that this year we might not have examinations. As a result of this, our children are the ones who are suffering. Therefore, we cannot take it sitting down as the leadership of this country.

The Chairman should go back to the Ministry and the TSC and see how they can solve the problem. The challenge with this country is that we always say there is no problem and we do not accept the situation we are in. This is a very sorry state of affairs. I urge the Chairman to move a step forward and come up with a solution through the TSC and the Government. We should do this to save the lives of our children whose rights are being violated as long as they are out of class.

**Sen. Omondi:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity. I want to register my disappointment with the way the Chairman of the Committee on Education has responded to this issue. I wonder if he is comfortable the way my colleagues have been saying when he reads a statement that is misleading the House and the country. It is so shameful that we, as a country, cannot solve the issue of teachers' salary, once and for all.

I will request the Chairman to tell us if it is not misleading to state that learning is going on in some schools. That is misleading this House. I want to say that Kenya is not a poor country, but it is just because somebody somewhere does not want to listen to teachers. It is time that we respected the rule of law. The Supreme Court of Kenya is the highest court in this country and it must be respected. Teaching is a profession that must be recognised and respected.

We, legislators, cannot sit back and listen to such a response and accept that this is what is happening. Everybody, be it nationally and internationally, knows that there is a crisis in Kenya. The only solution is to look for the best and possible way to address this issue, once and for all. Give teachers what belongs to them as awarded by the Supreme Court.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I would like to thank the Chairman of the Education Committee for bringing the statement at short notice. We expected it to come yesterday, but we debated a Motion of Adjournment on the same matter. If you divide the Kshs1.3 billion with the 260,000 teachers, it comes to about Kshs4,000, per teacher. This is really a pittance. We are already paying village elders, old people all over the country such an amount and yet we find it difficult to pay our teachers this amount.

I just want to find out from the Chairman of the Committee the economic cost of a three week shut down of the education system in this nation. We have shut down the

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education system for the last three weeks saying that we cannot pay Kshs1.3 billion a month. It appears that it is now going on for another two weeks because there is a court ruling that has been put to the future. What is the cost to the country when the education system is shut down for that long?

Mr. Temporary Speaker, Sir, secondly, there has been a threat by the TSC to attach the salaries of teachers for abandoning work. Who will compensate the parents who have already paid their fees in full to send children to school only to be told to go and hang around the libraries or to play in the playground? It is very shameful when the Chairman of the Committee tells us that learning is going on in the country. I am a parent of a pupil who is in a public school, and is as much as this school has not been shut down and the children have not been sent home, what these children are doing is just playing around or being told to go to the libraries.

Parents do not send their children to school to play or go to the libraries. We can do that at home. We send our children to school so that they can learn. So, if the TSC will attach teachers' salaries, who will compensate the millions of Kenyans who have spent their last coin to send their children to school and there is no service being rendered?

Finally, we, as a nation, need to be careful because it is the children of the poor who are in public schools that are currently affected. The children of the rich are in private schools which are going on with learning. When we are quantifying losses and the lost opportunities here, we must also look at the consequential loss. If the children of the poor are going to stay out of school for three weeks or a month, what is the implication in the long term? Will they be able to effectively compete with the children of the rich in this country or the Jubilee administration which now finds itself in a position to resolve this problem only cares for those who have means at the expense of those who do not have means?

**The Temporary Speaker** (Sen. Mositet): Mr. Chairman, it is your turn now.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I will attempt to respond to most of those concerns. As you were trying to seek more information, a school delegation came in here and they were seated behind you dressed in uniform meaning there is learning going on.

**The Temporary Speaker** (Sen. Mositet): Mr. Chairman, you know you read a statement that you were not the author of, so just stick to what the other Senators have said.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I am also concerned with the plight of teachers. I was a teacher. I was a victim of what happened in 1997 when the then President agreed to pay teachers that time. Those teachers who retired in 1997 have not been paid although there is a court order. We need to find out what exactly is happening. In my statement, I said that the Ministry has so far held a series of consultative meetings with the Cabinet Secretaries of various Ministries.

Consultations are still going on and it is my hope that one of these days, we will get a solution. It is the desire of every parent in this country and I am one of them and I believe all of you are, to see our children back in schools. When we talk about lengthy deliberations, we need to balance the act. Where we think there is harmonization, so be it. Where we think maybe we can settle on 50 per cent or less, the way some of you said in the debate yesterday, we will consider in our deliberations.

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I am sure that the Cabinet is meeting now. The President is aware that he is sitting on a time bomb if this does not happen soon. So, I am aware that quite a number of people are advising him. Sooner than later, we are likely to get solutions from these deliberations.

Sen. Wetangula talked about harmonization, I agree we need to harmonise salaries of all civil servants. The process is still going on. We have the SRC which is mandated to do harmonization of salaries in this country. Yesterday I said a graduate teacher earns less than a graduate of other disciplines. I am sure the Ministry of Education is aware of this and soon the teachers will be awarded what they have been struggling for. It is not good that teachers always get salary hikes or reviews when they go on strike. We hope that should not be seen to be the trend. I urge the Government to ensure teachers' salaries are reviewed even before they proceed on strike.

The other issue is about what Sen. Hassan was asking; what will be the source of additional funding. What are we doing to mitigate resultant budget deficits? That is still going on. I am sure various Cabinet levels will come up with a solution. So far, as it is stated here, learning is taking place partially in most schools. I heard Sen. Musila saying in his county, learning is not going on. In my county, learning is going on in some institutions. Hon. Senators, you can even see that in the gallery, we have students and teachers.

**Sen. Omondi:** On a point of order. Mr. Temporary Speaker, Sir. I think I wanted a clarification from the Education Committee Chairman to tell us those public schools he is alleging learning is going on. He should not assume that the pupils he is seeing in the gallery are from a public school. I want the Chairman to tell us those public schools where learning is ongoing. Is he in order to mislead this House by telling Kenyans that learning is going on when parents are having learners in their homes?

**Sen. Karaba:** Mr. Temporary Speaker, Sir, is Sen. Omondi in order to mislead this House when she can see what is in the gallery? The students are from schools. In the statement sought, it had nothing to do with definition of public or private school. Learning is going on partially in some schools in this country.

**The Temporary Speaker** (Sen. Mositet): Order, Sen. Karaba! There are quite a number of interventions.

**The Temporary Speaker** (Sen. Mositet): What is it, Sen. Abdirahman?

**Sen. Abdirahman:** On a point of order, Mr. Temporary Speaker, Sir. The Hon. Chairman is trying to water down a serious matter that is under discussion this afternoon. We are talking about the nation and not Kirinyaga County. We are not just talking about students who have come to visit and learn something about Parliament. Is the Member in order to underestimate the crisis we have in this country by saying that there is partial teaching in certain specific areas, including Kirinyaga? We want him to address issues as they are since the statement itself is hollow. He should not waste a lot of time, but tell us actual measures.

**The Temporary Speaker** (Sen. Mositet): Mr. Chairman, this is a very weighty matter that we have to address with the seriousness that it deserves. Therefore, if the Committee did not interrogate the statement itself, then you should request for more time. Remember the public is watching what the Senate is doing. If we have students in the

Public Gallery, which I have not been made aware of, maybe they came simply because their teachers are not there. We are yet to know.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I indulge the Chair for more time so that---

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

**Sen. (Prof.) Lonyangapuo:** On a point of order, Mr. Temporary Speaker, Sir. Is it not time to introduce the visiting school?

**The Temporary Speaker** (Sen. Mositet): You are completely out of order Sen. Lonyangapuo. That will be dealt with at the right time.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, why would we allow the Chairman to get away with it by quoting learners who are on a different visit? This is not a classroom so we cannot be told that they are in school just because they are seated in the Public Gallery.

**The Temporary Speaker** (Sen. Mositet): Sen. Karaba, please, stick to the issues.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, following what I have heard from various Senators, and also from what I had indicated the day that I requested to be given the two weeks, we are going back to the same position that more time will be required. In any case, two rulings were made; one on 22<sup>nd</sup> and another one on 25<sup>th</sup> August, 2015 by the Supreme Court. We need to wait for the two rulings before we make further comments on this issue. I appeal to you.

**The Temporary Speaker** (Sen. Mositet): I heard some Senators ask about the costing of wasted time and who will compensate the students and the parents because the teachers' payslips will be attached. Therefore, do you need some time to answer that because I did not hear you address it?

**Sen. Karaba:** Mr. Temporary Speaker, Sir, these are some of the answers that I cannot give right away because I need more time so that I can find out from the Cabinet Secretary as to what has been the actual cost of the strike for both students and parents. Some schools have also gone on the rampage following incitement. We need some more time as we await the court ruling.

**The Temporary Speaker** (Sen. Mositet): I direct that you do that on Wednesday, next week.

I understand that there is one more Statement from the Chairperson of the Committee on Health.

#### SELECTION AND PLACEMENT OF STUDENTS TO MEDICAL TRAINING INSTITUTIONS

**Sen. Kittony:** Mr. Temporary Speaker, Sir, I have a Statement to issue that was requested by Sen. (Prof.) Lesan on the issues of Kenya University Colleges and Central Placement Services (KUCCPS); selection and placement of students in the medical training centres.

Mr. Temporary Speaker, Sir, I have the statement, but I believe that it has been overtaken by events because the matter has already been taken to court. I, therefore, seek your indulgence if I have to read it because it might be *sub judice*.

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Thank you.

**The Temporary Speaker** (Sen. Mositet): Since the Statement is here, you will read it. I hope that it was also not a way to hide some information. I, therefore, direct that you read it.

**Sen. Kittony:** Mr. Temporary Speaker, Sir, a Statement was sought by Sen. (Prof.) Lesan from the Standing Committee on Health. The specific information sought was:

1. Explain whether the Government is aware that the KUCCPS selected and placed students in the various medical training centers in the country.
2. Further explain whether the Government is aware that the Kenya Medical Training College (KMTC) also selected applicants and has since issued admission letters to the student selected to join the colleges.
3. Explain the fate of the students who were selected by KUCCPS and have no admission letters to any of the medical training colleges.

(a) Yes, the Ministry of Health is aware that the KUCCPS selected and placed students in the various medical training centers in the county.

(b) Yes, the Ministry of Health is aware that the KMTC also selected applicants and has since issued admission letters to the students selected by the college.

(c) The KMTC was created by an Act of Parliament CAP 261 of 1990, with the mandate to train middle level health professionals for the healthcare delivery system. The college academic board has the responsibility of selection and placement of students to KMTC. Following the enactment of the Universities Act of 2012, and the KUCCPS, there ensued confusion among the members of the public regarding the selection of the students to the KMTC. The Universities Act, Section 57, states that; notwithstanding any other provision of this Act, a university or a college may independently admit students to its programmes in accordance with its approved admission criteria.

This shows that there is no conflict between the Kenya Medical Training College (KMTC) Act of ---

*(Sen. Kittony spoke off record)*

Further, Section 71 of the Universities Act of 2012 repealed various existing laws namely:-

(a) The Universities Act Cap.210;

(b) The University of Nairobi Act Cap.201, and;

(c) The Acts of the Moi University, the Jomo Kenyatta University of Agriculture and Technology (JKUAT), the Egerton University, the Maseno University and the Masinde Muliro University of Science and Technology (MMUST) to the extent that the KMTC Act was not repealed by the enactment of the Universities Act of 2012.

The responsibility of admitting students to KMTC remains with the institution. Nonetheless, the Kenya Universities and Colleges Central Placement Service (KUCCPS) has, on two occasions, selected and placed students to KMTC thus creating confusion among members of the public.

On 30<sup>th</sup> September, 2014, the National Assembly's Committee on Health met with all the stakeholders. These included; the KMTC, KUCCPS and the Ministries of

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Health and Education. It gave direction that the KMTC Board should continue admitting students to its colleges as per its mandate. Contrary to this guidance, the KUCCPS admitted students for the academic years 2014/2015 and 2015/2016.

Regarding the admission for 2015/2016, the KUCCPS, on 20<sup>th</sup> July, 2015 forwarded to the KMTC a list of 2,302 students selected for various courses in the institution with a fee note of Kshs3,453,000 for placement services.

On 25<sup>th</sup> July, 2015, in a paid advert in a section of the print media, the KUCCPS published the names of selected students to the KMTC. Meanwhile, the KMTC Board of Management had, in the month of April, 2015, sanctioned the selection process as per the provisions of the KMTC Act.

In this regard, the KMTC placed paid advertisements in the print media on 17<sup>th</sup> April, 2015 and 21<sup>st</sup> April, 2015, inviting applicants for its various courses. Further, the college undertook a radio campaign in the month of June, 2015, in which it informed members of the public that it is only the KMTC that has the mandate to select students for its courses. The college has since issued admission letters to the students selected to join the college in September, 2015.

Mr. Temporary Speaker, Sir, following the parallel admission, the Health Committee of the National Assembly discussed the matter with the Ministry and the KMTC Board of Management on 4<sup>th</sup> August, 2015. The Committee affirmed the earlier resolution that admission of students to the KMTC is the mandate of the KMTC Academic Board.

In view of the foregoing, the fate of students who were selected by the KUCCPS lies with the selecting institution which is better placed to address the subject. Meanwhile, the Senate may note that some of the affected students selected by the KUCCPS have sought legal redress and the matter is now in court.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Mositot): It appears as if there are no interventions on this.

Sen. (Prof.) Lesan, please, move to the Dispatch Box.

*(Sen. (Prof.) Lesan moved to the Dispatch Box)*

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I thank the Vice Chairperson of the Committee on Health for the very comprehensive answer she has given. However, I would like to seek clarification on one area. Before that, I want to emphasise and raise the concern of 2,302 students who actually took their time and paid money to apply for courses. Up to date, they have not been admitted to any of the colleges. Obviously, this is a concern and it is understandable why they went to court.

Students who graduate from medical training centres throughout this country have a great bearing on the success of the devolved system of government in offering health services. This is because they form a very large part of those who offer services in the counties. The confusion arising from admission and training of students has a significant bearing on the delivery of services in counties which we represent.

Mr. Temporary Speaker, Sir, this confusion should be sorted out using another way other than the long drawn-out court case. That is the direction which the case is

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taking. I wish it was solved in a different way, so that the students go for training and come out in order to assist the devolved units to offer health services in the country.

However, Mr. Temporary Speaker, Sir, the two institutions should look at the issue. I am happy that the National Assembly has been addressing it and giving clear direction that there was no time that the KMTC Act – which establishes the boards of admission – was ever repealed by the Act that established the KUCCPS.

It is very clear from this that the Kenya Medical Training Institutions Board still has the right to admit the students. They have a place where they can admit the students. The KUCCPS does not have any colleges where it can admit the students. Therefore, it is important that this issue is resolved as quickly as possible.

*(There was a technical hitch with the  
Public address system)*

**The Temporary Speaker** (Sen. Mositet): The technicians need to work on these systems, please. Instead of raising our hands---

Proceed, Sen. M. Kajwang.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I thank the Chairman of the Committee for bringing this report to the House. I would like to share a personal experience on this matter. I have young people from my county who received letters of admission to the KMTC through the KUCCPS and others who received letters through KMTC. The parents of these children were very excited. Everyone wants their children to undertake a course as noble as medical studies. The process of raising fees to take these children to school and mobilizing resources is lengthy and laborious. We, as Senators, and elected leaders, get involved and conduct harambees out of our own philanthropy to take some of these students to KMTC only for them to get there and to be told that because of legalese they cannot be admitted.

Mr. Temporary Speaker, Sir, we have just closed a debate on education matters in this country. Right now, the entire nation is watching. If you will interpret the position of the Government and the entire leadership on education matters, it tells you that Kenyans are on their own. How can 2,305 young and bright people be admitted only to be told that, there is a legal issue? It is just a few months ago that recruits to the police were treated to a similar incident.

Mr. Temporary Speaker, Sir, the oath of affirmation for Cabinet Secretaries and Principal Secretaries says very clearly and I quote:-

“I will be a true and faithful counselor to the President for the good management of the public affairs of the Republic of Kenya”

Does this mean that someone is not advising the President and the entire Cabinet on this matter? Who is this misadvising the President? What action is being taken against people who are misadvising the President? What action is being taken to ensure that we have got a full cabinet instead of a situation where the Cabinet Secretary who is supposed to be responsible for health is involved in other things such that he cannot have the full focus that the people of this nation deserve? What has happened to those Cabinet Secretaries who had been asked to step aside, have been investigated and are still sitting in the trash can yet this country is suffering? The Cabinet Secretaries who are there do not have the capacity to faithfully and properly advise the President.

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**The Temporary Speaker** (Sen. Mositet): I request the Senators who will contribute to use the microphone at the Dispatch Box.

Proceed, Sen. (Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I also wish to seek further clarification regarding this statement. In 2010, a new Constitution was promulgated in which every old law which includes the Kenya Medical Training College Act of 1990 was supposed to be repealed in line with the new Constitution. To that extent, the Ministry of Education and many other ministries at that time that had any college or institution of higher learning, created a team that went across the country in order to realign education both in the Ministry of Health and the Ministry of Education with the new Constitution. That team was led by Prof. Douglas Odhiambo. They came up with recommendations which led to the new Act of 2012.

Mr. Temporary Speaker, Sir, does it mean then that the Ministry of Health chickened out and decided to run their affairs as if they are in a different country? The Ministry has ignored the new Act which overrules the old one. In my county, so many students applied and were admitted through the KUCCPS into various colleges. We depend heavily on animals. So, a number of cows were sold to raise fees. To date, those students are at home. We are highly deficient and we require many health personnel, including nurses, medical officers and so on. This interference has killed dreams of many young Kenyans. The scenario is that, in the same Government, the left hand does not know what the right hand is doing. This confusion needs to be addressed properly. Somebody needed to have realised this. I thought there is somebody who is in charge of coordination of Government ministries. When the confusion arose, they should have arrested it quickly.

Going to court does not assist. The students are willing and waiting to go to college. They should be told when the next admission will take place between now and December so that the students who have been given admission letters by the genuine board, prepare to go to college.

**Sen. Sang:** Mr. Temporary Speaker, I take this opportunity to thank the Chairperson, Sen. Kittony, for addressing this serious matter. In this country, the education and health sectors are facing challenges. One of the major challenges in the health sector is that we have very few health workers and professionals in our system. The KMTC has done a very good job. I thank the current team running the KMTC because they have expanded training institutions across the country. In my county, we have two new KMTC that are supposed to admit students starting this September. We are shocked when we have a situation where you have two Government entities that are unable to read a simple clarification within the law. I cannot understand how the KUCCPS could imagine that they had the powers to admit students to the KMTC when the Act that established them did not give them that mandate.

Mr. Temporary Speaker, Sir, as I speak right now, it is unfortunate we have a challenge of 2,300 students whose names were published in the newspapers and appeared in the KUCCPS website as having been admitted to KMTC, but they do not have placement in the institution.

Mr. Temporary Speaker, Sir, going to court by the same institution does not help. What happened to the principle that when two Government entities are disagreeing on a position, they should be subjected to some arbitration process?

The KUCCPS admitted 2,200 students while KMTC admission was 3,700. Which means that the institution called KUCCPS did not have an idea of how many spaces are available at KMTC because they do not run those institutions. Why can we, as a country, not ask them to sit down and agree on an admission criteria? It appears that it is still possible for KMTC to admit their 3,700 students and stagger the admission. In the next, three months still admit the 2,200 students in KMTC.

Is it possible for the Government to ensure that these two bodies are forced to sit down and agree on a formula of ensuring that all these students who have been selected whether through the misplaced KUCCPS or within the genuine KMTC, can have an opportunity to learn in these institutions? Therefore, we, as a country, must avoid the temptation of subjecting innocent young people to this kind of unfortunate situation.

Mr. Temporary Speaker, Sir, I have three young people from my county that I am supporting. They came to Nairobi to join KMTC on Monday only for them to be told that they cannot be inducted because there is a court injunction. What is happening in this country where courts are being misused by some unscrupulous institutions to harass and cause havoc in the running and management of public institutions?

We need this sorted out so that these students can be admitted and start their studies immediately. We should ensure that the 2,200 students that were selected by an institution that did not have a mandate should not carry the burden. This is the burden of that institution. They should negotiate with KMTC and ensure that these students are taken, admitted and pursue the courses of their choice.

**Sen. Kittony:** Mr. Temporary Speaker, Sir, I sympathize with the fate of the students that were selected and have not been admitted. In view of what has led to the heated debate by Senators, it is a right that the Committee on Health should continue to pursue and get an answer from the Ministry. As a senior citizen and as a mother, I really sympathize with the students. It is fair that our Committee is given another chance to seek more clarification from the Ministry of Health and these institutions.

I beg your indulgence.

**The Temporary Speaker** (Sen. Mositet): How long do you need?

**Sen. Kittony:** Two weeks or one month.

**The Temporary Speaker** (Sen. Mositet): I direct, one week.

**Sen. Kittony:** Mr. Temporary Speaker, Sir, most obliged.

## BILL

### *First reading*

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

*(Order for the First Reading read - Read the First Time and ordered to be referred to the Committee on Land and Natural Resources)*

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## MOTIONS

### MEASURES TO IMPROVE AND EXPEDITE THE PROCESS OF REGISTRATION FOR NATIONAL IDENTITY CARDS

*(Motion deferred)*

### POLICY INTERVENTIONS TO MITIGATE TRAFFIC CONGESTION IN NAIROBI METROPOLITAN REGION

**The Temporary Speaker** (Sen. Mositet): I request the Senator to use the microphone at the Dispatch Box. Give the Senator the microphone. This is a very important Motion.

**Sen. Kittony:** Mr. Temporary Speaker, Sir, thank you for giving me this chance to discuss the Motion that I had tabled in this House to the Ministry of Transport and Infrastructure.

THAT, aware that the traffic congestion in Nairobi Metropolitan Region is increasingly becoming worse leading to increased costs and longer travel times. I would like to say that the congestion is one of the key concerns---

**The Temporary Speaker** (Sen. Mositet): Order! Hon. Senator, first of all, you should read the entire Motion. I order you to do so.

**Sen. Kittony:** Mr. Temporary Speaker, Sir, the Motion reads:-

THAT, AWARE that traffic congestion in Nairobi Metropolitan Region is increasingly becoming worse leading to increased costs, longer travel times, constrained economic productivity and adverse health and environmental externalities;

CONCERNED that the economic cost of the congestion is estimated to be Kshs1 billion annually on account of wasted man-hours and wasted fuel due to vehicular queuing;

APPRECIATING the government's effort in mitigating the problem by expanding infrastructure and initiating other interventions such as installation of traffic lights in the Central Business District;

The Senate now calls upon the Government to consider formulating additional policy interventions to mitigate the problem by:-

1. Enacting legislation to allow only high capacity public transport to operate in the city; and

2. Creating regulations to:-

a) Require all deliveries to business premises to be done at night;

b) Require construction on roads that are in use to be done at night;

c) Reroute heavy commercial vehicles to use the bypasses.

Mr. Temporary Speaker, Sir, having said that, it is clear because we have witnessed and seen what really happens in the city, especially at peak hours when people want to go home. It is getting more worrying, especially when you want to reach home after working late. For security reasons, it is worrying when cars are piled up in the streets because you do not know what will happen next.

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I would like this debate and this Motion to be considered seriously. Traffic congestion is one of the key concerns affecting the performance of the transport system in Nairobi.

In 2008, the economic cost of traffic jams in Nairobi Metropolitan region was estimated at Kshs1.9 billion annually, on account of cost of additional time spent on travel due to congestion. The problem has now gotten worse.

I have the following recommendations:-

(1) Policy brief Paper No. 2/2015 Kibra that was mentioned.

(2) Traffic control in Nairobi metropolitan has been wanting. It is now believed that some of the traffic interventions such as installation of traffic lights in most of the Central Business District (CBD) have not worked despite enormous resources being put into them.

They lead to even more confusion and more congestion. We have witnessed this and each day it becomes worse. It is recognized that fully eradicating traffic congestion is not affordable and possible, especially in an economically dynamic urban area such as Nairobi. Expansion of roads infrastructure is expensive and has wide ranging economic, social and environmental effects and may, therefore, not be an ultimate solution.

The findings that I got and think will help in a great deal are as follows:-

Increasing road capacity would reduce overall traffic congestions in the interim. However, this result should be treated with caution given that increasing capacity of all roads by 50 per cent may not be economically feasible.

Building of the northern and southern bypass roads has reduced traffic congestion by 11 per cent whereas decentralizing the CBD through creating multiple centres of attraction in the Nairobi Metropolitan City has had the least effect on reducing traffic congestion by 10 per cent. For instance, the establishment of the shopping malls and recreation centres outside CBD; that is, malls along Thika Superhighway, Ngong and Langata roads.

Nairobi Governor, Dr. Evans Kidero, has set up a Transport and Urban Decongestion Committee to look into these solutions to deal with this congestion, but they have not managed. The Committee released their interim report in June, but still things have not improved. The report acknowledges the two approaches of reducing traffic flow by increasing road capacity supply and reducing traffic demand. It recognizes various ways of reducing vehicle traffic, for example, road space and rationing; possibly controlling the number of vehicles in the City by the last digit of the plate number during the week days, investment in mass transit systems, for example high capacity occupancy buses, light rail, metro road pricing policy, congestion pricing, urban planning and design

Mr. Temporary Speaker, Sir, the Nairobi Metropolitan Traffic Decongestion Programme's aim is to relieve the present traffic, but it is really far from achieving this. So, we need to look at increasing unit direction, one way traffic movement in Moi Avenue, Koinange Street, Tom Mboya and the rest. An expert has to be consulted. The Committee that has been constituted by the Governor for Nairobi is not enough. I am proposing this because of the fears that people are developing, especially, when the traffic is not moving; you are scared in the car and do not know what is going to happen to you next. As a matter of urgency, to remove the fear from the people and make the

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traffic flow, there should be a better way to do it. A law has to be enacted to be able to make it flow.

The other day when we had President Obama in the country, it was impossible for some of us who live at the periphery to access the city centre. We have not seen this in other countries, so why should it be in Kenya? Nairobi is expanding very fast. It is time that we enacted laws that will be more appropriate for our traffic to flow for citizens of this country to move without fear. I have been very scared, especially when we leave this House at 6.30 p.m. or 7.00 p.m. You do not know what will happen to you next before you reach home.

My concerns are very wide and I think many Kenyans will really share and appreciate that these findings will go a long way in formulating laws that will make this country and this city a better place for us and our grand children to enjoy in the future.

Mr. Temporary Speaker, Sir, with those few remarks, I request the Senator for Homa Bay to second this Motion.

**The Temporary Speaker** (Sen. Mositet): Sen. M. Kajwang, you can also proceed to the Dispatch Box.

Please, technicians; put all the microphones off then we use the mobile one.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I thank the Mover of the Motion; the indefatigable and ever fresh, Sen. *Mama* Zipporah Kittony who seems to have discovered the secret to long life and beauty which some for us have failed to discover.

I claim no expertise on transport matters; I am basically a Senator representing the fishermen and farmers of Homa Bay County. However, in seconding this Motion, am coming from a background where I went to school in Nairobi. I was born in the bushes and villages of Mbita in Homa Bay County, but at some point, I was lucky enough to come to Nairobi to study. I went to school in Jericho and Langata. In those days, the public transport system worked. The Kenya Bus Service (KBS) and the Nyayo Bus Service (NBS) which was operated by a National Youth Service (NYS) that was more transparent than today's NYS, worked and was on schedule. The KBS that used to leave Otiende in Langata to the Jomo Kenyatta International Airport (JKIA) was always on time. If you needed to go to the airport to pick a flight, it was easy to jump onto a KBS and get to the airport on time. Today if you try that, you will definitely miss your flight.

As time went by, I completed my studies. I landed a job in Nairobi. I could only afford to stay in Eastlands like so many of my brothers who were hustling to make something in this economy. The KBS and the NBS had collapsed. We had to rely on *matatus* which were quite shambolic. It reached a time when we had to rely on trains managed and operated by Kenya Railways to avoid traffic. When you see Kenyans hanging on those trains as if they have no dignity, it is because they do not have any other means. It is because to sit in a *matatu* or in a bus in peak time traffic at 5.00 p.m. is a complete waste of resources and energy.

In fact, I look forward to the day when someone will draw a relationship between decongestion in Nairobi and marital problems in this city. By the time you are done with that traffic, you are so unpalatable that your spouse becomes your enemy rather than your recipient back at home. Therefore, many Kenyans have resorted to the train service.

I took the train and on some occasions, I sat on the roof or hung on the doors so that I could get home on time. The trains in Kenya, no matter how shabby and dilapidated

they are, they reach on time. If you take a train from Syokimau to the city centre, you are sure you are going to make it on time and honour your appointment. However, if you decide to drive even if it is on a motorcycle, you are not sure which time you will get to the city center.

Mr. Temporary Speaker, Sir, with that background, I fully support this Motion that calls upon the national Government and county government to undertake certain measures to reduce congestion in the City. Kenyans are proud of Nairobi.

I spent some time in one of the neighbouring countries and their President had once asked them why they have to go to London when there is Nairobi. You will find everything in Nairobi; an excellent infrastructure, transport system, health care and education. Neighbouring countries are proud of Nairobi and so are we, as Kenyans. It is our pride and a city like no other.

Even though Nairobi has some world class facilities, people and engineers, like the Chairman seated here today, it is not a world class city. We are not yet there and it should concern us, as the Senate and Parliament. Therefore, measures must be taken to ensure that by 2030, Nairobi becomes that world class metropolis that will attract foreign capital, expertise and labour that will promote the economy of this nation.

Problems are many in Nairobi. We have slums, poor planning and flooding. Right now, *El Nino* rains have been predicted. As they approach, it is very important that we take measures to ensure that our people do not die since we have been given adequate time to respond. We have high levels of crime, muggers and churches that tend to think that everyone should listen to their services and so they scream throughout the night, polluting the environment through noise.

However, this Motion specifically addresses issues of traffic and comes up with certain proposals to decongest Nairobi City. The Mover of the Motion has stated and quoted research from the Kenya Institute of Public Policy Research and Analysis (KIPPRA), that the economic cost of traffic jams in Nairobi is Kshs1.9 billion. As I speak now at 5.42 p.m., Kenyans are burning fuel and money in traffic. A sum of Kshs1.9 billion is enough to pay our teachers for one and a half months. Our teachers are only asking for Kshs1.3 billion per month. That money that we burn every day, without any productivity, is enough to pay our teachers. This is what we lose every other year.

The population growth in Nairobi is expected to go up to 14 million people by 2030. In as much as rural-urban migration and urbanization is a trend that is difficult to stop, we must take measures to ensure that the 47 county governments that we have in the country attract people. It should not be fashionable to come to Nairobi County to look for a job. It should be more fashionable for me to go and look for a job in Homa Bay, Kisumu, Nyeri or Machakos counties.

There is increasing affluence by Kenyans where we see new cars on the road every other day. If you went to a city like Havana in Cuba – even though that could be a bad example – you will find cars from 1950s and the population of new cars is fairly small. However, they somehow get by. The problem of Kenyans is that we feel that when we make a little bit more money, then you need to buy a new car. We, as Members of Parliament (MPs), sometimes lead that gravy train by wanting to have big cars that consume and do not produce.



There will be a 7 per cent growth in personal vehicles in this country. Unfortunately, our roads are not expanding. The roads in Nairobi were designed for slow traffic. In fact, historians say that the roads in Nairobi were designed for ox-drawn carriages and not the guzzlers that we drive today.

I support this Motion because it proposes certain initiatives that the county and national Government should undertake. I would also urge that as we consider these initiatives, we need to go back to the Nairobi Metro 2030. This is a plan that was developed by the then Ministry of Nairobi Metropolitan that was initially headed by Amb. Njeru Githae and, later on, the late Mutula Kilonzo. I have no doubt that the Nairobi City County Government has taken up that plan and that it will make sure that it perfects it and comes up with a better document.

However, the most important thing is implementation. We have seen some missteps when it comes to implementation. The country was treated to the charade of what was called the “Kidero drums” which were basically yellow drums that Kenyans woke up to on certain roundabouts. As we go about the recommendations stated in the Motion, let us also ensure the public is involved. We do not want the public to wake up one day and be told that certain things can only happen during the night. There has to be a proper framework for public participation.

I am happy that just the other day, the Governor of Nairobi launched a project to declare certain streets one way. Again, Kenyans need to be informed so that it is not a surprise. Our neighbours in Kigali have closed off certain streets to motor traffic. The residents of the city are complaining, but projections are that it is going to open up and decongest the city significantly.

Finally, we need to find a solution to the handcarts problem in this city. Politicians are not bold enough to confront it because it provides employment to young people who, otherwise, would have been muggers. However, I wonder whether that is the best form of employment for them. Pushing handcarts along the roads is something which donkeys and horses were made to do. God was clever to create horses and it was to pull those carts. Human beings were created to drive the donkeys and horses and not pull the carts. We need to find a solution to the *mikokoteni* menace in this country, because it contributes significantly to traffic congestion. If you drive on Mombasa Road, you will find our brothers hanging on the *mikokoteni* on the wrong side of traffic and you can imagine the kind of ripple effect that that has on the entire nation.

We, as the Senate, need to support the governor of this city and those of other counties to come up with innovative programmes to decongest their cities, so that ultimately it is not only Nairobi that is considered a world class metropolis. We would also like Kisumu, Eldoret, Nakuru, Mombasa and several other county headquarters to be considered as world class metropolises in 2030.

I support.

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, the Motion has been moved and seconded very well.

*(Question proposed)*

**Sen. Sang:** Mr. Temporary Speaker, Sir, I take this opportunity to congratulate the Mover of this Motion. I also note that Sen. Kittony has worked so hard the whole afternoon giving responses to several statements sought from her Committee, and now moving a very important Motion. Looking at her age, the energy that she continues to exude in this House is a clear indication that age is just, but a number.

I support this Motion. For a very long time, the leadership of this country has not been bold enough to deal with some of these serious challenges facing this country. It takes you 40 minutes by flight from Eldoret to Nairobi – a distance of over 400 kilometres. When you land at the airport in Nairobi, it takes you an average of between three and a half to five hours to reach the city centre. This is to the extent that it makes no sense to choose to fly when it will actually take you about five hours to drive your way from Eldoret to Nairobi. That is the absurdity that we are facing in this country because of this traffic congestion. If you were to leave the city centre right now on your way to the airport or Karen where Sen. Kittony lives, it will take them about three hours to get there. Sen. M. Kajwang and I are still ambitious that one of these fine days we will live where Sen. Mugo and Sen. Kittony reside.

We have serious Kenyans working so hard all the way to 5.00 p.m. and instead of taking about 15 to 20 minutes to get home and spend time with their family, they take three to four hours. These are the serious challenges that we must be able to confront. If you have a patient in an estate and some emergency arises and they require the services of an ambulance, may be from Mater Hospital to Lang'ata or from Parklands to Nairobi Hospital, it will take one and a half hours for the ambulance to come, and another one and half to go back. Three hours, that cannot be an emergency. That is almost the same time it will get you to get a patient from Kenya to South Africa. We must be serious in addressing some of these challenges.

We are a country that engages in a lot of unnecessary trial and error. The other day, Governor Kidero tried with the proposed elimination of certain roundabouts using drums. But why are we engaged in a process of trial and error when we have universities in this country, we have had research done on a lot of these things? We are now told that they want to turn some of the streets within the Central Business District (CBD) into one way streets. Why are we engaged in trial and error? We have the University of Nairobi, Kenyatta University, Jomo Kenyatta University and we have engineers and researchers in this country. Why can we not utilize them so that we do not engage in a process of trial and error?

We should be able to do actual research and provide a solution in this country that addresses a lot of these issues, so that we do not wake up tomorrow to find Kenyatta Avenue is a one way street, Haile Selassie is a single way street and when we find out that it does not work, we try to eliminate roundabouts. We need to use the research work that has been done.

Mr. Temporary Speaker, Sir, being a professional engineer yourself, this country has had support from World Bank on how to tackle some of these challenges within the CBD. But we know some of those researches are lying and gathering dust in the shelves within the County Hall and the Ministry of Transport and Infrastructure. Why do we not work on an implementation mechanism? We are now spending a lot of resources to build the Standard Gauge Railway (SGR). Now it is no longer Nairobi City alone; if you

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go to Mombasa and land at the airport, it will take you about three hours again to drive your way to north coast, some of those facilities that we normally use for our conferences. Eldoret was still quite a free town the other day. However, if you go there now, Uganda Road is impassable. It will take you almost one and a half hours from Eldoret airport to cross over the town to find your way to Maili Sita, if you are going to Kitale.

This is not just a problem of Nairobi alone. It is a problem that is now affecting our major towns. When you decide to go by road from Nairobi to Eldoret, if you get to Nakuru, it will take you another almost one and a half hour just to cross over. You do not need to go through Nakuru Town because you have no business there. However, it will take you almost one and a half hours because you are forced to go through Nakuru town.

If we had bypasses, then you would bypass Nakuru Town because you are on transit to Eldoret. Why do you have to force people from Mombasa who have no business in Nairobi to go through the CBD? Why do you have to find the huge tankers in town? We, therefore, have to engage as a country and make bold decisions. We know that the late Hon. John Michuki attempted to address the menace in the *matatu* industry. He succeeded because he was a bold man and he took the bull by its horns and decided that we needed to address the *matatu* industry and deal with those issues.

Mr. Temporary Speaker, Sir, we now need another courageous leader to tell us that we cannot succeed to eliminate congestion in this town if we are going to allow the 10 and 14 seater *matatus* within the CBD. If you go anywhere else in the world, you will never find a 14 seater *matatu* being used for public transport within the CBD. People have gone into trams and vehicles for mass transport where they have double decker buses. However, in this country, when you go to Uhuru Highway right now, you will find very many 14 seater *matatus*. You will also find private vehicles with only one person. I am driving on the road alone in the car, same to my wife and child. Why do we have to waste that amount of resources in this country? It is time for us to think of pooling together to ensure that we reduce the number of vehicles on our roads.

Mr. Temporary Speaker, Sir, this is the courage that we need to sort out this mess within our country. I thank the Ministry of Transport and Infrastructure. They have tried, but some of these bypasses are still just within the CBD. If you have a bypass off Mombasa Road through Ole Sereni and you are going all the way to Langata Road; that is still within the CBD. Why do we not have bypasses that are real bypasses, way out of town? If you look at the eastern and southern bypasses, a lot of the roads are still within the CBD. We, therefore, need to ask ourselves where the problem is. Why should we invest a lot of billions in a bypass that turns out to be just one other street within the CBD? If we needed a bypass, we need to be talking about a bypass off Mombasa Road, maybe from Athi River crossing over and joining the Main Highway at past Limuru so that we can then be able to eliminate the heavy trucks within the CBD.

I support this Motion, but say that we need to have a comprehensive research so that we do not engage in trial and error. Let us have a research that gives us the right things to do as a county, but we also need a leadership that has the necessary courage to take the bold decisions. If we have to eliminate the 14 seater *matatus*, let us do it. If we have to increase the parking charges within the CDB, perhaps charge Kshs1,000 per

vehicle, that will ensure that some of us will leave our vehicles at home and get into an organized public transport system.

I can assure you that if you went to other countries, you will find ministers and other senior Government officials, including prime ministers, using mass public transport because they are well organised and stick to time. There is no pride in running around in traffic with a chase car yet you are stuck in the same traffic with all of us. Why does a Cabinet Secretary need two or three chase cars only to be stuck in the same traffic with us? They increase two or three vehicles in the traffic jam yet they cannot move.

Some decisions must just be made so that Cabinet Secretaries and other senior Government officials lead the way. They should reduce the number of vehicle that they move around with. A person should just have one vehicle. If you are in a family, you should ensure that family members use one vehicle. Let us, as a country, get down to serious business and make our commitments to ensuring that we deal with the problem. If that happens, one will be excited to jump into a tram straight from the Chambers just outside here and within 10 minutes, they will be at the airport or closer home. These things are possible.

Mr. Temporary Speaker, Sir, as we work on a standard gauge railway, it is possible to develop an elaborate mass transport system within the CBD so that Nairobi City continues to have the reputation that Sen. M. Kajwang talked about. He said that Nairobi is one of the best cities in Africa. We must provide a better infrastructure and take bold steps to move this country forward, not only in Nairobi, but also Mombasa, Kisumu, Eldoret and Nakuru counties.

Mr. Temporary Speaker, Sir, Sen. Kitony should know that this is one of the best Motions. We hope that the Committee on Implementation and the Committee on Roads and Transportation in this Senate will take up this particular matter so that it does not appear as if we are just urging the national Government to enact legislation. We should walk around and look at the best legislations available that have worked in other countries and propose them in this House. We should not wait for the Executive or any other institution to act. We should propose and enact legislations. We should engage and meet with the relevant stakeholders to put our heads together so that we sort this particular mess and problem, once and for all. If that is done, we will save a lot of man hours, fuel and lives that would, otherwise, have been lost in instances where ambulances are unable to reach patients.

Mr. Temporary Speaker, Sir, with those remarks, I beg to support and I congratulate the Mover. I hope that this will be one of the Motions that we will pursue to its logical conclusion to ensure that we not only enact the legislation, but also organise all the other institutions and Government agencies to help us sort out the traffic problem, not only in Nairobi, but also in other towns, once and for all.

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

**Sen. Mugo:** Thank you, Mr. Temporary Speaker, Sir for giving me the opportunity to support this overdue Motion about measures to mitigate traffic congestion in Nairobi Metropolitan Region. I also congratulate the Mover for bringing this Motion and the Seconder.

Mr. Temporary Speaker, Sir, it is a big agony for, especially, Nairobians getting to their places of work or business.

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I want to assure Sen. Sang that even from where I live; sometimes it takes hours to get to the city centre. The congestion is all over the city. I do not think that there is any area that is spared. I encourage him to work hard as a young man, that when he gets to my age, he will live in those areas. It did not come overnight. When I got married, my first home was in Makadara. So, you can see where we started. I am sure that you will also get where you want to go.

Mr. Temporary Speaker, Sir, Nairobi and many other cities--- I have been to Mombasa and I have seen the same problem. It becomes very difficult to drive in Nairobi, especially during rush hours. I have heard of people who have missed their international flights because they could not get to the airport on time. We have reached a stage where something must be done.

I remember that the late Sen. Mutula Kilonzo had come up with a comprehensive plan on how to solve traffic congestion in this city. Together with Sen. Ongoro, who was the Assistant Minister, they visited several cities to see how best to go about this problem. I am sure all those plans are still intact somewhere. We do not have to always reinvent the wheel. That another team has to visit Singapore, Dubai or another big city to see how it is done. For

example, we can utilize the plans which were developed by the late Sen. Mutula Kilonzo when he was the Minister in that sector.

In addition, there have been other studies. I congratulate the Ministry of Transport and Infrastructure, formerly Ministry of Roads. We have seen what they have done. They have tried to give this city a facelift. For example, the Thika Superhighway is a success story but it is now congested. People now complain that they cannot make it to the city on time; sometimes they spend two or three hours depending on what time they left Githurai and Ruiru areas.

Mr. Temporary Speaker, Sir, it is quite clear that with those efforts, although there are some good results, we still need to do more. I encourage Governor Kidero as well as the Ministry of Transport and Infrastructure to work together and come up with a way to solve this problem. Some of the areas that we feel need real attention are the roundabouts. They cause more congestion and chaos than solving the traffic problem. We have seen in other cities that there are no roundabouts anymore. They have roads on top of other roads. I believe that if we construct bypasses we will solve this problem. We can also copy what other big cities are doing. They have just as heavy traffic, some of them even much more than we have. Although during rush hour, they still have traffic, but not the kind that we experience in Nairobi.

Although highways are the responsibility of the national Government, but then, the responsibility of some urban roads falls within the county. So, there is need to work together so that we can solve this problem. As we have seen in big cities, we welcome the one way street which is being introduced. I believe that it will help to solve a bit of the problem. We need to develop good public transport in the cities. That is what the late Sen. Mutula Kilonzo was working on. We have seen that the development of the train services has started. It is true that we all cannot fit on these roads.

When there is proper and organized public transport, people leave their vehicles on the outskirts of the city and jump on the organized tram or any mode of transport and

get to their destinations quickly. This relieves the congestion problem of parking which is another big headache.

There is no way we will solve congestion in the city unless we adopt the methods which have been adopted by many other cities. We have professionals who are qualified in transport system in the city. I was very impressed by one young lady who is doing a PhD in planning. We need to utilize such young people so as to show us the way. We should not keep on with the old thinking.

I thank my colleague Sen. Kittony for this timely Motion. I urge her to come up with a Bill or amendments to some of the laws we have which will help us to implement the good ideas which will emanate from this Motion because we need it.

We have also seen that most of the time thugs attack passengers where the vehicles have stopped and people have no way of escaping. Congestion brings with it a myriad of problems which we need to solve. I believe if the two administrations put their hands together we will definitely come out with an answer. Let us get moving and do something about the traffic.

Sen. Kittony, I hope you will follow this up with the Committee on Implementation to see that it is implemented.

**Sen. Omondi:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to add my voice to this very important Motion. First, I want to thank the Mover of the Motion who is also my Vice Chairperson in the Committee on Health. I join my fellow Senators who have congratulated her for working tirelessly and showing that we are young leaders that need to work extra ordinary. We should lead by example so that we can bring the change that we want to be seen in this country.

The issue of traffic is of concern. I have been hearing the issue of traffic jam in Nairobi since the time I was very young and when I did not know where Nairobi was. It has been a culture that the traffic menace in Nairobi is as usual every time. It is time to join hands, think outside the box and work towards achieving a permanent solution regarding the possible ways that can help our country to change the way the issue of traffic in Nairobi has been perceived.

I cannot forget to mention something on areas where Kenyans get a lot of wastages; my colleagues have been talking about wastage in fuel. When we talk about fuel, we need also to talk about time management because a lot of time is wasted. I want to agree with Sen. Sang that, indeed, when I come from Western I better calculate my time to enter the CBD at around 10.00 p.m. If you leave western very early and arrive in Nairobi at around six in the evening, you are likely to enter your House at around nine or ten midnight. You would have wasted a lot of time.

We also look at wear and tear, whereby we are always using and holding emergency brakes because of the congestions and causing the road users a lot of money in terms of wear and tear. It is also a health hazard because most of these people use Air Conditioners (AC) because they stay in the traffic for more than three hours, with the windscreens locked. They must use AC for them to survive for the long periods that they are on traffic.

Mr. Temporary Speaker, Sir, I support this Motion by saying that we should think outside the box and have plan B on what can be done. This is going to be a relief to persons with disabilities whom are the people that I represent in this House. They also

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use tricycles and wheel chairs, on the same congested roads, which sometimes causes additional injuries to them. If we use alternative means of transport it will decongest the city.

We will ensure that we are changing the living standards of other users who are marginalized. They will have space of using the same, roads. When we talk about the menace that is brought about by the traffic jam in Nairobi, most of the motor vehicle accessories are broken while people are stuck on the road in the traffic jams, or during rainy season and when people are stuck at one point. At the end of the day, they find themselves losing some parts of their accessories of their motor vehicles.

Mr. Temporary Speaker, Sir, I support this Motion, having in mind that, indeed, it is a concern for each and every Kenyan. We, as legislators, must work towards relieving Kenyans who cannot come here and state the challenges they are facing. I remember one time when I was requesting a traffic officer to allow me because I was getting late and he told me that you are the legislators, stay there so that you understand that you are failing to do what you are supposed to do.

The most vulnerable unit is the traffic, because it reaches at time when I have lunch with my colleagues at Kenyatta International Conventional Centre (KICC), but because I cannot cross within the buildings am forced to use my vehicle to come to Parliament. It takes me another 30 minutes to just move from the KICC to this Chamber. It is a concern and, indeed, a menace within the city. It increases the cost of fuel, repairs and other things. The people in charge need to be more aggressive, as the late Hon. Michuki was. If you do something, be proactive for you to succeed.

With those remarks, I thank the Mover of the Motion and I support.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I thank you for the opportunity to speak to this important Motion brought by Sen. Kittony. She has been a significant figure for over 40 years now. This is the person who was the leader of *Maendeleo ya Wanawake*, the movement that determined who would go to Parliament and who would be elected as a councilor. That is why the President of the Republic of Kenya at that time, made sure that all attention was given to the movement.

She can recall the first time she came to Nairobi, during her leadership in the 1970s and 1980s. If she flashes back, this is not the Nairobi that she knew. It is the wrong place. This is because the amount of development and economic activities that have been done by our people is unimaginable. You cannot describe it. If you want to know how Kenyans develop, look at the number plates of the cars on the road daily. If you look at the vehicles going to Tanzania and other countries, the number plate of Kenyans --- Remember we had to change the series of numbering in order to elongate it.

Mr. Temporary Speaker, Sir, when I was Permanent Secretary (PS) in the then Ministry of Industrialization, I once decided to camp in Mombasa to know how many vehicles – both second hand and new – are imported into Kenya. You will be surprised that it is a staggering 100,000 every year from Japan, the Middle East and a few from Europe. This excludes the ones that now emerge from Tanzania and Uganda. That tells you that our economy has grown to the level where everybody wants to own a car.

At one time, the former Grand Coalition Government, led by President Kibaki, sent a team led by the former Prime Minister, Hon. Raila Odinga, to go to Singapore and other countries for benchmarking. The purpose was to see how the road network had

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been improved and how congestion had been eliminated in some of the cities. I was lucky to be in the team that went to India in New Delhi, that “city of confusion.” We also went to Singapore and, finally, England. It is unfortunate that the road network that we inherited from the colonial government is the same one we have today. For example, there has been no expansion of the road from Nairobi to Nakuru from 1963. At that time, there were few vehicles and you could actually count them. Today there is traffic congestion right from Nairobi to Nakuru. That indicates that although we have been trying to expand roads, we have not done enough. However, I want to thank the retired President Kibaki for the superhighway from Nairobi to Thika.

Mr. Temporary Speaker, Sir, the Nairobi Metropolitan region is a mess. I am told that if you stay in Ongata Rongai, for you to be here by 8.00 a.m., you have to leave at 5.00 a.m. The Chairman is one of the sufferers because he stays there. If you live in Kitengela, you have to leave very early.

Mr. Temporary Speaker, Sir, Kenya has a record of producing documents. The documents on how to decongest the City of Nairobi are in the Ministry of Transport and Infrastructure. Now that we have a new sheriff in town called Governor Kidero, he also has those documents. The solution lies in what was done in New Delhi and England; constructing a highway from Westlands on top of the current road. We need an overpass with two lanes on both sides which will fast-track all the vehicles going to and coming from Mombasa, so that they do not cause traffic congestion in the city. Only vehicles which operate within the Nairobi region should be allowed to move on the ground. That is exactly what we need.

I am told we spent almost Kshs40 billion to construct Thika Superhighway. How much will it cost to do this one? Governor Kidero has now copied what the former Government Spokesman who is the current Governor for Machakos did. He woke up one day, mobilized the press and said he wanted to beautify the highway between the city and the airport.

**The Temporary Speaker** (Sen. Mositot): Hon. Senator, you will have a balance of eight minutes when this Motion resumes, hopefully, next week.

### ADJOURNMENT

Hon. Senators, it is now time for interruption of the business of the Senate. The Senate stands adjourned until Tuesday, 22<sup>nd</sup> September, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.