

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 2nd April, 2015

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

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

PRAYERS

COMMUNICATIONS FROM THE CHAIR

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I would like to make the following two important Communications.

THE SPEAKERS' CONSULTATIVE FORUM

Hon. Senators, the Senate has organized a consultative forum between the Senate and the speakers of the county assemblies from 15th to 18th April, 2015 at the Serena Hotel in Mombasa. The consultative forum will provide an opportunity to review existing linkages between the Senate and the county assemblies and explore avenues for consultation and collaboration with a view to strengthening the implementation of the devolved system of governance.

To facilitate discussions and evaluation during the workshop, we have put in place an elaborate programme that will be interactive and evaluative. The resource persons for the sessions will be Senators and speakers of the county assemblies.

THE SECOND ANNUAL CONFERENCE ON DEVOLVED GOVERNMENT IN KENYA

Hon. Senators, as you are aware, the first devolution conference took place in April, 2014 in Kwale County. It was an opportunity for actors in the devolution process to assemble and reflect on the highlights of the first year of devolution in Kenya. The second annual devolution conference will be held from 21st to 24th April, 2015 in Kisumu and will mark the second anniversary of a devolved system of Government in Kenya.

Hon. Senators, the conference will bring together stakeholders in devolution and is organized by the Ministry of Devolution and Planning and the Council of Governors. It will be anchored on the overall theme: "Celebrating the Gains of Devolution"; and the

guiding theme: “Appreciating and Strengthening Devolved Governance; Working together to Realize the Objectives of Devolution.”

Hon. Senators, this will be an opportune time to take stock of the milestones that have been achieved thus far, within the framework of the principles and practices of good governance. At the same time, it will also provide an opportunity for all participants to appreciate the challenges that have confronted the devolution process.

Hon. Senators, further necessary information on the arrangements for these two events will be provided by the Office of the Clerk. I request all Senators to attend and participate at these very important events in our calendar, which will go to the core of our mandate as the Senate.

I thank you.

PAPER LAID

INTERIM REPORT OF THE CPAIC ON INQUIRY INTO COUNTY GOVERNMENTS’ ACCOUNTS FOR FINANCIAL YEAR 2012/2013

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday 2nd April, 2015:-

The Interim Report of the Senate Sessional Committee on County Public Accounts and Investments on the inquiry into the county governments accounts for the Financial Year 2012/2013 for the period running from 1st January to 30th June, 2013.

Mr. Deputy Speaker, Sir, this Report excludes reports concerning the County governments of Mombasa, Tana River, Mandera, Marsabit, Kitui, Nyeri, Nakuru, Kajiado and Homa Bay. The reports for these excluded counties were not submitted by the Office of the Auditor-General.

(Sen. (Dr.) Khalwale laid the document on the Table)

NOTICES OF MOTIONS

ADOPTION OF INTERIM REPORT OF THE CPAIC ON INQUIRY INTO COUNTY GOVERNMENTS’ ACCOUNTS FOR FINANCIAL YEAR 2012/2013

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I beg to give notice of the following Motion:-

THAT, the Senate adopts the Interim Report of Senate Sessional Committee on County Public Accounts and Investments Committee on the inquiry into county governments’ accounts for the Financial Year 2012/2013 for the period running from 1st January to 30th June, 2013.

ADOPTION OF CRA REPORT ON THE RECOMMENDED
COUNTY GOVERNMENTS' BUDGET CEILINGS
FOR FY 2015/2016

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

THAT, the Senate adopts the Report of the Commission on Revenue Allocation (CRA) on the recommended county governments' budget ceilings on recurrent expenditure for the new structures for the Financial Year 2015/2016 pursuant to Section 107(2)(a) of the Public Finance Management Act, which was laid on the Table on Wednesday 1st April, 2015.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I know that there are some Statements that were supposed to be issued.

(Sen. Hassan consulted loudly)

Order, Sen. Hassan! I do not mind people consulting, but when it is so high that I can hear it from here, then it affects my thought process.

As I was saying, I know there are some Statements to be given this afternoon, but we have a lot of Business of the House that we must complete. The Statements will take us until 4 p.m, in which case, we will lose a lot of time and we have a lot of Business to do this afternoon. I want to seek your indulgence to allow those who want to seek for Statements, to do so, over the recess. This is because issuing a Statement, will take too much of our time. In any case, I notice that from our Order Paper that, at the appendix, there are no Statements apart from the one from the Senate Majority Leader on the Business of the House.

Shall we proceed then?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. I am surprised that the House is not expecting any Statement from the Chair of the Committee of Legal Affairs and Human Rights when you are the same one who directed yesterday.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senator, if you had waited a little longer, you would have known whether the Statement by Sen. Sang would be delivered or not. I do not know whether you saw me consulting with him about that Statement, although, I am the one who ordered that it be given this afternoon. So, just be patient and things are going to unfold.

Sen. Ndiema: On a point of order, Mr. Deputy Speaker, Sir. This morning, I requested for a Statement and you directed that it be issued this afternoon.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senator, that time I had not made up my mind on that issue, but you said that because of the rains, it is very urgent.

Sen. Ndiema: Mr. Deputy Speaker, Sir, it is very urgent.

The Deputy Speaker (Sen. Kembi-Gitura): Exceptionally, I will allow your Statement to be issued, but you must take the consequences because I shall allow very little time for interrogation on that it.

Is the Chairman of the Committee of Agriculture Livestock and Fisheries, Sen. Murungi, present?

Sen. Murungi: Mr. Deputy Speaker, Sir, we are present and we have the Statement.

The Deputy Speaker (Sen. Kembi-Gitura): Read it or rather issue the Statement.

STATEMENTS

SUPPLY OF DI-AMMONIUM PHOSPHATE (DAP) FERTILIZER BY THE GOVERNMENT

Sen. Murungi: Mr. Deputy Speaker, Sir, the Senator for Trans Nzoia, Sen. Ndiema, requested for a Statement from the Chairman of the Standing Committee on Agriculture, Livestock and Fisheries regarding the supply of Di-ammonium Phosphate (DAP) fertilizer by the Government.

In the Statement, the Chairman of the Committee was expected to inquire into and report on:-

(1) How much DAP fertilizer the Government had supplied in the 2015 for sale at a subsidized price

The Deputy Speaker (Sen. Kembi-Gitura): May I request that you go to the substance of the Statement.

Sen. Murungi: Mr. Deputy Speaker, Sir, I oblige. The amount of DAP fertilizer the Government supplied in 2015 for sale at a subsidized price is as follows:

(1) The Government procured a total of 18,750 metric tonnes of DAP fertilizer for sale to farmers at a subsidized price of Kshs1,800 per 50 kilogrammes down from Kshs2,000 which was charged last year.

Mr. Deputy Speaker, Sir, 5000 metric tonnes have been allocated to sugar mills for sugarcane farmers, while 1,3750 metric tonnes is being sold to farmers through National Cereals and Produce Board (NCPB) depots. The Ministry has procured less DAP fertilizer this year, as compared to last year because the soil sampling results recommended non-acid fertilizers, that is NPKs, in most crop growing areas in the country.

(2) The amount of fertilizer allocated to each county and how much fertilizer has been supplied to each of the NCPB depot is provided in a long distribution list which is annexed to this answer, a copy of which I have supplied to the hon. Senator.

(3) Whether the Ministry of Agriculture, Livestock and Fisheries is aware that no DAP fertilizer has been supplied to the Kitale NCPB depot in Trans Nzoia County and that further shortage would adversely affect crop production since the planting season commences this month.

The Government is doing as follows:-

(i) The Ministry is aware that no DAP fertilizer was supplied to Kitale NCPB depot in Trans Nzoia County. This is because according to soil tests conducted in 2013 and launched by His Excellency the President in February 2014, DAP was not recommended for Trans Nzoia County unless accompanied by agricultural lime. The reason for this being that the soils in this county are largely acidic.

At the same time, the Governor of the County, in his letter dated 20th December, 2014, addressed to the Cabinet Secretary, advised that Trans Nzoia County will only accept DAP fertilizer, if accompanied by appropriate levels of lime. A copy of the Governor's letter is attached and I have given a copy to the hon. Senator. Since the Ministry did not procure lime at that time, DAP fertilizer was not delivered to Kitale NCPB depot. However, the Ministry has allocated adequate quantities, in fact, 361,915 bags of fertilizer recommended in soil analysis report for the county. The distribution report of DAP started on 7th February, 2015. While that of NPK started on 15th February, 2015 and is still going on.

Mr. Deputy Speaker, Sir, I think the rest of the information is bulky. I have given the schedule to the hon. Senator, unless he has any other clarification that he wants to make.

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

Sen. Ndiema: Mr. Deputy Speaker, Sir, I want to thank the Chairman for that answer which has confirmed that no DAP fertilizer was supplied to Trans Nzoia County this year.

(1) I want him also to confirm that this was not supplied because the Governor turned down DAP in favour of Mavuno Fertilizer, specially blended by Athi River Mining Company.

(2) I want to ask whether the farmers were involved in the decision to reject DAP fertilizer in favour of Mavuno fertilizer.

(3) I realize that DAP was allocated to neighbouring counties of Bungoma, Kakamega, Uasin Ngishu and so on, and so forth. Yet they have the same soil structure. Why was Trans Nzoia excluded?

(4) I also realize from the Statement that 30,000 bags of DAP were allocated to Kenya Seed Company (KSC) in Trans Nzoia County. Why was DAP allocated to KSC which is in the same county and not to the ordinary farmers?

5. Lastly, how soon will DAP be availed to farmers in Trans Nzoia, because it is the appropriate fertilizer for the farmers in Trans Nzoia?

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I can see some requests, but I do not know whether they are related. Sen. Wetangula, are you rising about the fertilizer issue?

The Senate Minority Leader (Sen. Wetangula): Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Kindiki, are you raising an issue on that topic too, because I can see some requests here? Sen. Gwendo, you are not raising an issue on that topic.

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

Sen. (Dr.) Khalwale, I heard you by mistake. I am not going to deal with issues of not having cards; that is administrative. Go to the relevant desk and get a temporary card; only then will you address me.

(Laughter)

(Sen. (Dr.) Khalwale sauntered off the Chamber)

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, according to the Fourth Schedule to the Constitution, agriculture is a devolved function. Could the Chairperson tell us why the national Government is still hanging on to the importation of fertilizer and purporting to distribute it to farming counties in a very irrational and unbalanced manner?

Lastly, Mr. Deputy Speaker, Sir, assuming that the national Government can continue importing and distributing fertilizer, why do they wait until the rains are here then they start running helter-skelter with little bits and pieces of fertilizer which is hardly enough even for the farmers, therefore, undermining crop production? Is it because of corruption so that we have crop failure or inferior crop production so that the cartels can continue importing maize at exorbitant prices in the country?

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wamatangi, are you rising on the issue of fertilizers?

Sen. Wamatangi: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Okay; I am getting a little bit confused.

Proceed, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir, for your understanding.

The Deputy Speaker (Sen. Kembi-Gitura): It is not a matter of understanding, but I thought that you were using your card with your name and not a temporary card.

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

The Deputy Speaker (Sen. Kembi-Gitura): Which means that it was either left at the desk there or you have found it now.

Sen. (Dr.) Khalwale: I have found it, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, that is the way it should be; you should disclose that.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, the issue of the ideal fertilizer which has not been delivered is very critical. I am now speaking about Bungoma and Kakamega counties and the question was directly concerning Trans Nzoia. The fertilizer that has been brought is not DAP, while the fertilizer that works in our place is DAP.

Mr. Deputy Speaker, Sir, last year, when they tried this fertilizer called "Mavuno", the yields were poor. So, we are demanding to be told who told the Government to change the fertilizer that is tried, tested and proved to work in Bungoma, Kakamega and Kitale counties as well?

Mr. Deputy Speaker, Sir, the other challenge is that even with the fertilizer which is ideal, the yields are now starting to dwindle year after year. Could the Chairperson tell us how much money the Government has put into soil research to make sure that they unlock the challenge of acidity, which is the reason why our yield has gone down?

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Order! What you are asking for is very important, but I allowed you to seek a clarification. But now, when you ask Sen. Murungi about soil acidity, then that must come via seeking another Statement. It is unreasonable to expect the Chairperson of a Committee to deal with a completely new issue when he is dealing with a specific Statement. So, I do not expect that Sen. Murungi is going to deal with that specific query about acidity. You are raising a very important issue, but maybe at the wrong time.

Sen. Karaba, are you on fertilizers?

Sen. Karaba: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Go on.

Sen. Karaba: Thank you, Mr. Deputy Speaker, Sir. The issue of fertilizers does not only concern Trans Nzoia, but it is an issue that concerns us all nationwide. I am surprised that by yesterday, the National Cereals and Produce Board (NCPB) depot in Sagana, Kirinyaga, did not have DAP fertilizers. Maybe the Chairperson can tell us why the Sagana Depot has not received fertilizers yet it is used to distribute fertilizers to Nyeri, Murang'a and Embu. It is important to know.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murungi, you may answer those ones.

(Several hon. Senators stood up in their places)

Order! Okay, I am going to allow two more requests for clarifications and they are going to be short. Sen. Kittony, are you rising up on the issue of fertilizers?

Sen. Kittony: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I will allow you and then Sen. Ong'era will be the last one. I want you to be brief, please.

Sen. Kittony: Thank you, Mr. Deputy Speaker, Sir. The issue of fertilizer is becoming a thorn to the farmers because farmers have not been paid up to now and yet the rains are just around the corner. When you go to the stores, as Sen. Ndiema said – and we know that Trans Nzoia is the bread basket of Kenya – then you wonder what this country will experience come the end of the year when farmers have not planted crops on time. So, there is a cartel that is trying to ensure that the farming systems in place fail, so that farmers fail to achieve the food crop that they are supposed to have in this country.

Mr. Deputy Speaker, Sir, let the issue of fertilizers be addressed as a matter of urgency, maybe, within the coming few days.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I also want to seek further clarification on this matter of fertilizer, which is extremely sensitive. As I speak now, farmers have once again been issued with Mavuno fertilizer and they have started planting. I wonder how they will be restituted when we have just been told that DAP is actually being allocated.

Secondly, Mr. Deputy Speaker, Sir, we know that the issue of fertilizers is an issue of county governments. When will the national Government get out of it? Is that the

reason one of the Cabinet Secretaries (CS) has just been asked to step aside because of this high rate of corruption; of fertilizer being imported into this country?

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Do you expect Sen. Murungi to answer the last question, in fairness to him?

(Laughter)

Do not seek a clarification which is not going to be answered.

Sen. Murungi, you may proceed now.

Sen. Murungi: Thank you, Mr. Deputy Speaker, Sir. Let me start with the last one. We have the report which was tabled in the Senate regarding the allegations made against various people suspected of corruption. From it, it is quite clear that the CS for Agriculture has not stepped aside because of any issues touching on fertilizer. It is to do with other issues other than fertilizers and I will request the Senator to read that Report.

From the Statement I have, the Government has not refused to avail DAP fertilizer to farmers in Trans Nzoia. From the information that I have, the Government is also aware that Mavuno fertilizer is being distributed to farmers in that county. The reason was because of the letter which I cited earlier which touched on issues of soil acidity. It is because of the letter which the Governor wrote saying that he does not want any DAP fertilizer in Trans Nzoia, the Cabinet Secretary (CS) acted to make sure that DAP fertilizer is not distributed to farmers there. This is because they were not able to procure the accompaniment which the Governor wanted.

Mr. Deputy Speaker, Sir, I have no information whether the farmers were involved in this decision or not. The only information I have is that the CS acted on the basis of the letter which was written by the Governor saying that the DAP fertilizer should not be distributed in Trans Nzoia. DAP fertilizer is being distributed in Trans Nzoia in places where the farmers have made a request. We have information that at least two lorries of DAP fertilizer have already distributed the fertilizer in that area to farmers who have made a specific request. So, I encourage the Senator to request more farmers in Trans Nzoia to specifically request for DAP fertilizer so that they can benefit like the other farmers in the country.

Mr. Deputy Speaker, Sir, I will communicate Sen. (Dr.) Khalwale's feelings regarding the request of the farmers in Kakamega County to the Ministry. It is true that agriculture is a devolved function and Governors and the County Executive also have a duty to make sure that fertilizer is available to farmers in their counties. The national Government comes in because of national food security, which is a national function under the Constitution. The issue of fertilizer subsidies to boost food production in the country is being undertaken by the Government pursuant to its mandate to ensure food security for all the people in this country.

Mr. Deputy Speaker, Sir, I am not aware that DAP fertilizer is not available in the Sagana depot. However, given time, I will go back to the Ministry and confirm whether,

indeed, there is fertilizer or not. If there is no fertilizer, I will then take up the issue with Ministry to make sure that fertilizer is delivered to the Sagana depot as well.

Mr. Deputy Speaker, Sir, the reason Mavuno fertilizer is being distributed in various parts of the country is because of issues of soil acidity which the Government is undertaking. So, I am being requested to ask the Government what it is already doing. I am aware because the CS has appeared before us and he has, indeed, informed us that they are carrying out soil tests in various parts of the country so that they can advise farmers on what appropriate fertilizer brands should be used for maximum production in those counties.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much, Sen. Murungi. Sen. Ndiema, you are in a unique position because you are the Vice-Chairperson of this Committee. So, you understand most of these issues very well.

Sen. Ndiema: Mr. Deputy Speaker, Sir, just one more.

The Deputy Speaker (Sen. Kembi-Gitura): Proceed, Sen. Ndiema with a very short comment.

Sen. Ndiema: Mr. Deputy Speaker, Sir, the last question has not been answered correctly. How soon will DAP fertilizer be availed to farmers in Trans Nzoia?

Sen. Murungi: Mr. Deputy Speaker, Sir, it will be availed very soon.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murungi, is it possible for you to be more specific than that?

Sen. Murungi: Mr. Deputy Speaker, Sir, I have already stated earlier that DAP is being made available to farmers in Trans Nzoia upon request. Some DAP fertilizer has already been availed to some farmers in Trans Nzoia County according to the answer which I have from the CS. That is why I am saying very soon because it is already happening.

The Deputy Speaker (Sen. Kembi-Gitura): Very well, I am sure you have discussed that issue with your Vice-Chairperson. So I am sure it is much easier.

I see a request from Sen. Gwendu. What is the request for?

IMPLEMENTATION STATUS OF THE REPORT OF THE PRESIDENTIAL TASKFORCE ON PARASTATAL REFORMS

Sen. Gwendu: Mr. Deputy Speaker, Sir, I want to follow up on a Statement I sought a month ago from the Chairperson of the Committee on Finance, Commerce and Budget with regard to the Presidential Task Force Report on Parastatals Reforms.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Billow, this answer was supposed to be issued on 19th February, 2015. What is the position?

Sen. Billow: Thank you very much, Mr. Deputy Speaker, Sir. We were ready to give this Statement---

The Deputy Speaker (Sen. Kembi-Gitura): But I said no Statement would be issued today.

Sen. Billow: Mr. Deputy Speaker, Sir, regrettably we have tried to issue it a number of times, but the hon. Senator was not in. The Statement is ready and I can issue it anytime.

The Deputy Speaker (Sen. Kembi-Gitura): So, Sen. Gwendo, you have heard that you are the cause of the delay because the Statement has been ready, but you have not been around. In any event, I had indicated that no Statement will be issued today. Now you know, your Statement is ready. Do you have a copy?

Sen. Gwendo: Mr. Deputy Speaker, Sir, I do not have a copy.

The Deputy Speaker (Sen. Kembi-Gitura): Obtain a copy from the Clerk's Office, then be ready to interrogate it when we resume if we are going to pass a Motion of Adjournment today.

Proceed, Sen. Wamatangi.

RELOCATION OF THE HEADQUARTERS OF KIAMBU COUNTY GOVERNMENT

Sen. Wamatangi: Thank you, Mr. Deputy Speaker, Sir. I rise under Standing Order No. 45(2)(b). I wish to seek a Statement from the Chairperson of the Sessional Committee on Devolved Government regarding the relocation of the Headquarters of Kiambu County Government. In the Statement, the Chairperson should:-

1. State the designated headquarters for Kiambu County Government.
2. Table the *Gazette* Notice by the Transition Authority (TA) designating headquarters of the 47 county Governments.
3. Explain why the Kiambu County Governor unilaterally moved the county headquarters from Kiambu Town to Thika Town without the knowledge, public participation and consensus of stakeholders of Kiambu County. This is despite the fact that compared to Thika, Kiambu Town is more central and, thus, easily accessible to residents from all the 12 constituencies of Kiambu County.
4. Explain measures being taken to ensure that Kiambu town is reinstated as the headquarters of Kiambu County.

Mr. Deputy Speaker, Sir, I also rise under Standing Order No.45 to seek another Statement from the Chairperson of the Sessional Committee---

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order Members! What is the issue now?

(Hon. Senators spoke off record)

Order! Sen. Wamatangi, you cannot proceed to the next one before we complete the first one.

Where is the Chairman of the Committee on Devolved Governments? Sen. Omar Hassan, do you have something to say?

Sen. Hassan: On a point of order, Mr. Deputy Speaker, Sir. In addition to what Sen. Wamatangi said, I just want to ask whether the Chairman can expound on

repercussions on the Office of the Governor with regard to that unilateral move against the law.

Sen. Murkomen: Mr. Deputy Speaker, Sir, that is a very weighty question. Luckily, the recess is here with us. We, as a Committee, will have a chance to visit the county assembly and the county executive. Hopefully, after the first week upon our return after the recess, we can give an answer.

The Deputy Speaker (Sen. Kembi-Gitura): So, you want me to allow you to give it on the first Thursday of the week that we resume? Is that okay Sen. Wamatangi?

Sen. Wamatangi: Mr. Deputy Speaker, Sir that is okay. I seek your guidance on whether you can direct the Committee to visit Kiambu County so that it establishes whether the complaints by the residents of Kiambu are genuine as far as relocation and centrality of the county headquarters is concerned.

Sen. Obure: On a point of order, Mr. Deputy Speaker, Sir. The Chairperson of the Committee on Devolved Governments announced a recess. Is he in order to talk about a recess when we are not aware of it? Is he anticipating debate?

(Sen. Murkomen stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Murkomen! The question is directed at me. Is it not?

Sen. Murkomen is entirely in order. The Senator is seized of the Calendar of the Senate. So, he is totally in order.

Sen. Wamatangi, I cannot direct the Chairman on how he will go about his business. However, it is obvious that there are some things that the Committee must do to give an informed statement to this House. You, as a Senator, although you are not a Member of that Committee, are entitled to appear before the Committee in its proceedings. The only thing you cannot do is to vote.

I hope that satisfies you. We hope that the Committee will do what is right. If they do not come back with a comprehensive answer, we can always follow up on the statement you have requested for. So, this should be delivered on the first Thursday after we resume from recess, if we will proceed on the recess after the Motion of Adjournment has been moved.

INCREASED COST OF BUSINESS PERMITS AND LICENCE FEES IN KIAMBU COUNTY

Sen. Wamatangi: Thank you, Mr. Deputy Speaker, Sir. I also rise under Standing Order No.45 to seek a statement from the Chairperson of the Sessional Committee on Devolved Governments regarding the permit and licensing fee issues in Kiambu County.

In the statement, I would like the Chairman to address the following issues.

(1) Is the Chairman aware that Kiambu County has been experiencing frequent street protests and demonstrations by the business community and the residents over inordinately hiked business permits and licence fees?

(2) Is the Chairman aware that the business community and other stakeholders have been complaining against the failure by the county government to create adequate

forums and platforms for public involvement and participation in the Finance Bill making process, and that where the stakeholders have given views, such views have been grossly ignored thus excluding from the final Bill the genuine interest of the business people and other investors?

(3) Is the Chairman aware that businesses and especially small businesses have been closing down due to inability to pay the high fees and licences, most of which have been more than doubled hence killing many businesses and closing out potential start ups and other investors?

(4) Could the County Public Accounts and Investments Committee (CPAIC) consider summoning the county government and inviting other stakeholders to establish the extent of the problem with a view of coming up with remedial measures to resolve the problem?

(5) Could the Senate consider forming a select committee to look into the issue of Finance Bill making processes in counties with a view to making recommendations and a legal framework that will guide counties in this important process to reduce the rampant and widespread crippling of businesses and investments in various counties?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wamatangi, thank you for that Statement. I heard you say that you are seeking the statement from the Committee on Devolved Governments? To me, that sounds as if it should be directed to the Committee on Finance, Commerce and Budget? That is my immediate thinking about that.

Sen. Wamatangi: Yes, Mr. Deputy Speaker, Sir. It may cut across the committees, including the one on Finance, Commerce and Budget. However, the County Public Accounts and Investments Committee is involved. I seek your indulgence on that.

The Deputy Speaker (Sen. Kembi-Gitura): My immediate thinking is that this should be committed to the Committee on Finance, Commerce and Budget. Now, as the case may be, the Committee may find that it needs some input from the Committee on Devolved Governments or even from Sen. (Dr.) Khalwale's Committee, if need be. However, there must be only one Committee seized of an issue at one time. If there are cross-cutting issues, I am confident that the Committees will deal with the matter as necessary.

I am committing it, therefore, to the Committee on Finance, Commerce and Budget.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. Listening to Sen. Wamatangi, maybe the Chair needs to be alive to the fact that there will be an obstacle. The Governors have refused to obey summons and the court is yet to rule on that. Therefore, our Committee on Finance, Commerce and Budget will be paralysed in meeting his requirement.

The Deputy Speaker (Sen. Kembi-Gitura): Order! You are anticipating trouble. I will not allow that. You are preempting a situation. Let us cross that bridge when we get to it. We will not allow the work of the Senate or that of the Committees to be paralysed by anybody. We have a job to do under the Constitution. So, I would rather not preempt the situation. I will commit this matter to the relevant committee. In this case, it is the Committee on Finance, Commerce and Budget. Let them come and tell us that the work has been hampered by an arm of this Government and we will know how to deal with it at that time.

Sen. Billow Kerrow, when will you give an answer?

Sen. Billow: Mr. Deputy Speaker, Sir, I want to thank the Senator for Kiambu because we have read about the issues in the media for a long time. It is good that he has brought the matter to the House eventually. Since we are likely to go on recess and our committee will be active; in fact, we will be meeting from Tuesday to discuss the Division of Revenue Bill. Therefore, we hope that during the first week after we come back, we will provide an answer to that. That should be a month from now.

The Deputy Speaker (Sen. Kembi-Gitura): So, can we say the first Thursday after we resume from recess? Am I correct? Sen. Wamatangi, I think that is the best that can be done in the circumstances.

Sen. Wamatangi: Mr. Deputy Speaker, Sir, I just want to bring the Chairman up to speed. Today, as I speak, there have been five demonstrations in five sub counties. There are demonstrations in Wanginge, Kikuyu Town, and Thika Town and in my sub county. This is a crisis in the county which should be addressed with utmost speed.

The Deputy Speaker (Sen. Kembi-Gitura): Let us agree on one thing. I have directed on how that matter will be dealt with. Sen. Wamatangi is satisfied that the first Thursday after we resume is okay with him.

An hon. Senator: What about the demonstrations?

The Deputy Speaker (Sen. Kembi-Gitura): I will not talk about demonstrations. It is not in my place. That closes the issue. The Statement will be issued on the first Thursday after recess. I will not accept any more points of order.

Sen. Obure: Mr. Deputy Speaker, Sir, I stand to seek a clarification. Sen. Wamatangi has talked about demonstrations in his county. For the record, Sen. Wamatangi has been saying: "I have a demonstration; I have a demonstration in this place". Does that give the impression that he has been organizing these demonstrations?

The Deputy Speaker (Sen. Kembi-Gitura): I want to assume that that is a matter of semantics, because he did correct and the HANSARD will bear me out that he said that there are demonstrations in his county.

That brings an end to that Statement.

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. I am sorry if I will have anticipated what you still have addressed. I see we are coming to the end of Statements Time. However, yesterday you ordered that there was a Statement to be issued here as a matter of urgency and public interest in relation to the EACC.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Murkomen! That is the trouble when a Senator comes to the House at their own time and ignores that things were happening before they came in and then they assume the role of running the House. I am very well and completely seized with the issue of Sen. (Dr.) Khalwale.

Sen. Murkomen: Mr. Deputy Speaker, Sir, for the record, I was among the first people to come here.

The Deputy Speaker (Sen. Kembi-Gitura): Then you were not listening; that is the point I am making. You were busy doing other things.

Sen. (Dr.) Khalwale, you had sought a Statement yesterday. I can see the Vice Chairman of the Committee on Legal Affairs and Human Rights is here. That one is exceptional because I am the one who directed that that matter be dealt with today and so shall we hear Sen. Sang?

CIRCUMSTANCES SURROUNDING THE RESIGNATION OF PROF. JANE
ONSONGO AS COMMISSIONER OF THE EACC

Sen. Sang: Mr. Deputy Speaker, Sir, yesterday Sen. (Dr.) Khalwale sought a Statement from the Chairman of the Legal Affairs and Human Rights Committee regarding the circumstances surrounding the resignation of Prof. Jane Onsongo as a Commissioner of the EACC.

From the outset, I sought the indulgence of the Chair that I respond to this Statement after recess. You indicated that because of the urgency of the matter, I needed to give some progress report and that is what I am going to do. That progress report will address around two of the issues that were sought by the Senator and then the others will be addressed in the comprehensive Statement that I will deliver.

Mr. Deputy Speaker, Sir, the Committee forwarded this Statement to the Attorney-General, today being a Thursday and the Cabinet having a meeting, the Attorney-General has not yet responded to us on this issue. But we, as a Committee, decided that we were going to seek some clarification on the issues from the Commission itself. The report will address two of the critical areas that were the focus of the Statement. One is on the issue of the reasons behind the resignation of Prof. Onsongo. The Committee has not been able to receive any information to that effect yet because the information in the public domain is only the television footage that was carried by media houses when the said Commissioner appeared to be passing the message that she had resigned.

From the Commission perspective, the Chairperson, the Vice Chairperson and the Chief Executive Officer, Prof. Jane Onsongo is on leave. The Commissioner applied for a 30 day leave, the Chairperson of the Commission did approve and that is the document that we have before us. As per the Commission, Prof. Jane Onsongo is on leave. Any other information is only left to the media and we will get further clarification from the Attorney-General.

It is important to note that the appointing authority for the Chairperson and the commissioners is the President. Therefore, if a commissioner wants to resign, then she forwards the same to the President. As at now, we cannot confirm whether the President has received her resignation or not. Therefore, we, as a Committee, are not able to give a conclusive answer. As I said, according to the EACC, she is on leave. This is the official Statement. I cannot engage in rumours.

Secondly, to explain the work dynamics in the EACC and specifically the working relationship between the commissioners and the Secretariat headed by the CEO. It appeared to us when we interviewed the Chairman and the Vice Chairperson of the EACC and when we later interviewed the CEO that there is a clear disconnect in terms of the working relationship between the EACC, the commissioners and the Secretariat. The commissioners seem to believe that the Secretariat is working under the instructions of officers outside. The EACC cited some public officers working within the Office of the President and the State Law office as being the individuals directing the work of the Secretariat. That was disputed by the CEO of the EACC who thought that the

commissioners were overstepping their mandate in terms of engaging in the technical and administrative work of the EACC.

We also agreed as a Committee that we may need to have a joint session of the Secretariat and the EACC so that we are able to finalize this. One of the things that came out very clearly in terms of this particular issue is that in terms of the workings of the Committee, one of the examples that came out is that particular report that was forwarded to the President by the CEO of the EACC. The Chairperson and the Vice-Chairperson indicated that at no time did they sit as a commission to approve the particular report that was forwarded to the President. Therefore, the report that was forwarded to the President was a statement from the Secretariat and not from the EACC. Those were issues that were raised, and the CEO felt that it was within her powers and responsibilities to forward information as provided by the Act of Parliament. We, therefore, left it at that.

Mr. Deputy Speaker, Sir, with regard to the resignation, if at all there is resignation of one of the commissioners, the law provides that the quorum for a commission is two thirds of the commissioners. In this case, the EACC as a Commission is made up of three commissioners. If one resigns, that means that you still have quorum for the other two commissioners and, therefore, the work of the EACC can still be transacted even if Prof. Onsongo resigned.

On the fourth issue, to clarify whether Prof. Onsongo, in her alleged resignation, was responding to external pressure, it came out very clearly that the Vice-Chairperson and Prof. Onsongo, the former commissioner, if she has resigned—

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Sang! You informed us earlier that she was on leave. So, why are you speculating?

Sen. Sang: Mr. Deputy Speaker, Sir, Commissioners Onsongo and Keino were, in fact, invited to a meeting within the State Law office and they were pressurized to resign. They resisted the pressure and that is why the vice chairperson is still in office. However, eventually, we saw the media footage showing Commissioner Onsongo indicating that she had resigned. However, as per the official records as I indicated, she is on leave. It is clear that there is external pressure for the commissioners to resign. The Vice-Chairperson indicated specifically that two officials within the Presidency and the State Law office---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Sang! Before you bow to pressure to name people – if, indeed, you can name them – I want your assurance that you have also heard them. This is because you are a lawyer and you know that if you make a statement in the House, nobody has a chance to respond to you, except us here. So, if you are going to say that there was pressure from some people and you have got that information from the people you listened to, you must, at the same time, also assure me and the House that you have listened to the people that are said to have put pressure on any individual. That is what the rules of natural justice dictate.

Sen. Sang: Mr. Deputy Speaker, Sir, I am not going to name people here. This is because the commissioners promised to do a confidential statement to this House and to the Committee. They were not able to share names. Therefore, I will not give names. However, I just want to confirm that they are under pressure to resign and that is what we got from them.

The Deputy Speaker (Sen. Kembi-Gitura): Are you through, Sen. Sang?

Sen. Sang: Mr. Deputy Speaker, Sir, I am not yet through.

Finally, to clarify whether the State Law office and the office of the President are interfering with the work of the EACC; I want to confirm that we had two different answers from the Secretariat. They indicated that there has never been any pressure from the two offices. However, from the EACC's side, it was alleged that two persons from the Presidency; one from the Presidency and the other one from the State Law Office---. They indicated that they will share that information in confidence with the Senate. We are waiting for that report. Therefore, I cannot give the names. I just want to confirm that from the EACC's side, there has been some level of pressure from the two offices.

Mr. Deputy Speaker, Sir, to finalize on that particular element, the commissioners made an appeal to this House which I want to pass to you. Because of the offices occupied by the people who are pressuring these commissioners to resign, they raised the issue of their personal safety and security. They requested this House to intervene in asking the Inspector-General (IG) of Police to enhance the security of these officials. I, therefore, request you as the Speaker to give that direction that these two commissioners are given enhanced security because of the kind of pressure that they are receiving from people within those top offices. This is just an interim report that we are to work on for only today. We will give the full and comprehensive report when we resume from recess.

Mr. Deputy Speaker, Sir, I want to appreciate the fact that when we had that Committee meeting, a lot of the Members in this House; Committee Members and friends to the Committee attended. With your indulgence, you could give them a few minutes to ventilate on these issues.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Sang! You cannot direct the Chair on how the House should proceed.

First, I thank you, Sen. Sang, for the Statement. Secondly, you know that I cannot order the IG because it is an independent office. It is the right of every citizen to have security. I am sure that the right thing will be done. Anybody who is complaining over lack of security, as reported, will get the security that they deserve because that is the right of every citizen.

Having said that, I can see that I have a few requests from the Floor. I will allow the first comment by Sen. (Dr.) Khalwale. I want this to be clarifications bearing in mind one thing; the answer given is interim. As Sen. Sang has said, he has not heard everybody. It is an interim holding answer pending further confidential information and hearing of the other people who have been named in this issue.

I will not allow speculation or anybody debating in the guise of seeking a clarification. The statement sought by Sen. (Dr.) Khalwale is of grave importance and concern. However, we must also be fair and reasonable. We must be sure and not besmirch or build a certain line as we seek clarification.

With that in mind, I will open the discussion to the few that have sought the Floor. However, I am going to strictly enforce what I have said because it is important and we must protect everybody even as we seek the truth.

Please, proceed Sen. (Dr.) Khalwale. You have two minutes.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, listening to the Chairperson of the Committee, Kenyans have every reason to be worried that our country is rapidly degenerating into the old KANU days. When J.M. Kariuki was lying dead in Ngong', the

Vice-President told the country that he was away on a trip in Zambia. We all know that Prof. Onsongo has resigned. Could the Chairperson tell Kenyans; when he says that there will be normal meetings because the quorum is two thirds; it is two thirds of the Commissioners and upon full constitution, it is two commissioners. However, since one has resigned, we have two commissioners and that cannot make two thirds. Can the Chairperson tell the country how possibly one commissioner will be able to discharge to the satisfaction of Kenyans?

Mr. Deputy Speaker, Sir, if Kenyans are not told the three names of the people who are bearing pressure on these poor commissioners given that they are now on their own, the Government is clearly working with the Secretariat. If the commissioners are on their own and even fearing for their lives, should anything happen to any of them, we need to be told who these officer at the State Law Office and the Office of the President are. I have two letters here; one is signed jointly by Prof. Onsongo and Mrs. Irene Keino, written to the President. In that letter, if you will allow me---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, are you going to Table those letters? I do not know what you are referring to.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, may I table the letter so that you pass over it before I refer to it.

(Sen. (Dr.) Khalwale laid the document on the Table)

(The Clerk-At-the-Table passed the document to the Deputy Speaker (Sen. Kembi-Gitura))

The Deputy Speaker (Sen. Kembi-Gitura): Do you have something else you want to table?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I also want to table a letter signed by the Chairman of the EACC who is giving himself powers to hire and fire staff. He has fired the deputy chief executive officer. I want to refer to these two documents to make my point.

The Deputy Speaker (Sen. Kembi-Gitura): I started by saying that the issues you have raised are very important and very grave. Yesterday, I requested you to allow for an answer to be given when we come from recess so that you can get a comprehensive answer, but you convinced me that this matter was so grave that you wanted an answer even if it is just a holding answer.

I have two letters here, both of them photocopies; one purportedly written by Irene Keino and Prof. Jane Onsongo, addressed to His Excellency the President. It is dated 9th September, 2014. I have another letter marked confidential, purportedly written to Mr. Michael Mubea dated 9th March, 2015 by the Chairman of the EACC. These are photocopies and none of them is copied to you. If you want me to use these letters, and I am using my little legal knowledge, since none of them is copied to you, I do not know how you got them. Therefore, if you want me to accept them, you should give me certified copies with something to show that they are true copies of the original.

Short of that, I would be entering a very dangerous terrain where letters are brought here, then we are told that they are genuine, but we have no way of knowing.

You know very well that once we start talking about the letter, the whole nation will be listening. If by any chance tomorrow, it turns out the letter is not what it was purported to be, you might have destroyed people's careers or entered into an area that is not redeemable. I hope you understand what I mean when I say I cannot accept photocopies not copied to you unless they are certified as true copies of the original.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, before I---

Sen. Murkomen: On a point of information, Mr. Deputy Speaker, Sir.

Sen. (Dr.) Khalwale: You may inform me.

Sen. Murkomen: Mr. Deputy Speaker, Sir, to be fair to Sen. (Dr.) Khalwale, I am a Member of the Committee on Legal Affairs and Foreign Relations. The first letter which was co-signed by the two commissioners was admitted to the Committee because it was certified by Commissioner Irene Keino who was present. That was one way of authenticating the document because the author accepted its authenticity. I am not aware of the second one.

The Deputy Speaker (Sen. Kembi-Gitura): That is a very good point. However, the author is not here. By the way, Sen. Murkomen, you do not know what I am looking at? Do you? You are assuming that it is the same letter that was shown to your Committee. I have no way of knowing that it is the same letter.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I want to draw the attention of the House to Article 35(1) of the Constitution. Every citizen has the right of access to information held by the State or information held by another person and required for the exercise or protection of any right or fundamental freedom.

My humble opinion is that the philosophy behind this clause in the Constitution was to cure a situation such as the one we find ourselves in. If a letter is written by a State officer from an office that may either convey a mischief or a disadvantage to another, it is unlikely to be copied to anybody who will be standing to defend the affected person. That is why we have this right of access to information. Since the Deputy Speaker is a much more senior lawyer than I am, for some reasons, you know the doctrine of illegally obtained evidence; as long as it leads you to the truth, it is admissible. That is a cardinal point of law as long as it leads you to establish the truth.

I have not seen the documents and I do not want to contest the contents, but under Article 35(1)(ii) the distinguished Senator for Kakamega, however wrongly he may have acquired the documents, they become part of a persuasive authority in any argument on this Floor.

The Deputy Speaker (Sen. Kembi-Gitura): I agree with you 100 per cent, Sen. Wetangula, on the veracity of Article 35(1) of the Constitution. For the benefit of Members, it reads as follows:-

“Every citizen has a right of access to:-

(a) information held by state,

(b) information held by another person and required for the exercise of protection of any right or fundamental freedom.

That is true. You are very right. However, if you need that information from the State under the Constitution, you must seek it. If the State does not make that information available to you, then you have a right to recourse. That is what this Article 35 means.

That is why I asked Sen. (Dr.) Khalwale to take time on this issue so that a letter like the one you are referring to can be certified so that it is produced legally before the Committee.

As I sit here in front of you, I have no way of knowing the veracity of this letter. I am not trying to stop information from coming to you, but I am trying to protect this House, yourself and individuals who may otherwise be adversely affected by a situation over which they have no control of. Yes, Article 35 is clear. If you want this letter from the presidency, you have a right to it. However, you have to ask for it. That is how I understand Article 35(1).

Sen. Murungi: On a point of order, Mr. Deputy Speaker, Sir. I just stood on a point of order because we should not allow the Senate Minority Leader to mislead this House or Kenyans regarding evidence. What he said about the doctrine of admissibility used to be correct, I think he was remembering the case of Kuruma.

The Deputy Speaker (Sen. Kembi-Gitura): That is the case of the Republic vs. Kaniu in 1952.

Sen. Murungi: That is Kuruma son of Kaniu vs. Regino. That has now been changed by the new Constitution through Article 50(4) which now provides that stolen evidence is no longer admissible, especially if it violates human rights. It says that evidence obtained in a manner that violates any rights or fundamental freedom in the Bill of Rights shall be excluded if the admission of that evidence would be detrimental to the administration of justice. This is a qualification of the principle in that case. I was just bringing this to the attention of the distinguished lawyer and Minority Leader.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Murungi. I have already ruled on that issue.

Sen. (Dr.) Khalwale, Sen. Murungi did not challenge you. You know the case of Regino versus Kuruma son of Kaniu is clear. The point I am making is this; I have done a ruling on that issue.

Sen. (Dr.) Khalwale, I will allow you another two minutes to seek your clarification.

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

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula! We cannot do that. All these Senators are not lawyers. We need to proceed and deal with issues in front of us.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, with your indulgence, before I make use of my two minutes, allow me to make a comment on your ruling, with your permission. I am not challenging you.

Mr. Deputy Speaker, Sir, if you are setting that standard, I want you to reflect on it again because this is not the first time that I am producing documents in this House. In the last Parliament, I produced photocopied documents and we managed to prosecute the issue of Mr. Kimunya. We were never ruled out of order. I produced photocopied documents and we prosecuted the issue of the loss of Kshs1.8 billion through the printing of currency at the Central Bank of Kenya (CBK). We did the same for the case of the theft of maize by using photocopied documents. I was never ruled out of order.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! I did not rule you out of order. It is your documents that I ruled out of order. I said that they will not form part of these proceedings. If you want to contest that ruling, you may have to reserve it for another day. Right now, you are on a point of order seeking a clarification. I said that the two letters are not admissible now. However, if you bring them before the committee in the condition that I have advised you for them to be, I believe that they will be admitted. I have not said that they are not authentic. I just said that we might think about them in a moment.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, you were consulting with Sen. Wetangula. You did not listen to my opening remarks.

The Deputy Speaker (Sen. Kembi-Gitura): I listened to you.

Sen. (Dr.) Khalwale: You did, Mr. Deputy Speaker, Sir. I want you to reflect on what you are saying. The import is, no single Member of Parliament, in the National Assembly or in the Senate, will challenge the Executive because the Executive will never willingly give out information that could incriminate it.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I do want to appear to be arguing or altercation with you. It appears that you did not listen to me. When Sen. Murkomen was giving you information, he said that the same letter – I hope he was talking about the same letter – was produced before the Committee on Legal Affairs and Human Rights and was authenticated. If you get that letter from the Committee on Legal Affairs and Human Rights, since there is a record, and it is authenticated, certified for you by the clerk of that Committee, I cannot reject it. The point I am making is that - I started by saying that the answer we got is incomplete - the Committee needs to interview some other people before it gives a final answer as to whether or not there was coercion. At the end of the day, we are talking about human beings and professional people.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, if you may allow me, I want to express my respect for the Senator for Meru County. Article 54 says that if evidence is obtained in a manner that violates the right or fundamental freedom of a Kenyan---. I want to confirm here that the only person whose freedom can be violated by the document that I have put on the Table is the author. The author happens to be the two ladies. While in the Committee, the Chairman allowed me to table that letter. Upon tabling, the author of the letter actually owned it and said that she signed it on ninth. I beg you to allow me to fight corruption by seeking clarification based on that document which is authentic.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I have made a ruling and I will not change it. You are telling me about issues which I was not party to; I was not in your Committee. I have given you a considered opinion on why I do not allow the letter to be part of our records now. At the risk of repeating myself, the answer we are getting, on which you are seeking a clarification, is not a complete statement.

(Sen. Hassan murmured something)

Order, Sen. Hassan!

This is partly because the answer we got to the statement is incomplete. Sen. Sang told us that he has to listen and hear other people. Therefore, if you implicate other people who are not here and have not been heard, what kind of rules of natural justice are we talking about here? In fact, but for the importance of this issue, I am very inclined to stand it over until everybody has been heard. If you agree to work within the parameters that I requested, we will proceed on the issue. If you are not, I will stand over the issue until after recess. We will have to do what I think is right in the circumstances. We shall have to protect everybody; the person who was infringed and the person who infringed the rights, until they are heard. That is the point that I am making because this, unlike a courtroom, is a Floor where other people do not have a right of reply.

Hon. Senators: On a point of order!

The Deputy Speaker (Sen. Kembi-Gitura): If you will raise an issue on my ruling, which I have made and I will not change, then you will be pushing me to a position where I just have to stand over this issue, once and for all.

Sen. Hassan: On a point of order, Mr. Deputy Speaker, Sir. In terms of the rules of fairness, does it not worry this Senate that every time you make a ruling, it gets acknowledged and thumbed on by one side, but the other side is in total disagreement? It is high time we built consensus in this House.

The Deputy Speaker (Sen. Kembi-Gitura): I said that I will not entertain the kind of a point of order like the one coming from Sen. Hassan. I have no control over how the House reacts to the rulings I make.

Sen. Hassan, I have made a ruling on this issue. If you are trying to make me change my ruling, hon. Senators, let me tell you here and now, I will not change it. The two letters will not be referred to until they are authenticated in the time that I said, even if it takes us going for recess. I will not entertain matters of law because I have made it clear that I will not change my position on the issue. If you think I am wrong, that is a position that you must take. That is what I have said for now.

Hon. Members, remember that you are the ones pre-empting the issue because the matter is still open for us when we come back from recess so that we get a compete answer on it. Giving me points of law and yet I will not change my position is frankly a waste of time.

Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, in view of your ruling which I must abide by and respect, allow me to inform my colleagues that it is out of good faith that I managed to get the two letters. I did not steal them. I acquired them from officers of the Government of Kenya.

Mr. Deputy Speaker, Sir, having said that, my biggest worry is that as we go on recess, by the time we come back, the country will be waiting for the EACC to crack what the President read out to us when actually nothing shall take place. It would have been nice that we get it right because the secretariat, which is the technical arm of the EACC, is not working with the commissioners.

Secondly, Mr. Deputy Speaker, Sir, the commissioners do not work with the Chairman. So, Kenyans have to know that if it is the Government allowing the status quo to continue, it is the same Government which does not want to fight corruption.

Therefore, they are just moving around musical chairs for Kenyans to foolishly think that they are fighting corruption.

Mr. Deputy Speaker, Sir, think about it. We want to move Kenya. Kenya is so beautiful and big. The thieves make our children insecure. Today, 15 university students have died in Garissa because of the insecurity that feeds on corruption in the security sector. We have got to fight it even if the people involved are some of our best friends.

Mr. Deputy Speaker, Sir, how I wish you were a man who could change his mind, but there you are.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khalwale, thank you for those statements. I do not know whether you know it, but I am totally with you on issues of fighting corruption in this country. I stand with you and believe with all Kenyans of goodwill. However, at the same time, it is important that we follow a certain path, so that we do it right and not punish people who are not involved in it. I hear and feel you, but there are some things that cannot just happen because the way you do them may also hurt innocent people. There are many innocent people in this country too.

If you understand where I am coming from, maybe, then we can proceed.

I will allow a few more clarifications.

Sen. Billow Kerrow.

Sen. Billow: Mr. Deputy Speaker, Sir, I want to thank the Chairman for the speedy response. Could he clarify two things? He reported that they had meetings with the commissioners this morning who did report that there were attempts to force them out of office by two advisors whom he did not name. The story is in the public domain and in the media. Could he clarify whether his Committee is willing to recommend to the President to sack those advisors whose names have already been revealed in the newspapers?

When the Cabinet Secretaries were forced to resign last week, their names had not even been published here. They just stepped aside on the basis of newspaper reports. Could the Chairman undertake that his Committee will advise His Excellency the President that those two advisors who abused their office be sent packing; and their names are in public domain?

Sen. Ong'era: Mr. Deputy Speaker, Sir, first of all, I would like to commend Sen. Sang for trying to deliver this Statement. This matter really grieves me because the lives of two women are in real danger. We have been told that they have been intimidated, coerced and undue influence exercised over them. There has been undue pressure for them to resign. As I speak, Prof. Onsongo is very sick. The lady has been forced to take a lot of medicine because of the pressure and intimidation that she has been facing everyday and night. Her phone is constantly ringing and people are sending even death threats. We cannot go on recess without answers. This is because if we go on recess, when we come back, this matter will already have disappeared into thin air.

Mr. Deputy Speaker, Sir, I seek your indulgence that we really take this matter seriously, so that we get the answers that we are seeking for, even if it means staying here for another day.

The Senate Minority Leader (Sen. Wetangula): Since you did not allow me to pursue the misinterpretation of the Constitution by Sen. Kiraitu, I will seek a clarification.

Mr. Deputy Speaker, Sir, if the Parliament of the Republic of Kenya - the Senate included – was sufficiently patriotic, I would see no reason for us to go on recess at this time given what is going on, especially in the fight against corruption. I want to ask the Chairman of the Committee if he is aware that the EACC is completely dysfunctional in that the two lady commissioners are on their own while the Chairman is on his own. Even the secretariat itself is also standing on its own. In fact, the commissioners are now running to the public and giving excuses to seek public sympathy; to cover up for the incompetence and ineptitude to work that we have been witnessing and that is why corruption has reached this level. Remembering that in the last two or three years, they have been able to prosecute only ten cases, how will they prosecute 167 cases in 60 days?

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula! You are seeking a clarification; are you not?

The Senate Minority Leader (Sen. Wetangula): Yes, Mr. Deputy Speaker, Sir. Would you allow me to deal with the Kiraitu issue?

The Deputy Speaker (Sen. Kembi-Gitura): No! All that will go to the substance of what I have already ruled. But I am sure that you mean Sen. Kiraitu and not “the Kiraitu issue.”

Finally, Sen. Murkomen.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I would like to seek clarification from the Chair – and he could find out from the EACC – what action is being taken against those who are intimidating Commissioners. If it is true that there are people who are intimidating them, what action is being taken? Specifically, if they are obstructing justice, should they not be arrested or reported and be part of the list of those who need to step aside?

Secondly, I would like to find out from the Chair if, indeed, there was a letter that was written by the two commissioners. Was there another letter that was also written by the same commissioners withdrawing the other letter, as we have heard from members of the public? What could have occasioned the decision to write one letter before and one letter after?

Mr. Deputy Speaker, Sir, I respect your rulings so much, even if I disagree today. The fact that I respect your ruling does not mean that you ruled in my favour. That is what I want to tell the Senator for Mombasa, so that he cannot cast aspersions on things that are not true.

I would like to ask the last question in relation to a report that came to this House from the EACC. If it is true that the Report was authored by the Chief Executive Officer (CEO) alone, I want the Chairman to pursue; Section 27 says that the Commission gives reports to Parliament and the President.

The Deputy Speaker (Sen. Kembi-Gitura): What clarification are you seeking?

Sen. Murkomen: Mr. Deputy Speaker, Sir, Section 27 says that you write a Report to Parliament and to the President. I want the Chair to find out whether the Report includes details of investigations that are on-going. If you read Article 27, I do not get the impression that it includes the details of investigation. It should be reports on finances, number of cases, statistics, but not the details. I want to ask the Chair to find out, so that for future purposes, when it comes to comprehensive reports, we are clear.

The Deputy Speaker (Sen. Kembi-Gitura): You have made your point, Senator.

Sen. Sang: Mr. Deputy Speaker, Sir, I want to note that since the response is really on interim basis, a lot of questions that have been raised would be responded to when I will be giving the final report.

Sen. (Dr.) Khalwale asked about the aspect of the working of the Commission. At the inception of this commission, there were issues relating to suitability of the Chair. For close to one year, the commission continued with its business in the absence of the Chair. That is primarily because the quorum of the commission is two members. When you talk of a commission of three commissioners, two thirds is actually two. For example, if it is confirmed that Prof. Onsongo has actually resigned, then that means we still have two commissioners who can still form quorum. That means the business of the commission can still be undertaken.

One of the letters that was referred to by Sen. (Dr.) Khalwale was, indeed, tabled within our Committee. It is part of the documents of the Committee. It is also important to note that the EACC Vice-Chairperson confirmed that they actually authored that particular letter, but more importantly, she also indicated that they have a letter recanting the same letter. Now that this document had been tabled within the Committee by Sen. (Dr.) Khalwale, they would table the other recanting letter. It would be important for us to have both letters before we can make conclusions.

Regarding the issue raised by Sen. Billow, I want to say that we, as a Committee, will deliver the Statement from the Attorney-General. He will then give the undertakings on those particular issues of security, sacking and prosecution of the members or the State officers who are intimidating the others. We, as a Committee, will table our own report.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, is the Chairman in order to tell this House that he will bring a Statement from the Attorney-General when, in fact, he is part of this problem? It is in his office that the commissioners were called, shown guns and asked to resign. How can he possibly be the one to send us a Statement? Can you invite monkeys to adjudicate on the forest with the terms of reference being to abolish the forest?

Sen. Sang: Mr. Deputy Speaker, Sir, regarding the issue raised by Sen. Wetangula, we are seeking a Statement as a House from the Attorney-General in his official capacity. However, at the level of the Committee, we will make recommendations. Part of those recommendations will be to recommend the prosecution and sacking of those officers who are intimidating others, in accordance with the Constitution. That is really clear.

As you said, you have no power to direct the IG of police with regard to the security of the commissioners. I remember at one time in this House, the Speaker directed that certain issues be addressed from the Chair. That was a matter relating to Turkana. It was a security issue. It would be quite unfortunate if after some public officers have raised concerns about their state of security with a Senate Committee, it forwards the same to the House and tomorrow we hear of unfortunate situations.

Mr. Deputy Speaker, Sir, it is, therefore important that you direct or urge that the IG of police is properly advised to enhance the security of the commissioners so that their safety and security is secured.

I want to agree with Sen. Wetangula that there is a state of crisis within this commission. We, as a Committee, have committed that we will bring the two sides; that is the secretariat and the commission into a joint meeting. We need to address these issues and make appropriate recommendations to this House.

Regarding the clarification raised by Sen. Murkomen on the issue of intimidation, that will be sorted out.

Regarding the issue of the report, it was clear to us that this report or the document that was forwarded by the CEO to the President was not a report of the EACC in the strict sense of the law. It was actually a brief. Therefore, the CEO indicated to us that he did not expect that this brief will come to the public because it was a confidential brief. Therefore, it is the wisdom of the President that he did annex a confidential report to him in his State of the Nation Address. I leave it to the wisdom of the President. This was a brief from the CEO of the Commission to the President and we leave it at that.

Let me undertake that, within the first week after recess, we will provide a comprehensive report to this particular issue.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): That brings us to the end of Statements.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 7TH APRIL, 2015

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Deputy Speaker, Sir, I just want to make three highlights regarding the Business of next week and then I will table the Statement. The first one is that as hon. Senators may know, we are supposed to proceed on recess at the end of today's Sitting. Therefore, we will be moving a Motion of Adjournment as usual. This is a subject that is already in our calendar which this House approved. Therefore, the Motion of Adjournment is part of procedure because we had planned to go on recess by today. This recess should last for several weeks and we are supposed to resume on 28th April, 2015 in accordance with our calendar.

The second highlight that I want to make is to thank hon. Senators for having been active in this part of this Session. I am happy to acknowledge that by yesterday, we had passed six Bills which is a record performance. This includes The Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013) The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 33 of 2013), The National Youth Service (Amendment) Bill, (Senate Bill No.26 of 2014), The National Police Service (Amendment) Bill, The Public Service (Principles and Values) Bill (National Assembly No.29 of 2014), and The Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No.31 of 2014).

Mr. Deputy Speaker, Sir, this is very encouraging. Besides the Bills, we have passed very critical reports and Motions during this Session, including the Reports on the suitability of nominees to the Commission of Inquiry into the Petition to dissolve the County Government of Makueni as well as the Report on the Vetting of Mr. Joseph Boinett as the Inspector-General (IG) of the National Police Service (NPS). So, I just want to tender in my appreciation for the hard work that the Senators have done.

The third and last highlight, Mr. Deputy Speaker, Sir, that I want to make is in connection with the Division of Revenue Bill. You communicated yesterday from the Chair that we were in receipt of the Division of Revenue Bill, 2015, and it was read the First Time yesterday. You reminded the House, in your Communication, that this Bill is bound by timelines and according to our Standing Orders, within 10 days of receipt, we should have debated and concurred with the National Assembly either with or without amendments. So, this is just to request hon. Senators, even as we go on recess, to be on the lookout for a Gazette Notice from the Speaker's Office. We might, most definitely, have to come back after the Easter break for at least a session or two so as to discharge the Division of Revenue Bill, 2015, which has strict timelines and cannot wait until we come back from recess.

Finally, Mr. Deputy Speaker, Sir, I am happy to note that out of the six Bills that we have passed during this first part of the last two months, two of the Bills had constitutional deadlines, especially the Environmental Management and Co-ordination (Amendment) Act and the Public Service (Principles and Values) Bill. I just wanted to remind hon. Senators that we still have the Public Audit Bill, which is still with the National Assembly. I am aware that they are almost concluding on it because they had a Committee of the Whole House on this Bill this morning. So, I hope that when we return from recess, we will prioritize the Public Audit Bill, subject, of course, to the directions of the Rules and Business Committee (RBC) so that by 27th May, 2015, we pass all the legislations that have a constitutional deadline in good time.

Mr. Deputy Speaker, Sir, with those few remarks, I want to thank Senators and take this opportunity to wish them a happy and blessed Easter weekend together with their families.

Mr. Deputy Speaker, Sir, I thank you and I now lay this Statement on the Table of the Senate.

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

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I wanted to seek the Floor to also give another Statement.

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

SENATOR'S GENERAL STATEMENT UNDER STANDING ORDER NO. 45(2) (a)

TERRORIST ATTACK AT GARISSA UNIVERSITY COLLEGE

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I am rising on Standing Order No.45(2)(a), which says that:-

“A Senator may make a Statement on a county issue or an issue of general topical concern.”

Mr. Deputy Speaker, Sir, I had approached you earlier in the day, together with my counterpart, the Senate Minority Leader separately, but on a common issue. The

common issue is that we had intended to adjourn this House to discuss a matter that has taken place in Garissa today, which is still ongoing; the very serious issue of a terrorist attack. However, you advised us that it was not possible to adjourn the House when we have another Adjournment Motion to adjourn the House for recess. So, I am requesting under this Standing Order, if you can allow me, to make a Statement on a matter that is of topical and national concern, namely the Garissa terrorist attack.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. For the benefit of the House, I would like to state that the Senate Majority Leader had sought to move a Motion of Adjournment to discuss the very unfortunate issue of Garissa, which has happened today and all of us know about it. The Senate Minority Leader had also brought a Motion of Adjournment for my approval again on the same issue of Garissa, which is of great concern to all of us. You are aware, just like the Senate Majority Leader has said, that we are going to have a Motion of Adjournment of the House as per our Calendar, until the 28th of April, 2015.

Hon. Members, you know that after a Motion of Adjournment is moved and concluded, the House adjourns and goes away; nothing else can be discussed. We cannot, therefore, carry on with the Motion of Adjournment on Garissa if we are going to do a Motion of Adjournment of the House and *vice versa*. However, the Motion of the Adjournment of the House is in our calendar, so we have to deal with it. So, we have agreed that it shall be moved as the Senate Majority Leader has done.

I am going to allow time for us to discuss that very important issue under the point of order raised by the Senate Majority Leader. The Senate Majority and Minority Leaders will have equal time to discuss that issue, after which hon. Senators will have a period not exceeding 5.30 p.m. today within which to discuss that issue. After that, then, we can proceed with the normal Business of the House. I think that is sufficient direction on that issue.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you very much, Mr. Deputy Speaker, Sir, for that direction. As early as 5.00 a.m., the whole country woke up to very devastating news. It was very clear from the local and international media outlets that, once more, our country was under attack. From the updates that I have received even as I speak, it is not clear how many people are dead or wounded. It is not even clear how many terrorists have attacked Garissa University College and the fate of hundreds of students is still unknown.

Mr. Deputy Speaker, Sir, we have also been informed that the IG of Police, Mr. Boinett and the Cabinet Secretary (CS) for the Interior and Co-ordination of National Government, Mr. Nkaissery, are on location and, together, they are trying to support in terms of policy, the operational commanders who include the Kenya Defense Forces (KDF) and the NPS who have been rapidly deployed to contain the terrorists and try to rescue those held hostage in that campus.

Mr. Deputy Speaker, Sir, I am at a loss as the Senate Majority Leader because I know we have been very pained in the past when things of this nature have happened. Let me talk about myself; let me not say "some of us." I know I was very categorical in the past when we had things of this nature. I said at that time that we needed two things; number one, I said that we were convinced that the security managers who were in place at that time had been unable to contain the situation of insecurity. We said in no uncertain

terms that, perhaps, those managers of that time had done their best, but their best was not good enough for the country.

Mr. Deputy Speaker, Sir, the second thing we said is that other than dealing with the rolling of individual heads, we also wanted to see a systemic change in the way we do intelligence gathering, policing and response in times of terror. Kenyans know that after that sustained demand, especially by elected leaders, the Executive made some changes and that is how Mr. Ole Lenku lost his job as the Cabinet Secretary (CS) for Interior and Co-ordination of National Government; that is how Mr. David Kimaiyo resigned from being the Inspector General (IG) of the Kenya Police Service.

Mr. Deputy Speaker, Sir, Mr. Joseph Nkaissery and Mr. Boinett came into office knowing too well that Kenyans are yearning for a lasting solution on the issue of insecurity. Therefore, it is unfortunate that hardly two months after the changes in personnel, we are witnessing another period of a barbaric attack on a huge scale that has been visited once more on innocent students in one of the universities in our country. I condole with the families of the dead on my personal behalf, on behalf of the people of Tharaka-Nithi and in my capacity as the Senate Majority Leader.

Mr. Deputy Speaker, Sir, allow me to say two things; number one, yes, we have changed the security managers, but it appears there is still a missing link in terms of cracking the problem of insecurity. So, allow me to use this chance to, once again, remind ourselves that the only way we can make a step forward in this matter is to require and demand for more drastic changes in our security system today. How? While the new security laws that were passed in December last year were a step in the right direction in terms of having a co-ordinated approach to response on insecurity, I am still convinced that nothing short of a fully-fledged, multi-agency unit to secure our homeland will help our country.

It is not enough to deploy the KDF and the NPS and tell them “there are terrorists and people are suffering; go and rescue them.” Going forward, we will require a homeland security unit that has all the agencies together so that when there is a response like this one, the units can, perhaps, work faster because they have time to train together and internalize their standard operating procedures. Anything short of a homeland security unit will not give us results.

Finally, Mr. Deputy Speaker, Sir, we, as a nation, must learn from countries that have responded, with better results, on issues of terrorist attacks. In a country like Israel, the response takes place within minutes on such scale and magnitude that is sometimes one hundred times stronger than the threat that was posed by the attack. So, I hope that our security forces will try their best and do whatever they can in the circumstances. However, I am afraid that we have to scale up our response; we have to internalize and improve on our coordination and nothing short of a homeland security outfit of a multi-agency nature will help this country resolve the insecurity problem.

With those remarks, I condole with the families and I hope that soon, Kenyans will be spared the ongoing anguish.

Thank you.

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION OF STUDENTS FROM
ALLIANCE HIGH SCHOOL**

The Deputy Speaker (Sen. Kembi-Gitura): Order! Hon. Senators, before the Senate Minority Leader takes the Floor, allow me to recognize the presence, in our gallery, of Alliance Boys High School students and teachers who are seated in the Public Gallery.

(Applause)

On my behalf and on behalf of the Senate, I wish them a fruitful visit. I hope and trust that they will learn something from the proceedings of the Senate this afternoon. In our usual tradition, the Senators will appreciate them.

(Applause)

Hon. Senators, may I also recognize that the presence of Alliance High School was brought to my attention by an old boy of the school, the Senator for Meru, Sen. Murungi, who is here.

(Applause)

He obviously, must feel very proud that his old school is here.

I also recognize that the Senator for Kiambu County, where Alliance Boys High school is situated, is also here.

Thank you.

(Sen. Murungi stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): What is it, Sen. Murungi?

Sen. Murungi: Mr. Deputy Speaker, Sir, I want to join you, as an old boy of Alliance High School, in most warmly welcoming the students and teachers to the Senate this afternoon. I am not the only old boy of Alliance High School in this House; our Speaker, Sen. Ekwee Ethuro is also an old boy of Alliance High School. Other Senators, including the Senator for Busia, Sen. Wako, Sen. Orengo and Sen. Prof. Anyang'-Nyong'o, among others are also old boys of this School. So, you can see that Alliance High School has produced many great leaders, including the Senator for Meru.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. I have unusually allowed you to say those few words because I know just how proud you are of your old school.

Proceed, Sen. Wetangula; you have 10 minutes.

(Resumption of contributions on Statement)

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. I also welcome Alliance High School, a school that two of my sons have gone through very successfully.

Mr. Deputy Speaker, Sir, thank you for allowing us this opportunity. When I came to your office this afternoon, you readily agreed that the happening in Garissa was worth our attention and debate. It is regrettable that the cruel hand of terrorism has now found its way to our teaching institutions. This is a mutation of the terrorist group of Al Shabaab that is steadily moving towards the Boko Haram philosophy of attacking institutions of learning at whatever level. As we speak here, many of our phones are jammed with messages from parents whose sons and daughters were in this institution and have not been accounted for. Although we have been told that the body count is 15 and there are 60 people who were injured, we still do not know how many fatalities lie in the dormitories which are still under siege.

All this is happening because of the ineptitude, laxity, coupled with the runaway corruption that is bedeviling the security structures of this country. I have information that will vindicate the National Intelligence Service (NIS) for the first time on this. The NIS wrote to the Executive and informed them that there was an imminent attack on the institution in Garissa. This was in writing, was signed and delivered. Nothing was done and if something was done, it was done clumsily and unsatisfactorily, and this has resulted in the loss of lives.

This morning, we were told that the Kenya Defence Force (KDF) is there. Everybody knows how the KDF bungled the attack on Westgate. When the GSU were systematically dismantling the terrorists that attacked Westgate, in a show of bravado, swaggering like Rambo in the *Wild West*, the head of the military went to Westgate and ordered the bombing of the place. As a result, we were unable to capture any terrorists. We do not know who they were and who had sent them. We will never get to know why they attacked Westgate.

Today, I hope that the KDF is not carrying out the same bungle at the university in Garissa. However, more importantly, we have said on this Floor and I enjoin my colleague across the Floor in saying that we need extra-ordinary measures to be taken to tackle the insecurity nightmare in this country. If the excuses we keep on giving are that we are suffering this way because we went to Somalia, Ethiopia has done much more damage in Somalia than Kenya will ever do.

In fact, Ethiopia went into Somalia, captured Mogadishu and occupied it for over a year. The Ethiopian troops were swimming in the Indian Ocean. Ethiopia has a much larger Somalia population than Kenya; over 10 million and yet what we see happening in Kenya does not happen in Ethiopia even for a minute. This is because they have invested in intelligence gathering, intelligence sharing and intelligence usage.

In Ethiopia today, any suspicious character, of whatever nature is detected and dealt with immediately. In Kenya, with a bribe of even US\$500, you can bring down the Kenyatta International Convention Centre (KICC). You can bring down the international airport. I have seen, many times on the highways, a motorist handing over what appears

to be a bribe to a policeman. He does not even look at it but pockets it. This could even be a newspaper cutting. They are in a rush to pocket whatever is given to them. By so doing, they let terrorists walk into any situation and damage our country.

What are we seeing now? We are seeing knee-jerk reactions, desperate reactions by the Government borne out of another inept behavior. The Minister of Interior and Co-ordination of National Government has gone to Garissa. That is an operational centre. What has he gone to do? He should be seated in his office and telling us what operational structures and policies he is putting in place so that such things are not repeated. Running to Garissa is just playing to the galleries. What is he going to do? He may have military training. However, is he a military man anymore? He is not.

What other knee-jerk reactions have we seen? In gross violation of a court order and the Constitution, the President, in a state of panic has ordered that the controversial 10,000 recruits of police must report to Kiganjo immediately. It appears good. However, it is a violation of the law. This is disregard for a court order. Everybody knows that those recruits were recruited under a cloud of massive corruption. People were selling land and taking bank loans to finance the recruitment of those recruits. They will now go to Kiganjo to train and as soon as they take up their jobs; their moral psyche will make them take as much bribes as possible to recover the loss of the land that their family sold to take them there.

What will they do to improve our situation? They will do nothing. This country, in a bi-partisan manner, must rise together and say enough is enough. We have seen these things a little too much. There are too many happenings that challenge our security. All we see are people talking as if this is business as usual. Today the headlines say we have lost. The President may go and address the nation. Tomorrow, the sky team will be out there in harambees and nobody will be talking about security anymore. This country is headed in the wrong direction. Security is the foundation of any nation. Schools and business will not function and everything will be dysfunctional if there is no security.

Look at the situation in Nairobi. I laughed loudly recently when the President told us that Kenya is the third fastest growing economy in the world and I wondered whether he lives in this country. Visit the Central Business District (CBD) today or any other town and you will see that at 5.00 p.m, businessmen barricade their shops, close down and rush home out of fear of reprisals from gangsters and criminal groupings that permeate everywhere in our country. You cannot walk in the streets of Nairobi after 6.00 p.m without fear of an attack. If the CBD is unsafe, you can imagine what Kibera, Korogocho and Mathare are like, not to mention far flung unprotected areas like Meru, Garissa and Bungoma.

I agree that we need a multiagency approach. However, this should not be at the command level. This should be at the policy level. Our Constitution is very clear. The army is for the protection of the integrity of the territory of our country and to protect our country against external aggression and only to interfere internally, with the authority from Parliament. Which Parliament has given authority to the armed forces of Kenya to be in Garissa today? Are they there because we have no police? Are they there because we have no GSU? Are they there because we have no APs or because we have no home guards? We have them.

What is happening in this country is shocking. I visited a police post recently. A policeman who requested me not to mention his name to his superiors because he would be dismissed told me that in his police post, the guns they have there have no bullets. He told me that if he went on patrol duty, the gun he would be carrying would have a maximum of three bullets. If that policeman encounters a thug with an AK-47 which can be used to shoot and fire while running and dive in a pool and come out and shoot, how would he resist?

As we do this, the leaders and commanders of the army are the biggest real estate undertakers in this country today. You have seen what is happening in the vetting process. Some policemen have over Kshs70 million in their accounts. Others have flats everywhere. We are recruiting rogues into offices where we need decent people to do work to protect Kenyans.

I said to the Ransley Commission, when they were doing their analysis on what to do with our police. I gave them the case of Colombia which my distinguished Senate Majority Leader must know. In Colombia, they disbanded the entire police force. They took the police men and women through a truth metre and recovered only one-tenth of the entire work force. They dismissed everybody, retained the one-tenth, recruited new policemen and crime went down by 95 per cent. Remember, that is the Colombia of Medellin; the Colombia of Pablo Escobar. Now, there is no crime in Colombia. We need to learn from those who have done better than us.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you Sen. Wetangula. This is a Statement Hour by way of point of order by the Senate Leader of Majority. I am, therefore, going to grant each Member who wishes to contribute five minutes so that each of you has a chance to contribute and we are able to finish before 5.30 p.m.

Sen. Ongoro!

Sen. Ongoro: Mr. Temporary Speaker, Sir, allow me to add my voice in condemning this barbaric act that has happened in this country again. It is very sad. I was going through the Constitution and I reminded myself of its supremacy. If you read this Constitution, Article 2 and the fundamental freedoms contained herein, with specific reference to Chapter 4 of the Constitution which contains the Bill of Rights, in Article 26, it states that every person has a right to life. If you read that together with Article 27(1), you will know which situation we are dealing with.

Nowadays in Kenya, you do not know what else to do. Christians are being killed every other day in churches and you are not even sure you are safe when you use public transport. The other day we witnessed people being pulled out of buses, being killed and paraded in broad daylight. Even when you go shopping, you are also murdered. This barbaric act has now found its way to institutions of higher learning. Whatever the case, what crime did these young intelligent Kenyans in an institution of higher learning commit? Which other way can somebody communicate hatred?

Mr. Deputy Speaker, Sir, honestly speaking, where else can it be safe when we cannot even take our children to school? It is now a matter of concern for all of us who are parents, so that when your children are in school, you do not know whether they will come back home safe. You do not even know whether to keep them home and deny them the opportunity to learn.

As I conclude, we must agree as a nation that it cannot be business as usual. This is a desperate situation and we must now employ very desperate measures. It cannot be business as usual. We must think and act out of the box. I am now convinced that changing the officers like we did cannot help at all because we are dealing with the monster of terrorism. We must accept that terrorism is terrorism and it knows no ethnic boundaries. Terrorism is not a respecter of persons or regions. A terrorist is a terrorist whether young or old, white or black of whatever creed and must be dealt with in a manner that befits their status because they have consciously submitted themselves to something that makes other human beings uncomfortable.

With those few remarks, I beg to urge that the country employs and comes up with a strategy. I support what the Senate Leader of Majority has said that we should actually think of creating a special unit whose mandate, facilitation and budgetary allocation is to simply deal with terrorism. We should not depend on the other arms of Government in terms of information gathering with prosecutorial powers.

I support.

Sen. Kagwe: Thank you very much, Mr. Deputy Speaker, Sir. It is unfortunate that the time does not allow us to say much. It is interesting that this attack has come just after the announcement that President Obama is coming to visit this country. I have no doubt in my mind that part of the reason for the timing of this attack is to show the rest of the world that Kenya is not a safe destination for anybody, let alone the American President. I am, therefore, convinced that our forces must take all the necessary measures to ensure that the culprits of this heinous act are immediately brought to book.

This is a time for us to be patriotic. This is the time for Kenyans to speak in one voice and not point fingers, but to remember that this kind of act happened in Pakistan where children were killed in school. Not too long ago, there was an attack of similar nature in Paris. As we speak today, the Boko Haram continues with their operations in Nigeria. Therefore, as we criticize our nation, let us also remain patriotic, remembering that what our nation is faced with is not just something against Kenya alone. This is an institutional framework that is global in nature. Terrorism is not just a Kenyan event.

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

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

I agree with those who have spoken before me that we must deal with those people in a very ruthless manner so that they will never repeat it. It is very clear that the current global judicial system cannot deal with the threat of terrorism globally.

Madam Temporary Speaker, Sir, just arresting people and arraigning them in court is no longer a deterrent as far as terrorism is concerned. We must ask ourselves whether we can deal with a terrorist the same way we deal with a simple thief. Is the judicial system sufficient to deal with the threats that we are currently facing? I am the first person to state that I do not think so. It is time we did things differently. When the Saudi Arabians cut people's hands because of stealing it seems to be working.

The level of ruthlessness that we should use to respond to these people must be of equal measure. I agree that it is not enough to simply stand here and criticize our

Government. We must be patriotic and support our forces. The operational nature and what they are doing at the site of the operation is something that I am not qualified to talk about and I do not think that most of the Senators in this House are qualified to speak about it. The operational tactics is something that we should leave to our forces and support them.

The reason why the CS, Maj (Rtd.) Nkaiserry, Inspector-General Boinet and other Government officers have gone to visit those people is to give them moral support. This is what happens to responsible Cabinet Secretaries. This is what happens to commanders of the army. They must go to the operational site so that the morale of the forces there can be boosted.

Had Maj. (Rtd.) Nkaiserry not gone to Garissa, people would allege that he is not taking that situation seriously. But when he goes to Garissa, he is being criticized for not sitting in his office. I disagree with Sen. Wetangula on this bit. I think they must be on the scene of crime to give orders from the operational site.

Madam Temporary Speaker, we should be patriotic and support these forces. We should give constructive criticism and not forget that this not an opposition or Government issue; this is a Kenyan matter that must be faced holistically.

Madam Temporary Speaker, a good example has been given about Ethiopia. It is true that Ethiopians deal with terrorism ruthlessly. One of the reasons they are able to do that is because nobody is going to start jumping around and talking about human rights as if terrorists have any. Let us be ruthless. Terrorists do not have rights because they are not human.

The Temporary Speaker (Sen. Ongoro): You time is up Sen. Kagwe.

Please proceed Sen. Ong'era.

Sen. Ong'era: Thank you, Madam Temporary Speaker, for giving me the opportunity to also express my shock and sympathy to the families of the victims of the tragic ongoing crisis in Garissa. It is very sad that today we have lost 15 people in Garissa as at now. Out of the 15, four of them are personnel officers. A further 550 people are still unaccounted for. It grieves me that as we speak, the terrorists are profiling the hostages between Muslims and non Muslims.

We have spoken about these issues of insecurity for a very long time. I know that even as we run our house – we are privileged that you are sitting there as a lady – we know that when we try to put a chair somewhere and find out that it does not fit there, you have to find a solution. What we do is to remove that chair and, maybe, bring a straight chair if the other one was a low one.

Madam Temporary Speaker, we have found out that the military is not suited to deal with terrorism issues in this country. What the President ought to do in this instance is to leave the military alone because they are not trained to deal with terrorism. I, therefore, welcome what you and other speakers; the Senate Majority and Minority Leaders suggested that it is high time we had a special unit trained to deal with the issues of terrorism in this country.

Insecurity in Kenya, as has been pointed out, is the norm rather than the exception. It seems that it is falling on deaf ears of my Jubilee Coalition counterparts. I sympathize with the Senator for Nyeri when he says that we need to take a bipartisan approach. We would want to do so because insecurity is a national issue. However, we cannot take it

when we obviously see that each and every day this Government is failing in how they handle insecurity in this country. Kenyans are dying and yet they are still championing corruption.

Madam Temporary Speaker, forcing the EACC commissioners to go on retirement or to leave means that this Government is not serious with these issues of corruption that have been brought before them. The Government does not intend to do anything to fight corruption. It has also shocked me to learn that the 10,000 recruits who we knew had been recruited through corruption---If I may tell you, in Kisii county, an old man died after he realized that the son for whom he had bribed Kshs200,000 to be recruited was not taken. These are the same recruits that we are now being told will be taken to Kiganjo to be trained as police officers.

It saddens me that this Government does not want to respect our institutions and the rule of law. If there is clearly a court order, why should we defy it and then go ahead to say that we are recruiting the same officers? Do we not care about institutions and the rule of law? Do we not have respect for the rule of having a stand on the institutions of the Legislature, the Executive and the Judiciary? There has to be respect and a balance of power in this country if we want to take a bipartisan approach in how we manage this country.

Finally, I want to suggest the following; I support the setting up of an institution that will deal with this issue as a special unit. If there are people with ears to hear, we need a national security conference. We need to have dialogue in this country for these people, who are refusing to listen, because we need them to start listening now.

With those few remarks, I beg to support.

Sen. Wamatangi: Thank you, Madam Temporary Speaker. I rise to join hands with the people of Garissa and this country after the tragedy that we have all witnessed today. At a time like this, we join hands as one people of a nation, irrespective of our political differences, ethnic backgrounds, ethnicity or faiths. I join hands with the rest of Kenyans to condole with the families who have lost their loved ones. I also want to express my sincere hope and optimism that very swift action is going to be taken. I wish that the Kenyan forces and the entire team that is there trying to rescue those that are still under capture all the best. We are sure that, finally, as a country we are going to prevail.

Madam Temporary Speaker, this is not the first time, as my colleagues have said, that the *Al Shabaab* movement has struck this country and caused loss of life and massive atrocities. I believe that it is our time to learn now. We have been learning but whatever we have witnessed, we must now urgently change direction. It is said that there are no old roads to new directions. We must absolutely change tactics. The last time that *Al Shabaab* struck, they left hundreds of our people mourning and others dead. We can see clearly that there is a trend that *Al Shabaab* has been striking in the north eastern parts of this country, from Mandera to Garissa. They have also been to other parts of this country but we must urge our security forces, this time round, to ensure that we form or focus critically in that part of this country to ensure that if that is an area that is deemed to be a soft spot by the *Al Shabaab*, then we should enhance security in that area and make sure that our intelligence services are heightened in those specific areas.

I contributed to a similar Motion in this House. I drew the attention of this House to a visit that I paid sometimes in the United Kingdom (UK). It is a country that has a

very high population of all colours and religions. However, there is not a single police officer – even the ones who guard the Buckingham Palace – who carries a gun. If you go to the Palace, the police officers who guard the gates only have batons; they do not carry guns. If you look at the crime rate, it is on the minimum. Therefore, no matter what we do, we can never possibly jail, capture, or kill every terrorist. What we have to do is to wage a serious war against the philosophy that terrorists subscribe to. This is what we have to defeat. In that endeavour, we as a nation must change our focus in what we intend to do.

Sen. Orengo: Madam Temporary Speaker, Sir, let me also join the people of Garissa in sending my condolences from the people of Siaya for the loss of life and property of the people of that county. Allow me also to express my solidarity with our men and women in uniform who we call upon to deal with acts of terrorism within our borders. I also want to emphasize the need for all of us to be patriotic when Kenya is under attack. When Kenya is under attack, we are all under attack without exception. These attacks come in many forms, affecting the lives of people.

It is time the Government thinks seriously about its national security policy and how it is going to be implemented. I think over the years we have just been fire-fighting. We should not just be talking about terrorism but even internal conflicts have been difficult for the Government to deal with. These incidences are not just occurring in Garissa, Wajir, Mandera or Lamu where we think terrorists are active, it is also happening in Nairobi, Baringo, Marsabit, Pokot and other parts of the country.

The security of citizens is under jeopardy. Therefore, we must truly think as Kenyans on how we are going to deal with matters of security. In many countries there is a consensus under the national culture and philosophy and this prepares the Government and the people of the nation on how to deal with terrorism, both external and internal. That is why many countries which are faced with terrorism threat, for example, Israel and the Saudi Arabian Peninsula, they are able to deal with conflicts and terrorism.

I am saying this because we took our troops to Somalia to make sure that they cannot get inside the Kenyan territory. This is what the United States of America (USA) did. This is also what Israel does when they are under threat. They use that threat as a basis or justification to go across their borders to make sure that there is peace internally. By Kenya going to Somalia, have we achieved peace? What is happening in Mandera along the border? Is it the interim government in control of Somalia or is it Al Shabaab?

Madam Temporary Speaker, this did not just happen at Westgate; we have had constant attacks. When we appoint a new Cabinet Secretary like Hon. Maj-Gen. (Rtd) Nkaisserry, we are very happy that he is going to make a difference.

This thing is not going to be solved by changing faces. Even the Jubilee Government cannot rule this country in any way that will make a difference if we are just to rely on one man called the President. This is also one of the things that the Jubilee Government has refused to accept; that whereas they are in the Government, there are matters that we need to sit together as a nation and talk. President Obama is coming here and when he was a Senator he was going to those war zones with the protection of the Government of the USA.

Sen. Billow: Madam Temporary Speaker, I also want to add my voice in condemning these heinous terrorist attacks on innocent students and other Kenyans.

Indeed, it is a barbaric act that needs the condemnation of every person in this country and the world. It is a matter of concern that what is unfolding in Garissa, which is a tragedy, is a matter of serious concern to all of us in this country for two reasons: First, we have seen from 2010 when the Kenya Defence Forces moved to Somalia, the increase in the attacks in various parts of this country. We have also seen the statements from Al Shabaab that they are at war with Kenya and that the Kenya is a combatant in Somalia.

Therefore, this is a matter that all Kenyans must stand together in condemning and to find a solution to. In this regard, I am one of those who have talked about this issue of terrorist attacks. These people have been massing on the borders of North Eastern region. We have repeated this at every opportunity but one of the most unfortunate things we have in our system is the failure by the state to dialogue with the leaders from the affected communities.

In the last one month, there have been three attacks; two in Mandera, the first one is where the governor was attacked and another one where four Kenyans were attacked. Then there was another one in Wajir. In spite of all those people who were killed and the seriousness of those attacks by terrorists, the Government leaders who are responsible for security are yet to engage a single Member of Parliament from those two counties to discuss what happened. To make matters worse, they have even gone further to trivialize the matter by saying that those are just banditry attacks.

You cannot have a Government today that is inconsistent with its Statements. One minute we are told it is terrorist attacks and the next minute we are told it is your own politics. The Government must stop playing politics on this matter. They need the support of all the leaders and the communities in those regions. Without the support of those regions, we will not succeed.

Madam Temporary Speaker, it is clear to all and sundry that our KDF forces, whom we thank for the work they have done in Somalia--- It is time we went back to our strategic plan. Why did we go to Somalia?

It was to create a buffer zone to ensure that the Al-Shabaab does not enter Kenya. However, have we succeeded? The answer is clearly obvious from the hundreds of incidences that have happened in the last four years that we have not succeeded. I appeal to the President to be very firm on those who have failed to deliver.

In this regard, I want to particularly point out the issue of the Chief of the Kenya Defence Forces (KDF), Julius Karangi, whose contract is about to expire. The President must make it clear that his contract should not be extended. If four years after going to Somalia, the KDF have failed to stop the Al-Shabaab from entering this country and they have also have failed to secure this country, there is no business that some officers should continue being in office in the same way all officers who have failed have been removed from office. It is incumbent on the President to send a strong message including up to the ground.

The police commandants and police officers who were given intelligence information about the imminent attack on the university by the National Intelligence Service (NIS) should also be acted upon immediately. Unless we take action, if the President and the Cabinet Secretary (CS) continue to say that they have confidence in the security officers even when things have happened under their watch, we will not go anywhere.

Madam Temporary Speaker, recently, when there were attacks in Mandera, the CS came out very strongly saying that he has a hundred per cent confidence---

(Sen. Billow spoke off record)

Sen. Munyes: Madam Temporary Speaker, I take this opportunity to join my colleagues in condoling with the families and friends of those who have passed on after the painful attack in Garissa. The nation is pained and traumatised by what is happening in Garissa. However, as we speak, Turkana County is under siege. Lorokon village in Keekunyuk has been surrounded by people we suspect to be from West Pokot County and Uganda. We have already lost four lives in that village. The Red Cross Society of Kenya officials have been denied access. They cannot even take water and food to the villagers. The General Service Unit (GSU) camp is only four kilometres away from the village. The Anti-Stock Theft Unit (ASTU) is another 10 kilometres away.

Therefore, Madam Temporary Speaker, you can see the impunity happening in the country. I do not know whether to call this “ingredients of a failed state.” We are really a failed state, if this kind of impunity can occur, where a community is under siege for four days. Up to now, we do not know how many people have died in the Garissa University attack.

Madam Temporary Speaker, when the Al-Shabaab attacked this country and we pursued them inside Somalia, there were few incidences in this country. Retreat is not surrender. We cannot claim to be inside Somalia if the frequency of attacks is where it is today. We spend so much inside Somalia yet our military has not achieved much as far as I am concerned because the number of people who have died in Garissa and Mandera is high, and many others are said to be under a bigger threat. This is because every day, there is an Al-Shabaab group crossing into our country.

Madam Temporary Speaker, we cannot cry because we have put our resources in the military. My proposal is that the military should occupy our borders along Ethiopia, Sudan, Uganda and Somalia instead of fighting inside somebody’s territory. It is incumbent upon the Somali community in Somalia to sort itself out. We cannot continue killing Somalis in Kenya. This is our country and we need to protect it. This kind of impunity should not continue. We need to save our country from embarrassment.

The Al-Shabaab knows that the President of the United States of America (USA) will be coming to this country. They want to sabotage this country. They want to sabotage tourism in this country. I know of countries which have succeeded like Ethiopia and Uganda. A lot is not said about the Uganda Peoples’ Defence Forces (UPDF) in Uganda which has done very well in ensuring that their borders are safe. As we speak, the problem in Karamoja has been sorted out. Our military cannot even move from Eldoret to Keekunyuk and Lorokon to flush out the tribe from Uganda which is running away from the UPDF. Our military officers just sit in the barracks. They feed in the barracks yet people are dying. They are fattening. That is painful!

Temporary Madam Speaker, as I speak, the other day in Lokichoggio - a barrack is closer there - people were being killed near a barrack. That is external aggression. My Ford Kenya Party Leader would say that, maybe we have not given them permission. However, it is happening---

(Sen. Munyes spoke off record)

The Temporary Speaker (Sen. Ongoro): Senator, your time is up.

Do you support?

The Senator for Meru County; Sen. Murungi.

Sen. Murungi: Madam Temporary Speaker, I thank you for giving me this opportunity to send my sincere condolences to the people of Garissa and those whose families have lost innocent students in Garissa University. This is a very serious matter. We hope that it will not be another Boko Haram story; with many students disappearing and not being found. There are about 500 people not being accounted for, we encourage our security forces to move with speed to make sure that every person is accounted for and the security situation in Garissa is brought to normalcy as quickly as possible.

Madam Temporary Speaker, as my colleagues have said, the war against terrorism is for all of us. It is for every Kenyan because we do not even know the names of the students who have died and those who have disappeared. Some of them could be our brothers and sisters. We should not think that they are people of Garissa; they are Kenyans. We should all be mourning. It is not a localised affair. There may be people in the Opposition and others in Government who are hurt by that terrorist attack. It is time for us to stand together as Kenyans and say “no” to terrorism in this country.

Madam Temporary Speaker, I know that the President, Hon. Kenyatta, is as concerned as we are about issues of terrorism in this country. The recent changes that he made to bring in a former General to be the Cabinet Secretary for Interior and Coordination of National Government was lauded by almost everybody in this country as a step in the right direction. I believe that when the Cabinet Secretary was part of the Opposition, he also raised issues regarding our strategies for fighting terrorism. However, this is a complex war; it is a complex situation and we need to be more innovative in the way we deal with terrorism in this country.

Madam Temporary Speaker, I have said on this Floor before that we need to understand the psychology of terrorism. The word “terrorism” comes from the word “terror.” The whole idea of terrorism---. They know that they do not have the capacity to bring down a government. They know that they do not have capacity even to win a major war, but the strategy is to spread terror and make everybody afraid. Even as you are sleeping in your own house, you are afraid that they can strike anytime. That is why the prime targets for terrorists are where innocent people are likely to be found.

They rarely attack military barracks. You will find them attacking supermarkets, schools, churches and other places where there is no preparedness in terms of fighting back. Then the Press will take it up. From today evening, the television stations will all be advertising the effectiveness of the terror attack in Garissa. Most Kenyans will be watching television and reading newspapers tomorrow and get afraid of even going to work. Therefore, we have to use reverse psychology. We have to encourage our people not to fear because the terrorists feed on fear.

Madam Temporary Speaker, having said that, we have also to be creative in the way we fight terrorism. I was surprised the other day when I heard that we are going to

construct a wall between us and Somalia in Mandera. There is no such wall which can prevent terrorists in this day and age. The terrorists have gone digital and become---

The Temporary Speaker (Sen. Ongoro): Senator, your time is up.

Sen. Sijeny.

Sen. Sijeny: Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to this shocking episode. First and foremost, I send heartfelt condolences to the people of Garissa and friends, relatives and all sympathizers, following the attack.

Security is becoming a real thorny issue in our country. The Government seems to have invested heavily, but it is not enough and it needs to do more. Just the other day Safaricom won a tender. I wonder what it has done so far. Are they just tapping our phones or what is happening? By now we should be seeing results and engaging on the strengths and challenges which have occurred.

I believe that we need to create a special force to deal only with terrorism, the way we have the famous General Service Unit (GSU) squad known as *Recce*. When we see them, we know that our problems are sorted out. For example, when I came to Parliament today for the first time I saw dogs sniffing around. I thought that security is finally coming to Parliament. But we need to enhance security in many other areas. Without proper security we will be in trouble.

I came back from Addis Ababa recently where I noticed that even if one is entering a *kiosk* they are screened. The security forces are always alert. I know that we can afford to provide adequate security. Many Kenyans need jobs and can be well trained. In fact, even the recruitment should be done properly so that we get the best officers who are committed and willing to serve their nation.

Madam Temporary Speaker, Sir, insecurity is becoming scary. The Senator for Meru has just confirmed that the terrorists want to scare us. Personally, sometimes I am so scared that on Sundays whenever I want to go to church, I just look outside and just decide to talk to my Maker in the House. This is because the terrorists have been targeting churches and even supermarkets. Now they have started touching very sensitive places; learning institutions. I will not be surprised to find out that the 510 students who cannot be accounted for so far are ladies.

We have seen what the Boko Haram has done. They have tortured and violated the rights of women. They sexually harass them. Women are giving birth to children whose father's they do not even know, in the name of spreading the "terrorist-lets," if I may use that term. They want to make more babies and spread their generation. This is unacceptable. If the whole world has failed to deal with what is happening in Nigeria and the Boko Haram have gotten away with it, maybe this is an extension of what is happening there. Whichever name they use, the exercise is the same. This is unacceptable and should not be allowed.

Madam Temporary Speaker, we need to think like terrorists sometimes, so that we can be ahead of them. We should not always deal with the aftermath of what they have done. That is the only way we can fight terrorism. There was a time when we would hear about some people being smoked out and bombs found. Why is there silence now? Are our security personnel not able to see beyond the obvious? Is there a disconnect?

There needs to be harmonization of the security systems within the various security departments. The security forces should be able to get proper results in the fight against terrorism. The security operation during the Westgate attack ended up in the shooting of the GSU officers and yet they had done a good job. We have to keep on reminding ourselves about that incident because it was a very serious lesson. Wherever you go out of this country they talk about the Westgate attack, because that was a very bad sign. It showed inefficiency, notwithstanding the many hours the operation took.

Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we were supposed to have the Motion for Adjournment at 5.30 p.m. We are already five minutes late. I will allow the Senate Majority Leader to move the Motion and all those who wish to speak to this can do so as you contribute to that Motion.

Senate Majority Leader!

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE HOUSE PURSUANT TO THE APPROVED CALENDAR FOR THE 2015 SESSION

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

THAT, the Senate do now adjourn until Tuesday, 28th
April, 2015.

Madam Temporary Speaker, this adjournment sought by this Motion, as I said earlier on, is procedural in the sense that we had already agreed at the beginning of this Session on how our calendar will look like. It will have four parts. This Sitting marks the last day of first part.

As I said during my earlier Statement, under a different Order, the only caveat or reminder is that as we go on recess, which is within our calendar, there is one outstanding issue that as matter of law and timelines requires us to come back. That is the passing of the Division of Revenue Bill of 2015. Other than that, this break comes at a time when we would like to reflect on achievements in Part 1 of the Third Session of the Eleventh Parliament.

Madam Temporary Speaker, this break also comes at a time when we have the Easter Holiday, especially for those of the Christian faith. The Easter festivities is one of the most important milestones in the Christian faith, so my special best wishes come especially to those of the Christian faith and to all Kenyans in this time of reflection and inward looking even as we continue examining ourselves on matters that our nation is facing at the moment.

For the past one week, we have been confronted with the issue of corruption and how it has spread in almost every level of Government and in every arm of Government, the national Government and the county government. Therefore, this break is an opportunity for us as legislators to try and come up with suggestions on how we can re-create our nation and re-engineer ourselves, especially the software of our country, that

is, the value system of our country, so that we have a better country that is corruption free.

Having said that, allow me also to say that – and I made these remarks earlier on during debate that, as we look at how we deal with the problem of corruption, we need to keep in mind the fact that we are a country governed by the rule of law. Therefore, let us not be engaged in mob-lynching and prejudging people who have been mentioned in relation to corruption. Let the process take place and the guilty be held accountable but let the innocent be vindicated so that we move on as a nation.

Madam Temporary Speaker, allow me to comment about one more thing and that is what has pre-occupied us this afternoon, the question of insecurity and terrorism. We are taking this recess at a time when our nation is under attack. I can see a lot of fear not only on the older people but also on our young people, including the young men who are in the gallery today. I see a lot of fear written all over this country. Every time we have an incident like what is going on in Garissa today, we are diminishing the pride, the liberty and the strength that is the foundation of our civilization as a nation. Security cannot be over-emphasized, we can lose any other war but we cannot afford to lose the war on the security of our homeland---

Sen. (Dr.) Khalwale: And corruption!

The Senate Majority Leader (Sen. (Prof.) Kindiki): And corruption as Sen. (Dr.) Khalwale “mtetezi” reminds me and I agree fully.

On this issue, I want to say that as we go on recess we should learn the best practices. This is one of the rare occasions that I want to agree with my brother Sen. Wetangula; there are enough best practices, some of them far away like Colombia but some of them very near us like Ethiopia. The excuse cannot be because Kenyan troops are in Somalia that is why we are being attacked. Therefore, the example of Ethiopia remains a case study that we can actually benchmark. I hope our Committee on Security and Social Welfare can benchmark in Ethiopia. This is an area where the Security and Social Welfare Committee either of this House or of the National Assembly can actually benchmark, to see how we can offer solutions rather than blaming each other.

Madam Temporary Speaker, on that issue, I also want to echo and support the remarks that have been made by the Senator for Meru County, Sen. Murungi, about the responsibility of our media. On 11th September, 2001, one of the worst cases of terrorism took place in the United States of America (USA). Thousands of people were killed in two simultaneous attacks that took place on that dark day in the history of the world but until today one wonders, why is it that in Kenya – and I am not trying to say this to undermine the need for the public to access information but one should note that until today, we have never been shown the bodies and the corpses of the 3000 Americans that were slain by that terrorist attack.

The CNN and all the global media outlets were responsible enough to cover the attacks and convey to the public the information about what has happened without making the community, especially relatives, friends, fellow countrymen and women suffer the orgy of watching their loved ones as they are torn into pieces by the pellets of the bombs of the terrorists. I want to plead with our media that they can achieve the same purpose. They are doing a good job but we should do better as a nation because it helps

no one to demonstrate how people are screaming for help, being torn apart and having their throats slit by terrorists. It only aggravates the situation and emboldens the terrorists.

Lastly, I support the view that this is a complex matter and it is not unique to Kenyan. Today, Iraq and Ukraine are in disarray as a result of terrorism. In Tunisia just recently, very serious attacks took place in a museum in Tunis just a week ago. As we speak, Yemen is on the verge of collapse as a result of these kinds of attacks. So, let us look at this as global problem. This is a time for all friends of Kenya to show their solidarity with Kenyans. They should not—

The Temporary Speaker (Sen. Ongoro): You have one minute to conclude.

The Senate Majority Leader (Sen. (Prof) Kindiki): Madam Temporary Speaker, therefore, we need to contextualize this as a global problem and we want to urge our media to be patriotic. I want to congratulate the President for—

Allow me to move the Motion in 30 seconds; the one minute was not even over.

As I was saying, we want to congratulate the President for ordering the police recruits to report for training because it is against public policy to injunct a public good like national security.

With those remarks, I beg to move and request Sen. Abdirahman, the Deputy Minority Leader to second.

Sen. Abdirahman: Madam Temporary Speaker, I stand to second this Motion of Adjournment and support it from the onset. This is an opportunity for us as a House to determine our own activities and priorities unlike what used to happen to us in the past, such that we move on a pattern that helps this House to decide on issues as, and when it is needed.

While seconding the Motion, I want to say that, this particular recess or any other one will help us reflect on our achievements and shortcomings during this particular Session. It will also help us reconnect with the people that we represent at the county level, such that we look at what happens in the constituencies and the respective wards with the view to improving relations and looking at the larger development priorities in the counties that we represent.

Madam Temporary Speaker, the Senate has, time and again, not been able to move or reposition itself to where it actually belongs. Fortunately, unlike our House on the other side, this is a House that has maintained the integrity of what Parliament is supposed to exist for. I, therefore, want to congratulate all Members wherever they serve, for the good efforts they have shown either in the Committees or in Plenary for the period we have served.

Madam Temporary Speaker, as we move towards the end, the major issue that came up particularly this week, was the issue relating to corruption in this country. I want to ask the Ethics and Anti-Corruption Commission (EACC), having been given 60 days, to live up to the task; to carry out detailed investigations and bring to book those who are believed to have actually caused serious corruption in this country, irrespective of their positions in Government and in society. They are actually impoverishing Kenyan communities largely and they need to be taken to task. So, I urge the EACC and the Jubilee Administration, to a larger extent, to ensure that we achieve the pledges that have been undertaken.

Madam Temporary Speaker, it is a sad afternoon today particularly because of the incident happening in Garissa. It is not affecting Garissa alone; it is affecting the entire nation. Garissa University College, which is a constituent college of Moi University, has students from all over the country. As we speak now, we are informed that about 17 of them, including---

(Sen. Hassan spoke off record)

The Temporary Speaker (Sen. Ongoro): Order, Sen. Hassan! Please, consult in low tones.

Sen. Abdirahman: Madam Temporary Speaker, 17 students are said to have died and it is really a sad moment. This, to me, looks like a replica of what happened in Westgate. We are not sure of the number of the attackers; we keep on hearing conflicting information that they are three, five and at most, eight. If three, four or five people can terrorize that institution and the community for the last 12 hours, there are questions that come up; it is like the Westgate siege.

Are our security forces not up to the task? This brings us to the question of the complexity of the way terrorists operate, generally. Our security forces have the numbers, but they cannot operate the way the militia operates. This is a ragtag militia; it is not a formal group that you can fight and it is not very easy. The lessons we hear from Ethiopia is because those guys can move wherever these people are.

Madam Temporary Speaker, I hold a different view from those who say that taking the Kenya Defense Forces (KDF) into Somalia was a wrong idea. I do not believe in that myself. The Port of Kismayu was the source of all financing of terrorist activities and the fact that through the help of the KDF and other African Mission for Somalia (AMISOM) forces, we got hold of this port---. This was a step in the right direction. But let us rethink again because our porous border cannot be manned through the wall, as people are imagining. Probably, the best thing would be to train the local communities.

On the other side of the border, we have neighbours who are peaceful and they are also under siege by the Al Shabaab. We should also support the local communities across our border all the way from Mandera. We should recruit enough Kenya Police Reservists (KPR), deploy more security forces and make arrangements to train people from that side who are peaceful Somali neighbours.

Madam Temporary Speaker, I personally do not support this business of saying that Somalis must stay here. There are Somalis of Kenya and there are Somalis from the other side; that is the truth of it. But this country has an international obligation to support Somali refugees who ran away from the civil war in their country. What we need to do is not to shy away from our responsibility as a nation, but probably to invest more in intelligence. We should recruit more people as informers; we should ensure that we get the confidence of the local communities across the border so that they can work with our security forces. This is paramount if we have to achieve security.

Madam Temporary Speaker, I want to thank Kenyans generally because the intention of Al Shabaab is to create a wedge between Muslims and Christians in this country. I believe that Kenyans are sober and mature enough because with all these incidents, we have stayed together. I want to urge Kenyans, wherever they are, that we

are all suffering; whether you are a Muslim or a Christian, the suffering is the same. I urge you to continue coexisting.

The Al Shabaab are killing Muslims everyday in Mogadishu; they are killing Somalis every day in Mogadishu. This is enough pointer to the fact that this is not something that is directed at Christians only; it is also directed at Muslims and Somalis alike. So, we must bond together; we must create a position to believe in; that this is one common enemy and we must work together as the political leadership and as Kenyan communities to safeguard our nation.

With those few remarks, Madam Temporary Speaker, I beg to support the Adjournment Motion and look forward to a very good recess. I wish those who are celebrating the Easter holidays a very happy Easter break. I wish all of us a safe comeback.

Thank you, Madam Temporary Speaker.

(Question proposed)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, before the next speaker takes the Floor, I want to remind you that this Adjournment Motion, according to Standing Order No.100(4), is limited to not more than two hours and every Senators has got 15 minutes. But in view of the interest and the number of Senators who have logged in, and to give everybody an opportunity to speak, we are going to limit debate to five minutes so that everybody can speak.

Proceed, Sen. (Prof.) Lesan.

Sen. (Prof.) Lesan: Thank you, Madam Temporary Speaker. I also wish to join the rest of my colleagues in condoling those who have lost their lives. It is a very sad moment because we are condoling people who, at 5.00 a.m. this morning, they were happily sleeping in their beds. But an hour or so later, they were dead. They did not have the opportunity of getting sick and then, of course, losing their lives. This is very unfortunate and I hope that I will not have to stand in this House again to condole people who fortunately were healthy, but they lost their lives.

Madam Temporary Speaker, I just want to say two things. First of all, we now know that terrorism is a very ruthless thing. It is important that, as a country, we should not tolerate it; we need to be ruthless. Therefore, this country must start dealing with radicalization. Radicalization is the nursery in which terrorism is nursed and, therefore, this country needs to stand up and decimate the nurseries where these radicals are made from.

Secondly, we also need to change the tactics with which we approach terrorism. First of all, this country must set up an institution that trains Kenyans to be experts in handling terrorism. We need to have an institution in this country where clever people will be trained properly; they must be cleverer than the terrorists so as to deal with this issue. Therefore, we must train people to become sharp shooters, infiltrators---

(Sen. Hassan stood up in his place and consulted loudly)

The Temporary Speaker (Sen. Ongoro): Order, Sen. Hassan! If you want to contribute, you will have to log in. You cannot be on your feet when another Senator is contributing. If you wish to intervene, log in and I will give you the Floor.

Sen. (Prof.) Lesan: Thank you, Madam Temporary Speaker. We know that the West is always giving us advisories, but their advisories have come true. This is because the West has trained their own “Al Shabaab” who have infiltrated the existing Al Shabaab. I see no reason why this country cannot also infiltrate the Al Shabaab Movement with our own “Al Shabaab” so that we do not have to get advisories from elsewhere. We can get it from here; we know that this has been done; we know that the West is doing it and we can deal with this. Of course, we are going to deal with this if we have very patriotic Kenyans who really love their countries, want to protect their country and to participate with their nation in protecting their country.

Of course, Madam Temporary Speaker, we will be asking national security to also change tactics and the way they do things. One of the ways they need to change, of course, is to invest more in technologies here. We have drones all over the place and they are cheap. Some of them are made in China and they are toys we can use to supply us with information and actually control and patrol our borders.

This is possible and I am sure this can be done in this country, especially at this moment when we are under this threat. Surely, we are capable of securing our country if we used all our abilities to do so.

Madam Temporary Speaker, with that, I also support the Adjournment Motion and wish my colleague Senators, during this very difficult time, a time in which they will reflect wherever they are and probably still make a contribution to attacking these two vices which are attacking us; corruption and now terrorism.

Thank you.

Sen. M. Kajwang: Thank you, Madam Temporary Speaker. I wish to comment on and support this Motion on Adjournment. By the time we come back to this House, it will be almost 30 days following the warning that was given by the President for those people implicated, those who have been accused or those who are rumoured to be corrupt to step aside for investigations. I hope that in those 30 days when we come back, there will be some action that will have been undertaken. Unfortunately, you need to have some level of craziness to expect that there will be action.

When you look at the Ethics and Anti-Corruption Commission (EACC), which is the body that is mandated to deal with the many individuals who have been named, it is falling apart. It is not well funded and staffed; the commissioners are fighting; we are told that some are on leave whereas we know that some have thrown in the towel and others are being promised to be taken to Brazil.

But as we go on recess we, as elected leaders, we shall also not join the lynch mobs that will be baying for the blood of those who have been mentioned in this report. I would still like to advise the President, in case he would need advice from Homa Bay County; that in the fight against corruption, we probably need to follow Pareto’s Principle. If I was in a position to advise the Head of State, I would advise him to first focus on the Cabinet Secretaries (CSs), Principal Secretaries (PSs) and people that he has control over. Deal with them within the 60 days and then make phase two a purge on the

Governors; involve the Senate and the county assemblies in dealing with the Governors who are looting public funds.

Madam Temporary Speaker, I also wish to comment on the issue that is going on in Garissa. I wish to pass my condolences, sympathy and also condemn those who are involved in this heinous act. In our National Anthem, we are called upon to defend our nation and heritage of splendor. I believe that the chief defender of this nation is none other than the Head of State. The Head of State and the Jubilee Government sought our mandate so that they could carry the shield that would defend this nation. It is now appearing that this shield is too heavy and they cannot walk or run while holding the shield.

It is only one week ago, on a Thursday, at a time almost like this, when the Head of State told us that the State of our nation is strong; how wrong he was. He told us that we are more secure than ever and then, today, insecurity strikes at the heart of an educational institution. Today it is Garissa, tomorrow it could be Alliance Boys High School or any of those other schools where the bourgeoisie and the middle class take their children to. We were given advisories but we rejected them with the usual bravado that we spare for the West. I wish we could act on intelligence. But even as we go about resolving this, I hope that it will not lead to witch hunt or victimization of Somalis.

We have just heard that there are Kenyan Somalis and Somali Somalis. I hope that as we go about sorting this matter out, we shall not victimize people in places like Eastleigh and those people that we perceive to be Muslims; I hope that we shall not make a generalization that all Muslims are terrorists by nature and I hope that even as we celebrate Easter, we, of the Christian faith, shall not go into blanket condemnation of followers of the Muslim faith.

In conclusion, Madam Temporary Speaker, we need to do a root cause analysis in order to defeat corruption. We must give our children confidence in the future. If there is one thing that appears to be the legacy that the Jubilee Government is going to leave to this country, it will be the legacy of a terrorized nation. That is an unfortunate legacy and I call upon the President; on insecurity we cannot stand aside and wait for him to fail. We would want to have a bi-partisan approach to insecurity but action must start from the top. At some point, we said that heads must roll and we donated a Cabinet Secretary (CS) to the Jubilee Government, but things are not changing.

So, there are deep-seated systemic issues that need to be addressed for us to have a secure nation. I call upon all stakeholders to work together so that this Government and those who are elected during the period do not---

Sen. Hassan: On a point of order, Madam Temporary Speaker. The Senator has created an impression that this Minister was donated by CORD. I just want him to make it clear whether that was a CORD position rather than an individual movement.

The Temporary Speaker (Sen. Ongoro): Well, that was a CORD Member of Parliament. Therefore, that was still a donation. Anyway, Senator, you can clarify that if you so wish.

Sen. M. Kajwang: Madam Temporary Speaker, probably donation is the wrong word to use. Maybe “robbery” could be a better term to use. The word “donation” is more like a voluntary move. In this case the Minister was not taken out of his own volition.

Just to finalise this, we cannot leave a legacy of a terrorised nation. Anywhere you go to in this country, you are frisked, you are looked at as if you are a suspect and a terrorist and that is not the legacy we want to pass to our children. We need to work together and encourage President Obama to come and visit us without fear that he will be terrorized or abducted by some people.

I support.

Sen. Bule: Asante Bi. Spika wa Muda. Nasimama kuunga mkono Hoja hii ya mapunzi ya kikao cha Seneti. Leo hii tuna huzuni na tunaomboleza katika nchi yetu. Wakenya wenzetu wameadhirika. Naomboleza na ndugu zangu walio huko Garissa. Kabla sijaendelea, naomba Mungu azirehemu roho za wale waliohadhirika. Tunaomba kwamba Mungu atawafariji wazazi wa Garissa ambao watoto wao walipata shida.

Huu ni wakati wa Seneti kusimama wima na kukabiliana na matatizo yanayoikumba Kenya yetu. Seneti inategemewa sana na Wakenya kwa sababu huwa inasimama wima na kutetea ukweli. Tangu Seneti ianze kukaa, sijasikia Wabunge wakizungumza mambo ya mishahara. Jambo la muhimu katika maisha ya binadamu ni kupata amani. Amani haitapatikana hadi kila mmoja atakapochukua au kushughulikia majukumu yake.

Mambo ya usalama wa nchi yetu hayajachukuliwa kuwa ya muhimu. Askari ambao wanatulinda ni kama wanafanya kazi ya kujitolea. Askari wa Kenya Police, Administration Police na Regular Police wanapata misharaha duni sana.

Kama mishahara ya maofisa wa polisi haiwezi kuwatosheleza itawezekana kuwategemea kutulinda? Ikiwa wale ambao wanalindwa wanaiba mamilioni ya pesa kupitia kwa ufisadi, ni kwa nini huyo askari asiwe mfisadi? Mshahara wa askari wa kawaida baada ya kutoa zile mikopo alizonazo anabaki na Kshs1,800. Je, huyu askari atafanya kazi? *Al Shabaab* wakimpa Kshs500,000 watawapisha na hata wataingia hapa Bunge. Askari wetu wanahitaji mshahara wa kutosha ili wafanye kazi ya ulinzi vyema.

Hata mimi ninaogopa wale askari wanaonilinda kwa sababu wao pia ni binadamu kama sisi ilhali wanapata mshahara mdogo na tunawahitaji kutulinda katika boma zetu. Hatutasaidika ikiwa tutategemea wanajeshi peke yao. Maafa haya yanatendeka hapa nchini na wale wanaotulinda hapa nchini ni hawa askari wa kawaida. Askari wa kawaida wanalipwa Kshs20 kwa siku kama *Hardship Allowance*, je watatulinda vipi? Ikiwa magavana, maseneta na wabunge wanaiba, askari wa kawaida watakoma kuiba? Kwa hivyo ufisadi na hali mbaya ya usalama vinaenda sambamba. Tutadumisha usalama hapa nchini ikiwa kila ofisa wa Serikali atapata haki yake kwa sababu hakuna mtu ambaye ni bora kuliko mwingine.

Ninaunga mkono Hoja hii.

Sen. Ndiema: Thank you Madam Temporary Speaker. I want to join in supporting this Motion of Adjournment and in doing so, I realize that we are starting the Easter holiday and, therefore, I wish all Kenyans a happy Easter. It is also a planting season and, therefore, I wish farmers the best despite the challenges caused by the weather; the rains seem not to be adequate. I would like to call upon all agencies of Government to support the farmers. Seed and fertilizer should be availed in good time.

It is a very sad day today that once again we have lost lives through the cruel hands of terrorists. This is becoming too much and it is time we took a decisive action. It is no-longer business as usual. In this war on terror, we need all Kenyans to marshal their

patriotism and speak in one voice. That way, a message will be sent to *Al Shabaab* that we are not shaken. As we go on recess, I would request that His Excellency the President considers calling for a national conference on security where all Kenyans will exchange views, identify our weak links and fix them.

Madam Temporary Speaker, Sir, our KDF soldiers went to Somalia for the sole purpose of safeguarding our own country and our soldiers are doing a commendable job. I would encourage that we do not demoralize our soldiers when they engage in such business. As they engage the *Al Shabaab* in Garissa, what they need is encouragement.

Madam Temporary Speaker, we should also look at our systems. It is not enough to change people at the top. Those who are in positions may not effectively change everything. We may have Hon. Nkaisserry and Mr. Boinett there today, but they cannot make changes alone. We need to look at the systems and I fully encourage the Government to consider involving the local communities in their own security. Even in the recruitment of police, let them be recruited from the local community, trained and posted there to look after the people. This is what used to happen.

The issue of facilitation of our security people on the ground needs to be looked at. Every year, we vote a lot of funds to the departments concerned with security. But, have we ever asked ourselves how much of those funds have been devolved to the security units? It is possible that a lot of the funds are being used at the headquarters, while on the ground there are no vehicles, fuel or adequate and effective arms to deal with insecurity.

Madam Temporary Speaker, corruption has to be dealt with once and for all. While we may say and set timelines, it is our wish that we can handle these issues within sixty days, but the reality is that it may take time.

The Temporary Speaker (Sen. Ongoro): Your time is up, Senator.

Sen. Ndiema: Madam Temporary Speaker, I beg to support.

Sen. G.G. Kariuki: Thank you, Madam Temporary Speaker. First, I would like to pass my condolences to the people of Garissa and the Kenyans whose children's lives have been taken away by ruthless men and women of this world.

Madam Temporary Speaker, when we talk about security in this House, the first thing that we need to do is to support and encourage those who are in security management and the Defence Forces, so that they know that they have a House which supports them. We speak here without knowing what kind of facilities our forces have. We are not sure that they are capable enough to protect this country, in view of the new technology which is taking place all over the world in terms of security strategies.

Madam Temporary Speaker, we must realize that this country is now caught up in three problems and it is not a matter of CORD or Jubilee Coalition. It is a problem that affects all of us. We are confronted by major problems which present themselves very clearly and glaringly, like terrorism, cattle rustling and many others.

It is only when we can sit down as a people of this nation, the Opposition and the Government, to agree not necessarily to have dialogue but let the Opposition come out with their security programme and let the Government of Kenya do the same. We need to find two major groups, the Government and the Opposition coming out and acknowledging that there is a major problem in this country without blaming anyone.

Madam Temporary Speaker, if someone stands on the Floor here and says that he knows that certain officers were informed but did not take action, that is careless talk and it is dangerous. We are in one country and whatever happens is a problem for all of us.

Sen. Orendo: On a point of order, Madam Temporary Speaker. Are you comfortable for it to go on record that the Speech given by the distinguished Senator could be characterized as careless talk and yet as far as I am concerned, that speech stood without any questions? I do not think it was characterized as careless talk. Is it in order to characterize the speech of another distinguished Senator to be careless talk?

The Temporary Speaker (Sen. Orendo): Sen. G. G. Kariuki, that contribution was given when you were in the House and you had the option of logging in for an intervention and raising what you thought was out of order to allow the Senator to give further explanation on the same. I think you would not be in order to make reference to a contribution already given in this House in your presence and concluded.

Please proceed and give your contribution.

Sen. G.G. Kariuki: Madam Temporary Speaker, if it hurts anyone, I beg to apologize. We need to be extremely careful with the Statements we are making here because we are addressing the people of Kenya and not ourselves.

I just wanted to say that there is another kind of terrorism going on in this country and we are taking it so easy. For example, cattle rustling in Baringo, Laikipia and other areas, it is totally unmanageable and the militias are doing whatever they want without any fear. I know the Government is taking some steps to make sure that their presence is understood by the terrorists. We need to encourage and support the Government in whichever way so that we can achieve something concrete for this nation.

The Temporary Speaker (Sen. Orendo): Hon. Senators, under Standing Order No.30 (2) and for the convenient of the Senate, I will use my discretion to allow the Senate to extend its sitting to 6.45 p.m. to allow the Senators here present to give their contributions.

Senator for Kakamega!

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I support that we adjourn and go for this short recess. As we go on recess, I cannot help but remember that the President addressed a Joint Sitting of this Parliament and told us that the security of this country has improved. He said that that was part of global terrorism manifested mainly by the Al Shabaab. He went on to point out that partly to blame was the radicalisation of our youth and extreme violence mainly emanating from Somalia. However, he forgot about security completely and went on to talk about other things. This shows that His Excellency, President Uhuru Kenyatta, was not ready to be the President of Kenya. Therefore, he should do the honourable thing; since he is asking governors to step aside. He should also step aside or resign so that we go to the elections and get a fresh leader of the country. We cannot sit and watch our children die.

Do the families of all the students who were wiped out know that tomorrow is Easter holiday? It is very sad. We remind the Inspector-General, Mr. Boinnet, that he is on the spot. We told him that: "As you come in through all the machinations of political connections and so on, you are facing 400 police officers who are senior than you." He should be aware that the element of sabotage could be there. He should be aware that corruption within the force is actually the main reason behind the insecurity.

Madam Temporary Speaker, this afternoon, the President issued a Statement. He offered condolences but refused to reassure the country whether there are any hostages or not. The media houses are reporting that some of our students are being held hostage. The President needed to make it clear. Instead, he went on and broke the law. He has reversed a decision of the High Court that the recruitment of the last batch of police officers was done in the wrong manner. Instead, without the Attorney General (AG) advising him to appeal, he has ordered and dictated that the recruitment should go on. Mr. President must submit himself to the rule of law.

Lastly, Madam Temporary Speaker, the Senate Majority Leader has told us that because terrorism is an international problem - it is happening in Yemen, Tunisia and Iraq - we should accept it. We cannot accept terrorism because it is happening elsewhere. We do not want it to happen anywhere else, least of all, Kenya.

Madam Temporary Speaker, I end by congratulating the locals in Garissa. I have photographs coming from Garissa District Hospital; a former provincial hospital. Locals, mainly Muslims, are flogging into the hospital to donate blood. That is very commendable. Cowards who think that terrorists were doing it in the name of a Jihad, the same Muslims believe in the same Islam that the terrorists purport to use as a disguise to perpetuate their criminal activities.

Madam Temporary Speaker, on the issue of radicalisation, if any opponent of those who demand that there must be no radicalisation in any centre in the country had reason to doubt us, now that the attack has been towards the age-mates of the youth who are being radicalised, the supporters or opponents of the fight against radicalisation should rethink. This time round, they went for the top of the cream of our youth at the universities. That is very sad.

The National Intelligence Service (NIS) sent out an alert two weeks ago. The alert was circulated on the social media; *Facebook* and *twitter*. We all read it. The alert said there was an eminent attack on a university in Kenya. The University of Nairobi responded by sending a circular cautioning students. If the Government – which is the same one that gave the alert – was aware, why did it not beef up security around the universities, especially Garissa University which is very close to Somalia?

Madam Temporary Speaker, I condemn the attack and support that we go for recess.

The Temporary Speaker (Sen. Ongoro): Proceed, Senate Majority Whip.

Sen. Elachi: Thank you, Madam Temporary Speaker. I also support the adjournment of the Senate and also send my sincere condolences to all the bereaved parents all over the country, because these are students who come from all over the country and not just from Garissa. As Kenyans, let us come together at this moment and stand as a country without speculating and bringing in politics that will divide us more. We know that what has happened can divide us, as a country. As Christians as we go for Easter, we stand and say that we condemn the attack.

Having said that, we have been travelling the whole of this week; we visited Mandera and Wajir counties. The key issue that came out from the County Commissioners is that it is time we appreciate the Northern Frontier District (NFD). This is a frontier where you have brothers and sisters both in Kenya and also in Somalia. It is a frontier where people have intermarried and they have cousins. Therefore, the strategy in

terms of security must change. The strategy should revert to the days where elders used to sit together and discuss so that they can flush out any person they feel is not from Wajir, Mandera or even Garissa. Garissa is more complex because it is more cosmopolitan.

But having said that, I am saddened about how the police handled the attack. I saw the tankers in the pictures from the scene and I was praying that it does not turn out into another “Westgate” way of doing things. It is time that, as a country, we have to ask ourselves five questions; number one, do we still need to have the police force together or do we need to go back and ensure that the Administration Police remain independent from the Regular Police? There should be distinct duties for each unit because when you look at what is happening today, there is so much conflict in the same force which you cannot even understand. Each of the units blame their failure on, “either it was because of this or because of that.”

When the National Intelligence Service (NIS) is now doing its job, again we have come back to the same problem; the police. It is time, as a country, that we asked ourselves questions. For example, when we went to Wajir, the real Kenyans who live and were born in Wajir said very clearly. It is time we must be bold and go back and redo the census of the NFD the right way so that you can know who you are protecting as a Kenyan. When you talk of how many Kenyans we have and the fact that they need to be protected, who are we protecting?

When you look at the NFD, we have a mixture of all persons and even the real Kenyans do not have their identification documents but you find that our brothers from the Somalia side have identification documents. Why is it so? This is because of the same corruption that we have gone through. We need a new generation identification card; we need to accept that security is an issue we must deal with clearly without fear or favour, without saying “oh, they will say this.”

That is how Ethiopia and Tanzania are surviving; because they know their people. But for us, Kenyans, we decided--- Fine, we have said that we want to take care of refugees, so be it. But then we must take care, in a policy manner, where you also protect your own people who are living in your country. We cannot keep on saying that we will protect refugees yet our people are dying. That would be very unfortunate for Kenyans.

The Temporary Speaker (Sen. Ongoro): Sen. Hassan, what is out of order?

Please save the Senators time.

Sen. Hassan: On a point of order, Madam Temporary Speaker. Is Sen. Elachi in order to try and link the fact that Kenya has hosted refugees for the last 20 or 30 years to this escalation that we have witnessed in the last 10 years? Is she in order to continue to stereotype and xenophobically profile a certain community or group of people?

Sen. Elachi: Madam Temporary Speaker, I have not profiled. I said that as a country, we must protect the refugees, but we must also look at a way of ensuring that while we protect them, our own people of Kenya should not cry over incidents like what is happening in Garissa. Therefore, people should not take advantage of the situation that we are in and the loopholes that we have within the same scenario that we are facing, to attack us. We do not need that as a country. I would like to salute Nigeria. We must come up in the same way and say that the time is now. We must come up with measures to protect Kenyans. Even if it means the refugees have to go back to their home, so be it. We must protect Kenyans.

Thank you, Madam Temporary Speaker.

Sen. Hassan: Thank you, Madam Temporary Speaker. I beg to support the Motion; that this House adjourns until 28th April, 2015. I think that it will be an important time for us to go and reconnect with our constituents.

Sen. Elachi's last point will be my first point. Nigerians reacted with wrath over their Government's continued inability to handle the escalating insecurity situation. The same narrative and rhetoric is being repeated here. As I said here, when I contributed to the President's Speech, I have no doubt, because of the fine schools that the President went to, that his delivery of speech is beyond some of our imagination. But his delivery of action--- I think that this is the umpteenth time that we have stood in this Senate to condemn the same thing, time and again. Every time a calamity of this nature happens, he has gone on an overdrive of bravado.

Madam Temporary Speaker, time and again, the President has accused his own countrymen and political parties of terrorism. Now, he is making it appear as if it is the courts that have costed us the lives in Garissa. I heard Sen. (Prof.) Lesan say that we need people who are smarter than the terrorists. Those people are probably on this side of the divide. I say that because the terrorists have outwitted them, time and again. That means that they need to change strategies.

I think that on the broad outlook, I have heard the Senator for Mandera, being a Member of Jubilee Coalition and Mandera County Assembly being a Jubilee county, constantly urging Government to provide adequate security. I think that it is a high time that we now start to have strategies that will counter terrorism; that not only appeal to the hard part of security. There are what we call "soft" strategies. We need to start upping our propaganda so that we appeal to the hearts and minds of the young people in this country and across the borders. We must use progressive strategies that challenge the narrative of radicalization and extremist violence.

Just the other day, Sen. Orendo and I were discussing the issue of the three young ladies - university students - who were arrested at Elwak, the Mandera border, while trying to cross over to Somalia to join the ranks of the Jihadists. This means that there is a certain betrayal by this Government and previous ones of its own people. Therefore, we need to up our game and stakes. We need to now appeal to the conscience of our people.

Finally, I heard the Senator for Mandera say that it is time to withdraw. This is not about CORD, but making the country secure. It is time for us now to guard our borders rather than build a wall, which is extremely conventional and cannot stop the spread of a radical idea. It is high time that we looked for more proactive strategies about redeployment of our security forces within our borders with Somalia, so that we can deter and pursue those who come into our country and commit aggression.

It is time to say enough is enough. We will not continue to act like the President of the Republic of Kenya who waits for something to happen so that he gives his political plebiscites and rhetoric and then we come here in this Senate and make the same rhetoric again and again. Somebody needs to take---

The Temporary Speaker (Sen. Orendo): Sen. (Prof.) Lesan, hold to the Senators' time.

Sen. (Prof.) Lesan: On a point of order, Madam Temporary Speaker. The Senator for Mombasa County has just mentioned that he and Sen. Orendo saw three Kenyans who

were on the end route to become terrorists. As patriotic Kenyans, what did the Senator and his colleague do? Is it in order to see terrorists in the making and do nothing about that? Did they do something?

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I think the Senator was referring to the newspaper reports that all of us saw. That is what he meant, that they saw. I do not think that they literally were at Elwak and saw the terrorists.

Proceed, Senator.

Sen. Hassan: Madam Temporary Speaker, that is exactly my point. Sen. (Prof.) Lesan, we saw these people in the newspapers and we were discussing that. We thought that those allegations were true---.

Madam Temporary Speaker, I beg to support the Motion. As we go for recess, let us build peace and harmony. One thing that we must understand is that the Jubilee Government is running out of ideas to handle insecurity. It is running out of ideas to secure this nation. It will continue with these plebiscites. It is important that Kenyans of good standing; sincere Kenyans offer alternatives. It must be a contestation by us also, as the Opposition, to produce a pragmatic programme of how to deal with issues of insecurity in this country.

Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Ongoro): Senator for Siaya County, Sen. James Aggrey Orendo.

Sen. Orendo: That is my full name. Thank you Madam Temporary Speaker.

Madam Temporary Speaker, I also wish to support this Motion. I wish all of us a good Easter holiday while we are on recess. The Senators will also have an opportunity to talk to their constituents in the counties.

Madam Temporary Speaker, I am afraid I have to make this point. The Jubilee Government came to power on several promises. They have now been in power for two years and they have less than two years before the end of this term. When people say that we should create a special force and retrain it, I am afraid the Jubilee Government does not have the time to do it. Kenyans will not wait for them to start looking for new recruits or special forces to deploy to secure the nation.

The point is that the Jubilee Government took power promising to defend the lives and properties of every Kenyan. Indeed, in appointing people in the security sector from the police to the armed forces, the President, more or less, has got discretion to appoint people he wants. The Senate or the National Assembly have tried to intervene. We demonstrated that in the security forces there are better deserving people to take over leadership, the Jubilee Government made the choice. We said that there are more experienced officers in the police and the armed forces but this Government made a choice.

Therefore, the Jubilee Government having only two years---. In other democracies they would be put to account. If we had a parliamentary system, probably, today we could be talking about a Motion of No Confidence or an early election for that matter. However, the President has the safety in the Constitution that he has a fixed term.

Madam Temporary Speaker, I want to say again that the Jubilee Government has failed on the question of security. There was the Westgate attack and other attacks and it was said that action would be taken. There was the Lamu attack; there have been

Mandera attacks twice and very many attacks in Garissa. At that rate, the President should be ashamed to stand and say that Kenya is strong and secure. Kenya is not strong and secure; it is weak. If 15 or 20 people cross the border and hold your forces for one whole day, you should go home.

The Temporary Speaker (Sen. Ongoro): Order, Senators.

ADJOURMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now time to interrupt the business of the Senate. Therefore, this House stands adjourned until Tuesday, 28th April, 2015, at 2. 30 p.m.

The Senate rose at 6.45 p.m.