

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 10<sup>th</sup> March, 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

### STATEMENTS

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Members, there are several Statements on the Order Paper in the appendix. We shall first of all deal with Members seeking Statements before we go to the issuance.

Please proceed Sen. Obure.

### CANCELLATION/WITHHOLDING OF SCHOOLS' EXAMINATION RESULTS

**Sen. Obure:** Thank you, Mr. Deputy Speaker, Sir. I request for a Statement from the Chairperson of the Standing Committee on Education, concerning the perennial problem of cancellation or withholding of schools examination results in Kenya which has shuttered the hopes, aspirations and careers of many children especially in Kisii County.

The Chairperson should address the following specific issues:-

(1) Give the number of schools whose results for the Kenya Certificate of Secondary Education (KCSE) 2014 were cancelled, per county.

(2) State the reasons for the cancellation or withholding of those results.

*(Sen. (Dr.) Khalwale and Sen. Murkomen consulted while standing)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order Sen. (Dr.) Khalwale and Sen. Murkomen. There cannot be two Senators standing on the Floor of the House at the same time. Sen. Obure is on his feet.

**Sen. Obure:** Thank you, Mr. Deputy Speaker, Sir, for that direction.

(3) To explain whether the school heads and candidates of affected schools were accorded an opportunity to be heard before the results were cancelled.

(4) State what measures the Ministry of Education, Science and Technology and the Kenya National Examinations Council (KNEC) in collaboration with stakeholders have put in place to deal with the challenges and ensure the integrity of our national examination system is safeguarded.

(5) Clarify whether the Ministry of Education has any plans to allow last year's affected candidates to resit the examinations this year and state when the withheld results will be released.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Machage:** Thank you, Mr. Deputy Speaker, Sir. I have some addendum. I would like the Chairperson to incorporate in his answer, the same questions asked by Sen. Obure, on the schools from Migori County, especially from Kuria.

**The Deputy Speaker** (Sen. Kembi-Gitura): You notice that what Sen. Obure is seeking in No.1 is results per county. I think that he is trying to cover the whole country. In No. 1, he says:-

“Give the number of schools whose results for the Kenya Certificate of Secondary Education (KCSE) 2014 were cancelled per county”

Unless you want to be more specific than that, he has already sought for the whole country.

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Deputy Speaker, Sir. As an addendum, can the Chairman also bring the list of all the people that must have participated? Are there people that were punished other than the students or it is only the students that suffered? We want to see the list of the people that were dealt with by KNEC.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, your request is completely different from the Statement sought. The Statement that Sen. Obure sought is specific to what that the Statement says. If you want to know whether there were other culprits other than the schools and the students, that is not in the Statement.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, it is still within. What I am saying is that in these schools, there must have been invigilators---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator. That may be true. What you are saying is that there could have been people who facilitated the cheating. However, if you look at the Statement sought by Sen. Obure, it is clear in its terms. It is seeking specific things. It is not asking about the invigilators and other people. If it comes as collateral to the Statement that he is seeking, so be it. However, the question that you talked about brings about an aspect of criminality. So, if you want to seek it, you must seek a separate Statement.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I request for two weeks because that would be enough for me to get an answer.

**The Deputy Speaker** (Sen. Kembi-Gitura): The thing is that the exams have been cancelled so there must be records. There is data. This is not something he is going to work on. The fact that exams have been cancelled shows that there must be reasons and the record is there. Why do you require two weeks?

**Sen. Karaba:** So, that we can give reasons why they were cancelled.

**The Deputy Speaker** (Sen. Kembi-Gitura): The point I am making is that since they were cancelled, there must be reasons in a file. Therefore it is a question of you liaising with whoever is concerned and having it pulled it and formatted to a Statement that you can come and give. You do not need two weeks. You need only one week.

**Sen. Karaba:** I will try to bring the Statement in one week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Obure, what is your take?

**Sen. Obure:** I agree with the sentiments you are expressing from the Chair. This is a matter which affects the lives and the future of our children. Some of them would want to put plans in place so that they resit examinations this year. Two weeks would be too long.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, let us try one week. Put pressure on the officers at the Ministry and let us get this thing behind us. It involves young people.

#### FAILURE BY COUNTY GOVERNMENTS TO ADHERE TO REGULATIONS ON GOVERNMENT VEHICLES

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Sessional Committee on Devolved Government concerning the need or failure by officials of various county governments to observe laid down Government regulations regarding use of Government vehicles. The Chairperson should explain:-

(i) why regulations requiring that Government vehicles be parked in the nearest police station from 6.00 p.m. to 6.00 a.m. is not being adhered to;

(ii) why some county government vehicles are being used for purposes other than what they were authorized to be used for and why many of them are being parked near bars and other inappropriate places;

(iii) what action will be taken to punish officials who flout the said regulations and ensure that they are adhered to.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is the Chairman of the Committee here?

**Sen. Murkomen:** I request for two weeks.

**Sen. Lonyangapuo:** Two weeks is too long. Even tomorrow is better because this had been asked earlier but the House went on recess. I expect him to have an answer by now.

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, this is a new session and this is a new Sessional Committee. Therefore, we need two weeks.

**The Deputy Speaker** (Sen. Kembi-Gitura): Had you received an answer in the last session?

**Sen. Murkomen:** I cannot exactly remember, that is why I need time to check.

**The Deputy Speaker** (Sen. Kembi-Gitura): I am giving you one week from today.

**Sen. Murkomen:** One week is enough.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, are you seeking the Floor?

**Sen. (Dr.) Machage:** No, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Lonyangapuo, are you still seeking the Floor?

**Sen.(Prof.) Lonyangapuo:** Yes, Mr. Deputy Speaker, Sir.

INCREASE OF MEMBERSHIP FEES BY MAENDELEO YA  
WANAWAKE ORGANIZATION

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, I seek a Statement from the Chairperson of the Standing Committee on Labour and Social Welfare concerning the increase by the Maendeleo ya Wanawake Organization of membership fees from Kshs100 last year to the following categories.

- (a) at the ward level - Kshs2,000
- (b) at the sub-county level - Kshs5,000
- (c) at the county level - Kshs10,000
- (d) at the national level - Kshs20,000.

In the Statement, I would like the Chairperson to respond to the following:-

(i) explain whether he is aware that the increase in subscription fees locked out many aspiring candidates during its national and grassroots elections which were held in July, 2014;

(ii) state what the Government is doing to ensure that deserving ordinary women are accommodated in the structures of the management of the organization to prevent the organization from becoming elitist and the preserve of a few.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is this actually a labour issue? Does Maendeleo ya Wanawake fall under labour?

Who is the Chairperson?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I would need about two weeks to respond.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is your Committee the relevant one on this matter?

**Sen. Madzayo:** This is part of social welfare.

**The Deputy Speaker** (Sen. Kembi-Gitura): I think in this case, two weeks is reasonable.

Sen. (Prof.) Lesan had sought a Statement. You had sought a Statement, is that not so?

**Sen. (Prof.) Lesan:** I am not aware.

**The Deputy Speaker** (Sen. Kembi-Gitura): I can see a Statement here sought and signed by you. That is all for request for Statement. Shall we have Statements issued?

Sen. (Dr.) Kuti!

## CHOLERA OUTBREAK IN KENYA

**Sen. (Dr.) Kuti:** Mr. Deputy Speaker, Sir, I stand to issue a Statement which was sought by Sen. (Dr.) Machage. The Statement was about the cholera outbreak in Kenya. On 19<sup>th</sup> February, 2015 Sen. (Dr.) Machage wanted to know the following:-

- (i) whether the Ministry is aware of the cholera outbreak in Migori;
- (ii) how many other counties by name have been affected so far, how many are hospitalized and from which areas;
- (iii) the number of fatalities of the scourge;
- (iv) level and magnitude of intervention taken by the national and county governments;
- (v) what measures the Government is taking to prevent the recurrence.

I wish to respond as follows:-

- (i) Yes, the Government is aware of cholera outbreak in Migori.
- (ii) There are three counties that have been affected and that is, Nairobi, Homa Bay and Kisii County;
- (iii) The number of people affected so far are as follows:-

(a) A total of 1,011 cases and 14 deaths have been reported nationally as at 3<sup>rd</sup> March, 2015. These are distributed as follows:-  
Nairobi, there were 56 cases and two deaths.

This was the first county to be affected and the first case was confirmed through laboratory tests on 9<sup>th</sup> January, 2015. In Migori County, there were 651 cases and eight deaths. The outbreak started on 30<sup>th</sup> January, 2015.

In Homa Bay County, 296 cases were reported with four deaths and the outbreak started on 2<sup>nd</sup> February, 2015. In Kisii County, there were eight cases with no deaths. These were cases that were seen in Migori on 2<sup>nd</sup> February, 2015 but they came from the neighbouring Kisii County. Currently, there are no patients admitted in the wards and the number of people being treated per day is between zero to five in each of the counties. Regarding the number of fatalities, this is as explained earlier in number three.

Concerning the level and magnitude of intervention taken by the national and county governments, the national and county governments in collaboration with various stakeholders have been working together since the first case was confirmed in Nairobi County on 9<sup>th</sup> January, 2015. Due to the concerted efforts, the outbreak has been well controlled in all counties. For example, the peak of outbreak in Migori County was on 10<sup>th</sup> February, when 128 cases were reported. Currently, they are reporting less than five cases a day.

The peak of the outbreak in Homa Bay County was on 12<sup>th</sup> February, 2015, when 32 cases were reported. Currently, in Homa Bay County, less than five cases a day are reported. The peak of the outbreak in Nairobi County was on 28<sup>th</sup> January, 2015, when eight cases were reported. Currently, in Nairobi County, there has not been any case. Therefore, the outbreak has been fully controlled in Nairobi.

The national Government has deployed 20 technical officers to the affected counties to assist in controlling the outbreak. It has also provided medical supplies to the affected counties such as drugs, non-pharmaceuticals, water, sanitation, hygiene kits and

cholera beds. The national Government has also supplied information, education and communication materials to the affected counties.

The county governments have done the following: they formed county and sub-county coordination committees that are meeting daily; they strengthened surveillance in all health facilities and within the communities; they identified and equipped cholera treatment centres in the most of the affected areas; trained health workers on how to manage affected patients; educated the communities on cholera and mobilised resources from Government departments and stakeholders in responding to the outbreak.

Finally about measures the Government is taking to prevent recurrence: The Government has put in place multi-sectorial cholera prevention and control plan 2011-2016. The Government will ensure that adequate resources are mobilised to implement the plan in all affected and other high risk counties. The plan mainly focusses on a multi-sectorial approach with special focus on strong coordination, surveillance, case management, community education and awareness, good sanitation, hygiene and access to safe drinking water.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, do you have a question?

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, I appreciate the attempt by the Chairperson to answer the serious questions. I bring to his notice that question number two has not been answered fully. We sought to know not only the counties but also the areas affected in those counties.

Secondly, is the Chairperson satisfied that the level of intervention - in view of the fact that there is drought in many parts of this country - is adequate? Why was vaccination not considered?

Thirdly, about the 20 officers deployed to the counties, is it 20 per county or 20 for all counties? If it is 20 for all counties, how many were deployed to Migori County?

**Sen. (Dr.) Kuti:** Mr. Deputy Speaker, Sir, there are 20 technical staffs who were subdivided across the counties. I do not know how many went to Migori County. However, the most important thing that Sen. (Dr.) Machage needs to appreciate is the fact that the matter is now almost fully under control. For example, in Nairobi, it is no longer where it started. It has been fully controlled. In Migori, his own county, it has come down to less than five cases a day from a peak of 100 cases a day. Therefore, the situation is under control and measures the Government is putting in place will fully control the situation in areas that are not yet under full control. Sen. (Dr.) Machage needs to appreciate that the effort is working. Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): You want to ask another question a second time Sen. (Dr.) Machage? Okay, one more.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, the Chairperson of the Committee on Health is a medical doctor; if he could only listen. He knows that a report of up to five cases of cholera in an area is significant. It could restart an epidemic especially in a drought situation. Is he convinced that the cholera epidemic has been controlled?

**Sen. (Dr.) Kuti:** Mr. Deputy Speaker, Sir, Sen. (Dr.) Machage should appreciate the fact that cases are now on the downtrend from highs of 100 cases a day to below five

a day. I know that even those five cases can spark a new outbreak. However, I am trying to ask him to appreciate the fact that it is through the effort of the county and the national Government and the measures that have been listed, that I read earlier, that are bearing results. Therefore, if they have managed that big outbreak then smaller numbers that are coming up will be extinguished. This is just like a fire. The bigger it is, the more difficult it is to control. If the effort is sustained, I assure him that we will extinguish whatever is left. The situation will be brought fully under control.

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well. Is there any other statement to be issued?

Sen. Karaba had several statements to issue. I do not know whether he is around.

Sen. Moi, do you have a Statement to issue on energy?

**Sen. Moi:** Yes, Mr. Deputy Speaker, Sir. Sen. Mutula Kilonzo Jnr. requested for a Statement on:-

(i) the budget allocation for rural---

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you issuing the statement now?

**Sen. Moi:** Yes, I am ready to issue it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, just a minute. Sen. (Dr.) Khalwale, do you have a point of order on the same issue?

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir. You called out for my Statement which is supposed to come from the Chairperson of the Committee on Education. However, as you observed, he may have left but you did not direct what would happen next.

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, we have not finished with statements. We are still on issuance of statements. In fact, he has about five statements to issue. I am surprised that he is not in his place. Is he around?

**Sen. (Dr.) Khalwale:** Yes.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay. Sen. Moi, please proceed.

#### BUDGET ALLOCATION FOR RURAL ELECTRIFICATION PROGRAMME IN MAKUENI COUNTY

**Sen. Moi:** Sen. Mutula Kilonzo Jnr. had requested for the Statement on:-.

(1) the budget allocation for rural electrification in Makeni County for the Financial Year, (a) 2012/2013 and, (b) 2013/2014;

(2) the number of primary schools connected during the period in (a) and (b) above;

(3) reasons for delays in the process during the period;

(4) names of contractors who were awarded projects within the county in the two years and projects implemented;

(5) an explanation on the stalled projects in the county;

(6) reasons for delay in connection and delivery of materials to the already existing connections; and lastly,

(7) efforts being made to enlighten the primary schools and the plans to connect them to electricity.

Mr. Deputy Speaker, Sir,

(1) The Budget allocation for rural electrification in Makueni County for the financial years is as follows:-

- (a) 2012/2013 - Kshs139 million; and,
- (b) 2013/2014 - Kshs154 million.

(2) The number of primary schools connected in 2012/2013 financial year was 13. The focus was on secondary schools, in which a total of 125 secondary schools were connected. In the financial year 2013/2014, 119 primary schools were electrified.

(3) The following reasons occasioned delays in completion of projects during the period:-

- (a) challenges in way-leave acquisition from property owners;
- (b) failure by some contractors' surveyors to deliver on schedule; and,
- (c) delay in supply of transformers by some suppliers.

(4) The contractors who were awarded projects within the county in two years were:-

- (a) 2012/2013 - 73 contractors; and,
- (b) 2013/2014 - 58 contractors.

(4) During the period, the Rural Electrification Authority (REA) faced some challenges with way-leave acquisition from some property owners, delayed delivery of transformers by suppliers and contractors not performing on schedule. This led to `delays in completion of projects as explained in "(3)" above.

(5) The reasons for delay in connection and delivery of materials to the already existing connection- project completion was delayed by supply of transformers, as explained in "(3)" and "(4)" above.

(6) Regarding efforts being made to enlighten the primary schools and plans to connect them to electricity, the REA has so far held 53 *barazas* throughout the county before and during electrification of primary schools, to enlighten them on the plans to connect the schools on the benefits of electricity.

Mr. Deputy Speaker Sir, I am aware that the hon. Senator has just received the Statement. So, in case, he wants to study it more, I am willing to respond to any of his queries tomorrow.

**Sen. Mutula Kilonzo Jnr.:-** Thank you, Mr. Deputy Speaker, Sir. Although the distinguished Senator gave this Statement to me at about 2.00 p.m., I have actually managed to read it in detail. I just need one clarification.

I want to thank him together with his Committee because the document is fairly detailed. There is only one issue which I would require further clarification on. It appears from the Statement that the main problem – and that is the reason I sought the Statement – was the delay in the connections. It appears that, that delay is caused by the contractors. In the schedules given by the Chairman, it appears that contractors have abandoned at least 90 per cent of the projects. Does the Rural Electrification Authority (REA) pay these people in advance? The problems being experienced by them is that once they go to the project, they are told that its scope has increased. Does that mean that the scope is not given before these contractors are awarded these contracts?



Lastly, from the report, there were 73 contractors in 2012/2013 and 58 in 2013/2014. It appears to me, from the names of the contractors, that these persons are most likely briefcase contractors. Could he clarify whether the REA first checks the capacity of these contractors before they are awarded those contracts? Since most of them are business names, they could be single business persons trading in this business, yet they do not have capacity.

**Sen. Billow:** Mr. Deputy Speaker, Sir, could the Chairman clarify also the concerns about substandard work? In Rhamu Town in Mandera north, they handed over the power station last year to the Kenya Power Company, which to date has not been able to take it over because of concerns about the quality. I understand that this is the case on several similar power stations. Could the Chairman also clarify about the capacity of REA to audit quality of works being done by the contractors?

**Sen. Moi:** Mr. Deputy Speaker, Sir, on the clarification which was sought by Sen. Mutula Kilonzo Jnr., yes, there is a vetting process for the contractors at hand. When they went through the vetting process, they were found to be fit and they showed that they had the financial capacity and capability of doing it. At some stages when they had delays in getting the way-leaves, the prices escalated. The contractors would find other avenues or constraints within themselves because of the delay. But that has now been taken care of. We have been assured that, that is not going to arise because they are going to double up on the financial capacity of the contractors who are going to be engaged.

On the issue raised by the Senator for Mandera, yes, there is shoddy work which has been done. The contractor will be penalized until they rectify the quality of work.

Thank you.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Deputy Speaker, Sir. The Chairman did not clarify the question of payment for the contractual work. Is it paid in advance? If it is paid in advance, these people should be surcharged. If it is not paid in advance, it means that, therefore, there is no reason the contract cannot be completed quickly.

**Sen. Moi:** Mr. Deputy Speaker, Sir, on this particular case, they were not paid in advance.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is the end of that Statement.

Sen. Karaba, you have several Statements to make on education.

*(Sen. Karaba walked to the Dispatch Box)*

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I have moved here because of possible interruptions by my machine which has not been behaving very well of late.

#### PREVAILING CHAOS AT THE UNIVERSITY OF ELDORET

Mr. Deputy Speaker, Sir, I rise to respond to a Statement which was requested by Sen. (Dr.) Khalwale in regard to the chaos which led to the closure of the University of Eldoret. The chaos were triggered by some local leaders whose aim was to eject Prof. Teresia Akenga, who is the Vice Chancellor from the office, as a result of that---

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I want to draw your attention to the fact that the Chairman has been very graceful and he has given me a copy of his answer. I just want to request that he stands down his answer because there was an authentic file that I tabled here, which he used. I intend to use it to interrogate his answer further. I asked the office of the Clerk and they told me that they do not have the file. Could I be given the file of the university so that I can use it?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, do you have the file?

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I do not have the file. What I have is a Statement which was requested by Sen. (Dr.) Khalwale. I do not know where the file is and I am not the one who handled it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, whom did you give the file to? Did you table it?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I tabled it and by the authority of your own Clerk, I have been told that I wait that they cannot find it, they have gone to search for it at Protection House. These are very important issues and looking at the casual answers given in the copy, without that file we will be given a ride up the country far and back.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, how long are you requesting to be stood down for?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, if they cannot give us today, we can wait until tomorrow. These are very serious issues.

*(The Deputy Speaker (Sen. Kembi-Gitura)  
consulted the Clerk- at-the-Table)*

**The Deputy Speaker** (Sen. Kembi-Gitura): I know, but I am asking you, since you need to get the file, the Clerk informs me that it is in the process of being procured from the clerk of that Committee. Would you be willing to have it delivered tomorrow, is that okay with you?

**Sen. (Dr.) Khalwale:** I have no problem.

**The Deputy Speaker** (Sen. Kembi-Gitura): We do not know when it will come.

**The Senate Minority Leader** (Sen. Wetangula): Tomorrow is fine.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senator! Let me talk to Sen. (Dr.) Khalwale please. He is the one in his feet.

Is tomorrow okay?

**Sen. (Dr.) Khalwale:** Tomorrow is super.

**The Deputy Speaker** (Sen. Kembi-Gitura): I will endeavor to see that you have the file in good time.

Sen. Murkomen, what is your point of order?

**Sen. Murkomen:** Mr. Deputy Speaker, Sir, it was on the same issue but you have ruled on it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sang, what is your point of order?

**Sen. Sang:** On a point of order, Mr. Deputy Speaker, Sir, now that you have ruled that the Statement be stepped down to tomorrow, would the Chairman of the Committee share that response? I know that Sen. (Dr.) Khalwale already has the response to the Statement, could he share with all of us so that we can look at it?

**The Deputy Speaker** (Sen. Kembi-Gitura): The Statement is now the property of the House, I am sure if you liaise with the Office of the Clerk, you should get a Statement in good time before tomorrow.

What is it, Sen. Wetangula?

**The Senate Minority Leader** (Sen. Wetangula) Mr. Deputy Speaker, Sir, it was on the same issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, you will issue that one tomorrow afternoon after the file has been accessed and given to whoever it came from. You still have a Statement sought by Sen. (Prof.) Lonyangapuo, who I note is not here but you still have a Statement sought by Sen. Hosea Onchwangi who again I notice is not here; but you have a Statement sought by Sen. Wangari?

**Sen. Karaba:** I have that one.

**The Deputy Speaker** (Sen. Kembi-Gitura): Can you issue the Statement sought by Sen. Wangari.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, thank you. The Statement on enrollment of Form Ones—

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kivuti, are you on a point of order? Where is Sen. Kivuti, he is not even here, are you on a point of order? Remove your card then.

Sen. Karaba, you do not have a card of your own that you can use?

*(Laughter)*

**Sen. Karaba:** I do not know who the owner of this one is!

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, proceed Sen. Karaba.

**Sen. Karaba:** I was not sure whether that was Sen. Kivuti's card.

#### ENROLMENT OF PUPILS TO FORM ONE AND RELEASE OF FREE PRIMARY EDUCATION FUNDS

I have a Statement from Sen. Wangari and the Statement is as follows.

Mr. Deputy Speaker, Sir, I beg to respond to the questions raised by the Senator concerning the enrollment of pupils in Form One and the release of free primary education funds as follows:-

(a) the Senator requested the Chairperson to explain the criteria used by the Ministry to enroll pupils who sat for Kenya Certificate of Primary Education (KCPE) in 2014 to join Form One in 2015;

(b) explain the criteria used to admit students to Form One during the 2015 enrolment compared with the previous years;

(c) provide the statistics of the pupils who sat for KCPE in 2014 and how many of these missed admission to Form One in public secondary schools;

(d) explain the steps the Ministry of Education, Science and Technology is taking to ensure that those who missed out on Form One admission receive the right to education as enshrined in the Constitution of Kenya 2010;

(e) explain when the Ministry of Education is going to implement the report of Dr. Kilemi Mwiria's taskforce on secondary education fees, 2014 and 2015 and,

(f) explain the steps the Ministry is taking to ensure smooth and timely release of free primary education funds.

The answer is as follows:-

(a) The criteria used by the Ministry to enroll pupils who sat for KCPE in 2014 to join Form One in 2015, is as per the attached self explanatory guidelines which she has.

(b) The 2015 selection criteria is similar to that used in 2014 but contains the following minor variations:-

(i) in 2014, the two top students from either gender in each sub-county, were placed in national schools of their choice irrespective of where they came from, whether they were in public or private school but in 2015, this was improved by having three instead of two in 2014;

(ii) in 2014, the proportionate share of places between public and private candidates was limited to national schools;

(iii) in 2015, the proportionate share was applied to both national and extra-county schools. Extra-county schools are the former provincial schools.

(iv) in 2013, there were 78 national schools while in 2014, there were 103 such schools, so this implies that there were more national school places in 2015 than there were in 2014.

(c) There were 888,000 Kenya Certificate of Primary Examinations (KCPE) candidates in 2014. In 2015, there were 695,684 places in public secondary schools, which left a shortfall of 192,574 places. This gives the transition rate of 78 per cent. We are in the process of receiving and compiling data to ascertain how many of these places have been filled to enable us compute the actual transition

(d) The Ministry has done the following to ensure that Kenyan children have access to basic education as enshrined in the Constitution.

(i) Engaged the private sector in a Private-Public-Partnership (PPP) where entrepreneurs have established schools and, thus, can avail 50,000 Form One places.

(ii) Public youth polytechnics, which are basic education institutions, provided 88,000 places.

(iii) The Ministry is encouraging use of public initiatives such as the Constituencies Development Fund (CDF) in the expansion of available vacancies in public secondary schools.

(iv) The Ministry looks forward to receipt of funds from the national Treasury in the Financial Year 2015/2016 to improve infrastructure in public schools in order to enhance access to secondary education.

(v) The Ministry is also in the process of implementing Dr. Kilemi Mwiria's Task Force Report on Secondary School Fees as evident in the press release which was issued on 20<sup>th</sup> February, 2015.

Mr. Deputy Speaker, Sir, the other section is about the release of the primary education funds and it is as follows. The Senator wanted to know the steps that the Ministry is taking to ensure smooth and timely release of Free Primary Education (FPE) Funds and the explanation is given here below. The goal here is to ensure access, retention, equity and equality of education in all registered public primary schools. The strategy here is so to ensure quality teaching and learning in all public schools through equitable provision of quality instructional materials and general school operational and maintenance funds.

Mr. Deputy Speaker, Sir, in the Financial Year 2014/2015, capitation per child was at Kshs1,421, of which Kshs765 is for educational materials.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Karaba! What is your point of order, Sen. Musila?

**Sen. Musila:** Mr. Deputy Speaker, Sir, I have a lot of respect for the Chairperson.

*(Sen. Karaba remained standing in his place)*

May he sit down?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Musila! You cannot order a Member to sit down, but the rule is that both of you cannot be standing at the same time. You do not have the authority to order him to sit down.

**Sen. Musila:** Thank you, Mr. Deputy Speaker, Sir. He knows the rules, which stipulate that he should be sitting down.

Mr. Deputy Speaker, Sir, I am concerned at the Statement that the Chairperson is giving to this House; you can see the number of pages that he is holding. This was a specific request for a specific matter, but he is giving us the whole policy of the Ministry of Education. Do we have the luxury of sitting here the whole afternoon, listening to him?

Thank you, Mr. Deputy Speaker, Sir.

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

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I was about to complete making my submission; it is only that he was too much in a hurry to suggest that the papers are too many. But they are not too many. I am trying to make sure that the Question is satisfactorily answered. I am giving the actual answer to the issues raised in the request by the hon. Senator.

**The Deputy Speaker** (Sen. Kembi-Gitura): Go on, Senator! Well, some Senators are also complaining about the size of the paper, but that is not for me to say.

*(Laughter)*

But you just proceed and finish.

**Sen. Karaba:** There are reasons for that.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is your point of order, Sen. Wangari? You are the one who requested for this Statement.

**Sen. Wangari:** Thank you, Mr. Deputy Speaker, Sir. I want to confirm to Sen. Musila that the bulk of papers actually have the guidelines, which I have looked at and whatever the Chairperson is reading out is a summary. He should be completing his submission in two minutes.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karaba, you have heard the sentiments; just complete making your Statement.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, the papers are not many; Sen. Wangari has more papers than these and if you want to read them, you can do so later.

Mr. Deputy Speaker, Sir, the FPE Fund has been given as a policy and every child receives Kshs1,420, out of which Kshs764 goes to purchase of instructional materials while Kshs655 is for general school operations. They are given 50 per cent in First Term, 30 per cent in Second Term and 20 per cent in Third Term. So, in a year, the Government gives Kshs9.7 billion to all primary schools in Kenya. So, as far as the question is concerned, the balance of what is not given is only 30 per cent and it amounts to Kshs4.1 billion, which will be given as soon as Second Term sets in.

Mr. Deputy Speaker, Sir, the measures taken to ensure smooth and timely release of FPE funds are as follows. Each school is required to operate two primary school bank accounts; that is, institutional materials and general school operations and maintenance bank accounts. The management of this money at all times requires constant check from the Director of Education. Anything transferred from those accounts must be communicated either through the Director of Education or by the Director of Education in consultation with the parents. This Statement has been signed by the Cabinet Secretary (CS) for the Ministry of Education.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wangari, is there any intervention that you would like to make?

**Sen. Wangari:** Thank you, Mr. Deputy Speaker, Sir. I want to thank the Chairperson of the Committee on Education for bringing this Statement, like he did last week. I have had time to look through the response and I have a few clarifications to seek. One, on the admissions that were done this year, can he confirm – because it is clear in the guidelines that three pupils were to be picked from each sub-county from both private and public schools – that, that happened; that the three that were picked from the sub-counties were from either gender and were from both private and public schools?

Secondly, on the missed opportunities in school, especially on the number – the 192,000 that could not get admission to secondary schools – are also joined together with the ones that could not access the same due to the high fees that have resulted from the non-implementation of the Dr. Kilemi Mwiria Task Force Report. I want the Chairperson to clarify how many of these spaces have been taken by children, especially the ones from the affirmative action areas in the rural areas and how those positions were filled in the said national schools because the selection panel does not sit again. How are those positions filled?

Mr. Deputy Speaker, Sir, still on the implementation of the Dr. Kilemi Mwiria Report---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wangari! You are not issuing a new statement; you are seeking clarification from what came out of the Statement. So, can you make it brief?

**Sen. Wangari:** All right, Mr. Deputy Speaker, Sir. The CS talks about a press release that they did on the implementation of the Dr. Kilemi Mwiria Report. I want the Chairperson to confirm whether that can be taken to be a legally binding module of the implementation or whether we are expecting gazettelement of the same and how soon, especially on the guidelines of the fees?

Thank you, Mr. Deputy Speaker, Sir.

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

**Sen. Karaba:** Thank you very much---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Karaba!

Sen. Wetangula, if you wish to intervene, please, put it as an intervention. Otherwise, I thought you were seeking the Floor to debate.

Sen. (Prof.) Anyang'-Nyong'o, is it a debate or an intervention?

*(Sen. (Prof.) Anyang'-Nyong'o spoke off record)*

**The Deputy Speaker** (Sen. Kembi-Gitura): If it is an intervention on this issue, then please do it under intervention.

Proceed, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, can the Chairperson of the Committee tell us why we are having an avalanche of contradictory policy statements from the Ministry of Education, Science and Technology on matters of education in the country? Why have they banned, even without seeking public participation, ranking of schools and candidates? But more importantly, I want the Chairperson to tell us if there is a deliberate policy to compromise the standards of national schools? I have seen that in some national schools, the Ministry of Education, Science and Technology is imposing candidates with marks as low as 207 to join Form 1 in national schools.

**An hon. Senator:** Yes!

**The Senate Minority Leader** (Sen. Wetangula): We know of schools that have been having a very good track record of good performance but when you now load on children – it is unfortunate that children do not pass exams for various reasons but the reasons you have those schools and intake is to take in children who have passed and qualified to go to those schools. When you take in a child with 207 marks to a national school, are you helping the school to maintain the national standards that you are looking for or the national school is simply a place for regional-ethnic equilibrium? If it is for the equilibrium, tell us so that we know it is a policy so that we take it that way. But, if it is for maintaining standards, we want standards across board; whether it is in Garbatula, Maseno, Alliance, Mang'u High Schools or wherever else.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I only have two questions. One is on the disbursement of primary schools funds, and so on and so forth. The Chairperson has extensively elaborated how that is given and I understand from the schools I have looked at that the headmaster is both a headmaster and a bursar. One, are these headmasters given training for financial accounting and management? If so, how do you expect so many headmasters nationally to handle those funds effectively and fairly as your Statement seems to indicate? Two, can the Chairperson explain to us what the Ministry of Education, Science and Technology is doing to handle so many complaints that arose out of the Form One intake from parents, teachers and Kenyans in general including what Sen. Wetangula pointed out? To what extent has the Ministry of Education, Science and Technology handled these concerns or are these concerns so irrelevant to the Ministry that people are now frustrated and calling for the resignation of the Cabinet Secretary (CS)?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, the net result of asking a child who scored 270 marks or below 300 marks to join a national school – in fact, in Kamusinga High School, we have a child with 207 marks - is that a child in the locality of that particular national school who has scored over 400 marks ends up missing going to that school. Could the Chairperson tell us whether this is a deliberate effort to frustrate counties and sub-counties, especially in the former Western and Nyanza Provinces who get very high scores in primary schools, not to have children from those counties and sub-counties admitted in local national schools?

**Sen. Musila:** Thank you, Mr. Deputy Speaker, Sir. I would like to seek clarification from the Chairperson because he talked about funds being transferred to schools, particularly primary schools. There is a class of schools which are called special schools conducting special education. They have dumb children and other children with disabilities. Can the Chairperson confirm that schools with those children have been given money to run them because I am aware of some schools in Kitui County which have such classes and are duly registered by the Ministry of Education, Science and Technology, but those streams with children with disabilities have not received any funding for the last two years? Could the Chairperson confirm that these schools with special children receiving education in primary schools have received the funds that are necessary for them to continue with their education?

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Mr. Chairman, there are several clarifications sought.

**Sen. Karaba:** Thank you, Mr. Deputy Speaker, Sir. Sen. Wangari wanted to know more about national schools. As indicated, there are now 103 national schools. According to the selection criteria, as I indicated earlier, in the 2014 selection to Form One, the Ministry picked the top two pupils per county. But this year, the Ministry picked three, going by gender. In this case, therefore, it means that a school which does very well - and this one can also include the concerns of Sen. (Dr.) Khalwale and Sen. Wetangula - when we get such pupils admitted to schools, we are doing it because we would like to maintain equity, affirmative action in various areas, gender equity and quality of education. It has been observed that even students who score as low as 290



marks can score even B+ or A in some cases. So, what the Ministry is doing is to get far to those areas which cannot afford good primary schools to be accorded good secondary schools, which are the national schools. That has happened in many areas; it is not the first time that this is happening and it will continue. Where you find counties complaining about their schools, it is only that there are very many schools doing well in that particular county---

**An hon. Senator:** Correct!

**Sen. Karaba:** That is why they are complaining. But, there are others who have lower performance than these ones are doing and that is why they must come to the good schools in those provinces which are performing well. That is what it is. With that, I have summarized it. Except for Sen. Musila, where I can state that the money given to Free Primary Education (FPE), it is given to both public primary schools and even special schools. Special schools are given more than the regular public schools and I can confirm that they have been given the money. If you have not been given it means that there is a problem of communication between the head teacher of that school and the headquarters.

The other issue is about the policy by Sen. (Prof.) Anyang'-Nyong'o---

**The Deputy Speaker** (Sen. Kembi-Gitura): What is your point of order, Sen. (Dr.) Khawale?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. Is the Chairperson in order to mislead the House that the reason why those children are admitted with lower marks is because they come from areas where there are no properly established primary schools? The children we are talking about are not from Turkana, Marsabit, Wajir or Mandera; the children I am talking about in Kamusinga and Maseno High Schools, for example, are children from some of the sub-counties in Embu, Meru, Kirinyaga and Murang'a. Are those areas where we have poor primary schools? Is he in order to mislead us?

**Sen. (Dr.) Machage:** On a point of order, Mr. Deputy Speaker, Sir. I would like to thank the Chairperson, through the Chair, for considering marginalised areas and accepting children with slightly lower marks to national schools as part of affirmative action.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I can attest that we do not have poor pupils. What we have is poor infrastructure in schools. You will find a student who is in a poorly endowed primary school performing very well when he gets either to a provincial school or a national school. That has been proved. I have even taught, as a teacher, somebody who had scored 200 marks. In the end, he got very high marks. That means that the Ministry should take care of students who cannot afford to go to good primary schools not because of their own making but just because the infrastructure is not adequate. The moment they have proper infrastructure in the good schools, they certainly perform very well. That is all.

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. Is the Chairman correct to say that the Ministry is doing that because the schools have poor infrastructure? The statement he read says that part of the money given for Free Primary Education (FPE) Programme is supposed to be used for infrastructure. It would be better

if the Ministry, after realising that a school has poor infrastructure, addressed the infrastructure and not forced the school to become a national school.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, there are many key players in education matters. Education is a very important factor in the country. We cannot blame the Ministry of Education, Science and Technology for not putting up enough infrastructure. We should blame the communities if they do not put up good infrastructure. Money is also available under the CDF. That is what we should be looking into. As far as the Government is concerned, there should be equity for all Kenyans. That is why we have to take these students to national schools and extra-county schools.

**The Deputy Speaker** (Sen. Kembi-Gitura): There is a statement that was sought by Sen. (Dr.) Kuti who is not here. There was another one by Sen. Fatuma Dullo.

Sen. Karaba, are you ready with the one from Sen. Dullo although I notice that she is not here?

**Sen. Karaba:** The Statement regarding Garbatulla will be available within the week. There are many problems facing that school. We will come up with a comprehensive report.

**The Deputy Speaker** (Sen. Kembi-Gitura): So, the statement is not ready? When will you give it?

**Sen. Karaba:** I will give the Statement by Thursday, the day after tomorrow.

#### IMMINENT BORDER CONFLICT BETWEEN ISIOLO COUNTY AND MERU COUNTY

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Haji, there is a Statement you were to issue that was sought by Sen. (Dr.) Kuti. Is it ready?

**Sen. Haji:** Thank you, Mr. Deputy Speaker, Sir. The Statement is not ready.

**The Deputy Speaker** (Sen. Kembi-Gitura): So, for the record, when will it be ready?

**Sen. Haji:** Mr. Deputy Speaker, Sir, we are supposed to meet the Cabinet Secretary. However, I will be comfortable with Tuesday next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is the end of Statement time.

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I have a statement that was sought by Sen. Musila.

**The Deputy Speaker** (Sen. Kembi-Gitura): Very well. Sen. Musila is here. You can go ahead and issue the Statement.

#### STATUS OF CASH TRANSFER PROGRAMMES

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, Mr. Musila wanted to know:

- (1) the number of senior citizens who are receiving cash transfers in Kenya;
- (2) to give a breakdown of the number of recipients of the cash transfer for each county with the corresponding populations; and,

(3) finally, the Statement should also give the names of the recipients of the cash transfers for each of the eight constituencies of Kitui County.

Mr. Deputy Speaker, Sir, allow me to begin with some background information regarding the older persons cash transfer programme.

The National Safety and Net Programme (NSNP) includes cash transfers to orphans and vulnerable children, persons with severe disabilities, older persons and urban food subsidies and cash transfer programme with the goal of alleviating the state of poverty in which approximately half of Kenyans exist. There are approximately 1.4 million persons below the age of 65 in the country that are disproportionately susceptible to the devastating effects of poverty due to their disadvantaged positions in society. Cash transfers, therefore, provide regular and predictable cash to such vulnerable persons to ensure that these risk segments of the population meet their basic needs and live with dignity.

In response to Sen. Musila's inquiry regarding the number of citizens receiving cash transfers in Kenya as of 2014/2015 Financial Year are as follows: There are 210,000 beneficiaries receiving older person's cash transfers in Kenya. This is a significant increase from 164,000 beneficiaries in 2013/2014. It is also a monumental increase from a mere 200 beneficiaries when the programme was launched in 2007/2008.

Keeping in mind that there are several subjects to be discussed, I will mention that as of August 2014, Kakamega, Kiambu and Nairobi were the biggest beneficiaries with over 7,000 beneficiaries while Isiolo, Lamu and Tana River were among counties with the least beneficiaries with just over 1,000. The allocation of funds is based on a targeting process where 30 per cent of potential beneficiaries are distributed equally in the 290 constituencies while 70 per cent is distributed on the basis of poverty indexes from the National Bureau of Statistics Reports.

I would like to emphasise that cash transfers to older persons do not cover every senior citizens in the country but beneficiaries are determined based on specific criteria. They must be;

1. over 65 years;
2. among the poor of the poor;
3. not pensioners;
4. a resident of the targeted area for a minimum of 12 months; and,
5. should not be registered in any other cash transfer programmes like the cash transfer to Orphans and Vulnerable Children (OVC); persons with severe disabilities and urban foods and subsidies cash transfer programme.

Mr. Deputy Speaker, Sir, the total number of beneficiaries of the Older Persons Cash Transfer Programme in Kitui is 4,407. Again, I do not think it is proper for me to go through the list of the names of the beneficiaries from the Ministry of Devolution and Planning, but it is attached in the report. I do not know whether he has a copy of the report but if he does not have, I am prepared to give him a copy.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why does he not have a copy?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I do not know because I had directed that he be provided with a copy. If he has not---

**The Deputy Speaker** (Sen. Kembi-Gitura): I am asking that because if he is going to ask for time to interrogate your Statement because he does not have a copy, then it would take the time of the House. The ideal situation is where he has a copy so that he has time to interrogate your Statement so that he can make reasoned interventions, once you have issued the Statement.

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I undertake to give him and he will interrogate it. In case he has any further questions, he will be at liberty to ask.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Musila, what do you have to say about that?

**Sen. Musila:** Thank you, Mr. Deputy Speaker, Sir, for that intervention. My first point was to complain that I do not have the benefit of having to interrogate such an important report that appears to be having volumes of papers, as you rightly said. Before I even go further, would I be in order to ask that you stand down the Chairman to deliver this Statement tomorrow, when he shall have made sure that I have copies of those documents so that I will have the advantage of reading and interrogating them?

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Deputy Speaker, Sir. If I disagree with you, then I do not have a point of order because I would like to raise my point of order when we can properly interrogate the Chairman of the Committee.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you. I am not quite sure whether it is the Chairman of the Committee who is supposed to give the Statement to the person or it is the Clerk's Office. I am not taking it for granted that you have taken time to give a Statement but when you came to the issue of having an annexure of names and said that they are many – I think over 4,000 from Kitui, because Sen. Musila may want to verify some of those statements – that is why it is important that the person asking for the Statement should have seen it before it is issued. Only then would they be able to make reasoned and well thought out interventions on the matter; to seek clarifications that are based on what they had seen so that we do not have people going all over the place seeking statements.

How long do you have before finishing that Statement?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I was almost finishing.

**The Deputy Speaker** (Sen. Kembi-Gitura): Still at the request of Sen. Musila, I think we have to stand it down to tomorrow. Four thousand names are a lot and so that he can look at them and be able to tell us whether he is satisfied or not.

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I am obliged.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much. I am sorry about the inconvenience but I think it is important.

Sen. (Dr.) Khalwale, what is your point of order?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, riding on that directive, we had also asked him last time when he raised it, that he provides us with the statistics--

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I have not asked Sen. Madzayo to go and look for further facts or reasons for the Statement. I have just stood it down so that it can be issued tomorrow for Sen. Musila to interrogate it. If you are asking for new things in that Statement, then Sen. Madzayo will ask for two weeks to

come and issue a new Statement. I am not accepting that. I just stood it down to tomorrow.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, it is not new.

**The Deputy Speaker** (Sen. Kembi-Gitura): Well, if it not new then wait for it. You can also get a copy of the Statement from the Clerk's Office.

Sen. Ndiema, do you have a point of order?

**Sen. Ndiema:** Mr. Deputy Speaker, Sir, it was on the same because I wanted to enrich that ---

**The Deputy Speaker** (Sen. Kembi-Gitura): No, you cannot enrich it. You will take time to look at the Statement and then you can enrich it by raising issues.

Sen. Madzayo, Chairman of that Committee, you will issue the Statement tomorrow at 2:30 p.m.!

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I am obliged.

**The Deputy Speaker** (Sen. Kembi-Gitura): Now, that is the end of Statements.

## BILL

### *Second Reading*

#### THE PUBLIC FUNDRAISING BILL

(SENATE BILL NO. 28 OF 2014)

*(Sen. (Prof.) Anyang'-Nyong'o on 5.3.2015)*

*(Resumption of Debate interrupted on 5.3.2015)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kisasa, you had eight minutes.

**Sen. Kisasa:** Asante, Bw. Naibu Spika, kwa kunipa muda zaidi ili niendelee na kuchangia Mswada huu ambao tunataka kupitisha. Maana ya harambee ni kujumuika, kutabaruku na kuvuta pamoja. Tukiangalia tutaona ya kwamba huwezi kusema kama kitu si kizuri ama hakifuatwi vile ipasavyo, kitupiliwe mbali. Harambee zinatujenga sana. Nimefanya utafiti na watu wangu kule vijijini na wakanipasha ya kwamba, wao wanaenda kwa harambee, kwa sababu kadha wa kadha. Kwa mfano, malipo ya hospitali hayaepukiki. Sio kila mmoja wetu ana ule uwezo, kibali fulani ama analipiwa na shirika fulani. Hapo ndio watu wangu hutafuta harambee. Lakini tukiangalia mbali na yale malipo ya hospitali, utaona ya kwamba pia kuna malipo mengine ambayo yanahitajika. Kwa mfano, mtu akifa, itabidi kuwe na malipo ya kuhifadhi maiti. Je, watu wangu watafanyaje? Itwabidi wafupishe ule muda wa maiti kukaa katika hifadhi maiti, kwa sababu kile kibali ambacho chatolewa na polisi kwa muda wa kuomboleza labda ni cha wiki moja peke yake.

Bw. Naibu Spika, tunapotunga sheria, tusingahau kuwa pia, sheria ni msumeno. Hivi juzi, sisi hapa kwenye Seneti, tulikkukmbwa na msiba, na harambee ilitusaidia. Hivi mnavyotuona, tunang'ara lakini ilibidi pia tutumie harambee. Mmoja wetu alituaga na

ilibidi sote tuwe pamoja, tukavuta pamoja, tukasaidiana, tukachangiana, mpaka jamii pia ikajua yule mwenda zake alikuwa na watu ambao walimpenda na kumthamini.

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

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

Tukiangalia pia shule, watu wangu wanafuata harambee kwa sababu ya karo ya shule. Tukiangalia kitita hiki cha Constituencies Development Fund (CDF), hakitutoshelezi. Kila mtu atakuwa akipewa pesa ambazo zinatakikana kule shuleni. Utaona ya kwamba wakati mwingine shule inataka Kshs50,000 lakini mtoto amepewa Kshs5,000. Je, ile Kshs45,000 itatoka wapi? Lazima tuangalie. Mimi naomba sana kwa dhati kuwa Wakenya tuishi pamoja, tuvute pamoja na tusaaidiane mpaka wakati ule ambapo tutakuwa tumejinasua.

Bw. Spika wa Muda, tukiangalia pia huu mradi wa Mama wa Taifa, Margaret Kenyatta, hiyo pia ni harambee. Je, mwajua kuwa pia ile ni harambee? Harambee sio pesa peke yake. Harambee pia ni zawadi fulani kama vile yeye ametutunuku vile visanduku vya *mobile clinics*.

Harambee ina mahali pake katika nchi hii, na tukiangalia Harambee, ni jadi yetu.

Hakuna mazishi ya mtu mmoja wala harusi ya mtu mmoja. Lakini jambo la kushangaza ni kwamba harambee imekuwa ni kama jambo la kulazimishwa kwa sababu utakuta jina lako kama kiongozi katika kadi ya mwaliko kama mgeni wa heshima bila kujulishwa. Imekuwa kama ni njia fulani ya sisi viongozi kuoneshana ubabi wa kisiasa. Utakuta nikichanga, kwa mfano, Kshs5,000 sipewi heshima kama yule kiongozi ambaye atachanga Kshs20,000 ama Kshs50,000. Kwa hivyo, sisi wenyewe kwa wenyewe ni kama tunaonyeshana ubabe. Inafaa tujiangalie sisi wenyewe kwa sababu tutafilishishwa. Utakuta mtu fulani amefiwa na mamake mara tano. Ni nani ambaye ana mama watano?

Kwa hivyo sijui nikubali harambee iendelee ama isiendelee. Lakini ikikomesdwa, sijui watu wangu watafanyaje. Siwezi kusema kwamba iendelee kwa sababu sisi kama Maseneta hatuna mfuko wote wa hela na kwa hivyo unapofika pale inabidi ujikunje kwa sababu vidole vyote si sawa. Kwa hivyo, inafaa tuweke mikakati fulani ambayo itawasaidia watu wetu.

Bw. Spika wa Muda, kama kule ninakotoka, tunahitaji harambee zaidi. Na ukienda kule bara, inahitajika zaidi. Wenzetu kutoka bara ndio mababe wa harambee kwa sababu wakiitana kwenye mchango wa mazishi ama harusi wanachanga kima cha pesa ambacho kinastaajabisha. Sisi Wapwani, mara nyingi jamvi latosha kwenye mazishi. Lakini ningependa kusema kwamba harambee bado ina mahali pake kwenye jamii zetu. Mwanzilishi wa taifa aliona kwamba hatutaweza kuishi bila kusaaidiana kwa sababu kama manvojua, upweke ni uvundo. Ni lazima kila mtu awe na marafiki ambao atasaidiana nao kwa sababu huwezi kuwa mazishini peke yako. Ama utapika pilau kwenye harusi na ule peke yako? Kwa hivyo hii ni harambee. Hata kuenda kula ama kutabaruk na wengine ni harambee. Si lazima utoe, upande gari na uende zako. Kwa hivyo harambee itazidi kusaaidia watu wetu kwa sababu kuna vitu vingi ambavyo ni lazima watu wengi

wasaidiane ili wanufaike. Je bila harambee Kenya tutaenda wapi? Nimejiuliza swala hili wikendi nzima.

Kwa hivyo inafaa mikakati kabambe iwekwe kwa sababu unyonge umetuzidi. Tunaambiwa kwamba Seneti ni Jumba kuu lakini ni kivipi kama mfuko hauna kitu? Mkono mtupu haulambwi. Hasa ukienda mazishini na huna chochote, utajiona mnyonge kwa sababu hutatajwa kuleta chochote. Ukiangalia wenzetu wa Bunge la Kitaifa, wao wana hazina ya CDF na wamechukua fursa hii kuonyesha ubabe katika hizi harambee. Mara nyingi mheshimiwa akionekana, bajeti hubadilika; hata kama wangeketi kwenye jamvi, itabidi kuwe na madoido fulani. Kwa hivyo harambee hizi wakati mwingine zinatatiza. Lakini hatuzipingi kwa sababu kama nilivyosema hapo awali, hakuna mtu ambaye haitaji harambee. Mara kwa mara sisi wenyewe kwa wenyewe tunachangiana hapa. Lakini uzuri wetu hapa ni kwamba tunaweka kima fulani. Hatuonyeshani ubabe katika Seneti, na ninawashukuru wenzangu.

Ninaunga mkono Mswada huu lakini itabidi tuweke mikakati fulani.

**Sen. Hassan:** Thank you, Mr. Temporary Speaker, Sir, for allowing me this opportunity to contribute to this Bill. First and foremost, is to commend the Mover of this Motion, Sen. (Prof.) Anyang'-Nyong'o. I had the privilege to serve in the *ad hoc* Committee that came up with this Bill.

We went to many counties and, therefore, this Bill meets the threshold of Article 10 of the Constitution which calls for the participation of the citizenry in every matter that is legislative policy in terms of ensuring that decisions that we make conform to the spirit and the general aspirations of the public. I, therefore, wish to commend Sen. (Prof.) Anyang'-Nyong'o through this leadership to have come up with such an elaborate Bill.

Mr. Temporary Speaker, Sir, the word "Harambee" is on our coat of arms. I think the motto upon which this country was established was that we needed to pull together. I think this motto continues to inform the very work about putting our nation State into one of the first class nations in the world and particularly in Africa. The word "Harambee" in its connotation as we know it today is almost one of those things that every politician shudders when they hear it being mentioned. I therefore---

*(Sen. Kisasa crossed the Floor without bowing to the Chair)*

**Sen. Karaba:** On a point of order, Mr. Temporary Speaker, Sir. I would like to bring to your attention what I have just seen happen here. When Sen. Kisasa just crossed the Floor to greet Sen. (Prof.) Anyang'-Nyong'o very casually without bowing to the Chair. She then canvassed and then crossed back without bowing to the Chair and then walked out. I want you to note that.

**The Temporary Speaker** (Sen. (Dr.) Machage): I did not see, but I have noted.

**Sen. Hassan:** Mr. Temporary Speaker, Sir, that is a good observation. Members should not criss-cross the Floor of the Senate without following the procedures as required by the Standing Orders.

That said and done, I was congratulating, Sen. (Prof.) Anyang'-Nyong'o on the HANSARD on the job that he has done. I think if you look at Section 3 of this Bill, it clearly sets out the objects of this Bill. It is about procedural fairness, transparency,

accountability and guarding against misuse. The minute I decided I was going to run for the Senate of the Republic of Kenya, the first feedback that I heard from a wide array of Kenyans was that I would not succeed politically if I did not have resources. We have over-emphasized the issue of resources to the exclusion of the competence and ideas that are fundamental to ensure that this country is transformed in a manner that meets the aspirations for not only our generation but for future generations to come. Little did I know that Kenyans are fairly liberated. I presented my candidacy against two or three established politicians, some in pentagons of opposing coalitions and some in all cadre of positions. There were some who have been in politics for the last 30 years. I noticed that the most fundamentally abused strategy was the issue of fundraising. If money by itself was a testament to leadership, I would not have been Senator of Mombasa County.

I went to some of these fundraisers at that point in time. Different organisations, religious institutions and certain bodies took advantage of us at that point when we were most vulnerable. As I went to those harambees, it was literally a competition of resources. Poor Hassan Omar, presented cheques of Ksh10,000 while contemporaries who were agitating for similar positions, were presenting up to Ksh1 million in harambees. I told them that as much as this man has provided this kind of support to you, if Kenya was to develop only on the strength of harambees, today we would be a first world nation. It was done by successive presidents, yet we are still poor as we are in terms of how many Kenyans live below the poverty line.

So, I told them that the only way that we can have a sense of change this country fundamentally, is to alter the structures of Government and change the paradigms of Government. So, rather than you as a leader looking at harambee as a solution, you must factor in progressive development agenda that is sustainable. Rather than try to give people a harambee for a certain issue, you can implement policies and laws that ensure that those issues are provided for within the realm of your Government; both at the national Government and at the county governments.

Mr. Temporary Speaker, Sir, this Bill is a fundamental compromise from the total banning of harambees because, as Sen. Kisasa said, it is still an idea that is valid if it is used in a manner that is guarded, progressive, structured and transparent. We had different accounts, as Sen. (Prof.) Anyang'-Nyong'o will bear me witness, of people who held harambees only for them to be seen to own a fleet of *matatus*. There are people who told an entire gathering that they were going to take their children for higher education in the United Kingdom (UK), Malaysia and other countries, only for them to see that child in a local university and the father owning property whose acquisition cannot be explained.

Therefore, regulating harambees is an idea of our time. We must insulate harambees from political manipulation, not only from the politicians who have money. I read it in the media and researched it myself; that during a certain era in this country, people would carry millions of shillings and present it in public. Some of them were of known notoriety so as to win political capital. Often times, I have gone to members of the old regimes like KANU. When I asked them to contribute to harambees, they told me that the difference between then and now is that, there was free money and land at that time



and therefore, they could give very casually in harambees and that this time around there are more accountability streams.

Mr. Temporary Speaker, Sir, this Bill builds further accountability streams. If you present Ksh1million as a politician, you must divulge the source of that money. You cannot come and use it as a temporary stop gap measure to win expedient political favour while it could be that you are partaking of corruption in an unabated form. Some of the resources that are provided in harambees are mind boggling. Therefore, we need to know where these monies are coming from. If your money is legitimate, then let them give you the tax incentives as provided for in Section 53. Nobody here loves to pay taxes. We pay it as an obligation. Our payslips drop fundamentally. So, if you can get a tax rebate or incentive, then why not. The giver must demonstrate the sources of his or her wealth. We do not want a political situation where we constantly manipulate politics with resources.

I know for a fact that people say, the old Kiswahili maxim; “*mkono mtupu haulambwi*”. We are getting to a point where those maxims are being overtaken by events. I think that is the kind of laxity that we create in a society by making it appear that unless you have resources, then you cannot be a good politician or leader. Not to mean that this is legitimate all over the world; that you can seek campaign funding. I also used some resources to win. However, this campaign funding is only for essential campaign expenses. I think that we should steadily move, where campaign financing is monitored. Sen. (Prof.) Anyang’-Nyong’o, the next Motion that I look forward to you presenting is to have an *ad hoc* Committee on campaign financing, so that people can compete on the altar of ideas. I can tell you for a fact that yes, we require resources, but you must demonstrate to the world and the nation why you are putting Ksh25million or \$1million into my campaign because these things are not free. That is why we spend half of our time manipulating Government contracts and institutions, so that we can reward those who invested into our campaigns.

Mr. Temporary Speaker, Sir, we must sit and set ceilings as to how much physical cash one can contribute in a campaign and how much in kind people can make to campaign processes. Unless we regulate, money has been an issue that will literally deny this country and generations to come the benefits of leadership. Today, we see people positioning themselves in regions, counties and everywhere. You will hear that they will make it because they have resources. An old man who supported me in the campaigns said that; without resources but with a bit of background in education, I can give Hassan Omar a cheque and it will cover the gap of his resources. However, you cannot give somebody who does not have ideas, a cheque of ideas. Therefore, I think that this country must move in that direction.

I want to commend Sen. (Prof.) Anyang’-Nyong’o. I hope that we will find concurrence with our friends in the National Assembly because this Bill will probably be one of our greatest contributions in the Eleventh Parliament, so that we can stem the abuse of harambees. In fact, I find certain notoriety and I hope that some of the religious leaders are watching me in this broadcast. Half or more of the invitations to harambees closer to the elections, were coming from religious institutions. They know who Sen. Hassan and Sen. Madzayo are. That is the time they flurry you with dinner invitations, yet they are supposed to be the custodians of our values in this society. They are

supposed to be the vanguards of morality and good leadership, yet they also put us under the same severe strain. I am sure that it has come at the right moment. I believe that it has not made it any cumbersome, but it has finally tried to streamline a process that has been constantly abused.

Mr. Temporary Speaker, Sir, I have seen this in county governments, particularly by county Governors. When they give fundraisings, cheques that are written as emergency funds of the county, are made to appear as if these are resources from their personal pockets. County governments must distinguish between the points when they are making contributions of county governments and that point. It must be published. I heard the Senator for Kakamega, the Senator for Bungoma and several other Senators say that they were at a place with their county governors when they came with their Ksh2 million cheques and asked where the Senator's contribution was. This is the kind of abuse that we have manipulated the public, our political processes and Government. It is time to streamline. I think that in future, we must also have a distinction.

Finally, I was also brought up through support from public institution. If I want to issue Constituency Development Fund (CDF) cheques, why should I take 500 parents, line them up to give them cheques of Ksh10,000. Why can I not give them through their bank accounts? Do you think there is any pride in being poor? Why do we always parade our people for petty political benefit? They conduct a ceremony to present cheques for bursaries that come either as CDF or county bursaries. They mobilise parents under the scorching sun, just because they are poor and start presenting the cheques so as to manipulate them politically. Why can they not deliver these cheques to the universities? We must ban these public demonstrations and humiliation.

I was also supported but nobody called me to a public forum. There is no pride in being poor, so do not humiliate people just because they are poor, by forcing them to line up for food or bursary and yet this money is legitimately theirs. Let us send these bursaries to the school accounts. When you look at the monies that were used to just conduct that launching of the ceremony, it is mind-boggling. This kind of dishonesty in the political structures of our country must be dealt with. We must have sincere public policy. Most of those who distribute these cheques have never been to school. They do not know the pain of being poor. They were never beneficiaries of fundraising. Therefore, they keep lining up poor people for cheap political mileage.

With those few remarks, I beg support.

**Sen. Mugo:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to contribute to this Bill. Let me from the outset commend those who started the harambee spirit in this country. We have seen a lot of good that has come from the harambees especially in the past. These include building of schools, clinics, supporting those who were not able to do certain social activities and so on. In some of the areas where education excelled, we know that many of those schools were built on the spirit of harambee. In the religious sector, many churches have been built. The religious sector is also part of our social life and contributes a lot to the nation and to the society. The benefits of harambee can certainly not be gainsaid. At the same time, there have been unscrupulous people who may have misused harambees for their own benefit. I think that the good definitely outnumbers the bad.

This Bill seeks to regulate mechanisms at the national and county levels of harambees. That is a good thing and I commend my colleague here for this Bill, which needs to be looked at carefully. As we regulate, we should not hurt the very people we are trying to help or support. I would like us to look at the grassroots. There are many people whose simple tasks are really momentous; they cannot manage them on their own; be it a deficiency of school fees, health care money, be it the passing on of a loved one in a foreign country and they have to bring them back and so on. There are simple things in life but it is their livelihood. How are we going to regulate those small harambees?

What surprises me sometimes is when I see the big people like politicians doing harambees for funerals and so on. Sometimes, it is abuse but most of the time, there is a need. I would hate to see a situation where we regulate to a point that those people at the grassroots are taken advantage of. There is a centre for getting the authority, whether it is a license or whatever; they have to get the license and whoever is giving it out wants a *kitu kidogo*. So, the money they are trying to raise to solve their problem starts finding loopholes.

Mr. Temporary Speaker, Sir, unfortunately our society is full of those things; putting roadblocks in peoples' way. We used to hear stories where chiefs and other people would ask for chicken if someone does not have money because there was a harambee somewhere. I am completely against any forced harambees. I do not think this situation exists anymore. There was a task force that was looking into this issue and it should make the necessary amendment to make sure that the way we regulate will not hurt ordinary citizens. I believe there is still room for harambees. We still need harambees and we cannot do away with them at this moment.

I want to appreciate my colleague who said that Kenyans now look for more than just who has the money. In Sen. Hassan's case, they would have elected those who went with Kshs1,000,000 but they elected him even if he contributed Kshs10,000 because they appreciated what he was going to do for them.

I do not want to think that Kenyans are manipulated anymore *siasawise* with money. They will still elect the people they think will help them. During my campaigns I heard people say; "*chakula kwa fulani na kura kwa fulani*". They know who will deliver.

As I support this Bill, my passion is, when you are a Member of Parliament in Nairobi and I think in other places, people would come to you because the body is being transported out of Nairobi for burial, we had many of these cases especially for far-flung areas. It would be terrible to tell somebody to go and look for a licence or a permit. For the big harambees which involves big monies, yes, those ones we should regulate and make sure the money goes where it should be but for anyone who says they are taking their children overseas but they do not do so, it is a shame even to them. We should not make life difficult for that ordinary old *mama* or old *baba* who is trying to do something very important for his family but he is not able because of his situation in life.

All said and done, I support regulating but doing so in a manner that is not oppressive to the common ordinary *mwanaanchi*. Again, I salute those who started harambees in this country because we have seen great strides of development.

With those few remarks, I beg to support.

**Sen. Nabwala:** Mr. Temporary Speaker, Sir, I rise to add my voice in support of the Public Fundraising Bill which was brought to the Floor of this House by Sen. (Prof.) Anyang'-Nyong'o and his team. I congratulate them because in the past, harambees were abused. I remember we used to have politicians contributing a lot of money for construction of classrooms in many schools throughout the country. However, they would go back to those schools the following day and collect the money that was raised because they were friends to principals. In the eyes of people, they seemed to have contributed money when in actual fact, they had not contributed anything to that school. It used to happen and I have full proof of that. However, we should not forget that the spirit of harambee is a very good idea because our own people in the counties are very poor. Some of them come from slum areas and they do not have sufficient money to either pay for their medical bills or for burial.

I remember I went to a slum area called Rafiki. As I was passing, I was told there was a dead body. An old lady had died in a small hut. I went in to see the dead body. We found the lady lying on a *gunia* covered with a very old blanket. The person in charge was a very young girl of about 12 years. She had a book sourcing for the harambee. In the book, you could see people had contributed Kshs10, Kshs20 and so forth.

Poverty is rampant in the country. Our people need us, as politicians to help them. They voted for us so that we work for them. Therefore, we should not dismiss harambees at the grassroots level. Harambees should be there even if we regulate them. We cannot regulate a harambee meant to raise Kshs10,000 or Kshs5,000 for school fees for a child, help in a burial of somebody or to pay for medical bills. There are common harambees like what I see around. The trend is where a Senator goes to a harambee to meet the Governor or Member of National Assembly and they contribute Kshs2 million or Kshs3million. As a Senator, maybe you have Kshs5,000 or Kshs10,000. That is why we need full accountability. If somebody's salary is below the amount he is contributing, where are they getting a lot of money to lure the voters around? In the end, the common *mwananchi* will vote in the wrong leaders because of the money with which they attract voters. In my area, without money, I do not think you will be perceived as a capable leader.

*(Laughter)*

So, you have to try to match the other leaders so that when it comes to elections, they may look at you as a good leader.

The Constituencies Development Fund (CDF) plays a key role in building schools which in the past was done through harambees. However, this should not make the public believe that Members of the National Assembly are better performers than other legislators. We know that the CDF money is money from the Government to the public. It is money we have devolved to counties.

We, as Senators, are not in charge of any kitty. So, someone running the CDF, paying school fees, writing cheques and putting up schools should not be seen as better leader. If I give Kshs5,000 from my small salary I am perceived to be a bad leader. Those who give cheques worth Kshs2 million or Kshs1.5 million should not be perceived

as better leaders because this is Government money. Maybe, *wananchi* also need to be educated so that they know that whoever is giving out the CDF money, he is not giving out his own money. If he is giving his personal cheques, let him also put his own money. *Wananchi* must know our leader, who is either a governor or an MP, is also contributing to the *harambees*.

I support the Bill. However, when we regulate the *harambees*, we should not be mean to our people in the rural areas. These are the people who suffer. Funds that have been rolled out to counties like *Uwezo* Fund, the Youth Enterprise Fund (YEF) and the Older Persons Cash Transfer Programme (OPCTP) should be handled properly through the structures laid there so that they reach our people. If that happens, poverty will be reduced. We should use bursaries properly so that our children go to school. However, they should know that it is their own money, through taxes, which is being given back to them through the YEP, the *Uwezo Fund* and the OPCTP. The money should be given out without discrimination.

I support the Bill because the idea of regulating *harambees* is very good.

**Sen. Wangari:** Mr. Temporary Speaker, Sir, I join my colleagues in noting the work that *harambees* have done in this country right from our founding President who is like the father of *harambees* and the *harambee* spirit in this country. I am a beneficiary of *harambees*. Were it not for *harambees*, I would not have gone to high school. Therefore, I would not be here today.

I thank Sen. (Prof.) Anyang'-Nyong'o for bringing this Bill in terms of regulating what is already in existence in the community. The specific issue that I support is the issue of transparency in *harambees*. However, I find it very difficult to accept that if I need to do a *harambee*, then I have to get a permit from some place or from a committee that has a whole vertical structure. If they do not like me, they will deny me the licence and I will have seven days to appeal. I am speaking on behalf of the very far flung areas in this country.

Last Sunday, I had a *harambee* of a patient who is going through dialysis in a place called Miti Mingi in Gilgil, Nakuru. Every session of dialysis in Kenyatta National Hospital (KNH) costs Kshs8,000. This is expensive for someone who does not have a source of livelihood and lives very far. That person has to pay like Kshs300 to get to the road so as to access the road to Nakuru Town. I am assuming that the county headquarters will be the headquarters of the regulatory committee of *harambees*.

Looking at those logistics, I find it very sad that we will put in place bottlenecks and bureaucracies to make sure that people can raise money. Of course, there are people who have abused the process and fundraised for things that are non-existent. Even we, as leaders, have fallen into the trap one time or the other. Someone can say that they are burying their grandmother. Tomorrow, they have something else. It actually happened to me just a while ago.

Someone came to me with a photograph of a badly bandaged face and told me: "My son is in Nakuru Provincial General Hospital. He is almost dying. He is in a coma and we need to get him out." I asked him, "What ward is your son admitted to?" That story changed completely and they started saying, "No, he was discharged yesterday. Now, he is at home." After just a little investigation, I found that it was a fictitious story.

Mr. Temporary Speaker, Sir, if we put the gains of harambee on a scale, they outweigh the bad deeds that have happened. Saying that we do away with harambees in this country is throwing the baby out with bath water. This Bill anticipates as much. It anticipates that we cannot do away with harambees, but we are only putting checks. That is fine. However, I find the implementation a problem. The problem in this country is not with the laws. We are very good in making very good policies and paper work that we pile somewhere.

How will we make sure that a parent in Kapedo whose child was admitted to a national school - and there is a timeline up to when they should be admitted to a school - can raise money? How then do we subject them to the application procedure for a permit that has to be vetted and still has to be subjected to referral to the national committee on the same? We need to review that procedure because those bureaucracies will kill the dreams of many people.

Mr. Temporary Speaker, Sir, we, as a country, must not substitute policies with harambees. We need to have constructed enough classrooms so that we do not need to do harambees. That is the ideal situation. We need to have enough medical centres that have proper medical equipment. We also need enough doctors so that we do not need to take our patients to India for treatment. We also need enough money from the Government to actually offer universal education for children. Ideally that is the situation, but realistically it is not. We are still very far.

Mr. Temporary Speaker, Sir, this is a good law, but we need to remove every bottleneck because it will be very difficult to implement it in the villages, where for example, money is needed to transport a body from Nairobi for burial in one or two weeks' time. We cannot treat these harambees in the same way as the Beyond Zero Campaign or any other campaign of such a magnitude. We cannot have them on the same level. There must be some form of categorization. The rogue cases that I have experienced are maybe two or three out of ten cases, which I think is not so bad. We can work around making sure transparency is ensured.

I can assure you that even during the campaign that will be done in 2017, some aspirants will still go through the same harambee system. However, the corruption that has infiltrated that system is using that contribution to get political mileage; to look "bigger" than the other or use public resources to lie to other people that it is actually your money. We should remove those bottlenecks; that I do not have to apply to some committee sitting somewhere in the headquarters of a county when I am in a far-flung area. We cannot subject our people to that. We must not lose the gains that harambees have done in this country.

I find it very difficult to support this Bill, but will be interested to see maybe at the Committee stage, what amendments will be brought to remove the bureaucracies, make this process simpler and segregate the big magnitude harambees from the small harambees in the villages that actually help our people. This is because as it is, we are still not where we would like to be - a developed country. People living below the poverty line are still very many. We cannot then pretend that everything else is fine. Eventually I would hope that with the right management of the country and mindset of

leaders and managers we should be able to outgrow harambees and they will die a natural death.

My child will go through high school without me coughing a penny, because that will be guaranteed by the Government. If I have a health insurance that is working and I am sure that when my child gets out of school he will secure employment, why do we need harambees? We will be very self-sufficient. But until we get there, I would expect that harambees will be able to die a natural death. As it is right now, we have to live with it. I will, therefore, be looking forward to the amendments at the Committee stage to ensure that the bureaucratic bottlenecks in the Bill are removed. It should be easier to be cleared to do a fundraiser and make a report, as it is required by the Bill, to be cleared for any appeal that you make to the national level. But as it is, it will just make life very difficult for those people who are in the villages.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Kanainza:** Thank you, Mr. Temporary Speaker, Sir, for giving this opportunity to also add my voice to this Bill. I will start by appreciating the Committee. I am a Member of this Committee that is chaired by Prof. Anyang'-Nyong'o and deputized by Sen. Joy Gwendu. It has taken sometime for us to come up with this Bill which is in the Second Reading.

Harambees have been very useful in this country. Many people have been educated even overseas through harambees. Also through harambees we have helped our communities whenever they face challenges, especially with regard to paying hospital bills and meeting funeral expenses and other celebrations. We have depended on harambees to build schools, which should actually be a function of the Government. Unfortunately, harambees have been misused and some people have taken advantage of it. Parents have become lazy or failed to take up their responsibilities because they know that somehow they will approach Members of the County Assemblies (MCAs), Members of the National Assembly, Senators or Governors to contribute.

We, as a Committee, noted that there is no accountability on the money that is collected through harambees. For example, out of Kshs100,000 contributed in a harambee, maybe only Kshs20,000 will be utilized for the purpose for which the harambee was organized. The rest goes to people's pockets. That is why we came up with the measures, including what Sen. Martha has mentioned. For you to hold a fundraiser you must get a permit. The board should know about your harambee that is meant to collect money for a specific purpose. Many people approach leaders with many problems. If they are not assisted, they even send abusive text messages and a reminder that 2017 is around the corner. Some even say that they will ensure that you will not be re-elected. They even forget that some of us were not elected. We are here because of what we did for our political parties. Yes, harambees have played a bigger role in the society. However, it is the right time that we moved out of this system because there is a better way of doing things.

I always ask myself: Are harambees going to end poverty? Currently, we have devolution. We, as the Senate, maybe we should now demand that the national Government shares revenue equally with the county governments. The national Government should allocate 50 per cent revenue to the county governments and remain

with 50 per cent, so that the county governments are able to implement what is stipulated as their functions in the Fourth Schedule of our Constitution. The CDF has done a number of things. We also have the *Uwezo* Fund which was to benefit the young people of this nation, but was given to everybody. People can borrow this money and do business, so that we are not dependent on harambees. We also have the YEDF. The young people can also apply for tenders in the county governments and get this money to clear their local purchase orders.

We also have money meant for the old people. If it is given to people above 65 years, we will experience many problems; that when an old man dies we must fundraise so that he is laid to rest.

At the same time, we have different types of bursaries. We have bursaries given at the ward levels, there are those given by Members of Parliament (MP), those given by the Ministry of Education, Science and Technology and those given at the county level.

It is time we consolidated these types of bursaries so that every child who is in need is able to get it, unlike the way it is given to specific people. We have people in this country who do not know that this type of fund exists.

Mr. Temporary Speaker, Sir, I thought the governors would have seen the importance of the county development boards that were in a Bill that was passed by this House. This is the only way all the leaders participate in looking at the priorities of what is supposed to be done at the county level. When we do something at the county level, it means that it will affect the people at the lowest level. With this type of boards, we will solve these issues. We do not need to go to the villages to build churches and schools because somewhere at some place it has been catered for. I believe with this, we will solve these problems.

On a light note, recently we had the Beyond Zero marathon and the Office of the Deputy President offered Kshs7 million. We, as Senators, are the ones defending devolution and the county governments. We all know that health is a devolved function that is supposed to be carried out by the counties.

Unfortunately, the county governments are being underfunded towards this function yet money in a different form is being raised for the same. It is time to sit down and analyze what is supposed to be done by the national Government or the county government. If there is something that is supposed to be done by the county government, let money be devolved together with the function so that we do not suffer by going through fundraising for us to take care of our mothers, children and building schools.

With those few remarks, I beg to support this Bill.

**Sen. Gwendo:** Mr. Temporary Speaker, Sir, thank you for giving me an opportunity to also add my voice to this Bill. I would like to note what my fellow colleague, Sen. Wangari, said earlier, that harambee spirit was introduced by the founding father of the country, *Mzee* Jomo Kenyatta. When it was introduced, we agreed that it was a good idea then. It helped educate children like most of us. We know that so many of us who are in this House have benefited from harambee. It helped the society to pay hospitals bills and things like that. However, we also have to agree that it has reached a time that people are misusing these harambees. For example you get people asking you to do harambee to take their children to school. You do a harambee with one good spirit



of helping this child to be educated. However, the next thing you know the man has bought a *matatu* in the estate or in the village and he is running around with it. You wonder whether the money you contributed assisted this child.

You contribute money to take a child to Maseno University and the next thing you know, the child is at some local polytechnic. In our society and our socialization, it would be embarrassing to go and ask somebody whether the money that you contributed went towards the village polytechnic education. We really need to regulate harambees. Of course, we know harambees are good because they help in promoting our health and education. We even know that we, as leaders, both in this House and outside, in one weekend, you can have at least 10 harambees. Are you able to hack it and go to all these harambees?

How do you follow up on the contributions that you have made towards college and hospital bills? I have a personal experience where young people come to me and they want me to contribute towards a funeral, yet there is no funeral. They know very well that you, as a leader, you probably, do not have the time to go and verify that or you have another fundraising to go to. If we regulate these harambees, the person being approached to contribute knows that the harambee was geared toward the right thing and the money contributed has done the right thing that was contributed to. You as the person contributing know and question whether the harambee worked the way it was supposed to be and whether it is the right thing to do.

With those few remarks, I beg to support.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I rise to strongly support this particular Bill. It is so clear in my mind that the press can have an opportunity tomorrow or thereafter to pen that we were discussing about the abolition of harambees. This is not the case. What we are doing is that having found harambee is a way of our lives and having gone through all those good and bad experiences that the people who have spoken before me have mentioned, we now must accept that there is need for us to make sure that the process is transparent and accountable.

As we do this, we have to be very cautious because some people can come out being hurt, when the people we are targeting are the ones who are the problem. Therefore, it brings to question as to why people do harambees in the first place. They do harambees because the Government, like the Jubilee Government, has failed to offer social services. If you do not offer nursery schools, dispensaries, water points, people will---

**Sen. Elachi:** On a point of order, Mr. Temporary Speaker, Sir. While I respect my Senator, from my county, is he really in order to say that harambees are there because the Jubilee Government has failed and he knows very well that harambees started with the first President of this country? Therefore, is he in order to say that Jubilee Government has failed and that is why harambees are going on, when he know that harambee has been a tradition for Kenyans?

**The Temporary Speaker** (Sen. (Dr.) Machage): He is a politician; I cannot gag him from expressing his opinion.

Continue, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, when the Government fails to provide social services - and the distinguished nominated Senator will soon come to terms with this reality. When she will then ask to be elected, is when she will discover that these social services are the very reason she is being asked to go and preside over a funds drive in order to raise funds for them to have access to them. It is not a laughing matter. We have done it for the last 15 years. Sen. Orengo has done it for the last 30 years and so on.

Harambees take place as they do today because the Government has failed---

**Sen. Elachi:** On a point of order, Mr. Temporary Speaker, Sir, the Senator for Kakamega is really out of order to say that until one is elected---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! It is for me to say whether he is out of order or not, just state your point of order.

**Sen. Elachi:** Mr. Temporary Speaker, Sir, is he in order to say that until you are elected to this House is when you can do any social activity in this country? I have carried out so many social activities in this country and I am still doing so. Therefore, I do not find it right for any Kenyan to be told that until you are elected to Parliament is when you deal with social activities. It is out of order completely.

**The Temporary Speaker** (Sen. (Dr.) Machage): Well, Sen. (Dr.) Khalwale, could you desist from irritating Sen. Elachi?

*(Laughter)*

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. Sen. Elachi, my younger sister; hold your horses; you are not the Government.

*(Laughter)*

Mr. Temporary Speaker, Sir, when the Government fails to contain high levels of poverty, people do harambees. They just do not do it in the standard way. We do harambees every evening as we drive home in the traffic jam, where we have young ladies with three little children who do not have food. So, they come to us in the traffic jams doing harambees from one motorist to the other. We are pooling together to feed the poor of this country because the Government is unable to have a policy on feeding the poor. The Government has failed.

Mr. Temporary Speaker, Sir, people do harambees because the Government has failed to rein in on corruption and impunity. In fact, to use the words of Sen. (Prof.) Anyang'-Nyong'o, harambees feed on corruption. If people think that this is a mere theory, let me give you two things that the President did that were the exact opposite. The first one, which was very commendable is when the President went into an engagement with some foreign country or countries to procure Kshs38 billion worth of medical equipment. That was commendable leadership because what will happen? With this equipment now, the harambees that people used to do in Kakamega and Laikipia counties, for example, so as to have access to radiation therapy, renal dialysis machines

or CT Scans will not be done because that equipment is now available in a Government facility free of charge.

So, the President demonstrated leadership. Swing the other side; what does he do? He then says that Kshs92 million will go to the African Court of Justice (ACJ). This is exactly the opposite because shortly after, the First Lady then goes through the trouble of begging to raise Kshs46 million. If only the First Lady had pinched President Uhuru in the night and told him “please, channel this Kshs92 million to the Beyond Zero Campaign, which is a worthy cause,” then there would not be a problem---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Who told you that the President only responds to pinches from his wife?

*(Laughter)*

**Sen. (Dr.) Khalwale:** I am sorry, Mr. Temporary Speaker, Sir. Being a happily married man, I am used to being pinched many times to be reminded---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Then keep that to your own homestead.

*(Laughter)*

**Sen. (Dr.) Khalwale:** Thank you, Mr. Temporary Speaker, Sir. I am being very serious---

**Sen. (Dr.) Zani:** On a point of order, Mr. Temporary Speaker, Sir. Is Sen. (Dr.) Khalwale in order to insinuate that Kenyan women get excited when they are pinched? Is this the way of loving and communicating to Kenyan women? Could the Senator substantiate or withdraw?

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! What I heard, Sen. (Dr.) Khalwale say is to the contrary. It is the men who enjoy being pinched by their wives.

*(Laughter)*

But he is out of order, all the same!

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, on this matter, we will not wish away corruption and harambees. The cardinal responsibility of the Government is to provide good governance. Until we rein in on corruption, we can wake up today and charge the distinguished Senator for Kisii on issues of Anglo Leasing. But to some of us who have had access to sit in that Office of Public Accounts Committee (PAC) and who have had an opportunity to go to the Integrity Centre to see what is being done about corruption in that file of Anglo Leasing, we know that it is a very thin file like this.

*(Sen. (Dr.) Khalwale demonstrated the thinness  
of the file with his two hands)*

In fact, when Justice Ringera gave the same file to Sen. Wako, the then Attorney-General, Sen. Wako said that we cannot use that file to prosecute people.

Mr. Temporary Speaker, Sir, if, indeed, the Government is committed to fighting corruption, instead of doing a public relations exercise on the Anglo Leasing scandal, we would like them to deal with fresh cases where they have obvious evidence. This is evidence that has not been lost because of dead witnesses, falsification of documents or lost files. What is special about Anglo Leasing? Why are you not doing the same about Goldenberg? Why are you not doing the same about the maize scandal that was there just a few years ago? Why is the Government not fighting corruption, looking at the issue of the Free Primary Education (FPE) Funds, for which some Ministers were sacked in this country and the evidence is there, including documents from the donor community?

We are talking about fresh corruption scandals like the “Chickengate” scandal, where people ate chicken, they are still alive and in office – the Independent Electoral and Boundaries Commission (IEBC). If the Government is committed to fighting corruption, these are the areas to focus on. They are the same fellows who some politicians go to, to solicit for freebies to go and donate at harambees.

Mr. Temporary Speaker, Sir, this issue of promoting transparency and accountability in public fundraising is so critical and many people have given many examples. There is a guy I know very well who called us to a Harambee. We conducted the harambee where his children were supposed to go to India, but the children never went there. We only saw him, having bought a brand new motor vehicle.

*(Laughter)*

They are not among the poor. So, unless you rise and specify, in this regulatory statute, the harambees where you require strict supervision, you can end up punishing the small person because of the misdeeds of the big person.

Mr. Temporary Speaker, Sir, today, governors are bragging all over the country that they will be unbeatable in 2017 because they are building a war chest. So, when I see that the Judiciary is not moving quickly to determine the issue of summoning them to come and answer to questions of transparency and accountability, how then are we going to save the billions that we have in the hands of people who are not willing to be asked even one question? I was in a hotel in Kisumu in the company of Sen. Wako and we met a governor – not from Nyanza, but from outside Nyanza. He told us; “If you people of the Public Accounts Committee (PAC) are here, writing that report, the only way I could have come to you is if you carried the HANSARD and the entire staff of the Committee to my county. I will give you lunch; I will make you a cup of tea and you will ask me the questions you want to ask me.” This is impunity.

Mr. Temporary Speaker, Sir, the same people who upon realizing funds they collect from the public in the name of helping the so-called deserving group, they constitute themselves into a steering committee. They have made it a culture; we have certain people who are perpetually members of funeral steering committees in Mombasa, Nairobi and Eldoret. The moment somebody dies, the chairman of the steering committee will be identified. You will discover that last week it was the same guy; the other month

it was the same guy. This is why I am happy that Professor has put in a Clause for punishment for uttering false evidence.

Mr. Temporary Speaker, Sir, there is a programme in this country called *Jicho Pevu*. *Jicho Pevu* has spoken about this issue of public fundraisings over and over. I remember witnessing a case whereby *Jicho Pevu* followed a guy who comes to Ambassador Hotel at the corner of Ronald Ngala Street with a child whose whole head and the hands are bandaged. So, *Jicho Pevu*, followed this guy, in the evening, this guy unwrapped the bandage and, he found a very normal child with no single fracture; not even a bruise. So, as we protect the poor, we must also know that we have the poor who are also *jeuri*. It is so difficult to put all these things in law. However, it must be done because the person who is abusing that child is an intelligent adult who can scheme that kind of thing. We need to legislate against him. That is, probably, what Professor meant by “giving false information.”

Mr. Temporary Speaker, Sir, the final example is that I sat somewhere in this Chamber a few weeks ago and a Member of the “sky team,” told me that “Boni, you have no---”

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Order! Who are Members of the “sky team?” We have no Members of the “sky team” in this House. We only have Senators in this House.

**Sen. (Dr.) Khalwale:** Indeed, Mr. Temporary Speaker, Sir, it was a slip of the tongue. Your smile is intimidating me until I am---

(Laughter)

I was shocked when that Member told me, “Boni, in this country, there is no way---

**The Temporary Speaker** (Sen. (Dr.) Machage): Are you still talking of members of the “sky team?”

**Sen. (Dr.) Khalwale:** No, Mr. Temporary Speaker, Sir. I have run away from that.

**The Temporary Speaker** (Sen. (Dr.) Machage): So, which Member are you referring to?

**Sen. (Dr.) Khalwale:** I have said “some member,” I did not say “a Member sitting in the Chamber when the Chamber was in Session.” I said sitting in the Chamber, probably, during a *Kamukunji*; it was not in a Session; it was when strangers are in the House. So, it could have been a stranger or a Member. This member then says that there is no way you can be a President unless you are a billionaire. I looked at the young man and I asked myself “does he know the history of leadership of this world?” The greatest leader who ever lived; Jesus Christ of Nazareth, did not even have a house; neither did Mandela. Even Kenyatta, they built one for him.

Mr. Temporary Speaker, Sir, my time is up. I beg to support.

(Sen. Wetangula spoke off record)

(Laughter)

**Sen. Elachi:** Thank you, Mr. Temporary Speaker, Sir. I also rise, first to thank the Mover of the Bill. For the last 50 years, our motto “harambee” was there to support us in a united way so that we could pool resources together and develop. At that time, the initiative brought members of the families, relatives and friends to fundraise to offset medical bills or even pay for school fees. The whole community came together to assist. I believe its intention was good. However, over the years, the same motto has changed; it has become a different initiative. That is where the Bill now comes in to address the different challenges that we face. When politicians who are the victims - but they are also the ones who started and changed the whole process because it became a competition for the new comers who are trying to fight for political positions. Therefore, you find that some have the resources and others do not have.

The churches then took advantage of the same process. You will find a whole team lined up in a church and every person has to contribute an amount. What we need to ask ourselves is whether these resources that we give are accounted for or not? How are the resources used? Are we able to account for them? I can vouch for some churches because they have done well with harambee money. We have put up many church buildings through Harambee. I believe the church can guide us on how to spend Harambee funds. Today, we have changed the system because we have realized that you can invite people for so many of these harambees and find them wondering what you are doing. So, what most of the mainstream churches have done is to apportion some amount of money to be contributed by each family towards their activities. For example, the Catholic Church gives its followers a timeframe within which to contribute the said amount.

Mr. Temporary Speaker, Sir, my Senator from Kakamega has alluded to the fact that there are scarce resources in this country and we have to participate in harambees to assist our people. Yes, I agree with him that we need to pool resources together. I would rather even give less, but ensure that I support him. We as comrades and friends within our community can come together and pool our resources to assist one another. However, there are people who have used harambees for their selfish ends. They go to harambees and contribute more than Kshs50,000 while we contribute Kshs5,000 because we depend on our salaries. Others flush out Kshs100,000 or Kshs200,000 because we are guests of honour.

This has changed the whole notion of harambee spirit. In this scenario, you will find that the community is against you because you do not contribute generously like Senator so and so. In fact, they wonder why you cannot contribute generously like their Member of National Assembly or a Governor. You will even find people starting to boo you and gossip you that you do not contribute in harambee. This is the culture this Bill has to cure. This culture has now been inculcated into us. Our people feel it is a must for us to contribute a certain amount of money in harambee. This now boils down to corruption, as the Senator was saying, because you are forced to go around and seek donations in order to please your people, which is not right.

So, as we bring in this Bill, we are not banning harambees in this country. I know that for now, we have those who are in dire need of money to pay for medical expenses.

We need to support them. We have those who are in dire need of education and we know that we need to support them. However, we also need to ask ourselves about the devolved funds that we have. For example bursaries, Women-Enterprise Development Fund, Youth Fund, *Uwezo* Fund and funds for the disabled and the elderly. Are those funds not assisting our people? We have become a country of so many funds until we need to ask ourselves; at the end of the day, we need to relook at it and analyze if the kitties have achieved their objectives. Have our people really felt the impact of these funds? Have they benefited from these funds? But we have people who are very focused and they are doing so well with the same funds.

So, it is up to us also to create awareness. I hope the Bill also brings in the word “create awareness for Kenyans” to know that this hand out thing is going to put our country - and it has already done so - into a very critical situation. Some would even run away from their counties. That is why it is a challenge for us when we say that we want to have our own Fund. If we all believed that it is okay for all of us to have something, there would be no conflict.

Governors have forgotten that the resources we give are not in the form of harambees. We go to our counties to make our people know what we have tabled in the Senate. We let people know that there are resources to be spent on particular issues. The governors are the implementers. Therefore, we have to work together with them. However, they have gone into competition with Members of Parliament again.

Members of National Assembly have CDF. They give bursaries to students. They also spend some on building classrooms. Governors are now carrying out the same functions. They give women funds which have already been established through Her Excellency, Mama Rachel. They do not need the governor to support this. They give Kshs10 million as contribution and borrow money from there. She has taught women that they do not need to wait for county resources so as to grow economically.

However, Governors have realised that this is a way of mobilising women closer to them. They have also decided to give money towards this end. However, we need to act with caution. This idea has supported many communities. I know that the Senate does not have any intentions of seeing the CDF go away. Let us be accountable. If this Senate does not stand up to pray for the values of this country, every Kenyan who gets up will continue to talk about money. Nobody realises that at times, it is not just money that transforms. At times, unity and good relationships can make a change in many ways.

I urge religious leaders to look into where we went wrong. Why is it that Kenyans have become very desperate; that everybody wants to ensure that they have wealth regardless of where they get it? That is why some people will hold harambees. Instead of using their money for the harambees as it had been planned, it is used for something else. You will find religious leaders using the money to build houses and buy plots in their names. However, before the harambee was held, it was said that the plot would belong to the church. These are the things that make us wonder whether we should go to church or not or whether we should follow church services on television. This affects the whole social aspect.

At times I wonder whether those who stand at the pulpits take a moment to think whether those attending their church services are still with them or whether they left the

churches a long time ago. This has made young people at the universities to ask for money. In universities, when it is time to appoint student leaders, we have very many requests of those who want to vie. This is because they believe that for them to become, for instance, the Chairperson of Students Organisation of Nairobi University (SONU), they need Kshs15 million. These young people are very serious about it. They also want to have cars and are using harambees to do it.

As we move on with this Bill, I hope that Sen. Anyang'-Nyong'o of Kisumu County has looked at it and seen that we are not coming up with a law so that we continue with our practices. If you want to become a student leader, you need to convince your fellow students with the issues that will ensure that they remain and enjoy the services of the university. However, we do not need politicians to give students money to carry out flashy campaigns and yet these are children who still need their parents to continue paying their school fees. We have to change this attitude since it has brought animosity. It has also divided us very much.

As I conclude, we must ask ourselves whether we really need to continue holding harambees to support activities where the Government has already given resources. The Government has devolved resources to each county. Counties still have their local revenue which they have been collecting. This is money that the national Government does not question. Therefore, it is up to the county governments to budget and know what they will do in their five-year terms. However, Governors should not compete with the President when he gives money in harambees. The President could have collected money from friends and yet the Governor does not tell us where he got his money.

I support the Bill and hope that we will bring clear amendments. If we are carrying out public activities, let us all sit down as leaders from our counties; from Members of National Assembly, Members of the County Assemblies, Members of the County Governments, the Senators and the Governor. Whether they like it or not, Sang's Bill could have cured the problems we have today. We would have had clear blueprints in every county to work with.

Therefore, I support.

**Sen. M. Kajwang:** Thank you, Mr. Temporary Speaker, Sir. I would like to thank Members of the *Ad Hoc* Committee on Legislation on Harambees led by the able Sen. (Prof.) Anyang'-Nyong'o for coming up with this Bill.

In the public domain, there seems to be some apprehension that the Senate is seeking to abolish harambees. After reading this Bill properly, I am convinced that is not the intention of the Bill to do so. If you look at the manner in which this Bill has been reported in the media and the information that has flown to people who do not have the privilege of sitting in this House, there is a perception that the Senate wants to ban harambees because politicians do not want to give out what they earn to public causes.

A proper reading of this Bill indicates that the Bill seeks to replace the Public Collections Act which is obsolete. When you read it, you will wonder why it should still be holding in this time and age. When you politicise this Bill, you will find people saying that Prof. Anyang'-Nyong'o and Sen. Moses Kajwang and others by extension in this House will be fighting some people who go around flying in choppers and doing development modules that are hinged on harambees.



Where I come from, you will find fabulous leaders who have acquired wealth suddenly equating development with harambees. You will come across leaders spending close to Kshs500,000 to hire choppers from Nairobi only for them to donate Kshs100,000 in the villages. I am very happy that somewhere in this Bill, there is a clause that talks about the percentage that can be used by organisers of fundraisings.

We cannot use harambees to compensate for 50 years of historical injustices. In certain areas that we come from, we have seen leaders arguing that for them to develop their specific areas they have to continue carrying out fundraisings. It is that harambees have not benefited this country.

Recently, the First Lady organized a very commendable marathon which is aimed at raising funds to go into maternal wellbeing.

When you have all these great ambulances and facilities, where do they deliver the women to? They still deliver women to rotten health facilities that we have ignored for years. We must look at some of those areas that we have historically ignored because the greatest appeals or some of the major appeals that we get as leaders on fundraising tend to relate to medical cases. If we can fix the health care sector, provide universal insurance and encourage our people to take last expense insurance which takes care of funerals, probably, some of these appeals will reduce.

Mr. Temporary Speaker, Sir, just like other distinguished Senators have said, harambees have worked despite some of the reservations that we have raised. We have seen schools, hospitals, dams and wells built. We have also seen certain private causes that have been funded through harambees. I, personally, benefited from a harambee when people came together to raise fees for my education. A number of people, including my parents and people that I know, have had their medication taken care of through harambees.

When I read this Bill, there could be one or two areas that we need to be careful about. Part 4 attempts to classify fundraising appeals. In my mind, I would like to make a distinction between public appeals for public causes and public appeals for private causes. A public appeal for a private cause would be someone going to the streets and telling people to help him secure a wife. That is a public appeal for a private cause. It is upon me to decide whether I want to assist him to get a wife or not. If I help him to fundraise and he does not get a wife, he will die in his own loneliness. I will not go and ask for accountability. However, where it is a public appeal for a public cause, this is one area that we must ensure that we insist on accountability as proposed in this Bill.

Mr. Temporary Speaker, Sir, we have seen the CDF or devolved funds that are supposed to be used for public causes being diverted to other things. I have walked around with other Members of National Assembly and you find them providing CDF cheques at a fundraiser. Therefore, making CDF look like it is also a fundraising avenue.

Another thing that has failed is that when you do public collections for public causes, like for construction of schools, there tends to be a lot of misappropriation yet we do not have proper modalities for demanding accountability. We have seen cases where once a secondary school conducts a successful harambee, all of a sudden, the school principal is building a hotel in the nearby town; he has bought himself a new car or married the new teacher who has just been posted to the school.

(Laughter)

We must demand accountability, especially where we have made public appeals for public causes.

Mr. Temporary Speaker, Sir, I am very happy that a Fundraising Appeals Committee is proposed in this Bill. This is quite a departure from what had been defined in the Public Collections Act, which was still talking about District Commissioners (DCs), District Officers (DOs) and chiefs. I am glad that the Fundraising Appeals Committee has got a human face and there are qualifications for members of that committee. However, we need to be careful not to convert this into a new bureaucracy or tyranny. We should be careful that it does not become a rent seeking tool whereby if you want to organise a public appeal, you are told that you must provide chicken and all those other delicacies that our electoral body is fond of.

The committee should also not be a know-it-all body that can decide whether a fundraising appeal is valid or not. I believe that its mandate should be limited to processing applications rather than getting into the weighty matters of merits. The weighty matters of merits, perhaps, could have been addressed if we had County Development Boards as envisaged by this Senate.

There is a section that talks about taxing incentives on voluntary contributions. This is also something that we need to give an opportunity in this country, because you find that there are people who make voluntary contributions to worthy causes, but they do not benefit from any tax rebates. We also have to be very careful that people are not going to use this for money laundering or tax evasion. We have seen far too often, people whose salaries, backgrounds and fathers and mothers we know, all of a sudden, go to Nairobi for a month and then come back with loads of cash. I do not think we have gazetted any place in this country where you can go and pluck cash from trees. So, we have found people who have acquired and accumulated wealth through very dubious means; using fundraisers and public appeals to launder themselves. I hope Section 53 that talks about taxing incentives on voluntary contributions will not encourage some of these unscrupulous individuals to launder themselves and avoid paying taxes.

Mr. Temporary Speaker, Sir, as I have said, we must not create a new bureaucracy that makes it frustrating for people to take care of urgent affairs. In my view, this Bill should apply to public appeals for public causes. I feel we need to be a bit careful about public appeals for private causes. Someone has died and the body needs to be transported back home. That could be a public appeal for a private cause and it really is optional. However, a public appeal for a public cause is where, we as citizens, are coming in to do the things that Government is supposed to do. We pay taxes and Kenyans are taxed heavily. It is very painful when we still have to come back to build schools, roads and hospitals, yet the tax we pay is being spent in Somali in ways that could serve us much better back home.

I beg to support and I hope that as these progresses to the Committee Stage, some of the recommendations we have made will be taken into account.

**Sen. (Prof.) Lonyangapuo:** Thank you, Mr. Temporary Speaker, Sir. I also rise to contribute to and support this Bill. This is because it is coming at a time when my previous colleague did mention that we are at crossroads where the spirit of harambee is being misused by some people in this country, yet it was meant to uniquely define Kenya. If you recall the words that were spoken at Independence, the first President of the Republic of Kenya and his colleagues, did speak and talk of harambee – the spirit in which an African was supposed to take leadership of their own people and land and chart their own destiny.

Kenya was colonized by the United Kingdom (UK) and a number of very good farming land was occupied by the “white” people. It was not very easy that they were going to still continue to support the new leadership that had come in to take over the reigns to lead themselves. So, it was so noble that those leaders coined the word “harambee”, to mean rallying the people of Kenya together, to build this young nation and bring together the over forty tribes under one umbrella.

It is through the harambee spirit that most of the buildings that you see standing – the Kenyatta International Convention Centre (KICC) and all the others during those five years from 1963 to 1969 – were built. This is when that rallying call brought everybody together. harambee calls upon, and depends on the spirit of the power of numbers, where when you bring the unity of the people together, there is nothing that you cannot do. This is why this spirit of harambee permeated from village to village, community to community, province to province and district to district at that time.

Mr. Temporary Speaker, Sir, in my county to date, I have 520 primary schools which were built through the spirit of harambee, support of the church and some donors; no Government hand. If anybody runs around saying we need to remove the spirit of harambee so that we replace it with some genuine hand of Government, I do not know which Government that is, unless it is one that is led by completely different people and not Kenyans. Over 82 secondary and 900 nursery schools in my county were purely built out of the harambee spirit funds.

To us, this was like a godsend opportunity to be able to marshal our ability and our resources. When we combine our resources, we can scale the heights. You also remember that we had some universities like Moi and Maseno universities which were built through the harambee spirit. The then President would lead during those harambees and other leaders would join in.

Mr. Temporary Speaker, Sir, some people began to mess up with the proceeds from the harambee spirit, but that does not mean that we should do away with harambee. We should craft regulations and laws that can create a niche for harambee and make it a Kenyan product that can brand the way Kenya is today. During that time, I know some senior Members can remember that in Tanzania, they were talking about *Ujamaa*. It modeled the spirit of unity in that country while Kenya was driven with the spirit of harambee and we have thus come this far.

Previously we had ranking of students and schools according to their performance in Kenya Certificate of Primary Education (KCPE) and Kenya Certificate of Secondary Education (KCSE). However, just because of some minor malpractice, we have ended up removing what was making Kenya a unique choice of education destination. People like a

competitive spirit and particularly we in Africa like it. The harambee spirit should not go the direction of school ranking that Prof. Kaimenyi and company took because we are still going to pursue this subject until ranking is restored because it uniquely makes Kenya a very strong nation that other countries can emulate.

The weakness we, as Kenyans, have is allowing an idea whose time has come to be messed up with. This harambee spirit has been messed up by some people pocketing money. Some have also used harambee funds for their own benefit as many Senators have enumerated. However, instead of arresting them, we end up praising them. I am hoping that this Bill clearly makes it mandatory that anybody who messes up with public funds is dealt with according to the law. This Bill has also talked about creating a body that is going to oversee this process. The only problem I have with that body is that it is going to be composed of the same Kenyans who will not follow the rules, but benefit from their positions.

Mr. Temporary Speaker, Sir, we have had many parastatals in Kenya that have been running particular agenda and strategy that the nation wants to look at. We have even been dealing with agricultural crops like coffee, tea, maize and cotton that had bodies that were specifically dealing with these crops. A few Kenyans that had been entrusted by Kenyans to manage these bodies ended up benefiting themselves. In frustration, instead of going after the thief we end up winding up these bodies. This is where the weakness is. We are now saying that we are going to have harambee committees in the counties and at the national level.

I would rather we had a law that clearly spells out what is going to be done to that person who in one way or the other messes up with this. That way we will be able to get more results than what it is today. We recently came from a centralized system to a devolved Government structure. We now have 47 counties. I do not know whether my colleague Senators have seen a scenario where every weekend there are harambees scattered all over the country. This is good for development because harambees are mainly held to raise school fees, building schools and to assist those who are unwell.

In my county, I have discovered a trend where the Governor walks to harambees with a cheque book for the county Government. Since the majority of the people, particularly from where I come from do not know how to read and write, the Governor flashes the cheque. They declare that he has contributed a certain amount of money, say Kshs1 million and yet that is not what has been written on the cheque. Everybody is left praising that Governor whereas this is one man or woman who one or two years ago did not even own a bicycle and barely knows how to read and write. Their competitors are forced to go and loot from their work places so as to match their financial prowess whereas when, for example, Sen. G.G. Kariuki and I, who depend on the salaries donate Kshs50,000, they look at us strangely. They wonder how the father of the county can donate such small amounts. I am hoping that this law will discourage public funds being used for harambee. If it is building a school, the Government should be able to build schools and not ask us to hold harambee.

Mr. Temporary Speaker, Sir, I know some Senators had a problem with some of our colleagues who were being referred to as the “sky team”. There is no problem to be given a lift in a helicopter which has been paid for by somebody to go somewhere for

harambee. I do not think we should condemn those people. We should actually encourage them. I am waiting for them to fly to my county because I have enough problems that need to be sorted out.

With the spirit of harambee, Kenya was more united in 1963 up to 30 years later, but now we have gone to counties. I do not know how we are going to carry out this harambees so that we remain one in the spirit of bringing people together. I know the counties are only employing people from their own counties, but the worst bit is where the ward administrators and sub-county administrators are now actually forcing people to either sing the song of the man on the throne who is the governor, or they are not employed. So, you will find people queuing to pledge allegiance to him in order to be employed. When you find that scenario, the spirit of harambee which was to bring people together is killed right in the village. We now have ethnicity and political alignment. You will find some very rude governors saying that they will rule till they die. It will be so sad for anybody to pray for God to intervene in his or her life when he or she is still working.

I support this Bill and ask that we scrutinize every detail and give power to the law; what happens to somebody who abuses this spirit. I also hope that the Judiciary will support us. Today I read in the newspapers of somebody who was sent on compulsory leave from EACC and the courts returned him to his job before he stepped out of the office. Now, what happens when you want to bring order? That person was not being sacked; he was simply being sent on compulsory leave so that some investigations could be done. Our courts are becoming the protector of everything and anything under the sun.

Mr. Temporary Speaker, Sir, this morning we had a meeting of the Senate Committee on Finance, Commerce and Budget. People said that we should not entertain people from Makueni County Assembly until the Governor says so. The Governor started calling; I do not know who gave him all the numbers of all the clerks working in that Committee. We are now interfering with everything. The spirit of harambee is a choice which we should not mess up, but make it stronger, to the extent that if that money is not used properly, that person involved must be punished. Nowadays, in the villages, they have made the system very strong. They call in police officers when a harambee is done. The money is taken and escorted directly to the bank even at night. This is now making it stronger and better. The usage is where we have a challenge.

I want to thank Sen. (Prof.) Anyang'-Nyong'o, although as Sen. Moses Kajwang mentioned, some people have been writing different stories in the newspapers saying, that it has been killed.

Mr. Temporary Speaker, Sir, I support.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity to contribute to this very useful Bill, especially at this time in Kenya when we are trying to streamline and make sure that people do not fundraise just for the sake of it. Even though the issue of harambees has been so common in Kenya and, indeed, very useful in many ways, we know that it has been abused. We know of cases where people started off with a pre-wedding, but they never got married. We also know of people who "killed" their parents because of harambee. We lost it somewhere along the line as far as the process of collection and utilization of those funds is really concerned. This is why Sen. (Prof.)

Anyang'-Nyong'o came up with a Bill that is to regulate and structure the way harambees are conducted and how people go through the process of collecting those funds.

Right from the outset, I remember when this came up as a Motion in the Senate and the whole notion of streamlining harambees, it seemed as a herculean task. We wondered how we were going to make sure that we streamline and put structures in terms of the way harambees are structured. As I look at this Bill, I am proud to see what the Professor has been able to put together in very concrete format; for example, by setting the Fundraising Appeals Committee as a very structural body at a national level that will be able to coordinate the functions, give the licensing and direction for the collection of funds and also a county fundraising appeals committee.

Mr. Temporary Speaker, Sir, this is what the Public Collections Acts; Chapter 106 of the Laws of Kenya intended to do. However, it was not able to really set up these institutional architecture, so that it can align it to fit at the national and county levels and also include funds from other organisations for example religious and charitable organisations. So, as much as this Bill seeks to replace the Public Collections Act, Chapter 106 of the Laws of Kenya, it does this in a very innovative way, by putting specific structures in place to ensure that funds are collected in a very orderly manner.

The misunderstanding that has taken place that we just want to stop fundraising altogether, monitor or stop people from fundraising from the manner that they were used to is very inaccurate. It is also very unfortunate that as we know the media is capable of taking something that is very good and worthy, distorting it and presenting it to the public in a way that misrepresents the intention of that specific Bill. The intention of this Bill is very clearly outlined.

There are very important Clauses in the Bill. Clause 26, gives the process of licensing and how that is going to be done in details. For example, there are certain specific things which we sometimes do not take into consideration or take for granted. The full name and address of the person collecting funds must be known. If it is somebody who is doing it on behalf of somebody else, they should be known. It gives specifications on somebody who is doing it on behalf of somebody else.

Clause 4 of Section 26 gives specifications for somebody who is doing it on behalf of somebody else so that there are very clear details of the name and the purpose of the fund-raising, the date, the amount intended to be raised and so on.

The Bill also gives provisions for areas where even the amount that has been raised has to be stipulated so that it can be known how much it was raised from that particular appeal and what is going to be done in its usage. This model goes very close to Western models where when fundraisings are done, it is in a well coordinated manner so that there is a record of those people who were given the money, how they were given and what has been done. This is key for us because in the Kenyan context, we are very happy to collect the money, but we are not happy to follow through and find out what that money has been used for.

Mr. Temporary Speaker, Sir, this is the same problem we are having with county governments. The main problem is that the Senate has said it must audit the resources given to the counties. Likewise, this Bill also sets out very stringent auditing processes in Section 45 where the records and accounts of the fundraising must be collected and

audited to find out whether they were used for the purposes set out. This helps to a large extent because I believe even now the spirit of giving is reducing because many people they have been heartbroken over time. Most of the time the money contributed never reaches the intended purpose.

I have a feeling that if we go through a proper audit process to ensure that the money is used for what is being used for then it will spur an impetus in the people. There are many philanthropists who would want to contribute, but they are not sure where to put it. Sometimes, it is not possible to actually begin the process of following through, giving money. However, if there is a streamlined way in which I know I will give my contribution and it will be used for its purpose, then for those who want to be philanthropists, they will find it easier to have a coordinated way of contributing.

Mr. Temporary Speaker, Sir, the issue of false representation is dealt with in Section 51. A caveat is put that there has to be a surrender of collections that have not been done in the accurate manner. These measures put in place will enable harambee contributions to be collected and the issue of false representation to be taken care of.

This Bill also takes care of a very important aspect that sometimes is overlooked in Bills, that is the bit about when there has been offense and it will be tackled. In Section 56, there is provision for offenses and a fine up to Kshs2 million or five year imprisonment. We have provisions for that and, especially in the Kenyan context. As long as caveats are not put into place, people tend to break that law.

Mr. Temporary Speaker, Sir, harambee was actually a dream for Kenyans. The word “harambee” comes from a bantu word called “halambe” which means pulling together. It is the people from the coastal towns as they were at the harbour as they were pulling goods coming in somebody would say “halambe” and others said “ooohh” and gave the courage to push and pull. It is instinctively in our blood. It is only that as we go on, we are abusing it more and more, therefore, making more and more people become less prone to want to make that contribution. I believe if we streamline these contribution in the way the Bill suggests, we will move away from the issues of usage of the money collected.

Section 55 is very important for the committee. It talks about the setting up of a social development fund. The money will be raised from fees collected from other donations and from the funds that are collected. Therefore, it is possible for the Committees to initiate some sort of social development. It is not indicated what sort of social development, but we believe that both the national committee and the county committees that are so critical within the devolved system will sit together and come up with ways and means of socio-development which will be very critical for development of various areas within specific counties and communities where money has been collected.

Looking through the objects of the Bill, you will see there is a critical need to have a structured process and a regulatory framework to ensure sufficient information is given to protect public funds from fraudulent use of money, misleading and coercive fundraising appeals. The objects also provide a framework for the establishment of social development. If we proceed, for example, to implement this and change the ways that harambees are done, it is not that harambees are bad. It is the way they have been done. It

is a question of putting legislation into place to ensure that people do not proceed in that particular way.

Looking at Section 4; the composition of the national fundraising appeals committee, the various members for that committee have been well selected and are representative. However, in Clause 3; the importance of academic background is highlighted. There should be a provision for having a university degree. That is important to ensure that things are done in a very streamlined way.

The functions of the national committee include: conducting, inspecting the records and establishing mechanism for promotion of transparency. It is time that we looked at ourselves in the eyes and said that it is about time we changed the way we do things. If we do it this way, we will move from the whole issue of politicisation of harambees; that people just became popular and famous because of giving a penny here and there, without some sort of concrete and focused way for development.

It will stop the abuse and distortion of funds because there will be a mechanism for people to know why they are contributing, what they are contributing to and how much is expected. The Bill even sets a provision for people to indicate the target because we realise that in many cases the target is never met. It is met only when people's money is finished. There is a joke about a harambee meeting somewhere where they had already given all the money. When gangsters stormed into that particular fundraising and said, "Everybody, remove something from your pockets!" More money came out. So, the provision and expectation is that at a harambee, you must give until you have completely given even when targets have been met.

There are people who have become rich just because of harambees and they have not bothered to account for it. The lack of monitoring and follow up has really been critical. All these are addressed in this particular Bill. As we continue to institutionalise harambees, there are very many gains. We have more people wanting to contribute. We will also have a total improvement in terms of local grants being made through donations and contributions. In the process, we will create openness in the way the grants are given and distributed to people.

It will also create the aspect of promoting community control and help communities to take charge because it is not just one individual who will determine how money will be collected and used, but a committee that will sit and give a way forward in terms of what development agenda should be put into place and how the money should be used. That will enhance the social capital within the community because everybody will know what needs to be done.

This will also create a lot of opportunities for learning interest, accountability and proper auditing of public funds. This is where we also have to move our mindset. We have a problem within county governments because governors have turned public funds into private funds. They feel very comfortable to do so. We need to respect public funds. One should not make them their own funds and decide how to distribute them. So, it is very important that, at the end of the day, this sort of committee leans on accountability of public funds. That will create a better image at the community, county and national level.



This sort of accountability needs even to apply within the education system. This is because we have focused more on churning out professionals, but when you think about the ethical and value-laded components, it becomes very critical that this Bill begins to take us to the process of being accountable and thinking through what we are doing with the resources that we have from the public and how we can demonstrate and use them effectively.

It will also help us to utilize the various human resources and their capability at the various levels, across both the national committee and county committees that are going to be set. I believe that there will be human resources who will be employed there, who have the capability to ensure that local capacities, expertise and long-term trusts and relationships are built within those particular communities in the way they operate and promote everything they do.

Lastly, it will also promote capital investment in economic terms, so that, at the end of the day, we know that what has been put together in a kitty is very critical and important for us to move to the next step.

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

**Sen. Murungi:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this important Bill that has been brought by our friend, Prof. Anyang'-Nyong'o.

As stated in its memorandum of objects and reasons, the principal object of this Bill is to provide for the establishment of a regulatory mechanism at the national and county levels, which oversee the conduct of fundraising appeals and provide for licensing and regulation of fundraisers and promotion of transparency and accountability in the conduct of fundraising appeals. This is, indeed, a timely and very noble objective. From the history of the harambee movement, it started with very noble objectives, as per the calls by the first President of this country. But over time, the harambee movement has been grossly abused and people have lost responsibility.

Today when a child is born, even men who never used to be called to such functions before, are now invited for harambee to go and see the new baby. So, we contribute to buy clothes for the new baby. As the baby grows up, we are called at various stages of his or her life. So, the baby ceases to be a personal responsibility. The responsibility for raising up a child is transferred to the community. When the baby gets sick or goes to school, we are called for a harambee. When that child has passed her examinations well, we are called to go and congratulate him or her. When he or she goes to university, we have to meet again to send that child there.

When he or she is now grown up and about to get married, we are called again to do a pre-wedding. It goes on and on. When they are grown up now and get sick, we are called to take them to India. Finally, when they die we are also called for another harambee to give them a decent escort out of this world. The harambee movement has been distorted and is now an instrument for disempowering people. It is an instrument for basically denying people their responsibility for their actions.

Mr. Temporary Speaker, Sir, time has come for Kenyans to be responsible. You have to take responsibility at a personal level, family level, community level and at the national level. We cannot use harambee to dodge these responsibilities. This matter is not new. This is an old debate in this country. Hon. Sen. (Prof) Anyang'- Nyong'o is very

well aware that for many years when we sat in Opposition Benches, one of our agenda was strategizing how we would remove the burden of harambee from the backs of our people.

Those days, it was not a joking matter. We remember the harambees were compulsory during the one party days, especially when some people had to take some money to Kabarak, the *wananchi* were really harassed by chiefs, their chicken taken and sold by force so that they could donate “generously”. However, it is only a quarter or less of that money which went to those harambees. The harambees made the chiefs rich. That is why when we went into Government in 2003 and I was appointed the Minister for Justice and Constitutional Affairs, the first thing I did was to appoint a task force on harambees. That task force was headed by the then Member of Parliament (MP) for Subukia which was Nakuru North constituency, *Mheshimiwa* Koigi Wamwere and other luminaries like Rev. (Dr.) Timothy Njoya. They went round this country, taking the views of *wananchi*, the common people about what they think about harambees and what should be done.

It became very clear from that report. The report is available and I do not know whether this Committee looked at it. What came out was that this harambee movement was not really genuinely helping our people. It was forced generosity by politicians who were out to manipulate the people. The harambee was a game of the rich and the elite. If you hear people are contributing money to take a student to India or a patient to India, it is not the poor peasant in the village who is being taken to India. Those ones die here at KNH or at the local hospital in Migori or other places.

Mr. Temporary Speaker, Sir, if it is you, we shall all gang up to take you to India. However, that poor voter in the county, even if he calls many harambees, they will never raise enough money to buy an air ticket. Even when we have harambee for taking students to the United States of America (USA) and other overseas universities, it is never the peasant’s child for whom we are doing the harambee. It is the harambee for the local chief, former MP, or for the chairman of the old county council. It is the local elites whom we are supporting through this movement to continue doing better.

From the analysis of that report, harambee was never really genuinely for the poor; it was a game of the rich and the powerful. This is not to say that there is no need for harambee; there are ways of structured philanthropy, we have charities for instance in United Kingdom (UK) where you contribute little amounts of money, but when it is pooled together, it is a lot of money and used in a targeted manner, it can be used to transform society or support courses.

Mr. Temporary Speaker, Sir, a group like Amnesty International is funded by very small contributions like GB£1 or GB£10. In the end, it is a big international movement with a lot of money. Oxfam also relies on contributions from small donors, but they have an impact; addressing issues of human rights and social justice in the world. So, the time has come for us to rethink how we can organize philanthropy in this country in a manner that can help our people.

I know the soft spot that we have in all this is. If one is heard to be talking against harambees, you are made to look heartless and cruel; it is as if you want people to die. That is not really the case. What we should be thinking about is; what system can we

introduce which will give universal health care to all the Kenyans, whether they are rich or poor?

Sen. (Prof.) Anyang'-Nyong'o had proposed a very good idea; that we do a very modern facility in this country where we will bring in those top experts from abroad so that we stop sending people to India. Instead, we would have specialists in this country so that Kenyans are treated locally. When I travelled to Abu Dhabi, I found that plan working. The King there said that no citizen of Abu Dhabi will be treated abroad, including himself. So, he was ready to sponsor any top medical expert from anywhere in the world to come and treat people in his own country.

If we introduced this plan in this country, it would help in very many ways because there is no patient who travels to India alone. You travel with a relative and sometimes by the time you get to go there, you would have already been treated at KNH, from where you are then referred to India or South Africa by some medical practitioners. So, it is a very expensive exercise. If we could find a way of cutting that traffic of going to South Africa, India or to other places through building a modern facility here and bringing those experts here, that is one way we will be helping our people better.

Mr. Temporary Speaker, Sir, I completely support this question of universal health care through expansion of the National Hospital Insurance Fund (NHIF). It is one way of cutting out and reducing these harambees. We have the Value Added Tax (VAT), which is now at 18 per cent. I would not mind if we could increase VAT by another two per cent so that we dedicate one per cent to a medical fund which we can use for taking care of those of us who are not covered by any insurance or those of us who cannot afford to pay their medical bills, instead of sending them to struggle with harambees.

Similarly, Mr. Temporary Speaker, Sir, we can look at areas where harambees can be restricted. Harambees are not meant for everything. They are either for medical---. Those are the most serious ones. I am a Christian and I know that some of the projects we are getting from the churches are unrealistic. God is everywhere. He can even be worshipped under a tree and He can still hear your prayers. But there appears to be competition by churches to build monuments or pyramids; and the bigger you are, the more blessed you are. So, the kind of requests that we are getting, as Senators or Members of Parliament now, the church committee will meet, organize themselves, maybe get a donation from an architect who will draw plans for a hall of Kshs20 million and then they appear in the Senator's Office. They will say "*mheshimiwa*, you know we supported you fully and now this is a small request that we are making to you to help us and God will bless you immensely."

(Laughter)

So, we are put in spiritual blackmail because it is being done for God; you do not say that you do not want to support a project for God. At the same time, you know what kind of process it will take you through; you will borrow left, right and centre. These projects do not seem to end. Once you do one in one of the constituencies, you will be called to do the same in the neighbouring constituency. I am sorry to say, but for us, politicians, it is a really cruel and bankrupting process. For those who are weak in spirit, you might even be

driven to steal so that you can come and impress the church. It becomes counter-productive. These projects which you assist in the name of God might be the ones to send you to hell. So, the time has come for us to be very frank; to reason with our people.

Sorry, it seems my time is up. I beg to support.

**Sen. Omondi :** Thank you, Mr. Temporary Speaker, Sir, for allowing me to add my voice to this sensitive Bill. First, I want to thank the sponsor of this Bill who is Sen. (Prof.)--- I have forgotten the name.

*(Laughter)*

**An hon. Senator:** Sen. (Prof.) Anyang'-Nyong'o.

**Sen. Omondi:** Yes, Sen. (Prof.) Anyang'-Nyong'o. Thank you very much for reminding me.

The issue of harambee is a noble cause, but it is sometimes misused and it becomes meaningless. I want to support the harambee spirit because it is a noble cause, helping one another to achieve an objective that will benefit a society, community or family that is in hardship. Indeed, it is important to have these harambees being controlled by having a body that will control the way they are being managed and run, for us to have something that will touch the life of a person in the community. If I can remember or flashback to some years back when harambees were banned and the CDF came in place; when you look at the challenges that the common *mwanaanchi* or Kenyans citizens were facing through the harambee process, you find that the banning of harambee helped so much and the community and CDF came in place to support.

So many projects have been done, especially construction of schools and other facilities. However, sometimes people or the community is forced to come up with harambee to support the neglected projects that are normally called "white elephants" because of political reasons, whereby after the sitting Member of National Assembly, maybe did not manage politically, the incoming new Member ignores the projects that were started by the former Member. So, it is the community again, through their initiatives that is forced to come up with such a harambee to support the finishing of such projects.

These harambees support the education systems. When you look at the way bursaries are distributed under the CDF, you will see that they are not given out equally. Some parents, due to political reasons, are forced to come up with harambees so as to support the education of their families and to pay hospital bills. If we have a body that will monitor harambees, then we will have some sanity in the whole thing. We will also create genuineness in harambees that are held.

At times you can go to your constituency and find that you have almost 20 harambees on one Saturday. One is left wondering how to divide himself so as to attend all of them. It is even more difficult for us, Senators, who do not have other sources of money, but depend on salaries. As my colleague has said, when you give out small amounts, people are left gossiping and saying; "a whole Senator is giving us Kshs5,000 or Kshs2,000." When you multiply the Kshs5,000 by 20, you will find that you cannot make it.

As I support this, indeed, I know it will help those who call for harambees and end up incurring expenses. Somebody may call for a harambee where they need to collect Kshs50,000 and yet they cook food worth Kshs60,000. At the end of the day, they end up with Kshs20,000. You will then start wondering how the harambee has helped the community or the person who was in need. I recommend that if we have this as law, then it will protect the interests of people with genuine harambees. That will help us to move on as a country. The genuine people who need support will also benefit a lot.

It is high time that we, Members of the Parliament, recognised the importance of giving equal opportunity to the people we represent. Our people are forced to come up with harambees to support their needs. I wish churches were given a small percentage from the CDF for constructions. A church is like a hospital. However, at the end of the day, we depend on harambees to support churches.

If churches do not have good facilities then a person seeking to have spiritual healing cannot be helped. You cannot have faith while inside a church building that is leaking and one which has a lot of dust. To reduce harambees that are unnecessary, we need to know what groups have been left behind without any support of Government and how we can help them.

With those remarks, I support.

### ADJOURNMENT

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, we have come to the end of today's House Business.

The Senate, therefore, stands adjourned until tomorrow, 11<sup>th</sup> March, 2015, at 2.30 p.m.

The Senate rose at 6.30 p.m.