

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Tuesday, 10<sup>th</sup> November, 2015**

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

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

### STATEMENTS

#### CIRCUMSTANCES SURROUNDING THE DEATH OF MS. ELIZABETH AKALA

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I rise under Standing Order No.45(2)(b) to request for a statement from the Chairperson of the Committee on Labour, Social Welfare and Health concerning the death of a pregnant mother by the name of Elizabeth Akala. She was born in Kakamega County and married in Vihiga County. The death occurred last week at the Kakamega Level 5 Referral Hospital.

In the statement, I would like the Chairperson to clarify the following issues:-

(1) What exactly was the cause of death?

(2) Could the Chairperson table the findings of the postmortem that must have been done on her body?

(3) Could the Chairperson table the medical report from the medical superintendent in charge of Kakamega Level 5 Referral Hospital in respect of this death?

(3) Under what circumstances was this mother left unattended for a whole 14 hours while in the hospital before she died?

(4) What action has the Director of Medical Services taken in respect of this death?

(5) What action has the County Executive member in charge of health of the County Government of Kakamega taken in respect of this death?

**Sen. (Dr.) Machage:** On a point of order, Mr. Speaker, Sir. The Committee from which Sen. (Dr.) Khalwale seeks that statement does not exist. We do not have a Committee on Health, Social Affairs and Labour.

**The Speaker** (Hon. Ethuro): That is correct.

**Sen. (Dr.) Khalwale:** My apologies, Mr. Speaker, Sir. My secretary must have used the old Standing Orders when she was typing the statement.

**The Speaker** (Hon. Ethuro): Order, Senator. You do not take away responsibility from yourself. That is only but your agent who is not known in this House.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I, therefore, wish to apologise for the typographical error and request that my request proceeds. In the view of the unique circumstances---

**The Speaker** (Hon. Ethuro): Order! You already elaborated the circumstances. The issue at hand here is which Committee the statement should be directed to.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I request that the matter be referred to the right Committee, in this case, the Departmental Committee of the Senate on Health.

**Sen. Khaniri:** Mr. Speaker, Sir, I do not know whether you will allow me to ride on the statement.

**The Speaker** (Hon. Ethuro): Proceed, as long as it is relevant to it.

**Sen. Khaniri:** Mr. Speaker, Sir, the case of Elizabeth Akala is very sad. I know she was buried last Saturday in my county. Unfortunately, I did not make it to attend the burial, my condolences to the family. I hope that God rests her soul in peace.

It is unfortunate that this is coming just after we buried one Alex Madaga---

**The Speaker** (Hon. Ethuro): Order, Sen. Khaniri. I thought you wanted a further request to the statement, not making your own submissions.

**Sen. Khaniri:** Mr. Speaker, Sir, I am building my case.

**The Speaker** (Hon. Ethuro): Can you do it quickly?

**Sen. Khaniri:** I will do it very quickly. Give me one minute, Mr. Speaker, Sir, I will be done. This is similar to Mr. Alex Madaga's case who died under similar circumstances. I sought for a statement here from the same Committee you have directed the Senator to direct the statement to. Up to now, the statement has not come even after you further directed that the statement be made by the Senate Deputy Leader of Majority.

This is a clear case of professional negligence. It is sad that it is happening to residents of my county. Not that I wish it to happen to any Kenyan. It is sad that two cases have happened in my county, one after the other. What action will the Government take in terms of compensating the two families? These individuals died in Government institutions due to professional negligence. The families are entitled to compensation.

**The Speaker** (Hon. Ethuro): Is the Chairperson, Committee on Health, present? Is the Vice Chairperson or any other Member of the Committee here?

Yes, Sen. (Dr.) Machage, now that it has been clarified.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I want to make this statement before I give a date of response. It might not be prudent for us to blame the medical personnel at this time. Let us investigate---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Machage. You know the rules of this House.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I am trying to give half an answer.

**The Speaker** (Hon. Ethuro): You cannot give half an answer.

**Sen. (Dr.) Khalwale:** I do not want half!

**The Speaker** (Hon. Ethuro): You either give a whole answer or no answer, at least for now.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, two weeks should be enough to investigate the matter. But I think it is preeclampsia which has nothing to do with medical personnel.

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

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. We heard both of you. You will have another opportunity to interrogate that matter when it comes to the House.

Let us proceed.

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

**The Speaker** (Hon. Ethuro): I hope this is not a case of two doctors disagreeing.

**Sen. (Dr.) Khalwale:** No, Mr. Speaker, Sir. Lawyers have disagreed here severally and you have allowed them.

*(Laughter)*

Sen. (Dr.) Machage is pretending to give an answer by prepossessing that the cause of death was preeclampsia. That is exactly what I was saying. We want the exact cause of death determined. For avoidance of doubt, what he means by preeclampsia is that death resulting from high blood pressure in a pregnant woman. Since when did Sen. (Dr.) Machage practice medicine at the Kakamega Level 5 Hospital in the recent days to have made that opinion? If it is true, then that is the opinion that should be contained in the statement through the attached medical report of the medical superintendent.

Sen. (Dr.) Machage, this is not---

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. I think I had already ordered Sen. (Dr.) Machage, that in the statement, he must include all those facts.

Next Statement by Sen.(Prof.) Lonyangapuo.

**Sen. (Prof.) Lonyang'apuo:** Mr. Speaker, Sir, I am requesting for two statements.

First, I commend the people living along the areas where cattle rustling had been rampant for years. All the way from Baragoi in Samburu and Turkana East, running to my county, Nauyapong' and Loringiping in Turkana West. For almost six months now, we have had relative calm and peace. I commend the people who live around the border, for genuinely among themselves, even without serious support from the national Government, choosing to work towards the path peace.

#### FACILITATION OF PEACE COMMITTEE IN WEST POKOT/TURKANA COUNTIES

I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the chairperson of the Standing Committee on National Security and Foreign Relations regarding the facilitation of the peace committee, the Kraal leaders of West Pokot and Turkana counties. In the Statement, the chairperson should;

(a) Explain whether he is aware that the Peace Committee, Kraal leaders, of West Pokot and Turkana counties have been in existence for the last six months

(b) Explain whether the Government is aware that the Committee has played a key role in ensuring that there is relative peace and calm between the two communities through the committee's peace campaigns

(c) State the measures the Government has put in place to facilitate this important Committee, including provision of transport to cover their vast counties when they visit.

(d) State when the national Government will fully facilitate a special District officer (DO) stationed at Turkwel with the necessary facilities required for him to function.

Since it is been directed to the same Committee, can I read the last request for statement?

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

#### THEFT AT KAPENGURIA CDF BUILDING

**Sen. Lonyang'apuo:** Mr. Speaker, Sir, I also rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations, regarding the break in, on 11<sup>th</sup> October night, 2015 at the Kapenguria CDF building, which houses Kapenguria Constituency Office, the Ministry of lands and Ministry of Culture and Tourism for the County Government of West Pokot. In the statement, the chairperson should:

(a) State whether investigations into the break in were being carried out.

(b) Explain whether all the documents, including the sensitive land documents and computers that were stolen have been recovered.

(c) State whether any person has been arrested in connection to the break in.

(d) Explain measures taken to prevent similar occurrences in the future.

**Sen. Leshore:** Mr. Speaker, Sir, I thank Sen. Lonyang'apuo for coming up with that statement. I just want to give him a rider on that; it was North Rift leaders, where he comes from, that are the grand leaders of the Pokot and Turkana. Peace has prevailed in that area since we started the peace initiative.

I would like on that one, to ask the chairperson; what has happened to the promise they gave to those leaders to facilitate them to ensure peace prevails in that area and form a cattle rustling unit of the police.

**Sen. Adan:** Mr. Speaker, Sir, I request to be given two weeks to respond to those statements.

**The Speaker** (Hon. Ethuro): It is so directed. Including what Sen. Leshore has added in terms of the entire North Rift initiative and the special unit.

**Sen. Adan:** Thank you, Mr. Speaker, Sir.

**Sen. Leshore:** Mr. Speaker, Sir, allow me to seek a statement or a directive from you. Most of these statements have been appearing in the Order Paper for the last one to six months. So, I have been thinking that the people who are supposed to reply are either lazy, incompetent or corrupt. How can statements lie on their table for the last six months?

**The Speaker** (Hon. Ethuro): Order, Senator! There is no basis on which you can seek a statement from me. You can only rise on a point of order after failure to get responses to the statements listed.

## INSECURITY ALONG THE MERU-ISIOLO BORDER

**Sen. Adan:** Mr. Speaker, Sir, I do not have this statement, however, I will follow up and by tomorrow, we might have the answer.

**Sen. Murungi:** Mr. Speaker, Sir, the statement had been given last week by Sen. Haji. However, there were certain clarifications which he said he would go back to the Cabinet Secretary to seek, and come back with this week. So, since he is not here, it is only fair that we allow him to arrive. If he arrives before you finish this Order, then he can make that statement. If not, I am ready to wait for next week.

## CONSTRUCTION OF KAKAMEGA-KABURENGU-WEBUYE ROAD

**Sen. Sijeny:** Sorry, Mr. Speaker, Sir. I was consulting. Perhaps, I could find out what it was. I am not aware. We could move on to the next one. I will come back after consulting.

## DECLINING PROFITS IN THE TEA INDUSTRY

**The Speaker** (Hon. Ethuro): Vice chairperson of Standing Committee on Agriculture, Livestock and Fisheries.

**Sen. Ndiema:** Mr. Speaker, Sir, I am ready to give the statement. However, the Senator for Nandi who sought the Statement is not in.

**The Speaker** (Hon. Ethuro): Let us dispose it off at the end of the Statement Time.

STATUS AND PERFORMANCE OF THE LEATHER  
INDUSTRY IN KENYA

**The Speaker** (Hon. Ethuro): Chairperson, Vice Chairperson or any member of Finance, Commerce and Budget? Yes, Sen. Mositet?

**Sen. Mositet:** Mr. Speaker, Sir, I have the response and we have also given the Senator a copy. However, I shall read. The question was to explain why the country still imports over 90 per cent of its footwear requirement at a great cost in terms of foreign exchange and employment creation.

The response is: Kenya's leather production and exports consist mainly 90 per cent of the semi-processed tan that is wet blue with some finished leather, some leather footwear, handbags, travel wear and other leather products.

The sector has, in the past five years, moved away from export of raw hides and skins to processing and exporting of wet-blue. Despite this development, the sector is still a net foreign exchange consumer with footwear being the major import and wet-blue being the major export. Currently, Kenyan leather is produced and sold as a commodity primarily as semi-processed wet-blue leather with little quality or designed differentiation.

The recently launched Leather Industry by Organising Strategies and Action Plan Report developed with the support of the World Bank indicates that 63 per cent of the footwear is imported as used shoes, followed by imported non-leather shoes at 26 per cent, with a balance of 11 per cent being locally made shoes. Export of wet-blue, despite being classified as value addition, is a big disadvantage to the country in that it produces over 70 per cent of the environmental pollution load for only 30 per cent of the total value of the full processing. The cost of managing the waste load negates the gains from the exports. Also, exports of wet-blue strangles the forward movement to full value addition as it denies local manufactures finished leather, which is their basic raw material for either footwear or leather goods' production. This also limits the sector's capacity to generate employment.

Due to the concentration of export of semi-processed material that has killed production of local leather products, the sector has moved from a major foreign currency earner to a prime consumer of the same. Leather production that includes footwear and leather goods is currently done by Bata Shoes Company, a few other firms and small and medium firms in different parts of the country. Kariokor, the main production centre for Small and Medium Enterprises (SMEs) distributes its products throughout the county and the region. This production is away below the national demand, allowing room for massive importation. Currently, the per capita shoe consumption in Kenya is 0.85, translating to 34 million pairs annually. This demand compared to our production estimates of 5.2 million, then shows that the country has a deficit of 28.8 million pairs.

Kenya's lack of cost competitiveness results from three major constraints disadvantaging Kenyan producers. These are high cost of leather inputs, high cost of labour and high cost of electricity. In addition, on the demand side, the inflow of cheap new footwear and the growth of second-hand *mitumba* market represent two of the major challenges to greater value addition in footwear.

Mr. Speaker, Sir, the second question was about whether the policy in place to control dumping of footwear in the country kills local production. The response to this is that this has been brought about by policy changes in the past that led to collapse of the manufacturing arm of the value chain. Some of these policies include, but not limited to:-

(1) Market liberalisation that opened the sector to competition with foreign and sometimes, subsidized leather products; that is, used footwear *mitumba* and synthetic leather.

(2) Commercialisation of the support services namely; Kenya Industrial Estates (KIE) and Kenya Commercial Development Corporation (KCDC), which used to be a source of affordable capital and incubation for entrepreneurs.

(3) De-regularization of bank interest rates leading to high cost of money that is more suitable for trading but not manufacturing SMEs.

For the sector to regain its feet and attain faster growth, the principle of private and public partnership has to apply with the Government developing facilitative policies while the private sector generates investment.

In view of the above, there are various policy interventions that the sector requires to be implemented at short, medium and long-term to ensure that not only is the sector growing, but it is also globally competitive.

Lastly, the hon. Senator asked about the specific measures the Government has put in place to ensure that local manufacturing is empowered to fully utilise the available raw hides and skins for the benefit of the country. The leather sector has been identified as one of the priority sectors for industrial development. The recently launched Kenya Industrial Transformation Programme (KITP) targets the leather sector and proposes strategies for processing of finished leather and leather goods for the creation of additional 35,000 direct jobs in the next five years and between US\$150 million to US\$250 million in Gross Domestic Product (GDP) contribution. In addition, it will contribute to substituting a portion of US\$86 million in shoe imports yearly.

The Ministry, with the support from the World Bank, has undertaken a value chain study where the Leather Industry: Diagnosis, Strategy and Action Plan Report, was developed and its implementation has been started. To counter the growth of imports, the Government has established an inter-agency committee comprising the Kenya Bureau of Standards (KEBS), the Kenya Leather Development Council (KLDC), the Kenya Anti-Counterfeit Agency and the Kenya Revenue Authority (KRA) under the chairmanship of the Ministry of Industrialisation and Enterprise Development.

The Committee will liaise in standards enforcements, identifying counterfeit footwear and ensuring appropriate taxes are paid on imports. Proposals have also been made on import declaration so that all imported footwear is declared by pairs but not weight to ensure appropriate taxes are paid. The KLDC is looking for ways to tie importation of used footwear to a quota system based on local production shortfalls.

Mr. Speaker, Sir, the last question was about what the Government is doing to ensure that local manufacturing is empowered to fully utilise the available raw hides and skins for the benefit of the country. The Government identified the leather sector as a priority industry for development. Since then, there are strategies that have been initiated to accelerate its development. The Government, in implementing these strategies, has put in place particular interventions at the various levels of leather value chain. These interventions will ensure the industry regains its glory. The Government is putting in place specific measures which are:-

(1) Empowering the SMEs which currently account for over 50 per cent of local production.

**The Speaker** (Hon. Ethuro): Mr. Vice Chairman, please, summarize.

**Sen. Mositet:** (2) A programme of upgrading leather manufacturing.

(3) Training of SMEs in quality management and product branding.

(4) Initiated the development of first leather industrial park in the country at Athi River and the project is at feasibility and master planning stage.

Thank you, Mr. Speaker, Sir.

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

**Sen. Elachi:** Mr. Speaker, Sir, I thank the Vice Chairperson for the response. There are key issues that I wish to raise. First of all, when the Ministry tells us that the whole sector has been liberalised, which we agree, is the situation such that the Government or the Ministry cannot manage this sector which involves quite a large

number of Kenyans who are pastoralists in terms of understanding those who are exporting? Do we have any partnership with the countries that buy this product? If we do, it is time we had sort of a capacity building to ensure that the small and medium-sized enterprises (SMEs) can copy whatever the countries that are exporting this product do and do it in our country.

The other thing is that when you talk of Bata today, I think most of the Bata shoes that we wear come from China. When you tell SMEs that 34 million pairs of shoes are manufactured in our country and then 28 million is a waste and yet we have flooded the same country with all these shoes, where will they sell their products? What incentive have we given them to ensure that the cost goes down so that Kenyans can also afford to support their own?

Lastly, we cannot talk about waste management while we know that the same countries that are buying this product have technological ways of dealing with their waste. Can we import the same technology to ensure that we deal with our waste management? These are key issues that they need to tell us. Why do we have an authority that has been underfunded by our Government, if we know that this sector is taking care of small entrepreneurs?

**Sen. Mositet:** Mr. Speaker, Sir, there are more questions coming up from Members. Maybe you should allow them three minutes.

**The Speaker** (Hon. Ethuro): It was an oversight on my part. I see there are many Members who are interested.

**Sen. Murungi:** Mr. Speaker, Sir, this is a very sad story. In the 1970s, Kenya used to produce 90 per cent of its shoes and only import 10 per cent. In 2015, Kenya is importing 90 per cent of its shoes and only producing 10 per cent. This is one sector which is terribly underdeveloped and growing backwards. We should be ashamed as a Government to talk of a leather policy which does not move the industry forward.

I had an occasion where I met both the Cabinet Secretary (CS) for the Ministry of Agriculture, Livestock and Fisheries and members of the Kenya Leather Development Council (KLDC) in our Committee of Agriculture, Livestock and Fisheries. What shocked us was that during this financial year, the Council has been allocated only Kshs3 million in the national Budget. We are talking about creating a leather city. How can we create a leather city with only Kshs3 million? We would like the Vice Chairperson to tell us whether that allocation to the KLDC has been reviewed and increased or whether we are still talking of Kshs3 million.

*(Loud consultations)*

**The Speaker** (Hon. Ethuro): Order, Members! If you are interested in the intervention, please, press the “intervention” button and not the “requests”.

**Sen. Kagwe:** Mr. Speaker, Sir, I rise to seek certain clarifications. Switzerland is a country of six million people and yet it exports shoes across the world. The market for shoes in Switzerland is not just the Swiss but also worldwide. Therefore, the Chinese people are exporting their shoes here. That is why our industry is dying.



Given the importance of our pastoralist communities and value adding in leather to create jobs, would it be possible for the Government to subsidise the leather industry, rather than denying them the funds that Sen. Murungi is talking about? Is it possible for the Government to subsidize taxes and other things that they charge in the leather sector?

Secondly, within the World Trade Organisation (WTO), there is something called a “countervailing measure” that is supposed to protect our industry. Could the Government consider putting in a countervailing measure and that is a tax into the tune of 500 per cent for imported shoes that come into our country in order for us to protect our leather industry?

Mr. Speaker, Sir, Finally; what encouragement can the Government give to the private sector in order for them to develop a shoe industry? The Government will not start to make shoes. It is the private sector players who will. So, the question is; what incentives is the Government giving to the leather sector so that private sector players can have an advantage, not only for local production but also for the export market which is more important than even the local market for leather shoes?

**The Speaker** (Hon. Ethuro): Members, let us be brief.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, the type of answer that the Vice Chairperson brought is a very sorry state of affairs for our nation. This country is supposed to have moved from where it was as stated by Sen. Murungi. Today, we are 40 million Kenyans wearing 40 million pairs of shoes every day. Is that not enough market to guarantee us to continue building what we had before? I am saying this because Ethiopia came and photocopied our documents on how a leather industry can be done, today, we import shoes from Ethiopia and Italy.

You need to ask the Ministry through the Committee, to bring here a very serious paper because Kenyans are now being sacked from the industries that were built those days ---

**The Speaker** (Hon. Ethuro): Order, Sen. (Prof.) Lonyangapuo! It is Statement time.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, mine is very brief. We know that we have people with vested interests who import shoes from Italy and target the Kenyan market. My understanding is that the population that purchases shoes---

**The Speaker** (Hon. Ethuro): Order, Senator! I thought you said it was brief. Please, interrogate.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, yes. I now wanted to throw the bombshell.

*(Laughter)*

The population that makes use of the Italian shoes is less than 1 per cent of the Kenyan population. Could the Vice Chairperson tell Kenyans whether it is true or not that they are being held hostage by the rich people who make a living out of imported shoes at the expense of the poor?

**Sen. Haji:** Mr. Speaker, Sir, am I in order, if I feel as a pastoralist, that anything that benefits a pastoralist is never given consideration? This is because when it comes to

paying export compensation, the tanneries which normally buy raw material and export them as wet-blue material for finishing overseas are never paid. Everybody is aware that more than 20 tanneries have closed in the last 10 years. Could the Chairperson tell us what action the Government will take to reverse this situation?

**The Speaker** (Hon. Ethuro): Proceed, Vice Chairperson.  
Order, Proceed, Sen. Leshore.

**Sen. Mositet:** Thank you, Mr. Speaker---

**The Speaker** (Hon. Ethuro): Order! I have given the opportunity to Sen. Leshore.

**Sen. Leshore:** Thank you, Mr. Speaker, Sir, for giving me this chance. Sen. Haji has just spoken. The industries which are supposed to alleviate poverty levels among the pastoralists are leather industries, the Kenya Meat Commission (KMC) and mining. All these industries are underfunded and ignored by this Government. I would like to know from the National Treasury and the Ministry of Industrialization and Enterprise Development how much they will give to support the county governments, so that they take up the issue of Small and Medium Enterprises (SMEs) and train the pastoralists in the leather industry.

**Sen. Ndiema:** Mr. Speaker, Sir, I wish to seek clarification with respect to the tanneries that have closed. What will the Government do to ensure that they are reopened in the same manner that other industries have been saved, for instance, the sugar industry? This is an industry which supports very many people, particularly, those in the Arid and Semi-arid Lands (ASALs).

**Sen. Mositet:** Mr. Speaker, Sir, Senators have raised very weighty issues. I cannot offer the answers directly here. Through your office, I request that we have a Committee of the Whole meeting with the Cabinet Secretary in charge of this department so that all those issues which have been raised can be answered directly by him and the departments which are fully involved in this.

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

**Sen. Khaniri:** On a point of order, Mr. Speaker, Sir. I beg to vehemently object to what the Vice Chairperson is saying. We are setting a very bad trend. When you get a statement from the relevant Ministry or the Cabinet Secretary, they give you what is called supplementary information. You and I were Ministers in the previous Government and you know how it happens. If Chairpersons will come here and refuse to answer all supplementary questions and say that they want us to go to the Committee of the Whole, then we will not complete business in this House. When Chairpersons come, they must be ready to tackle supplementary questions. We are setting a bad trend.

**Sen. Haji:** On a point of order, Mr. Speaker, Sir. Is the hon. Senator in order to say, "When we were Ministers?" These days, we do not have Ministers. We have clerks who are called civil secretaries.

**The Speaker** (Hon. Ethuro): Order, Sen. Haji! Neither do we have the gatekeepers for them in the House. So, you are completely out of order.

Vice Chairperson, respond to Sen. Khaniri's point of order.

**Sen. Mositet:** Mr. Speaker, Sir, with due respect, we had also subjected the same questions which the Senators have raised to the same request. Up to now, we have not received the response. For example, what Sen. Murungi said; that the Leather Council is

suffering because it does not have funds. The leather industry is very important for this country. The best thing is for us, as a House, to interrogate the Cabinet Secretary or the department so that they can show the seriousness they need to carry this matter with.

**Sen. (Dr.) Machage:** On a point of information, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order, Sen. (Dr.) Machage! Who do you want to inform?

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I wish to inform Sen. Mositet.

**The Speaker** (Hon. Ethuro): Sen. Mositet, do you wish to be informed?

**Sen. Mositet:** Mr. Speaker, Sir, I do not wish to be informed.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Members! Sen. Khaniri has made a very valid point to all chairpersons. You must always anticipate supplementary questions and, therefore, you must have supplementary information with you. However, I also appreciate that Members have raised issues affecting the industry. So, maybe the Committee did not anticipate that kind of extent.

Vice Chairperson, you can deal with it in two ways; first, table the issues put to the Cabinet Secretary, if you can get the response within a week, the better. Secondly, if you do not, then get the Committee of the Whole House.

Next statement!

Order, Members! We are back to Statement (a); the last round.

*(Sen. Ndiema spoke off record)*

Sen. Ndiema, we are on Statement (a).

#### INSECURITY ALONG THE MERU-ISIOLO BORDER

**Sen. Haji:** Mr. Speaker, Sir, I am very sorry that I do not have the Statement. We were supposed to have the Cabinet Secretary this morning but the meeting aborted because he was once again at State House. I will pursue him until I get the Statement.

**Sen. Murungi:** Mr. Speaker, Sir, I am disappointed because this matter was postponed last week. It was an urgent matter. It is very unfortunate that this Senate has no procedure of even making statements by private notice, the way we used to do in the National Assembly so that matters which are very urgent can be responded to within 48 hours or so.

Mr. Speaker, Sir, 30 people have died in recent clashes on the border of Meru and Isiolo. Out of the clashes, 15 people from Meru County have been arrested. Some are still in custody. We are blaming the security chiefs in the area for discriminating against the Meru Community. That is what the Chairperson; Sen. Haji, was supposed to check; to ask why it is only Merus who being arrested and not Boranas. I still need that answer. If it is possible for him to give the answer tomorrow, I will appreciate. He can camp at the Cabinet Secretary's office this evening until he gets this answer.

**Sen. Haji:** Mr. Speaker, Sir, I am equally disappointed because I promised the House that I will issue the Statement. Unfortunately, I have not been able to do so. As I said, I will pursue the Cabinet Secretary until I get my brother rested on the issue of Isiolo and Meru.

**The Speaker** (Hon. Ethuro): So, when will you get the answer to the House?

**Sen. Haji:** Mr. Speaker, Sir, I find it difficult to say tomorrow or the day after. I will try next week.

**The Speaker** (Hon. Ethuro): Can you try to issue it on Thursday?

**Sen. Haji:** Mr. Speaker, Sir, I will try.

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

**Sen. Kagwe:** On a point of order, Mr. Speaker, Sir, allow me to just tell the House that, if I heard Sen. Murungi correctly, did he not say that he wanted to understand why the people in Meru have been arrested or did he say he wanted to know why the Boranas have not been arrested? He should make it clear. I am not sure if I got it correctly.

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

Sen. Kagwe, after the answer is brought, you can ask that question, if it is not clear yet.

Let us proceed with Statement (b).

Where is Sen. Sijeny, for the Committee on Roads and Transport?

#### CONSTRUCTION OF KAKAMEGA-KABURENGU-WEBUYE ROAD

**Sen. Sijeny:** Mr. Speaker, Sir, we communicated to the relevant Cabinet Secretary about Sen. (Dr.) Khalwale's request on the road to Kakamega, of allocating at least Kshs5 million to repair the road---

**The Speaker** (Hon. Ethuro): Order! Just tell us.

**Sen. Sijeny:** We have written but not received the answer. We have sought a meeting on Thursday. With your permission, we could report to this House on Tuesday next week.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I am saddened by the fact that at the moment, there are billions of shillings "flying" around in the name of *El Nino* intervention funds. The section of this road between Stand Mboga in Kakamega, at Shimala Vandu, all the way to Lubao up to Matsakha is short of probably two-and-a-half kilometres. All we are asking is a quick intervention, so that the road is motorable. Why are they not using the *El Nino* funds, because this is obviously an area where those funds would apply?

*(Sen. (Dr.) Khalwale gesticulated at Sen. Sijeny)*

**The Speaker** (Hon. Ethuro): Order, Sen. Khalwale! You know that you need to communicate through the Chair. Why are you looking at that Member? That Statement will be brought next Tuesday.

*(Statement deferred)*

Statement (c) by the Vice Chairperson, Committee on Agriculture.

#### DECLINING PROFITS IN THE TEA INDUSTRY

**Sen. Sang:** On a point of order, Mr. Speaker, Sir. I want to thank the Chairperson for the Statement which I have just received. It has a number of details in terms of figures and statistics. I request that this Statement be placed, possibly, on the Order Paper tomorrow.

**The Speaker** (Hon. Ethuro): It is so ordered! We try to discourage ambushes from here.

*(Statement deferred)*

That should be the end of Statements Time.

#### COMMUNICATION FROM THE CHAIR

##### VISITING DELEGATIONS OF MCAs AND STAFF FROM VARIOUS COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Hon. Senators, before I proceed to the next Order, I wish to recognize the presence, in the Speaker's Gallery this afternoon of visiting County Assembly Members and staff from various counties, namely, Vihiga County Assembly, Nyamira County Assembly, Nyandarua County Assembly and Makueni County Assembly.

Hon. Senators, the county assemblies are here on benchmarking visits and attachment to the Senate under the capacity building programme. I request to recognize each member of the delegation and ask them to stand when called out, so that they may be acknowledged in the normal Senate tradition.

From Vihiga County Assembly Public Accounts Committee, we have the following:-

Hon. Tom Atingo	-	Chairperson
Hon. Vincent Atsiaya	-	Vice Chairperson
Hon. Jackson Musunga		
Hon. Richard Mwihiga		
Hon Pamela Amunga		
Hon. Joshua Olao		
Hon. Wycliffe Masini		
Hon. Andrew Ahuga		
Hon. Gladys Analo		
Hon. Clyde Kweya		
Hon. Maureen Ambetsa		

They are accompanied by the following staff:-

Racheal Siamba

Brenda Ajema

Daisy Nyandiko

*(Applause)*

From Nyamira County Assembly House Business Committee, we have the following:-

Hon. Joash Nyamongo	-	Chair and Speaker.
Hon. Andrew Magangi	-	Deputy Speaker.
Hon. Raban Masira	-	Majority Leader.
Hon. Jackson Mogusu	-	Minority Leader.
Hon. James Peter Maroro	-	Majority Chief Whip
Hon. Fred Nyachae	-	Minority Whip
Hon. Ezra Mochiemo		
Hon. Zipporah Osoro		
Hon. Beuttah Omanga		
Hon. Naomi Ondieki		
Hon. Alfaro Ngeresa		
Hon. Lucy Onsusu		
Hon. Kenneth Nyameno		
Hon. Samuel Nyanchama		
Hon. Boniface Ombori		
Hon. William Abuya		
Hon. Rachael Asumari.		

They are accompanied the following staff:-

Daniel Orina

Sheila Obare

Willy Onkoba

From Nyandarua County Assembly, we have the following staff:-

Stanley Kimeria

Denis Adung'o

Faith Kamori

Paul Muia.

*(Applause)*

From Makueni County Assembly, we have Monica M. Munene.

*(Applause)*

On behalf of the Senate, and on my own behalf, I welcome all of them to our House and wish them fruitful deliberations for the remainder of their stay.

---

**Disclaimer:** *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate.*

I thank you.

Order, Senators! Mark my words; “on my behalf and your behalf.” On that basis, you can only make a very short rider.

**Sen. Khaniri:** Mr. Speaker, Sir, before I join you in welcoming the distinguished delegations, I notice that you skipped the name of one of my Members of the County Assembly, the member for Gisambai, hon. James Shairo Shimanyano. These proceedings are being covered live on television, and I am sure he wants his people in Gisambai to know that he is also here.

The Public Accounts Committee from Vihiga---

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. The issue that Sen. Khaniri has raised is very important. When visitors sit in the Speaker’s Gallery, are they seen by the Speaker or by Members in the Chamber? How did Sen. Khaniri know the member for Gisambai is in the Speaker’s Gallery? It is only the Speaker who knows who is in the Speaker’s Gallery.

**The Speaker** (Hon. Ethuro): Order, Sen. Khalwale! It is so obvious. It is also very responsible of the Senator for Vihiga to know when his Members visit this House. From where he is seated, he has the full view of the Speaker’s Gallery. He is right that, that name is not on my list, except just to confirm if that Member is there.

*(Hon. Shimanyano stood up in his place)*

*(Applause)*

**Sen. Khaniri:** Mr. Speaker, Sir, allow me to hail them for embracing the programme that you introduced of capacity building for our county assemblies. I think this is the fourth and last delegation that is coming from Vihiga. At the end of this attachment I think all the MCAs will have gone through the process.

I want to tell them that the Public Accounts Committee is one of the most important committees in our oversight role as Parliament. I want to encourage them to ensure that the funds that we send to Vihiga County benefit the people of that county. It is up to them to ensure that devolution actually works. We welcome and wish them a fruitful stay in the Senate.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): I wanted to restrict it to the Heads of the county delegation, but I will allow Sen. Obure.

**Sen. Obure:** Thank you very much, Mr. Speaker, Sir, for giving me this opportunity. I want to thank you for welcoming members of the various delegations, including staff from the counties, who have made a visit to the Senate. I am particularly delighted that Members and staff of Nyamira County Assembly are here.

The Members of County Assemblies play a very important role in the success and actualization of devolution. In fact, they are our partners in protecting the interests of the counties and we share the same legislative and oversight roles. I wish each of them a fruitful visit to the Senate and hope that they will acquire new knowledge and learn new techniques, which will help them in the performance of their duties.

Thank you, Mr. Speaker, Sir.

**An. hon. Senator:** There is only one person from Makueni.

**The Speaker** (Hon. Ethuro): Order! Sen. Mutula Kilonzo Jnr. Deserves a chance to speak on this. The quantum is not an issue.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, he was querying why we have only invited one member of staff from Makueni.

First, I want to thank the Office of the Clerk for informing me that a member from the County Assembly of Makueni would be visiting. I would like to encourage that tradition; where the Office of the Clerk notifies the respective Senators. I join you in welcoming them and hope that you are going to extent that invitation and hospitality to all the counties, so that we just do not hear about Vihiga County.

Thank you, Mr. Speaker, Sir.

**Sen. Ong'era:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. First of all, I would like to thank your office and the Office of the Clerk for setting up this elaborate programme of training members and staff of the county assemblies. Just like our leader of Delegation, Sen. Obure, said, I am also very delighted to see Members of the County Assembly of Nyamira, which is the sister county to Kisii County. I am happier to see that they are led by the hon. Speaker of Nyamira County, hon. Joash Nyamongo. I ask the Members to learn diligently from what the Senate offers, because it has set up elaborate programmes, which will offer solutions to issues in devolution, particularly their oversight role.

Thank you, Mr. Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, allow me also to congratulate and welcome the delegations from Nyandarua, Makueni, Nyamira and Vihiga; more particularly, Nyamira County which is led by my very good friend, Hon. Nyamongo and Vihiga County by my very good friend, Tom.

As they come here to learn, I want to encourage them that this "Upper House" is a House of example and very mature and balanced people, representing their counties. I want to encourage them that yesterday, we launched the *Okoa* Kenya Constitution (Amendment) Bill that will have a major bearing on them. It proposes the setting up of ward funds that will help them run their wards. I want to take the earliest available opportunity to implore them that when the Bill finds its way to their assemblies, they should vote "Yes," to ensure the progress of the country.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order, Senators! We should be progressing to Order Nos.8 and 9, but before we do so, there was a request for a Communication from the Chair, which is under preparation. I promise to issue the Communication tomorrow.

I, therefore, defer Order Nos.8 and 9 until that Communication is made.

(Applause)



**COMMITTEE OF THE WHOLE**

CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM  
ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY  
BILL NO.40 OF 2014)

*(Deferred)*

CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM  
ON THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY  
BILL NO.38 OF 2014)

*(Deferred)*

Order Senators! Sen. Leshore, I do not know why you have problems with the Speaker being applauded. I thought you would join in the celebration.

Hon. Senators, Order Nos. 10, 11, 12 and 13 are also deferred. We will now go to Order No. 14.

**BILLS**

*Second Reading*

THE OFFICE OF THE COUNTY ATTORNEY BILL  
(SENATE BILL NO. 37 OF 2014)

*(Deferred)*

*Second Reading*

THE COUNTY GOVERNMENTS DISASTER  
MANAGEMENT BILL (SENATE BILL NO. 40 OF 2014)

*(Deferred)*

**COMMITTEE OF THE WHOLE**

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)  
BILL (SENATE BILL NO. 20 OF 2014)

*(Deferred)*

THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE  
BILL NO. 32 OF 2014)

*(Deferred)*

**BILL**

*Second Reading*

THE KENYA NATIONAL EXAMINATIONS COUNCIL  
(AMENDMENT) BILL (SENATE BILL NO. 7 OF 2015)

*(Sen. Musila on 27.10.2015)*

*(Resumption of Debate interrupted on 27.10. 2015)*

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker Sir. I need your guidance. When we last rose in the House a week ago, I was on the Floor and at the time the Clerks switched on the red lights, I mistakenly thought they were warning me that my time was up. So, I prematurely said “I beg to support” when, in fact, my time was still available. Do I have the opportunity to carry on or I give way to somebody else knowing that the mistake was not mine?

**The Speaker** (Hon. Ethuro): Sen. Wetangula, you actually spoke for 30 minutes and you are entitled to one hour. But I think under the circumstances, it will be an elaborate programme to confirm who was right and who was wrong. Since I am sure that one hour is available to you on many other Motions, I encourage that you live with the consequences of your mistake.

**The Senate Minority Leader** (Sen. Wetangula): What of the clerk who switched off the red light without warning?

**The Speaker** (Hon. Ethuro): We will punish those ones. Who is interested in contributing to this Bill? Given that there is no much interest, I will allow Sen. Wetangula to make use of the balance of his time. That way, we will redeem the clerks from being punished.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, at the time we terminated debate, I was on the Floor encouraging Sen. Musila who has brought this Bill to make sure that the process of releasing certificates to students must be handled hand in hand with the policy on free education. In fact, the headteachers of schools have absolutely no business holding onto any student’s certificate for the reason that the exams that give those certificates are not set by the schools, they are not marked by the schools, the certificates are not awarded by the schools, and so, in fact, the head teachers and the schools are conveyer belts of certificates to students.

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

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

Mr. Temporary Speaker, Sir, the money that is paid for examinations whether by the Government or by individual parents is transmitted to the Kenya National Examinations Council (KNEC), it is not retained by the school or the Ministry of Education. So, the schools have absolutely no right in law and, in fact, holding onto any student's certificate---. In fact, I encourage Sen. Musila to make it punishable as a criminal offence for any head teacher to hang on to a certificate of a student after examinations have been done and results have been released.

Mr. Temporary Speaker, Sir, secondly, it was a general view and the Members present were in agreement that when results come out and result slips are sent to schools, children who have got those result slips must be allowed by law – and Sen. Musila should organize to bring an amendment – that a possession of a result slip should allow and access a student to a job opportunity. A student who has a result slip with a grade of B-, grade C or grade D, if they are recruiting policemen and they require grade D, with that result slip, they should be eligible to go and compete to be recruited and the certificates will follow them at their jobs or in their colleges.

**The Temporary Speaker** (Sen. (Dr.) Machage): You know our Standing Orders also allow you to move the amendment and not only Sen. Musila.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, that is correct. Since he is the promoter of the Bill and the Mover, I give him what we commonly call “the right to say no”. If he exercises that right to say no, then I will bring the amendment. But since he has gladly embraced my sound arguments on the matter, he waves the right to say no.

With those result slips, then schools can help children who have finished examinations go to the job market. The upshot of this is that, the Bill must also specify very clearly that no head teacher should hold on to a result slip of any student once the results are out and the result slips are forwarded to the schools, so that students can be able to go with them to the job market as they await their certificates.

Mr. Temporary Speaker, Sir, when you go to the schools to get the results of your child, the teacher tells you he can show you the results but he cannot give you the result slip because some school fees is outstanding. We are saying even that result slip is not the property of the school. The school is a conveyer belt from the Kenya National Examinations Council to the student who sat for the examinations. This is the only way we can help students and the Government of the day – even after 2017 when it will be a Coalition for Reforms and Democracy (CORD) Government – we must be obligated by the law that any requirement of outstanding fees payable by any student is a civil debt to the school.

If it is a private school, they reserve the right to sue the parent of the child and recover their money. But they have absolutely no right to incapacitate a child who has painstakingly gone through school for four years, and then finds him/herself without any document to show that he went to school. Because if you finish Form Four and you have no result slip, you have no certificate. What are you? You are only a Standard Eight leaver if you ever got the Standard Eight certificate.

Mr. Temporary Speaker, Sir, we live in a country where the certificate of education is the *Alpha* and *Omega* in life. When you are looking for a job – that is why

people even commit criminal acts going to forge degree certificates and do all manner of things – because without it, it does not matter how much you know. You walk into an interview room and everybody interviewing you is interested in your curriculum vitae (CV), where your certificates are. We even saw when we were vetting some senior Government officials here, when voting machines across the Floor voted for a man with fake degrees to become a very senior person. This is the problem we have in our system.

**The Temporary Speaker** (Sen. (Dr.) Machage): What did you mean by voting machines?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, distinguished colleagues who, when the time for voting comes, forget to think and vote. That is what I mean, and you have seen it happen.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. While I entirely agree with my party leader, I would like to remind him that a Senator speaking on the Floor must substantiate his allegations. Could he substantiate who amongst us constitute these “voting machines” because Kenyans are watching? They might think that I am part of the “voting machines.” Could he substantiate who these people are?

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Wetangula, you have been challenged.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I thought the Chair would promptly answer that the distinguished Senator for Kakamega is seeking for the simple reason that I said ‘across the Floor’. In law, we say that to specify one is to exclude others.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Wetangula!

**Sen. Leshore:** On a point of order, Mr. Temporary Speaker, Sir. Did you hear Sen. (Dr.) Khalwale say “my party leader,” when I know him as a United Democratic Forum (UDF) Senator?

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! He is entitled to identify, and rightfully so, his party leader.

**Sen. Kagwe:** On a point of order, Mr. Temporary Speaker, Sir. Did I hear correctly Sen. Wetangula say that people on this side of the House are voting machines? Could he point or name a voting machine on this side and continue to describe that voting machine? Some people may mistake me for a voting machine.

**Sen. Muthama:** On a point of order, Mr. Temporary Speaker, Sir. With all due respect to my leader, he mentioned voting machines across the Floor. Given that Sen. Boy Juma Boy is seated there, is he part of the voting machines?

**Sen. Lesuuda:** On a point of order, Mr. Temporary Speaker, Sir. I want to raise the fact that Sen. Boy Juma Boy was seated on this side. Also, is it right for the Senate Minority Leader to insinuate - since we vote using these machines in this House - that anyone in this House is actually a machine? It is Senators who sit in this House.

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Wetangula, you have a basketful of questions.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, to begin with, in response to Sen. (Dr.) Khalwale’s point of order, the maxim in law is that ‘to specify one is to exclude others.’ Therefore, when I said ‘in front of me,’ I excluded

‘behind me.’ Among the voting machines that I have in mind, excludes the distinguished Senator for Nyeri.

**Sen. Kagwe:** On a point of order, Mr. Temporary Speaker, Sir. Whereas I appreciate the exemption from being a “voting machine,” since I am looking at one as I stand here - and Sen. Wetangula has one that is even more crucial than mine - is he in order to imply that this side of the House has any voting machines except for the instruments that we use to vote?

**The Temporary Speaker** (Sen. (Dr.) Machage): I refer Sen. Wetangula to Standing Order No. 90 (6). I will read for him because he seems to have forgotten.

It states:-

“A Senator shall refer to another Senator by the title (Senator...(name of the Senator).”

You cannot refer to them as voting machines or any other name. Therefore, you are out of order. Can you withdraw and apologize?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, before I do that---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! The order of the Chair was very explicit. Could you withdraw and apologize? Even though you are my party leader, I am now the boss.

**The Senate Minority Leader** (Sen. Wetangula): The boss is driving me to behave like a machine. The instrument that the distinguished Senator for Nyeri is looking at is a machine used for voting and not a voting machine. That is the difference. A voting machine is an animate object and the machine is an inanimate object.

Thank you for the order you have given me. But if anybody cared to read widely, like yours truly has done---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Wetangula. We have visiting teams from our county legislative assemblies. I do not want them to learn bad manners. Could you apologize and withdraw, or I will revoke Standing Order No. 110.

**The Senate Minority Leader** (Sen. Wetangula): Invoke or revoke?

**The Temporary Speaker** (Sen. (Dr.) Machage): I will invoke the relevant Standing Order. Decide which way you want to go. I will invoke the Standing Order despite you being my party Leader.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I can assure you that they are enjoying immensely, but I will obey you. I reluctantly withdraw and apologize. I can see some of my colleagues nodding in approval. I can never call Sen. Haji a voting machine, but he knows that there are some voting machines in this House.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order!

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, this Bill is a liberator. I urge Sen. Musila that this Bill should be expanded. Although each university has an Act covering it, this is a generic law that covers education. It should be expanded also to cover that universities cannot hold on to students’ degree certificates, but they can hold on to the debts owed by the students as civil debts to be

recovered in the future. There are children out there whose parents sell land and family possessions, beg from others and hold *harambees* to barely see their children through education. They graduate but the university keeps their degree certificates forever. With the reckless Jubilee Government that is mired in tribalism, if you come from the “wrong” tribe, you cannot get a job in the Government. If you are from Samburu, Luo Nyanza, Western, Mijikenda, may God help you to get a job in the Jubilee Government. You will keep your university education as a souvenir.

When you go to look for a job, you are asked for your testimonials and you have nothing to give because you left them at the university. In the meantime, the job goes to somebody else. We have come to a level in this country where students from favoured communities leave the university with jobs waiting for them. I know people who have “tarmacked” for 30 years. If you have your degree certificate probably---

**Sen. Kagwe:** On a point of order, Mr. Speaker, Sir. I have a lot of respect for the Senator for Bungoma, having been my classmate and *rika* mate. But he is literally exhibiting certain characteristics that I did not know of him; for example, the address of people from certain communities that have got certain characteristics. He is a national leader who should be looking at the whole country holistically. Which are those communities that he is talking about that get jobs straight from universities?

**The Temporary Speaker** (Sen. (Dr.) Machage): At one time, hon. Shikuku made an allegation in Parliament to which Speaker Seroney, who was in the Chair, made a landmark ruling, I do not want to go that way, but I may have to.

Continue, Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, the Senator for Nyeri County is my great friend and we share many things, including what we see going on in this country. He is one of the Senators who would never condone what Ms. Waiguru is doing, but he cannot say it.

If my brother and distinguished colleague can look back to a month ago, the Jubilee Government appointed 350 parastatal directors. We are 42 communities in Kenya, but out of the 350 directors that were appointed, 97 were from one community; another 67 were from another single community. That is more than half already. Where are the other communities? Do we need to substantiate the obvious?

I know that the distinguished Senator for Nyeri is such a fair man. He can never condone such recklessness. It is being practiced by others who are putting this country on a path to nowhere. That is why, in the “*Okoa Kenya*” Initiative, we have said that no community in this country will ever occupy public offices that exceed their fair share in terms of percentage of their population. We cannot just have things that tear the country apart. We are helping this Government. In fact, the Jubilee Government should be thanking us for trying to bring order in the country given the mess they have, for example, corruption, nepotism and tribalism everywhere. They even want to steal money-

--

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Wetangula!

What is your point of order, Sen. Kagwe?

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, with all due respect to my colleague, to say that the Jubilee Government is the one that has created corruption, is pushing it too

far. We are aware that there is corruption even within CORD. We know that even among the CORD governors, there are those who are corrupt. In a meeting of the Committee on Finance, Commerce and Budget, I said I am aware---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! What is not in order?

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, he cannot say that the Jubilee Government is creating corruption while we know that it was created a long time ago by some people who are now in CORD.

**Sen. Ongoro:** On a point of order, Mr. Temporary Speaker, Sir. Is the hon. Senator in order to mislead this House and the nation and to interrupt presentation of facts by an hon. Senator who has gone to the extent of presenting facts? Is he in order not to counter those facts by another set of facts when we have the real facts before us?

**Sen. Muthama:** Mr. Temporary Speaker, Sir, it causes me great pain to see that when the country is bleeding, and foreigners like the Americans are here---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! Which foreigner is in this House?

**Sen. Muthama:** Mr. Temporary Speaker, Sir, I meant in this country not the House.

Foreigners are telling us that corruption has gone out of control. Instead of Sen. Kagwe – whom I respect very much together with his late father-in-law, whom I know he got some teaching from because he could not be corrupted – standing before us to deny that there is corruption in this country? He goes ahead to say that there is corruption in CORD---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Muthama! Everybody is entitled to his opinion. I do not remember hearing Sen. Kagwe deny that there is any corruption.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, you are correct and I am passionate about that. I was the first person to admit that there is corruption in this country. However, what I refuse to accept is that it has been started by the Jubilee Government. I know that corruption has been practiced by persons serving in both Jubilee and CORD.

**The Temporary Speaker** (Sen. (Dr.) Machage): Your point has been heard. Please, proceed, Sen. Haji

**Sen. Haji:** Mr. Temporary Speaker, Sir, I agree with you that we should not set a bad example in the presence of our guests. I say so, because we have forums where we can talk politically about the ills of the country, but not in the House. We should not derail the Bill before us. When my brother was speaking, I was convinced that what he was saying about the Bill was genuine. I, therefore, appeal to my colleagues to tone down. Corruption is practiced by many people in this country---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Haji! We have heard you. I wish that you had stood on a relevant point of order. The rule of relevance would have been well stated and executed if you had stood on that point of order. All the same, I hope that everybody has heard you.

Please, proceed, Sen. Muthama.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, is Sen. Kagwe in order to compare Jubilee and CORD in terms of corruption when we know who the biggest and the best thieves are in this country?

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Muthama! Decorum must be maintained in this House. Despite being open and giving you the latitude to argue, the Floor should not be used to abuse others.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, he said that there are thieves in CORD.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Muthama! Do you want to exchange with the Chair? Please resume your seat.

Please, proceed, Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, it is important for the record of this House and for posterity. The Senator for Nyeri County has alleged that on the side of CORD, we have people who are also corrupt. He is entitled to that. However, because many of us on this side have spent our entire life in politics fighting corruption, could he substantiate so that the record remains clear who it is on the CORD side that is corrupt?

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Kagwe, you have been challenged.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, for purposes of clarity, let me repeat what I said. I said that in response to the accusation that the Jubilee Government is the one that is creating corruption, it is not true. I admitted that there is corruption in this country, but it is not confined to Jubilee alone. It is in both Jubilee and CORD. Let nobody say that there is a side in this House that can throw a stone.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Kagwe! This is a House of records. You have been challenged to substantiate and name the corrupt individuals in CORD. You are supposed to either reply or withdraw.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, it would be the height of hypocrisy if we were to say as the Hon. Senator from Bungoma has said, that there is corruption in Jubilee that has started with us without naming anybody because a party itself cannot be corrupt. It would be wrong for me to mention names and I know some Members will agree with me.

Mr. Temporary Speaker, Sir, that would be the height of hypocrisy if anybody were to stand up to say that the members in CORD are as clean as Caesar's wife. That would be absolute hypocrisy. It is known that this country suffers from corrupt individuals who sit on both sides of this House.

**Temporary Speaker** (Sen. (Dr.) Machage): Sen. Kagwe, I have not given you time to debate.

**Sen. Ongoro:** Mr. Speaker, Sir, this is a legislative Chamber. What the Senate Minority Leader was presenting here were facts. We are aware that we are under the Jubilee Administration. I thank Sen. Kagwe for admitting that there is corruption. That is very good. What Sen. Wetangula presented here was a list of 350 appointments. He stated that 97 of them were from one community and another 67 were from another community yet we are 42 communities.



In his opinion, he went on to state that this is a recipe for corruption. What we needed to hear from the other side is not argument for argument's sake. If we are presenting facts which are not true, then present contrary facts which are true. The whole list was in the newspapers. The Jubilee Administration is the executive and the buck must stop with them. It is not the CORD coalition that made those appointments. Is he in order to keep misleading Kenyans and this House?

**Temporary Speaker** (Sen. (Dr.) Machage): Hon. Members of the Senate, listen very carefully. I know everybody has his own opinion and definition on the term "corruption". Facts have been stated. You have facts whether in Government or opposition side. Let us listen to Sen. Wetangula. We do not have to derail his opinion so much to stir our thinking that we so much shift from the debate of the Bill. So, that subject remains closed at that level.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, for the record, Shakespeare never said Caesar's wife was clean. He said she was honest.

**Temporary Speaker** (Sen. (Dr.) Machage): What is it, Sen. Muthama? Be careful. If you revisit what I have already closed, you know the consequences.

**Sen. Muthama:** On a point of order, Mr. Temporary Speaker, Sir. I am trying to make sure that the records of this House remain intact, because it is a House of records. In your ruling you asked Sen. Kagwe to substantiate. He just sat down without substantiating his allegations. Not a single name. I am in CORD.

**Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! The decision on whether he adequately substantiated or not, remains on this Chair.

**The Senate Minority Leader** (Mr. Wetangula): Mr. Temporary Speaker, Sir, the foundation of this Bill is Article 43 of the Constitution. Every person has the right "a", "b", "c", and "d" to education. If you have a right to education, how do you exercise or realize that right if some head teacher somewhere says you cannot get your certificate? If some university Vice Chancellor says you cannot get your certificate, that right becomes moribund. It becomes totally academic.

I urge this House to support this Bill so that the children in Nyeri, Bomet, Samburu, the favoured Kiambu, Kakamega, Bungoma, and everywhere else favoured and not favoured---

**Sen. Wamatangi:** On a point of order, Mr. Temporary Speaker, Sir. Is the Senate Minority Leader in order? Did you hear him refer to 'the favoured' when referring to Kiambu County? Could he substantiate what he means by that? What favouritism? Who is favoured in Kiambu? He must be speaking, and God forbid, from a point of very little information about Kiambu County.

**Temporary Speaker** (Sen. (Dr.) Machage): Order, Senator! You have made your point. Sen. Wetangula, did you actually say that?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, Jesus said; how comes those with eyes do not see, those with ears do not hear, those with mouths do not speak, even when they speak you do not understand?

*(Laughter)*

Could there be a more favoured county than a county that has produced two Presidents from the same house? Can there be any greater favour than that? If my brother does not understand this, then he will not understand anything else.

**Sen. Wamatangi:** Mr. Temporary Speaker, Sir, I have a lot of respect for the Senate Minority Leader, especially his level of education. We may not agree on ideals and ideas. However, there are two simple English words that he ought to have learned the meaning of, better. The words “blessed” and “favoured”.

He should substitute the word “favoured” with “blessed”. Blessings come from the good Lord and you cannot stop them.

*(Laughter)*

**Sen. Lesuuda:** Mr. Temporary Speaker, Sir, with all due respect to Sen. Wamatangi, Senator for Kiambu, I do not see why the word “favour” is a problem. It could be favour from God, because geographically, Kiambu is so near to Nairobi and so on. It could be a favour of any form.

*(Applause)*

**Sen. Ongoro:** Mr. Temporary Speaker, Sir, honestly, I was quite shocked that the Senator for Kiambu should complain. When we use negative adjectives, he complains. When we are now using very positive adjectives, he is complaining. What will he not complain about? What is wrong when he is told that the words “blessed” and “favoured” are one and the same? Kiambu is favoured and blessed. We can describe it with all the other positive adjectives we know of.

Thank God and thank us for bringing it to the fore.

**Temporary Speaker** (Sen. (Dr.) Machage): Order, Senators! I wish that very statement made by Sen. Wetangula was true to the Kuria people. Sen. Wamatangi, just smile to the gods and sit and rest.

Continue Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, if you noticed, Sen. Wamatangi was purporting to protest. He was actually smiling broadly in appreciation of what I said.

*(Laughter)*

Let me end so that other colleagues can contribute by urging this House, that this Bill is a liberator. It will liberate our children, your children and the children of the people we represent. That after the passage of this Bill, no head teacher in this country will ever withhold a certificate of any child, regardless. That opens up an avenue and unleashes the potential of every child to go to the job market and compete; to move to the next level and find their bearing, including the children of the protesting distinguished Senator.

Mr. Temporary Speaker, Sir, I want to end by encouraging Sen. Musila that at the end of the Second Reading, he must try and incorporate all the good ideas contributed

from the Floor by hon. Members so that when this Bill is signed into law, it will serve this country for posterity beyond the next 20 to 30 years.

With all those many remarks, great contributions and humor from across the Floor, from my colleagues behind me, I can assure you that anybody who thinks that this kind of debate is a display of negative behaviour in the Senate is mistaken. This is how debates are carried out in Parliaments, the world over. Any debate without humor and light moments is a monologue. We do not want to come here and deliver monologues the way some of my colleagues will want us to do.

Mr. Temporary Speaker, Sir, I love the way you handle the Chamber, because you display humour; just like one time, I saw a very small, weak man who had been provoked by a huge, strong man. Instead of the weak man asking for help from people he said; restrain me from killing this man, when he had no capacity to attack him.

Thank you. I beg to support.

**The Temporary Speaker** (Sen. Machage): Very well. I wonder who the weak man in that context is but all the same, you can keep to your thinking.

**Sen. Elachi:** Thank you, Mr. Temporary Speaker Sir. I also rise to support this Bill bringing into perspective what happened a few weeks ago when our children started examinations. When we look at the situation now, we ask ourselves as a House of Senate, if indeed, the children who have just finished their Kenya Certificate of Secondary Education (KCSE) exams will really one day not be affected by what we saw of the examination management and procedure; on how the examination was handled and the cheating that took place.

I want to thank Sen. Musila that we are now coming to the core of the challenges which parents have faced for many years in terms of paying school fees for their children. They end up finding themselves going to school, sometimes the gates are closed, you cannot access the school to go and plead that your child has been given a position to join university but does not have his or her certificate and the documents required. Many parents have suffered in this country because of that.

Mr. Temporary Speaker, Sir, it is time we overhauled the whole system of the Kenya National Examinations Council starting from the clerks. You find that while you are a parent labouring for more than 12 to 14 years to see your child at another level of education---. I remember the children of Maranda National School. I will never forget what those parents went through. Their children had passed, but because of a computer error, of which even when you ask the Kenya National Examination Council, that if you can disqualify children because of a computer error, then it means the manual one is more terrible. Those children had a rough time because they repeated a whole year to sit for exams and get their certificates.

As we move on, we need to amend the Bill and ensure that we have penalties for both sides. We cannot have a situation where one party dictates to the other without arbitration. Both parties must take responsibilities and be fair to each other. If we do that, the children cannot go through this suffering.

This has made the children change their values. That is the reason why we have got more cases of exam cheating or leakages because they want to pass their exams. This notion that we must have certificates in this country has also killed our education system.

Students believe that as long as they have a certificate, it does not matter how they got the certificate or whether they have done research and their thesis is good. It is indeed one of the biggest challenges, and as legislators we need to ask ourselves whether this can take our country to the next level of industrialization. Are these students who are graduating able to move this country to the next level? It is something that we really need to look into.

I believe that this House should not do things the way the National Assembly does theirs. This is a House that can bring solutions to some of the challenges that we face in this country. Therefore, when we see what the Kenya National Examinations Council has been doing for the last 20 years, we need to ask ourselves whether we have burdened our children with the 8-4-4 system to the extent that they cannot understand what we really want to achieve or whether the subjects are too many. Why are children panicking at the last minute to exams, forcing them to go on strike?

Why is it that after doing all that, parents again start suffering following up the release of certificates for their children? Even when we had the old Constitution and the President gave an order requiring Principals to release certificates to students, you would still find a very powerful Principal who would not heed the directive from the President. This is something that we also need to ask the teachers. While we fight for them to get their salary, their performance is wanting and, therefore, it is not just the Kenya National Examinations Council, because at the end, who are the examiners? It is the teachers who are hired by the KNEC.

Do we need to change the system of marking exams, so that everyone feels that his or her child is comfortable while she goes for the exams? These are issues that we need to raise. While we look at Article 43 of the Constitution, we also have to look at Article 47 (3). It appreciates that children in this country must be respected, especially in terms of their knowledge. In the recent weeks, I saw a situation where the Kenya National Examinations Council and the Ministry of Education mismanaged the leakages and cheating of KCSE 2015 exams and it was indeed sad.

Internationally, we have put our children into a very critical situation, because if your child will want to join a credible university abroad and do exams in 2015. Those results can be questioned by that university. Therefore, as the Senate, we need to ask the Kenya National Examinations Council how they have managed that situation. Are we sure that parents are not going to suffer come next year and be told that this school was found cheating and, therefore, 100 students are not going to receive their certificates and that they have to repeat? We must call them and ask them what mechanisms they put in place to ensure they curb leakage of exams.

As Sen. Musila amends the Bill to ensure we have free secondary education, the certificates must also be free because you cannot go for free education and then at the end, you are asked to pay for what you have been getting for free. That is one thing that has hurt Standard Eight pupils that we used to say we are offering free primary education to; but when it comes to exams, we ask their parents to pay for the exams.

As we move on, the Government must ensure that when we talk of free, we should let the parents feel that it is indeed free service. It is also very sad when our children believe that to do well in examinations, they must cheat. That is how corruption

gets into our minds. It is a very dangerous level of corruption to believe that it is by cheating that an individual can get a job. It is a moral and ethical situation which we must find out how to deal with. As we deal with corruption, we must also deal with our character.

How do we ensure the values provided under Chapter 6 and Article 10 of the Constitution are adhered to? Kenyans supported Chapter 6 because they felt that their moral values had gone down. It is not only students in public schools cheating in examinations, but also private primary, secondary schools and universities practice the worst cheating than the former. In these schools, the students are manipulated to understand the examinations. Students from public schools are not the only ones cheating. Private schools drill their students such that when they sit for the examinations, they already know what is coming.

The Bill should address both public and private schools because the two rely on the Kenya National Examination Council for their examination results. It is not fair for our country to go into a situation where the rich are the only ones who can access better education systems. It is through education that the poor and the rich can share a table. It was a wrong idea not to devolve the education sector because we would have dealt with so many issues. However, as much as others are complaining that challenges arose when the health sector was devolved, the challenges are there because of the leaders who are not ensuring that the systems work. We cannot blame it on devolution. Education is also devolved because the schools' merit ranking is done at county level. Selection of students to join Form One or other institutions of learning is based on counties.

Mr. Temporary Speaker, Sir, I know Sen. Musila has worked on this legislation very well. We started it as a Motion and now we have a Bill. This is the best way to deal with the rot in our national examinations and the education sector. We must face and deal with it. Instead of the National Assembly - I am sorry to say this today - focusing on new dispensation, with the powers to budget our finances, they are messing up most of the amendments that they bring. That is why the country is facing the problems we are facing today. It is because we have refused as legislators to appreciate the new Constitution and work together to see things move in this country.

Mr. Temporary Speaker, Sir, the people of Kenya will blame us that they elected us but we never changed their lives. What we have done instead is that we have messed up their lives because we have refused to understand that this is what Kenyans believed in. They believed their representatives can come up with laws that can guide the country.

I hope the Senate Committee on Education will follow up on this so that next year, we do not see the Kenya National Examination Council (KNEC) name the schools that cheated and those that did not. This year we want to see a difference because they did not deal with the issue when it was alive and all over. They kept quiet and, therefore, parents should not suffer in January when the results are released.

With those few remarks, I support.

**Sen. Ongoro:** Thank you, Mr. Temporary Speaker, Sir. I support this Bill and I thank Sen. Musila. In the Tenth Parliament, he tirelessly promoted this and he talked about it so much. It is very sad that even after we passed it in the Tenth Parliament, this has not been implemented. This brings us back to the issue that we always talk about in

this country. There is the vacuum between policy formulation and implementation. So, we are back at it again.

Yesterday, I was watching a documentary about teenagers who have turned to drug trafficking, stealing and other vices. The rate at which they are being gunned down is worrying. It was very sad to see children aged between 15 to 17 years not living to celebrate their 25<sup>th</sup> birthday because they get to crime at early ages. They also handle all manner of weapons in trying to make a living.

When I was a Member of Parliament for Kasarani Constituency, I took my time to find out why many of my constituents were being gunned down at that early age. It is very sad when you talk to the faces behind crime and get their individual stories. I remember one such story where a boy aged 19 years told me that he got into crime to try and get money to collect his certificate that had been withheld. One thing led to the other and he got into petty crime. He did not have an opportunity to accumulate money to be able to collect his certificate. At the same time, he had an ailing mother, father and eight siblings to take care of.

Mr. Temporary Speaker, Sir, we always talk about the need to release the certificates. This is an emotive issue that should be taken seriously because as we spend millions of money to avert crime and bring up policies to eradicate poverty and create jobs, we are not implementing these policies and ensuring that the head teachers are compelled. When a Motion is passed in the Senate that they should not withhold the certificates anymore, any such teacher found withholding school certificates of any student should be taken to court for prosecution. This is a policy statement that has been made here and passed in this House. The whole idea of withholding certificates negates the spirit of education.

It is painful to take a child to school and pay through your nose to see your children through and only after Form Four, they find that their daughter cannot access her certificates. What do you expect an 18 year old girl who does not have a certificate and who is from a poor background and living in un-conducive environment to do? Therefore, the act of withholding certificates sparks off a chain reaction of negative social ills that this country still has to deal with. Teachers must be compelled to know that it will be criminal to withhold certificates.

Mr. Temporary Speaker, Sir, I am shocked that even as we talk about this, some schools have experienced this problem more than others. I encourage head teachers of such schools to emulate their counterparts. For example, I have a daughter who is in Form Two. In that school, we pay very high school fees during the first term. School fees is lighter in the second term and almost negligible in third term. Why would school head teachers not be innovative to ensure that fees is paid since they fully know well that once you admit a student in Form One, they will exit after four years?

They should stagger payment of fees to make sure that what is paid in Form Four is very minimal. They should put parents through a clearance system in first and second terms. By the time students sit for their examinations, it would be just minimal or no school fees at all. That means that by the time students sit for their examinations, one will not have any reason to withhold a certificate.

Mr. Temporary Speaker, Sir, I do not want to belabour the point which has already been talked about by my colleagues. However, we must realise that we are not an equal society. Kenya is one of the most unequal societies in the world. We know very well that we do not have schools for the poor and schools for the rich or schools for the children of Senators and schools for the children from unemployed parents. Therefore, we must take all these into account. The poverty levels in some regions are higher than other regions. We know that there are children in schools who are complete orphans.

Even when you talk about the most minimal and yet we do not have a policy that takes care of that category of children, it is true that we have very high levels of unemployment. When you check the level of unemployment of parents whose children are still in primary schools or have just gotten into secondary schools, you will see that it is very high. For that matter, some parents are forced to take early retirement packages.

Mr. Temporary Speaker, Sir, when I was listening to news yesterday, I learnt the sad fact that because of global warming, about 200 million people per year, towards 2015, will be relegated to living below the poverty line. Therefore, we have to think and act out of the box if we want to sustain the education system. Even as people earn less, become more unemployed and poverty levels increase, we have to ensure that we do not punish our children who are the future of this nation. We should not allow the fact that only a small number will be able, in the next few years to go through school and manage to pay the entire school fees in order to get their certificates. We must ensure that these kinds of policies that we pass in the Senate and even in the “Lower Chamber” are implemented, to ensure that we save our children.

Mr. Temporary Speaker, Sir, lastly, I want to talk about the issue of information. It is very sad that sometimes schools do not take it upon themselves to inform parents on time. It is only when you go to collect the certificate of your child that you are reminded that you did not clear school fees, pay development fund money and other things. Teachers know that at that time, you are really desperate to get the certificate out. They also know that you are also not in a position to produce the receipts that you were given three years ago. Therefore, as a parent, you are left at a very disadvantaged position. You have to pay through the nose or leave it at the mercy of the head teacher to see what to do. One thing leads to the other and before you know it, your child will have gotten into something.

That brings me to a very sad issue which has been highlighted by Sen. Elachi. This is about the quality of certificates that our children will hold, especially those who have sat their examinations this year. Kenya’s certificates have been held in very high esteem the world over. If we do not sustain that, then unemployment will even be worse. People who have undergone the Kenyan education system have been absorbed internationally because our education system has been held in high esteem and the human resource from Kenya has been favoured the world over. If we lose that, it means that even those who have been absorbed internationally will end up here with us and the situation nationally is already bad. That means that we will not do very well.

Mr. Temporary Speaker, Sir, the policy of releasing certificates should be implemented and records of students should be kept so that when they are employed, they

can be recalled by the various schools to repay, the same way institutions of higher learning have been doing. When you graduate, you can access your result slips.

There is a system that traces you immediately you are employed, become a Member of Parliament (MP) or venture into any other thing. You have to show a certificate of clearance by the Higher Education and Loans Board (HELB). We should transfer that system to our children, so that they are given certificates after school. However, when they join universities and eventually get employed, we can trace them back to the school, where they did their A-Levels or O-Levels and compel them to clear with the schools. I think that would be reasonable.

With those remarks, I beg to support.

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, from the outset, I rise to support the amendments to the Act and congratulate Sen. Musila. He has been with the Committee on Education, both when I chaired the Committee and now as a Member. I have witnessed his participation when we invited stakeholders, officials from the Ministry and so on. Sen. Musila has never missed a single sitting even though he is not a Member of the Committee because of passion. I also recognise and appreciate that he actually wants to amend an Act that he participated in creating.

Mr. Temporary Speaker, Sir, the Act that he wants amended was passed because of the same problem that he had noticed at that time and which still persists. At some point, former President Kibaki ordered the release of all the certificates that were being withheld. I am aware that Sen. Musila has tried to see whether we can issue the same decree to have all certificates released. However, everything has got good and bad bits. Today, because of the Constitution that we have, if President Uhuru ordered that, he would probably be taken to court by somebody.

So, it is only fitting then that we create the institutional framework that is necessary to get the job done. The job that we are trying to get done is to issue certificates to children.

Mr. Temporary Speaker, Sir, there is a sense in which this is a sad Bill. It is because it should not be necessary for us to pass a law in Parliament so that children from poor families can be given their certificates to look for jobs. I wish it was not necessary to have this Bill. In a civilized society, it should not be necessary for us to have a Bill like this. It should have been very obvious to everybody that a certificate that is being withheld can only be done so for one reason only and that is, the person cannot afford to pay. If the person could afford to pay, the certificate would not be held in the first place.

I am aware that there could be one or two notorious individuals who may just be refusing to pay. However, the average person would not withhold money from their own children so that their certificates are denied. If, indeed, it is the parents who have not paid, the sins of the father should not be meted on the child. When you think about a child walking to a school to beg for a certificate, explaining that the mother cannot pay and that they want to try their luck to join the police force or military – the only chance that they have to get out of poverty – and the child is denied that certificate, you weep for the nation.

Mr. Temporary Speaker, Sir, we have debated the proposed amendments in the Committee. A lot of debate still continues because we have people who object to this amendment. Those who are objecting to these amendments are head teachers because of



two reasons. The first one has to do with the fact that they will be held liable for allowing the assets of the school to be taken away; assets being the school fees that is due to the school.

Therefore, the Bill, as it is proposed now, will then remove that problem from the head teachers because the role of the head teacher is simply to issue the certificates to the education officers and the education officers will deal with those issues. So, we had to deal with the matter that the headteacher would be liable for school fees that has not been paid in terms of protecting the teacher so that the head teacher is not sued by the school or the Parents Teachers Association (PTA) about the certificates.

Mr. Temporary Speaker, Sir, one of the things that I am proud of in my political career is a school called Rev. Muhoro School for the Deaf and another one called The Kihate School for Orphans which I personally started. The Kihate School for Orphans is a secondary school where we admit students who do not or are not supposed to pay school fees because they are orphans. If somebody is an orphan, who in God's name will she or he go to, to get school fees paid; nobody?

In recognizing that the HIV/AIDS was rendering many children orphans, that is when we decided to start Kihate School for Orphans and students there do not pay school fees. Originally, those children were being housed by families neighbouring the school. Eventually, we built a dormitory for both boys and girls.

Mr. Temporary Speaker, Sir, the reason why this Bill appeals to me so much is because where, then, would these children get the money to pay for those certificates? Therefore, we support and applaud the Mover of the Bill so that we can remove this shame. Indeed, we can only call it a shame in our society. We should go further and eliminate all fees and consider secondary school as basic education which should eventually be free. I am sure that – my friend, Sen. Wetangula, will be very happy to hear this – as Jubilee continues to rule Kenya now and in the next Session, we will ensure that we create a situation where children will go to school for free.

**An hon. Member:** Say that again.

**Sen. Kagwe:** That is a matter of another debate between me and the honourable Senator.

*(Applause)*

In supporting this Bill, we also want to ensure that the certificates that our children get are not suspect. We are aware of what happened this year and it has been alluded to by many Senators who have spoken before me this afternoon. When there is rot in a place and you find that there is something happening to the national examinations, then some action should be taken. There must change of some sort to give us confidence. If it is exactly the same system that caused the leakages in the first place existing in the same offices we are now supposed to clear it so that next year we will not have leakages.

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

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

Madam Temporary Speaker, I know as a nation, we have a culture where nobody takes responsibility or vacates offices because of mistakes. When something like that happens when there is an examination council and leakages are so glaring such that you find examination papers on television, which then appear the next day in the actual paper, something is wrong. Somebody's head should have rolled and with no question about it. However, somehow, people are still there and they are expected to correct that situation. I do not see ---

**Sen. Muthama:** On a point of order, Madam Temporary Speaker. This Bill has generated a lot of interest. It is obvious that in the Rules and Business Committee (RBC), we have been trying to see how we can deal with business of this House as quickly as possible. Would I be in order to request the Chair to reduce the time from 20 to 10 minutes? Let Sen. Kagwe be given his 20 minutes but from there on, at least let us spend 10 minutes per speaker so that we conclude this business today and have some time for the Mover to respond and then deal with another business tomorrow.

**The Temporary Speaker (Sen. Ongoro):** Thank you for that observation, Sen. Muthama. However, it is not 20 but 15 minutes per speaker. So, are you requesting that we reduce the 15 minutes further?

**Sen. Muthama:** Madam Temporary Speaker, let us try to use 10 minutes per speaker so that we can have a chance for each one of us to contribute and then conclude the business today.

**The Temporary Speaker (Sen. Ongoro):** Thank you for your observation. We are considering it. I will give my ruling.

Proceed, Senator.

**Sen. Kagwe:** Madam Temporary Speaker, in support of Sen. Muthama's proposal, I rest my case.

I support.

**The Temporary Speaker (Sen. Ongoro):** Thank you, Senator.

Proceed, Sen. Muthama, Senate Minority Whip.

**Sen. Muthama:** Bi Spika wa Muda, ninaunga mkono Mswada huu. Mwaka wa 2004, kabla sijaingia Bunge, nakumbuka vizuri nikisoma na kusikiliza vyombo vya habari vikisema kwamba Mswada wa kuwapa watoto wa maskini na hasa wale ambao hawajapata stakabadhi zao nafasi ya kuzipata umepitishwa Bungeni kwa juhudi zake Sen. Musila.

Mwaka wa 2008, niliingia Bungeni na Sen. Musila akiwa Mbunge wa Mwingi alilifufua jambo hili na likazungumziwa mara ya pili. Katika Seneti hii sasa, jambo hili limekuja hapa, limezungumziwa, limepitishwa na leo tunalijadili jambo hilo tu. Swali ni; je, ni nani ambaye hafanyi kazi yake katika taifa letu? Hatufai kuzungumza sana juu ya Mswada huu kwa sababu ni dhahiri kwamba jambo tunalolizungumzia na kulisisitiza linawahusu watoto wa maskini.

Hakuna mtoto wa mtu anayejiweza ambaye hajachukua stakabadhi zake katika shule yoyote ya upili. Lakini wale watoto wa maskini ndio tunaowazungumzia. Leo ninataka kusema kwamba Sen. Musila labda katika mijadala na miswada iliyopita

mbeleni, Bunge zote hazikuwa zimeweka mikakati ya hatua ambazo zinaweza kuchukuliwa kama mtu hatafanya aliloagizwa kufanya. Lakini kwa sasa, tunaona kwamba kama Mwalimu au mtu yeyote atavunja sheria hii, atatozwa faini isiyo chini ya Kshs800,000 au kifungo kisichopungua mwaka mmoja. Labda mikakati hii itafanya kazi. Lakini swali ni; je, katika nchi yetu ya Kenya, kwani ni lazima kila kitu tutumie shingo ili tuende mbele? Lazima kupinda sheria na kulazimisha watu kufanya kazi ambayo wanastahili kufanya kama majukumu yao, watoto wa taifa hili na watu ambao wanajali maslahi ya nchi hii?

Bi. Spika wa Muda, tukiwa katika hali hiyo, utagundua kwamba mwalimu katika shule fulani anaweka stakabadhi za watoto waliomaliza shule mwaka wa 1990, 1991, 1995, 1998 au 2000. Mtoto akijaribu kwenda kuchukua stakabadhi yake, anaambiwa alipe karo ambayo ni malimbikizi ya miaka nenda, miaka rudi.

Katika shule ambayo nimefanya harambee na kusikiza matatizo yao, kila mwaka kuna bajeti ya shule ambayo inakisiwa kutayarishwa. Lakini haihusu malimbikizo hayo ya karo ambayo haijalipwa. Dhahiri ni lazima kwamba huyu mtoto akienda kuchukua stakabadhi yake, aende na pesa ili aipate. Swali ni; je, hii pesa inatumiwa kumlipa nani? Tunapigania maslahi ya walimu sana. Wengine wetu tuko kortini leo kwa sababu ya kupigania maslahi ya walimu. Tunataka kuona elimu katika taifa letu ikikuzwa hasa kwa wasiojiweza na ndiyo sababu tunasema kwamba badala ya kupata pesa ya kulipa walimu, Ksh25,000 au Kshs30,000 kwa kila mwalimu kwa kila mwezi, pesa hizo tunazitumia kununua kalamu moja ya wino kwa Ksh8,700 ilhali nchi hii ya Kenya haiwezi kumsaidia mtoto wa maskini kupata stakabadhi zake.

Serikali hiyo hiyo inanunua kipande cha sabuni ya panga kwa Kshs37,500 bila aibu. Na tukizungumzia mambo kama tunavyozungumza leo, watasema; “weka huyo ndani.”

Bi. Spika wa Muda, ni dhahiri kwamba kutoka tupate Uhuru wetu, hakuna kiongozi ambaye amewafikiria wasiojiweza. Mtu ambaye nimesikia akijitokeza wazi bila kuficha na kusema kwamba ni mtetezi wa wanyonge ni Sen. (Dr.) Khalwale.

*(Applause)*

Lakini walioweza kukalia madaraka ni zulia nyekundu, mkeka mwekundu na magari 20 barabarani. Ni mambo ambayo ukichukua gharama ya mtu mmoja kwa siku moja inawakandamiza watu 100,000. Halafu tunasema kwamba tuna taifa letu ambalo tunaweza kujivunia lakini mimi nasema kwamba nchi yetu imekuwa ni nchi ya kuvumilia, sio nchi ya kujivunia kwa sababu asiyejiweza bado yuko chini.

Bi. Spika wa Muda, ninashangaa ni kwa nini hatuyaoni mambo haya? Mpaka leo Wakenya ambao tunajidai kuwa watu wanaojiweza, tunaishi kama mahabusu. Kenya ni nchi ya kipekee ambayo unapata mtu anakaa kwa nyumba yake na kwa mlango, kumewekwa mlango wa chuma na kufuli mbili, tatu au zaidi. Juu ya hayo kuna askari. Nyumba anayolala mwenyewe imewekwa chuma kila pembe hadi dirishani. Hiyo nyumba ikipata moto, ni kufa tu. Hata wa kumwokoa hana pahali pa kupitia kwa sababu hakuna muda wa kuvunja vile vyuma na kutoka. Sisi tungelikuwa ni watu wa kujali, hatungekuwa tunalizungumzia jambo hili.

Watu wamefika kwa nyumba ya Sen. Musila, pia wamefika kwangu na kwa kila Seneta hapa. Hakuna Seneta yeyote hapa anayeweza kusema kwamba hajaamka asubuhi na kukutana na msongamano wa watoto na wazazi wao. Wakija kusema kwamba, kwa mfano, kazi ya polisi au jeshi inakuja, nisaide Mheshimiwa niende kwa shule nichukue stakabadhi za mtoto wangu ambaye alimaliza shule miaka mitatu iliyopita ili aweze kuajiriwa kazi ile ya jeshi.

Bi. Spika wa Muda, ukitazama, watu wanaofika sio chini ya ishirini na kila mmoja anadaiwa kati ya Kshs30,000 na Kshs40,000. Hakuna Seneta ambaye anaweza kupata pesa hizo kila mwezi ili atoe. Inatoka kwa Serikali na ni lazima Serikali ifanye kazi hiyo. Tukipitisha Mswada huu, ninataka kuona kwa mara ya kwanza, Rais wa nchi hii akiweka sahihi na kutoa amri kwamba ameweka sahihi yake na ni lazima hii itimizwe ili watoto wa maskini wapate stakabadhi ili waweze kujimudu.

Bi. Spika wa Muda, hakuna mtu anaweza kukuajiriwa leo, hata kama ni kufanya kazi ya chura bila kuulizwa vyeti vya shule. Wale watoto hawana, ilhali sisi tunakuja hapa, tunazungumuza---

**The Temporary Speaker** (Sen. Ongoro): Sen. Muthama, kazi ya chura ni kazi gani?

**Sen. Muthama:** Bi Spika wa Muda, kazi ya chura ni kazi ya kusafisha vyoo. Tunaibatiza isiwe chafu sana. Hiyo ndio kazi ya chini sana ambayo mtu anaweza kuuliza, lakini bila kuwa na stakabadhi hauwezi kupata. Hii ndio maana tunasimama na kusema kwamba ili tuwe taifa ambalo lina muongozo, Serikali ijaribu kujimudu iwezavyo. Mimi na wenzangu hapa Bungeni, tumefanya siasa kwa miaka mingi, huku tukikemea magendo na rushwa katika Bunge la Kumi.

Wengine walikuwa mstari wa mbele nikiwaunga mkono na wakiniunga mkono pia lakini leo hii ninashangaa kiwango cha hali ya magendo katika taifa letu na uporaji wa mali ya umma. Hivi sasa, hata sio kuiba, bali ni “beba twende” ama “ni ngapi, weka kwa kikapu tuondoke”.

Bi. Spika wa Muda, leo hii, hakuna nchi ya aibu kama nchi yetu. Tulipokuwa Tanzania kushuhudia kuapishwa kwa Mweshimiwa Magufuli tulishuhudia kwamba magazeti yetu yanasomwa sana katika nchi za kigeni, hasa Afrika Mashariki na kupitia mitandao ambayo ni ya kisasa. Cha kushangaza ni kwamba, ukichukua gazeti la Kenya, kichwa tangulizi cha hilo gazeti ni kuhusu Waziri, Katibu Mkuu ama mukurugenzi ambaye amehusika kwa wizi fulani. Hili siyo tukio la siku moja tu bali ni matukio ya kila siku. Ndiposa hata viongozi wengine wa Afrika wanasema kwamba Kenya ni kama kuna shule ya kufundisha wizi nchini, na unaweza kupata shahada ya wizi katika taifa letu la Kenya.

Viongozi wengine wa Afrika wanawambia wananchi wao wasithubutu kuwa kama Wakenya kwa sababu wakiwa hivyo, watakulana mpaka vidole. Sisi tutasimama lini na kusema, imetosha. Hatuendelei mbele na maskini anaendelea kuwa maskini.

Bi. Spika wa Muda, ninatabiri na kusema kwamba, hali hii ikiendelea, wale wanaoendesha magari wataanza kufurushwa katika magari kwa sababu mtu ambaye ana shida huwa hajui kutazama yaliyoko mbele yake. Tumbo ikihitaji chakula, mtu huwa hana jambo lingine la kufanya. Kwa hivyo, inafaa tuupitisha Mswada huu wa Sen. Musila mara moja, uende kwa Rais ili aweke sahihi yake na ianze kutkelezwa mara moja. Kama

kuna yeyote ambaye hafanyi kazi kulingana na sheria, inafaa aseme atafanya kazi katika nchi gani.

Nchi yetu sio maskini, kwa sababu ukitembea katika Jiji la Nairobi na uone vile mijengo inaendelea ama ukiangalia magari barabarani, hii ni nchi inajiweza. Wakenya ni watu wanaopenda kufanya kazi. Tunashangaa, kwa mfano, Serikali ya Jubilee inachukuwa Kshs1 bilioni, kuenda kule Galana kufanya miradi ya unyunyizaji maji, na baada ya mwaka moja, tunatangaziwa kwamba Galana Irrigation imetoa gunia 10 ya mahindi baada ya kutumia Kshs1 bilioni. Tunaambiwa kwamba huu ni utafiti unaofanywa.

Bi Spika wa Muda, mimi ninashangaa watu wa kutoka Bonde la Ufa, wanasimama na kusema kwamba Serikali inafanya kazi nzuri na huku mahindi ya wakulima maskini wanaotaka kusomesha watoto wao inaoza katika maghala yao. Hii ni nchi au ni pahali pa kuchezea mpira? Hii ni mali ya mtu au ni mali ya Serikali? Hii ni mali ya umma; mali ya maskini wa Wakenya. Kwa hivyo, ukiona jambo kama hilo linafanyika, na sisi tuko hapa tukijigamba kwamba tunaunda sheria, ilhali mambo haya yanapita mbele ya macho yetu. Tunaposema tuko tayari kufa kwa kutetea haki ya Wakenya, tunatishwa na kutupwa jela. Ni afadhali kukaa jela kuliko kukaa nje ukiwa mtumwa.

Naunga mkono.

**Sen. Lesuuda:** Thank you Madam Temporary Speaker. I also rise to support. On the onset, I would like to really commend and thank Sen. Musila for this very important Bill, for his consistence and for pushing to ensure that this becomes a law. I was a bit sad because it is something we had discussed. When I was a reporter we covered Sen. Musila pushing for it from 2007. We even passed it as a Motion in this House. We also know that the Jubilee Government through the Deputy President had also issued a directive that the same be done in our schools.

Madam Temporary Speaker, unfortunately, many of our schools did not follow the directive. They did not also follow what was passed in this House, and that is why we find ourselves in a position where we have to have a law to make sure this happens. I would like to thank and commend Sen. Musila for his consistency and for ensuring that this Bill passes in this House.

Reading the mood of the other Senators, we all agree that this is a very important Bill for our children, our country and for generations to come. Let me say that there are very many parents who are struggling to ensure that their children go through formal education. It is not that these children are not sharp in school. If anything, it is almost known that children of those who are underprivileged actually work so hard and even excel more than those who are privileged, but it is also unfortunate that at the age of 14 or 16 years, we condemn them to be failures. We condemn them to becoming thieves and prostitutes because they cannot afford to have their certificates or continue with their education and their lives or even to get a simple job.

Madam Temporary Speaker, what we are saying is that when we pass this Bill, we will not continue to condemn our children at an early age to become what we would not like them to be because they could not afford to have the certificates. The law is also very clear, even in the way it is, save for just a few sections that have been inserted in the

Kenya National Examinations Council Bill. They are so clear and I do hope that this time round, those who are involved at the policy level including the head teachers, will take the directive as it is.

It has also gone further to show how it should be done. We see in Section 45 (2) that it is the District Education Officer (DEO) who will have the jurisdiction, keep the certificates, and I am sure we can also have other mechanisms to ensure that later, these children can also give back to the schools or compensate the schools just as many of us have done through the Higher Education Loans Board (HELB). Many of us did not just go through our university because our parents were able but we have diligently continued to repay back HELB loans so that other children can also access this important facility.

It is something that we can look at because we also need to cushion our schools, because there are services that are being offered, there are needs in these schools as well and I think it is important, going forward, that it is very clear how we cushion our schools, how the Education Ministry can look at it so that this law is not abused by many. Many will just go through the four years but they are not able to pay. We will leave our schools in wanting situations. I do hope that we can be able to take care of it in this law or even further in our schools.

I would like the head teachers and our schools to realise that this Bill will not make them suffer by not meeting their ends. We know that some of the teachers have children in national schools where school fees are a little bit higher. Some of them are not able to pay fees for their own children in those schools. Therefore, this will cut across the board for all Kenyans and ensure that our children are cushioned through access to their certificates.

Personally, I speak for the children from different parts of this country. For example, there are children from northern Kenya who mostly rely on pastoralism and livestock keeping. They always face a challenge because of the cycle of drought. In this country, we have not taken livestock keeping seriously despite it being the only source of livelihood for these families and children. By the time the parents sell their livestock to raise fees, their children will have missed sitting for examinations. Sometimes the animals fetch very little because of the effects of drought.

As Sen. Muthama has said, it is unfortunate to see children or their parents coming to us to seek assistance to get their certificates. Some of these children performed well in the examinations. Some of them have been offered admission to universities through the Kenya Universities and Colleges Central Placement Service (KUCCPS). Some of the students who have been offered admission miss their positions, since they are competitive, just because they cannot get their certificates from the secondary schools.

This is a very important Bill that will level us. I believe that apart from death, one of the things that make us equal; whether you are from a privileged family or an underprivileged family, in this country and the world, is education. That is why despite coming from Samburu, I can sit in this Senate and speak eloquently. It is because I was educated. Those of us from such communities and in position of leadership are not more privileged than those who are not in these positions. We were able to access good

education and it is upon each one of us to ensure that all children across the country access education and not have any impediments to their education.

Madam Temporary Speaker, as a House, it is also important for us to have the same persistence and commitment that Sen. Musila has had. We need to follow up and make sure that this law works. It will not be business as usual; just passing Motions and Bills in this House. Whatever we pass here should be implemented on the ground. I hope our media will make sure that every school and everybody knows that this Bill has been passed. Come next year, the certificates that are being held should be released immediately. They should be handed over to the District Education Officers (DEOs), so that the students can access them.

There is also a very pertinent issue under Section 45(6) (a). It is something that one might look at and dismiss, but it is something that I have experienced with two students, one of which is from my county. The media had to bring out this issue for it to be resolved. The affected student had lost a whole year. I am happy and proud that now she is in a teachers training college, but time wasted can never be recovered for any child. Time is going, not mentioning the frustration that parents and young people go through.

The section states that a candidate who identifies a discrepancy in the certificate issued shall notify the council of such discrepancy within 30 days of the release of the result. It should go further to give a timeline of when it should be resolved. I know a student who went back to notify the council because her certificate had the name of a boy. It took so long to resolve the issue. Apart from putting it to the parents and the teachers that they should notify the council, we should also stipulate the time when the council should resolve this issues, so that the affected students can continue with their education or other areas of life.

Madam Temporary Speaker, I cannot finish without talking about the issue of exam cheating. This issue is a shame to our country. We do not know what to believe or where to start. We are doing a disservice to our children. Some of the children who really excel and are admitted through the KUCCPS to study Medicine or Engineering will get frustrated in universities. They will have excelled through cheating. They will end up dropping out of universities. What kind of people are we churning out? It is unfortunate that we are not seeing investigations going on despite the rampant allegations that have been going on about examination cheating. No one is even taking responsibility for it. What are we doing to our children?

We do not want to be told: “So many students got Ys in the examination results.” We need to get to the bottom of it and not engage in blame game between the KNEC and the Ministry of Education. That is neither here nor there. We need to put this matter to rest. We are now diverting the attention to say that we will have digital tests using computers. When will the children in Samburu or Turkana get computers to do these things? Before we get there, can we sort out the issues that we are having right now regarding examinations cheating?

How are the institutions which offer scholarships to children from poor families who excel perceive us, when every day in the media they read about irregularities in examinations? They will think twice before offering scholarships to Kenyans to study in

their universities. Let us think beyond and consider the damage that we are causing these children in terms of the great opportunities that we are closing for them universally.

We also need to think about the issue of Identification Cards (IDs). Most students finish school when they are 18 years old. We could ensure that they pick IDs from schools. Most of them do not have IDs yet there are needed for registration in universities and to apply for scholarships. The time wasted by these children staying at home also creates an idle mind. It becomes the devils workshop and that is why we are experiencing many issues. It is something we need to look at and agree on. Issuance of IDs in schools will get rid of the issue of regions because students will pick them from their schools. It is a right to all Kenyans. This is something that we need to look at.

Finally, so that I can let my colleagues to also contribute---

**The Temporary Speaker** (Sen. Ongoro): Your time is up. Do you support, Senator?

**Sen. Lesuuda:** Madam Temporary Speaker, with those many words, I beg to support.

**Sen. Hargura:** Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this Bill; the Kenya National Examination Council (Amendment) Bill (2015).

I thank Sen. Musila for having been persistent. When he was moving it, he mentioned this is not the first time and that he had started a long time ago. I urge him to keep it up until the full intent is achieved. It is a timely Bill because it is one of the issues that many Kenyans are going through. I come from a part of this country where levels of illiteracy are very high. We are at the level of 80 per cent. We all know the advantages of being literate and the disadvantages of being illiterate. Looking at individuals from the same family, the quality of life that an educated person leads is more often better than that of an uneducated person because the opportunities that they have in life are different.

We are now talking about an important aspect of education. Whether one has gone through an education system is supported by one's certificate. It is one of the most important things in this part of the world. Having it or not, makes a lot of difference in one's life. As I said earlier, it is the proof of your education and the only way that you can move from one level of education to another, for instance, from secondary school to a tertiary college or university or to get employed. It is, therefore, an important document in life.

Madam Temporary Speaker, the situation as it is currently is that schools are holding the certificates claiming the outstanding balances in terms of fees. Schools have to come up with ingenious ways of ensuring that fees are paid instead of penalizing the students. They know very well that it was not the student who generates the fee, but the parents, guardians or the sponsor. Therefore, the child cannot be penalized after he or she has exerted himself, got good grades in the examination, but he cannot move ahead because somebody somewhere did not meet his or her responsibility of paying school fees. We have to legislate on this to ensure that such a person's life is not curtailed because somebody did not pay the fees.

Kenyans, in their wisdom, passed the Constitution, 2010, which provides for right to education. Article 43(1)(f) says:-



“Every person has a right to education.”

It is sad that we still go back to say education can only be proved through a certificate. Therefore, if your certificate is withheld, it is as good as withholding your right because you cannot proceed from primary to secondary school without it, and more so, from secondary school to any other level. Therefore, if somebody denies you the certificate, he is curtailing your right under the Constitution. We need to correct that by making sure that certificates are not withheld.

Madam Temporary Speaker, Article 53(1)(b) says that:-

“Every child has a right to free and compulsory basic education;”

We all understand that basic education goes all the way to secondary school level. Most of the problems of certificate withholding are at the secondary level. Therefore, withholding them is against the Constitution. We should ensure that the certificates are released to their owners so that they continue with higher education or get employment to improve their standards of living.

Article 55(a) says that:-

“The State shall take measures, including affirmative action programmes, to ensure that the youth access relevant education and training;”

When we talk of training, it means university or tertiary education. If it is recognized in the Constitution that it is a right, it must then be actualized or realized by having the necessary proof of that education which is a certificate. If education is a right, then that certificate is a right of that student.

Madam Temporary Speaker, as I said, this is not the first time that Sen. Musila has worked on such kind of a Bill. As a result, we have the Kenya National Examination Act of 2012. Section 10(1)(b) of the Act talks of the prohibition of withholding certificates. However, it is not being realized because there are no penalties. Teachers are still withholding certificates. Once the Government issues a directive, the Kenya National Union of Teachers (KNUT) will run to court to say that certificates cannot be released until the fees are paid.

It then becomes a union issue yet they know very well that these are individual rights which should not have become a union issue. When teachers withhold the certificates, it is not because it is a KNUT issue or it affects the welfare of teachers. They do so knowing very well that certificates affects welfare of students. The first thing for the teacher to note is that he or she is a guardian and a parent to the students that they are mentoring. Therefore, they should not be the ones making their lives difficult by advocating for withholding of their certificates.

This Bill has come at the right time because we are introducing the aspect of penalties as we have it indicated in Section 45(8) which say that:-

“A person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding Kshs800,000 or imprisonment for a term not exceeding one year or both.”

When this Bill was discussed earlier, I heard some Members say that these are very stringent or harsh penalties. However, they have to consider the effects that the withholding of certificate has to the life of a person. It is much more than this. At face

value, the penalties might look harsh, but they are necessary because this will be the only way to get the certificates out of the closets of those withholding them.

Madam Temporary Speaker, it will also cure the issue of withholding by making sure that the certificates do not end up in at the school, in the first place. It is better if they could go to a central point at the district education office under which the institutions fall. From there, it is easy for the students to collect them.

There was another suggestion by a Member that the certificates should be taken to the respective schools where students can collect them because it is the pride of those schools. However, we have seen the adverse effects it has on those whose certificates are withheld. It is better if it is released through the district education office.

I also commend this Bill because it makes the certificate more personal by having the photo of the candidate embossed on it. This will make it easy for the district education officer to identify that the person picking the certificate is the rightful owner. I support this Bill and hopes that it is goes through and is implemented because as other Members have said, we have a lot of problems because many Kenyans whose only hope in life was their certificate, had invested all their parents had in going to school are not moving ahead because of lack of certificates. I come from a pastoralist community. I have established that no matter how much livestock you have, you cannot educate one child through school to university because the school fees are so high. One family cannot survive on the herd and take one child to school.

We have bursaries in this country. I would like also to urge those who administer bursaries, for instance, the Members of National Assembly who control the Constituency Development Fund (CDF), the school based bursaries from the national Government and any other source of bursary, to make sure that they target the needy. Sometimes you will find bursaries being given to beneficiaries who are not the needy. These are supporters of politicians. If you do not support that Member of Parliament, then you count yourself out because it is used to reward their supporters. When it goes to school, it is the head teacher to decide. If it goes to the District Educational office, that person is the one to decide. Most often, they do not follow the criteria to determine the needy. They are the ones who are actually missing out of school because they were left out on those chances of getting fees. Even those running those schemes should make sure they target the right people.

Madam Temporary Speaker, I support this Bill and hope that once it is passed, we will improve the lives of many Kenyans who right now cannot access many opportunities because of lack of this important document.

**Sen. M. Kajwang:** Thank you, Madam Temporary Speaker, for giving me the opportunity to speak on the Bill. I wish to start by congratulating Sen. Musila for coming up with this amendment to the KNEC Act.

Sen. Musila and I have just come from a Special Committee of this House that he chaired. He proved to be very meticulous, punctual and very detailed person. I am not surprised that he is the one responsible for this amendment.

I also wish to convey my success wishes to the 900,000 candidates who started their KCPE today. In the olden days, we used to send success cards, but in the days of *whatsapp*, *twitter* and *Facebook*, it has been quite difficult to send success cards to the students. I want to take advantage of this opportunity to wish the 900,000 students, some

of whom are my sons and daughters, success in their examinations. These 900,000 students are doing their exams just after about 500,000 young boys and girls have completed their KCSE. I also wish to express my belated success wishes to them.

I want to encourage the 500,000 who have just completed their KCSE to move with speed and acquire national identity cards and voter's cards because *Okoa Kenya* is coming. We want them to participate in *Okoa Kenya* because this holds the promise not for my generation, not for Sen. Murkomen's generation or the generation for the elderly people, but for the future generations of this country. I hope that we will get 500,000 new votes that shall contribute to the *Okoa Kenya* initiative.

(Applause)

Madam Temporary Speaker, I support this Bill because it attempts to do two things; first, it attempts to move the issuance of academic certificates to the DEO's offices and not at the schools. It proposes that we should emboss certificates with photos. As I speak, there is a young Kenyan who has been watching these proceedings, called Kennedy Odhiambo Asowa who has sent me his details. He went to Migori Boys High School. Two years down the line, he has not been allowed to pick his certificate because he has been told that there were some miscellaneous fines that had been slapped on him. This is a son of a man who spent all his adult life being a cobbler in Migori Town and his son cannot get his certificate so as to pursue other economic activities. That is sad, wrong and unfortunate. I am glad that Sen. Musila has come up with this amendment.

If you read the current KNEC Act, which my colleague Sen. Hargura has put out clearly, Section 1(d) of the KNEC Act already provides for this. When the Deputy President went around issuing the directive, that directive was backed up by law. When defining the functions of the Council, Section 1(b) of the KNEC Act states:-

"The council shall award certificates or diplomas to candidates in such examinations. Such certificates and diplomas shall not be withheld from the candidate by any person or institution."

Madam Temporary Speaker, yet this young man called Kennedy Asowa has still not been given his certificate. The law says clearly that certificate shall not be withheld for any reason.

This is one of diseases that are killing our country. That disease is called impunity. You have got a law that is so clear that certificates should not be withheld yet school principals and school administrators continue to hold onto these certificates, thereby denying young Kenyans economic and academic opportunities. This disregard for the law will bring this country down. When we legislate, we are not just legislating for the current moment.

Sen. Muthama has said none of the senators here stand to benefit from this amendment, because to a great extent, many Senators will not find themselves in a situation where they have financial or fees arrears for their children. We need to address the issue of impunity. If Section 10(b) already says that a certificate shall not be withheld from the candidate by any person or institution, why then should we come up with a Bill to make it happen? What will be done for the DEO's to comply? What will stop the

DEO's from conniving with the school principal, who is just across the road from influencing the DEO to withhold those certificates? We must deal with impunity in this country. That is why you heard sometimes when the President came to address Parliament, he said he has drawn a line beyond which if you cross you are expected to step aside. People step aside and others say they would rather die than step aside. Impunity is the problem for this country; it is not lack of legislation.

I, therefore, support this amendment for the fact that Section 10(1)(b) does not say where the certificates shall be issued. Sen. Musila has done a clever thing by making it clear that these certificates shall be issued at the DEO's office and not at the school where a student can be frustrated at the gate or at the administration block. They will be issued or collected at an independent public institution which has got no strings tied to the school where the student went to.

The second thing that this amendment attempts to do is to emboss certificates with photos. If you look at the certificates that are currently being issued, there are no photos on them, it is just a plain piece of paper with your grade and your information. This is a good idea that can give rise to a better idea. In the villages and for those of us who represent counties that are largely rural, there are many stories.

Madam Temporary Speaker, if you allow me to use your name as an example; you will find someone who is known by two names. The first name is his real name given at birth; the second name is a name they adopted because they used somebody's school leaving certificate to get a job. It happens a lot in the education sector. For example, you find Mr. Lonyangapuo is Lonyangapuo at birth and Lonyangapuo at examinations. But you find somebody else masquerading as Mr. Lonyangapuo because he stole Mr. Lonyangapuo's KCE certificate. Mr. Lonyangapuo only needed his Form Six certificate to advance to university. I am talking about impersonation and for those of us who came from counties----

**The Temporary Speaker** (Sen. Ongoro): Order! Hon. Senator, I do not know if I heard you well. Did you say that you were going to use me as an example? I do not understand. I kept quiet because I thought you wanted to state my name at birth, and maybe my marital name. If you do not clarify that kind of statement, I might be left in an awkward situation because people might think the name at birth happens not to bear the names on my certificates.

**Sen. M Kajwang:** Madam Temporary Speaker, I wanted to use you as an example, but I studied your demeanor, you were serious and stern. Then looking around, I saw Sen. (Prof.) Lonyangapuo who looked more amenable to act as an example.

*(Laughter)*

Madam Temporary Speaker, I was illustrating the impersonation that goes on with academic certificates. This used to happen a lot in the villages. For instance, we used to know that the name that he uses in the payroll is different from the name people call him because he had adopted someone else's certificates.

Having a photo on that certificate could go a step further to help in dealing with that impersonation. However, if you place a photo on the certificate, with time the

physical appearance changes. While young, especially men, they look handsome and nice, but with time and too much beer and meat, things change. So, you can have that photo on that certificate, but it might be a trick. It is a good idea, but it can give rise to a better idea.

The ultimate solution - we say we have a digital government, but it seems it is not digital as far as the Integrated Financial Management Information System (IFMIS) is concerned - lies in issuing a digital certificate that can be verified and authenticated. If we had a government that was committed to building a digital economy, we should have seen it by now. It is more than two years since the Government came into power. The foundation for a digital economy can be seen from far. If students had gotten laptops, we would be convinced we are moving towards a digital economy. If Konza City had taken off, we would be convinced that we are setting up the incubators that will underpin that digital economy.

Madam Temporary Speaker, if the digital Information Technology project had taken off, we would be convinced we are moving towards a digital economy. In that kind of environment, it would be easy and feasible to say that we not only put photos on certificates, we also insist on a digital certificate. There are certain things that KNEC must do. In 2014 or thereabouts, in a court in London, some people who were service providers of KNEC were jailed for bribing KNEC officials. Corruption is corruption; whether one is corrupted by receiving US\$200 or US\$ 1million, it is all corruption. The details of corruption allegations against the KNEC were quite embarrassing. An official received £200 via a western union. What level of hunger and desperation are the officials of the KNEC at? The Chief Executive Officer's child received a play station. Another set of officers received £1000. I know there are some people who say that if you want to eat a pig, eat a fat one. It does not justify corruption.

The KNEC has suffered a credibility crisis and the '*Chicken Gate*' scandal even though it happened in United Kingdom, it is important that we take urgent and firm measures to deal with this scourge of corruption in the examinations council. This is why the examination is leaked. If you see senior officials receiving £200, what do you expect the officials at a lower level who are responsible for storing or handling the examination papers to do?

Madam Temporary Speaker, corruption at KNEC and the brutal manner in which we treated our teachers is the root cause of the massive cheating that we saw in this year's examination. There are few countries in the world where examination cheating does not exist. In China, it is a crisis. In India, there is a problem. In the United Kingdom, the same problem is coming up. In Kenya, it has been there. However, this year, it reached a level that has not been seen before. Examinations are beamed during television news prime time, a day to the next paper.

There is hope that at the point of marking, cheating will be detected. It is funny that we know people have cheated and we are told to wait for the examinations to be marked so as to corroborate if there was cheating. The teachers have already said that the Government mistreated them so much, bullied them, the Attorney General went to court and bullied them using legal tactics and the Court of Appeal has overturned the award they had gotten. They are saying you can force a donkey to go to the pond, but you

cannot force it to drink water. They are saying when it comes to marking the examination, they will not care whether there were students who cheated or not. We are killing the future of this nation. When legislating, we need to look at the future generation, but not our immediate children and beneficiaries.

Madam Temporary Speaker, I support this amendment, but I still say impunity in this nation should cease. These are sound and well worded amendments. Section 10 provides that no one can be denied their certificate. We pray that the relevant officials shall give effect to this amendment.

**The Temporary Speaker** (Sen. Ongoro): In the spirit of balancing debate, from both sides of the House, I will allow Sen. Kisasa a chance to speak even though you were still far below in the list. There are four Senators before you, but I have allowed you, using my discretion.

**Sen. Kisasa:** Asante Bi. Spika wa Muda kwa kunipa fursa hii. Kama vile umesema, umenipendelea, nashukuru sana. Nampa pongezi Sen. Musila kwa sababu Mswada huu umebobea kama yeye. Kuna sababu ambazo zinafanya stakabadhi hizi zizuiliwe shuleni. Kuna sababu mpya ambayo imejitokeza. Kuna haya masomo ya ziada ambayo ukienda shuleni kuchukua stakabadhi, utaambiwa hakulipa pesa za *remedial*. Pia, kuna stakabadhi zingine ambazo zinazuiliwa kwa sababu ya ukosefu wa nidhamu kwa mtoto.

Kama mtoto hana nidhamu, na hata kama umelipa karo, utaambiwa zimezuiliwa kwa sababu ya nidhamu. Lazima tuangalie vile tutafanya ama tutawajibika vipi ile watoto wawe na nidhamu. Mwanafunzi ataogopa kwamba stakabadhi yake itazuiliwa kama atakuwa na ukosefu wa nidhamu. Hizi stakabadhi zimetumika hususan wanafunzi wawe na nidhamu kwa kuhofia kuwa hatazipata kama atakosa nidhamu.

Sheria hii inafundisha watoto wawe na nidhamu. Inabidi tutafute njia mbadala ya kuwafanya watoto wetu wawe na nidhamu. Ukubwa wa pua sio wingi wa kamasi. Hizi stakabadhi zimejaa ofisini lakini zinamsaidia nani? Kuna ofisi ambayo inavuja na hizi ni stakabadhi muhimu.

Nimefurahi kutokana na Mswada huu kwa sababu Sen. Musila ameeleza kuwa watu wanafaa kupewa stakabadhi na nampa hongera kwa hilo. Hii inamanisha kuwa mkuu wa taarafa ataweza kuamrisha stakabadhi zipewe wenyewe. Sijui hilo litakuwa vipi kwa sababu kuna stakabadhi ambazo zimekaa kwa muda mrefu bila kuchukuliwa na wenyewe. Hii ndio maana hapo awali nilisema kuwa Mswada huu umebobea kama yeye mwenyewe kwa sababu hayo ndio matamanio ya kila mzazi. Hakuna masika yasiyokuwa na mbu.

Bi. Spika wa Muda, ukizingatia pilkapilka za watoto wanapofanya mtihamu, huenda ukajiuliza jinsi jasho lao litafutwa endapo mtu hatapewa stakabadhi yake. Huenda pia mashirika mbalimbali yakalala kwa sababu watoto wetu wengi hawana stakabadhi. Mtu akitafuta kazi, atapatikana hana stakabadhi. Kwa hivyo, kama Serikali ama nchi, hatutajumuika kuangalia jinsi vijana wetu wataishi ama kazi watakapewa kwa sababu hakuna marefu yasiokuwa na ncha. Wazazi wengi wamekuwa wakilia kuhusiana na swala la karo. Tunataka stakabadhi zitolewe. Mwanafunzi akiingia shuleni muhula wa kwanza ama kidato cha kwanza, inabidi alipiwe karo. Ni bora watoto wetu katika shule

za upili wasiwe wakilipa karo. Iweje mwanafunzi asome Kidato cha kwanza, cha pili, cha tatu na cha nne na asipewe stakabadhi kwa kuwa hakulipa karo hapo mwanzoni?

Naibu wa Rais alisema kuwa ada za mitihani zitolewe. Kwa hivyo, tunaelekea pazuri kwa sababu mbeleni, ada zote zitatolewa. Ada hizo zitakapotolewa, basi pia stakabadhi zitafaa kutolewa kirahisi. Nafurahi kutokana na ari na pendekezo la Sen. Musila. Hata hivyo, itabidi Serikali iende mbio zaidi.

Wizi wa mitihani umekithiri sana nchini. Iweje mtu apewe stakabadhi ambayo haifanani naye? Iweje mtu ajiunge na chuo kikuu kutumia stakabadhi ambayo haifanani naye? Iweje mtu apewe stakabadhi ambayo majina hayafanani naye? Hali hii imechangia wakuu wa shule kufanya mambo fulani kwa sababu stakabadhi bado ziko mikononi mwao. Huenda wakageuza jina la Sen. Musila na kuandika jina la mtu mwingine kwa sababu Sen. Musila hakulipa karo na pengine hatalipa. Kwa hivyo, kuzuiliwa kwa stakabadhi kumechangia mambo mengi.

Bi. Spika wa Muda, kutakuwa na siasa kuhusu swala la kuondoa karo. Sisi ambao hatuna pesa za kulipia watoto karo au stakabadhi za kuruhusu mtoto aende shuleni bila kulipa karo ndio tutakaoumia. Tunaonekana watu duni kwa sababu hatuna uwezo wa kusema mtoto aachwe aendelee na masomo na kwamba karo italipwa wiki ijayo. Kwa hivyo, Mswada huu umenifurahisha sana kwa sababu utatuweka sote kwenye kiti kimoja; bila kuzingatia kuwa wengine wana uwezo wa kulipa karo ama kuongea na walimu.

Bi. Spika wa Muda, chura anayejifunza kuongea hulala na kasia. Kwa sababu sisi tunataka tulale na makasia, tunataka sheria itusaidie sote kama Wakenya. Naomba Mswada huu uweze kutekelezwa mara moja. Naunga mkono Mswada huu.

Ukiona mti unapurwa sana ama nchi inatajwa sana, jua kuwa ina matunda matamu. Sijui kama Wakenya wanajua hilo. Mara kwa mara, utapata Kenya au Serikali imetajwa.

Lazima tuwe pamoja na wenzetu wa upande ule mwingine ili tuone hizi sheria zinapitishwa na kutufaa sisi sote. Sheria ikitungwa katika hili Bunge la Seneti, sio kuwa ati sisi peke yetu ndio tutafaidika au Sen. Musila ambaye yuko upande ule mwingine ndiye atayefaidika peke yake.

Bi. Spika wa Muda, mimi ninauunga mkono kwa dhati Mswada huu na ninaufurahia sana kwa sababu baada ya watoto wetu kupitia pilkapilka za mitihani, ni zawadi gani ambayo watapata? Wewe na mimi kama akina mama, tunaelewa kwamba mama anapokuwa mjamzito anatarajia zawadi. Hawa watoto ni kana kwamba wana ujauzito miaka hiyo yote ambapo wanangojea kupata mtoto wa kike au wa kiume, halafu unaambiwa hutapewa ile stakabadhi. Kunguru wanapopigana ni panzi ndio wanafurahia. Ni sawa na mzazi na mwalimu wasiolewana, anayeumia ni yule mtoto kwa sababu hana hatia na hajui kwa nini mzazi wake akose uwezo wa kumlipia karo. Ni zawadi gani ambayo tutawapa watoto wetu?

Sheria hii ikiwekwa, itakuwa kama kuwapa zawadi watoto wetu wa shule. Achana na vile vikaratasi vinavyopelekewa watoto shuleni vya kuwatakiya kila la heri katika mitihani. Hii ni zawadi kubwa zaidi ya kusema tu: "Utapita." Je, wajua huyu mtoto karo imelipwa, stakabadhi yake ataipata, mbeleni atatafuta kazi vipi ili afaidike maishani?

Bi. Spika wa Muda, jambo lingine ambalo ningependa kuchangia ni kwamba, ni jinsi ambavyo sisi tunalipa pesa za Bodi ya Mikopo kwa Wanafunzi (HELB). Kama Mswada huu utachelewa, vile vile hawa watoto wapewe stakabadhi zao kisha watalipa polepole katika siku za usoni lakini kila mtu apate stakabadhi yake ili kila mtu acheke kama kibogoyo aliyepewa meno.

Ninaunga mkono Mswada huu.

**Sen. (Dr.) Zani:** Madam Temporary Speaker, the KNEC was set up in 1980 to focus on Kenyan examination matters. What existed previously was the East African Examinations Council (EAEC). At that point, it was about examinations in terms of accuracy of presentation of the results and reliability and validity of those results. That was the key mandate of KNEC. That Act was later replaced by Act No.29 of 2012, repealing the previous Cap.225 Act of 1980 trying to make sure that the KNEC becomes a stronger unit.

It has already been mentioned by other Senators that the idea was to make sure, for example, disseminating results to students is done very effectively. Already, the law allocates that there should not be any withholding of any certificate. Unfortunately in reality, this is what has happened over time. Therefore, many students ended up suffering because they cannot get their certificates. We know that without primary and secondary school level certificates, there are some people who can get jobs, but they do not because they cannot show their results. In Kenya, results are not given orally, but in the form of a certificate. So, the certificate becomes something very powerful that an institution can give.

Madam Temporary Speaker, for many years, it is the schools that have had that power. When we were debating this Bill at the Committee and also the public participation level, what came out very clearly was the balance between the payment of fees and the quagmire of most schools that they decided to withhold the certificates because that way, they felt they could make parents pay. We did not want a situation where people then decide that, why should I pay and at the end of the day, I will still get the certificate?

There are different sets of parents and, at that point, we wanted to believe that there are no parents who just make the decision not to pay just for the sake of it. Therefore, we had to be careful that we have a balance, that, we do not open it up too much to the point that even parents who could pay, decide they will not pay because they can get away with it. If there are certain school fees or provisions by the secondary schools that are expected to be paid; it is expected that the parent will pay. Therefore, getting that balance was critical for us. That balance and ensuring that, that child gets the certificate, at the end of the day, will be balanced by removing the responsibility from the school. Initially, it is not even the child who should be punished. In the first place, it is the parent's responsibility to ensure that, that fee has been paid.

If we punish the child by withholding that certificate, we are actually punishing the wrong person. The idea also was to ensure that one way or another, that balance is created very well. Various ideas were given, one of which Sen. Kisasa has just mentioned. If there could be a way of balancing out so that you hold this student accountable in one way or another, in some kind of loan or fees so that, that certificate is



given in advance, but at a later stage, if they are able to pay, so be it. We are also moving away from the argument to a point where we are saying, let this provision be free. If we are moving to a point where we are saying we want to have both free primary and secondary education, then the certificate must be something that should be given free of charge right from the onset. This is what this Bill is all about. There should be nobody who should be constrained because, as a result, they have not been able to pay, then, they are not able to get the certificate. That certificate should be released to them.

This is enshrined in the Constitution clearly, in Article 53 which states that we shall protect the rights of all these children. One of those rights is issuance of certificates in a timely manner.

Article 53(2) of the Constitution states that:-

“A child’s best interests are of paramount importance in every matter concerning the child.”

This Bill is well entrenched. This issue has been discussed over time. Various legislators, over time, have given various proposals that, probably, have not worked. At the end of the day, those proposals still maintain the power within the school institution. Therefore, this amendment to move that responsibility and power from the school to the DEO is very important.

Moreover, the Bill stipulates how this should be done very clearly by bringing in three very specific aspects. First, it clearly defines what an examination centre is, which was missing in the previous Act. It says that this is the place where examinations will be conducted, but also adding specific clauses. If you look at it from the perspective of a Bill which it is, Clause 45(a) and (b) are very clear and specific in terms of what should be done and how the ill should be addressed. In the old provision where certificates are given by the school, there was an idea that you are protecting the fact that the headmistress or the principal knows the child; he or she has given it to the specific child, therefore, avoiding all these problems of identification.

Times are changing. Apart from the photograph - today in the morning I visited an office and a person walked in and just put in the thumb print. That was already some kind of identification. So, we are moving to a point where we do not necessarily have to worry so much about how that identification can be done because we can use technology. Therefore, that responsibility does not have to remain at the school level. The specific power that is given in Clause 45(a) pushing this responsibility to the DEO is very critical because it removes the responsibility from the school; puts the jurisdiction for this specifically on the DEO.

Madam Temporary Speaker, Clause 45(a)(3) is very critical because it states that this officer will not be able to withhold a certificate from a candidate unless the identification of the candidate is in dispute. So, the only provision for withholding those certificates is if there is a problem with the candidate’s identification. Therefore, this sub-clause does not allow for any provisions of confusion as to when the particular certificate should be given. The issue of fees, whether they have been paid or not, does not come up specifically in this particular section and that makes it very clear.

Madam Temporary Speaker, in Sub-section 4, the certificate awarded to the candidate shall be collected by the candidate in person just to make sure, as much as

possible, that candidate is able to avail themselves for identification purposes. I think the idea here is that it is going to be possible for people to give their photographs at the school level and passed to the DEO. This ensures that there is a direct link. Therefore, the issue of confusion should not come up. The fact that the photograph will be embossed on the certificate is very good. When this Bill becomes an Act, just like the way we have an Identification Card (ID) with a photograph, we can have the provision of a picture of a person so that we do not have this problem of people going around with other people's qualifications, which I think Sen. Lesuuda also mentioned.

Madam Temporary Speaker, it is amazing how people continue to do this because, at the end of the day, you will be discovered, sooner rather than later. If you have a certificate in computer proficiency and you are told as your first interview to open the computer and you are not able to do so, or you are given a simple exercise and you cannot do it, then you will be identified immediately. So, it is really an exercise in futility, but I think we have put in so much emphasis on academic credentials and you find more people struggling in whichever form to ensure that they get those particular credentials, no matter what.

This has become a very dangerous trend. It is a trend that we are really suffering from. The issue of security, accuracy and verification is handled at a very detailed level. A candidate's name, index number, the school code and the grades for the respective subjects that the student has acquired will be put there and that becomes critical.

Madam Temporary Speaker, the main problem that this Bill addresses is the question of the structural administrative passing on of documentation from one institution to another. Putting in mind the failures of the past, in that the institution that had been given the provision to do this has not been able to do it adequately and, therefore, there have been various problems that have come as a result. The Cabinet Secretary for Education, by putting such administrative structures into place to facilitate this issuance, will make it very easy for this to happen in a constructive manner.

The issue of forging, cheating and changing documentation can be addressed from a technological point of view so that over time, it does not come up as something that is going to be problematic.

Madam Temporary Speaker, every head teacher and principal in each of the examination centres will have to ensure that they have a way to verify. So, the issue of photographs comes in as a critical thing. I think the most important thing is to have the penalty which this particular amendment also proposes. The amount should be a deterrent for it to be effective and here it is because somebody would either have to pay up to Kshs800,000 or one year in jail or both. That should be a specific deterrent that should be able to make somebody think about what it is they are doing so that they cannot put it into place or be able to contradict what is expected of them.

Madam Temporary Speaker, we do not want to be able to open up a Pandora's Box. This is because, at the end of the day, we want a level of responsibility and mechanisms within the educational systems. We want to see those systems working and address inequalities uniformly at the level of the issuance of a certificate. These inequalities already exist at the level of access to the schools or to education. They also exist in terms of the results that people will get depending on the social capital and the

cultural capital that is exposed to them even as they look for the specific grades. This form of inequality has been an problem that is pretty easy to address.

With this important amendment, we will address this, once and for all. Once the structures and the various sections are put into place, the stakeholders will make an agreement about the way forward; either to remove the fees altogether or find provisions so that there is no withholding.

Madam Temporary Speaker, we need to make sure that no other impediments come up in the future at the level of the DEO, so that we do not find ourselves in the same situation. They should have absolute authority and power to make the specific decisions that have to be made at a particular time, without having to go back, so that students do not end up suffering.

Once these structures have been put into place, it will take us to another level of reducing the inequalities and the unfairness. This afternoon, we have heard about specific cases of students who have really suffered because they did not have certificates. It is amazing that this has gone on for such a long time. It is time to address this issue through this amendment to this Bill.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Ongoro): We want to bring this Motion to a close today. The next speaker is Sen. (Prof.) Lesan.

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity. First, I wish to thank Sen. Musila for bringing this amendment. As a Member of the Committee on Education, I have observed the passion with which he has followed this case. Although he is not a Member of the Committee on Education, he made more appearances than some Members of the Committee. I want to thank him for bringing this important amendment to the education sector, which will help a lot of students. It is important that this Bill has come up today when 900,000 pupils have started their Kenya Certificate of Primary Education (KCPE) examinations in Kenya. It is also important to note that there are close to tens of thousands in South Sudan sitting for the same examination.

Madam Temporary Speaker, many bad things, including exam leakages, were said about the Kenya Certificate of Secondary Education (KCSE) examinations which are coming to a conclusion. It is very unfortunate that if you trace the cause of these leakages, the ball will rest with the officers of the KNEC because they are the ones who set and keep custody of the exams. Before anyone else sees the examination papers, they are in the custody of the KNEC. I know that when the results will be announced, schools and students will be penalised for some of these activities. We would like to see people held responsible for these exam leakages in KCPE or KCSE.

One of the best amendments which are being made is the identification of who will do the exam. Embossing a photograph is one of the things proposed. As suggested by Senators, we can do digital photography. But we can also do a barcode on the students, not only when they are doing their exams, but also as they enter schools. A student could possess a barcode throughout their education and their documents identified through it. I know there is a lot of corruption in this country. Last year, I was in Canada with a

Committee and I saw what good hearted people can do. We saw significant contribution done by philanthropists.

Personally, I have benefitted extensively from the philanthropists because I got a Rockefeller Foundation and Ford Foundation scholarships. I was a bright student, but I was unable to raise the funds. I benefitted from philanthropists who fund the foundations. There are Kenyans of that nature. One of them is Sen. Musila who contributed to this debate. I expect Sen. Muthama to also join other philanthropists in future. I hope that I will also be fortunate to entrust my resources to a trust or a foundation where millions of children in ages to come will benefit and make a contribution to the society.

Madam Temporary Speaker, I know that the Teacher Service Commission (TSC) is an employer of teachers, including the head teachers. This amendment has freed the teachers from being responsible for the examination and some other funds for the school. However, there are other school funds that the head teachers should handle. I understand the Ministry of Education, Science and Technology is trying to make an amendment in which the heads of institutions are directly under the Ministry, so that they can be accountable for the rest of the funds which are used to run the schools. I am sure that we will support our teachers when they will be running the institutions because they are very important.

Finally, there is an intervening period before the Bill takes effect. We know that the funds used to sustain our schools have been coming from parents and those interested in education. We need to safeguard these institutions from auctioneers who are very hostile. They have, probably, supplied items to institutions and they are demanding their money. It is also important that we establish an interim kitty to ensure that our institutions continue to grow until the arrangement that will be brought about by this amendment comes to fruition and is useful to the country.

Various other arms of the Government are able to sustain the students because needy students are not just in secondary and primary schools. We are aware that there are university students who experience serious struggle and are almost discontinuing their studies as a result of a similar thing that happens in high school. Although we have the Higher Education Loans Board (HELB), at the national Government, we know that the county and national Government are supposed to cooperate in activities that support the country. It may just be important to advise the county governments to set up an equivalent form of help that can fund some of the university students who are desirable with the brains that we need to build this country in the future.

Madam Temporary Speaker, none of the Senators who have contributed has opposed this Bill. I, therefore, join them in supporting it.

**Sen. (Dr.) Khalwale:** Madam Temporary Speaker, I rise to support this Bill and commend my brother, Sen. Musila, for this good Bill, but we can make it better. The New Clause Three: 45(a)(i) can be considered in the Committee of the Whole; it should be changed so as to include primary, secondary and college level. There are students in polytechnics, teachers training colleges and medical training colleges who also suffer the same fate from the leadership of those institutions.

Secondly, Clause Three: 45(a) can further be made better by saying that “the district officer shall not withhold a certificate.” We can go ahead and say that “the district

education officer shall be held responsible for the loss of any certificate in their custody.” The importance of that will be that we will create a reservoir where crooks can go and buy certificates from corrupt deals to the detriment of the deserving students. That would mean that we rearrange Clause No.45(a) so that what I have said is 4, and the others fall accordingly.

I want to take you again where we can improve it. That is Clause No.45(b) on certificates. Sen. Musila has covered it very well. However, we can improve it if we rename Clause No.45(b)(i) to be what it is, 45(b)(ii) to remain and introduce 45(b)(iii), to read “lost certificates must be replaced free of charge by the KNEC, once proof of the loss is ascertained.”

Sen. Musila knows that there are many children whose houses are usually makeshift structures. They catch fire, get rained on, and the certificates are defaced and cannot be replaced subsequently.

Those are the amendments I want to bring in to improve this good Bill. I want to make the following remarks. First, the Constitution, under the Bill of Rights, assures Kenyans of their citizenship. To demonstrate that you have right of citizenship, they either allow you to get a birth certificate, an identification card or a passport. Similarly, if the same Constitution speaks to the right to education to our children, then we must make it mandatory that this right be expressed with free access to education in primary, secondary schools and colleges. It should be followed with a right to being awarded a certificate or a degree.

We must all note that it is a lie that students pay the KNEC and not the school, to set the exam, examine them and give them a certificate. The only thing that students pay for, which the schools can purport to withhold, would be progress report or the school leaving certificate. Otherwise, the certificate or diploma is paid for from KNEC.

I want to conclude by sharing with you the story of a young girl who is completing training in Kiganjo Police Training College. Her name is Nyaya Shirenje. She comes from Kakamega County. She had tried to become a police officer for five years. She could only go hoping that they would accept her with the result slip which the bursar sneaked to her. When she did the fourth form, the father sold the only family cow that they had. However, it could not complete the school fees. There was a balance of Kshs11,200. When I paid that balance, I was then caught up in confusion because I do not subscribe to corruption. However, I wanted the message to go to the recruiting officer in Nabakholo, that, that was a very deserving case. I could not plead for favour because of what we had gone through for five years.

So, I told her to go to the field and then I drove and sat down. I watched as they ran and the girl emerged number one. She went through tests and was taken on the first go. I want to thank the officer who took her. Now, she is an officer. This is how serious it is. She had tried five times and she was approaching 26 years. She was going to miss completely.

I support Sen. Musila and I am proud of him.

I want to warn the Jubilee Government that having failed to pay our teachers, give laptops to our children and they have also failed to examine our children, even as we remove them in two years’ time, we will hold them responsible for the damage they have

caused to this generation. Some of the people you hear heckling, they think that they sit on high moral ground or on a privileged ground. These children of the poor who look very cheap and simple in the opposition, are also Kenyans. We are saying go and do your corruption, but do not corrupt the education of our children because you will pay for this. If you won the last election because of the ICC, we will take you there to face your own crimes.

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

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker.

**Sen. (Prof) Lonyangapuo:** Thank you, Madam Temporary, Speaker. I join my colleagues in thanking and congratulating Sen. Musila, who is almost synonymous with the demand for the release of certificates to our children. I am surprised that nobody has heard him speak. We are very interesting people where even the parents whose children have their certificates detained, we do not want to listen. This is not the first time and not even in the Jubilee Government that this story of certificates has been brought up. I am told, Sen. Musila, when you were in the previous Parliament, this was your song. Why did anybody not listen to you until now that we are moving to pass this Bill?

Today, I do not know whether you are aware we have about 18 Bills which have been generated by the Senate that are supposed to have been cleared by the Senate and then sent to the “Lower” House and nobody has put them on the Order Paper. I am praying very hard like yourself that as soon as this Bill is passed by the Senate, somebody whose children’s certificates are detained by the headteachers is in the “Lower” House. Most of us are voted by Kenyans whose children’s certificates have been detained. When it comes to voting time, they are so faithful to vote for us, but we do not bother when it comes to defending the right of their children to get their certificates.

Madam Temporary Speaker, if there is something that is at the heart of every Kenyan today, it is education as a whole ranging from nursery school to university. It is the only thing that everybody knows about Kenya, unfortunately, it is the only Ministry and the only agenda that has been messed up more than ever before. It is so shameful, indeed, that the trend which has been generated for the last four to five years is that there is exam leakage. With the current social media and everybody in the whole world knows that there is exam leakage and yet the best brains in Kenya go to top universities in the whole world with a rider that during that time when they sat for their exam, there was exam leakage.

Recently, we saw that even this year’s KCSE exams, there was leakage. We, probably, saw it in the newspapers. I am worried about the schools that normally do very well when marking time comes, those are the schools that will feel the pinch and will suffer most because of the inefficiency of the KNEC. They normally like wiping their tears on such innocent schools. They do not touch national schools. Three years ago, a school that I support did very well in the exams. They were No.2 in the whole Republic under category of district schools, Karenger Boys.

The following year someone wondered how giants like Moi Girls, Eldoret were beaten by these small schools. Somehow, they came up with something called collusion. When you asked what it is, they did not open it up. That is where the KNEC hides their mess. They say collusion is not investigated. During collusion, there was a policeman in

charge of these boys and girls, a teacher, invigilators and everyone. Those are the people who should have been sacked the first day before the students' results were messed up.

I am saying this because it forced me this year to rearrange this name called KNEC and gave them a new name "SESESE" which stands for Set Exam, Steal Exam and Sell Exam. When I mentioned this, they came looking for me. They told me I am an academician and we need to sit and to tell them what I found. That was May. They told me I will never see any leakage this year. Did you not see the leakage of KCSE last week and the other weeks being displayed in papers?

Madam Temporary Speaker, it is so interesting that the only hope that we have is messing up with our children. I am worried that as we bring this, where did honesty and integrity go? In fact, we are taking the certificates from schools where they were centrally placed to the Deputy County Commissioners' offices. If there was a mess in schools, how much mess will be there in the Deputy County Commissioners' offices? Let us examine what went wrong with Kenyans so that we understand where these messes we are seeing-stealing in every corner -are from. Where did honesty and integrity go? We will go round until we begin from that point. It has to start with me and the leader of this nation has to stand to be counted first so that all these things must go.

I have just read from newspapers that the new Tanzanian President walked to a hospital and found people sleeping on the floor without mattresses. He sacked the boss on the spot. Is this not what we need? The Minister should be out, matron out and everybody out. That is what I want to see tomorrow morning. We start with this new Chief Executive Officer of KNEC.

I support.

**The Temporary Speaker** (Sen. Ongoro): I call upon the Mover to reply. Unfortunately, you have exactly two minutes. We have to be out of the Chamber at 6.45 p.m.

**Sen. Musila:** Madam Temporary Speaker, with those two minutes, I express my thanks and gratitude to each and every Senator who has contributed. If I had time, I would read their names, but I do not have. They are a total of 18. All of them were very supportive. I know there were many others who would have liked to contribute to this Motion, but because of the time limit, they could not.

I also thank the Senate Committee on Education because they facilitated dialogue with the stakeholders. We had meetings with the parents, TSC, Cabinet Secretary of Education and the KNEC.

Madam Temporary Speaker, 11 years ago, I started this journey. Then, my head was full of hair. Today, when I look at the mirror, I can see I do not have hair. I pray that this is the last action that this Senate is taking to achieve what we failed to achieve in the last 11 years. Therefore, I promise the House that I will follow very keenly all the contributions that have been made. I will ensure that we take on board all suggestions when we come to making the amendments for the Third Reading.

With these remarks, I beg to move.

**The Temporary Speaker** (Sen. Ongoro): We all pray that the Bill will be assented to before you lose all your hair.

**Sen. Musila:** Madam Temporary Speaker, pursuant to Standing Order No.54(3), I beg to move that you put off the Question to tomorrow.

Thank you.

**The Temporary Speaker** (Sen. Ongoro): We will take the Question tomorrow, together with the other Bills, at 2.30 p.m.

### ADJOURNMENT

Hon. Senators, it is time to interrupt the Business of the Senate. The House is adjourned until tomorrow, Wednesday, 11<sup>th</sup> November, 2015 at 2.30 p.m.

The Senate rose at 6.50 p.m.