

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 13th October, 2015

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

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

PRAYERS

PAPER LAID

The Speaker (Hon. Ethuro): Is the Chairperson of the Committee on Delegated Legislation here? Sen. Mukiite, proceed and lay the Report.

REPORT OF THE 132ND IPU ASSEMBLY AND RELATED MEETINGS HELD
IN HANOI, VIETNAM, FROM 26TH MARCH, 2015 TO 1ST APRIL, 2015

Sen. Nabwala: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 13th October, 2015.

Report of the 132nd IPU Assembly and related meetings held in Hanoi, Vietnam, from 26th March, 2015 to 1st April, 2015.

(Sen. Nabwala laid the document on the Table)

The Speaker (Hon. Ethuro): Is there Chairperson, Committee on Delegation Legislation here?

Let us move on to the next order and we begin with the requests.

STATEMENTS

DEATH OF MR. ALEX MADAGA FOLLOWING
A ROAD ACCIDENT

Sen. Khaniri: Thank you, Mr. Speaker, Sir, for giving me this opportunity to request for a statement. Before I go the substance of the statement, allow me, as the Senator for Vihiga County, to express my deepest sympathy and condolences to the

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family of the late Alex Madaga who died under very strange circumstances, the subject of which is contained in the statement that I am about to request.

Pursuant to Standing Order No.45(2b), I wish to seek a statement from the Chairperson of the Standing Committee on Health regarding the death of Mr. Alex Madaga at the Kenyatta National Hospital (KNH) on Friday, 9th October, 2015.

In the statement, the Chairperson should address the following issues:-

(1) What are the exact circumstances surrounding the death of Mr. Madaga and could he confirm that the deceased spent 18 hours in an ambulance while waiting for Intensive Care Unit (ICU) services at the KNH?

(2) Could the Chairperson confirm that prior to his death, the deceased was denied admission into several private hospitals for emergency treatment and if so, could he reveal the identity of the hospitals involved?

(3) Could the Chairperson confirm that the act of withholding of emergency treatment amounts to violation or denial of the constitutional right to the healthcare services and emergency medical treatment under Article 43(2) of the Constitution?

If so, what steps will the Government take against the health institutions which withheld medical treatment to the deceased and to ensure that the persons responsible for the negligent act are prosecuted and the deceased's next of kin are compensated?

(4) Aside from the Health Bill which is currently in the National Assembly, what other measures has the national Government taken to ensure that the state provides appropriate social security for all Kenyans in compliance with Article 43(3) of the Constitution given that the responsibility of developing national health policy is constitutionally vested in the national Government?

(5) In view of the recently gazetted National Hospital Insurance Fund (NHIF) rates, what steps has the Government taken to offer universal insurance cover for accident and emergency treatment?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, permit me to ask another question in terms of clarification. Since criminal negligence is personal, it will be best if the Chairperson could also get the names of the doctors in charge during the 18 hours that this gentleman was lying in the ambulance and other persons who would have been responsible at the time.

Sen. Obure: Mr. Speaker, Sir, what the Senator for Vihiga County has raised is a very common occurrence. It happens everyday. We know that citizens have a fundamental right to healthcare. I would like the Chairperson of the Committee, when they eventually responds; to state what specific legal provisions exist for the Government to enforce the citizens fundamental rights to healthcare.

Sen.(Dr) Khalwale: Mr. Speaker, Sir, health under the new Constitution is fully devolved. Could the Chairperson tell us what the Governor of Nairobi County is doing to ensure that the four million Kenyans who live in his county have access to ICU beds considering that there are only 21 public ICU beds in all public hospitals in Nairobi?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, in responding to this question, we know that all doctors take the Hippocratic Oath that requires them to attend to any patient before them regardless. Even on a warfront, doctors treat injured combatants from the enemy forces. Could the Chairperson, in his response, and this is

just repeating what Sen. Mutula Kilonzo Jnr. has said, identify the hospitals that denied this young man admission, the medics involved and what criminal sanctions will be taken against them because this is a case of culpable homicide against one Alex Madaga. It is a very sad case. Really, at this time and age in the development of our country, we should not have this happening. It is not just Madaga. It is happening to many Kenyans out there whose cases may not have reached this House.

The Speaker (Hon. Ethuro): The last two; Sen. Ndiema and Sen. Hassan Omar Hassan.

Sen. Ndiema: Mr. Speaker, Sir, I want to ride on that and seek clarification on whether the Government is aware that there are many hospitals which turn away patients on the basis of ailments that they have. If they are aware, what action is being taken to ensure that such hospitals are deregistered? There are hospitals which deliberately chose not to admit certain patients just because of the seriousness of their ailments.

Sen. Hassan: Mr. Speaker, Sir, further to the question, particularly by Sen. Wetangula, the Constitution says that nobody shall be denied the right to emergency health care. Usually, the Constitution is a very broad set of aspirations. What is the Ministry doing to ensure that these provisions of the Constitution are enforced in a manner as to give it the legal force that is intended by law?

Secondly, I am informed that a paramedic stayed with the deceased person for almost 18 hours. Are there ways in which we can honour and celebrate such Kenyans who give themselves in the line of duty and in particular, this medic, the young Odhiambo?

(Applause)

Sen. Wako: Mr. Speaker, Sir, this is, indeed, a very sad episode that has happened, but the worrying thing is that it is not the first one. Every time such episode has occurred, we have had statements from the Ministry of Health that all hospitals are supposed to admit people without payment. It is like a policy in that Ministry. Therefore, the answer should also include;

1. How is that policy being enforced?

2. I heard the Cabinet Secretary (CS) in a interview about the same on *Citizen TV*, saying that the 18 hours refer to the total amount of time used to visit various hospitals not just Kenyatta National Hospital (KNH), where they ultimately ended up. So, I want to know what the county government is doing in Nairobi to ensure that all hospitals are aware of the clear health policy on the matter. Health policy is an issue of the national government. If it has the policy, what action is the county government doing to ensure that there is clear health policy within Nairobi?

3. I heard the CS say that they are going to investigate the incident. We want to know what steps they have taken to investigate and what the results of that investigation are.

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I relate with the feeling of the House and also pass my condolences to the family of Mr. Madaga. This is a very sad episode. It has generated a lot of interest, not only on the specific incident, but also on issues touching

on regulation and enforcement of the constitution which provides for entitlement to free emergency medical care for every Kenyan.

I would seek the House to give me two weeks to unearth the whole situation and bring a comprehensive answer.

Sen. Khaniri: Mr. Speaker, Sir, I know that many Members have rode on this particular statement to ask for numerous things that are very relevant. The Cabinet Secretary (CS) is on record saying that within a week from Sunday when he was on the interview, they will have done investigations. This young man from my county is being buried on Saturday. Tension is very high in the county, particularly in the village where the young man was born.

Would I be in order to ask the Chairperson to come up with some provisional information at least on the very issues that I asked other than the health matters because I personally intend to bring a Bill to this House which I am drafting to operationalize Article No. 43(2) of the Constitution? I was told that there is a Bill that originated from the National Assembly and it has been sitting there for the last six months. I do not think anything stops me from coming up with another Bill so that Kenyans can reap the fruits of this constitution.

Could he come up with a provisional statement on the real matters regarding the death of Alex Madaga? Then he can come up with a comprehensive statement in two weeks' time as promised, on the other issues that were raised.

Sen. Kembi-Gitura: Mr. Speaker, Sir, mine is on a statement that I sought sometimes back.

The Speaker (Hon. Ethuro): Chairman Health Committee

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I understand the urgency of the matter and the need for my distinguished colleague to get a quick answer. However, for us to really give justice to this matter and also make sure such is not repeated, now that the death has occurred, it is important to ensure no other death happens by addressing this matter in its entirety as asked by the House. However, I still seek your guidance.

The Speaker (Hon. Ethuro): Order, Mr. Chairman! My guidance is as follows: Deal with the matter comprehensively in two weeks. By Thursday this week, give the specifics that the Senator for Vihiga has requested. In any case, accidents continue to happen. Therefore, the more time we spend on it, the more possibility of more people dying due to negligence. So the sooner you address the matter, the more prevention you are doing.

Hon. Senators, we move on now to the next Statement No.2(a).

Sen. Madzayo: Mr. Speaker, Sir, I have the response to the question raised by my colleague, Sen. Chelule---

The Speaker (Hon. Ethuro): Order, Mr. Chairman! All of us have a copy of the Order Paper.

Proceed and respond to the Statement. We know who sought it. It is in the Order Paper.

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

Sen. Madzayo: Mr. Speaker, Sir, thank you very much for your guidance. I am obliged. The question that was asked was whether the government was aware whether the youth, women, and persons with disabilities face challenges in executing government tenders that are won, due to lack of collateral required by financial institutions to secure the loans.

The response is that the Government is aware of the financial challenges faced by these people in executing government tenders that they win. It is in this regard that the government has taken the following measures to ensure that this category groups continue bidding and supplying government tenders;

1. The Youth Development Enterprise Fund and the Women Enterprise Fund mandates were expanded to offer Local Purchase Orders (LPOs) and Local Service Order (LSO) financing for youth and persons with disabilities who have won tenders from the government.

The Youth Development Enterprise Fund offers 70 per cent of the LPOs and LSO financing up to Ksh.1,000,000 without collateral while Women Enterprise Fund offer up to 60 per cent of LPOs and LSO value of up to Kshs500,000 without collateral. The beneficiary is required to provide the original copies of LPO or LSO and the letter of undertaking from the procuring agency that serves as security. These facilities attract a one-off commission of 6.5 per cent.

The above minimum financing thresholds for the youth, women and persons with disabilities entrepreneurs who need financing of above Ksh.1,000,000 from the Youth Fund or over Kshs500.000 from the Women Fund will be required to provide collateral in terms of land property, motor vehicles or guarantees before they are financed.

2. The youth, women, and persons with disabilities entrepreneurs who have access to government procurement opportunities, certificates are excluded from the requirement of bid bonds and are instead required to fill and sign the tender, securing declaration forms with the procuring entity.

3. Where delay of payment for work performed is anticipated, the procuring entity may facilitate invoice, discounting arrangements with the financial institutions for purposes of advancing credit to the affected enterprises.

Second question was to provide a comprehensive report on youth, women, and persons with disabilities who have benefited from *Uwezo* Fund from all the sub counties.

Uwezo Fund Oversight Board has received 55,456 applications from groups and institutions. In the last two financial years, out of the Kshs5354,400,000 disbursed to the 290 constituencies, the Board has approved Kshs4,240,400,000 for funding, to the groups or institutions that meet the eligibility criteria as provided in the Public Finance Benefit called *Uwezo* Fund.

The Funds have benefited 42,801 groups countrywide out of which 26,838 are women groups, 14,986 are youth groups and 977 are groups of people living with disabilities as shown.

The total number of individuals who have benefited from the funds are 491,352 comprising of 146,708 youth, 323,000 women and 21,334 persons living with disabilities. These are members of groups or institutions that have accessed *Uwezo* Fund across constituencies.

Thank you.

Sen. Chelule: Mr. Speaker, Sir, first, I thank the Chairperson and the entire membership of the Committee on Labour and Social Welfare for the time they took to address the issue raised.

However, I have few problems pertaining to the way the programme has been organized. I thank the Government for coming up with a good policy on how to address unemployment among the youth, persons with disabilities and women through the 30 per cent policy of Government tenders going to these three vulnerable groups.

The Government has also gone ahead to make arrangements for LPOs or those who have benefited from these tenders to get funding from the Youth Enterprise Fund, but the problem is access to information. There seems to be a very good plan by the Government, but how these people will access information is the issue.

The criteria being used by the Youth and Women Enterprise Fund to give out loans for these groups to implement their tenders are so tedious. Most of them cannot access these funds. I request that there should be a one-stop shop at the sub-county level to give proper information to the people; not only on how to implement the tenders, but how they can also register groups, enterprises and companies.

It is cumbersome---

The Speaker (Hon. Ethuro): Order, Senator! It is Statement Time. You have sought enough information and the criteria. The Chairperson will respond.

An hon. Senator: She is actually issuing a statement.

(Sen. Chelule spoke off record)

The Speaker (Hon. Ethuro): Proceed, Sen. Chelule.

Sen. Chelule: Mr. Speaker, Sir, I had sought two statements. I am referring to the first statement.

The second one was on a comprehensive report about Uwezo Fund that targets women and youth. Since the comprehensive report is so bulky, I am requesting to be given enough time; and I hope my fellow Senators would also like to have enough time to peruse through the document for them to react to it.

Therefore, I am requesting for adequate time to go through this because I want to see the women of---

The Speaker (Hon. Ethuro): Order, Senator! Resume your seat. The Statement states: "The Chairperson of the Standing Committee on Labour and Social Welfare to issue a statement on access to finances by youth, women and persons with disabilities to execute the Government tenders." I do not see two items there.

I remember that last week, you were ready to prosecute even that bulky report. I was the one who asked that you be given time over the weekend so that you could peruse the document. Therefore, you cannot come back and tell us that you want more time.

(Sen. Chelule spoke off record)

Order, Sen. Chelule! Please, give her the microphone.

Sen. Chelule: Mr. Speaker, Sir, I have just been given this bulky report today in the afternoon. It was not given to me on Friday. That is why I need time to peruse and even for the Senators to also look at it. It is my humble request to the Senators that---

The Speaker (Hon. Ethuro): Order! You have made your request.

Proceed, Sen. Madzayo.

Sen. Madzayo: Thank you, Mr. Chairman. This document---

An hon. Senator: It is, Mr. Speaker, Sir.

Sen. Madzayo: Mr. Speaker, Sir, I am sorry. I stand guided.

This document has been here even before the Session started this afternoon. I have been having it with me. I asked her if she wanted to have a look at it and if she had any question. Today, this afternoon, it was lying with the Clerk-at-the-Table there. She should have walked in, picked it up and familiarized herself. So, I do not think that she can pass the buck to this other side.

The Speaker (Hon. Ethuro): Order, Senators! Our Constitution is very clear. Technicalities cannot deny Kenyans opportunities. These are opportunities created for the youth, women and persons with disabilities.

On that basis, I will allow Sen. Chelule to deal with the comprehensive report on Thursday. For now, just deal with the issues she has raised in terms of information and other structures at the county levels. I still see that other Senators are interested; I will give you not more than a minute each.

Proceed, Sen. Abdirahman.

Sen. Abdirahman: Mr. Speaker, Sir, I have heard the Chairperson say that the youth and women through the Youth and Women Enterprise Funds are given Kshs500,000 and Kshs1,000,000, respectively, through LSOs and LPOs. I understand that LPOs and LSOs do not give direct cash to individual applicants. Could the Chairperson clarify on how the youth, women and persons with disabilities can access those funds directly because they may have to pay for labour and other things? Above that, this will not help the youth and women grow. They are meant to live on very small amounts of money. These tenders that are either advertised locally in counties or nationally---

The Speaker (Hon. Ethuro): Order, Senator!

Sen. Abdirahman: Mr. Speaker, Sir, I am building up, if you allow.

The Speaker (Hon. Ethuro): No.

Sen. Abdirahman: Mr. Speaker, Sir, I only want to say---

The Speaker (Hon. Ethuro): There are no structures to be built here.

Sen. Abdirahman: I am not building a structure---

The Speaker (Hon. Ethuro): We are interrogation the Statement made by the Chairperson.

Sen. Abdirahman: But it is related to the same, Mr. Speaker, Sir.

An hon. Senator: Please, use the microphone.

Sen. Abdirahman: Well, I am done.

The Speaker (Hon. Ethuro): I will allow you to seek clarifications not building--- What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Did you notice that for the last few moments the Chair has been engaging in a heated exchange with the Senator for Wajir?

An hon. Senator: Which Chair?

Sen. (Dr.) Khalwale: He is throwing a barb, he throws a barb; a hook, he ducks, Mr. Speaker, Sir.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! I am not aware of any exchange.

An hon. Senator: And any hooks!

The Speaker (Hon. Ethuro): I was only guiding Sen. Abdirahman while he was just seeking further clarifications.

Proceed, Sen. Abdirahman.

Sen. Abdirahman: Mr. Speaker, Sir, I am a very peaceful person. I have not come with any arms.

My last comment is for the Chairperson to confirm whether there is any relationship in terms of enhancing the requirement for these groups to get the 30 per cent contracts as stipulated in the policy.

Sen. Njoroge: Mr. Speaker, Sir, I would like the Chairperson of the Committee on Labour and Social Welfare to clarify if he went further and found out why persons with disabilities have never received funds meant for them. This would help them deal with LPOs and other issues.

As far as tenders are concerned, among the three groups, the most marginalised is persons with disabilities. We are more vulnerable compared to other groups. When the Chairperson gave the answer to the questions, I did not hear much being said about persons with disabilities *per se* in the sense of the kitty they depend on. The two kitties sound more like they are meant for women and the youth.

Sen. M. Kajwang: Mr. Speaker, Sir, I thank the Chairperson of the Committee for reading that statement. Whereas, in theory the process of seeking Government jobs or tenders has improved, in reality youth, women and persons with disabilities still face challenges. One of challenges is late payment for jobs done. I would like to find out from the Chairperson of the Committee whether there is an agreed upon duration that jobs that have been completed should be paid? Is there an agree upon duration---

The Speaker (Hon. Ethuro): Order, Sen. M. Kajwang! You have done very well; repeating does not make it any juicer.

Proceed, Chairperson.

Sen. Madzayo: Mr. Speaker, Sir, the two Senators who spoke earlier; Sen. Abdirahman and Sen. Njoroge are Members of my Committee on Labour and Social Welfare. They should have raised these questions and they should know better.

Regarding Sen. M. Kajwang's question, late payment for jobs is very bad. Once the job is done, people should receive their payment. However, if I can be given a week, I will find out why they are making late payment.

The Speaker (Hon. Ethuro): Order, Chairperson! Sen. M. Kajwang talked about duration. That is what you need to find out. There are also issues raised by Sen. Chelule. I can understand your response to Sen. Njoroge and Sen. Abdirahman. Deal with Sen. Chelule's issues as well.

What is it, Sen. Abdirahman?

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. It is true that we are Members of the Committee on Labour and Social Welfare, but this was a specific Statement sought by a Member of this House. It is asking for certain issues that relate to the interest of Kenyans. We, as Members, can either seek for clarification or question why the Government is doing one thing in one way or the other. Is the Chairperson in order to say that we cannot ask where a certain Member may have asked certain questions that are in the interest of Kenyans?

The Speaker (Hon. Ethuro): Order! What I heard from the Chairperson is that you are more privileged than the rest by virtue of membership. While I could see the basis on which you could ask questions is other statements, especially on the basis of issues relating to your county, but your issues were generic in nature, if I understood you well. They will be covered.

Proceed, Chairperson.

Sen. Njoroge: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order! It equally applies to you Sen. Njoroge. I am sure that you are just raising the same issue.

Let us remember that it is almost quarter past three and we are just on one statement.

Sen. Madzayo: Mr. Speaker, Sir, I will be in a position to respond in the next two weeks.

The Speaker (Hon. Ethuro): Order! You cannot respond to a follow up in two weeks. That should take one week.

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

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

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Speaker, Sir, thank you for the guidance you gave for the statement that has just been read to us by the Chairperson. However, my concern is the modality in which we interrogate statements in this House. We are losing focus. I beg for your indulgence that you guide the House. When a statement is read, interrogation does not mean another speech or statement from the questioner. That is how we have wasted time. There is need to put limits on the number of questions one can ask at once and the---

The Speaker (Hon. Ethuro) Order, Sen. (Dr.) Machage! If you really believe in what you are saying you would not have raised that point of order because you are taking more of our time to repeat what the Chair was at pains to tell Members, including cutting off point of orders from Sen. Njoroge. Did you have to repeat yourself to be heard?

Next Statement.

DETERIORATION OF STANDARDS IN THE MEDICAL PROFESSION

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I stand to issue a statement which was sought by Sen. Wangari on the deteriorating medical care standards with specific reference to quack doctors. In her statement, the Senator had asked a lot of questions and I will answer one after the other.

(1) Enumerate the statistical figures of genuine medical practitioners, quack doctors and medic in Kenya.

The Kenya Medical Practitioners and Dentists Board (KMPDB) under CAP 253 has the sole mandate to regulate the practice of medicine, dentistry and health institutions in Kenya. As at 7th October, 2015, the board has the following statistics:-

Register medical practitioners- 9902

Registered dental practitioners-1165

Those who are licensed and active as at this date because there is the annual renew which is active and those who are registered, but they are not active. The active medical practitioners are 5628 and 611 active dental practitioners. The health facilities registered in Kenya as at 7th October, 2015, is 4428. Those active are 2847.

Mr. Speaker, Sir, the Senator has sought the statistics of quack doctors, but it is not possible to give the number of quack doctors as they do not have a register.

(2) Explain the action that is taken on quack doctors and medics who are netted in swoops by the Ministry of Health.

When identified, quacks are arrested and taken to court where they are charged under respective counts.

(3) Enumerate the number of quack doctors and medics before the court of law and state the outcome of cases before the courts of law that have been heard and determined in the last 10 years.

In a view to make sure that qualified medical and dental practitioners are practicing in the country, the Board has over the years arrested unqualified people who have been found providing medical or dental services to the public.

In 2014 and 2015, a total of 89 people have been arrested during the joint inspection and are currently before various courts in the country. In the last 10 years, the Board, in collaboration with the police, has prosecuted a total of 13 cases involving quacks. Of the 13 cases, eight cases have been determined where the accused were found guilty and ordered to either pay a fine or serve a jail term of two years. The remaining five cases are still pending in court.

(4) Explain what Kenyans should look out for in authenticating credentials of doctors and medics in both public and private hospitals and the steps that the national Government is taking to educate Kenyans on how to distinguish between genuine legally registered doctors and quack doctors.

The KMPDB registers all medical and dental practitioners and issues them permanent registration numbers. This number is unique to each doctor. To ensure that the doctors are active and fit to practice, the Board issues them a Retention Certificate every

year which should always be displayed at the health facility where one is practicing. With this certificate, the Board is able to know the active doctors in the country. This is mandatory to all doctors both in public and private. The doctors in private practice are also issued with private practicing licenses which should be displayed in their facilities. Health facilities registered by the Board also have annual licenses issued by the Board and should be displayed conspicuously on the health facilities.

The Board has publicly availed these registers on its website which are updated regularly. Since not all Kenyans are Information Technology (IT) savvy and able to access IT services, the Board is in the process of piloting a system to assist the public to ascertain whether the doctors or health facility is registered and licensed. The system which is called ICare is android based and is downloadable for android based phones and also available on short messages (SMS) for phones that are not android based. The version is running on short code 20547.

One needs to type the name of the doctor or the health facility and the details are displayed. For doctors, the registration number, license status, specialty, sub-specialty, affiliated health facilities where they practiced and based on the services received, one is able to rate the doctor. For the health facilities, the distance from where one is currently located, that is the holder of the phone is located, the distance is shown, license status of the facility is shown, ownership and primary services offered at the facility are also displayed. This will enable one to get the route and locate available facilities within a particular radius, especially during emergencies and accidents.

Other regulatory bodies have registers which the public uses to verify the professionals registered under them. That is the Council of Clinical Officers, the Council of Nurses and other professionals like radiographers and the rest.

(5) Explain the steps the Government has taken if any to enforce the medical policy that a male doctor should always be accompanied by a female colleague when attending to a female patient.

Mr. Speaker, Sir, while there is no medical policy that a male doctor should always be accompanied by a female colleague when attending to a female patient, from my personal practice, usually doctors are accompanied by nurses and most of them are females, although this is not written. However, the KMPDB together with the stakeholders have developed the professional code of conduct and discipline which guides the conduct of medical and dental practitioners when providing care to patients.

Section 4 of that code of conduct discipline on professional ethics and conduct consent forms, the patient should give free and informed consent to the caregiver before they are attended. This includes the preferred gender of the caregiver. The patient could say that they want to be seen by a female or a male doctor.

The Ministry of Health together with stakeholders have also developed the Kenya National Patient Rights Charter where right number 4 states that:-

“A patient has the right to choose a healthcare provider as long as the choice is acceptable under the medical and ethical standards.”

Both documents are downloadable from the Board’s website.

(6) Explain the measures the Government has taken to continuously regulate and harmonize the curriculum used in private medical colleges.

The Government, through the KMPDB, has developed and published the bachelor of medicine co-curriculum and the bachelor of dentistry co-curriculum which sets the minimum standards expected of an institution offering medicine and dentistry courses in the country. The Board has recently together with stakeholders developed and launched the national training and quality assurance standards for medical dental schools and teaching hospitals in Kenya. These are also provided in the website.

The Board also carries out continued inspection using joint inspection checklist which is used to score the health facilities inspection and accreditation of medical and dental training schools, teaching hospitals and internship training centres to ensure that quality training is being offered to the students.

(7) Give the status of the recent cases of children who were injected with wrong vaccines like in the case of Mugo wa Wairimu.

On the status of children, out of 21 children that were referred to Nairobi Hospital for further management, all of them were discharged for follow up and rehabilitation at the county health facilities. It is expected that all children, except one will recover because it was partial paralyses. On the issue of Mugo Dichu wa Wairimu, the KMPDB, Pharmacy and Poisons Board, Kenya Laboratory Technicians and Technologies Board, Nursing Council of Kenya and Radiation Protection Board, worked together with investigating officers and Director of Public Prosecution (DPP) and preferred a total of 11 charges against him and the case is in court.

Sen. Wangari: Mr. Speaker, Sir, I want to thank the Chairman of the Committee on Health for that response but as you have realized, when we began this Session, the issues that have dominated this House especially on matters of health in terms of negligence are still very many. Therefore, I want to seek clear clarifications from the Chair.

First, I am interested with the kind fines that have been meted to the eight cases that have been determined so far in the last 10 years. The Chair should clarify the names of the medical practitioners or the crime and the charges preferred against them.

Secondly, if the Chairman says that between 2014 and 2015, 89 people were arrested for negligence or for malpractices and only 13 cases have been prosecuted in the last 10 years, I would like to know why we have discrepancy because 89 people were arrested in just two years but in ten years, we only have 13 cases.

I also seek clarity on the issue of children that were injected wrongly---

The Speaker (Hon. Ethuro): Order Senator! I hope that is the last clarification.

Sen. Wangari: Mr. Speaker, Sir, I will make it very short. I also seek clarity on the issue of children that were injected wrongly in Elgeyo-Marakwet, two of them died. Was there any action taken against the medical practitioner who was in charge of this immunization? As he or she been taken to court?

Finally, could the Chair clarify whether medical practitioners who are involved in negligence in the KMPDB are blacklisted so that people can identify them from a distance?

The Speaker (Hon. Ethuro): There is only one clarification for the rest of you. So you should prioritize.

Sen. (Dr.) Machage: Mr. Speaker, Sir, there have been very many people masquerading as doctors. Could the Chairman tell this House who qualifies to be called a doctor and who qualifies to be called a medical practitioner? Are clinical officers and nurses doctors or practitioners?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, first I thank Sen. Wangari for bringing this very important issue to the Floor. I want to seek a clarification from the Chairman. The Kenya Medical Practitioners and Dentist Act that governs the subject that he is answering to is an Act of Parliament that was passed way back in 1978.

In that Act, Section 22 provided for penalties for unregistered and unlicensed persons practicing medicine. Those are the quacks he is talking about. The penalty is as partly as Kshs10,000 regardless of the offense or a jail term of one year.

Could the Chairman assure this House that this Committee will proactively take up this Act, liaise with the Kenya Medical Practitioners and Dentists Board and review it to meet the changing times to deal with quacks firmly and sternly, including publishing their pictures and names in daily news papers, so that they are named and shamed, to the level where they cannot masquerade as doctors anywhere and everywhere?

Finally, if you can allow me to talk about the serious case that happened in Busia county where the distinguished Sen. Amos Wako comes from. Were the children who were injected and suffered severe paralysis injected by quacks or negligent medics, and in either case has any criminal culpability been apportioned to those negligent doctors or nurses who injected those children?

Sen. Wako: In addition to what Sen. Wetangula has stated, this Act is old, and the penalties are very lenient. I believe also that the machinery for discipline and prosecution is non-existent, because I heard the Chairman of the Kenya Medical Practitioners and Dentists Board say that they have only five or ten inspectors for the whole country, whereas maybe those inspectors or investigators---

The Speaker (Hon. Ethuro): Order, Sen. Wako. It is clarification time.

Sen. Wako: What steps have been taken to strengthen the investigative arm and the inspectorate arm of the Kenya Medical Practitioners and Dentists Board?

Secondly---

The Speaker (Hon. Ethuro): Order! One clarification only, I am afraid. You are even lucky that the Senate Minority Leader had already alluded to something about Busia. Proceed Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Thank you Mr. Speaker, Sir. One of the biggest challenges that the Kenya Medical Practitioners and Dentists Board is faced with is that when these so called quacks are arrested and eventually, prosecuted, the prosecutors are police constables with no experience and technical skills enough to pursue these cases. What is the Government doing to ensure that the Kenya Medical Practitioners and Dentists Board has its own prosecutors?

Sen. (Prof.) Lonyangapuo: I want further clarification especially on the last question which Sen. Martha asked about the children who were affected by the wrong vaccination. May I ask that the list of the children who suffered the same fate in the entire

county be tabled. My county falls in the same category where children in Olitaga Location are now limping as a result of the same treatment.

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. I appreciate the interest this matter has generated. On the issue raised by Sen. Wangari about the fines, names and the details of the cases that have come before the court, I need time for that so that we could enumerate that. I do not have the list with me right now.

She also wanted to know why out of the 89 cases, only 13 went through. Last week, we had the Cabinet Secretary for Health who was accompanied by Chief Executive Officer (CEO) of the Kenya Medical Practitioners and Dentists Board. It was very unfortunate that the attendance was not that good because this matter came up and the CEO who was here and deliberated a lot on it. What came out clearly is that while they carry swoops to net quack doctors, the challenge the Board has is on the enforcement. These people find their way after they have been arrested. They put the blame on the police department because once they are arrested, their job ends there. They are handed over to the police to prosecute, and somehow these people are either let scot-free or pay a minimal fine.

Obviously, this is made worse, and I do fully agree with Sen. Wetangula, by the fact that the Kenya Medical Practitioners and Dentists Act of 1978 is too old. It is also not punitive enough. It does not punish the culprits hard enough. Also, their ability to navigate the Police Department and be let loose came out very clearly, when the CEO for the Kenya Medical Practitioners and Dentists Board was here. On the issue of the children---

(An hon .Senator spoke off record)

I am actually going to answer you separately but just to combine it with the issue raised by the Senator, I want to assure the House that we will work on this . We will actually call the Kenya Medical Practitioners and Dentists Board---

The Speaker (Hon. Ethuro): Order, Chair! Those are details

Sen. (Dr.) Kuti: We will work on the weaknesses in this Act.

Sen.(Dr.) Machage asked who is a qualified doctor. From my training anyone who has done a degree in medicine and surgery; the so-called MBCHB that is, Bachelor of Medicine and Bachelor of Surgery qualifies to be called a doctor in the field of medicine. Of course, there are doctors who are PhD holders in other fields.

This has been contested from the time I was leaving the Medical School. The pharmacists have worked their way, and I think they are also called doctors. But as of the time I was leaving Medical School, Bachelor of Medicine and Bachelor of Surgery qualifies to be called a doctor. Clinical officers, nurses and all other cadres below that have their own reference names but not doctors.

I know why Sen. (Dr.) Machage has asked this. It is because everybody in a white coat is a doctor and sometimes that also leads to a lot of such incidences of negligence.

On the issue of the children, which the Senator for Busia, Sen.(Prof.) Lonyangapuo and Sen. Wangari asked about, all I have to say is that listing of all such

incidences throughout the country, will take time, but I will provide that in a months time.

On the issue of the quacks and the punishment---

The Speaker (Hon. Ethuro): Conclude, Chair.

Sen. (Dr) Kuti: In conclusion, I would like to say that we will work together as a Committee with the Board to strengthen areas that are weak in the law and also to ensure that the inspectorate capabilities are strengthened.

The Speaker (Hon. Ethuro): Statement 2 “(c)” still on the Chair of the Committee on Health. Let us give you a break and go to “(d)”.

Sen. Khaniri: Mr. Speaker, Sir, both (d) and (e) pertains to my Committee.

ISSUANCE OF TITLE DEEDS IN MERU COUNTY

On Statement (d) on the Order Paper on the issuance of title deeds in Meru County, we wrote to Dr. Fred Matiangi, the Acting Cabinet Secretary (CS), Ministry of Land, Housing and Urban Development on 29th September, 2015 requesting for this Statement. Up to now, we have not received any response. I have a copy of the letter that my Committee wrote to the Cabinet Secretary (CS). I request that we give it one more week because it is just about two weeks since we wrote to the Cabinet secretary (CS). We will report when we get any response.

Sen. Murungi: Mr. Speaker, Sir, I am not the Chairperson of the Committee on Land and Natural Resources ---

The Speaker (Hon. Ethuro): Order, Sen. Murungi! Respond to the real issues and not side shows. That was deliberately designed to distract you from your ---

Sen. Murungi: Mr. Speaker, Sir, the Senate Minority Leader is always trying to distract people. I appreciate the predicament that our brother, Deputy Chairperson of the Committee on Lands and Natural Resources is in. I am also the Chairperson of the Committee on Agriculture, Livestock and Fisheries. Sometimes we do not get responses from the Ministry when we want. However, merely writing a letter is not enough. You can call the Cabinet Secretary (CS) or have a cup of tea with him and find out why this answer has not been given.

(Sen. Khaniri stood in his place)

The Speaker (Hon. Ethuro): Order, Sen. Khaniri! You have a responsibility and you will get the opportunity to speak. Relax.

Sen. Murungi: Mr. Speaker, Sir, can the Vice-Chairperson demonstrate to this House that apart from writing the letter, he has made more effort to get a response to my question?

Sen. Khaniri: Mr. Speaker, Sir, it is very annoying when you know that --- I have always stated on the Floor of this House that my Committee is one of the most prompt Committees in responding to Statements and very active in this House. You have attested to this. The Statement was sought on 27th September, 2015 and we requested for two

weeks. On 29th September, 2015, we wrote to the Cabinet Secretary (CS). I have a copy of the same letter signed by the Clerk.

Sen. Murungi, the Chairperson for the Committee on Agriculture, Livestock, and Fisheries cannot purport to teach me how to do my work in my Committee.

The Speaker (Hon. Ethuro): Order, Sen. Khaniri! Nobody is teaching you anything. You are in a better position to demonstrate that you do not need any teaching because you undertook certain actions.

Sen. Khaniri: Mr. Speaker, Sir, I know that there is a Statement that he sought from us way back in June and it has not been delivered. However, it is not in the Order Paper but when it comes, I will respond to it and say what action has been taken.

However, this Statement was requested barely three weeks ago. Some Statements take months for Chairpersons to report here ---

The Speaker (Hon. Ethuro): Order! You appreciate that the Chair appreciates the responses of your Committee but that cannot be an excuse to this particular Statement. All that Sen. Murungi has asked of you – apart from writing the letter given that you promised two weeks from 27th September, 2015, just calculate your calendar – what else did you do knowing that the question was coming up? That is all. Respond that you did nothing or you are very sure you needed one more week. You should not defend the Committee; we are not questioning the competence of your. That is what took place for this particular Statement.

Sen. Khaniri: Mr. Speaker, Sir, indeed, my clerk has made frantic efforts to make phone calls to the Cabinet Secretary (CS) but I was only alluding to the evidence that I can table here. At least, I have a letter that was written on 29th September, 2015. If we do not get response besides the telephone calls, we will remind him, which I shall also have in my file.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. If you noted, there was a Senator standing next to you in very interesting regalia.

Is he properly dressed to attend this Sitting or is it now in order that we can wear anything to attend sittings in this House?

(Sen. Bule wore an Islamic dress)

Sen. Haji: On a point of order, Mr. Speaker, Sir. I think Sen. (Dr.) Machage should not waste our time. You have ruled over wearing of a traditional dress. This is a proper Islamic traditional dress. He has just come from Mecca. You should ask him to pray for you so that you can be re-elected in 2017.

(Laughter)

The Speaker (Hon. Ethuro): On the face of it, I cannot tell whether it is traditional or religious. I have mandated my technical people to examine the dressing more closely and I will respond to you when I have gathered all my facts.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I urge you to come up with a response as quickly as possible, because the Senator from Kuria was telling me that he

will also appear here in traditional regalia. That means all he will wear is a *shuka* and carry a sword. I do not want to see him in that.

(Laughter)

The Speaker (Hon. Ethuro): Sen. Orengo, you can be sure that is no basis for expediting the ruling. If he comes in a *shuka* and a sword, he will not even enter the Chamber because he will be carrying an offensive weapon.

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. What we are seeing this afternoon is not different from what Sen. Haji wore at the commencement of this Senate. I cannot remember whether it was at The Kenyatta International Convention Centre (KICC) or County Hall, but I remember you made a ruling yourself.

For the interest and knowledge of quite a number of us who may not know, that is not a traditional dress. This will be very useful for many of us to understand ---

The Speaker (Hon. Ethuro): Sen. Abdirahman, how can you not quote the authority?

Sen. Abdirahman: Mr. Speaker, Sir, I have quoted the authority as part of your ruling. It is an Islamic dress. Islam draws its knowledge and teachings from not only the Holy Quran, but also the teachings of the Prophet. This is what constitutes Islamic knowledge and history. I am not teaching any one now but it is an Islamic dress.

The Speaker (Hon. Ethuro): Order, Members! That is the end of that story. Sen. Bule, what do you have to say?

Sen. Bule: Asante sana, Bw. Spika. Mavazi yangu isiwe ni ya Hoja leo. Mimi ni Mwislamu na ni kawaida kwa Mwislamu, na haya ni mavazi ambayo kawaida na hata katika sheria yetu ya Bunge inaruhusu mtu awe na kanzu na koti. Pengine *tasbihi* ambayo nimebeba mkononi huenda ikawa mtu akaona kwamba ni geni. Hii ni kanzu wala sio tai. Kwa hivyo, mtu ajue kwamba kanzu inaruhusiwa Bungeni na iko katika maandiko.

The Speaker (Hon. Ethuro): Order! Sen. Bule. Resume your seat. I will make the necessary ruling sooner than later. Let us go to Statement 2 (c).

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. Part 2 (c) is about a Statement requested by Sen. Kanainza regarding the death of Mrs. Maurine Tata during delivery. Also, in her several questions, the Senator sought from question Nos.7 to 11 about the same thing that we covered about negligence, quacks and I will, therefore, assume that on the deliberations we had for the interest of time, with your permission, I will omit from Nos.7 to 11 and deal with question one to six. Unless the Senator has---

The Speaker (Hon. Ethuro): Proceed along those lines.

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. Her first question is whether the Government is aware one Mrs. Tata was hospitalized at St Francis Community Hospital. The answer says the Ministry is aware that Mrs. Tata was admitted at St Francis Community Hospital on 4th July, 2015 for delivery and delivered through cesarean section at the facility and subsequently referred to The Kenyatta National Hospital (KNH) on 7th July, 2015, where she died on 8th July, 2015, and an autopsy was performed on the body of Mrs. Tata which found no evidence of internal hemorrhages.

The second question is: What necessitated the cesarean section operation, who authorized it and whether the doctor who carried out the operation is qualified. The patient had the latent face and it was monitored and it had no progress. This is a situation which we call a prolonged labour, where the patient was not able to deliver normally within the time provided. So, a cesarean section was ordered on that basis by the doctor, and the doctor on duty at the hospital's maternity unit authorized the operation, and Mrs. Tata signed the consent, and the staff according to the records acted according to expectations.

Mr. Speaker, Sir, the doctor who carried out the operation is a qualified medical practitioner and was competent to do that operation. He is licensed with the Kenya Medical Practitioners and Dentists Board.

Mr. Speaker, Sir, the third question is why the hospital gave Mrs. Tata food immediately after the operation and whether that is allowed for patients. The answer is that, the records show she was given sips 48 hours after the caesarean section, which is the normal period for observing. Of course, added to this was the fact that there should be also the mobility of the gut, but the time, 48 hours, was given and there was no evidence of sips given immediately after the operation.

The fourth is why the hospital did not inform the family upon realizing her situation. Investigations show that relatives were informed of the condition of the patient at all times. The patient's sister gave evidence that she was informed of the patient's condition and the decision to transfer her to the KNH.

Mr. Speaker, Sir, the fifth question is: What action will be taken against the doctor who attended to Mrs. Tata in Kasarani and against the hospital for failing to uphold professional ethics while attending to the said patient? Records do not show any negligence on the part of the doctor, and, therefore, there is no action that is being contemplated.

Sixth, Mr. Speaker, Sir, is what measures has the Government put in place to address the deteriorating situation? I think this is the one I was speaking about. We are trying to strengthen the law, the Kenya Medical Practitioners and Dentist Act, and also to work with the enforcement arm of Government to make sure that those arrested are dealt with.

Thank you.

Sen. Kanainza: Thank you, Mr. Speaker, Sir. I have tried to interrogate the reply given by the Chair of the Health Committee and it is very unfortunate that the Cabinet Secretary (CS) together with the Kenya Medical Practitioners and Dentists Board are trying to protect the sins committed by this hospital in particular, and the gynecologist who did the caesarean. It is very clear in my question No.3 that the patient was given food and that is for a fact because during the postmortem which we followed keenly, is that food particles were found in the system. The doctor from St Francis was asked about it and he confirmed that food was given to her, and in this Statement, the CS who signed this document is trying to deny.

Mr. Speaker, Sir, I also need clarification on my question No.4. It is claimed that the sister gave evidence that she was informed of the patient's condition. The hospital refused to give information on the progress of the patient. It was the family's decision.

When the family went to hospital on that fateful night of 7th July, 2015, they decided to take the patient to hospital. So, this Statement is not true and is not the right response. I would request that the Committee on Health visits this particular hospital and confirms a number of things because they decided to do this process yet they do not have the proper equipment to take care of a patient who has undergone this type of surgery.

Mr. Speaker, Sir, I would request with your guidance that the Committee visits this hospital. This is not the first case; we have several cases of people dying from the same hospital during delivery.

Thank you.

The Speaker (Hon. Ethuro): Order! You have made your request. Sen. Wangari, you want a clarification?

Sen. Wangari: Thank you, Mr. Speaker, Sir. I will repeat again that the Committee on Health needs to interrogate these issues. As you can see, the frequency of the negligence of doctors is coming here every day every time. On the Statement, this specific mother left a few hours old baby. It was a very unfortunate case. I want to follow up on the question that was asked by Sen. (Dr.) Khalwale, that day when the Statement was sought. He asked clearly what the qualifications of the person who carried out the caesarean section, the anesthetist and everyone who was used as the scrub nurse are. Were all these professionals who were used in that operation qualified? Can the qualifications and the names be tabled in this House?

Sen (Dr.) Khalwale: Mr. Speaker, Sir, I am surprised that the Chairman who is also a doctor of medicine could accept this kind of answer. He has told us that the autopsy findings indicated that there was no internal hemorrhage bleeding. I would have expected him to use the same postmortem to tell the family what the cause of the death was. So, your answer is not satisfactory in any way.

The Speaker (Hon. Ethuro): Order! Sen. (Dr.) Khalwale. What is the difference between internal hemorrhage and bleeding?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, those two words mean the same thing. I just used them interchangeably. When I said the word “hemorrhage”, I might have lost a few listeners, so I replaced it with the word “bleeding.”

Is the Chairman in order---

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! Where does the Chairman come in? I am the one who asked you that question.

Sen. (Dr.) Kuti, please, proceed.

Sen. (Dr.) Kuti: Mr. Speaker, Sir, the cause of death has just been sought but it was not among the questions that were sought by Sen. Kanainza. However, now that it has come up, we will find out what the cause of death was.

The other issue, I agree that what---

The Speaker (Hon. Ethuro): Order, Chairman! The question that was sought required you to issue a statement regarding the death. How do you issue such a statement without knowing the cause? There must have been an autopsy.

Sen. (Dr.) Kuti: Mr. Speaker, Sir, there was the issue of referral of the patient to Kenyatta National Hospital (KNH), which is not clear to me. Therefore, I would like to withdraw this statement and seek a better answer. I also agree that we should visit the

facility and get a satisfactory answer. The statement does not answer all the questions as to why the patient was transferred from that facility to KNH. What was the purpose of the referral?

The Speaker (Hon. Ethuro): Order, Chairman! You are being repetitive. When will you give the answer?

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I will give an answer in two weeks' time.

The Speaker (Hon. Ethuro): Very well.

Sen. Khaniri, I hope that the one week you requested also applies to Sen. Murungi's statement because we did not conclude it.

Sen. Khaniri: Mr. Speaker, Sir, we concluded the statement by Sen. Murungi

The Speaker (Hon. Ethuro): Very well. Please, proceed.

DESTRUCTION OF INDIGENOUS TREES IN THE NORTH RIFT REGION

Sen. Khaniri: Mr. Speaker, Sir, I rise to respond to a statement that was sought by Sen. (Prof.) Lonyangapuo.

One, he wanted me to state whether the Ministry of Environment and Natural Resources is aware of the destruction of indigenous trees for charcoal burning in the North Rift particularly along Kerio River in Kolowa Ward neighbouring Tot in Marakwet and Chesegon in West Pokot which is being facilitated by senior national and county Government officials.

The response to this particular question is that the Ministry of Environment and Natural Resources and Regional Development Authorities is aware that there is charcoal burning taking place, particularly in Kolowa and Tot areas of Baringo and Elgeyo-Marakwet counties, respectively. The charcoal is produced from material originating from clearing of vegetation to create room for an irrigation scheme in Kolowa and Tot areas which has been sanctioned by both Baringo and Elgeyo-Marakwet county governments after being approved by respective environment committees comprising of officers from both the national and county governments. However, there is unauthorized charcoal burning taking place within Chesegon in West Pokot, Turkana and other counties. The Cabinet Secretary assured me that the Ministry has been and will continue taking all necessary measures to curb this malpractice which is bound to interfere with the fragile ecosystem within the arid and semi arid areas.

Mr. Speaker, Sir, the Forest Act of 2005, that became operational in 2007, has clear regulations that govern sustainable production and regulation of the charcoal industry in the country through the charcoal rules that were developed and gazzetted in 2009. However, following the promulgation of the Constitution in 2010, some functions that were previously performed by the national Government were devolved to the county governments. One of the functions that the Ministry devolved to the county governments vide the Legal Notice No.137 of 9th August 2013, is the forest extension services under which the charcoal industry fall. Currently, all the charcoal produced in the country originates from private and community lands.

Mr. Speaker, Sir, secondly, Sen. (Prof.) Lonyangapuo wanted me to explain what the relevant Government agency is doing to stop the dangerous activity in the region and in other areas throughout the country where such activities are being undertaken. The Ministry has instituted the following measures to address these issues:

- a) The Kenya Forest Service (KFS) has been working with other law enforcement agencies in mounting joint operations to arrest and prosecute offenders engaged in illegal charcoal business throughout the country. A sample of the cases prosecuted in Elgeyo-Marakwet County from July to September 2015, is hereby attached for perusal;
- b) KFS has suspended the issuance of charcoal movement permits in all counties where cases of authorized production of charcoal has been taking place;
- c) county and sub county environmental committees comprising of office from national and county governments have been formed to vet and recommend individuals or groups for charcoal productions on a sustainable basis after meeting the requirements of the charcoal rules; and,
- d) sensitization through public *barazas* to discourage people from participating in charcoal business.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I do not think that the Chairman has finished reading the statement. He did not answer part “c, d, e and f”.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, since you have looked at them, just proceed.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I appreciate the work done by the Chairman and the Ministry of Environment and Natural Resources to submit the response to the key questions that I sought. However, I need further clarification on the first question where the Chairman has said that the said charcoal is a result of areas being cleared for irrigation. How do we know whether this is true? Where are the minutes of the said committees that legalized the areas to be cleared?

Secondly, the Chairman said that charcoal is also being produced in Turkana, West Pokot and other counties, but he has not given us the list of all the culprits who have been caught ferrying charcoal from those counties. He also said that there is no charcoal burning in Elgeyo-Marakwet County outside gazetted areas. However, he provided a list of persons prosecuted between July and September 2015 in Elgeyo-Marakwet County. Is that not a contradiction?

Lastly, Mr. Speaker, Sir, you have also cited an Act of 2005 which state that the functions were devolved with coming of the New Constitution. One such function that the Ministry devolved was via Legal Notice No.137 about Forest Extension Service, which you have just cited. However, in answer (f) which the Vice Chairman never read, they still hold on this function while he has just said that it was devolved. He has said that the Ministry, through the Kenya Forest Service, is in the process of finalising transition implementation and so on and so forth. However, we need to be clear on that. When the function was handed over, why is he saying that they can still be managed from Nairobi?

Sen. Murkomen: Mr. Speaker, Sir, the future of this country is in the Kerio Valley which runs from Baringo, Elgeyo-Marakwet to Turkana. Even as irrigation is

being done in this very fertile region, there is danger that there is no balance between irrigation and farming and the question of protecting the forest. If you pass through Elgeyo-Marakwet from Baringo to Turkana, you will find irrigation taking place. There is clearing of the bush up to River Kerio in the disguise of irrigation.

Mr. Speaker, Sir, I thought that the law is very clear that there is a given distance between riparian areas or a river and places where you can clear trees and forests. I would like the Chairman to inform us about clear measures that are being put in place in areas that the Government plans to do huge irrigation projects to ensure that the ecosystem is not interfered with.

Secondly, I want to emphasise the question asked by Sen. (Prof.) Lonyangapuo. There is a clear contradiction regarding devolution of functions. To what extent is this answer related to counties performing the function of protection of forests and dealing with charcoal burning considering that enough resources are not being given to counties to carry out these functions? Could the Ministry clearly show that as a result of devolution, the resources that were initially at the national level to follow this function have since been given to Elgeyo-Marakwet, West Pokot and Baringo counties to carry out the functions purported to be devolved according to this document?

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

Sen. Musila: Mr. Speaker, Sir, I dare say that the Chairman's response is misleading to the House. For the past 10 years, I have been asking questions concerning the issue of charcoal. I want to confirm that there is no irrigation going on in my county. Therefore, the question of clearing land for irrigation does not arise. What is happening is that the people we gave the responsibility to conserve forests are the ones destroying them in conjunction with the police. If I took the Chairman between Thika and Mwingi, he will find no less than 10 long vehicles carrying charcoal and passing through roadblocks where police officers are and they will claim to have permits from the Forest Department. Could the Chairman tell us who issues permits for charcoal to be burnt throughout the country? As we speak now, we risk having this country being turned into a desert courtesy of the Ministry that is supposed to protect forests.

Sen. (Dr.) Machage: Mr. Speaker, Sir, charcoal burning will always continue as long as there is a market for charcoal. Indeed, it is the poor of Kenya who use charcoal for cooking. Is the Chairman convinced that the Government has set up enough alternatives at an affordable cost for the poor people of this country to discourage them from using charcoal for purposes of cooking?

The Speaker (Hon. Ethuro): Finally, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, charcoal poaching is a serious menace in this country. There is no explanation or justification that can mitigate the destruction of forests that goes on everywhere. All you need to do is to fly over any of the forests to see what is happening. Members of the notorious "sky team", like Sen. Murkomen, can tell you that when you fly over the Mau and many other forests, you will see that there is serious ongoing destruction of our forests yet we are a country with very thin forest cover.

Mr. Speaker, Sir, could the Vice-Chairman tell us – if he does not have the answer, he can get it from the Ministry – efforts being made to enforce the provisions of

the Forest Act which we passed in the last Parliament? Among other things, the Act set a minimum of 10 per cent forest cover of any land holding; whether land is held by the Government, individuals, institutions or anybody for that matter, either as a woodland or as a perimeter fencing, so that this country can move towards goals that other countries achieved given that countries like South Korea, in 1960, had 7 per cent forest cover. Now, South Korea has 71 per cent forest cover. How will we achieve this?

The Speaker (Hon. Ethuro): Vice Chairman, Sen. Khaniri.

Sen. Khaniri: Mr. Speaker, Sir, you will definitely agree with me that the issue raised by Sen. Wetangula is a substantive matter and, therefore, cannot be supplementary to this particular question. The distinguished Senator for Bungoma, my elder brother, should put that question and we will get him answers from the Ministry because it is not related to this at all.

Similarly, Mr. Speaker, Sir, Sen. Musila made very serious allegation – particularly for those of us who are concerned about conservation of our forests and environment – regarding charcoal burning in his area. He should be advised to request for a statement and the Committee will be more than willing to visit the place. However, the question about who issues permits for charcoal production is irrelevant. We all know that that is a devolved function. It is the county governments that are supposed to issue such particular permits, probably, in consultations with the Forest Department. That is a devolved function and, therefore, county governments should take responsibility fully.

Regarding the issue raised by Sen. Murkomen for Elgeyo-Marakwet, I think he is better placed to answer that question because he is squarely in Government. We have been pushing the Government on the issue of resources.

(Sen. Murkomen spoke off record)

Mr. Speaker, Sir, could I finish what I am saying because I am answering him?

The Speaker (Hon. Ethuro): Let him finish and then, I will allow you to talk, Sen. Murkomen.

Sen. Khaniri: Mr. Speaker, Sir, he is talking about resources following functions. I am not an implementer of the policies of the Jubilee Government.

The Speaker (Hon. Ethuro): Order, Senator!

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Is it not time that Sen. Khaniri be stopped from answering questions on behalf of Cabinet Secretaries because this is second time he is doing that? You were here last time and you saw that. He shifts the blame to Senators from the Jubilee side every time he takes the responsibility of the Chairman to answer questions on behalf of Government departments. Should he be answering questions on behalf of a Cabinet Secretary when we ask questions that are related to our constituents? If he is incompetent and incapable of carrying out that responsibility, he should delegate it to a Member of the Committee from the Jubilee.

The Speaker (Hon. Ethuro): Order! Members. It is true, Sen. Khaniri, at one stage you alluded that those of us who are leaders in conservation, which means you are fully converted. Awhile ago you were dealing with Sen. Kiraitu's matter and demonstrating how the Committee works diligently, and I agree completely. Keep that

track, and Senators irrespective of their political affiliations, have the right to ask a Statement. It is the Committee to interrogate the necessary Government agencies and others to get the response and particularly, Sen. Murkomen's. I saw the Chair of the Committee on Devolution seeking your support and enlisting you in terms of ensuring that this House made a resolution on the transfer of functions. He is asking the relevant Committees of the House whether they are really pursuing that the resources follow the transfer of functions.

Sen. Khaniri: Mr. Speaker, Sir, I am guided by your ruling, but I will still stand my ground. As the Senate, we are fighting very hard to ensure that our counties get resources commensurate with the responsibilities as provided for in the Constitution. However, you will agree with me that the biggest hindrance is the Jubilee Government. When he asked me if the Forest Department---

The Speaker (Hon. Ethuro): Order, Sen. Khaniri. If you respond to the specific matter first, you can then draw the generic conclusion that it is these kinds of actions by this Government, I can understand that. But if you just respond by blanket condemnation, I think it is unfair to the question and your role as a Committee of the House.

Sen. Khaniri: Mr. Speaker, Sir, in response to his question, I do not think that the resources devolved are commensurate to the responsibilities that have been given to these county governments.

The Senate Minority Leader (Sen. Wetangula): On a point of information. Mr. Speaker Sir. May I inform the distinguished Senator for Vihiga that as we attempt to devolve functions including the management, protection and conservation of forests, the national Government has arrogantly refused to release the protection, management and ownership of forests to county governments to the extent that the Governor of Kakamega County has been contemplating taking the national Government to court because forest officers and other allied forces from the national Government are busy destroying the natural forests of Kakamega. When he tries to intervene, he is told it is a national forest. Sen. Murkomen *anajua mambo haya*.

The Speaker (Hon. Ethuro): Proceed, Sen. Khaniri.

Sen. Khaniri: Thank you, Mr. Speaker, Sir. The questioner, Sen. (Prof.) Lonyangapuo, had three issues. First, he said that I had not tabled the full list of the people who have been got burning charcoal illegally. In his question, he did not ask for the list but I was magnanimous enough to give him a sample of the list of people who have been arrested to show that the Forest Department is taking action but he did not ask for a full list. If he does, I am sure the Cabinet Secretary is willing to give the full list of those who have been arrested and arraigned in court.

Secondly, he alluded to an extension of my Statement. I read up to (e). We request the Statements from the Ministry and once we receive them, we synthesise and decide what to give. I read up to (d); the (e) and (f) he is alluding to is not part of my Statement and therefore I will not respond to that.

Lastly, I stated clearly that the charcoal is produced from material originating from the clearing of the vegetation to create room for irrigation. That has been approved by the county governments of Elgeyo-Marakwet and Baringo. It has also been approved

by the respective technical environmental committees comprising of officers from the national Government and the two county governments.

The Speaker (Hon. Ethuro): That Statement is done. The last Statement is from the Chair committee on Finance, Commerce and Budget. What is it, Sen. (Dr.) Khalwale? I hope you are not attempting to respond to your own Statement.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the Chairman of the Committee on Finance, Commerce and Budget through the Vice Chair has requested that I allow them more time to come with an answer next week. He has left and I thought I should inform the Speaker.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale, you know you have plenty of airtime in this House. You did not need that one. You should have approached me and I would have silently dropped the matter.

Order, Senators. We must make progress. It is approaching 4.30 p.m. If the matter is not in the Order Paper, it may not be crucial for today. Orders No. 8 and 9 will be deferred to tomorrow and both will take priority. We are going to deal with Order No. 10 for the remainder of the day and I will make communication on that.

BILL

Second Reading

THE HIV AND AIDS PREVENTION AND CONTROL
(AMENDMENT) BILL (SENATE BILL NO. 4 OF 2015)

(Sen. (Dr.) Machage on 1.10.2015)

(Resumption of Debate interrupted on 7.10.2015)

(Bill deferred)

REPORT OF THE SELECT COMMITTEE OF THE SENATE ON
CONSTITUTIONAL AND LEGAL REVIEW

THAT, this House adopts the Report of the Select Committee of the Senate on Constitutional and Legal Review laid on the Table of the House on Wednesday, 23rd September, 2015.

(Motion deferred)

COMMUNICATION FROM THE CHAIR

LIMITATION OF DEBATE ON THE ADDRESS BY THE PRESIDENT

The Speaker (Hon. Ethuro): Hon. Senators, as you may recall, pursuant to Standing Order 25, the President of the United Republic of Tanzania, H.E. (Dr.) Jakaya Mrisho Kikwete, addressed a Joint Sitting of Parliament on 6th October, 2015. I would like to guide the House on how we shall proceed on this matter as it is the next order.

Hon. Senators, Standing Order No. 25(3) state as follows:-

“Standing Order No.23 (*President entering or leaving the Chamber*) and 24 (*President’s Address to Parliament*) shall, with necessary modifications, apply to a visiting Head of State or such other dignitary.”

Standing Order No.24 (5) and (6) state as follows:-

“(5) Whenever the President delivers an Address to Parliament, a Senator may, as soon as practicable thereafter, lay the Presidential Address on the Table of the Senate following reading of such Address.

(6) A Senator may give a notice of Motion, that “The Thanks of the Senate be recorded for the exposition of public policy contained in the Address of the President” but debate on the Address shall not exceed three sitting days.”

Hon. Senators, on Thursday, 8th October, 2015, the Senate Majority Leader lay the speech by H.E. (Dr.) Jakaya Mrisho Kikwete on the Table and gave a notice of Motion that the Thanks of the Senate be recorded for the Address to Parliament by the President of the United Republic of Tanzania delivered on Tuesday, 6th October, 2015.

Pursuant to Standing Order No. 25 (3), I now direct that the said Motion will be limited to a maximum of two hours with 10 minutes for the Senate Majority Leader, 10 minutes for the Senate Minority Leader and five minutes for each other Senator speaking. Five minutes before the time expires, the Mover shall be called upon to reply. I encourage the presiding officer to vary the time accordingly depending on the mood of the House.

I thank you.

(Sen. Musila stood up in his place)

Order, Sen. Musila!

(Sen. Musila spoke off record)

In fact, that is why you were standing while I was standing too. Order, Sen. Musila!

Sen. Musila: Mr. Speaker, Sir, it is important that I---

The Speaker (Hon. Ethuro): Sen. Musila, I will not listen to your point of order if you do not obey my ruling.

Sen. Musila: But Mr. Speaker, Sir---

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

Sen. Musila: I am on a point of order, Mr. Speaker, Sir.

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

Next Order.

(Sen. Musila spoke off record)

MOTION

THANKS OF THE SENATE FOR THE ADDRESS TO PARLIAMENT BY
THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA

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

THAT, pursuant to the provisions of Standing Order No.25 (3), the Thanks of the Senate be recorded for the Address to Parliament by the President of the United Republic of Tanzania delivered on Tuesday, 6th October, 2015.

As the Motion reads, on 6th October, 2015, the National Assembly and the Senate in a Joint Sitting of Parliament hosted the outgoing President of the United Republic of Tanzania, His Excellency (Dr.) Jakaya Mrisho Kikwete; the President of a neighbouring friendly country.

First and foremost, I want to take this opportunity to thank the President of the Republic of Kenya, His Excellency Uhuru Kenyatta, for inviting President Kikwete.

Secondly, I thank President (Dr.) Jakaya Kikwete for not only honouring that invitation but also for giving a very dignified short but strong clear message not only about his imminent departure from the leadership of Tanzania but also with regard to the future relationship between our two countries.

Mr. Speaker, Sir, one of the highlights of the Speech by His Excellency President (Dr.) Jakaya Kikwete was his emphasis that in three weeks' time from that date; he would be leaving office in obedience to the Constitution of his country. These are the kind of leaders we want in Africa especially, where it has become common for leaders---

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

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I do not want to revisit your ruling. However, we have taken too much time on Statements and the real business of the House begins when we are dealing with Motions. I note that in view of the fact that we do not even have a quorum in the House, you have allocated only five minutes which means that after the Mover and a reply, we may not even exhaust the two hours.

With utmost respect, I am requesting that in view of the numbers we have in the House, could you possibly review your ruling. Five minutes for the issues that are raised in this Speech and for a Senator to stand up as if we are in the other House to speak for five minutes, it would not be doing justice to this Speech.

My brother has been sitting here deliberately just to talk on this matter and when you talk about five minutes, he may not be in a position to contribute. So, I am just asking you to review your ruling---

The Speaker (Hon. Ethuro): I do not understand why you appear agitated for a simple request and particularly when you are not listening. These Statements are prepared way in advance. In appreciating the issues we have raised, I actually clarified my own Statement as I was reading it; 10 minutes to the Leaders and 5 minutes to any other Senator but the presiding officer may vary that time according to the mood of the House. Those are my words and they are on HANSARD. So, what you are raising will be taken into account.

Sen. (Dr.) Machage: Mr. Speaker, Sir, if you listened carefully to Sen. Orengo's point of order, he mentioned about the quorum which is now in the HANSARD---

The Speaker (Hon. Ethuro): Order, Senator! I think there was a context in which that word was being used but you want to take it in another dimension. Do not put words into Sen. Orengo's mouth, he is a wordsmith. Since he did not proceed along those lines, let us appreciate the context in which he meant that. It was to get more time and that has been granted.

Proceed, the Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Speaker, Sir, thank you for your clarification. There is only one Majority Leader in this House.

As I said, the Speech by His Excellency President (Dr.) Jakaya Kikwete came at the right time when he is leaving office. In this part of the world, it has become the norm that when the time for many leaders comes for them to leave office, they try to interfere with the Constitution of their country, to change the rules and they use the people as an excuse to hang on in office. Therefore, my very personal commendation as an African and a citizen of Africa goes to President Kikwete for honouring the Constitution of his country and not attempting---

(Sen. Wetangula consulted with the Speaker)

The Speaker (Hon. Ethuro): Order, Members. The Leaders will have 20 minutes each so that the Majority Leader could proceed along those lines. Every other Senator speaking will have ten minutes each.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Speaker, Sir, I thank the intervention of the Leader of Minority because I was actually struggling on how to condense all these in ten minutes.

Obedience to our constitutions is very important. Time has come for Africa and Africans to respect the rules we set for ourselves. I am very happy and proud as a Kenyan and as an African to be associated with the transition that has taken place in Tanzania repeatedly. I think they have set a good example for the rest of us. We, in Kenya, have had the smooth departure of President Moi who handed over to President Kibaki. We have also seen President Kibaki hand over power to President Uhuru Kenyatta in accordance with our Constitution. As Kenyans, we believe that tradition will be maintained so that we could respect the Constitution that we have put into place.

Mr. Speaker, Sir, in the Speech, it was also very clear that His Excellency President Jakaya Kikwete was here at the invitation of our President. We want to thank our President for giving the people of Kenya, through their representatives, an opportunity to have some final moments with President Kikwete before he retires.

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

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

Mr. Temporary Speaker, Sir, President Kikwete's Speech was short but very clear. It communicated a number of important things. First, President Kikwete underscored the longstanding political and diplomatic ties between our two countries. I think this brotherhood and good neighbourliness will go a long way in strengthening the historical ties that exist between the people of the United Republic of Tanzania and the Republic of Kenya.

His Excellency President Kikwete also narrated his personal experience and the role he played when our own country – Kenya – had political challenges and descended into chaos. What touched many of us who listened to him on that day was the fact that he actually told us that nobody invited him to Kenya. When our country was in trouble, he actually started engaging and contacting Kenyans friends whom he knew, including my brother, Sen. Wetangula, whom he singled out for doing a good job in terms of trying to look for a hand from our neighbours to resolve the challenges that we had in 2007/2008. As Kenyans and Africans, we will remain indebted to the contribution of President Jakaya Kikwete – behind the scenes and also in public – to make sure that together with Kenyan leaders, we were able to restore our country to normalcy after the short period of madness that visited us after the 2007 General Election.

His Excellency President Kikwete also said and emphasized that the cooperation between Kenya and Tanzania remains strong in the fight against terrorism, trans-boundary crime, fight against narcotic drugs and psychotropic substances, fight against illegal trade in wildlife, rule of law and quest for justice in our region. This relationship is good for our two countries and is something that has even improved during the ten years that His Excellency President Kikwete has been the President of the Republic of Tanzania.

Mr. Temporary Speaker, Sir, the Speech also highlighted or brought into the fore a number of areas of cooperation that the two countries have achieved in the years that President Kikwete has been in office. Sometimes, we try to look at the challenges that our two countries have gone through, ignoring the successes and strong areas where cooperation has triumphed over differences. He was able to bring out two important projects. The first one – the Athi River-Namanga-Arusha Road - was completed in 2012 during the leadership of President Kikwete and President Mwai Kibaki. He also highlighted a road project which has just begun under the leadership of President Kikwete and President Uhuru Kenyatta, that is, the Mwatate-Taveta-Holili-Moshi-Arusha

Road. The two Presidents launched this project together on 5th October, 2015, a day before he addressed the Joint Sitting of Parliament.

The Address by His Excellency President Kikwete also touched on another area of cooperation, where the two countries are doing very well, that is, energy. He gave a very good example of how the two countries have agreed to share energy especially at border towns. He explained, for example, that in Arusha Town, the power that benefits the Namanga side of Tanzania, down to Longido which is about 50 kilometres from the border, comes from Kenya. But in another part of the Sirare Border, the power that is being enjoyed in the Kenyan side comes from the Tanzanian side. These were very encouraging revelations that we should encourage as Africans going forward; sharing our resources as brothers and sisters and using our boundaries as bridges to unity, as opposed to using our boundaries as hurdles to our success and unity.

Other than energy and sharing of the supply of power, the President's Speech also touched on a very important issue. He said – and I want to highlight this – that Tanzania does not see Kenya as a competitor. Instead, it sees Kenya as a strategic ally. I think this is a very good message because there has been some misunderstanding that sometime Tanzania does not appreciate the investment and contribution that Kenyans have made in their country. I think this coming from President Kikwete was very reassuring; that Tanzanians do recognize the vast investments that Kenyans have made in their country, creating over 55,000 jobs. These investments span in various sectors of the economy, including financial services, transport sector, hospitality industry, *et cetera*.

Mr. Temporary Speaker, Sir, I do not wish to go through the entire speech because I will be taking a lot of time. But allow me also to mention that this Speech brought out an important factor, which is the belief in Tanzania in the unity of East Africa and integration of our region. I think the President of Tanzania made it very clear that matters of regional integration are both a matter of principle and policy. His country holds the strong belief that a divided East Africa is not good for any our countries. I think that is a good message. I hope that this puts to rest the misguided political discussion that I have heard in some parts of East Africa about some countries belonging to some 'coalition of the willing' and the 'coalition of the unwilling.' I think this assurance is very refreshing for the entire East African Community (EAC). A divided East Africa is not good for everybody. I think that is the take-home message from President Jakaya Kikwete. If we proceed along those lines, I think East Africa and Africa is headed to great success. You cannot imagine how powerful it is to have a strong region with over 200 million Africans, in terms of international trade and having a voice in the world economy, trading together and exchanging goods and services.

Mr. Temporary Speaker, Sir, the last thing that I want to highlight in terms of what I see as good even for this country, coming from the President's---

The Temporary Speaker (Sen. (Dr.) Machage): Order! I will give you another three minutes.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. I will wind up in two minutes.

The other thing that came out is the assurance from the President that he does not see Tanzania's policy changing after the oncoming elections. Of course, he said that he

hopes that his party, Chama Cha Mapinduzi (CCM), will win. He believes that if his party will continue being in power, the candidate who will win will pursue the policy of cooperation and promoting East African unity and friendship between Kenya and Tanzania. Of course, the decision as to who wins the Tanzanian election can only be left to the people of Tanzania. Kenya, as good neighbours of Tanzania, can only wish the people of Tanzania well as they make that decision. We hope that our relationship will grow stronger and become even better irrespective of who wins the elections in that country. We wish them well in the elections and look forward to making our relationship stronger and better.

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

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir, I second the Motion and laud the honour given to His Excellency President (Dr.) Jakaya Mrisho Kikwete as the first foreign head of state to address a Joint Sitting of Parliament, since the advent of the new Constitution. In his Address, His Excellency the President made a very pertinent point that pertains to the relationship between Kenya and Tanzania and East African region, as a whole. We also noted that many of our colleagues do not understand Kiswahili although it is our national language because they were bewildered by the manner in which the visiting President addressed the House in Kiswahili.

The Temporary Speaker (Sen. (Dr.) Machage): Are you sure they were bewildered because they did not understand Kiswahili or they wanted him to use the national language?

The Senate Minority Leader (Sen. Wetangula): I think they were mesmerized and bewildered, without even knowing that this is our national language. Some Kenyans make no effort to speak Kiswahili like you do. You speak very good Kiswahili. The only person in this House who speaks better Kiswahili than you is me. Although, I have not addressed this House in the same language.

(Laughter)

Sen.(Dr.)Khalwale: Bw. Spika wa Muda, nasimama kwa hoja ya nidhamu. Je, ni haki kwa Kiongozi wa Walio Wachache katika Seneti hii kuwaeleza Wakenya kwamba ndani ya Bunge hili ni wewe na yeye peke ambao mnafahamu Lugha ya Kiswahili?

The Temporary Speaker (Sen.(Dr.)Machage): Nidhamu! Hayo ni mawazo yake.

(Laughter)

Sen (Prof.) Lonyangapuo: On a point of Order, Mr. Temporary Speaker, Sir. Is the leader of Minority in order to assign himself that honour when we have never ever heard him address this House in Kiswahili so that we can gauge him whether he is fluent in that language?

The Temporary Speaker (Sen.(Dr.)Machage): If nobody else blows your trumpet, you blow it yourself. So the saying goes.

Sen. Orenge: Nidhamu, Bw. Spika wa Muda. Hata kama hayo ni mawazo yake, lazima yawe mawazo ya ukweli sisi tumeishi Dar es salaam, na wale ambao wanajua Kiswahili sanifu tunaweza kuwatambua. Kwa hivyo, pamoja na kwamba Sen. Wetangula ni kiongozi wangu, nikukosa adabu sana kusema kwamba ni ninyi pekee ambao mnaweza kuongea Kiswahili. Sisi tumekaa Ugunja kwa “miaka mirefu” sana. Kwa hivyo, Bw. Spika wa Muda, lazima urekebishe usemi huo kwa sababu watu wanatusikiza.

Sen. Okong'o: Hoja ya nidhamu. Bw. Spika wa Muda. Kwa vile sasa yaonekana tukifanya majadiliano kuhusu Hotuba ya Rais wa Jamhuri ya Tanzania, ingelikuwa vyema utumie kipengee cha kwanza cha Kanuni za Seneti kuhakikisha kwamba kila atakayezungumza anaongea kwa Lugha ya Kiswahili. Hiyo itakuwa heshima kwa wale ambao wanataka kusema wana ubabe wa Kiswahili, tujadiliane kwa Lugha ya Kiswahili.

The Temporary Speaker (Sen.(Dr.)Machage): Mimi sitaki kuwa bebari, kwa hivyo kila mtu ana ruhusa.

Sen. Muthama: Bw. Spika wa Muda, nimeshangazwa kuona kiongozi wangu akisimama mbele ya Seneti hii na kusema kwamba wanaozungumza Lugha ya Kiswahili sanifu na yenye ufasaha ni yeye na Spika. Amesahau kwamba tukiwa Kenyatta International Convention Centre (KICC), County Hall, na hata hapa hajawai kutoa taarifa hata siku moja kwa Lugha ya Kiswahili.

Mhe. Spika wa Muda, kama kuna watu wanafaa kutajwa kwa kuzungumza Kiswahili ni mimi na nimeshangazwa kuwa amenisahua. Yapaswa kuwa wewe na mimi na wengine wanafuata. Yeye ana jaribu kuweka masafa ya kufuatilali lakini hayatafua dafu. Amekosea na yafaa arekebishe.

(Laughter)

The Temporary Speaker (Sen. Machage): Nimewaskia nyote. Sen. Wetangula aliingia Bunge hili kipindi kimoja mbele yangu. Siwezi kujua kuna stakabadhi gani au nakala gani hapo siku za zamani labda aliongea Kiswahili wakati huo sijui, lakini ninavyoelewa huenda ni kweli hajatumia Kiswahili, labda nitumie kipengele cha kwanza cha Kanuni zetu kwa sababu tayari ulianzia kwa Lugha ya Kiingereza lakini nitamruhusu aendelea kwa Lugha ya Kiswahili.

The Senate Minority Leader (Sen. Wetangula): Asante, Bw. Spika wa Muda, kwa kunipa nafasi ya kutumia lugha nyingine kinyume na Kanuni za Seneti hii.

Kwanza umemsika ndugu yangu, Sen. Orenge, akizungumza lugha anayodai ni sanifu na ansema alikaa Ugunja kwa “miaka mirefu”. Hakuna Kiswahili kama hicho. Unaweza kukaa kwa miaka mingi au miaka michache, au muda mrefu lakini hauwezi kukaa miaka mirefu kwa sababu, miaka ni miaka hakuna miaka mifupi wala miaka mirefu.

Mhe. Spika wa Muda, Hotuba ya Rais Jakaya Mrisho Kikwete ilikuwa ya kufana. Ilikuwa ni Hotuba ambayo ilileta mwelekeo mpya na mwelekeo wa kusaidia kanda hii ya Afrika Mashariki. Ninamfahamu Rais Kikwete na ni rafiki yangu, yeye ndiye rais pekee ambaye hutoa hotuba katika mikutano ya Umoja wa Afrika kwa Lugha ya Kiswahili. Lugha ya Kiswahili ni *part* ya ya lugha zile ambazo zimetambulika kama lugha rasmi ya *African Union*.

The Temporary Speaker (Sen.(Dr.) Machage): Ni nini maana ya *part* ya? Hoja ya nidhamu, umesema---

The Senate Minority Leader (Sen. Wetangula): Bw. Spika wa Muda, ukitaka kujua vile lugha huwa ni kuchukua maneno kutoka lugha zingine.

Sen. Muthama: Hoja ya nidhamu, Bw. Spika wa Muda. Kiongozi wangu badala ya kusema kwamba ni baadhi au moja wapo ya lugha zinazotumika katika kimataifa na anasema ni *part* ya. Ni Kiswahili gani hicho? Arekebishe au asirekbishe?

The Senate Minority Leader (Sen. Wetangula): Bw. Spika wa Muda, ukisoma historia ya lugha yoyote, hakuna lugha inayowekwa kwa nyungu na kufungwa. Lugha inakuwa kwa kuchanganya maneno kutoka lugha zingine na kujaza. Rais Kikwete huhutubia vikao vya Umoja wa Afrika kwa Lugha ya Kiswahili peke yake. Lugha rasmi za Umoja wa Afrika ni Kiingereza, Kifaransa, Kireno, Kihispania, Kiarabu na Kiswahili.

Bw. Spika wa Muda, katika Hotuba yake mojawapo ya vitu ambavyo alitambua ni kwamba nchi anayoongoza ya Jamhuri ya Muungano wa Tanzania inazingatia Umoja wa Afrika Mashariki. Akasema kwamba yeye na wale watakaomrithi wataendelea kuzingatia Umoja wa Afrika Mashariki. Hilo ni jambo muhimu sana kwa sababu nchi ya Kenya imenufaika kibiashara na kikazi kuliko nchi zingine zozote kutokana na Umoja wa Afrika Mashariki. Wakenya ndio wananawiri kila mahali. Ukienda Rwanda, Burundi, Uganda na Tanzania, ni Wakenya ambao wanafanya kazi huko. Kenya imepakana na nchi kubwa kuliko zote Afrika Mashariki. Tanzania ni kubwa kuliko Kenya, Uganda, Rwanda na Burundi pamoja katika hali ya kijiografia. Rais wa nchi hiyo akisema anaunga mkono kikamilifu Umoja wa Afrika Mashariki ni jambo ambalo lazima tusifu.

Jambo la pili ni kwamba Rais Kikwete alisema sasa Kenya na Tanzania zimeanza kujenga miundo mbinu ambayo inaunganisha nchi zetu. Barabara ya Athi River-Namanga-Arusha ambayo waliokuwa Mawaziri wa Afrika Mashariki na hata Sen. (Dr.) Khalwale wameitumia mara nyingi, sasa ni barabara nzuri sana. Barabara hiyo ilijengwa na mkopo kutoka Japan. Tanzania walimaliza sehemu yao kwanza. Kenya, katika mbinu zake za kawaida za ufisadi, wakachelewa; sasa wanajaribu kumaliza barabara hiyo katika mji wa Namanga. Barabara ya Arusha-Moshi-Mwatate-Voi haitarahisisha tu uchukuzi kutoka Arusha hadi Voi, lakini pia itapanua biashara kwa wakaazi wa Arusha, Moshi na maeneo ya Kilimanjaro kutumia Bandari ya Mombasa. Hiyo ni biashara na manufaa kwa nchi zote mbili.

Tatu, barabara kutoka Dar es Salaam-Tanga-Lungalunga-Diani-Mombasa, pia inafungua njia kubwa ya kuleta biashara kati ya miji ya Dar-es-Salaam na Mombasa.

Bw. Spika wa Muda, Rais Kikwete pia alitaja kuuzwa kwa nishati kutoka Tanzania kuingia Kenya na Kenya kuingia Tanzania. Alitaja mji wa Sirare ambako unatoka, Namanga na Monduli. Hiyo ndio njia ambayo tunataka kuona tukiendesha uhusiano wetu jinsi ambavyo tumefanya na Ethiopia. Ethiopia wanatuuzia nishati katika mji wa Moyale ambao haukuwa na stima.

Rais Kikwete pia alitaja mambo muhimu ya Katiba. Umeona jinsi mambo yanavyoenda katika kanda hii? Rais wa Uganda amekataa kuondoka ofisini kinyume na Katiba naye Rais wa Rwanda anajaribu kwenda njia hiyo. Rais Kikwete alitambua Bungeni kwamba yeye siku zake zinayoyoma, kura zitapigwa tarehe 25 Septemba, 2015 – mimi ni mmoja wa wale ambao tutaenda kuangalia jinsi kura zinavyopigwa – na baada

ya hapo, ataondoka ofisini. Hana ulafi, haja wala nia ya kuongeza siku zake ofisini na hata siku moja. Hiyo ni kuheshimu Katiba ya nchi. Hata katika hotuba yake alisema, “Kulingana na Katiba ya nchi yetu, muda wangu umekwisha. Mimi naenda kukaa kama mmoja wa wananchi mashuhuri wa Tanzania nikifuata Marais Mwinyi na Mkapa waliostaafu.” Hilo ni jambo la kusifu sana.

Bw. Spika wa Muda, Rais Kikwete ni Rais wa nchi ambayo, mbali na mwaka wa 1977 ambapo Kenya ililumbana na Tanzania walipovunja Muungano wa Afrika Mashariki wakafunga mpaka, Kenya na Tanzania hazijawahi kugombana tena kwa vyovyote vile kwa mambo ya mipaka, biashara na kadhalika. Hadi wa leo, Tanzania sasa ndio imenawiri kibiashara kuliko Kenya katika ununuzi na uuzaji wa bidhaa kutoka hizi nchi mbili.

Lazima, pia, tumshukuru Rais Kikwete kwa aliyochangia wakati Kenya ilikuwa katika maafa ya baada ya kura mwaka 2007/2008. Alikuwa kama jirani mwema na rafiki, akatusaidia kuleta mapatano na kuunda Serikali ya mseto kati ya Mzee Kibaki na aliyekuwa Waziri Mkuu, Raila Odinga. Kuja kwake kulisaidia kuleta uwiano katika nchi yetu ambao ulisaidia kuleta mapatano ili Wakenya wajue kwamba lazima waishi kama Wakenya na mandugu na waache kulumbana kwa sababu ya kutokubaliana kisiasa. Alichangia pakubwa katika kuisaidia nchi yetu.

Bw. Spika wa Muda, mimi naunga mkono yale ambayo Rais Kikwete alisema, kwamba Kenya na Tanzania ni nchi jirani na marafiki wa muda mrefu. Akazidi kusema kwamba ni lazima tushirikiane na nchi zingine za Afrika Mashariki ili kuendesha siasa na uchumi wa kusaidia watu wa kanda hii. Ukiangalia *Southern African Development Community (SADC)*, *Economic Community of West African States (ECOWAS)*, *Economic Community of Central African States (ECCAS)*, ni *East African Community* ambayo imeendesha mambo yake kikamilifu hadi kufikia upeo wa kuwa na Bunge na Mahakama. Sasa tunakaribia kuwa na uchaguzi wa Wabunge wa Bunge la Afrika Mashariki, badala ya kuchaguliwa na Bunge za nchi wanachama. Hiyo itasaidia kuleta pamoja wananchi wa Afrika Mashariki. Pia, mwananchi wa kawaida huko kwako Sirare, Laikipia au Pokot atajua anapigia kura Mbunge ambaye atamwakilisha katika Bunge la Afrika Mashariki. Huku ndiko kukuza umoja wetu ambao ni wa umuhimu mkubwa. Tunayo ndoto kwamba hivi karibuni katika Muungano wa Afrika Mashariki, sheria itaruhusu Wakenya, Watanzania, Warundi, Warwanda na Waganda kuishi na kufanya kazi popote wanapotaka na hata kutembeleana na kuishi kama ndugu. Hiyo itasaidia nchi zetu kukua kama vile Umoja wa Ulaya umesaidia nchi za Ulaya na kupunguza migogoro na vita na kuleta manufaa kwa wananchi wao.

Tunataka kuona Kenya ikifuata utaratibu wa Tanzania wa kupunguza ukabila. Ingawa Rais Kikwete hakuzungumzia swala la ukabila, wewe ni jirani wa Tanzania na unajua kwamba huko, unaweza tu kuuliza Mtanzania jimbo analotoka lakini sio kabila lake. Watanzania wamekumbatia umoja wa nchi yao.

Mpaka leo, ukienda Tanzania, ukitoka Kilimanjaro mpaka Mbeya mpaka Mtawala mpaka Songosongo, Mtanzania ni Mtanzania. Hapa Kenya, Bw. Spika, Jumamosi iliyopita ulisoma kwa gazeti kwamba wanateua wakurugenzi wa taasisi mbalimbali za Serikali. Kati ya 350, 97 wanatoka kabila moja, 65 wanatoka kabila lingine, 77 wanatoka kabila lingine halafu kabila kama ya Sen (Dr.) Khalwale na ya Sen.

Wako, kati 350, watu saba. Kabila kama la Sen. Orenge, watu 9. Tunajenga nchi gani kama makabila mawili ama matatu yanafikiri Kenya ni himaya yao; Kenya ni nchi yao, wanafanya yale wanataka? Hata wazee wa zamani kama ndugu yangu Sen. G.G Kariuki, wakati wao hawakufanya mambo hivi. Walikuwa wakiangalia nchi nzima.

Kama kuna uwezo wa kuwapa wananchi kazi, tungetaka wananchi wote wapewe kazi bila kuzingatia misingi ya kikabila. Hata *Elmolo*, kabila ndogo kuliko zote, hata Wakuria, kabila ndogo, wana wasomi, maprofesa, madaktari, waandishi na hata mawakili na wanaweza kutoa watu wa kufanya kazi kwa Serikali.

Hilo ndilo swala lazima Kenya iige na isome kutoka Tanzania. Tusipofanya hivyo, Bw. Spika wa Muda, tutaendelea kucheza karata na maisha ya wananchi kwa misingi ya kikabila. Leo hapa nchini Kenya, ikiwa hutoki kabila la Rais au Naibu wake, huna lolote Kenya hii. Wanawapatia watu vitu vidogo vidogo wakisema sasa wako Jubilee. Tazama Jubilee ilivyo; ni Rais na mdogo wake. Wamegawana mara mbili na mabaki inaangukia wale wengine wadogo wadogo wanachukulia kutoka chini ya meza, mambo yanaendelea kuharibu nchi yetu.

Bw Spika wa Muda, hili ni swala lazima Kenya isome, iige na ifuate mfano wa Tanzania ambayo imeongozwa tangu Uhuru na marais Nyerere, Mwinyi, Mkapu, Kikwete na sasa Mungu akitujalia, tunaenda kuwa na Rais Magufuli ambaye nafikiri na sina shaka ataongoza nchi hiyo kwa njia ambayo misingi yake imewekwa na wale waliotangulia. Kwa hayo mengi, naunga mkono Hoja hii, na wale waliokuwa na taswishi, sasa wajue kwamba katika Bunge hili, Sen. Boy Juma Boy, wewe, Bw. Spika wa Muda, Sen. Muthama na wengine wachache tunaongea lugha sanifu inayoeleweka na inayotoa yale tungependa kusema bila wasiwasi.

(Question proposed)

Sen. (Dr.) Khalwale: Asante sana, Bw. Spika wa Muda. Nasimama kuiunga mkono Hoja hii ambayo inahusu Hotuba ya Rais wa Tanzania alitutolea sisi kama viongozi wa Bunge la Seneti na wale wa Bunge la Kitaifa.

Furaha yangu ni kwamba wakati Rais wa Tanzania alipokuwa akitoa Hotuba yake, Wakenya wote walikuwa wakisikia hiyo habari. Ilikuwa funzo kubwa kwa wale wanaochochea demokrasia kusikia Rais akisema amekubaliana na maagizo yaliyoko. Katiba ya Tanzania haimrusu kuwa rais zaidi ya miaka kumi. Ninamshukuru Rais Kikwete na ningependa hii iwe funzo sio tu kwa Wakenya bali kwa Waafrika kwa jumla.

Bw. Spika wa Muda, mtu kuwa rais ni nafasi kubwa ambayo marais wa Afrika wametumia kupora mali ya umma. Viongozi, na sitazungumzia hao viongozi---

(Monitor screens switched off)

The Temporary Speaker (Sen. (Dr.) Machage): The Serjeant-at-Arms, what is happening with the broadcasting? Are you sabotaging Sen (Dr.) Khalwale's presentation or what is it? Or you are not happy with Kiswahili?

Sen. (Dr.) Khalwale: Asante sana, Bw. Spika wa Muda. Nilikuwa nimesema ya kwamba viongozi wa Afrika wametumia nafasi zao kupora mali ya umma. Ningependa

hii iwe funzo kwa wananchi wa Congo, kwa sababu Congo, Rwanda na Burundi wako katika harakati ya kujaribu kubadilisha katiba zao ili wawapatie marais wao nafasi ya kuendelea kuwa uongozini. Hii sio njia ambayo sisi kama viongozi wa Afrika tungependa yawe mambo ambayo kila nchi itatumia.

Bw. Spika wa Muda, maoni yangu ya pili nikiunga mkono hii Hotuba yanahusu matamshi ya Rais Kikwete kwamba yeye anajivunia ule uhusiano mwema ulioko kati ya Kenya na Tanzania. Ningependa kumuunga mkono kwa sababu mambo ya biashara tusipoyatilia mkazo kati yetu na nchi jirani, hatuwezi kufaidika na wingi wa watu walio katika Jumuiya ya Afrika Mashariki. Unakumbuka ulipokuwa Waziri na mimi nikawa naibu wako, tulifanya kazi nzuri sana kule Arusha. Nakumbuka ulituongoza mpaka wakati huo tukatolewa tukiwa tumefanya hali ya biashara ikiwa imeanza kunawiri sana kati ya Tanzania na Uganda.

Bw. Spika wa Muda, nikizungumzia huu uhusiano, ningependa kupongeza nchi za Tanzania na Kenya kwa sababu katika Jumuiya, ni sisi wawili pekee tunaozingatia demokrasia ya kufanya uchaguzi kila baada ya miaka mitano. Mheshimiwa Rais wa Tanzania, niliskia kama ana wasiwasi kidogo, eti pengine chama chake cha kisiasa; Chama Cha Mapinduzi (CCM), kisiposhinda, alihofia kwamba pengine uhusiano wetu utaharibika. Mimi nina hakika kwamba hata yule mpinzani wao, Mheshimiwa Lowasa, ambaye ni rafiki yangu; tulikutana kule Arusha, ni Mwafrika ambaye anaamini kwamba Kenya ni muhimu kwa Watanzania. Sisi hatuwezi kutishwa, wale tunaompenda Lowasa, hivi karibuni tutaenda Arusha na kumpigia debe ndio apate nafasi ya kushinda kura.

Kuhusu uhusiano wa nchi hii na Tanzania, Rais alitaja mambo ya michezo. Lazima Wakenya wakumbuke kwamba kuna vijana wetu wengi wanaocheza kandanda kule Tanzania na kuna wale kutoka Tanzania wanaocheza hapa, hata mchezo wa ndondi, kuna wale wanacheza hapa Kenya wanaotoka Tanzania. Kwa hivyo, mimi ningependa kumuunga mkono kwa jambo hilo.

Bw. Spika wa Muda, Rais alikumbuka kwamba mwaka wa 2007/2008, alikuja hapa kutusaidia tulipokuwa tukipigana kwa ajili ya matokeo ya uchaguzi wetu.

Ningependa kuwahimiza wanachama wa Jubilee kuyatilia maanani matamshi ya Rais Kikwete kwa sababu naona mzaha umeanza. Viongozi wa Chama ya Jubilee wanazunguka nchi nzima wakifanya maombi ya kitaifa. Kutokana na maombi hayo, nchi imeanza kugawanyika. Wanasiasa wa Jubilee wanatamka maneno yasiyo na msingi kwamba aliyekuwa Waziri Mkuu ndiye aliyempendekeza Naibu wa Rais apelekwe International Criminal Court (ICC). Huo ni uwongo kwa sababu wakati wa vita vya Post Election Violence (PEV), Naibu wa Rais na aliyekuwa Waziri Mkuu walikuwa katika chama kimoja. Viongozi waliojiunga na siasa hivi majuzi na wasiojua historia kama hii, wanafaa kukimya kabisa.

Bw. Spika wa Muda, kile Naibu wa Rais anahitaji hivi sasa si maombi, bali mawakili hodari watakaomsaidia katika kesi yake katika Mahakama ya Jinai kule The Hague.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale, je unauhakika kwamba Naibu wa Rais hahitaji maombi?

Sen. (Dr.) Khalwale: Bw. Spika wa Muda, hayo ni maoni yangu. Hatujui kama ICC wanaruhusu matamshi ya maombi kutumika kortini.

Walioathiriwa na vita hivyo ni watu kama wewe, Rais Moi na mimi. Gari langu lilichomwa na biashara yako ikavamiwa. Boma yake Rais mstaafu Moi ilibomolewa ingawa hatukuhusika na vita hivyo vya PEV. Sisi ndio tulihisi uchungu wa vita hivyo. Tunataka Kenya iwe na amani.

Bw. Spika wa Muda, Rais Kikwete alizungumzia Barabara ya Athi River-Namanga-Arusha. Alituarifu pia wamekubaliana na Rais Uhuru kutengeneza barabara ya Taveta-Holili-Moshi-Arusha. Hata hivyo, lilikuwa jambo la kusikitisha Rais Kiwete aliposema kwamba ujenzi wa barabara huo umezinduliwa upande wa Kenya pekee. Ikiwa tutangeneza upande wa Kenya pekee basi tutakuwa tumepoteza pesa zetu kwani hakuna mwanabiashara atakaye peleka lori lake katika barabara hiyo ikiwa atasafiri vyema kutoka Taveta hadi Holili kisha apate barabara mbovu afikapo hapo. Hivyo, namhimiza Rais wa Tanzania kuzingatia ukarabati wa barabara ya Taveta-Holili-Moshi-Arusha ili ujenzi uanze mara moja.

Mwisho, ninamshukuru Rais Kikwete kwa kuzungumzia jambo la uekezaji. Alisema wako tayari kuwapa Wakenya nafasi zaidi za kukeza katika Tanzania. Mimi kama mojawapo wa waliowahi kufanya kazi Tanzania, tuna nafasi nyingi za kukeza katika biashara za hospitali na shule za kibinafsi katika Tanzania.

Naomba kuunga mkono Hoja hii.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Prof.) Lesan, sasa ni wakati wako na tafadhali zungumza kwa Lugha ya Kiswahili.

Je, unahoja ya nidhamu Sen. Okong'o?

Sen. Okongo: Hoja ya nidhamu, Bw. Spika wa Muda. Nashangazwa na runinga yetu hapa. Ni hujuma au nini?

The Temporary Speaker (Sen. (Dr.) Machage): Nimearifiwa kwamba kosa lipo hapa ndani ya Seneti tu lakini tunapeperushwa nchini kote sasa hivi.

Sen. (Prof.) Lesan: Bw. Spika wa Muda, nakushukuru kwa kunipa fursa hii. Kwanza, ningependa kumshukuru Rais wa Tanzania kwa ziara aliyofanya humu nchini. Pia, namshukuru kwa usaidizi aliyopa nchi yetu ya Kenya wakati wa PEV mwaka wa 2007/2008. Usaidizi aliotupa hauwezi kulinganishwa na pesa.

Pili, naitakia Tanzania mema wakati huo ambao wanajitayarisha kufanya uchaguzi mkuu. Nawaombea wawe na uchaguzi mwema bila tashwishi yoyote ili tuweze kuendelea kufanya kazi pamoja. Rais wa Jamhuri ya Tanzania alizungumzia biashara kati ya Taifa letu la Kenya na Tanzania. Bidhaa za Kenya zinazosafirishwa Tanzania zinagharimu US\$ 300 milioni. Tukilinganisha na bidhaa zinazosafirishwa Uganda kutoka Kenya zinagharimu US\$7 million. Tanzania ina idadi kubwa ya watu. Kwa hivyo, inatupa soko kubwa ya bidhaa zetu ikilinganishwa na Uganda.

Bw. Spika wa Muda, nachukuwa fursa hii kuhimiza nchi za Kenya, Tanzania na Uganda kushirikiana kibiashara ili zinawiri na kufaidi wananchi wa nchi hizi tatu. Pia, ningependa kuwahimiza viongozi wa mataifa ya Afrika Mashariki wawe wakitembeleana wakiwa katika uongozi na kupeana hotuba katika Bunge na kuarifu mataifa yote kuhusu miradi wanayoendeleza. Pia, itakuwa mfano mzuri kwa viongozi wa mataifa ya Afrika Mashariki kuona ya kwamba wanatii sheria za nchi zao. Hivi sasa, kuna mjadala kuhusu kipindi cha uongozi kwamba rais anapaswa kutawala kwa muda wa miaka kumi tu ili demokrasia idumu katika mataifa yetu. Kwa hivyo, nampongeza Rais wa Jamhuri ya

Tanzania kwa kuja Kenya. Aliongea mbele yetu tukasikia na hata wananchi wa Jamhuri ya Tanzania walisikia akisema kwamba atatii sheria za nchi yake. Pia, alisema kuwa atamwachia uongozi rais atakayechaguliwa kwa njia ya kidemokrasia kufuatia uchaguzi utakaofanyika kwa muda wa wiki mbili zijazo. Tunatumai kuwa tutaendelea kuwa na uhusiano mwema katika biashara ili kuimarisha maisha ya wananchi wa Kenya na Tanzania.

Kwa hayo machache, Bw. Spika wa Muda, naunga mkono Hoja hii.

The Temporary Speaker (Sen. (Dr.) Machage): Nitampa nafasi Seneta wa Busia, Sen. Wako, ambaye amenidokezea kwamba atazungumza Kiswahili sanifu.

Sen. Wako: Mr. Temporary Speaker, Sir, I will speak in English according to Standing Order No.81. I will start and complete my contribution in English.

The Temporary Speaker (Sen. (Dr.) Machage): Una haki kuzungumza Kiingereza. Hatukupitishwa Hoja kwamba lazima uongee Kiswahili. Hata hivyo, lilikuwa wazo la wengi kwamba leo tumshukuru Rais wa Jamhuri ya Tanzania kwa Lugha ya Kiswahili. Unaruhusiwa kuzungumza kwa Kiingereza kama moyo wako unataka uongee kwa lugha ya kigeni.

Sen. Wako: Mr. Temporary Speaker, Sir, I will speak in English following the example of H.E. President (Dr.) Kikwete who first addressed us in English. If there will be time, I will then speak in Kiswahili.

Mr. Temporary Speaker, Sir, I support this Motion of Thanks to the Address by the President of United Republic of Tanzania, H.E. (Dr.) Jakaya Kikwete. That was the first time that a head of state of a neighbouring country---

The Temporary Speaker (Sen. (Dr.) Machage): You have 15 minutes as the Chairman of the relevant Committee.

Sen. Wako: That was the first time that a head of state of a neighbouring country gave an Address in the National Assembly. I thank H.E. President Kenyatta for having invited H.E. President (Dr.) Kikwete to deliver that Address. As you know, our relationship with Tanzania has not been all that rosy since Independence. You may recall that at Independence, we took the capitalists route through Sessional Paper No.10 about African Socialism and its application to Development in Kenya, Tanzania took Ujamaa (Socialism) while Uganda took the Common Man's Charter which had been drafted by Dr. Milton Obote, the former President of Uganda. Since that time, there were ideological differences. We looked to the West while Tanzania looked to the East. Therefore, that misunderstanding has always coloured our relationship since the formation of the original East African Community (EAC) until it collapsed and even when it was revived under the East African Community (EAC).

The fears and bad feelings have been there. That is why I praise H.E. President (Dr.) Kikwete. If his Address is going to change our relationship for the better, then, it was worth being. I hope that his successor – he assured us that no Tanzanian can ever wish bad relationship with Kenya – will put our relationship on a very good footing. In fact, in many respects, I would have wished the President to have made that Address at the beginning of his 10 year rule.

As you know, even under the current EAC, they have always been suspicious that, maybe, we are going slowly towards integration; whether economic or political. Kenya

and Uganda, as you know, have felt that Tanzania is not moving as fast as they would want to move towards the economic and political integration, and that is true.

Mr. Temporary Speaker, Sir, I was privileged to have chaired the Committee appointed by the Heads of States of East Africa to provide a roadmap towards the Federation of East Africa. Therefore, I had the opportunity to travel across East Africa and talk to the leadership at that time, their Ministers, the political class and business community and so on and so forth.

I had an opportunity to have a long session with H.E. President (Dr.) Kikwete concerning the issue when he was the Minister for Foreign Affairs. He expressed his view during the Address, that we have to move towards greater economic and political integration. However, he felt that it was because of the speed that the difference came in, whereas the other countries felt that the speed should be faster, he felt that we should go slowly by slowly. He felt that we should have the Customs Union first and it must work. We must address the teething problems within the Customs Union, then look at the common market and ensure that it works. He felt that we should address the teething problems under the Common Market, the Monetary Union and then the political union.

It is because of, I believe, the slow approach; an approach I can tell you without any fear of contradiction. President Mkapu, who was the outgoing President with whom I had long sessions with, felt that we should hurry and have a political federation. This is because he felt that the driving force behind the move towards economic and political integration were the people who benefitted from the EAC that had been established soon after Independence. He and I went to the University of Dar es Salaam where there were students from Uganda, Tanzania and so on. When I was the Attorney-General, we knew who was who because we were college mates in the university, including H.E. President Museveni and others.

In Makerere University, there were also students from Uganda, Tanzania and so on. So, President Mkapu felt that we, who benefitted from the EAC at that time, could be the driving force. Since there was “diminishing whatever,” it may be very well that those who come after us, may not be aware of the benefits of the integration and the close historical and cultural links that unites the people of East Africa.

Sen. Okong'o: Hoja ya Nidhamu, Bw. Spika wa Muda. Nimesikia Seneta mwenzangu akitaja kwa lugha ya Kimombo “diminishing whatever.” Hiyo inamaanisha nini?

The Temporary Speaker (Sen. (Dr.) Machage): Nidhamu. Sidhani kwamba lazima Seneta afafanue maana ya kila msamiati. Pengine itakuwa bora utafute Kamusi ili uangalie maana ya misamiati hiyo au tafsiri ya maneno yanayosemwa. Naomba tumwache aendelee. Pengine ungemsikiliza vizuri, labda ungepata maana kutokana na mchango wake. Kwa hivyo, naomba utulie na umsikilize kwa sababu huenda ana jambo la kusema. Si nidhamu kumwambia atumie Kamusi kukueleza maana ya kila neno la Kimombo analotumia.

Sen. Okong'o: Bw. Spika wa Muda, sentensi yake haikuwa kamilifu. Haina maana kuzungumzia kitu kisichokamilifu. Alikuwa anatumia lugha ya Kimombo akasema “diminishing whatever.” Sikuelewa hiyo inamaanisha nini. Siyo kwamba sielewi Kimombo lakini sentensi hiyo haikuwa kamilifu.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Wako, umesikia malalamishi. Jaribu kutumia sentensi zilizo kamilifu. Umesema kuwa utazungumza kwa lugha ya Kimombo. Kwa hivyo, tumia sentensi zilizo kamilifu.

Sen. Wako: Mr. Temporary Speaker, Sir, English is an official language of Parliament. Therefore, I assume that people elected here understand simple English words.

The Temporary Speaker (Sen. (Dr.) Machage): Nidhamu. Kila Seneta hapa ana haki ya kumwomba Spika kumtaka Seneta afafanue kile anachosema. Sasa, natoa amri kwamba ufafanue kile ulichosema.

Sen. Wako: Okay, I will explain. Mr. Temporary Speaker, Sir, when it comes to the issues of East African integration, I hope that Tanzania will now move forward taking into account the spirit of the Speech of H.E. President (Dr.) Jakaya Mrisho Kikwete on East Africa integration. On bilateral relationships which in a sense also affect the issues of the integration of East Africa, when we were going round, one of the greatest fears of Tanzanians about Kenyans, is if we integrated immediately, Kenyans are so aggressive whether it is in trade, commerce or anything that they are doing. They said Kenyans are so aggressive that they will overwhelm the Tanzanians who are more humble in these issues. They thought that we should give them time to come to that level where they can also be almost as aggressive as Kenyans on matters of commerce and industry. That is why they were dragging their feet a bit on integration issues.

Secondly, they talked of Kenyans as land grabbers and they thought that we, Kenyans, have grabbed all the land. When we look yonder across the border, you see a lot of land and they felt that Kenyans will---

Sen. Okong'o: On a point of order. Mr. Speaker, Sir, have you heard the Senator purporting to say that Kenyans are called land grabbers? Is it something confirmed or they are assertions of our neighbours?

The Temporary Speaker (Sen. (Dr.) Machage): Nidhamu Seneta Okong'o. Nakusihi usikize kwa makini sana. Yeye, amejaribu kufafanua kile ambacho anafikiria kwamba Watanzania walikuwa wanafikiria ni desturi ya Wakenya. Hakusema Wakenya wako hivyo. Ni fikira tu.

Endelea Seneta Wako.

Sen. Wako: Thank you, Mr. Temporary Speaker, Sir. I also understand Kiswahili. That is what they felt at that time. Their approach to the issues of moving fast towards a federation was a bit slow because they wanted time to catch up with the Kenyans. Through the East African Community, I was at a meeting in Arusha when H.E. President (Dr.) Jakaya Mrisho Kikwete confirmed for the first time and told Tanzanians that the fear they had about Kenyans should no longer be there because for the first time, Tanzanians had imported to Kenya more than Kenya had exported to Tanzania. Throughout this period, Kenyan has been exporting to Tanzania far much more than Tanzania was exporting to Kenya. For the first time, we did that and from the recent figures that he gave, Tanzania's exports to Kenya during the period that he mentioned, 2013/2015, was US\$50million worth of goods but Kenya's exports to Tanzania was US\$30million. He was telling Tanzanians that the benefits of the East Africa integration

are being realised and that they should cast out their fears and work very hard because Tanzanians are benefiting far much more than Kenyans.

I tie that with what he said in his Address to Parliament when he talked about Tanzania and the East Africa Community. He is continuing with the same trend that Tanzania is very much committed to economic and political integration of East Africa and goes beyond to talk of African Unity. We do remember, that when it comes to African Unity, the founding father of Tanzania, Mwalimu Julius Nyerere was prepared to delay the Independence of the then Tanganyika. In doing this, Kenya, Uganda and Tanzania would become independent at the same time and on that very day; we would have the federation of East Africa. I can see that spirit is now coming to Tanzania, and I thank H.E. (Dr.) Jakaya Mrisho Kikwete for saying that he is committed to that. I look forward to a relationship where the fears about Kenya are not there when the prejudices, obstacles are dealt with and we proceed to a united East African Federation.

Mr. Temporary Speaker, Sir, there are many things in this integration that we can learn from each other. As other Senators have spoken, we can learn unity. Unity that has been brought by Kiswahili language. I do remember when Mwalimu Julius Nyerere announced that Kiswahili will be the national and official language of Tanzania. There was a lot opposition at the university where I was then. They complained how they were going to learn, make laws and write scientific terms in Kiswahili terms. Mwalimu Julius Nyerere stood his ground and part of his proving the point; he translated Shakespeare's Julius Caesar from English to Kiswahili.

Consequently, today, we see the benefits of Mwalimu Julius Nyerere foresight. He has left behind a united country and Kiswahili as an official language of the African Union. That union is a unity I believe, we, in Kenya, also yearn for. I was watching a television the other day when they were interviewing the ordinary Tanzanians. The issue of ethnicity is nowhere in their minds. In other words, their politics are focused on policy issues and that is what we can learn from Tanzania. We may not learn everything but we can learn from uniting the country, getting rid of ethnicity, debating our issues on policy among others.

Mr. Temporary Speaker, Sir, we can also learn, as has been said, the issue of constitutionalism; that a term comes and it ends. I do recall that when we drafted the first constitutional amendment in 1991 which brought multipartyism into this country it also brought the two-term for the presidency. That was our own idea but also, it must be admitted that the western countries were lobbying for multipartyism and these two terms. The examples that were being given and we had to follow were the leaders of Ethiopia, Uganda, Zambia and Ghana. That this is the new---

The Temporary Speaker (Sen. (Dr.) Machage): Nidhamu. Sasa kila Seneta ataongea kwa dakika nane. Seneta Wako usilalamike kwa sababu umepewa dakika kumi na tano.

Sen. G.G. Kariuki: Mr. Temporary Speaker, Sir, I want to thank you very much for recognizing the Senator for Laikipia to say something on this issue.

History is what informs the future. If you look at our history even before Independence, you would see how the Tanzanians were colonized and how the colonisers took the country to be. You can also know how Kenya was colonized to the point where

it was claimed to be a Whiteman's country. They intended to achieve their objective by dividing Kenyans along tribal and ethnic blocks. We were all divided during Independence. The Nandis fought the Europeans alone and many other tribes did the same but individually. Eventually, we were all defeated and we were divided the way the Whiteman intended. Therefore, when you talk of what happened in Kenya, you have to understand the history of this nation. The Whiteman wanted Kenyans to remain divided. Even after Independence, the negotiations we had in London were the best; between 1960 and 1963. By the time we went for the second conference in London, the Whiteman had already learnt how to divide us. If we had gone at the same united front by our leadership at that time, we would have gone very far.

When Independence was promised in the first conference in 1960, everybody thought he or she was not going to be left far away from leadership. This thought constituted tribal thinking. People started fighting for leadership even within the tribes. As we talk about Tanzania, we have to understand where they have come from. The British wanted closer union between Uganda, Tanzania and Sudan. This did not work because the Tanzanians stood firm and did not want to be in the same gauge with the others. Ugandans also refused to join that union. On the hand, Kenya was even strongly against that union because it was to give the white settlers more power to dominate the Africans.

Mr. Temporary Speaker, Sir, as I stand here, I would like to say that the only way we can copy Tanzania is by trying to understand the way they are. The tribes are united but in Kenya, we still live in colonial communities. I want to say that the moment Sen. Orenge's people and Sen. G.G. Kariuki's tribes would agree that they belong to this world, then they will stop the struggle between them. Even if a person from one of the communities becomes the president, he will not be there forever. The moment we realize that we are just passing and there are people behind us, then we will be doing a good job. The only thing we can do to "grab", if the word grabbing would be acceptable, is to make sure that we become more of producers and not just consumers of things from the neighbouring countries.

We have to pray and work hard that we produce goods and services to support our friend. Otherwise, Tanzania is moving very far. For example, they have changed presidents three times but there has not any problem, but in Kenya even if the president wants to retire peacefully, we still get noisemakers. This is where we suffer and we are going to suffer. Let us make ourselves clear. Tanzania is an example of people who can live together. Kenya is an example of people who can never live together. That is where we are. We can never live together because of our personal interests and ambitions. People think that they must become presidents for their community to survive. This is not true. The fact remains that a person should be supported by all Kenyans. In fact, we can go for very many years before we find a person whom all Kenyans will rally behind. Those who have a conglomeration of small parties and give them something to get their support, this is hooliganism and not politics. The right politics is when your people choose you.

Thank you but that time was too short.

Sen. Orendo: Mr. Temporary Speaker, Sir, unfortunately I have to speak in English to follow the example of my senior, Sen. Wako. That is because there are one or two things I wanted to say which I would like to emphasize. It was great to have the President of Tanzania visit Kenya on a state visit and also to address a Joint Sitting of Parliament. The fact that it was President Kikwete addressing the Joint Sitting of the Kenyan Parliament was indeed welcome. President Kikwete stands different from the other Presidents in the region in many ways. First, when President Kikwete was here he did not indulge himself in internal politics. It was not obvious to the Kenyan public that he was on any particular political mission.

I do not need to remind you that there have been other heads of state from the region when they come to Kenya, it is quite clear that they are participating in the internal politics of the country. President Kikwete held himself in the highest level of dignity by talking to Kenyans without distinction. The only thing that went missing was the fact that he was not given an opportunity to meet the leadership of the Kenyan Opposition which, I think should be a standard rule. When a leader is on a state visit, we should be tolerant and be prepared to give visitors who come to our country a chance to talk to people from all sides of the political divide. I think we missed a chance to demonstrate the new Kenya that we are striving to build.

Mr. Temporary Speaker, Sir, I have gone through the Speech of President Kikwete as given to us and, of course, I listened to him. One distinctive thing that I collected was that he avoided talking about the International Criminal Court (ICC). The position of President Kikwete and the United Republic of Tanzania on the question of ICC is quite clear and very different from many other countries which were trying to shift their position. He did not try to please us by pretending about change of position in terms of the ICC, which by all intents and purposes is part and parcel of the law of Kenya. The ICC is part of the Kenyan Judiciary – a Kenyan court which has been domesticated not just by the Constitution, but by the International Crimes Act which was piloted through Parliament by the former Attorney General (AG) *emeritus*, together with the former Minister for Internal Security – may the Lord rest his soul in peace – the late (Prof.) George Saitoti.

Having said that, the truth shall set all of us free. I am saying this because the President of the United Republic of Tanzania avoided this, but I think in his silence, he was speaking volumes. I would advise our Kenyan brothers that together we can build a better country by being committed to the truth and the law. I cannot sit down without saying that I am sure if the leader of the Opposition in terms of political parties, former Prime Minister, Raila Odinga, was asked to give evidence at The Hague on the basis of what he knows and what is relevant to the case, there would be no problems about it. This is because it would be a matter that is guided by the law and principles of international justice.

Mr. Temporary Speaker, Sir, whether we like it or not, the people who are responsible for the evidence which is now being adduced before the ICC, were people who were in charge of the intelligence during the Grand Coalition Government. If you think I am lying, the records of the minutes of the Security Council at the national and the various county and provincial levels will show. This is what constituted the basic

evidence that was taken before the ICC. The people who were in charge of those departments are well known.

If it was a question of abiding by the truth and the law, I am sure that even Sen. Muthama, Sen. (Dr.) Khalwale, Sen. Hassan and even I would speak of facts as they were in 2007/2008 in terms of who was responsible for the violence that happened. The fact that we are politicizing the situation and the tragic events that took place at that time is what the President of Tanzania was trying to avoid. However, I know that as a matter of fact, there are people who are interested in a particular outcome of the Kenyan situation after 2013. If you want to know what outcome those people wanted, you could have seen from the conduct of the people who were preparing an outfit that would take over after President Kibaki.

Mr. Temporary Speaker, Sir, time has come for us to cease politicizing this issue. When you pray 20 times a day, you maybe vexing God more than He would want to assist you. However, if you pray once a day, and speak the truth, it will set you free.

I beg to support.

Sen. Okong'o: Bw. Spika wa Muda, nashukuru kwa kunipa fursa hii nichangie Hoja hii kutokana na Hotuba ya Rais wa nchi jirani ya Tanzania, Mhe. (Dkt.) Jakaya Kikwete, katika Bunge la Kenya. Nampongeza Rais huyo kwa unyenyekevu na uzalendo wake kwa Jumuiya ya Afrika Mashariki. Rais Kikwete amefuata nyayo za waliomtangulia; Mwalimu Kambarage Nyerere, Ali Hassan Mwinyi na Benjamin Mkapa kwa kuleta utangamano wa Tanzania na mataifa mengine ya Afrika Mashariki.

Rais Kikwete alizungumzia maswala ya uwekezaji katika Tanzania. Ningependa kuyatilia mkazo mawazo ya Seneta wa Kaunti ya Kakamega, (Dkt.) Khalwale kwamba Wakenya wana nafasi nzuri ya kukeza Tanzania katika sekta ya elimu, viwanda na hospitali. Tanzania walipokuwa na mfumo wa ujamaa, walibaki nyuma kwa muda mrefu. Wakati huu, wanafuata mfumo wetu na watapiga hatua ya kimaendeleo. Mwalimu Nyerere aliwaelezea Watanzania kwamba wakitaka kutembea Ulaya, wasiende mbali sana, lakini waje hapa Nairobi. Hata hivyo, Tanzania imeendelezwa kiuchumi sana na viongozi waliokuja baada ya Mwalimu Nyerere.

Bw. Spika wa Muda, kuna vizuizi ambavyo vilisababisha kusambaratika kwa Jumuiya ya Afrika Mashariki mwaka wa 1978. Ikiwa tunataka utangamano, lazima wataalamu wanashughulikie maswala yaliyosababisha kutibuka kwa Jumuiya ya Afrika Mashariki ya mwaka wa 1978 ndiposa Jumuiya ya Afrika Mashariki iimarike. Rais Kikwete alizunguzia kuhusu kusaidiana katika mambo ya kijasusi na ni muhimu sana lakini ningependa kuhimiza nchi ya Tanzania izingatie maswala ya haki za binadamu ili watu wanaoshikwa nchini humo wasidhulumiwe bila kufuata sheria. Rais Kikwete ambaye hatamu yake ya uongozi imeisha na ingawa hajazeeka, ameamua kung'atuka kisheria. Napendekeza kwamba wakati Katibu Mkuu wa Umoja wa Mataifa kung'atuka uongozi, naomba kwamba tumpendekeze Mhe. (Dkt.) Kikwete kuchukua cheo hicho.

Bw. Spika wa Muda, kumekuwa na tashwishi katika utangamano. Kwa mfano, Kenya, Uganda na Rwanda karibu zitenge Tanzania. Kwa vile Rais alisema kuwa yuko tayari kuimarisha Muungano wa Jumuiya, basi sisi tuna nafasi nzuri katika uwekezaji kwa sababu Watanzania ni ndugu zetu.

Kabla sijamaliza, kuna swala muhimu ambalo linahusu Wakenya wanaokwenda kutafuta kazi katika nchi ya Tanzania. Pesa wanazotozwa kama ushuru ni nyingi sana. Hayo ni baadhi ya maswala ambayo ningependa Wizara husika ijadiliane moja kwa moja na Serikali ya Tanzania ili Wakenya wasilipishe ushuru mwingi wanapokwenda kufanya kazi huko.

Kwa hayo machache, Bw. Spika wa Muda, naunga mkono Hoja hii.

Sen. Muthama: Ninashukuru sana kwa nafasi hii, Bw. Spika wa Muda. Nimesikiza waheshimiwa waliozungumza na walioshindwa kuzungumza Kiswahili. Niligundua kwamba umoja wa taifa hili uko mbali. Hii ni kwa sababu kitu kimoja kinachounganisha watu ni lugha ambayo wanatumia. Tumekuwa tukitumia Kiingereza hadi maeneo ya kata. Utapata mtu anaongea na wananchi kwa dakika tano au kumi kwa lugha ya kigeni. Wananchi wataelewa asilimia mbili tu ya maneno yaliyosemwa. Hawataelewa asilimia 98 ya yaliyosema.

Natoa mwito kwamba tukienzi Kiswahili kwa sababu Kiswahili kimeunganisha nchi ya Tanzania. Kiongozi yeyote anayekwenda mashinani hueleweka kila anapozungumza katika mkutano. Ni jambo muhimu kuwa tujifunze na kukikuza Kiswahili ili kituunganishe sisi kama Wakenya. Ni aibu kubwa sana katika taifa letu kwa sababu katika sehemu fulani za nchi yetu, hakuna mtu anayejali kama unaelewa yale wanayosema. Utakuta watu wanazungumza kwa lugha ya mama kuanzia mwanzo hadi mwisho.

Bw. Spika wa Muda, aliyekuwa Rais wa Tanzania, Mhe. Nyerere, alikuza Kiswahili na kuwaunganisha Watanzania. Nakumbuka nikisikiza nyimbo za Shirikisho la Afrika zikiimbwa. Walioleta Shirikisho hilo ni hayati Mzee Jomo Kenyatta, Nyerere na Obote. Wakati huo, tulizungumza kama nchi moja ya Afrika Mashariki. Hata hivyo, juzi tulishuhudia msukosuko uliohusisha Tanzania na Kenya na kusababisha mipaka yetu kufungwa. Haingewezekana Tanzania na Kenya kufikia mahali ziko katika mambo ya biashara wakati mpaka ulikuwa umefungwa. Kwa hivyo, hotuba yaliyotolewa na Mhe. Rais (Dr.) Kikwete ya kutuweka pamoja kama ndugu ni muhimu.

Bw. Spika wa Muda, Rais mwenyewe alisema kwamba Wakenya ni nambari mbili kati ya wawekezaji katika nchi ya Tanzania. Sisi ni nambari moja katika Bara la Afrika. Hutasikia Wakenya wanaofanya kazi huko wamehusika katika wizi, rushwa au magendo kwa sababu wanaheshimika sana. Daktari mzuri wa kufanya kazi Marekani anapatikana Kenya; mwalimu mzuri wa kufundisha Rwanda, anapatikana Kenya na dereva mzuri wa kufanya kazi Uganda anapatikana Kenya. Wakiwa huko, hao ndio tegemeo la nchi zao. Lakini ukija hapa kwetu nyumbani unashangaa na maneno kama vile; ‘huyu ni mwizi’, ‘huyu aliiba jana’, ‘usiguze huyu ni wetu’. Tunazuia wizi kwa misingi ya kikabila. Ikiwa jina lako ni ‘Ndung’u’ na umeshukiwa na wizi, unaona Kamau na wenzake nyuma yako. Ikiwa jina lako ni Mutiso ama Onyango, ni vivyo hivyo.

Leo, Tanzania wanafanya uchaguzi mkuu. Uchaguzi unaoendelea Tanzania unawahusisha wapinzani Mhe. Magufuli na Mhe. Lowassa. Mhe. Lowassa alikuwa Waziri Mkuu nchini Tanzania lakini kwa kutajwa tu na kudhaniwa, ila si kupatikana, ya kwamba alihusika na magendo, hakupewa tiketi ya uwaniaji na Chama Cha Mapinduzi (CCM) maanake CCM. Hii kwa sababu inazingatia uwazi na utawala wa nidhamu.

Temporary Speaker (Sen. (Dr.) Machage): Nidhamu kidogo, Seneta. Si vizuri kuongea kuhusu sera za nchi jirani

Sen. Muthama: Bw. Spika wa muda, nakubaliana nawe lakini nilikuwa tu natoa uwazi kwamba kutokana na Hotuba ya Rais Kikwete, alitaka tuungane kama Watanzania.

Kwa hivyo, kama tutakubalike na mataifa mengine, ni lazima tutembeke katika misingi ya usafi na kufanya mambo yanayolingana na uongozi unaotakiwa. Taifa letu la Kenya, tukiungana na wenzetu na kufanya kazi nao, ni lazima tuhakikishe tunaheshimiwa kule nje.

Ndugu yangu, Sen. G.G. Kariuki, amesema jambo la maana sana ya kwamba, si kwamba rais akiwa wa kabila fulani, kabila hilo litakuwa salama. Ni lazima Wakenya walindwe na sheria zilizoko. Leo hii, tumepoteza mwelekeo. Nimewasihi ndugu zangu wa mrengo wa Jubilee waepukane na uvumi wanaoueneza kila pembe ya nchi hii wakidai; "Raila kafanya haya na huyu kafanya haya". Wao wanafikiri watammaliza mtu fulani kisiasa. Chuki wanayoiendesha nchini itamaliza kesho yetu.

Mimi nlikuwa kiranja wa Bunge la Kumi. Ninafahamu wazi kwamba Mhe. Raila hangeweza kumtia Mhe. Ruto katika mashaka. Mhe. Ruto alikuwa rafiki wake wa karibu sana na alikuwa anamsaidia kuongoza chama. Hawa viongozi wa Jubilee wanadhani Wakenya watakuwa vipofu tu mara moja, na kusahau yaliyotokea kwa kusema Mhe. Raila Amolo Odinga alihusika kumsingizia Mhe. Naibu Rais. Lazima tuongee ukweli. Watanzania hawawezi kuongea kama sisi. Shida ya leo ni watu wawili katika taifa letu---

Temporary Speaker (Sen. (Dr.) Machage): Nidhamu! Nina maombi ya wazungumzaji watatu; Sen. Omar, Sen. M. Kajwang' na Sen. Mositet. Tuna dakika saba na lazima tupate jibu kutoka kwa mpendekezaji wa Hoja hii. Kwa hivyo, nitawapa dakika mbili kila mmoja.

Sen. Mositet: Bw. Spika wa Muda. Hotuba ya Rais wa Tanzania, (Dkt.) Kikwete, ilikuwa nzuri kwa sababu ilikuja wakati ambao anaenda kustaafu. Swala kubwa sana alionyesha ni kwamba anatii Katiba ya nchi yake, anajali maslahi ya wenyeji wa Jumuiya ya Afrika Mashariki na pia ana mapenzi na maono mazuri. Lakini zaidi, alionyesha kwamba hana tamaa ya utawala na anatii Katiba yao. Tuna nchi za Jumuiya ya Afrika Mashariki kama vile Burundi, Rwanda na Uganda ambako marais wao wanafanya kila wawezalo kubadilisha Katiba ili waendeleo kutawala. Ni vizuri wajue kwamba wakati tu utafika wang' atuke na wengine waingie mamlakani.

Bw. Spika wa Muda, kaunti yangu inapakana na nchi ya Tanzania na hata kwa wale ambao wanagombea uongozi kule, sisi tunawatakiwa kila la heri. Tungetaka Bw. Lowassa ashinde na hata mimi niweze kusema ndugu ya babangu anaishi Tanzania na tunatenganishwa na mipaka ambayo iliwekwa na Wazungu lakini tukienda kule, tuko nyumbani.

(Member spoke off the microphone)

The Temporary Speaker (Sen. (Dr.) Machage): Nidhamu.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I wanted to contribute in *sheng* but I studied your demeanour and I knew I will be in trouble for misdeamenour because

there is nowhere where it provides that it should be Kiswahili *sanifu*. Since I have only two minutes, first, President Kikwete is leaving office after serving two terms. They respect term limits and I hope that this will be a message to our neighbours in other countries that have removed term limits.

In 2022, we will have 47 former governors in this country, three former presidents and one former United States of America (USA) President. We need to prepare to host them in retirement. We should not deny them their pension the way the former Prime Minister and the former Vice President have been mistreated and denied their pension.

Secondly, President Kikwete said he came to Kenya to assist relatives when they were killing each other. Are we ready to avert similar violence in 2017? If you look at the ingredients that led to the killings in 2007-2008, they are all there. In fact, there is one addition, someone who is walking around with a very loose tongue is going to set this country a flame. We need to deal with the issues that brought about violence in 2007-2008 elections; Independent Electoral and Boundaries Commission (IEBC) that had lost public confidence, issues of land that we have failed to address and tribal and ethnic jingoism that we are seeing on the public rallies that are called ostensibly in the name of prayers.

Finally, we need to build an East African Community and devolve a new species. A journalist from Tanzania called it a new species called *homo east africanas*. *Homo east africanas*---

I support.

Sen. Hassan: Asante sana kwa fursa hii, Bw. Spika wa Muda. Vile ninatamatisa Hoja hili, ningependa kuzungumzia matatu.

Historia yetu na Tanzania ikiwemo ile historia ya *former Sultan of Zanzibar*. Hilo nitalizungumzia siku nyingine. Pili, ni sera ya washiriki wa Afrika Mashariki kujaribu kuitenga Tanzania. Mwisho, ningependa kuzungumza juu ya ile hofu ambayo Rais Kikwete aligusia kuwa Bw. Magufuli akiwa Rais, kwa vile ana uhusiano na ushirikiano na mtu fulani ambaye ni kiongozi katika maswala ya upinzani hapa, huenda Tanzania ikabadilisha sera zao. Hiyo ni hofu ya kitoto. Nakumbuka Rais Kikwete alisema hakuna wajinga kama hao Tanzania. Mimi pia, naomba Kenya tusiwe na wajinga kama hao wa kufikiria mambo madogo kama haya. Watu wako na uhusiano na urafiki kabla, ndani na baada ya siasa. Hiyo haimanishi itabidilisha sera. Sisi kama Wakenya tushirikiane tuhakikishe kwamba tumekumbatia Tanzania kwa sababu tuna mengi yanatuleta pamoja kuliko yale ambayo yanatutenganisha.

Nimesikia eti Watanzania ni watu wapole na wakuomba radhi na sisi Wakenya ni mabepari, watu wa nguvu zaidi. Kila mtu ana uzuri na ubaya wake. Sisi tunayaangalia yale mazuri na ule utulivu na utaratibu wa Watanzania. Ni jambo ambalo lazima tulitie ndani ya roho zetu. Huu ubepari wetu umetufikisha wapi sasa? Watu wamefisadi nchi nzima, wakaiba shamba tangu uanzilishi wa taifa hili. Watu waliiba mashamba katika taifa hili wakati wa mwanzilishi wa taifa hili, wanaiba katika kaunti zetu. Wanzilishi wa taifa letu la Kenya ndio matajiri zaidi baada ya vizazi vitatu. Wanzilishi wa kaunti zetu watakuwa zaidi kutokana na wizi wanaouendeleza. Kwa hivyo, tufuate mikakati na msimamao wa Tanzania wa kujua ukweli na usawa katika kuhakikisha kwamba tunaheshimu mali ya wananchi wa taifa hili.

The Temporary Speaker(Sen.(Dr.)Machage): Sen.(Prof.) Kindiki aliyependekeza Hoja hii ni wakati wake wa kujibu.

The Temporary Speaker(Sen.(Dr.) Machage): Bw. Spika wa Muda, nachukua nafasi hii kuwashukuru wenzangu kwa kuchangia Hoja hii. Kile ambacho kimejitokeza katika Hoja hii leo ni dhahirisho kwamba sisi sote tulifurahia Hotuba ambayo ilitolewa na Rais wa Tanzania, Mhe. (Dkt) Jakaya Mrisho Kikwete.

Jambo la pili, sisi kama Wakenya tumefurahi ya kwamba Rais Kikwete anaheshimu Katiba ya Tanzania, na atang'atuka mamlakani wakati wake ukifika. Sisi kama watu wa Bara la Afrika tunasema kwamba huo ni mfano mzuri kwa viongozi wengine. Hata sisi hapa Kenya tumekuwa na mabadiliko katika nyadhifa za uongozi kutoka mmoja hadi mwingine. Ni maombi yangu kuwa siku zijazo tutaendelea na mtindo huu. Tusije tukabadilisha Katiba yetu. Ni lazima tuiheshimu Katiba yetu.

Mwisho, ninakubaliana na wenzangu kwamba kulikuwa na shaka kuhusu mstakabali wa uhusiano kati ya Kenya na Tanzania. Rais Kikwete amefanya vyema kuleta ujumbe kwamba anapoondoka mamlakani ana imani na anatarajia kuona uhusiano wa nchi zetu mbili ukimarika zaidi. Pia, ametuhakikisha kwamba kama mzee atafanya kila juhudi kuona kwamba uhusiano baina ya nchi hizi mbili; Tanzania na Kenya, umekuwa bora.

Ninawapongeza wenzangu wote kwa kuchangia Hoja hii. Mimi ningependa kuona uhusiano huu wa taifa la Tanzania na Kenya ukiimarika.

Bw. Spika wa Muda, nimetimiza jukumu langu. Ninaomba kupendekeza Hoja hii.

(Question put and agreed to)

BILL

Second Reading

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

Sen. Wako: Thank you, Mr. Temporary Speaker Sir, for giving me this time to move The Office of The county Attorney Bill, (Senate Bill No.37 of 2014) be read a Second Time. This Bill is a very important Bill. As you know, any Government whether at national or count level has to depend on the rule of law. The justification of any Government is to maintain law, order and peace. This must follow the rule of law---

ADJOURMENT

The Temporary Speaker (Sen. (Dr.) Machage: Nidhamu! Sen. Wako utakuwa na muda dakika 58, za kupendekeza Mswada wako. Tumefika kikomo cha kazi ya leo. Kwa hivyo, sina budi kuahirisha kikao cha leo hadi kesho tarehe 14th Oktoba, 2015, adhuhuri 2.30 p.m.

The Senate rose at 6.40 p.m.