

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 10th July, 2013

*The Senate met at the Kenyatta International
Conference Centre at 2.30 p.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Speaker (Hon. Ethuro): Order, hon. Senators. We need to determine if we have a quorum.

The Clerk of the Senate (Mr. Nyegenye): Mr. Speaker, Sir, we have 19 hon. Senators in the House. We have a quorum.

The Speaker (Hon. Ethuro): Proceed.

NOTICE OF MOTION

ESTABLISHMENT OF NATIONAL YOUTH SERVICE OUTLETS IN ALL COUNTIES

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

THAT, aware that unemployment is one of the major causes of insecurity and moral decadence in this country; noting with concern that the youth, who are the backbone of our society, are the most affected and that as a result many of them have become disillusioned and hopeless; noting further that assisting the youth to access employment would contribute towards the attainment of economic and social rights enshrined in Article 43 of the Constitution of Kenya; aware that Section 13 of the National Youth Service Act, Cap. 208, Laws of Kenya, vests power in the Minister responsible for the Service to divide the Service into branches, units and sub-units from time to time; the Senate urges the National Government to take measures to establish National Youth Service outlets in all counties where the youth who have completed secondary level of education and who may wish to enroll for courses offered by the Service could enroll and acquire necessary skills and further that graduates from

the Service be given the first priority whenever the two levels of Government recruit in areas where the graduates are qualified to serve.

MOTION

The Clerk-at-the-Table: Order No.8, Motion.

The Speaker (Hon. Ethuro): Hon. Senators, this Motion was disposed of during the morning session. The Order Paper comes 12 hours before the business of the House. Let us move on to the next Motion.

ESTABLISHMENT OF SELECT COMMITTEE ON HARAMBEEES

The Speaker (Hon. Ethuro): Hon. Senators, in the absence of Sen. (Prof.) Anyang'-Nyong'o, the Senator for Bungoma County has intimated that he has standing instructions to do the minority party business at any one time.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I have a continuing trusteeship for my side of the House.

(Sen. (Prof.) Anyang'-Nyong'o entered the Chamber)

Professor, I am about to move your Motion.

Sen. (Prof.) Anyang'-Nyong'o: I will move it.

The Senate Minority Leader (Sen. Wetangula): You will move it?

Sen. (Prof.) Anyang'-Nyong'o: I will do so.

Mr. Speaker, Sir, I am sorry for coming in late. I was delayed by the traffic. Let me, first, begin by thanking Sen. Daisy Kanainza Nyongesa – and that is a very beautiful name - for coming to my rescue this morning. Let me also thank my leader---

An hon. Member: Thank you for trying to---

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Anyang'-Nyong'o! Do not allow yourself to be distracted by hon. Senators who do not have the Floor.

First of all, move the Motion and then you can give the gratitude to those hon. Senators who rescued you.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, given the role that Harambee (voluntary contributions) has played in the development of our nation since Independence; aware that the original intentions of Harambee have been adulterated over time through corruption, deceit, bribery and misuse of funds raised; recognizing that elected leaders are those most affected by Harambee invitations thereby bearing the maximum burden of voluntary contributions for development; noting that these elected leaders pay tax like all other Kenyans; this House resolves to establish a Select Committee to prepare a Bill that will:-

(a) determine criteria that will qualify projects for which Harambee contributions can be made;

(b) establish procedures for ensuring that Harambee contributions are tax deductible and;

(c) provide clear directives on accounting for Harambee collections and reporting in the use of which such collections are made and to report to the Senate in three months time and that the Committee will compromise the following members:-

1. Sen. (Prof.) Anyang'-Nyong'o
2. Sen. Elizabeth Ongoro
3. Sen. G. G. Kariuki
4. Sen. Daisy Kanainza Nyongesa
5. Sen. Peter Mositet
6. Sen. Janet Ong'era
7. Sen. Hassan Omar Hassan

Mr. Speaker, Sir, you will recall that when harambees first started in the 1960s, in fact, soon after Independence, the intention then was mainly to build schools because there was a tremendous deficiency of schools, particularly high schools in Kenya. At the dawn of Independence, a lot of our people were airlifted either to the United States of America (USA) or the Soviet bloc of countries for higher education. Quite often some of these people had not gone to high school. They had to finish their high school studies in the USA. I remember, for example, the late Mrs. Pamela Mboya, when she went to the USA, she had partly to go to what is called junior college which is equivalent of "A" level in our system, so as to get entry into college.

After that experience, the founding fathers felt strongly that basic education should be available in this country. Legend has it that – I do not know whether this legend corresponds to history or it is something that was just said – but there used to be a man in the sugarbelt of Kisumu called Omollo. When the late Jomo Kenyatta and the late Jaramogi Oginga Odinga went there to visit a school and talk about education, Omollo is the guy who came up with the word "Harambee" and urged the leaders to pull together to build schools. He was subsequently known as Omollo Harambee. The word "Harambee" then caught on. I do not want to go into the sociology of the word "Harambee" itself, but that is how it started. Many schools were built. In fact, my former primary and intermediate school called Ndiru started as a harambee high school and subsequently was taken over by the Government. There are many schools which were subsequently taken over by the Government through voluntary contributions. They were built through harambee.

Mr. Speaker, Sir, the spirit of harambee went on to facilitate in building of medical facilities, dispensaries and health centres. Nonetheless, as all good things sometimes become, they get corrupted through misuse and are a burden; to the extent that, over time, the voluntary contribution of funds has spread so extensively that one now wonders the extent to which we should lose the original intentions and get burdened by poor practice. My former colleague in Parliament, in fact, my predecessor, Member of Parliament for Kisumu Rural Constituency, who is an extremely humourous man - I am

referring to Hon. Wilson Ndolo Ayah. An individual once went to him and said: “Mheshimiwa, I want you to come and raise funds for me because my wife was expecting and is at the Kenyatta National Hospital (KNH) and the bill needs to be paid. We need some help.” Mheshimiwa Ndolo Ayah looked at him and said: “Look, I think your wife gave you a notice nine months ago. Nine months ago was good enough time for you to have prepared to go and redeem your wife from the hospital. I do not think it is my responsibility to go and organize a harambee for purely personal---”

(Sen. (Dr.) Khalwale said something off record)

(Laughter)

Sen. (Prof.) Anyang’-Nyong’o: Mr. Speaker, Sir, I think Sen. (Dr.) Khalwale is trying to complete the story. But I was not going that direction. He said: “You have been given nine months notice. It is not fair for you to go around now with a begging bowl raising harambee for something which is purely personal.” This is a very illustrative story because whereas harambee was started as a community concept to handle community projects, it has swung to the extent that personal issues are being used to raise money through harambees. If a student is going abroad for education, it makes sense to hold a harambee for funds to be collected to help that student. If somebody is sick – I have gone through the experience. Being a Minister and having good insurance, I got support from both the insurance firm as well as the Government to get treated for cancer because it is an extremely expensive treatment. But there is another way we can handle this. If we have universal health insurance for all Kenyans, there would be no need whatsoever for the Government to step in with an *ex-gratia* fund, if, indeed, we have a robust, comprehensive social insurance to cover such things. We should avoid *ad hoc* collection of money for problems we can prepare for ahead of time in a society, as was said in Sessional Paper No.10 where we have mutual social responsibility. For such personal issues, like what I have just said, there should not be really any need for harambees. Also, for other needs like health, we should have a planned comprehensive social insurance to keep people away from having *ad hoc* collections when people need such help.

Mr. Speaker, Sir, there is also another area where harambees have been terribly misused. A young man intends to marry – of course, this is definitely a personal decision – he decides to marry and opts to have a pre-wedding party to raise some funds. Of course, there is nowhere in the Bible or the Quran which says that before you get married you must have a pre-wedding party. This is not a condition for marrying your wife. But since people like social consumption, they give society to bear that burden. This is not fair. If, indeed, you want to have a pre-wedding party which is not mandated in either the Quran, the Bhagavad Gita or the Bible, do it yourself, do not involve the rest of the society because it is an unnecessary burden. If you examine many other things, many people have externalized their personal responsibilities to society. Society is then burdened with these kinds of expenses. We need to rein in on such malpractices and save people.

When I was in the Ministry of Planning and National Development, we did quantify the amount of resources raised in harambees every year, the amount of those resources that are used for genuine development and social welfare programmes. You will find that the money raised that goes into consumption competes almost on equal footing with the money that is raised for developmental or genuine social expenses. It means, therefore, that we are encouraging a consumptive society which is wasteful by taxing people from their pockets, money that they could use for saving. They have absolutely no control over this consumption. I realized this as early as 1978 when I was teaching at the university when I was invited by the Extra Mural Department. I went around the country giving lectures on harambee as a tax. The KANU Government was not very pleased. I was visited with all kinds of intimidation of trying to undermine the popular elected KANU Government then. Whether it was popularly elected or not is another issue.

Mr. Speaker, Sir, in the final analysis, when we say all this, harambee is a form of tax because people pay from their salaries, quite often by compulsion. Compulsion can be overt or covert. As an hon. Member of Parliament, you may find that all of a sudden you get a card at an hour like this, that you need to contribute to a harambee tomorrow. As Sen. (Dr.) Khalwale was intimating, if you refuse, you might subsequently be visited by very unpalatable consequences. You get intimidated and get from what should have been your savings and you pay a tax under compulsion. What we need to do, therefore, since the practice is there, is to be sane enough as lawmakers and lay a legal framework for doing this in a manner that one will serve noble goals and help the contributors to contribute properly.

Mr. Speaker, Sir, that is why I am proposing that we should determine the criteria that will qualify projects for which harambee contributions can be made. That criteria, obviously, in my own estimation, will eliminate, for example, pre-weddings, people who want to rescue wives from maternity homes, a job that they did nine months ago, and because they are proper marksmen, they successfully completed the initiative and nine months later, they should bear the consequences at a very personal level. Another thing that should be disqualified from harambee are things that are purely for consumption. When you are raising funds for pure consumption, I think that should not be allowed because it is not leading to accumulation or development.

Fourthly, things which should be disqualified are *ad hoc* things which are not properly thought of. There must be a process by which if you intend to raise funds publicly, then you report it to an institution or a set up that will then give you permission to do what you are doing. I do not want to say that we introduce a regimental system in society or a police kind of system, but surely, if you are going to raise funds in public domain, you should be able to be accountable to the public domain through a process by which you are given permission to do something like this. I know this may look rather draconian on my part, but when people go haywire in misusing an otherwise noble enterprise, then I think some form of control should be brought in because the State is there to regulate things. So, there must be a regulatory function of the State that will make voluntary contribution orderly and accountable.

The second thing that I am proposing is to establish procedures for ensuring that harambee contributions are tax deductible. Previously when Members of Parliament were not taxed, we said, rather than pay tax directly, we shall pay tax in terms of supporting society through contributions. I think we did more than our fair share. I am sure Members of Parliament and Senators who have been there before know that we did more than our fair share. Now that we are actually paying tax – I saw my pay slip the other day – and it is heavy; it is not something you can take lightly, I think it would be unfair to pay another tax to harambee without being given the opportunity to make sure that it is tax deductible.

Mr. Speaker, Sir, in more civilized societies, this is what people do and that is why rich men, like my friend, Sen. Mutahi Kagwe, established foundations. When you know you have money that the taxman is going to get, you say fine---

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. Is the Sen. (Prof.) Anyang'-Nyong'o in order to refer to me as a rich man when he knows very well that he was my teacher and, in fact, I cannot be richer than him because he started working many years before me? We are also aware of his wealth in Kisumu, particularly his cows and goats.

The Speaker (Hon. Ethuro): Actually, I thought for the fact that he was your teacher, then he knows you better.

(Laughter)

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, you cannot be more correct, because I think the affluence of my dear student was quite evident in his younger days. Knowing that he is a prudent economist, he must have accumulated more after that rather than wasted it. So, I was just trying to imagine where he might be at this point in time. I think I am not wrong to say that, definitely, I do not think he has regressed; if anything he has developed further, but he enjoys the advantage of having visited me at home and knows the few goats and sheep that have since then been consumed by society in form of harambee.

(Laughter)

Mr. Speaker, Sir, I would propose, therefore, that we establish procedures for ensuring that harambee contributions are tax deductible. This is very easy because in more developed societies, when you want to contribute voluntarily, there are forms that you fill and usually, you do it through cheques because cheques can be traced and people are advised not to contribute in cash because then, it is more difficult to account for cash. If we go towards the direction of contributing through procedures that are accountable like writing cheques which you know are promissory notes, you are just telling somebody that this money is in my pocket and I have already given it to you. When I withdraw it, it will leave my account and, therefore, leave my pocket eventually. That will also make writing cheques a much more noble activity. The old practice of people just writing cheques which are not proper promissory notes has now been outlawed. Now, in fact, according to our law books, if you write a cheque that bounces or is not honoured, then it

is a criminal offence. So, that kind of procedure will definitely help people to be more disciplined, both in terms of those who give and those who receive.

Finally, I am proposing that you provide clear directives on accounting for harambee collections and reporting in the use of which such collections are made. It is good in terms of development and for the Kenya Statistical Authority if such accountable documents are there. As the former Minister for Planning and National Development, I know that we will then be in a much better position to know exactly how philanthropic Kenyans are, if there are clear directives on accounting for harambee collections and reporting on the use of such collections.

Mr. Speaker, Sir, I will give you a practical example. At one point, we had a harambee at the Professional Centre for a school in my constituency then and we raised a lot of money. We must have raised something like Kshs1.4 million. But the people who were keeping the accounts, the next day they were telling us that we only raised Kshs800,000. Since we had very good records, we had to compel them to make sure that their records were in consonance with ours so that we do not abuse the collection from the people. That happened because when people raise these funds for all kinds of purposes, there is no standard methodology of accounting for such monies. There are no standard directives that everybody must follow, both for the sake of national statistics, but also for the sake of accounting for this money. Our present Constitution emphasizes accountability and transparency in all institutions. Indeed, even the Political Parties Act says very clearly that political parties must not encourage bribery. The Constitution itself says so. If we have enshrined these principles in our Constitution and our other laws, why should we allow a practice like harambee to spoil this spirit or to be carried outside the spirit of the Constitution?

This Motion attempts to bring into proper legal practice and proper political culture, an initiative that emerged sometime ago in a very noble way, but an initiative which over time has been adulterated by poor practice and has been a culprit of corruption. Once we do this, we will reduce corruption in the Civil Service, because civil servants also, like us, are intimidated quite often for this kind of thing. I know some of you know that sometime ago, a very high placed official in our society who was in an institution that was fighting corruption on this kind of harambee thing was somehow caught with his pants down. It was not a very good experience, but again you have to understand that he like any other person, was under pressure to contribute something to his community or to his friends and so on, on this harambee basis, thereby he was tempted to use that office to quietly coerce people to make contributions. It is not good. I think we are demeaning ourselves. If we can come to a situation where the thing is properly done; openly, in a straightforward and legal way, I think it will be acceptable.

Mr. Speaker, Sir, finally, I have proposed that we establish a Select Committee - the names are there and, of course, there can be amendments to that; the more the merrier - to prepare a Bill because my aim really is to put this thing in law. I am sure that there are so many practices elsewhere; we have model laws and so on, that if we put it into law by this Senate, we will have gone a long way to do this thing practically rather than just requesting the Government to do something appropriate, so that the things I have enumerated here are done. My proposal is that we do it ourselves; we produce a Bill

which will become part of the laws of Kenya and which from now on will make harambee a much more noble initiative than what it is at the moment.

I beg to move and to request Sen. Wetangula to second.

The Senate Minority Leader (Sen. Wetangula): Thank you very much, Mr. Speaker, Sir, for the opportunity to second this Motion. From the outset, it must be understood very clearly that this Motion does not seek to abolish harambee. It seeks to bring sanity to the management and running of the harambee system. In supporting the Motion, we have many examples on how the harambee spirit has been abused. I remember a lady magistrate one time who organized a pre-wedding harambee, there was no wedding planned, and she continued receiving donations towards a non-existent wedding from, including criminals appearing before her for close to six months. She was, of course, sacked by the Judiciary then. These are some of the abuses that have visited this harambee spirit.

You may also recall that there was a Member of Parliament from Limuru, we were with him in one of the parliaments who arrived with lots of obscenities in harambee, carrying money on a wheel barrow. The only description he gave was; “from me and my friends and undisclosed friends”. You may also recall the bad old days when every public officer dispensing services to *wananchi* had a little harambee book under the table. As you walked in, you would be served and as soon as you finished, you had to extend your appreciation for the service by donating something.

Mr. Speaker, Sir, however, we must also know that harambee has played a major role in the development of this country. I personally went to a harambee school from Form One to Form Four, schools that were built from the sweat of *wananchi*. We also have hundreds of children who managed to get an education because of the donations we make. But what the Motion is seeking to do is that, now that we have devolution and we are sending money to the counties, and we are fighting to even send more money to the counties if the Lower House stops playing games with what we do here, there should be absolutely no reason why Senators or leaders should be contributing money to build schools if there is proper planning. That is why we are devolving resources. Schools and public institutions should be built from resources that are devolved to the lower units.

There is enough money for county governments to provide resources to meet the demands of education of children from deprived families so that it does not become part of the occupation of a leader to be raising money for every conceivable idea. Many Senators here, when they are at home, they pay for fertilizers, maternity, mock fees and entertainment. They also pay for pre-weddings, actual weddings, and dowry and virtually for everything. Those who are rich like the distinguished Senator for Nyeri can afford to do this all through. However, those from deprived backgrounds will not manage this.

Sen. Mugo: On a point of order, Mr. Speaker, Sir. Is the hon. Senator for Bungoma in order to give an example of the Senator for Nyeri when we know that the Senator for Bungoma is one of the richest Senators in this House? If he wants me to mention when and how, I know about his assets and I can say it here.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, she can very well go on and mention.

The Speaker (Hon. Ethuro): Order Sen. Wetangula! I have given an opportunity to Sen. Murkomen.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. The wealth and riches of the Senator for Nyeri are in the public domain. When the Senator for Bungoma was talking about it, he was smiling and I do not think there is anything covetous in that.

(Laughter)

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. First of all, I would like to thank Sen. Beth Mugo for defending me. We know very well and the law in Kenya is clear that everybody must declare their wealth when elected. We all know that the wealth of one hon. Sen. Wetangula ran through pages, pages and pages. My half a page is being compared to his many pages. Is he in order?

The Speaker (Hon. Ethuro): Order, hon. Senators! I know that citizens and especially public officers are supposed to declare their wealth. However, I am not sure if one Senator could be privy to the declarations forms of another Senator. This is not possible.

So, hon. Senator for Nyeri, you are completely out of order.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, you may not have been watching. However, you have seen how my distinguished colleague from Nyeri was smiling with total satisfaction when I referred to his wealth.

(Laughter)

We need a law to rationalize the harambee system. The team that Prof. Anyang'-Nyong'o has put in place is good. I encourage him to put in a few more lawyers because we have several of them in this House who can help. However, I also know that the Clerk's Office can assist. I would have loved to see the Chairman of the Devolution Committee appearing in this Committee. Professor, I would not only want you to look at harambees for the sake of looking at harambees. However, devolution is a supplement for harambees. Some of the things that we do can now be done by the use of the devolved resources in the counties. You may also recall the abuses that used to go on when people turn up in harambee and very openly display fabulous wealth. Some even started being called *Bwana Maendeleo* because of the amount of money they were contributing. However, no one was obligated to disclose who their undisclosed friends were.

In many jurisdictions, when you say that you have contributed money from you and others, you are obligated to disclose who the others are. It is not just about you. If, for example, you write a cheque from your account, this is different. However, when you see people carrying money obscenely in millions - we have seen people contributing Kshs5 million in cash at harambees - and yet when you look at their backgrounds, they have not handled any offices, not even as clerks in their lives. They have positions of advantage. They roam around and collect money from citizens and go to make names with it.

During the last Parliament, you may recall that we passed a law to close harambees during the campaign period. This really helped the Members of this House

and the other House. What happens is that as soon as you go into an electoral process, every single church holds a harambee and everybody else wants money from an aspiring Member who is campaigning. Your fate is intrinsically tied to this process. You either contribute or win elections or you do not contribute and are shown the door. That law assisted us quite a bit. In fact, I remember one person who was campaigning in my county. In every meeting, he used to open by saying;

“I am sure you are fully aware that contributions have been banned.”

He would then proceed to make his political statements to foreclose any requests for any money from him either in way of harambee or any other way. People went through a very good campaign. I want to add to what Sen. (Prof.) Anyang’-Nyong’o said that an evaluation on how much the harambee system has and continues to play in the economy of this country should be done. In some places, you will find a school which has just received money to build a laboratory from the Local Authority Transfer Fund (LATF), the Constituencies Development Fund (CDF) and from a harambee for the same. They end up having pile ups and pile ups of resources. I remember talking to the bull fighter from Kakamega. There was a very wealthy Member of the last Parliament whose father died. However, this Member conducted a harambee in Mombasa, Nairobi, and Nakuru and in Western to bury a very rich father. These are the abuses that this kind of process is likely to curtail. There are people who are in dire need that we must help. However, those, for heaven sake, who can afford these things, should not turn to the public for harambees. So, the Bill you will draft after we have passed this Motion---

Sen. Ong’era: On a point of order, Mr. Speaker, Sir. I am not sure I know who the bull fighter is that the Senate Minority Leader referred to. Could he highlight that?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, it is a matter of public notoriety as we say it in law that the distinguished Senator for Kakamega, in his popular pass time, engages in bull fighting.

One time, I asked Dr. Mukhisa Kituyi; what would Dr. Bonny Khalwale be if he did not go to school? Dr. Kituyi said; he would have died in a bull fight a long time ago.

(Laughter)

Mr. Speaker, Sir, this is with a light touch. I have seen hon. Dr. Khalwale half dressed chasing bulls in around in Kakamega.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Did you hear the Senator for Bungoma say that he has seen me half dressed during bull fights? If, indeed, you heard it, is he in order to refer to someone in traditional bull fighting regalia as half dressed?

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, as I was going to sit down, the distinguished Senator, Sen. Kanainza Nyongesa, said she has seen him in the same fashion.

It is time we reined in and sanitized harambees. They have been adulterated and a law to regulate them is desirable, without depriving the very needy who benefit from harambees.

With those many remarks, I beg to second.

(Question proposed)

(Sen. G.G. Kariuki stood up in his place)

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

Sen. G.G. Kariuki: On a point of order, Mr. Speaker, Sir. I think it is high time that hon. Senators knew who the Speaker is and who is not. No one should interrupt the job of the Speaker.

I am just trying to find out what would happen if your name was listed on such a list without being consulted.

Mr. Speaker, could you advise me?

The Speaker (Hon. Ethuro): I thought you are already addressing the Speaker? You do not need to repeat.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. On a more substantive note but related to what Sen. No.1 has said, Sen. G.G. Kariuki, I have no problem with the Motion. However, there is a growing trend now. This is the fourth Motion with names of Senators assigned to do something. Considering that this trend is likely to continue, what is the criteria of coming up with names and what considerations should be put in place including gender, regional balance and party balances, among other things, in dealing with Motions of this nature?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Coming on the heels of what Sen. Murkomen has said, the composition of *ad hoc* Committees requires human resources and funding, obviously, from the Parliamentary Service Commission. As we want to pass this Motion, to create another Committee, is it lost to Prof. Anyang'-Nyong'o that in the second-last Parliament, hon. Koigi Wamwere also led a similar Committee that went around the country and collected views of the public, and all that information is in the library? Would it not be prudent that instead of us forming another Committee, we pass the Motion, but ask that Committee to just go and pick from the findings of the Committee, that was led by hon. Koigi Wamwere?

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Although I do not speak for Prof. Anyang'-Nyong'o, I thought that the general practice is that the Member who brings a Motion and seeks to set up a Committee such as this, as a matter of courtesy, of course, would talk to Members who are in the Committee. But, normally, one would put together a team that he is able to work with, because when we pass a Motion such as this, its sponsor is invariably the Chair of such a Committee.

Mr. Speaker, Sir, the Koigi Committee in the Ninth Parliament was only looking at one narrow agenda; harambees and corruption. Hon. Koigi passed a unanimous verdict with his Committee, that harambees had immensely contributed to the growth of

corruption in Kenya, and recommended its discontinuation. I think that this is different within the context of devolution. I also think that it is in the right House. We are not discontinuing harambees, but saying that we have now enough resources going to the counties that can do some of the things that harambees do, so that it can be seen in a wider perspective than the Koigi Committee.

Mr. Speaker, Sir, I want to encourage Sen. G.G. Kariuki, given his vast experience, that he will be a very valuable Member of such a Committee, if we pass the Motion; whether or not he was asked.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, let me apologize to Sen. G.G. Kariuki, that I took advantage of my long acquaintance with him and just assumed that this is an opportunity that he would not miss, but we could discuss it with him. Indeed, the spirit of a Motion like this is that it is also subject to amendment in the House. So, these things are not cast in stone.

Mr. Speaker, Sir, but, further, with regard to Sen. (Dr.) Khalwale's point, it is not just the Koigi Report. We have volumes and volumes of work on harambee, some of which I did when I was at the university. But now, we want to use this material for purposes of lawmaking. I think that it is important that we realize that the lawmaking process must use some raw materials that exist, like documents and so on. So, that really should not be reason not to do this. It is much more of a reason to access that material and use it for the purposes for which this Motion is intended.

Mr. Speaker, Sir, in the United States both the Senate and Congress itself are always there to make law. Quite often when somebody has an idea for writing a Bill, he approaches colleagues in the Senate or Congress to work on it. There are people who would offer to do Bills by themselves, like Sen. (Dr.) Khalwale has just done a Bill for the House. You can do it yourself, but in my own preference, this is an issue where a self-propelled Bill would not be as rich as a Bill in which a small group of Senators do this.

Mr. Speaker, Sir, finally, let us open ourselves to the fact that our work as lawmakers cannot be impeded by putting a rule that we can only establish so many select and *ad hoc* committees. We cannot do that. We will have to create as many *ad hoc* committees as possible for purposes of lawmaking, because we are here to make law. I do not think that the number of *ad hoc* committees is something that should be frightening to the Senate.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Hon. Senators, the Chair has been asked to respond to certain things. I want to thank those who raised the issues and those who have tried to help the Chair in responding to them.

I will start with the one by Sen. G. G. Kariuki on how come his name appears in the Motion. I think that, that matter has been properly addressed, in the view of the Chair; that it is really up to the Mover of the Motion to determine the Senators that he would like to work with. I think that in this case, Sen. (Prof.) Anyang'-Nyong'o and Sen. Wetangula have confirmed that they consider you as a depository of knowledge and experience. So, they felt that you may be one right person to belong to the Committee, but the choice is yours. But I think that both of them have also conceded your concern. It is important to involve other Senators, but when you wish to do so, it is only basic

courtesy and decency to inform them. But maybe Prof. Anyang'-Nyong'o took into account the fact that these Motions are also not as given. Maybe at that particular time, it has come to your attention and the public limelight. That is also an opportunity to intervene, but not necessarily on the Floor of the House. But that does not take back the need for any person originating the matter to be able to extend basic courtesy to the other Senators.

Sen. Murkomen has raised the issue of names, regions and gender. Those are valid concerns. The Chair, when approving this Motion and others, is also concerned about the mushrooming numbers of Select Committees and whether, really, we have enough Members to participate in all of them. But before we conclude this one, looking at the nature of this Motion and for all the reasons that have been adduced, this is one issue of public interest in the Republic. I think that it would not really be fair for one Senator to bring his or her own ideas. I think that it was good that it was ventilated by many more Senators. So, it is expected that the Mover should take into account gender, regions and all those issues, so that you bring the entire shade of opinion to bear on this particular matter that is of immense public interest. But, nonetheless, all is not lost. You have an opportunity, and that is why these Motions are brought to the Floor; to make the necessary amendments, in order to take into account the concerns that you have just raised.

Sen.(Dr.) Boni Khalwale asked: "Why another Select Committee?" I think that I have responded to that issue in a way. This Motion wants to advance the previous events, to now create a regulatory framework in terms of a Bill. I think that, that is the right way to proceed. It will, definitely, rely on the volumes of information that is already available, including the one in the library that you have suggested. There was also a taskforce that was formed to work on it. There is also a lot of information in the academia and just experience. So, when we start the legislative process, then you will bring all these to bear in terms of taking it forward. But I think that you will also confirm that in the last Parliament, there was that wind of opportunity that was created; that during the campaigns period, we should not really engage in harambees. I think that all of you agree that it helped a great deal. So, this Bill will also be looking into this and whether you want to proceed along the same lines, reduce or increase that timeline. So, those are all issues that were very critical.

I think that in terms of the issues raised, I have responded to them, with support from the other contributions by Sen. Wetangula and Sen. (Prof.) Anyang'-Nyong'o. I just want to add that we now have enough Committees and I do not think we are not doing a good job in terms of being able to attend to most of them. So, at least, with your consent now, the Chair will be very careful in terms of approving Motions to create more Select Committees, until we determine that the ones that we already have, have concluded their business. But, of course, if the Motion itself really requires a Select Committee, we will grant it. The issues of economies will not dissuade us from the bigger picture of the issues that we are canvassing. But, of course, in terms of just time and resources, we are also under duty to ensure that we manage our resources effectively.

Thank you.

Sen. G. G. Kariuki: On a point of order, Mr. Speaker, Sir. I am glad that you have made your own decision over this matter. But I hope that I will not be asking too much if I asked you to clearly say what the Standing Orders say. We need to go through the Standing Orders and find out how a name can be included. If it does not appear in the Standing Orders, we need to revise the Standing Orders, so that they are clear regarding a situation like this one where a name has been included. The Standing Orders should allow that name to remain or be removed.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. I also want to thank you for the direction that you have given us.

Mr. Speaker, Sir, even before I contribute, if I will get an opportunity, at this point I just wanted to say that along the lines that Sen. G. G. Kariuki has raised here, we also expected, as a House, clarity on the issue of composition. Yes, it is true that this is an individual Senator's initiative and, therefore, they can decide who they want to work with, but if, as my good friend, Sen. (Prof.) Anyang'-Nyong'o, has done, you put together a proposed *ad hoc* committee where 80 per cent of the Members are from the CORD Coalition, then that report is likely to face political challenges from even a political standpoint. So, it is always good, because this is a matter for the whole House, to ensure that there is bi-partisanship in that composition. Working with Members to develop a Bill has nothing to do with partisan politics. So, I think that we need more clarity on that, especially after noticing that 80 per cent of the composition is from the CORD Coalition, which is a minority, but also an important component of this House. But you cannot leave out the majority and then expect the product to attract support across the board.

The Speaker (Hon. Ethuro): What is it, Sen. Ong'era?

Sen. Ong'era: Thank you, Mr. Speaker, Sir. Since you raised the question, I think we are taking a very dangerous path in this House. I expected that these would be contributions made in terms of the comments. If hon. Members felt that there would be, perhaps, amendments to be raised, then they will have the opportunity to raise them and include other more names or remove other names.

Mr. Speaker, Sir, if we start a trend in this House where we will start talking about whether the composition of hon. Members shows anything to do with CORD--- I do not think in Sen. (Prof.) Anyang'-Nyong'o's proposal – and he is here to speak for himself – he decided to choose just CORD Members. I think he was looking at regional balancing, and if there is a problem, this can easily be raised by way of amendments.

Therefore, Mr. Speaker, Sir, I wish to request that we proceed with debate on this Motion and any hon. Member who feels aggrieved can raise it by way of amendments.

Thank you, Mr. Speaker, Sir.

(Several hon. Senators stood up in their places)

The Speaker (Hon. Ethuro): Order! Let us have Sen. (Dr.) Zani and then Sen. (Prof.) Anyang'-Nyong'o. Thereafter, it will be contributions.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. I think there are times when you are trying to form Select Committees and depending on the circumstances under which

that is being done, maybe you have penned a Motion and you just want to make sure that you have a composition for a Select Committee. For example, even when a Motion was moved in this House and you want to form a Select Committee and you are looking for Members in the House, you sometimes reach out to those who you are easily able to access so that you can actually even go through the stage of asking them for permission to join that particular Select Committee. But I think also the circumstances under which we work might make it difficult, especially when you are not able to meet all the hon. Members and give them that information in good time. I think it is unfortunate that this is being interpreted as an issue of having a composition across the board. I would like to believe that, that was not the intention as that Select Committee was being composed and, also, there is an opportunity to amend this Motion. That is why it is on the Floor.

Thank you very much.

The Speaker (Hon. Ethuro): Sen. (Prof.) Anyang'Nyong'o.

Sen. (Prof.) Anyang'Nyong'o: Mr. Speaker, Sir, I would like to put my friend, the Senate Majority Leader, Sen. (Prof.) Kindiki, at ease. I, in no way, intended to downplay the important role of the Majority in the House. But as Sen. (Dr.) Zani said, when I drafted this Motion, there were very few hon. Members in the House that afternoon and we agreed that, at least, let us start with a number and they can increase when people are here and we have concurred. It was a very practical thing. There was no sinister or ill-motives behind it. You notice that the number is only seven; it can go up to 13. So, there is latitude to make sure that we have--- It is my interest that this issue is bipartisan. It is very important that it is bipartisan because harambee goes back a long time in history when neither CORD nor Jubilee were there. So, we cannot really reduce it to a CORD/Jubilee thing. It would be ridiculous.

So, Mr. Speaker, Sir, I would be quite prepared for the House to advise the Mover of the Motion on the composition of the Select Committee, because the Motion is now the property of the House, not mine. I would, therefore, like to appeal that we should not go in that direction. As far as my friend, Sen. G.G. Kariuki, is concerned, I had already told him that I took advantage of my appreciation of his--- But if that is not acceptable, this, again, is subject to amendment. I will feel sad to do away with Sen. G.G. Kariuki but, definitely, we must respect Sen. G.G. Kariuki's choice on whether or not he wants to be in a Committee. I think that is something that is quite straight forward.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, hon. Members! Let us just dispose of this.

Let me start from the last contribution in reference to Sen. G.G. Kariuki. Our Standing Orders do not provide for what you do if you find yourself in a list that you think you do not belong. So, the Chair cannot help you there. But the Standing Orders have also an avenue called 'amendments.' So, if you really feel strongly that you do not want to belong to the Committee, all you need to do is to bring an amendment to the Chair and I will duly grant you the opportunity to prosecute that amendment to delete your name. If the rest of the Senators allow it, then your name will be deleted. But every Senator belongs to the House and every other Senator will give you an opportunity to serve if he or she thinks that you have a contribution to make. It is up to the entire House to make the final decision. It might not even be your personal decision, Sen. G.G.

Kariuki, because you may wish to make an amendment but if the House refuses to grant you that amendment, what do you do? So, the only thing you can do is that, if the Committee is constituted, then you could just boycott the meetings; then it will be reported that you have been absent for a number of sittings. That is the surest way to get your name off the Committee.

But it also appears to me, just as much as Sen. G.G. Kariuki wants his name out, that same argument is basically the opposite of the argument brought about by the Senate Majority Leader, because then Sen. G.G. Kariuki comes from the Majority and the Majority side wants more membership. So, obviously, it is a contradiction; desiring more membership for the Majority, and the Majority wants to become a minority by seeking to have a name from the Majority side deleted.

(Laughter)

Anyway, these issues are really not to be canvassed before the Chair. These are very straightforward matters; there is a Mover of a Motion, if you feel you do not need to have your name in the Committee, you can approach the Mover of the Motion and he could even have moved the Motion in an amended form by deleting that name.

Two, this House has a leadership, and this leadership is drawn from both sides; the Majority and the Minority. Let us not create the impression that we are, as a House, behaving in bad faith. I want to suggest that the Senate Minority Leader and the Senate Majority Leader caucus on this matter and give us an amendment that will take into account all the issues that Senators have already raised. That is how we will proceed on this matter.

Thank you.

Sen. (Dr.) Khalwale, continue with your contribution.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to support this Motion and, really, I would like to wonder aloud; how amazing it is that 50 years from the time harambee was introduced in this country whereupon billions of shillings have been collected, we have been able to operationalize the process without law. It is, therefore, very gratifying that the honorable Senator for Kisumu has now commenced the process that will now give us a law whose time is long overdue.

Mr. Speaker, Sir, I would like to use this opportunity to remind the rest of us that the gains we have made in this country because of harambees are so much that this Committee should be expanded to its fullest so that we can exploit every opportunity to make sure that this law is perfect. When I go to my community, harambee has done more good in my region than the Government. Even great institutions like Masinde Muliro University in Kakamega were built through harambee. It started off as Western College (WECO). There are other great institutions like Sang'alo Technical Training Institute, which started the same way.

Mr. Speaker, Sir, great schools like Musingu High School and Friends School, Kamusinga, in Western Province have all been built by harambees. Even in my own profession, I know that harambee knows no limit between the poor and the rich. A great hospital like Nairobi Hospital has been built, to a great extent, through harambee. We had

a very successful project there called “Buy a Brick” where people were free to bring in money on the assumption that they were bringing in one or more bricks. We should, therefore, today be deliberating not on whether to make harambee something which is legal or not, but we should be creating the insulation that will make it impossible for people to abuse public funds.

Mr. Speaker, Sir, when you look at the behaviour of the committees that manage harambees – the so-called steering committees – soliciting for funds, during the time of soliciting for funds, these committees approach the public but once the money has been realized, they start treating that money as if they are private funds. It will, therefore, be important that in this Bill, it should be made clear that monies realized from harambees are public funds and they should even, to a greater extent, be subjected to the Public Finance Management Act.

Mr. Speaker, Sir, we have to rethink the issue that has been vexing us this afternoon, on the number of *ad hoc* Committees because, to me, this means that if the Senate must rise to its calling, then it would be important that the Office of the Speaker of the Senate should fight and ensure that every Senator has got a fully fledged office where the Senate employs a research officer who will be doing some of this work that we want to use Committees by way also of collecting and collating information.

Mr. Speaker, Sir, when you look at part “b,” where Professor wants to establish procedures for ensuring that harambee contributions are tax deductible, it calls into question the benefits of the abolition of harambees during the electoral process as enshrined in the Elections Act. Beneficial as it was, if we were to think through further and align the Elections Act with the spirit of part “b” as envisaged by Professor, there would be nothing wrong in saying that anybody who wants to run for office should have his contributions in harambees traced backwards five years to the election to see whether he was complying with part “b” of this particular Motion. This will make it possible for drug traffickers who have now gone into the decent profession of leadership of this country – they have sneaked in because they use proceeds from drug trafficking to buy their way into leadership – these kinds of people will find it difficult because this will be exposed if part “b” was used.

Mr. Speaker, Sir, regarding the issue of drug traffickers sneaking into the leadership of this country, I have no ill-intentions towards anybody neither do I have anybody in mind, but I am just begrudging the fact that none other than the President himself had to make a pronouncement that he was going to deport all foreign drug traffickers. I cheered him, but I wondered why he is only focusing on foreign drug traffickers. He should have extended the same to the local ones so that we rid our country of---

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Is Sen. (Dr.) Khalwale in order to advocate for a violation of the Constitution when it guarantees that Kenyan citizens must be protected and, in any case, where would we deport Kenyans to? We should send them to jail.

The Speaker (Hon. Ethuro): I agree completely with Sen. Wetangula. I also wondered for a moment. You cannot deport Kenyans. Where would we deport them to?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I very well understand from where you are seated and where Sen. Wetangula is coming from. There is the medical aspect to drug trafficking. In the United States of America (USA), it is so serious that the Republic of Panama surrendered its own President. He was deported from the Republic of Panama and taken to the USA. So, all these drug traffickers should actually be taken---

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Is it in order for Sen. (Dr.) Khalwale to mislead the House when everybody knows that the former President of Panama was actually abducted from his country by USA? There was a raid and he was abducted. There was no surrender by his citizens to USA.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. Noriega was never the President of Panama. Indeed, he refused to describe himself as such. So, that gave latitude to America to abduct him to the USA. On record, he was never President of Panama.

The Speaker (Hon. Ethuro): Who was he?

Sen. Orengo: Mr. Speaker, Sir, he was a military leader. He was actually the effective leader of the country, but he never described himself as the President of Panama.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, you can see the difficulties surrounding drug trafficking. It is a fact. Whether he was a military head or President, Antonio Noriega was actually the leader of the Republic of Panama. Because of the greater good for the youths of the world, the President of the USA took him away and put him in a safe place. That contributed to some extent in lowering drug trafficking in the whole world.

Mr. Speaker, Sir, I do not want to belabour something which is actually a side-show. Therefore, I want to conclude by stating that the people who benefit from harambees to a large extent are not the ones who contribute. In fact, in many instances, the people who organise for harambees do not do it out of love for them. They do it because they have no choice. They would have tried to go from left, right and centre to see if they can raise resources. When they fail, they call friends and relatives. If there would be any attempt to outlaw harambees, for whatever reasons, like the reasons given by hon. Senators that they are coerced to save their political careers, we would resist it because to participate in it, it is a question of choice. You can choose to go or not to participate in it.

For that reason, I want to support and I hope that what we lost in the Ninth Parliament, that is, failing to turn, hon. Koigi wa Wamwere's work into a statute will not be missed this time.

Sen. (Dr.) Zani: Mr. Speaker, Sir, I rise to support this Motion. The issue of harambee contribution is a personal decision. So, you will find that there are those who are going to make contributions at a small-scale level and you cannot really coerce somebody to give more. If it is somebody who has given birth and you are taking a present to her, you cannot be coerced. This Motion is focusing on a more formalised process of harambee and collecting money at a public level.

Therefore, it is very important and very critical. Unfortunately, over time, the notion of harambee has been taken only in terms of monetary contributions. The fact that

it has attracted so much attention has to do with the nature of the African family and community life. Depending on the purpose, people would contribute so easily and so willingly. Therefore, it was not just a contribution in terms of monetary, but in terms of other resources like labour and so on. Over time, there has been a lot of appeal in terms of what harambees mean, especially for Kenya and the different reasons for them. We have already discussed the sort of contributions available. For example, for educational purpose, health, or a community initiative. This was the beginning of what brought out the notion of many contributions. The long terms benefits were always very clear. The approach was also bottom-up rather than top-bottom. Therefore, people who contributed felt that they actually knew the need and they appreciated and knew what their contributions were going to make in terms of the changes within the societal context.

Mr. Speaker, Sir, we cannot underestimate harambee and what it has done. Statistics have been given in terms of contributions. For example, by 1979, about 30 per cent of rural development investment was actually from harambee initiative. That was about Kshs8.8 million collected at that time. The development plan of 1979 to 1983 actually said that harambee is a major strategy for accelerating rural development since Independence. By 1992, we had up to a tune of Kshs26 million that had been contributed as a result of harambee initiatives and that is no mean feat. That is really quite a lot of effort that is put to ensure that such contribution is availed to a particular community. By 1980 to 1984, 12 per cent of the national capital formation was through harambees. By 1980, nearly 50 per cent of secondary schools had been built through harambee initiatives.

So, from the contextualisation of harambee to something that is positive or well intentioned, of course, over time people have moved forward and taken the initial agenda of what harambees were meant for to a different level. Therefore, that is where the dysfunctional aspects or problems of harambee and contributing to harambees has come. That is where the negative notion came up. This is something that we will now need to change and create a positive notion and look for a formalized process so that whenever contributions are made, they are done in a formalized way.

It is not anything new for any person--- for example, among the provincial administration, for services to be rendered, you needed to give a small contribution. I remember when we were sent to the chief, the card would be waiting for you and you had to make a contribution before you are given a particular service. For a long time also businessmen were given government contracts according to how much one contributed. Therefore, the whole issue of professionalism rather than what somebody was doing was not taken into consideration. That is where we started to have the commercialization of leadership to an extent that now to be seen as a good leader, you need to be the one who makes the most contributions. That is what brought problems and started to make such contributions to be seen from a negative point of view. A lot of embezzlement also begun to take place and the good natured approach and idea for harambee was taken over. You find situations where people gave money and there was no accountability. We have heard cases where there was a pre-wedding and people gave money, but there was no wedding. Funds are collected. As much as they are public funds, nobody there saw the need of accounting for the funds. In fact, it is interesting that the public itself is the one--- As

much as they give those funds, they do not expect any sort of accountability from the people concerned. Therefore, over time, there has not been a need to maintain some sort of accountability or come up with mechanisms for accountability in how public funds are used. Even when it came to times of elections, various leaders would be seen to be campaigning by the amounts of money they are able to give.

Mr. Speaker, Sir, the Public Officer Ethics Act actually outlawed personal involvement of public officers in organizing harambees. At the end of day, harambees would begin to get their value and be appreciated. When we are talking about leadership and you are misinformed in terms of selecting leaders who have money, those might not be the ones necessarily who have the right qualities for leadership. Incidentally, various studies have shown that when people were asked, on the basis of understanding the Constitution, as to who the good leaders were, some thought that leaders are those who are able to give more money. This can be very misleading.

Mr. Speaker, Sir, this Motion is very critical because we should not kill harambees, but only kill the form which they have taken. We should move towards more formalisation of harambees. It is going to be difficult not for the small-scale level of harambees, but for the more formalised and large-scale harambees. We need to have a structure to know which ones are the more formalized ones because we are not going to control impromptu harambees which can be done during the naming of a child. For the very formalised process, it is important for us to determine the criteria so that for those specific ones, it is very clear that they have to have a particular process and the money collected can be accounted for. At the end of the day, the whole idea of regulation is to ensure that a certain amount of efficiency is put into place. The money should be used for what it has been raised for. Right from the beginning, the indicators and parameters for the use of that money should be laid out very clearly. It will also be able to protect the agenda for the beneficiary groups or persons. It will also put in place administrative and legal regulations that are going to make it possible for a follow up mechanism to ensure that at the end of the day, harambee collections and its reporting is done in a way that is accountable, in a way that is gracious and in a way that helps harambees to gain the respectability they started with from the beginning.

Thank you very much, Mr. Speaker, Sir.

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

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

Sen. Hassan: On a point of order, Mr. Speaker, Sir. I want to bring to your attention whether you are aware that today is the beginning of the month of Ramadhan across the world. As the third highest member of the organization of Government after the President and the Deputy President, you must take that opportunity as the Chair to wish the Muslims a healthy Ramadhan.

The Speaker (Hon. Ethuro): Point noted.

Sen. G.G. Kariuki.

Sen. G.G. Kariuki: Mr. Speaker, Sir, thank you very much for giving me this opportunity to say something about this Motion. I know it will be amended to remove my name and replace it with another. That is my information. It has not reached you, but there is that proposal. I can now speak freely on this Motion because my intentions and

my wishes are being taken care of. I do not want to be a Member of this Committee. Talking about the Motion, before we move to formalize or to codify harambee, we have to ask ourselves; what was the purpose of harambee from the word go? What was the philosophy behind harambee? As I understand it, people were supposed to sit together and those who could afford to assist others did so willingly without being compelled by anybody. There was no law to compel anybody to do this. In fact, the intention was not to bring law into the issue of harambee because it was a voluntarily exercise. If you wanted to give me something if I had a project in the name of harambee, you were free to do so.

Mr. Speaker, Sir, I agree that quite a number of people made use of harambee to do other things which were not supposed to be done. In fact, in the Koigi Wamwere Report and many other reports, including mine, harambee contributed quite a lot to corruption in this country. It is harambee which messed the politics of this country. This is because those who had a lot of money used it to make their names or to show others that they were the only people who were able to assist them. In fact, they forced the public to believe that they loved them too much. That is why they were taking too much money to them. This changed the harambee spirit to something else.

If you codify harambee the way the Mover of this Motion wants it done, I think it will have no meaning; it will cease to be harambee. It will be a kind of forced decision of taking other people's money. If this Motion on harambee is going to be considered with a view to making a law which will control harambee, I think we need to think twice. For example, if people want to build a church and they request their members to contribute, there is no harm in doing so. We should not appear to be interfering with the peace of the people because those who do not want to contribute to harambee should not bring in a law to discourage others who would want to contribute to harambee because this is a voluntary exercise. I think it should remain so.

What are you formalizing? If, for example, Sen. (Dr.) Khalwale has a harambee in his county and he wants me to donate some money, why should we sit together with him and follow a certain formality which was created by the Senate? Do we lack jobs to do that we are now interfering with the freedom of individuals? Unless this money is found to have been stolen, we have no business interfering with what people want to do with their money. That is what I believe and, of course, it does not have to be the belief of everybody.

Mr. Speaker, Sir, I oppose this Motion even if it is amended to remove my name. This Motion is not appropriate. We need to concentrate on matters which are not going to interfere with individual decisions.

I beg to oppose.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I rise to join Senators who have spoken before in thanking Sen. (Prof.) Anyang'-Nyong'o for bringing this Motion at this time. If you really look at the historical videos and films of the years when Kenya began, you can see the motivation of the spirit in which the harambee movement and harambee activities started. Most of the institutions that we have in Kenya today that have produced the men and women you see here were built in the spirit of harambee. This has been done willingly from the hearts of the people of Kenya, but noting the way it has been abused in some corners by some people, when Kenyans are now 40 million as opposed to

the almost 10 to 12 million by the time we attained Independence, there were more sincere people then than now. There is no harm in formalizing a ritual or a procedure that has been used in our country, whether willingly or unwillingly.

Where I come from in West Pokot, we now have over 2,000 students who are pursuing privately sponsored programmes in the universities. Most of their school fees is raised through harambees which are done between September and January. This is the time we know that there are crops in the farm and the prices of animals are better. To us, we support this idea because in our county without this harambee spirit, we would not be where we are today. Our schools are not as equipped as other schools. We do not have sufficient teachers to the extent that when we get results for Form Four, most students have a mean grade of C+, B- and B. These are candidates that are supposed to go to university, but because the Government cannot give them funding through the Higher Education Loans Board, we have to chip in through the harambee spirit.

Mr. Speaker, Sir, this Bill that is proposed through this Motion would be very beneficial to the people of Kenya. If there are places in Kenya which have been built or have other ways of getting funds and they have built their own infrastructure, this Bill should be looked at critically and supported although the composition can be improved by the two leaderships. But that does not remove or negate the spirit that we are trying to introduce here. You can even remember some of the dispensaries that were built in my neighbouring country Turkana prior to the introduction of the CDF funds; they were essentially done through communal spirit where people brought money through the harambee spirit. A number of our students who are now studying in the United Kingdom, China, India and many other places, are there because of this harambee spirit that has been with us. The Kenya Government has formalized a number of small SACCOs so that we have cooperative movements. This voluntary way which is done openly should be encouraged. We are the only country I think in the world leading in this harambee activity. Prior to the last general elections, because of the need to mobilize people to do various activities, that was harambee and we are in this House because of that spirit. So, we cannot run away from it. I would say that we move on with it and be able to control some of the avenues that corrupt practices have been coming through, deceit and misuse of funds. This can assist us to curtail and deal with people who have been known to have messed up with people's public funds.

As it is now, with this harambee spirit going on, if there is some misuse of public funds, you do not have any genuine law that you can use to arrest them and be able to deal with them. Some of us will stand with this and say that we proceed with it. In some places when you are pushing an idea, they want to see some particular person in that harambee not because of your money, but as an example to drive that idea.

I support the Motion.

The Speaker (Hon. Ethuro): Order hon. Senators! Before I call on the next contributor, I wish to take this opportunity to wish all our Muslim brothers and sisters within the Senate, in our Parliament and across the country Ramadhan Kareem during this holy month of Ramadhan. I want to thank Sen. Hassan for reminding the Chair to do what I had actually intended to do.

Thank you.

Sen. Hassan: Thank you, Mr. Speaker, Sir. First and foremost, I support this Motion. Whether we like it or not, harambee has become a phenomenon that is accepted as a way of culture or a way of life in Kenya on literally every front. As the Mover of the Motion intends, we need to streamline this important industry because it is a multi-billion shilling industry that needs to have some form and order. I do believe, in addition to setting up criteria for projects that qualify for harambee contributions, we must stipulate the objects of fundraising. Fundraising must be an act of philanthropy by people who are well endowed and who wish to voluntarily support general causes that improve the well being of society. Harambee can be a matter of CSR by top corporates in this country; be it Safaricom and other huge profit making organizations that might entrust themselves in giving back to society. But harambee must never be about politics.

For a very long time, the political class has been synonymous with harambees and the politicians in totality are taken to be private avenues for development. I can tell you, including yourself and Members of this Senate on a daily basis, even those who are looking at their Short Message Services (SMS) now, it is likely that somebody is asking for a contribution towards fees for their child, a medical bill, *et cetera*. As we streamline this industry, we must create interest in people to generate funds that can support some of the development work around education and the social well being without necessarily placing the absolute burden on the political class in its entirety. I think it has prejudiced our political environment for a very long time. Many times we have got less than the leaders that we deserve as a society and a country. People must be told that harambee is not just about a politician.

Mr. Speaker, Sir, I remember a situation where there was an order in some public housing for people to vacate. They wanted to rush to court to get interim orders to stop the eviction. They called me as the Senator for the County of Mombasa. This was because of a debt of Kshs20,000. I asked them how many they were in the neighbourhood and if they were working for certain institutions. They said that they were about 500 residents. I asked them to contribute each Kshs400 and whether that would not be cheaper than one politician giving them the entire amount of money. I also thought that this idea would save their essence of survival or existence. So, I requested them to do so. It must be made clear in the minds of Kenyan people that this is not just about the politician because you gave him your vote. It must be a social obligation for all of us to participate effectively in supporting our community.

I have friends who have been in productive employment for a longer period than I have been. I know their net earnings and worth, but if faced by such an issue, they call me and tell me that there is somebody who requires my support. I always ask them why they cannot also support that person because this is about our social obligation in its entirety. As we proceed, we must emancipate the perception of our people that this cannot only be about politicians. If this is about politicians then those who are less endowed in life will not have an opportunity to step in the corridors of the Senate, the National Assembly or any other corridor of power that requires elective political competition.

I have seen ward representatives who hail from certain wards. Their tribulations are known, but the minute they declare that they want to become ward representatives,

even their neighbours who know that they potentially slept hungry last night, gives them a structure for school fees. Can they lead the community no matter the intentions they have and the sacrifices they can make to the society?

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

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

Mr. Temporary Speaker, Sir, as we go out, this Select Committee must also create a strategy and tell people that this is not just about politicians. Everybody has an equal role to play in building the society. It is simple, just like I told you that Kshs20,000 divided by 500 working families is a far self sufficient and self dependant strategy than Kshs20,000 that is expected from somebody simply because he is a politician.

Mr. Temporary Speaker, Sir, I support this Motion because---

The Temporary Speaker (Sen. Murkomen): You have to address me as Mr. Speaker.

Sen. Hassan: I am sorry, Mr. Speaker, Sir for referring to you as a temporary Speaker. I looked behind and saw Mr. Speaker leave.

We need to restructure the harambee system in this country. Harambee is a Kenyan phenomenon and a lot of people have had the alternative to go through schools and universities because the harambee system gave us the opportunity. Harambees should equate the fact that there are good signs in it because we are people of endless generosity.

As Kenyan people, we must stand for one another. The more classical individualist societies characterized by the western society could not have survived the terrain that the Kenyan people; a majority of whom are the Kenyan poor, were living in and meeting challenges of their lives. We must also acknowledge that politicians do not have endless resources. We can do all those good things, but be unable to do all the good things. So, as much as our intentions are good and our objectives clear, we may not do everything all the time. In situations where politicians want to support a certain cause, their objectives must be noble and philanthropic. This should not be about politics and manipulation of public opinion.

I urge this Senate to support this Motion because it will streamline this industry. It will set clear guidelines and standards and criterion that will determine how Kenyans can raise the billions that we raise through harambees through constructive development projects. This will end the realm of corruption that we see in this sector often perpetuated by corrupt individuals or organizations at grassroots level that hardly have the capacity or the intention to account for the massive public funds that are raised regularly.

I beg to support the Motion. I am sorry I thought you were a temporary Chair, but more often than not, you sit with us.

Sen. Muthama: Bw. Spika wa Muda, nashukuru kwa kunipa nafasi hii ili nichangie Hoja hii. Hoja hii ina uzito mwingi. Katika mchango wangu nitachukua msimamo wa Sen. G.G. Kariuki kuwa Hoja hii ifanyiwe mabadiliko ili ikubaliane na mahitaji ya Wakenya.

Ningependa kusema mambo matatu juu ya Hoja hii. Jambo la kwanza ni kuwa mwito wa harambee ni mzuri sana katika nchi hii. Wanasiasa wengi hujihusisha na harambee katika maeneo yao kwa sababu wanataka kuwasaidia watu wao. Orodha yangu inaonyesha kutakuwa na harambee nyingi mwishoni wa wiki hii. Si lazima mimi nihudhurie harambee hizo zote. Viongozi waliochaguliwa katika Kaunti zao, si lazima wahudhurie harambee hizo zote kwa sababu wana mambo mengi wanayowafanyiwa watu wao. Kwa hivyo, harambee hutegemea mahitaji ya watu. Hakuna mwanasiasa ambaye hulazimishwa kuhudhuria na kuchanga katika harambee yoyote. Najua wanasiasa ambao hawajawahi kuchanga hela hata moja katika sehemu zao za uwakilishi lakini huchaguliwa wakati wa uchaguzi mkuu.

Marehemu mhe. Martin Shikuku alikuwa mchungaji wa watu. Yeye hakuwahi kuchanga pesa katika harambee yoyote katika sehemu yake ya uwakilishi Bungeni. Tunapozungumza mambo ya harambee tunafaa kuelewa kwamba harambee huchukua mielekeo mitatu. Hii ndio sababu ninakubaliana na msimamo wa Sen. G.G. Kariuki kuhusu Hoja hii. Hakuna maana ya kumsaidia mtu halafu kumvua nguo baadaye kwa kutangaza shida zake na vile anavyoishi.

Nimesimama hapa leo si kwa sababu nimechangia harambee nyingi lakini nilichaguliwa kwa njia halali. Hata hivyo, kuna watoto ambao nimewasomesha kuanzia kidato cha kwanza hadi chuo kikuu. Watoto hawa hawakusomesha na Sen. Muthama ili wampigie kura. Hapana. Mimi nimesaidia taifa hili kwa sababu ninataka kuona watu wetu wamepata maarifa na ujuzi wa kuweza kukuza taifa hili. Tukifanya hivyo, watoto hawa watakapokuwa watu wazima hawatajihushisha na ukora na mambo mabaya kwa sababu watakuwa na ujuzi na maarifa ya kufanya kazi kihalali.

Tunajua kuwa walimu wengi wa shule za msingi hapa nchini hawawezi kuwaelimisha watoto wao hadi vyuo vikuu. Hii ni kwa sababu pesa wanazopata hazitoshi. Leo wako barabarani wakidai nyongeza za mishahara yao. Ni huzuni kuwa wengi wao hawawezi kusomesha watoto wao kuanzia darasa la kwanza hadi chuo kikuu ingawa anafanya kazi. Zaidi ya asilimia 90 ya Wakenya ni watu wanaoishi katika hali ya umasikini. Huu ni umaskini ule wa chini kabisa. Kwa hivyo, tunapochanga pesa, huwa hatuchangi bure. Mimi sichangishi pesa ili watu wanipigie kura. Ningependa kupigiwa kura na watu ambao sijawasaidia ili mbele ya Mwenyezi Mungu, nisiwe nimebadilisha kazi ambayo ninafaa kuwa nikifanya ya kuwatumikia watu. Sitaki kuonekana kama ninatumia hongo.

Sen. G.G.Kariuki alisema mambo haya yameleta ufiisadi katika nchi. Pesa za harambee husaidia kulipa gharama ya matibabu katika hospitali. Tunaposema tuwe na kamati ya kuchunguza ni nani anayefaa kuchangiwa pesa, kweli tutapata jibu? Magonjwa mengi huwakumba watu. Unaweza kupata kuna mtu ambaye anafaa kupelekwa nchi ya India kwa matibabu. Hapo ndipo tunafanya harambee ya dharura ili tumsaidie mtu huyo kulingana na desturi za Kiafrika. Si kawaida ya sisi kutosaidia mgonjwa. Tusijifanye kwamba sisi ni wazungu. Ukienda kwa mzungu bila kumweleza kwamba utaenda kwake, hautapata chakula. Lakini unapoenda kwa Mwafrika, jambo la kwanza analofanya ni kukupikia chakula, chai au uji. Ukikataa kula, anahisi vibaya sana. Kwa hivyo, tunawachangia wagonjwa ambao hawajiwezi.

Ni vigumu kupata Sen. G.G. Kariuki anaomba kuwa na harambee ili apate pesa za kwenda hospitali ya M.P Shah kwa siku mbili. Najua hawezi kufanya hivyo. Lakini kuna mtu ambaye amevunjika mguu ambaye anahitaji matibabu katika hospitali hiyo lakini hana pesa.

Sisi huchangia pia matanga mtu anapokufa. Kuna msemu wa Kiafrika unaosema kuwa mtu hujizika akiwa hai. Kujizika ni kuungana na wenzako katika kijiji, kukusanya mapato na kusaidia katika kuwazika walioaga dunia.

Harambee ya tatu ni ya elimu. Harambee hii hufanyika kuwasaidia watoto masikini. Wakati mwingi sisi huchangia shule ili wapate vifaa muhimu za masomo. Tunahitaji kuchanga pesa ili watoto hawa wasome na kuja hapa baadaye kama Sen. (Dr.) Zani. Ikiwa tutaondoa harambee hii na kusema inafaa kuchunguzwa, basi watoto wengi hawatasoma.

Kuna pia harambee za makanisa. Kanisa ni msingi ambao tunajenga roho zetu na maisha yetu ya baadaye. Ingawa Sen. (Prof.) Anyang'-Nyong'o amelea Hoja nzuri ambayo itarekebisha mambo ya hongo na ufisadi, ninahimiza mabadiliko yafanyiwe Hoja hii ili tuwe na nafasi ya kujua ni akina nani wana haja zaidi ya kusaidiwa. Jambo hili halifai kufanywa kwa ujumla na kusema watu wachunguzwe. Umasikini wa mtu ni kipawa kutoka kwa Mungu na hata utajiri ni kipawa kutoka kwa Mungu. Uongozi ni kipawa kutoka kwa Mungu. Hata Bibilia inasema, waliopewa nyingi ni lazima watoe kwa wingi.

Asante, Bw. Spika wa Muda.

Sen. Ong'era: Mr. Temporary Speaker, Sir, I beg to propose an amendment to this Motion under Standing Order No.52. The amendment reads as follows.

That this Motion be amended as follows:

(a) By deleting the name of Sen. G. G. Kariuki and inserting in place thereof the name of Zipporah Kittony.

(b) By adding the following names after the name of Sen. Hassan Omar Hassan

(8) Sen. Abu Chiaba

(9) Sen. Moses Wetangula

(10) Sen. Kimani Wamatangi

(11) Sen. Joy Gwendu

I propose this amendment because of the following reasons. One, by adding those names, we will have ensured that we have a balance in terms of gender. We will also be well balanced in the proposal. This will also create regional balancing. In the spirit of bipartisan politics, which is the trademark of this distinguished House, by including those Members that I have proposed, we shall ensure that we have a bipartisan approach to this Motion, so that it will not be defeated in the House. Also, the issues that are being raised will be well interrogated, so as to provide us with a Bill that can help us ensure that harambee contributions are well structured and accounted for in this country.

Mr. Temporary Speaker, Sir, the other reason for proposing this amendment is that I believe that with that combination of 11 Members, we will have the necessary expertise, knowledge and skill. They will be men and women who have the necessary experience to bring a proper Bill to this House, that will pass the test of any other contribution that will be made when that Bill is presented.

Mr. Temporary Speaker, Sir, with those few remarks, I want to request Sen. Joy Gwendo to second the amendment to this Motion.

Sen. Gwendo: Mr. Temporary Speaker, Sir, I beg to second the amendment that Sen. Ong'era has moved. This is because in this House most of the Senators have had the experience of harambees in their areas. So, if we bring Senators from diverse origins, we will have the expertise and experience put together, to bring a Bill that will move this Senate to where we want it to go and help Kenyans.

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

(Question of the amendment proposed)

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, I beg to support the amendment.

Mr. Temporary Speaker, Sir, given the earlier sentiments expressed by the distinguished Senator for Laikipia, it is only fair that we exclude him from the Committee, although the reasons that he gave for not wanting to serve were far from convincing. But we must respect his views, so that we can move forward.

Mr. Temporary Speaker, Sir, the additional names are also born out of consultations, to see that we have a balance from both sides of the House, which I think we do achieve by the inclusion of the new names. I have no doubt that the gender parity is also equally achieved and that the additional Members to the Committee will add value in helping to generate and engineer a new law that can help regulate harambees.

Mr. Temporary Speaker, Sir, it must be made very clear, once again, that Prof. Anyang'-Nyong'o's Motion does not in any way intend to abolish harambees. Everybody who has spoken here, has talked about the many good things that harambee has contributed in the development of our country. Equally, Members have spoken about the abuses that harambees have been subjected to. It is those abuses that this august House wishes to bring into focus, a legal framework, regulation and also, like we did say earlier, in line with devolution, so that resources going to the ground can supplement some of the pressures that have been put on those who donate.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to support the amendment.

Sen. Muthama: Mr. Temporary Speaker, Sir, I rise to support this amendment. But I would like to just pass a word of advice to the Committee that will be formed. They need to conduct civic education amongst the people that they will be visiting, so that they do not end up creating a centre to source for bribes. Through setting up committees, we may end up handing powers to the chiefs, assistant chiefs and other unscrupulous persons, who will pretend to be screening the projects, yet they will be asking for money. Therefore, civic education needs to be conducted out there, so that people can understand the concept and do not feel like we want to stop their ways of raising money through harambees. They should not also feel like they are being disadvantaged by those who are supposed to protect them.

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

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, I also stand to support the amendment. In Kenya, many people have also had a negative view of harambees because of lack of accountability. There are many people who would like to contribute, considering the usefulness of the contributions, especially in harambees. If they knew that systems of accountability would be put in place, I am sure that they would contribute even more than what they are contributing currently.

Mr. Temporary Speaker, Sir, I think that the levels of apathy amongst various contributors has come because there is no sense of having any sort of control once the money has been given. Therefore, if we put in place mechanisms to ensure that such accountability exists, a large sector of Kenyan groups will feel that now they can contribute. Because of the abuses that harambees have been subjected to, many people who would otherwise contribute are not contributing.

Mr. Temporary Speaker, Sir, I think that the Select Committee that has been proposed is more representative. It brings into the field also varied experiences. Such structures and the Bill that will be prepared as a result of this Motion, will really begin to put us on a map, where we do not lose a resource that is very critical in this country.

Mr. Temporary Speaker, Sir, by nature, in terms of our background and communal approach to things, Kenyans tend to be givers. Sometimes I get worried when this spirit of giving is interfered with because of the suspicion about what the money will be used for and the abuses. So, if we can bring a Bill that will begin to restore the confidence for such contributions, it will take us to greater heights. It will take us back to the 1960s in terms of the willingness in contribution and benefits of those contributions, especially at the county level, people might be missing out in terms of money and projects; be they educational-based or health projects. At the county level, it will enable people to bring back the value of harambees. We will be moving in the right direction if we will bring that Bill and ensure that accountability within harambees is taken into consideration.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Sijeny: Thank you very much, Mr. Temporary Speaker, Sir. I wish to support the amendment because it is very useful. This is a Motion that will go very far in helping Kenyans live a comfortable life, come up with development and assist, especially the people who are less privileged.

Mr. Temporary Speaker, Sir, the Committee proposed will bring in a diversity of experiences, expertise and knowledge in all fields. The Bill that they will come up with will create ways of regularizing this spirit of harambee, which as has been stated before, has been abused by others. We know that this harambee spirit has helped many people. Earlier on, I heard a Senator saying that some have abused it when a woman is pregnant and maybe they feel that school fees is more urgent. I just wish to differ on that aspect. When it comes to the issue of a woman going to deliver, many things do happen. There are things which come unpredictably. Someone may lose a job. Parties also do split and emergencies happen. You could think that you are going to have a safe delivery, but you are told that now you have to go through surgery and more expensive things, like caesarian. It is good when you are assisted. We do it every day and people should take it seriously. In fact, if someone approached me and told me that she is pregnant, about to

deliver and does not have money, I will take priority and help such a woman, because that is an emergency. You cannot say: - “Baby wait in the stomach; I will give birth to you next year.” You cannot compare this to a person who is going to study or do exams. He or she can defer and do the exams the next time they will be offered.

Mr. Temporary Speaker, Sir, even when it comes to people who are bereaved, many a times, the harambee spirit has helped families move on. If it is controlled, it will protect the families of the bereaved from relatives who become committee chairs or officials. After the money has been raised, they disappear with it and the family is left in more poverty. You will find that where it has been taken care of well, school fees is paid directly for the children who are left behind. The widows are also assisted. In fact, if it is well organized, they can even be assisted in ways of investing the little money that has been raised after a beloved one, who was, probably, the sole breadwinner, has departed.

Mr. Temporary Speaker, Sir, as I said, many schools have been built due to this harambee or voluntary contributions. It is a culture which is well known within our societies. We have built schools and churches generally irrespective of our religions or denominations. We know that we must help the less privileged with whatever we have. Even what is called merry-go-rounds which was very popular amongst the female members of the society, have also been taken up by the men. They have done wonders and improved the lives of the citizens within the country.

Mr. Temporary Speaker, Sir, I really support this Motion and urge that the Committee comes up with the Bill and proper laws to regularize and ensure that harambees are not abused as has been done before.

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

The Temporary Speaker (Sen. Murkomen): I realized that Sen. Sijeny was contributing to the Motion itself, but I allowed her because I think that we are still within the 100 days of the Senate and are all learning. But we are actually discussing the amendment.

I realize also that all of you have contributed to this Motion. So, I now call upon the Mover to reply.

Sen. (Prof.) Anyang’-Nyong’o: Thank you very much, Mr. Temporary Speaker, Sir. Let me, first of all, thank all Senators who have contributed to this Motion. I would just like to make one point very clear; this Motion, in no way, intends to abolish harambees. No! If anything, its intention is to encourage harambees to be done in such a way that it eliminates the vices that have emerged in the past associated with harambees. It wants to humanize harambee and put it in such a way that it meets its original intended objective; a truly voluntary fund without any form of coercion; a truly voluntary contribution which encourages philanthropy but, at the same time, does not subject those who contribute to unnecessary burden or taxation.

Mr. Temporary Speaker, Sir, in the western world, rich people are encouraged to contribute to philanthropy. In actual fact, there are research institutions devoted to studying philanthropy. I remember not too long ago, there was a group of people in Kenya touring East Africa, studying philanthropy in East Africa. I was interviewed by this group. They were wondering why we do not encourage people to contribute philanthropically by making sure that when they make contributions, that is deducted

from their tax. Because in the west, those people have established foundations where they put part of the profits they make so that those foundations can do philanthropic work. They could as well have waited for the Government to tax their profits so that all the money goes to the Government. This is because they also realized that the Government cannot do everything. So, rather than wait for the Governments to create foundations, individuals create foundations and put money there. Now, our form of foundation here is really harambee. So, when people contribute, we should also be fair enough to make sure that they do not pay taxes twice. We should make sure that the money that they pay for philanthropy is taken away from their income and then their income is taxed fairly. This is the aim of part “b,” which says:-

“Establish procedures for ensuring that harambee contributions are tax deductible;”

That is exactly what it means. I think some people may have misunderstood it and either thought that there would be a tax for harambees; no, that is not the case. There would be philanthropy. Harambee is one of them. When you do contribute to it, the public or Government also appreciates and do not visit you with another heavy taxation.

Secondly, Mr. Temporary Speaker, Sir, Sen. G.G. Kariuki thought that by passing this law, we were going to interfere with personal and individual decisions. I do not think the law will tell you which harambee to go to and which one not to. No, the law is just going to say “Please, we encourage harambees to go ahead and be a form of philanthropy in our nation, but we do not want it to be abused.” Although the Public Officer Ethics Act is now very strictly applied, but we do not want somebody to say, “I am going to be married and I am going to have a pre-wedding harambee.” The contribution then goes on for six months and the wedding is never held. These are some of the individual geniuses who have misused harambees, and which this law is trying to eliminate and protect the public from their vices. So, to the contrary, because the rich used the money, as Sen. G.G. Kariuki explained very well here, in harambees to intimidate others, especially politically; now we do not want them to intimidate others. We want everybody to contribute, but contribute in such a way that, like Sen. Wetangula was saying, it is not done in an obscene manner that intimidates, and that is actually what encourages corruption. Again, if you look at the Public Officers Ethics Act, that is really illegal. So, the voluntary nature of harambee is still preserved.

Secondly, harambee is not eliminating other personal contributions, like Sen. Joyce Sijeny was saying. If, indeed, you see a lady who is expecting and she comes to you as an individual and appeals to you, that is still regarded as philanthropy. It is not harambee because that is a personal appeal. There is no way by which this law will outlaw such kinds of contributions. This law is mainly concerned with large contributions where the public is involved; where public interest should be preserved and where there should be accountability when public money is given. This proposed law is to ensure that when money is given, it does not fall to misuse. I have seen occasions where we have collected money for funeral expenses and then there are things called committees. When you go home to the rural areas, the committee gives the report and you can see that it is not telling the truth, but you have no way of saying “point of order” at a funeral. We can make those committees more accountable. Yet the widow is bereaved, she cannot speak.

It is only later when you come back to visit your relatives that the widow comes and says “Oh, you know my son, I have not seen any single cent of that money that was collected.” It is so sad. So, rather than pretend that these things are voluntary, they should not be interfered with and so on, let us protect individual members of society from vices and make sure that when these things happen, there is a record that is known publicly. We are not saying that the Government is going to come and interfere with public collections, but at least, when you do it, you should fill a form which is available for inspection and which will protect people like widows and so on. This is a vice that the spirit of the Motion or the Bill that we intend to write is trying to cure.

Further, when the Bill is ready because I think it is the most important thing, it will come to the Senate. The Senate will then examine it to find out whether the things we are saying here are enshrined in the Bill. I just want to remind the Senate that in the Public Officer Ethics Act of 2003, Section 13(1) reads:-

“(a) A public officer shall not use his office or place of work as a venue for soliciting or collecting harambees; or,

(b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.”

So, the Public Officer Ethics Act has already recognized that offices can be used to exert pressure on people to give money, but that is not all. We must go further and not just think of public officers. There are individuals in society, as Sen. G.G. Kariuki was saying, who are rich and who, by dint of their money power, can do exactly what the public officer is not expected to do. They will say “Look, I will help you to do whatever – find a job for you or whatever else you want – if you come and contribute to this thing that we are doing.” Now, you will not be doing it voluntarily, but under pressure, and then you have no way of making sure that the money you are giving is actually going to the philanthropic purpose for which it is meant. It may be just adding to the wealth of this same person who is appealing to you to give this kind of money.

So, Mr. Temporary Speaker, Sir, finally, it is important to realize that the law we are now proposing is not meant to do away with our culture of mutual social responsibility, as Sen. Muthama was saying; that we may risk becoming westernized by this law. No, this law is really meant to civilize our culture of mutual social responsibility. There are people who are misusing our culture of mutual social responsibility; people who rather than become responsible for their own destiny, they begin depending on harambees over and over again to meet purely personal expenses. I know of people who quite rightly come to Members of Parliament year in, year out, saying “I want you to do a harambee for me to send my children to school.” Of course, going to school is a noble thing, but there are much more deserving people in the rural areas who Members of Parliament and Senators should help rather than an individual who, obviously, has many children and could as well do more farming to support them. They will continuously burden a Member of Parliament. Somebody gave me an example today not connected to this, that you can find a man with ten acres of land whose son is going to college. Rather than sell one acre and invest in the education of the son, that ten acres will lie idle for years and years, and he will still resort to harambees to get money to

send his children to school. Now, the ten acres is not being used, they are not being productive because they are not investing in the land. There is a certain pride that we have in having ten acres of land. If those ten acres were sold to somebody who can put it to productive use and then that money is used to educate a son or a daughter, it would be much, much better.

So, again, Mr. Temporary Speaker, Sir, these are the kinds of excesses that this law is trying to cure so that our assets are put to productive use, rather than being protected unproductively, then we raid other people's incomes, which can be their savings, to do what is our responsibilities as citizens of the nation.

So, Mr. Temporary Speaker, Sir, I beg to move.

(Question, that the word to be left out be left out, put and agreed to)

*(Question that the words to be inserted in place thereof,
be inserted, put and agreed to)*

(Question of the Motion as amended proposed)

(Question of the Motion as amended put and agreed to)

Resolved accordingly:-

THAT, given the role that Harambee (voluntary contributions) has played in the development of our nation since independence; aware that the original intentions of Harambee have been adulterated over time through corruption, deceit, bribery and misuse of funds raised; recognizing that elected leaders are those most affected by Harambee invitations, thereby bearing the maximum burden of voluntary contributions for development; noting that these elected leaders pay tax like all other Kenyans; this House resolves to establish a Select Committee to prepare a Bill that will:-

(a) Determine criteria that will qualify projects for which Harambee contributions can be made;

(b) Establish procedures for ensuring that Harambee contributions are tax deductible; and

(c) Provide clear directives on accounting for Harambee collections and reporting in the use of which such collections are made; and to report to the Senate in three months time and that the Committee will comprise the following members:-

1. Sen. (Prof.) Anyang'-Nyong'o
2. Sen. Elizabeth Ongoro
3. Sen. Zipporah Kittony
4. Sen. Daisy Kanainza Nyongesa
5. Sen. Peter Mositet

6. Sen. Janet Ong'era
7. Sen. Hassan Omar Hassan
8. Sen. Abu Chiaba
9. Sen. Moses Wetangula
10. Sen. Kimani Wamatangi
11. Sen. Joy Gwendu

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, it is now time to adjourn the Senate. The Senate stands adjourned until tomorrow, Thursday, 11th July, 2013, at 2.30 p.m.

The Senate rose at 5.05 p.m.