

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

**Wednesday, 19<sup>th</sup> October, 2016**

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

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

### PRAYER

### PAPERS LAID

#### REPORT ON THE REGIONAL COLLOQUIUM OF AFRICAN OMBUDSMAN INSTITUTIONS 2015

**Sen. Sijeny:** Mr. Speaker, Sir, on behalf of the Chairperson of the Standing Committee on Justice and Legal Affairs, I beg to lay the following Paper on the Table of the Senate today, Wednesday 19<sup>th</sup> October, 2016:-

Report on the Regional Colloquium of African Ombudsman Institutions, 2015.

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

#### TRAFFIC MINOR OFFENCES RULES, 2016

**Sen. Gwendu:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Wednesday 19<sup>th</sup> October, 2016:-

Traffic Minor Offences Rules, 2016.

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

**Sen. Adan:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday 19<sup>th</sup> October, 2016:-

#### EALA REPORT ON THE SENSITIZATION ACTIVITIES IN PARTNER STATES

Report of the East Africa Legislative Assembly on the sensitization activities conducted in partner states in June 2016.

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REPORT ON HOTEL CLASSIFICATION AND  
PREPAREDNESS FOR A SINGLE TOURIST VISA

Report of the Committee on Agriculture, Tourism and Natural Resources on the oversight activities on hotel classification and preparedness for a single tourist Visa.

REPORT ON THE AUDITED FINANCIAL  
STATEMENTS OF THE EAC

Report on the audited financial statements of the East African Community for the year ended 30<sup>th</sup> June, 2015.

EALA RESOLUTION TO CELEBRATE THE INTERNATIONAL  
DAY OF DEMOCRACY ON 15<sup>TH</sup> SEPTEMBER, 2016

Resolution of the Assembly urging the East Africa Partner States to celebrate the International Day of Democracy on 15<sup>th</sup> September, 2016.

REPORT ON POACHING

Report of the Committee on Agriculture, Tourism and Natural Resources on poaching.

EALA RESOLUTION TO CONGRATULATE EAST AFRICAN  
MEDAL WINNERS IN THE RIO OLYMPICS 2016

Resolution of the East Africa Legislative Assembly congratulating Africans and especially the East African medal winners in athletics in the Olympics games in Rio de Janeiro, Brazil, 2016.

EALA RESOLUTION TO MAKE KISWAHILI  
A FORMAL LANGUAGE IN THE EAC

Resolution of the East Africa Legislative Assembly urging East Africa Summit to amend the Treaty to make Kiswahili a formal language in the Community.

EALA RESOLUTION TO REVIVE THE EAST AFRICAN  
CLIMATE CHANGE ADAPTATION AND MITIGATION PROGRAMME

Resolution of the Assembly to invoke Article 59 (3) (b) of the Treaty to revitalize, reinvigorate and revive the East African Climate Change Adaptation and Mitigation Programme.

## EALA REPORT ON BILLS READ THE FIRST TIME

The following Bills were read the First Time:-  
(a) The East African Community Counter Traffic in Persons Bill, 2016.  
(b) The East African Prohibition of Female Genital Mutilation Bill, 2016.  
(c) The East African Retirement Benefits for the Specified Heads of Organs Bill, 2015.

*(Sen. Adan laid the documents on the Table)*

## STATEMENTS

## MINING OF BALLAST BY COVEC IN VIHIGA COUNTY

**The Speaker** (Hon. Ethuro): I do not see the Chairperson of the Standing Committee on Lands and Natural Resources.

STATUS OF TEA FARMERS' MONEY HELD IN A KTDA FIXED  
DEPOSIT ACCOUNT AT IMPERIAL BANK

The Statement by the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries is ready, but the Member is not here.

## LEADERSHIP CRISIS AT MOI UNIVERSITY

Statement by the Chairperson, Committee on Education. The Member is not here.  
Next Statement.

PLIGHT OF KENYA REFUGEES FROM UGANDA  
CAMPING AT THE ENTRANCE OF PARLIAMENT BUILDING

**Sen. Adan:** Mr. Speaker, Sir, the Statement is ready, but my Committee clerk is at the Office of the President waiting for it to be signed. I request to be given an opportunity to issue it once it is here.

**The Senate Majority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. The Order Paper designates every issue to come at its time. This is Statement Time and the matter is extremely urgent and very serious. There would be absolutely no excuse for the distinguished Senator to say that somebody is waiting for the Statement to be signed and she will issue it when it comes. There is no guarantee that you will be sufficiently magnanimous to go back to Statements after you have called another Order.

Yesterday, after we raised the concerns about the people at the gate, I learnt that on Saturday afternoon one of those women at the gate gave birth and our orderlies were on hand to help. This Government cannot be that callous against its own people. If these people left Kenya for Uganda, where were their parcels of land? Where were the

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businesses they left? If their houses were burnt was their land also burnt? Why can they not be taken back to their homes? This is a very serious matter. This Parliament does not act in vain; neither does it wait for any Government office to sign a Statement and send it when we are going on with the proceedings.

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

**The Senate Majority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I am sure you share the pain we are sharing about those people at the gate.

**The Speaker** (Hon. Ethuro): I do, but why flog a dead horse? The gracious Senator only asked for a bit of time. The Statement is ready and awaiting a signature. My understanding is that before the end of the day, the Statement will come and I will grant an opportunity for it to be issued and then you can raise all those issues.

**The Senate Majority Leader** (Sen. Wetangula): Mr. Speaker, Sir, my fear was that you will refuse to grant that opportunity. Now that you have said you will, I am very grateful to you.

**The Speaker** (Hon. Ethuro): Order, Senator! I am wondering about the basis of your fears. Having worked in this House for the last four years, you have absolutely no basis.

**Sen. (Dr.) Machage**: Mr. Speaker, Sir, when Statements are sought by this House from the relevant Chairpersons, the only authentic signature required for the Statement to be accepted by the Chair is that of the Chairperson. If the Chairperson is not around then the Vice Chairperson can sign on their behalf. Is the Vice Chairperson in order to deny us the Statement by saying that it is being signed? Who is signing it? We do not recognize other signatures.

**Sen. Leshore**: On a point of order, Mr. Speaker, Sir. I just want to ask my colleague under what Standing Order that is provided.

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

**Sen. Kagwe**: Mr. Speaker, Sir, I am with Sen. Wetangula in waiting for the other Statement.

**Sen. Kittony**: Mr. Speaker, Sir, I know you have made a ruling on that issue, but it is really an eyesore to have those people at the gate for many days. I am wondering why your orderlies assisted one of them to give birth. We have women who could have assisted the women who gave birth at the gate.

**The Speaker** (Hon. Ethuro): Order, Sen. Kittony. Why are you imagining that all orderlies are men?

*(Laughter)*

We even have professional midwives who are men, trained and practising.

Sen. (Dr.) Machage is generally right in terms of submitting the document. On the same basis of the Committee sourcing information usually from the Ministry, they would want to get information that is certified so that you do not get any other kind of information that you may not want. I think it goes backwards. So, she is still at the source level.

**Sen. Wako**: On a point of order, Mr. Speaker, Sir. A matter such as this is a very urgent matter that raises security concerns. In fact, what we ought to have seen by now,

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even before they get that Statement, is action having been taken to take care of the people at the gate. Those people have been there for a long time. I do not know where they go to help themselves, where they get meals *et cetera*. Any Government worth its name ought to have taken action even before we get the Statement so that we know that action is being taken.

Is it really in order?

**The Speaker** (Hon. Ethuro): Vice Chair.

**Sen. Adan:** Mr. Speaker, Sir, let me confirm to this House that yesterday, I promised that I was going to give an answer to this particular Statement. Immediately after that, I went to the Office of the President (OP) and I was there up to around 5.30 p.m. This morning, I woke up and went to the OP trying to get answers on this particular Statement.

I even called the Cabinet Secretary (CS) last evening on the same issue. They told me they are compiling the answer from the Internally Displaced Persons (IDP) Department in the OP. As I am speaking right now, the clerk of the committee is at the CS's office. That is where I have reached with this particular Statement.

**Sen. Kagwe:** On a point of order, Mr. Speaker, Sir. I sympathise with the Vice Chair but my concern is one that goes beyond there. It is a matter of security. I understand the concerns of the people camping at the gate but we are also living in very dangerous times. These are times when people can pretend that they are part and parcel of the refugee individuals camping out there and cause grave and dangerous harm to this august House, Members of Parliament (MPs) and staff of this institution.

Therefore, even as we discuss this and the status of what is going to happen to those individuals, can we address this matter also as a security concern to Parliament but not just look at it as a question of the United Nations High Commissioner for Refugees (UNHCR) doing their job?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I do not know whether you heard what the distinguished Vice Chair said. The Executive is accountable to Parliament. When an issue is raised in this House or any other House, it is demeaning for the Vice Chair of a committee to go and queue in the Office of a CS up to 5.30 p.m. when we have channels of communication through our officers sitting here. Has accountability to Parliament diminished?

Be that as it may, yesterday, the distinguished Sen. Adan told this House that even as she was planning to bring a statement today, something was going to be done by the Government to remove those returnees from the gate of Parliament. To date, nothing has happened. We do not want to cite examples of very unpleasant events that have happened in the same manner in comparable jurisdictions because I am sure we know.

Those Kenyans – returnees from Uganda – have now been at that gate for more than a week. Is it so uncaring that this Government cannot even take those people to a holding ground where they can get facilities such as water, toilets, food and other basic amenities, bearing in mind that a woman among them delivered a baby at the gate? We are still being told that a Statement is awaiting a signature from a CS who of late has become very arrogant that he spends all his time warning everybody instead of working.

**Sen. Adan:** Mr. Speaker, Sir, I agree that this is a very grave matter. I made inquiries on the whole issue about those people being out there. The information I have is

that those IDPs were in Uganda and they came back and were actually resettled. The challenge is that they were not given the same amount in terms of allocation; the Kshs410,000 that was being allocated to IDPs.

This is simply because some of them were facilitated by the UNHCR. From last week up to yesterday, there were negotiations going on in terms of how the issues should be handled. The request that was made by the OP is that at least three of them can be left behind and the rest go back to their homes so that their issues can be dealt with but they refused.

Mr. Speaker, Sir, there are rights of individuals that need to be protected. I have raised the concern of security and I am informed---

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

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

**Sen. Bule:** Mr. Speaker, Sir, the Vice Chair has said that the people who are suffering at our gate have homes. If they have homes, what are they doing there? This issue is very serious and it endangers us. Sen. Wetangula said that it endangers our lives and that is true. Those people have been here for two weeks yet nothing serious is happening.

**The Speaker** (Hon. Ethuro): Order, Sen. Bule. What is your point of order?

**Sen. Bule:** My point of order is that the Vice Chair is cheating because she is not telling us the truth.

**The Speaker** (Hon. Ethuro): Order, Sen. Bule. "Cheating" is un-parliamentary. Proceed, Vice Chair.

**Sen. Adan:** Mr. Speaker, Sir, I have raised concern about insecurity but unfortunately they cannot be forced out of this place because that will also amount to violation of their rights. The Ministry is doing something and I kindly request Members to give me some time so that I get what the OP has put together so that the issue is resolved.

Thank you.

**The Speaker** (Hon. Ethuro): Hon. Members, there is no Statement before us and so, I really do not know what you are interrogating. I allowed a lot of time for the concerns to be raised the moment the Senate Minority Leader raised the Statement. The concerns have been raised and therefore, let us wait for the Statement and then interrogate those concerns on the basis of what the Government would have decided. That will be more useful than just giving views that are taking us nowhere.

**Sen. M. Kajwang:** On a point of order, Mr. Speaker, Sir. I am not going to get into the content because, as you said, there is no Statement.

However, I would like to seek your guidance on procedure. Are committees supposed to be conveyor belts for the Executive? This is because the Vice Chair of the Committee, Sen. Adan, said that the Statement is awaiting a signature somewhere. She has not seen it and it has not come back to the Committee. Therefore, she does not know whether it satisfactorily responds to the issues raised by the Senate Minority Leader. So, should Chairpersons of committees be messengers who run to CSs for statements and bring them to the House without any interrogation by the committees?

**Sen. Leshore:** Mr. Speaker, Sir, there are three issues which have come out strongly. First, the CS has no respect for whatever we have requested him to do.

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Secondly, the Vice Chair has told us that those people have got homes. Thirdly, Sen. Wetangula said that it is a very grave issue and a serious threat to our lives and to Parliament as a whole. We need your guidance on that because this is a very serious issue.

Could you send one of your clerks to go and see whether the other clerk is still there and whether the CS has refused to sign the Statement?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, I agree with you that there is no Statement to the extent that the Vice Chair has not read a Statement to the House.

However, she has also made very categorical statements from where she sits. First, she has said that those people have homes. Secondly - it is erroneous in law - she has said that because they have rights, they cannot be removed from the gate. I do not know what law applies there. There is no law that says that you can become a nuisance, pose a security risk or endanger the lives of children and women simply because you have rights. Rights are subordinate to other rights.

If the extempore statement made by the good Vice Chair is anything to go by, then we have enough facts to continue to interrogate this matter. The question we are asking is very simple; is it very difficult for the Government to get a holding ground away from the gate of Parliament and take those Kenyans there, provide them with food, some security, some water and any other facilities that require people to lead a near decent life? Is it very difficult for the Government to do that?

**Sen. Adan:** Mr. Speaker, Sir, I have just talked to the clerk. The Statement is ready and he is on his way coming with it. So, I will be able to issue it any time.

**The Speaker** (Hon. Ethuro): Order, Members! To satisfy Sen. Wetangula, this is a House of records. You cannot push the Vice Chairperson so hard to the extent that she just had to turn her back against the wall, try to respond to you and then hold that against her.

**The Senate Minority Leader** (Sen. Wetangula): That is the cost of the job.

**The Speaker** (Hon. Ethuro): For Sen. Kajwang', of course, the Vice Chairperson can source information from wherever it may be available, including the committees on understanding of the sector which they are overlooking.

The practice has been that there is a legitimate state organ; one arm of the State is the one that implements. So, that is their kind of primary source of information because they are implementing. They are the ones who will take action. So, that is why there is over-reliance on that arm of the State to provide information and deliver on the actions that Parliament as the other institution and the Judiciary, have decreed.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir while the Statement is being brought and ---

**The Speaker** (Hon. Ethuro): Order, Sen. Mutula Kilonzo Jnr.! You have just joined the party and you cannot extend it.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I was not aware that there was dancing.

(Laughter)

**The Speaker** (Hon. Ethuro): I did not talk about dancing, Senator.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, it is a humanitarian crisis that I thought ---

**The Speaker** (Hon. Ethuro): Order, Senator! If your idea of a party involves dancing, not all parties ---

**Sen. Mutula Kilonzo Jnr.:** Oh! That is not a party. It is something else.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Members! We have been told by the Vice Chairperson that the Statement is ready and on its way. We have some other businesses to proceed with. So, let us not engage in things that are not helpful for now when it is just a matter of a few minutes to deal with it.

**A hon. Senator:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Order! Not on this one. We will proceed.

Sen. Bule, your Statement?

PROLONGED DROUGHT AND FAMINE  
IN VARIOUS COUNTIES

**Sen. Bule:** Mr. Speaker, Sir, pursuant to Standing Order 45(2)(b), I stand to request for a Statement from the Chairperson of the Sessional Committee on Devolved Government on the disaster of prolonged drought and famine in Tana River County.

In the Statement, the Chairperson should state the following:-

(1) Whether the Government is aware that there is serious drought, shortage and starvation in Tana River County and, indeed, other parts of the country including Kwale, Kilifi, Taita-Taveta, Kitui, Garissa and Samburu counties.

(2) What the national and county governments are doing to support the people affected in the areas and to mitigate the problem.

(3) Whether the Government is planning to appoint a special taskforce to investigate the effects and extent of the drought in the country.

Thank you.

**The Speaker** (Hon. Ethuro): The Chairperson for Devolved Government, Sen. (Prof.) Lesan.

**Sen. (Prof.) Lesan:** Mr. Speaker, Sir, of course, that is a very serious issue considering that there is drought throughout the country. We will work expeditiously with the Ministry of Devolution and Planning to bring an answer within two weeks.

**The Speaker** (Hon. Ethuro): It is so ordered.

**Sen. (Prof.) Lonyangapuo:** On a point of order, Mr. Speaker, Sir. Yesterday, I heard the Cabinet Secretary (CS), Ministry of Devolution and Planning read a list of counties that have suffered. Over the weekend, I went to the border of West Pokot, Turkana, Samburu and Baringo counties. They are equally devastated. I am surprised that there is a shortlist.



Instead of listing all the counties that are suffering like the ones that I have just named, he quickly narrowed on a few.

Could the Chairperson go and insist that we get the true position of counties that are suffering in the country?

**The Speaker** (Hon. Ethuro): Chairperson, you will need to consider that as part of your response.

**Sen. Kisasa:** Bw. Spika, wiki mbili ni muda mrefu sana. Hakuna hata maji ya kunywa. Sijui kama muda huo ni mwafaka.

**The Speaker** (Hon. Ethuro): Sen. Kisasa, it does not mean that we are stopping everything. The two weeks are just for the Statement to be prepared and brought. The expectation is that action is being taken.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Have you closed Sen. Bule's Statement? I wanted to add something.

**The Speaker** (Hon. Ethuro): I had closed until you rose on a point of order, which I will now allow.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, thank you. The weathermen have said that there is going to be prolonged drought in the country. Even in the traditional rain-secure areas, we also have very severe pockets of very harsh climate, dry zones and sometimes even semi-arid and arid areas.

In bringing a Statement, I would want to ask the Chairperson not to limit himself to the counties enumerated by the distinguished Senator for Tana River County but to give us a whole country profile on where there is severe water stress and its impact on the population. I know places like Kieni Constituency in Nyeri County is an Arid and Semi-Arid Land (ASAL). I know ---

**The Speaker** (Hon. Ethuro): Order, Senator! Are you responding to your own statement? We have said that he brings all of them and then you start citing.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, all of them. Including but not limited to the ones that Sen. Bule enumerated.

*(Laughter)*

**Sen. Kagwe:** Mr. Speaker, Sir, in addition to the information that Sen. Bule has raised, is it also possible for the Chairperson to add information regarding the policy and strategy for disaster management that they intend to put in place, particularly if it is true that the weather will continue to deteriorate for a while.

Could he also include in that Statement action as regards human beings and possible action as regards animals, particularly, those of nomadic areas?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, one of the counties that were mentioned in the list is Makueni. May I know from the Chair whether the Cabinet Secretary can confirm that the contingency budget that was set aside this year is enough to cater for what they have described as one of the worst droughts that we will experience? This is in light of the last budget that was made for the purported flood which money we know never got to the intended recipients because of the floods. This is a matter that is of concern to the public.

Finally, in echoing the sentiments of Sen. Kagwe, this country has one of the most interesting scenarios where we do not have a disaster management policy, an Act of Parliament or a mechanism.

Mr. Speaker, Sir, when will the national Government implement the disaster policy that has been pending since 2013?

**Sen. Karaba:** Mr. Speaker, Sir, yesterday, we came from Wajir County. My Committee was there to assess the situation. It is serious! What Sen. Bule is saying is the situation in Tana River---

**The Speaker** (Hon. Ethuro): Order Sen. Karaba. I thought you are the Chairman of the Committee on Education.

**Sen. Karaba:** Mr. Speaker, Sir, exactly.

**The Speaker** (Hon. Ethuro): So, you went to assess which situation?

**Sen. Karaba:** Mr. Speaker, Sir, that is where I am coming to in a few minutes. The students that we saw are living from nothing to nothing. They are suffering because some of the *manyattas* where they live have no food. The schools that we visited have no food and they are closing yet the exams are around the corner. We are asking that the Statement be brought quickly so that some of the schools which are about to close remain open. It is pathetic!

**The Speaker** (Hon. Ethuro): Order Sen. Karaba!

**Sen. Boy Juma Boy:** Asante sana Bw. Spika. Naunga mkono *Statement* ambayo imeulizwa na Sen. Bule. Kaunti ya Kwale imetajwa na ningependa Mwenyekiti atueleze hatua za dharura ambazo zimepangwa kuhakikisha kwamba wanadamu na Wanyama hawaathiriki. Kuna hatua za mwanzo kabla daktari achukue hatamu. Hatua za mwanzo ni zipi?

Asante.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, as the Chair addresses the mitigation sought by Sen. Bule, we should also be told how much food is in our strategic grain reserve. We should also know whether some money has been set aside to purchase the livestock in those areas instead of leaving them to die.

Could the Chair confirm whether it is true that stores in other areas like Kuria in Migori County are full of maize and farmers are complaining that they have nowhere to store their harvest?

**Sen. Sijeny:** Mr. Speaker, Sir, Sen. Boy Juma Boy has said what I wanted to say. However, I will add that Kitui County should be included because I was recently there and I saw it is doing badly.

With regard to the first aid, we should know the special mechanisms which have been put in place to handle the vulnerable; particularly expectant women and young children who deserve immediate support during this dry season.

**The Speaker** (Hon. Ethuro): So ordered.

**COMMUNICATION FROM THE CHAIR****VISITING DELEGATION FROM MIANGENI  
INTERNATIONAL ACADEMY, MAKUENI COUNTY**

**The Speaker** (Hon. Ethuro): Hon. Members. Before, we proceed with the Statements, I wish to recognise the presence of visiting pupils and teachers from Miangeni International Academy in Makueni County. They are sitting at the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

**The Speaker** (Hon. Ethuro): Order Members. Before we proceed, I will allow Sen. Mutula Kilonzo Jnr. a chance because Makueni County has been mentioned.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I join you in welcoming Miangeni International Academy from Makueni County. *Karibuni*. Thank you for visiting the Senate. We hope that your students can learn something from the Senate and we also hope that in future, this group can produce a leader to sit in this Chamber.

*Karibu.*

*(Resumption of Statements)*

**STATUS OF TEA FARMERS' MONEY HELD IN A KTDA FIXED DEPOSIT  
ACCOUNT AT IMPERIAL BANK**

**Sen. M. Kajwang:** Thank you, Mr. Speaker, Sir. I rise to respond to the request for a Statement by Sen. (Prof.) Lesan. He wanted to know the status of farmers' money placed by the Kenya Tea Development Agency (KTDA) in fixed accounts in troubled banks.

This Statement was circulated to Members yesterday. It is fairly detailed and, therefore, you will allow me to skip the background information and go straight to the questions and the responses because Members have the copies.

Mr. Speaker, Sir, the Senator wanted to know how much money is held in fixed deposit accounts in Imperial Bank Limited and Chase Bank Limited and their terms.

The response is as follows:-

As at 13<sup>th</sup> October, 2015, when Imperil Bank Limited was placed under receivership, KTDA had Kshs2.926 billion as deposits. As at 7<sup>th</sup> April, 2016, when Chase Bank Limited was put under receivership, KTDA had Kshs1.9228 billion. The total amount in the two banks was Kshs4,854,679, 692.

The Second question was on the history of the investment in Imperial Bank Limited.

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Mr. Speaker, Sir, the Imperial Bank Limited was admitted into the KTDA panel of approved banks in June 2011. An initial investment limit of Kshs500 million was imposed but this limit was reviewed in subsequent years. By June 2015, the approved limit for Imperial Bank Limited was Kshs3 billion. At the time Imperial Bank Limited was placed under receivership on 13<sup>th</sup> October, 2015, KTDA had invested a total of Kshs27.61 Billion in 12 different banks.

The money was accumulated for the planned payment of farmers' final payment for 2014/2015 Financial Year. The payment was due on 23<sup>rd</sup> October, 2015.

Mr. Speaker, Sir, we are provided with a breakdown of 12 banks and the amounts of money that had been placed in them as deposits totaling to Kshs27.614 billion.

Mr. Speaker, Sir, by spreading cash sales with different banks, KTDA mitigates the concentration risks through diversification of investments across several banks. The amount held in each bank is based on interest rate competitiveness at the time the deposit is invested subject to the limit for each bank.

Over the years, Imperial Bank Limited had recorded significant growth in both assets and profitability. At the close of 2014 Financial Year, with a balance sheet of Kshs57 billion and profitability of Kshs2.69 billion, there were no reasons to doubt the bank's performance.

The bank was ranked number 17 in asset base, out of 43 banks in Kenya, there were no adverse regulatory reports and it continued being licensed by the regulator; the Central Bank of Kenya (CBK).

Mr. Speaker, Sir, Chase Bank was approved to join the Kenya Tea Development Agency (KTDA) panel of commercial banks in June 2012 and an initial investment limit of Kshs1 billion was placed. By June 2015, the investment limit for Chase Bank had been pushed upwards to Kshs5 billion.

However, in February, it was reviewed downwards to Kshs2 billion after Imperial Bank went into receivership. At the time Chase Bank Limited was placed under receivership on 7<sup>th</sup> April 2016, KTDA had invested Kshs1.928 billion.

As at that point in time, KTDA had a total of Kshs21.53 billion invested in 10 different banks with the highest amount being with Cooperative Bank of Kenya Limited at Kshs5.9 billion. KTDA mitigated against concentration risks through diversification of investments across a number of financial institutions.

With regard to the value from the investments in Imperial Bank and Chase Bank Limited, I want to summarise as follows: Over five years during which deposits were placed at Imperial Bank, KTDA made a gross interest income of Kshs383million and Kshs301 million from Chase Bank which was about Kshs684 million from investments in those banks. KTDA investments generate high returns which contribute to the farmers' income pay out as part of the annual bonus.

The other question was for me to explain the steps taken by KTDA to prevent possible loss of farmers' money held in various commercial banks, especially following the closure and placement of the two banks under receivership.

Mr. Speaker, Sir, KTDA has approved 15 banks. These banks were approved by the Board of KTDA. You will notice that there are 43 licensed banks, but only 15 banks were approved by the KTDA Board. Therefore, current investments reflect money being accumulated to pay current year bonus to tea farmers and spreading investments to

various banks is the only way to mitigate the risk of loss of funds through such receiverships.

My explanation as to the impact of the deposits held on the ability of KTDA to pay bonuses to tea farmers this year and in the future; I would say thus: Imperial Bank went into receivership on 13<sup>th</sup> October 2015 just before KTDA released the farmers bonus of Kshs27.62 billion of which Kshs2.93 billion was in Imperial Bank. The KTDA was able to pay the farmers using borrowings and reallocations of funds set aside for other projects. Chase Bank has now locked in Kshs1.9 billion. It is hoped that since it has been reopened, the money will be available to pay small scale tea farmers. However, if it is not available, KTDA group may have to again rely on borrowings to get the amount to pay the farmers.

Overall, the Government expects to meet farmers' payments as they fall due, especially so if no other bank among other listed banks is placed under receivership.

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

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

**Sen. Obure:** On a point of order, Mr. Temporary Speaker, Sir. I want to seek a clarification. There is a procedure where the first question is usually next to the question.

**The Temporary Speaker (Sen. (Dr.) Machage):** Order! You stood on a point of order and I expect you to have a point of order. If not, press the other button. Meanwhile let us listen to Sen. (Prof.) Lesan.

**Sen. (Prof.) Lesan:** Thank you, Mr. Temporary Speaker, Sir. First, I want to thank the Chairperson of the Committee on Agriculture for the answer that he has given. However, I want to express the dissatisfaction with this answer because at the end of this, the very same farmers that we are representing here are not convinced at all that they are just about to get to their lost billions.

This payment for farmers which is referred to as bonus is only paid once after a very prolonged period of keeping the money elsewhere as the farmers continue to suffer. Farmers usually believe that their money is deposited somewhere, but they cannot access it. Their children are dropping out of schools because these bonuses which they were promised to be paid once a year are not forthcoming.

I would want to seek further clarification whether the KTDA management, in the light of those issues, can consider using their individual factories to make payments twice or even thrice in a year because this money is available.

Mr. Temporary Speaker, Sir, it has been mentioned that the money lost last year from Imperial Bank was still paid to the farmers after money was re-channelled from other projects or activities. In my view, I do know that KTDA has various activities that are bordering on illegalities. In fact, farmers are not participating in those activities. The KTDA is participating in other activities other than those spelt out in the agreement and have money stashed away elsewhere. I am afraid that these are avenues through which cartels siphon out farmers' money.

Nonetheless, I want him to clarify whether the mandate of KTDA includes investing farmers' money in other activities other than selling the tea and giving the money to the farmers so they can do what they want with the money.

Mr. Temporary Speaker, Sir, I would also want the Chairman to clarify the rationale for keeping this money in certain banks or the sensitivity of Central Bank as to the safety of this money because Imperial Bank collapsed only four months after the Government was convinced that by having Kshs57 billion and making a turnover of Kshs2 billion, it was good enough to put in Kshs3 billion of farmers' money. This money disappeared within three months.

I would like the Chairman to tell the farmers what the Central Bank will do as a result of its irresponsibility in advising that Imperial Bank was the best bank to keep farmers' money which eventually disappeared. Can the Central Bank not stand as security or as surety for Imperial Bank and give the farmers its money and deal with Imperial Bank at a later stage?

Lastly, with regard to the projects which are carried out by the management of KTDA, there are subsidiary companies which are run by KTDA and unless these subsidiaries are managed properly, the Chairman should tell us of what benefit these subsidiaries are directly to the farmers.

**The Temporary Speaker** (Sen. (Dr.) Machage): The tradition, and, indeed, parliamentary practice in seeking clarification is usually one question or if you must, only two questions. If you are clever enough shorten your speeches and quickly articulate your concerns for the Speaker to accept. I will not accept any other Member to take that long. He has to seek a few questions.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I want to seek a further clarification in addition to what Sen. (Prof.) Lesan has asked. In putting this money in these banks, did KTDA seek the concurrence of the individual farmers? If they did not have the concurrence of the individual farmers, could the Chairman confirm that KTDA, in fact, then takes full responsibility for the loss and has to seek money from any other investments elsewhere, including borrowing if need be, to pay the farmers so that they can benefit from their sweat.

**Sen. Obure:** Mr. Temporary Speaker, Sir, we are aware that tea farmers in all tea growing areas have expressed a strong dissatisfaction regarding the low rates of bonus payments made. Some of these farmers have expressed their anger by burning the homes of the directors of their tea factories. Other groups have boycotted tea picking. As a result, some of the factories are grinding to a halt. Could the low payments be attributed to the fact that the money locked up in the collapsed banks was not available for distribution to the farmers?

Secondly, the Acting Chairperson has told us that the banks involved were well rated by the regulator, which is the Central Bank of Kenya (CBK). What action has the KTDA taken against the regulator who misled them into depositing this money into those collapsed banks?

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. Before we seek more clarifications, I have a Communication to make.

*(Interruption of Statements)*

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**COMMUNICATION FROM THE CHAIR****VISITING DELEGATION FROM PORT REITZ  
SCHOOL, MOMBASA COUNTY**

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, I wish to recognize the presence of visiting pupils and teachers from Port Reitz School, Changanwe Sub-county, Mombasa County seated at the Speaker's Gallery.

In our usual tradition of receiving and welcoming visitors to the Parliament, I extend a warm welcome to them.

On behalf of the Senate, and my own behalf, I wish them a fruitful visit.

Thank you.

*(Applause)*

*(Resumption of Statements)*

**Sen. Karaba:** Thank you, Mr. Temporary Speaker, Sir. As we welcome the students to the Senate, what has been tabled here by the acting Chairperson, Sen. M. Kajwang, should not be taken for granted. This is a serious matter that affects, particularly tea farmers in Kenya. I am one of them. Farmers do not understand the language that some money has been paid to Imperial Bank and some has been invested in various projects. The acting Chairperson needs to tell us whether the money owed to the farmers was payable at that time. We do not need to be told that there are many projects that are not benefiting farmers. The first project is for the farmers to be paid their dues. The story of banking money in some suspicious banks is criminal and illegal, because the farmers have not been consulted.

**The Temporary Speaker** (Sen. (Dr.) Machage): What is your clarification?

**Sen. Karaba:** Mr. Temporary Speaker, Sir, the main project should be payment of farmers. The Government should also step in and make sure that the farmers are paid their dues irrespective of---

**The Temporary Speaker** (Sen. (Dr.) Machage): What do you want clarified? I have not understood you.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, money has been banked in Imperial Bank to be invested in other projects elsewhere, yet the farmers have not even been consulted. Since the farmers have not been consulted, we should stop investment in the banks and pay them promptly because they are suffering.

**The Temporary Speaker** (Sen. (Dr.) Machage): Maybe you have executed it wrongly; you should have put it in question form. You should have asked: "Could the acting Chairperson make sure that those other programmes are stopped?"

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, first, I would like the acting Chairperson to clarify to this House why the KTDA as an institution was holding that amount of money. If the money was for farmers, why had it not been disbursed in the first place to the institutions and factories that KTDA owed? Why was that money being

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held by KTDA and not the factories? Who is responsible for this loss of the farmers' money? Who was fired or resigned in view of such a bad decision?

*(Interruption of Statements)*

**Sen. Wangari:** Mr. Temporary Speaker, Sir, my intervention is on the students that are visiting today from Changamwe. I happened to meet them as they were coming into Parliament. I want to appreciate them and note that one of the girls is an amputee. They are children living with disabilities of various forms. I welcome them to Parliament, specifically on behalf of Kenya women Senators.

This Constitution puts people with disabilities in this country in high regard. We have Sen. Omondi and Sen. Njoroge representing people with disabilities. Even in the Government, 30 per cent of jobs and businesses are allocated to persons with disabilities. I want to assure them that disability is not inability. They can be where we are today. They can be Sen. Omondi and Sen. Njoroge of tomorrow in the next few years. I welcome them to the Senate and hope that they will take our greetings to Changamwe and their school.

**The Temporary Speaker** (Sen. (Dr.) Machage): We also have Sen. Leshore.

I assume that other interventions are finished. The acting Chairperson, prepare for your answer.

*(Sen. Cheruiyot stood up in his place)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Sen. Cheruiyot, do you still have an intervention on that?

**Sen. Cheruiyot:** Yes. Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Machage): Hold it. Let us finish with the interventions on welcoming the visitors.

**Sen. Leshore:** Mr. Temporary Speaker, Sir, in welcoming the students from Changamwe, I would like to urge them not to wait to be nominated. They should fight like I contested with seven men. I am here as the only elected Senator living with disability.

**Sen. Omondi:** Mr. Temporary Speaker, Sir, I take this opportunity to welcome the visiting school. As a Senator living with a disability, I am so happy. I have been wondering when I would see students living with disabilities visiting the Senate, but the day has come. I am happy and humbled.

I join my fellow Senators in welcoming them. I know the hardships they undergo as they pursue their education. We would like to give them moral support as leaders in the political wing, to ensure that they get quality education and compete for both appointive and elective positions.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. Indeed, disability is not inability. You have seen for yourself that the two Senators who are physically challenged are able Senators in this House.

Let us revert to our earlier programme.

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*(Resumption of Statements)*

**Sen. Cheruiyot:** Thank you, Mr. Temporary Speaker, Sir, for giving this chance to seek a clarification regarding the Statement that we have been given. My concentration is on part (e) of the Statement where we are told to take note that the analysis on page five demonstrates how the KTDA mitigated against concentration risk. Could we be provided with a matrix or analysis of the investment institutions that were taking care of farmers' money? It is not just enough to tell us that by spreading out money to different banks, you have mitigated against risk. We expect that the KTDA would have gone further to check the books of some of these banks to find out their market capitalization and the risks---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! I appeal to Members to remain in the House because we have a few Motions to be voted on. We are exactly 24 Senators. We will go to that business immediately after this Statement.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, it not just enough to tell us that by spreading money across different banks you have mitigated debt risk. We want to be provided with a table of analysis that the management of the KTDA went through to find out what the liquidity and market capitalization of some of these banks was and what the audit report from reputable audit institutions spoke of the status of these institutions before they decided to first admit them into the banking pool of the KTDA and secondly, pass on judgment that it was enough to put farmers' money into those banks.

**The Temporary Speaker** (Sen. (Dr.) Machage): The acting Chairperson, Committee on Agriculture.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, many questions have arisen out of this. I will not attempt to address the ones which are not in the answer. However, I will go straight to those which have been addressed in this statement. First, was money lost?

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. M. Kajwang. You must be ready for supplementary questions. That is the tradition of this House. You cannot stick only to the questions that were asked earlier. Otherwise, I will be forced to defer the answer to a later time when you will be ready.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, considering that the House is going on recess, let me address the issues that have been raised. If not satisfactory, we can then seek to meet the Cabinet Secretary (CS).

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, when Imperial Bank collapsed, Kshs2.9 billion was locked up in investments. The bank has not been revived. According to the Kenya Deposit Insurance Scheme, the KTDA was offered Kshs1million just like anybody else out of Kshs2.9 billion and this House has previously ventilated on this matter; that you cannot set a Kshs1 million compensation for all depositors irrespective of their amounts.

The Kshs2.9 billion held at Imperial Bank is still there. It is not lost, but it is not available to farmers. With regard to the Kshs1.9 billion that was held at Chase Bank, the bank has since re-opened. It is hoped that the KTDA will be able to access this deposit plus the interest and the interest will go directly to farmers. Nonetheless, in 2015 and

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2016, farmers received their payments without delay. Just this week, the KTDA had released the biggest pay out of Kshs44.72 billion to farmers. These payments have been made inspite of those deposits being locked in the commercial banks. The statement says that the KTDA has been able to achieve this through borrowing and re-allocation of funds from other projects. The worry is that if you borrow to pay bonus, then it means that you ultimately reduce profitability and the bonuses will be affected. It is not a desirable position to use borrowings to pay farmers.

There has been a question on why the KTDA would get into investments of this kind yet it is a farmers' organization. It is the responsibility of the KTDA to maintain custody of sale proceeds from tea. When the money is received, the most prudent way of managing it is to keep it in a deposit where it can earn interest. From the statement, we have indicated that the KTDA has earned close to Kshs600 million in interest from their deposits in those banks. Who takes responsibility?

Mr. Temporary Speaker, Sir, the KTDA has a board that has got farmers representatives. On the question of whether farmers were consulted, the assumption is that their representatives would provide adequate representation of the views and sentiments of farmers. However, if any one should take responsibility, it would be the board because it is the one that approves the banks and sets the investment policy and advises management on how and where to put the funds.

The Central Bank of Kenya (CBK) cannot also escape blame because they are the ones responsible for regulation and providing prudential governance of the banking sector. It was difficult for the KTDA to know that Imperial or Chase bank was going to collapse since they relied on the balance sheet, profitability and the report that came from the CBK.

There was a query by Sen. Obure on the issues of low prices on tea. There are many reasons that this is attributed to, but take note that the KTDA has indicated that this year's revenue of Kshs84 billion is the highest compared to the prior year which was Kshs63.5 billion. There has been an increase of 32.2 per cent in revenue that has been attributed to better price per kilo, good climate and a favourable forex regime. However, there are still cartels, for example, the East Africa Tea Trade auction which operates like a cartel. There are brokers in Mombasa who operate like an ethnic hegemony. It is extremely difficult to break into that. Therefore, farmers will not get the best prices irrespective of how good the rainfall or exchange rate is as long there are these cartels and capacity at the East Africa Tea Trade auction.

I hope that covers the questions that were raised.

**The Temporary Speaker** (Sen. (Dr.) Machage): What is it, Sen. Kagwe?

**Sen. Kagwe:** Mr. Temporary Speaker, Sir, I asked for clarification regarding two things: -

(1) Who is to take responsibility? Who was fired or is going to be fired because of the decision?

(2) Why does the KTDA as a board keep the money and deposit rather than distribute it to the factories so that they can make the decisions about where to deposit? That way we will not have this quantity of money in one bank.

**Sen. Obure:** Mr. Temporary Speaker, Sir, I had raised the question that the CBK which is the regulator for the banking sector misled the KTDA into believing that these banks were stable financially and, therefore, it took the decision to make deposits---

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Are you sure that information is shared by the acting Chairperson or it is your own belief? Where did you get it from?

**Sen. Obure:** Mr. Temporary Speaker, Sir, he said in his response that the CBK had given information to the effect that the banks were healthy and in so doing---

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well, continue.

**Sen. Obure:** Mr. Temporary Speaker, Sir, what action has the KTDA taken against the CBK for misleading them?

**The Temporary Speaker** (Sen. (Dr.) Machage): Usually the questioner has a second chance. Sen. (Prof.) Lesan, do you not have any question?

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I thought my colleagues Senators had raised a lot of the questions that needed further clarification for us in the Senate and for the farmers who are following this.

**The Temporary Speaker** (Sen. (Dr.) Machage): We, therefore, have three issues that need to be cleared. Can you respond?

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, no one has been fired for making those investments. The person to take responsibility in a corporate governance structure would be the Board of Directors since it approves the panel of banks on the basis of information in public domain and that provided by the CBK.

The CBK continued to license Chase Bank and Imperial Bank and to rate them favourably amongst the 43 banks in Kenya. Therefore, the Board took a decision on the basis of information that was publicly available. If the Kshs2.9 billion held at Imperial bank was to be lost and any heads were to roll, they must start from the Board rather than from management that simply executes instructions and policies of the Board.

On the question of centralization and why the KTDA holds the funds; yes, there is a concentration risk there, but you also look at it from the perspective of economies of scale. That if the money is sent to the individual factories, there will be great fragmentation that might not provide the much needed economies of scale. However, I believe that it is a legitimate question that needs further interrogation and, probably, the Committee on Agriculture could get back on that matter. The tea sector task force report has also been released. I believe that some of the centralization and structural issues could be addressed if we looked at the tea sector task force report and implemented it properly.

Sen. Obure has come to the conclusion that the CBK misled the KTDA and many Kenyans. Many of us woke up in the morning unable to access the money that we had in our accounts. Sometimes we wish we could do something to the Governor of the CBK. Unfortunately, we are a country that is guided by laws and so even if I wanted to go and whistle outside his residence, I cannot achieve much.

Mr. Temporary Speaker, Sir, through the relevant committees, we will also be making recommendations to strengthen the CBK, make it more proactive and risk-based in its assessment of banks rather than being compliance-based.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. We have a lot of business in terms of division. I request that the bell is rung for one minute. What is it, Sen. Wetangula?

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. We are still waiting for the statement about the people at the gate---

**The Temporary Speaker** (Sen. (Dr.) Machage): We have it. We will come back to it. Can I have the bell rung for one minute? The Whip said the Members are just in the lobby. So, one minute is enough.

*(The Division Bell was rung)*

**The Temporary Speaker** (Sen. (Dr.) Machage): That is the end of one minute. We will continue with statements. The Whips of the House cannot make me the Whip. I cannot act as the Speaker and as the Whip at the same time. So, do your work. What is it, Sen. Murkomen?

**Sen. Murkomen**: On a point of order, Mr. Temporary Speaker, Sir. We are all working for the best interest of this House. We have Bills that have been here for about five months just because of lack of division. Ringing of a bell for another three minutes to allow the other Members to come will not be too much to ask.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Let me give you the direction. In my own view, I can see there is a discrepancy with the numbers. This is my direction and I am trying to also participate in helping you to get to the point you want. Meanwhile as you take another few minutes to whip, let us use the time of the House properly because; one, I have a statement to be read by the Senate Minority Leader on the week's programme. I hope he is ready for that.

Secondly, there is an important statement to be given to us by the Vice-Chairperson of the Committee on National Security and Foreign Relations. So, I will go to the second. Vice-Chairperson, can you give us the statement if you are ready? What is it, Sen. Murkomen?

**Sen. Murkomen**: On a point of order, Mr. Temporary Speaker, Sir. You know the struggles of keeping people in this place. What guarantee do we have that as we wait for Senators (Prof.) Lonyangapuo and Orengo to come in that these others are not going to walk out? If from your Chair, you can persuade Members to wait, then it will be good.

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Murkomen! I have appealed to the Members that we have important business that they do not leave the Chamber. That is the guarantee I can give you; patriotism and respect to the profession of the Senate. So, Vice-Chairperson, present your statement. I will stop it for questions, if we have the numbers.

## STATEMENTS

PLIGHT OF KENYAN REFUGEES FROM UGANDA CAMPING  
AT THE ENTRANCE OF PARLIAMENT BUILDING

**Sen. Adan:** Thank you, Mr. Temporary Speaker, Sir. I have this statement. However, according to me, it might not answer all the questions that were asked, but because of the urgency of this matter, I will go through it.

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Can we give the opportunity for the answer to be read, please? Continue.

**Sen. Adan:** Mr. Temporary Speaker, Sir, the Government is aware that a group of returnees is currently camping along Parliament Road. The Government is further aware that a team visited Kiriandogo in Uganda in order to facilitate the repatriation of Kenyan refugees. Subsequently, on 21<sup>st</sup> November, 2014, the Government set up a task force with the mandate to profile and work out modalities of repatriation of the refugees to Kenya. In collaboration with the Ugandan Government, the United Nations High Commission on Refugees (UNHCR) and refugee leadership, the taskforce conducted the profiling exercise of the refugees between 14<sup>th</sup> and 16<sup>th</sup> December, 2014.

Mr. Temporary Speaker, Sir, from the profiling exercise, 246 households with 979 family members were identified for repatriation; 42 families with 72 family members indicated their unwillingness to return; 21 households were rejected on account of lacking the necessary proof of their status; 43 households were not available for profiling while 47 households were asylum seekers. From the report, it is only 246 that were cleared to be repatriated and all of them have since been paid between Kshs100,000 for families of between one to three members and Kshs150,000 for families with four or more members.

Mr. Temporary Speaker, Sir, from the original list documented by the taskforce, the returnees had indicated their home areas where they preferred to be returned. It revealed that they came from across the country, but majority were from Western Kenya and Rift Valley. The areas included:-

- (i) Mombasa, Voi, Lamu, Malindi and Kilifi;
- (ii) Eldoret, Nakuru, Londiani, Molo, Naivasha, Marakwet, Maralal, Gilgil, Kilgoris and Isiolo;
- (iii) Mount Elgon, Kitale, Busia, Tans Nzoia, Bungoma, Cherangani, Malaba and Turbo;
- (iv) Murang'a, Limuru, Kiambu, Meru, Nyandarua, Nyahururu, Kinangop, Thika, Nyeri and Nanyuki;
- (v) Athi River, Kitui and Mwingi;
- (vi) Kisumu; and,
- (vii) Nairobi.

Mr. Temporary Speaker, Sir, as stated in the task force report, only 246 households were cleared for repatriation. However, during the repatriation process, most

of the Kenyan refugees in Uganda decided to return home. This meant that even the households that had not been cleared by the task force were transported along.

Mr. Temporary Speaker, Sir, on closure, a scrutiny of a list provided by the leaders of the returnees, there is discrepancy between the list provided by the leaders of the returnees and that held by the Government. It is suspected that either some of the returnees are not post election violence victims. They could be people out to benefit from the process. Alternatively, the returnees could have split families where children are presenting themselves as households yet they may be family members of those who have already been compensated among the 246.

The UNHCR is hoping that the Government will sort out the discrepancies to avoid a situation where some of the returnees take advantage of the process.

The other dilemma is that those who have been compensated are on the streets demanding for more compensation and assistance. If this is allowed, it means that the demands will never come to an end. A tripartite meeting held on Monday the 17<sup>th</sup> October, 2016, between the Government, the UNHCR and the leaders of returnees, agreed that the returnees leadership will work with the Government and the UNHCR to sort out the issues raised in their petition within two weeks. However, the returnees still insist on remaining along the road until a solution to their issues is found.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I belong to this Committee and I do sympathize with my Vice-Chairperson. This is the most incompetent answer that we have ever received on the Floor of this House. What we are being told is that the Government is unable to keep records, identify its own people and manage them. The statement discloses that the Government went to Uganda to ask them to come, but it is not prepared to settle them.

Could the Vice-Chairperson tell us how many of these people at the gate are from each of the areas of the country enumerated on page three. It is unlikely that some people from Western or Eldoret would come all the way to Nairobi to camp at the gate of Parliament. Sen. Wako can bear me witness on this.

All those confusing statements notwithstanding, what is the Government doing to get these people out of the gate of Parliament and settle them somewhere even as we struggle to identify who they are, where they came from, how they will be settled and whether they are passing off for further payment when they had already been paid. That is not out of the Government's reach. Instead, we are being told that people came at the gate of Parliament and they insist on staying there until their issues are addressed. What kind of Government will this be?

Could the Vice-Chairperson tell us when these Kenyans will be taken to a decent place other than the shame of sleeping on the road at the gate of Parliament, not to mention the plight of children and women? There was even a case where a woman delivered a baby at the gate of Parliament.

**Sen. Mutula Kilonzo Jnr:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Machage): What is your point of order, Sen. Mutula Kilonzo Jnr.? Press the other button if you want to seek a clarification.

Meanwhile, we will listen to Sen. (Prof.) Anyang'-Nyong'o.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, I want to ride on to what the Senate Minority Leader has said. There must be a security system in this country

which should comprise of the National Security Intelligence Service (NSIS), the police and the others. We live at a time when security of a place like Parliament is extremely important. It is a tremendous security risk for the Government to tolerate people sitting in front of Parliament and then make the assumption that their issues will be addressed yet the Government does not know what those issues are.

Given the fame that we have as a security conscious nation with a very good security apparatus, I would have thought that the first thing that should have been done was for the security to get the identity, details and grievances of each person instead of treating them as a mob. This is because in the future, we might get another group of people sitting somewhere in Mombasa away from the glare of Nairobi and we do not know what will happen next.

This is an extremely irresponsible answer and attitude taken by the Government. We have had people in front of Parliament, which is an extremely important institution for days. It is not that the other institutions are not important. However, given the times that we live in, I do not think this is a good thing.

*(Interruption of Statements)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Your point has been made. I can see very many requests. We will go to the next Order then we will revert back later. We have many divisions; I want to request that the bell be rung. Do you want to read all the Motions?

Could the Division Bell be rung for two minutes?

*(The Division Bell was rung)*

Whips, please, ascertain the numbers in the House.

Hon. Senators, please, take your seats. Sen. Kagwe, have a seat. Can I have the Door closed and the Bars drawn?

*(The Bars were drawn and the Door closed)*

I request that the House agree with me that we will not open the Door or withdraw the Bars until we have finished the business.

## MOTION

### ADOPTION OF REPORT ON THE APPEALS FOR TRANSFER OF FUNCTIONS BY VARIOUS COUNTY GOVERNMENTS

THAT, the Senate adopts the Report of the Sessional Committee on Devolved Government on the Appeals for Transfer of Functions by various County Government laid on Table of the Senate on Tuesday, 18<sup>th</sup> October, 2016.

*(Sen. (Prof.) Lesan on 18.10.2016)*

*(Resumption of Debate interrupted on 18.10.2016)*

## **DIVISION**

### **ELECTRONIC VOTING**

*(Question, that the Senate adopts the Report of the Sessional Committee on Devolved Government on the Appeals for Transfer of Functions by Various County Governments laid on the Table of the Senate on Tuesday, 18<sup>th</sup> October, 2016, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Kagwe, Nyeri County; Sen. Kajwang M., Homa Bay County; Sen. Kisasa, Kilifi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Omondi, Kakamega County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Nil

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 24

**NOES:** 0

**ABSTENTIONS:** 0

The "Ayes" have it.

*(Question carried by 24 votes to 0)*

## **BILLS**

### *Second Readings*

THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL)  
(AMENDMENT) BILL (SENATE BILL NO.9 OF 2016)

*(Sen. Adan on 4.10.2016)*

*(Resumption of debate interrupted on 12.10.2016)*



**DIVISION****ELECTRONIC VOTING**

*(Question, that the Public Appointments (Parliamentary Approval) (Amendment) Bill (Senate Bill No.9 of 2016) be now read a Second Time, put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Kagwe, Nyeri County; Sen. Kajwang M., Homa Bay County; Sen. Kisasa, Kilifi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Omondi, Kakamega County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Nil

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 24

**NOES:** 0

**ABSTENTIONS:** 0

The "Ayes" have it.

*(Question carried by 24 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

**THE SELF HELP ASSOCIATIONS BILL**  
**(SENATE BILL NO.2 OF 2015)**

*(Sen. Wangari on 4.10.2016)*

*(Resumption of debate interrupted on 4.10.2016)*

**DIVISION****ELECTRONIC VOTING**

*(Question, that the Self Help Associations Bill (Senate Bill No.2 of 2015) be now read a Second Time,*

*put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Kagwe, Nyeri County; Sen. Kajwang M., Homa Bay County; Sen. Kisasa, Kilifi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Omondi, Kakamega County; Sen. Sen. M. Kajwang, Homa Bay County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Nil

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 24

**NOES:** 0

**ABSTENTIONS:** 0

The "Ayes" have it.

*(Question carried by 24 votes to 0)*

*(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)*

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL  
(NATIONAL ASSEMBLY BILL NO.36 OF 2014)

*(Sen. (Prof.) Kindiki on 4.10.2016)*

*(Resumption of debate interrupted on 4.10.2016)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that the Assisted Reproductive Technology Bill  
(National Assembly Bill No.36 of 2014) be now read a Second Time, put and the  
Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Kagwe, Nyeri County; Sen. Kajwang M., Homa Bay County; Sen. Kisasa, Kilifi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet

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County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; Sen. Wetangula, Bungoma County; and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Sen. Bule, Tana River County; and, Sen. Omondi, Kakamega County.

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 22

**NOES:** 2

**ABSTENTIONS:** 0

The Bill is lost.

*(Question negatived by 2 votes to 22)*

THE NATIONAL COHESION AND INTEGRATION  
(AMENDMENT) BILL (SENATE BILL NO.6 OF 2016)

*(Sen. Elachi on 11.10.2016)*

*(Resumption of debate interrupted on 11.10.2016)*

**DIVISION**

**ELECTRONIC VOTING**

*(Question, that the National Cohesion and Integration (Amendment) Bill (Senate Bill No.6 of 2016) be now read a  
Second Time, put and the Senate proceeded to vote  
by County Delegations)*

**AYES:** Sen. Abdirahman, Wajir County; Sen. Adan, Isiolo County; Sen. (Prof.) Anyang'-Nyong'o, Kisumu County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Kagwe, Nyeri County; Sen. Kajwang M., Homa Bay County; Sen. Kisasa, Kilifi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. (Dr.) Machage, Migori County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Mutula Kilonzo Jnr., Makueni County; Sen. Ntutu, Narok County; Sen. Obure, Kisii County; Sen. Omondi, Kakamega County; Sen. Wako, Busia County; Sen. Wangari, Nairobi County; and, Sen. (Dr.) Zani, Kwale County.

**NOES:** Sen. Wetangula, Bungoma County.

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, the results of the Division are as follows:-

**AYES:** 23

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**NOES:** 1

**ABSTENTIONS:** 0

The Bill is lost.

*(Question negatived by 1 vote to 23)*

**The Temporary Speaker** (Sen. (Dr.) Machage): Could the Doors be opened and the Bars drawn?

*(The Doors were opened and the Bars drawn)*

Next Order.

### **COMMITTEE OF THE WHOLE**

**The Temporary Speaker** (Sen. (Dr.) Machage): For technical reasons, I defer Order Nos. 13, 14, 15, 16, 17, 18 and 19.

THE COUNTY GOVERNMENTS (AMENDMENT) BILL  
(SENATE BILL NO.4 OF 2016)

THE REPRODUCTIVE HEALTH CARE BILL  
(SENATE BILLS NO.17 OF 2014)

THE PHYSICAL PLANNING BILL  
(NATIONAL ASSEMBLY BILL NO.46 OF 2015)

THE COUNTY GOVERNMENTS (AMENDMENT) (No. 2)  
BILL (SENATE BILL NO.7 OF 2016)

THE TREATY MAKING AND RATIFICATION (AMENDMENT)  
BILL (SENATE BILL NO.5 OF 2016)

THE CONSTITUTION OF KENYA (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO.26 OF 2013)

THE CONSTITUTION OF KENYA (AMENDMENT) (No.2)  
BILL (NATIONAL ASSEMBLY BILL NO.2 OF 2015)

*(Committee of the Whole deferred)*

I had promised that we will go back to statements. We were on statements and you were seeking further clarification.

*(Resumption of Statements)*

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## STATEMENTS

PLIGHT OF KENYAN REFUGEES FROM UGANDA CAMPING  
AT THE ENTRANCE OF PARLIAMENT BUILDING

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I am seeking a clarification, but allow me to cite an example. There is a very famous land case which the Supreme Court of India decided that the right to life includes the right to live with dignity. The people who are out there are not living with dignity. Even before the underlying issue is addressed, I thought that there would be a statement to confirm what they will do in mitigation. It is atrocious for people to camp outside Parliament and sleep on cartoons. It is even worse that a lady delivered there. That is a violation of human rights by a House that is supposed to defend them. Could the Vice Chairperson clarify whether, through the national Government or any other authority, including Parliament, any action has been taken, why that has continued to persist for a week and a half and why we have allowed this Building which is a historic site to be turned into a House of shame?

**Sen. Wako:** Mr. Temporary Speaker, Sir, I am extremely disappointed. The answer at least shows that they know those who qualify and those who do not. Everything is documented yet with that information, no action has been taken, as far as I can see, to identify those people. They should have been identified on the very first day they claimed they are refugees or whatever from Uganda. With that information, they should have been identified. If it was not genuine, they should have been taken away. Simple things like these should not await the International Community or the Kenya Red Cross Society (KRCS) to help them identify since the figures are already there.

As people have said, this is a security matter. In this country, we normally leave things until they become a crisis. A kiosk is built in a place where it is not supposed to be built and no action is taken. Another one comes up and before you know, a slum would have developed and then it requires the national army to remove them. Time is now and they have to take action on that. Our lives are at stake. I get very worried when I pass through there and people stare at me. Sen. Kagwe said that he spoke well on my behalf when he expressed his concerns on this particular matter.

Having come from China, I am sure that the Senator for Meru will agree with me that in China, they would not have allowed these types of things to happen around Parliament. Why have they not taken action up to now yet they already have information? Is it deliberate or carelessness? What is it?

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, the response from the Vice Chairperson – which we appreciate she has gone through a lot to bring to this House – raises serious questions. If you listened carefully to that response regarding those Kenyans who have camped outside, the categorisation from the Ministry's perspective is that some of them are not Post-Election Violence (PEV) victims, some of them just want to benefit from proceeds and some of them are split families where the principals had been paid and the children are coming to claim. There is no categorisation that says that some of them could be genuine Kenyans who are seeking to be given a home at home or

that says some are genuine Kenyans who are homeless at home. They are just being seen as opportunists who want to pull a fast one on or con the state.

With that attitude, does the Government have the moral standing to address this problem? More specifically, the Chairperson talked of two weeks. That in two weeks, the issues raised in the Petition by those innocent Kenyans shall have been addressed. However, we have not been told the content of this Petition and what the specific issues are. Was that Petition brought to the Senate, National Assembly or taken to the Cabinet Secretary (CS)? When do the two weeks start counting? Is it on the day that they came to the precincts of Parliament or the day they went to State House? We have information that these people first went to State House, then Harambee Avenue and then to Parliament. When does the clock start ticking on the two weeks? Before the two weeks are over, do we expect that we are still going to have innocent Kenyans giving birth on the road side?

**Sen. Sijeny:** Mr. Temporary Speaker, Sir, the response was inadequate. If you ask me, I do not think the Cabinet Secretary (CS) concerned is taking this matter very seriously. We are talking about Kenyans. We have not been told that they have discovered that they are not Kenyans but have admitted that, indeed, they are Kenyans. We know that their rights are protected in the Constitution.

As they wait for their fate, I know the records are very clear. This is because before anything happens and they cross the border, you have to give details and the statistics are taken. If, indeed, the Government has discovered that some are not genuine refugees, then they should know how to deal with them. This is not a place to allow them to be. It is very embarrassing. Even the street families of Nairobi County were removed from the streets by the Nairobi County Government in collaboration with the national Government. So, why are some people being allowed to stay there?

It is even more embarrassing because most of them are women with children. We are put in a very tight situation. So, now I do not know whether I am supposed to be taking food – milk, bread and fruits – to the children and yet I am a Member of Parliament (MP) here, who should be sorting out problems. This should be taken seriously and we want an assurance that by the end of today, they will be moved out of there and taken to a better place. There are so many shelters where they can be taken to.

**Sen. Adan:** Mr. Temporary Speaker, Sir, I agree with Members that this is a very serious matter and extremely urgent. When I read the response, I said that this was not answered satisfactorily. There should be an indication of what urgent action needs to be taken and how this matter should be resolved.

Secondly, the issues of categorization and underlying factors that brought them here should have been handled as quickly as possible because part of it concerns the lives of these Kenyans who are out here. In the response, they have not indicated to me when they can be settled. I believe that it is also a security threat to this Parliament and the country at large. This requires an urgent intervention by the Government.

I have been to the office of the relevant Ministry and they have been promising that they will do something about it. Yesterday, we agreed that by the end of yesterday, those people should be out of there. I believe that this is something that they need to do. I will still follow up as the Vice Chairperson of this Committee and ensure that the Government does what it is required to do. That is my position.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, we really appreciate the efforts of Sen. Adan. We also sympathise with the predicament in which the Executive keep putting her by sending her incompetent answers to give to this House. However, in this particular matter, I implore the Chair to use your authority and direct that the Cabinet Secretary (CS) for the Ministry of Interior and Coordination of National Government removes these Kenyans from the gate of Parliament and takes them to a safe holding ground while they sort out the identities and what other action they wish to take about them.

As the distinguished Senator for Homa Bay County has said, the Ministry itself is saying that some are impostors, cons and some are genuine and others not genuine – all manner of jumbled up descriptions which makes the distinguished Senator's job very difficult to even defend a Statement of that nature.

From where you sit, the Speaker of this House can direct and order the Cabinet Secretary (CS) to take urgent necessary actions to put these people somewhere. It is a scandal, like I said, that Kenyans can come and camp at the gate and one of them, a woman, gives birth on the road and nobody is moved. Instead, we are told that they are split families and some are claiming money while they had been paid. They start off by saying that they went to Uganda and called them to come back. So, if we called them to come back, why do we put them in that kind of plight?

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. Sen. Mutula Kilonzo Jnr., is yours a point of order or you want a third round of further clarifications?

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I am seeking a clarification. We cannot just leave the matter hanging as it is. This is because the Statement is ambiguous. I would have thought that the question of the plight of the returnees---

*(Sen. Mutula Kilonzo Jnr.'s microphone went off)*

**The Temporary Speaker** (Sen. (Dr.) Machage): You can come to the dispatch box.

**Sen. Mutula Kilonzo Jnr.:** There are two issues. The question of sorting, I would think that even the sorting of whether some are split families, if somebody had sat even with a desk out there, it would have been sorted. It is a question of the humanitarian issue – the fact that somebody is sleeping in the cold covering themselves with cartons, they have young children and have no toilets. That is not something that can wait for us to come back after the recess. If these people were taken to the Kenyatta International Convention Centre (KICC) grounds, they would be better off because there are tents there.

**The Temporary Speaker** (Sen. (Dr.) Machage): Well, I have not opened contributions or a discussion. I can understand your concern and frustration but I would not want to push into that line of argument.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I am extremely frustrated and I am glad that my brother, Sen. Hassan who is the champion of human rights has walked in because we need a date and a time when these Kenyans – even if they are not Kenyans – nobody deserves that.

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**Sen. Omondi:** Mr. Temporary Speaker, Sir, indeed, it is a very sad story to be seeing families – human beings – facing a lot of frustration every morning. The Government is failing and these are matters touching on lives of human beings. This is a crisis and immediate measures must be taken. We cannot accept this to continue. Why call people when they are staying somewhere if you are not prepared to receive them. I do not know what is behind this. Somebody should be held responsible for this mess.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well. I see no request. So, I will conclude this matter. The Senate has been speaking and expressing the views of this House, not only to the Cabinet Secretary (CS) concerned with immigration and refugees but also to the country and indeed, the Head of State by extension. As a Speaker, I find it totally unacceptable for the country for one, to go and dislodge ‘refugees’ in a foreign country with the promise of bringing them home and then leave them to suffer.

**Sen. Hassan:** Shame!

**The Temporary Speaker** (Sen. (Dr.) Machage): I find it unacceptable. It is abhorring, unacceptable, callous and inhuman.

This is the pronouncement of the Chair on this issue: The “Kenyans” who are currently camping at the gates of Parliament are human beings. Secondly, they qualify for all Articles as stated in our Constitution, Chapter Four on the Bill of Rights.

*(Applause)*

Thirdly, the state has a responsibility for their health, housing, security and for their food as per the Constitution. Therefore, as the Temporary Speaker, although these are different levels of government, we all belong to the same country. I direct that the Cabinet Secretary concerned immediately takes action to alleviate the suffering of the Kenyans or foreigners who are camping at the gates of Parliament. If the Cabinet Secretary is unable to do that, my appeal goes to the President.

Thank you.

*(Applause)*

I now call upon the Senate Minority Leader to read the next Senate Business.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 1<sup>ST</sup> NOVEMBER, 2016

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. Pursuant to the provisions of Standing Order No. 45, this is to present the Senate Business for the coming week.

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

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



On Tuesday, 1<sup>st</sup> November, 2016, the Senate Business Committee (SBC) will meet at 12.30 p.m. to schedule Business of the Senate for the week. Subject to further directions, by the SBC the Senate will continue with Business that will not be concluded in today's Order Paper focusing on debate on Bills at the Second Reading and the Committee of the Whole stages.

Mr. Temporary Speaker, Sir, on Wednesday, 2<sup>nd</sup> November, 2016 the Senate will continue with business not concluded during Tuesday's sitting and in particular dispose of Bills awaiting Divisions either at the Second Reading or at the Committee of the Whole stages. The Senate will consider any other Business schedule by the SBC.

On Thursday 3<sup>rd</sup> November, 2016, the Senate will consider Bills at Second Reading, deliberate on Motions and any other Business scheduled by the SBC.

Mr. Temporary Speaker, Sir, I once again appeal to Senators to be present in order to dispose of pending Business before the Senate, especially Bills, once we resume from our short recess.

I wish you a happy *Mashujaa* Day and a successful short recess. I hereby lay the Statement on the Table.

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

### MOTION

**The Temporary Speaker** (Sen. Sang): Hon. Senators, we now proceed to Order No. 20. I am told this Motion will be moved by the Senate Minority Leader.

This is a Motion pursuant to Standing Order 28(3) and it reads:-

“On the day when the Senate is scheduled to adjourn to a day other than the next normal sitting day in accordance with the Calendar, the Senate Majority Leader or the Senate Minority Leader or another Member of the Rules and Business Committee shall move a Motion of Adjournment which shall be debated for not more than two hours after which the Senate shall adjourn without question put”.

So, Sen. Murkomen and any other Member come after the Senate Majority Leader or the Senate Minority Leader. Proceed.

### ADJOURNMENT OF THE SENATE PURSUANT TO THE APPROVED CALENDAR FOR THE 2016 SESSION

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, I beg to move:-

THAT, pursuant to Standing Order 28 (3), the Senate do adjourn until Tuesday, 1<sup>st</sup> November, 2016.

Mr. Temporary Speaker, this is a procedural Motion. We have come at the end of this busy Session and the Senate Business Committee, in its sitting early this week, agreed that the Senate will adjourn for two weeks to give Senators who have been busy with the House Business and Senators whose previous recess was interrupted several

times to come for Special Sitzings to take a break to go and fraternize with their constituents or to do other businesses in Committees.

Ordinarily, it is within such a recess that the busy Committees like County Public Accounts and Investments Committee (CPAIC) gets an opportunity to hold meetings and retreats to write reports arising from the proceedings that they have had throughout the Session. Therefore, this is to urge Members to support this Motion so that we will recess today until the 1<sup>st</sup> November, 2016.

Mr. Temporary Speaker, I urge colleagues to support this. This is not a Motion affecting counties but it will require a voice vote. Upon passing it, we will take the recess. I invite Sen. Karaba to Second the Motion.

I beg to move.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, I second and support the Motion moved by the Senate Minority Leader, a renowned debater. He is also in the schedule of leaders in this country.

Mr. Temporary Speaker, Sir, last time we went for a longer recess, but it was interrupted by a special sitting. I hope this time around we will not be recalled for special sessions. Let it be uninterrupted so that we concentrate on other issues. My Committee on Education will be holding a meeting on Monday. We have summoned the Cabinet Minister for Education to shed more light on the development of education sector and the reforms he intends to introduce. Therefore, quite a number of committees have already scheduled meetings and programmes. It will also be a very important break because we will attend the committees uninterrupted without necessarily thinking of House business later. So, it is important that is noted.

It is also important to note that many of the chairpersons of committees had challenges which they would wish to address during this recess. You know some of those challenges because you experienced the same when you were a Member of this House. We have been pleading with the Cabinet Secretaries to prepare statements for us to come and respond to hon. Senators' questions. It has never been easy. Therefore, I am appealing to you as the Chair to make sure that at least you implore on these Cabinet Secretaries to be more cooperative and deliver statements on time. I urge that you have a meeting with them and tell them the importance of these statements. Otherwise, stiffer penalties could be preferred against them.

I support and second.

*(Question proposed)*

**Sen. Hassan:** Bw. Spika wa Muda, ninakushukuru sana kwa kunipa fursa hii. Mimi nataka kuunga mkono Hoja hii ili sisi tuweze kwenda likizo fupi hadi tarehe 1 Novemba, 2016. Ninaunga mkono sababu zilizotolewa na Sen. Karaba na Sen. Wetangula ambaye ni kiongozi wa wachache hapa Bungeni na Seneta wa Bungoma Kaunti. Mimi ni mwanachama wa Kamati ya Uajibikaji ambayo kwa lugha ya Kiingereza ni County Public Accounts and Investment Committee (CPAIC). Tumekuwa tukikutana kila siku bila kikomo. Kwa hivyo, itakuwa heri wakati huu wa likizo tuangazie na kuzingatia riport za zamu ya kwanza za Mkaguzi Mkuu wa Hesabu za

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Serikali au Auditor-General kama anavyojulikana katika lugha ya Kiingereza. Ripoti hizi ni za mwaka wa 2014/2015 kuhusu matumizi ya pesa za Serikali. Pia tutakuwa na nafasi ya kuzingatia ripoti zamu ya pili ya 2014/2015. Hiyo ni sababu moja ya kuunga mkono Hoja hii.

Bw. Spika Wa Muda, ni lazima uelewe siasa imepotoshwa sana na wenzetu. Siasa imepotoshwa kwa hali ya kwamba wale ambao wako katika makaunti wamepotosha wenzao na kuwaaambia kwamba Maseneta wako Nairobi. Leo karibu Maseneta wote unapata wamelimbikiziwa lawama kwamba wako Nairobi kila wakati na hawana wakati wa kutengamana na watu wao mashinani. Lakini nawaambia watu wetu kuwa Bunge la Seneti liko Nairobi, haliko Kisii, Bungoma, Kwale, Nandi au Kirinyiga. Bunge hili linafanya kazi kutoka Jumatatu hadi Ijumaa. Sisi hutumia wakati mwingi katika Kamati zetu. Tunawaka wa kuja hapa Bungeni na kujadili mambo mengi. Kuna baadhi ya watu ambao hawafuati sera za Serikali katika kuwahudumia wananchi. Mfano mzuri ni matumizi ya pesa za CDF. Pesa hizi zipelekwa mashinani ili zisimamiwe na magavana na ule utawala wa kaunti uweze kuangazia matumizi yake. Maanake ni lazima uchague kama utakuwa upande wa utawala au uwe Mbunge. Hauwezi kuchanganya yote mawili.

Sera hii ilianzishwa katika hizo karne zilizopita katika utawala. Unaulizwa, “Wewe kama Mbunge umefanya nini katika kaunti yako?” “Wewe Mbunge ulileta maendeleo yapi?” Mbunge anafaa awe hapa atetee kaunti yake na atetee eneo lake la Bunge ili Serikali ya Kitaifa ilettee maendeleo fulani. Si kwenda kule kufanya harambee na kuwadanganya watu kila leo ni harambee. Kama ingekuwa harambee zinatatua shida za Kenya, basi Wakenya hawangekuwa na shida yoyote.

Tumekuwa na harambee tangu 1963 mpaka leo. Tunafanya harambee na miaka nenda miaka rudi. Inafaa tubadilishe sera zetu za kiserikali tuweze kuweka maadili na tuweze kuweka haki na usawa Serikalini. Unaenda kufanyia watu harambee na wewe ni mkuu katika Serikali ya Kitaifa na katika kaunti. Badala ya kuboresha huduma za afya, unafanyia watu harambee ya kwenda kufanyiwa matibabu katika mataifa ya kigeni. Badala ya kuboresha skuli na vyuo vikuu vyetu wewe unafanyia mtu harambee ili aende akasomee nje ya nchi. Hizi ni sera na mienendo ya kiabunuasi. Wewe kama umepatiwa fursa ya kutawala wenzako pitisha sera ambazo utahakikisha kila mtu amepata huduma za afya za kisawasawa. Kila mtu amepata fursa ya kisawasawa katika maswala ya elimu. Hakikisha umeleta maji na hakikisha umeleta maswala ya makao. Kwa hivyo, tumeichafua siasa ya Kenya.

Bw. Spika, lazima sasa kuitakasa na tubadilishe mtazamo na fikira za siasa za Kenya. Kama wewe ni Mbunge, watu waelezwe shughuli zako ni zipi na sisi waeleze zetu ni zipi katika Bunge hili. Kuna wengine hapa hata wazungumzi na wengine hata hawaonekani. Kazi yao ni kuzuru ofisi hii na ile ili wapate kandarasi na wawe na pesa za kutoa katika Harambee. Hiyo ni maendeleo. Juzi ripoti fulani ilisema tuna ukilishi wa Useneta na Mwakilishi wa Wanawake. Mwananchi anamuomba gavana, anakuomba wewe, anamuomba Mwakilishi wa Wanawake, anamuomba Mwakilishi wa wadi. Wakenya kama mnataka kujikomboa hamwezi mkajifanya miaka yote hamfahamu. Hawa wakenya wetu pia hujifanya hawafahamu kila siku. Tuwafahamisheni na tujifanye tunafahamu. Kila tukijifanya hatafahamu ndio wafisadi watatumiliki zaidi. Kila siku

tukisema kwamba hatujui Seneta amechaguliwa kufanya nini na Mwakilishi wa Wanawake amechaguliwa kufanya nini, ndio kila siku tunaendelea kupiga sera za ufisadi.

Bw. Spika, wewe unasema wewe ni kampeina wa miaka 20 wa mtu fulani na wewe mwenyewe hujafika popote. Unasema, “Nimejitoa umri wangu wote, afya yangu yote, nampigania mtu fulani kura yangu.” Miaka ishirini wewe badala ya kufuata serikali unatafuta mapeni vidogo vidogo. Ndio kwa sababu hujafika. Sasa ndio tukienda chini tuweze kuwaelimisha tusiwe kila wakati tunataka pia sisi kuwa na uzoefu wa siasa za duni. Mpaka siku ile mtu atachukua msimamo uanze kusema kwamba sera ya kiserikali na ya kitaifa lazima iendeshwe tofauti. Lakini sisi wengine pia tunajiweka hizi pressure. Wewe Seneta pia unajaribu kuweka vikao, unajaribu kuweka maharambee, unajaribu kufanya kila kitu ili pia wewe uonekane pia unajumuika na huku unajilemea zaidi, ufadhali sio wake. Leo Seneta akitaka kufanya kikao atalipia maji, atalipia venue, atalipia chandarua, atalipia kipasa sauti, atalipia kila kitu. Gavana akitaka kufanya kikao kile kile halipi hata ndururu yake kwa sababu jukua ni la serikali, kipasa sauti ni ya serikali, mobilization ni ya serikali, maji ni ya serikali, inspectorate ni ya serikali na kila kitu chote ni cha serikali. Usijitakilifishe, wafahamishe watu. Watu wetu lazima watoe masikio taka waanze kufahamu.

Ni lazima watoe uchafu kwenye masikio ili waweze kufahamu. Miaka 50 baada ya kupata Uhuru, hatuwezi kujifanya kuwa bado hatufahamu. Lazima tuwe na mkazo na shinikizo. Tunapozidi kujifanya ya kwamba hatufahamu, watu wengine watatuibia. Hii ndio maana tunaendelea kuwachagua viongozi wafisadi.

Kwa mfano, Sen. M. Kajwang ana masomo na maadili yake ni mazuri. Pia mtazamo na mchango wake ni mzuri lakini wananchi watatafuta mtu mwenye pesa kwa sababu Sen. M. Kajwang hajawafanyia chochote. Wananchi wanafaa kuangalia majukumu yake katika Katiba ya Taifa la Kenya. Anafaa kupimo na mizani yao kwa yale wanayoyafanya katika Katiba.

Haya maneno yamenitia ukali leo kwa sababu niliona kongamano fulani katika kaunti moja jirani wiki iliyopita ambapo watu wamechezeana dosari. Ndugu zangu wapwani hawawezi kujifanya kwamba kila siku hawafahamu ilhali watu wote Kenya mzima wanafahamu. Wengine wanaishi katika umaskini lakini siku ya kura wanawapigia watu wao kura. Wapwani pekee yao ndio wanaojifanya kuwa hawafahamu hayo.

Bw. Spika wa Muda, ni lazima tuambiane ukweli katika taifa hili. Tuko na sauti na fursa ya kwenda mashinani ili tuwahamasishe, tuwaelimishe na tuwaambie watu wetu ukweli. Miaka 50 baada ya Uhuru wenzetu wameamka na kufika Mtito Andei lakini wewe bado hujaamka. Kila siku tunasema kwamba tunaonewa na kuthulumiwa. Je, hakuna maskini katika maeneo mengine kama Nyanza, Mkoa wa Kati, Magharibi na Kaskazini Mashariki? Mbona wao wanawapigia kura wanasiasa wao ilhali hawajawafanyia lolote? Tunathulumu Waakilishi wa Wadi bure kwa sababu wameshindwa kutulipia karo. Wao ni waakilishi wa wadi na mnajua utajiri na umaskini wao. Wanaenda mbio kwa ajili yenu.

Tulikuwa na Rais kutoka kabila la Kalenjin kwa miaka 24. Je, wakalenjin wote walipata nini kwa jumla? Mbona wao bado wanapiga kura kwa wingi? Waliamka kitambo. Ndugu zetu kutoka Mkoa wa Kati hujitokeza asubuhi kwa wingi kupiga kura. Mbona sisi hujifanya kwamba hatufahamu?

Maseneta wanaotaka usaidizi wanafaa kutuita ili tuweze kuwafahamisha watu. Hali hii haifai kuendelea. Ndio maana wafisadi wanahongana na kila siku raslimali yetu inaporwa na sera zetu za kisiasa zinaendelea kudhalilika na kudorora.

Bw. Spika wa Muda, tunafaa kutumia fursa hizi kuelimisha watu. Niite katika Kauti ya Nandi, Kaunti ya Nyandarua au Kaunti ya Homa Bay ili tuwaeleze na kuwasaidia watu kwa sababu Kenya imefika mahali pabaya. Masikini ni wengi na fursa yao kimaisha ni haba. Mtu anapozaliwa masikini fursa yake iko katika hali duni. Masikini akifaulu maishani hiyo ni kazi ya Mungu na sio Serikali. Hakuna fursa yoyote inayotolewa na Serikali. Inakera na kuudhi tunapojifanya kwamba sisi hatufahamu kwamba tunafaa kupiga kura kwa wingi kama wenzetu wanaojitokeza kwa wingi.

Nilipokuwa namfanyia kampeni Sen. Wetangula kulipokuwa na uchaguzi mdogo, niliwauliza watu kwa nini wangempigia kura. Walijibu kuwa ni kwa sababu walikuwa na imani kwamba siku moja atakuwa Rais wa Taifa la Kenya na kuleta matumaini kwao.

Sen. Kisasa, sisi bado hatujaamka. Tunalalamika na kujiuliza ni nini tumepata kwa miaka yote ambayo tumewafanyia watu kampeni. Kuwanfanyia watu kampeni sio biashara wala kazi. Ni lazima wanasiasa pia wabadilishe mtazamo. Watu wanafaa kujumuika ili kuendeleze maadili, mikakati na falsafa.

Bw. Spika wa Muda, naunga mkono Hoja hii. Mungu akitujalia, tunafaa kushikamana kama Maseneta na twende katika mitaa na kaunti zetu kwa pamoja na tufahamishane ili watu waelewa jukumu la kila mtu katika Katiba. Mtu anapopata fursa, asijidhalilishe kwa kufanya kama wale wengine. Kila mtu afanye kwa kipimo na nguvu zake.

**Sen. Kisasa:** Bw. Spika wa Muda, wimbi mkali hufuatwa na shwari kwa sababu wimbi huwa na nguvu zaidi. Tumekuwa mbioni kama Seneti. Sasa ni fursa yetu kurudi nyumbani. Mimi ninafuraha kwa sababu nitakuwa nyumbani. Nimefurahi zaidi kwa sababu ndugu yangu Sen. Hassan amesema kwamba atarudi nyumbani ili awaeleze watu ukweli. Kule kwetu kuna ugonjwa ambao unaitwa ‘ongea, danganya mpwani’. Ugonjwa huo unashika macho na mtu wa Pwani huwa haoni vizuri anaposhikwa na ugonjwa huu. Niwajibu wetu kama viongozi kurudi nyumbani ili tuwaelimishe watu. Ugonjwa huo unaposhika macho, hata Serikali itengeneze barabara, mtu wa Pwani hataiona ile barabara. Serikali imeleta maendeleo mengi Pwani, watu wa Pwani hawayaoni maendeleo hayo.

Nimefurahi kwa kumsikia Sen. Hassan akisema kwamba kuna umasikini pia bara. Ugonjwa huu unapomshika mtu wa Pwani haoni hata vyeti vya mashamba. Maendeleo kama hayo hayako katika kaunti zote. Ugonjwa huu ulitokea kule Magharibi mwa nchi, lakini wenyewe wameanza kupona. Naomba turudi nyumbani ili tueleze watu wetu kuwa wenzetu wameanza kupona kutokana na ugonjwa huu. Mbona tunajitwika vitu ambavyo havituhusu?

Maji matulivu huwa yana kina kirefu. Kwa hivyo ni lazima maji hayo matulivu yajulikane kuwa yana kina kirefu. Lazima tuwaelimishe watu wetu ili wachaguwe mrengo wa maendeleo. Nawapa kongole Rais wetu na Naibu wake kwa kutupa maendeleo. Nimetembea Bonde la Ufa na najivunia maendeleo mengi ambayo yamefanywa Pwani. Unaweza kudhani kamba Naibu wa Rais ametoka Pwani.

Nilimtembelea dada yangu, Sen. Chelule, na nikahuzunishwa na hali ya barabara. Nikirudi nyumbani nitawaelimisha na kuwaeleza watu wangu kwamba sisi kama watu

wapwani tuko na mwangaza mbele yetu kwa sababu ya yale mambo ambayo yanaendelea kufanyika. Mimi ninafuraha kama tasa aliyepata mapacha. Nimeona mama mmoja aliyejifungua watoto 11; ni raha iliyoje? Sisi watu wa Pwani ni kama tumepata mapacha.

Bw. Spika wa Muda, ni lazima tuwaambie watu wetu ukweli kulingana na yale yanayotendeka. Ni lazima watu wetu wafungue macho ili wasiambukizwe maradhi ambayo walioyaanzisha wameanza kupona. Ninafuraha na bashasha tele ninaposimama hapa. Naomba mwenyezi Mungu aturudishe sote salama salimini kwenye Seneti ili tutatue shida za watu wetu.

Naunga mkono Hoja hii.

**The Temporary Speaker** (Sen. Sang): Sen. Kajwang.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I wish to support this Motion---

**The Temporary Speaker** (Sen. Sang): I thought the mood in the House was to proceed in the national language.

**Sen. M. Kajwang:** Mr. Temporary Speaker, Sir, I want to qualify why I am doing it in English. I would have wished to do it in Swahili but it is difficult to keep up with Sen. Hassan and Sen. Kisasa when they do it. I will go with the "Luoepan" language which is English.

The Motion to adjourn until 1<sup>st</sup>, November is fairly procedural and does not give us a lot of time, but just about two weeks. For purposes of Kenyans who are watching this debate, it is important to point out that this break is not like a school break where you close school, go home and just relax. It is not a break for us to go on holiday or to attend to personal business but an opportunity for us to retreat into committees and to go back to our electorate and have much more quality time with them.

However, on the issue of going back to the ground, we must point out that Senators in this House spend every other weekend in their counties. It does not mean that the only opportunity we have to go back and talk to the electorate is when on recess. Personally, I spend almost every other weekend in my home county or in neighboring counties. It should not be taken that these two weeks recess is the only opportunity in the year that Senators have to go back to the counties.

As we retreat into committees during these two weeks, I wish to also pay homage and convey my condolences to Joy Aluoch who has been a sterling, firm and bright supporter of committees in her role as clerk. These committees are not run by Senators because usually we find that everything has been done and the necessary facilitation is in place. It is the employees of the Parliamentary Service Commission (PSC) that make it possible. Joy Aluoch died in an unfortunate accident when she was in the midst of preparing a committee trip of this House. I do hope that her contribution to the ideals she stood for and the collective ideas that she generated and gathered as a clerk and employee of the PSC shall not be in vain.

We will find a way of remembering her contribution, her legacy and the entire good things that she did. This was one person who was generous, jovial and not blinded by ethnic or political affiliation. I will be joining other Senators and members of the public in Kisumu for the final send off.

Mr. Temporary Speaker, Sir, we must remember that we are going on recess but staff who support us are not going on recess. When committees sit, we tend to come up with programs to visit counties and foreign countries. There is an issue on foreign visits

that this Senate must deal with. This is with regard to budget allocation for foreign visits based on per capita. This means that where a Senator falls in a joint committee of the National Assembly and Senate, Senators find themselves disadvantaged. I know that this is an issue that can best be canvassed in *kamukunji* but is important to note because if you do not get some of these foreign linkages and exposure, the mandate and work of the Senate might be curtailed. Parliamentary visits to foreign nations are part of parliamentary diplomacy which is one plank of our diplomatic policy as a nation.

We must ensure that since the Senate represents the best of the 47 counties, it gets a fair and equal opportunity to undertake some of these visits which go a long way in improving our diplomatic relations with the countries that we visit.

If we need to connect with the electorate--- I know as part of our representation role, Members here have different ways and methods of connecting with the electorate. There are those who open their offices for the electorate to visit. There are those who open their residences. It was in the news this week that a home of a Member of Parliament from the coast region which is suffering from drought and famine was raided by voters who ate all his food and took all his water. That could be part of representation because this Hon. Member decided to order for more supplies of flour and water and made a good meal for them, instead of chasing them away. Therefore, there are different ways of connecting with the electorate.

However, it is not proper that an institution like the Senate does not have a framework for engagement with the electorate. Yes, we have frameworks on public participation but that is on Bills and laws. However, how does the Senator engage with the county assemblies, the governors, elected Members of Parliament and the voters? There are as many as 68 different ways because each Senator has a different approach. That is why this House proposed that we come up with a Monitoring and Evaluation Committee which would manage a monitoring and evaluation fund, come up with structures and certain processes that Senators can follow to ensure that our representation and oversight role is effective.

Mr. Temporary Speaker, Sir, an accusation that we all face even though unfairly - my brother Sen. Hassan has alluded to it - is the notion that Senators disappear in Nairobi, yet the Senate is in Nairobi and that is where we were elected to work from. It is political suicide to remind the electorate that they elected me to go to Nairobi. This is because they still expect - especially those of us with elaborate funeral arrangements - that we will be there with them for every funeral, fundraiser and every single activity on the ground. Our job is to come and legislate and represent in Nairobi.

We need to institutionalize and resource the office of the Senator and come up with a framework for engagement between the Senator, the electorate and various stakeholders in the county. Otherwise, our job will be measured against what the governor is doing.

Mr. Temporary Speaker, Sir, I pass through your county when going to my county. When I talk to young men, they tell me that they would prefer you to run for the position of governor. It is going to be difficult because they will be comparing you against the largesse of the governor which is not private largesse but the monies that we appropriate every year through the Division of Revenue Bill and the County Allocation of Revenue Bill. They are using State resources to perpetuate themselves in power and

yet we are compared with governors. You are elected by the same pool, you are equally influential politically but resource wise and institutional-wise, you have nothing. You do not have legs - leave alone that statue we talk about in the Bible. It must have been king Nebuchadnezzar or someone who saw a statue with parts of clay, bronze and gold. A Senator has feet of clay, if they have any at all!

The governor has a staff establishment of a thousand and above people. In fact, a thousand people plus several hundred ghost workers supporting him and his projects, yet, you were elected in the same manner. As we go on recess, I wish to urge the relevant committee that was following up the matter of the Senate Monitoring and evaluation Fund to give us the status. This is so that we can decide that in the remaining eight or six months, we are going to sell a family cow to move around the county, engage with the electorate and support fundraisers and funerals or we know that we are going to get a fund which we are going to use to effectively engage the electorate out there.

Mr. Temporary Speaker, Sir, as I summarize my contribution with regard to lack of resources, structures and the absence of an institutional framework, it is obvious that Members of this institution have reduced us to an unnecessary irritant in the body politic of this nation. Yesterday, there was a summit on corruption, integrity and transparency at State House. The Speaker and the Majority Leader of the National Assembly were very prominent. I do not know whether the Speaker of the Senate was present.

The Leader of Majority in the National Assembly was very prominent. I do not know whether you were present, invited or equally prominent and yet corruption is not an issue of legislation. Corruption is an issue of values. It is an issue of morals. It transcends the technical, transcends that hardware and goes into software. Which body is best placed to talk about the soft issues in this country more than this Senate? Which body has the right examples that can act as a light to the rest of the nation on issues of integrity and transparency if it is not this Senate?

Mr. Temporary Speaker, Sir, a serious government would make the Senate a strong partner in the fight against corruption, transparency and accountability in state corporations. This Senate is only as powerful as its membership wants it to be. I have seen situations where two people with the same job description; one person becomes very visible and over bearing while the other remains dull and flat.

I want to urge Members of this House that we assert ourselves, let us define our job description because it is not too late. Let us not all run to become governors. I fear that if half of the Senators become governors, they are going to kill this Senate because they will not want to be over-sighted. There are half of us who want to go there to do a good job but there is another quarter that is going there because they are jealous that the governors are making too much money. There are those also who are going there knowing that a governor is a demigod in this country. The Senate will not oversight them effectively and the county assembly will not oversight them effectively.

I want to appeal to my colleagues who are seeking higher office - I do not know whether the governorship is a higher office than the institution of Senator – but those who are seeking the office of a governor, let us do it for the right reasons. When we get there, let us not kill this Senate.

Mr. Temporary Speaker, Sir, going forward, we must take a decision. If the Senate represents, defends and protects the interests of the counties, should it not be



funded from the location of the counties? An Ambassador is funded by the nation that he represents. A High Commissioner is funded by the nation whose interests they represent. How do you represent the interests of the county people and every other day the counties are much happier if you are not given resources? Even these regulations that have been published, it is the Council of Governors that will go to court to challenge that Senators are not supposed to get any facilitation. Then, how are we going to do oversight? How will you confirm that a bridge has been built? Is it just by sight or do we have to wait for reports from newspapers and televisions?

Mr. Temporary Speaker, Sir, I support the Motion and I do hope that during the two weeks, we shall get some positive news from the National Assembly and from the relevant Committee of this House to give us the necessary footing to undertake our constitutional duty as a espoused in the Constitution.

**The Temporary Speaker** (Sen. Sang): Very well. Sen. Kittony!

**Sen. Kittony:** Thank you, Mr. Temporary Speaker, Sir. Allow me to add my voice in supporting the Adjournment Motion. I would also like to add my voice in saying this House is a House of honour and decorum. I support the implementation of the monitoring and evaluation fund because this is where everything is.

We have witnessed devolution in place, we have witnessed what is happening in the country and it is time that this adjournment allows us to go and interact with the electorate. The electorate expects a lot from us. We do realize that in this House, we do not have the proper tools for reaching out and supporting our electorate. Therefore, it is time that this House is made strong in giving us the proper tools so that we can do the right work that we are meant to do.

Mr. Temporary Speaker, Sir, the work that the House has done is enormous. I know our Committee on Health has not completed its work and people do not see it. Next week, we will not enjoy the recess as such because it has been short. When we want to reach to the counties, we are called back. So, it is time that we take our work seriously and take a longer period for recess so that we are able to meet and interact in the counties so that people can realize what the Senate does.

Mr. Temporary Speaker, Sir, I would like to say that we have carried ourselves well. I would like to borrow what Sen. M. Kajwang said that it will not auger well when all of us would like to go and stand for governorship. This is an important House that makes devolution work. When we run for governorship because there are many goodies, what are we showing people? The Senate has done its work and I would like to commend the Senators for the work they have done and they should continue doing so.

With those few remarks, I support the Adjournment Motion and wish everyone a good short holiday but I wish it could be longer in the future. Thank you.

**The Temporary Speaker** (Sen. Sang): Sen. Kittony, it is recess and not a holiday. The two might not mean the same thing. So, you wish every Senator a wonderful recess.

**Sen. Omondi:** Thank you, Mr. Temporary Speaker, Sir, for the opportunity. I want to support the Adjournment Motion because it is going to create time for us to do our oversight role even though we have challenges in terms of finances that can help us reach out to the people we represent.

In this country, what kills us most is that we dwell so much on destructive competition instead of having constructive competition. That is why we give our electorate false information because we do not want them to elect us based on what we have done but we give them wrong information and at the end of the day, they make a wrong choice during elections. This is a high time that we go down to the people and give them the right information.

Mr. Temporary Speaker, Sir, I want to call upon Parliament and the Government to take note of civic education among Kenyans in terms of the role of different offices in the Constitution for the electorate to understand what devolution is all about, the role of each elected Member and the role of each House of Parliament so that we do not have conflict of interest.

It is annoying that when you are in a meeting and a colleague who is elected in the county assembly; MCA or governor or a Member of National Assembly who has been given their resources to implement some projects stands up and says I have brought this; so, ask what the Senator has brought. I am coming to do this and this. I am constructing this class and doing this road. When it comes to budgeting, I remember the time we take. It is too long because we want to ensure counties have money. At the end of the day, it is like we have done nothing.

Mr. Temporary Speaker, Sir, it is the high time that Kenyans should be given information and direction to understand the right way to go when making decisions. The level of poverty in this country is not reducing because of wrong leadership and information. With the new Constitution, there is a big gap between the elites; those who went to school in urban centers and those who are in rural areas. Nobody is ready to give the right information.

We used to have *barazas* which were meaningful where leaders would deliver the right information to Kenyans from the national Government. Nowadays, they are meaningless because in those *barazas* they would dwell on negative issues, talk about other people rather than giving Kenyans the right information that can help them develop. With this kind of attitude, the country cannot develop. Kenyans will not come out of poverty. We, as leaders, should know that Kenyans need good political will for them to forge ahead.

The electorate also have a role to play which is to shun the culture of handouts. Gone are the days when people would expect small handouts like Kshs50 from the Members of Parliament (MP). It is what makes Kenyans not to make the right choices. It was not easy to find an MP going back to the constituencies to meet the people who elected them those days when accountability and oversight was not there. We require the oversight fund as a Senate for it to help us do our role that the Constitution gives us.

When we do the legislative role and the representative role, we also need to do the oversight role so as to be able to give meaningful leadership to the people who elected us. We need to take another direction in the way we handle the issue of development. We should give priority to meaningful development where resources are not wasted through corruption.

With those many remarks, I support the Adjournment Motion.

**The Temporary Speaker** (Sen. Sang): Hon. Senators, in accordance with our Standing Orders, this Motion does not require us to put the question.

### ADJOURNMENT

There being no other Senator wishing to contribute to this Motion, the House stands adjourned until Tuesday, 1<sup>st</sup> November, 2016 at 2.30 p.m.

The Senate rose at 5.45 p.m.