

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 25th February, 2015

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

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

PRAYERS

Sen. Moi: Mr. Deputy Speaker, Sir, I would like to make a Statement; a Statement which was asked for by the Sen. Marsabit County---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Moi, you are out of order. We are on Papers; we are not on Petitions yet. We are on order No. 5, Papers.

Sen. Moi: Okay, Mr. Deputy Speaker, Sir. Forgive my enthusiasm.

STATEMENTS

The Deputy Speaker (Sen. Kembi-Gitura): May I propose that we start with the request for Statements. I know that there are several Statements that have been requested for. Let us first deal with them and then we deal with the issuance of Statements, if that is okay. Can I have the requests for people who are seeking Statements?

An Hon Senator: To answer or to be asked?

The Deputy Speaker (Sen. Kembi-Gitura): To ask. Those of you that want to ask for Statements and your Statements have been approved, it is your time now.

Proceed, Sen. (Prof.) Lonyangapuo.

SCRAPPING OF RANKING OF STUDENTS, SCHOOLS AND COUNTIES IN KENYA

Sen. (Prof.) Lonyangapuo: Thank you, Mr. Deputy Speaker, Sir. I wish to seek a Statement from the Chairperson of the Standing Committee on Education. The Statement relates to scrapping of ranking of students, schools and counties in Kenya. In the Statement, I would like the Chairperson to:-

(a) table a copy of the policy document on banning of ranking of students, schools and counties;

(b) state whether the confusion relating to admission to Form One early this month of the 2014 Kenya Certificate of Primary Education (KCPE) pupils was caused by this ban;

(c) explain whether he is aware that a very high number of deserving pupils either did not secure admission to Form One at all or were admitted in wrong schools (some boys were admitted into girls schools, and *vice-versa*); and,

(d) whether he is aware that arising from this ban and the resultant confusion, many counties have taken it upon themselves to rank their own schools and pupils, although this is a function of the national Government.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point or order Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. With your indulgence, allow me to request further on this very important matter.

The Deputy Speaker (Sen. Kembi-Gitura): Shall we, first of all, hear the Chairperson of the Committee on Education. Who is here from the Committee on Education?

Sen. Kanainza: Thank you, Mr. Deputy Speaker, Sir. I am a Member of the Committee on Education and we are going to take up the matter. I know we have a similar clause to the same Statement and we are going to deal with it in one week's time.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, are you on a point of order or do you want to ride on that?

Sen. (Dr.) Khalwale: Yes, Mr. Deputy Speaker, Sir, with your permission.

The Deputy Speaker (Sen. Kembi-Gitura): Let me hear what it is that you want.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, when that Statement comes, I would like an attempt to be made to explain whether this was a deliberate attempt to load some of the national schools in the former Western Province with students with poor scores. With that, I mean that when you go to Kamusinga High School, Kakamega High School, Maseno High School, Bunyore Girls High School and Lugulu Girls High School, you will find a student from outside the region admitted in these national schools with a score of 275 marks and local children---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! I hear you clearly but your question is very different. What you are now riding on is very different; you are talking about the quota system in the national schools, which is an extremely important issue. Would you rather seek your own Statement on this matter so that it can be dealt with specifically?

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, if I conclude then you can direct.

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): I could do that, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I was building.

The Deputy Speaker (Sen. Kembi-Gitura): I have heard you. I am just thinking that what you are asking is very important, but that you are riding on the wrong question because this deals specifically with issue of the banning of ranking and the confusion in admission into Form One. It does not deal with the issue of admission on quota or national schools basis, *et cetera*. But, if you are satisfied that what you are doing is the correct way, I have no issue. I was just guiding you because I think you are raising an important issue.

Sen. (Dr.) Khalwale: Thank you, Mr. Deputy Speaker, Sir, for the indulgence, I was just concluding by saying that because of this confusion that has been raised by Sen. (Prof.) Lonyangapuo, a child from outside the western region of Kenya finds his or her place in these top schools in our area with a school of 275 marks, for example, and a local child with 407 marks not only loses a chance in a national school outside our region but also loses a chance in Kakamega High School and the other schools and ends up in a county or former district school. Could he clarify whether this was a deliberate effort to admit children who do not deserve in our schools?

The Deputy Speaker (Sen. Kembi-Gitura): Okay, the HANSARD is clear. So, the Chairperson of the Committee on Education, Sen. (Dr.) Khalwale would like you to deal with this issue when you are making that Statement.

Sen. Mositet: Mr. Deputy Speaker, Sir, I would also like the Chairperson to explain to us what the Ministry is doing with those pupils who passed their examinations very well and up to now they are still at home. They are quite a number of them in their thousands.

Sen. Ong'era: Mr. Deputy Speaker, Sir, further, I would also like the Chairperson to explain why this kind of poor admission was done particularly in Kisii County where you find that many pupils who were admitted to, for example, Kisii High School, Kereri Secondary School and Nyanchwa Secondary were brought from other counties and our children were left at home.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ong'era, the only difficulty there which I also had with Sen. (Dr.) Khalwale is that you have localized your request to Kisii and western region respectively whereas Sen. (Prof.) Lonyangapuo is looking at it globally. So, I am quite happy for you to ride on that Statement but I do not expect the he is going to give you an answer on Kisii or the former Western Province, because the gravity of the issue is what has been sought.

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Sen. Ong'era and Sen. (Dr.) Khalwale, to mislead us on this issue of admitting students to secondary schools from particular areas when, in fact, national schools are funded nationally and, therefore, students can come from anywhere?

The Deputy Speaker (Sen. Kembi-Gitura): Senator, I want to assume that when the Chairman of the Committee gives that Statement, he is going to deal with the issues of national schools, extra county schools, county schools *et cetera*. Sen. (Prof.) Lonyangapuo, you will get an answer in one week's time.

Sen. Obure: Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Senate Standing Committee on Education.

The Deputy Speaker (Sen. Kembi-Gitura) Do I have your approved Statement?

Sen. Obure: Mr. Deputy Speaker, Sir, I believe I did.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Obure, I have not seen your Statement and it has not been approved by the Speaker. I propose that you let it go through the normal process, then it will come tomorrow.

Sen. Obure: Obligated, Mr. Deputy Speaker, Sir.

MALPRACTICES IN THE HEALTH SECTOR

Sen. Nabwala: Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Standing Committee on Health regarding the malpractices in the health sector. In the Statement, the Chairperson should:-

- (a) explain why misdiagnosis is still rampant in the medical institutions;
- (b) state how many cases of misdiagnosis which have been reported have been investigated in the last five years and the action taken;
- (c) explain what the Ministry is doing with regard to people who are operating clinics and laboratories without licenses; and,
- (d) state what the Government is doing to curb instances of misdiagnosis and professional negligence and to punish those found to be culpable.

The Deputy Speaker (Sen. Kembi-Gitura): Chairperson, when are you going to give a Statement on this?

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, I beg that the questioner repeats the question. I was a little bit not attentive.

The Deputy Speaker (Sen. Kembi-Gitura): Were you in the Chamber?

Sen. (Dr.) Kuti: Yes, Mr. Deputy Speaker, Sir. I seek your indulgence.

The Deputy Speaker (Sen. Kembi-Gitura): There is a Statement which has been sought from your Committee regarding rampant misdiagnosis in medical institutions. The record is in the HANSARD. Are you ready to give the Statement in a week's time?

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, if it is not a specific case, you realize that rampant misdiagnosis implies that we have to quantify the problem and that would require some time, unless there is a specific case that the questioner wants to be dealt with.

The Deputy Speaker (Sen. Kembi-Gitura): It is a general misdiagnosis case. How long do you require?

Sen. (Dr.) Kuti: A month, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Nabwala are you okay with that?

Sen. Nabwala: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Next Statement!

RESOLUTION OF THE SENATE RELATING TO THE KMPDB

Sen. Nabwala: Mr. Deputy Speaker, Sir, I rise to seek a second Statement from the Chairperson of the Standing Committee on Health regarding the resolution of the

Senate of “25th September, 2015” relating to the Kenya Medical Practitioners and Dentists Board.

The Deputy Speaker (Sen. Kembi-Gitura): Order! We are not in 2015 yet.

Sen. Nabwala: Mr. Deputy Speaker, Sir, it is a typing error. I think it is 2013.

In the Statement, the Chairperson should explain, why the resolution of the Senate to devolve the KMPDB to the counties has not been implemented by the Ministry of Health and what the Ministry is doing to implement the resolution.

Sen. (Dr.) Kuti: Mr. Deputy Speaker, Sir, I need two weeks to come up with the answer.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Nabwala, is that okay?

Sen. Nabwala: Yes, Mr. Deputy Speaker, Sir.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I have two Statements that I wish to request for.

RECRUITMENT OF FORMER NYS SERVICEPERSONS INTO EMPLOYMENT ABROAD

I want to start with a Statement from the Chairperson of the Committee on Devolution in regard to the recruitment of former National Youth Servicemen and Servicewomen for jobs outside Kenya.

The Chairperson should make the following clarifications:-

- (i) confirm whether the Kenya Government has entered into an agreement with the United Arab Emirates (UAE) for job openings for the above NYS men and women;
- (ii) how many such job opportunities are at stake;
- (iii) how many have been reserved for women;
- (iv) what are the selected areas of disciplines that are eligible;
- (v) if selection has indeed already been done for the first batch, whether the Chairman can table the list of actual beneficiaries showing how each constituency and county benefited;
- (vi) how long these youth will work in the UAE; and,
- (vii) given that cases of inhuman treatment have been reported of some Kenyans working in the Arab world, if the Chairman could assure the House about the safety of these young Kenyans when they will be working in the UAE.

Sen. Murkomen: Thank you, Mr. Deputy Speaker, Sir. I have no objection getting the answer in the requisite time. However, I have always said that sometimes what is called devolution questions or what could have come to the Sessional Committee, the Ministry in charge of devolution is not necessarily in consonance with the definition of sessional committee ---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Murkomen! When are you going to give the answer? If it is in the wrong Committee, just say so and then we look for the Committee that it should go to.

Sen. Murkomen: Mr. Deputy Speaker, Sir, usually, such questions should have gone to the Committee on Labour and Social Welfare, but I am willing to bring the answer within two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you.

COLLAPSE OF MUMIAS SUGAR COMPANY
IN KAKAMEGA COUNTY

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, secondly, I am requesting from the Chairman of Legal Affairs and Human Rights a statement on the state of the collapsing Mumias Sugar Company located in Kakamega County. The Chairman should clarify the following:-

(1) whether the national Government is, indeed, going to inject Kshs2.5 billion into Mumias Sugar Company as a bail out;

(2) whether the national Government is agreeable to transferring its 23 per cent shareholding in Mumias Sugar Company to the County Government of Kakamega; and,

(3) why the Ethics and Anti-Corruption Commission (EACC), the Director of Public Prosecution (DPP) and the Criminal Investigation Department (CID) have not moved in to bring to book former senior managers of Mumias Sugar Company, led by the former Managing Director, Dr. Evans Kidero, currently the Governor for Nairobi, and Mr. Peter Kibati, who individually and jointly plundered the company as contained in the KPMG audit report on the company.

The Deputy Speaker (Sen. Kembi-Gitura): The Chairman and Vice Chairman of the Legal Affairs and Human Rights are not here. Who is in this Committee?

Sen. Adan: Thank you, Mr. Deputy Speaker, Sir. On behalf of the Committee and the Chairperson of the Committee on Legal Affairs and Human Rights, I would request Sen. (Dr.) Khalwale to give us two weeks to give him a comprehensive report on the same.

The Deputy Speaker (Sen. Kembi-Gitura): Two weeks, it is.

Sen. Khaniri: Mr. Deputy Speaker, Sir, I have three requests for Statements.

STATUS OF SUSPENDED RECRUITMENT
OF POLICE OFFICERS

I wish to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations, regarding the management of the National Police Service (NPS). In the Statement, the Chairman should explain the status of the police recruitment exercise undertaken in 2014 and the fate of the recruits, since they have not yet reported for the training.

Secondly, the structure and command of police officers who serve in the Very Important Persons (VIP) protection; our body guards.

Sen. Haji: Mr. Deputy Speaker, Sir, the question of the recruited and suspended appointment of police officers is *sub judice*. Is it really in order for me to answer?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, you must give a Statement. Tell me when you will give the Statement. If it means saying it is *sub judice* at that point, then you will say so when that time comes, because the request has two prongs, anyway.

Sen. Haji: Mr. Deputy Speaker, Sir, fine. In two weeks' time.

The Deputy Speaker (Sen. Kembi-Gitura): I oblige, two weeks.

OPERATIONALIZATION OF THE PROTECTION,
PREVENTION AND ASSISTANCE OF IDPs AND
AFFECTED COMMUNITIES ACT, 2012

Sen. Khaniri: Mr. Deputy Speaker, Sir, pursuant to the provisions of the Standing Order No. 45(2)(b), I wish to seek a Statement from the Chairperson of the Sessional Committee on Devolved Government, regarding internally displaced persons (IDPs). In the Statement, the Chairperson should:-

1. provide a comprehensive and up to date data of the IDPs in the country generally, and in Vihiga County in particular,
2. explain the Government's efforts towards operationalisation of The Protection, Prevention and Assistance of IDPs and Affected Communities Act 2012,
3. state what the Government is doing to address the plight of integrated IDPs who are victims of Post-Election Violence (PEV) since 1992 to 2007 and who form the bulk of IDPs in Western region.

Sen. Murkomen: Mr. Deputy Speaker, Sir, another two weeks. That makes it four.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, two weeks?

Sen. Obure: Mr. Deputy Speaker, Sir, in line with what the Senator has raised, I wish the Statement could include the plight of integrated IDPs from Kisii and Nyamira counties.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, they want you to include Kisii and Nyamira counties.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I think it is better to put it as just IDPs in the country.

The Deputy Speaker (Sen. Kembi-Gitura): I think so. That is what I was going to propose to you, because I can see Sen. Prof. Lesan trying to rise behind you.

Sen. Murkomen: Mr. Deputy Speaker, Sir, so that it can become meaty, perhaps we can give the Cabinet Secretary (CS) four weeks for them to do a comprehensive report for everything.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri, with your consent, because you are the one who has sought this Statement and considering what Sen. Obure and the Chairman of that Committee have said, I think you should extend your generosity to everybody so that it is looked at from a national point of view instead of looking at county per county.

Sen. Khaniri: Mr. Deputy Speaker, Sir, I oblige. However, if you listen to the Statement, No. 1, I said provide a comprehensive and up to date data on the IDPs in the country generally, and Vihiga County in particular.

Third, I requested him to state what the Government is doing to address the plight of integrated IDPs who are victims of PEV since 1992 to 2007 and who form the bulk of IDPs in the Western region, which includes Kisii and Nyamira.

The Deputy Speaker (Sen. Kembi-Gitura): It is true, I heard you, Senator. I can see Sen. Prof. Lesan rising and others wanting to rise, let us be global since it is a national issue.

Sen. Murkomen, you are going to oblige on that. Four weeks. I know you had said two weeks but he has requested for four weeks now.

Sen. Khaniri: I oblige but sometimes when you make these things too general, it loses the meaning and sense of urgency. As he does a general statement, let him also concentrate on the issues I raised about Vihiga County because I had a reason to raise them.

Sen. (Eng.) Muriuki: On a point of order, Mr. Deputy Speaker, Sir. I wish to add on Sen. Khaniri's request so that when we say data, what data are we talking about? The Government profiled all the Internally Displaced Persons (IDPs) in 2008, which means they have their names. You recall I had asked a question like that about Nyandarua County and until today, I do not have an answer. Now that there is a question, let us get an answer which has names.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, you have heard and also the HANSARD has that information.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. If I heard what Sen. Khaniri said very well, over and above what he has asked for, there is the salient issue of equity; that certain regions which had IDPs like western region, they have since been settled. Could he also tell us, how much money in total has already been spent in settling IDPs from outside western region because each was getting Kshs400,000 but those from Western region were getting Kshs10,000 per household?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, is it on that point?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, just to ride on that and what the distinguished Senator for Nyandarua has said, I would wish the Chair, while dealing with data, to include where the IDPs were before they were displaced, where they moved to, any intervention by the Government, their current situation, where the intervention was done, how much money was given per household and whether such IDPs are staying in those *chandarua* camps? In western region, most IDPs who were flushed out from their homes are living with their relatives but they are still IDPs. So, we want data to be as wide, encompassing and as detailed as possible for us to make a rational and accurate assessment of the situation.

The Deputy Speaker (Sen. Kembi-Gitura): Senator, I am sure you need to follow the HANSARD so that you can give a comprehensive answer on those issues raised.

Sen. Murkomen: Mr. Deputy Speaker, Sir, if I heard clearly what the Minority Leader said, I am not speaking for the Cabinet Secretary but I will stick to the one month. The manner in which the question is coming and the details are required, it might extend the required time. I do not want to pre-empt what Sen. (Dr.) Khalwale said. Once the data for IDPs for the whole country is brought, the matter of equity is a question of interpretation. The issue is to bring data per county and from there, it is a question of interpretation about which county got what and why.

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ndiema, is it on the same?

Sen. Ndiema: Yes, Mr. Deputy Speaker, Sir. I would also like the Chairman to get information; and the question is: Is he aware that not all IDPs were profiled and what is the Government doing to profile those who were not profiled, especially the so-called integrated IDPs?

The Deputy Speaker (Sen. Kembi-Gitura): In one month's time, Sen. Murkomen would give us an answer on those issues.

Sen. Khaniri, do you still want to seek another Statement?

Sen. Khaniri: Mr. Deputy Speaker, Sir, I still have two more.

IMPLEMENTATION OF FEES GUIDELINES
ISSUED BY THE CS, MINISTRY OF EDUCATION

Pursuant to the provisions of Standing Order No.45(2)(b), I wish to seek a Statement from the Chairperson of the Standing Committee on Education regarding the education sector in Kenya. In the Statement, the Chairperson should provide the following information, which was also contained in the Statement sought by Sen. (Prof.) Lonyangapuo, so whichever answer comes---

- (i) state whether he is aware that some county governments are planning to rank students and schools in their respective counties yet according to the Fourth Schedule of the Constitution, education policies, standards, circular, examinations and educational institutions are functions of the national Government;
- (ii) provide information on the implementation of the fee guidelines announced by the Cabinet Secretary in charge of education and the consequences of the school heads who choose to ignore the directive;
- (iii) state the Government's position on the recruitment of Early Childhood Development (ECD) teachers countrywide; and,
- (iv) state the policy of the Ministry of Education on school facilities requirements in view of some reports that some private schools are operating from rental houses and without proper recreation facilities, ablution blocks and with untrained teachers.

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

Sen. Karaba: Mr. Deputy Speaker, Sir, I have heard what Sen. Khaniri has requested and alongside the other one. The answer will be ready in two weeks' time. It is a concern for everybody.

The Deputy Speaker (Sen. Kembi-Gitura): Two weeks, Sen. Khaniri.

Sen. Khaniri: Obligated.

The Deputy Speaker (Sen. Kembi-Gitura): You can now seek your last Statement.

STATUS OF STRATEGIC GRAIN RESERVES

Sen. Khaniri: Mr. Deputy Speaker, Sir, I rise to seek my last Statement.

Pursuant to the provisions of Standing Order No.45(2)(b), I wish to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Livestock

and Fisheries regarding the status of the National Cereals Produce Board (NCPB), maintenance of strategic grain reserves, stabilization of maize prices, storage and release of maize to the market. In the Statement, the Chairperson should;

(i) state which level of government currently manages NCPB;

(ii) explain the current Government policy on the purchase of maize from farmers and distribution for storage in various depots considering that most of them have remained empty over a long period of time.

The Deputy Speaker (Sen. Kembi-Gitura): Chairperson.

Sen. Ndiema: Mr. Deputy Speaker, Sir, I ask for two weeks.

Sen. Ong'era: Mr. Deputy Speaker, Sir, further to the question that Sen. Khaniri has asked, could the Chairperson of this Committee state when the farmers in the North Rift will be paid by the NCPB for their maize which has been pending for the last three months?

The Deputy Speaker (Sen. Kembi-Gitura): Chairman, you have heard that and I believe you are going to include it.

Sen. Fatuma Dullo, you had a Statement you were seeking but I cannot see your request for the Floor.

MILEAGE ALLOWANCE FOR NOMINATED MEMBERS OF COUNTY ASSEMBLIES

Sen. Adan: Mr. Deputy Speaker, Sir, I rise to seek a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on mileage allowance for Nominated Members of County Assemblies (MCAs). In the Statement, the Chairperson should:-

(1) explain why the Salaries and Remuneration Commission (SRC) has failed to authorize payment of mileage allowance to Nominated MCAs despite the fact that these Members regularly travel to their wards on official duties;

(2) give an indication when the SRC will authorize this payment.

Thank you Mr. Deputy Speaker, Sir.

(Applause)

Sen. Billow: Mr. Deputy Speaker, Sir, on Thursday 26th November, 2014, the Senator for Narok County, Sen. Ntutu---

The Deputy Speaker (Sen. Kembi-Gitura): No, no, no. I was talking about the question by Sen. Adan directed to the Standing Committee on Finance, Commerce and Budget. I know that is your Committee.

(Laughter)

Sen. Billow: Mr. Deputy Speaker, Sir, could you kindly repeat, please? I seek your indulgence; repeat the question for me, please.

The Deputy Speaker (Sen. Kembi-Gitura): Can you please address the Chairperson? What seems to be the problem?

The question requires you to explain why the SRC has failed to authorize payment of mileage allowance to Nominated MCAs despite the fact that they regularly travel to their wards on official duties; and, (b) give an indication when the SRC will authorize the payments.

Sen. Billow: Mr. Deputy Speaker, Sir, my Committee will meet with the SRC next week on this and other issues, including the whole policy on salaries and remuneration for county governments. We will give a response next week but one.

The Deputy Speaker (Sen. Kembi-Gitura): Are you asking for two weeks?

Sen. Billow: Yes, two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Adan. Is that fine?

Sen. Adan: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): That is the end of Members seeking statements. There were one or two statements to be issued. Sen. Moi, you had a statement to issue.

STATUS OF THE LAKE TURKANA WIND POWER PROJECT

Sen. Moi: There was a request for a statement on the status of Lake Turkana Wind Power project by the Senator for Marsabit County, Sen. Hargura, particularly on:-

(1) the explanation as to why the World Bank declined to provide partial risk guarantee for the project.

(2) availing the power purchasing agreement documents between Lake Turkana Wind Power Limited and the Government of Kenya; and,

(3) availing the letter of comfort issued by the Government of Kenya to Lake Turkana Wind Power project.

The partial risk guarantee was to enable the Kenya Power (KP) to raise requested letters of credit to cover four months of electricity purchase from Lake Turkana Wind Firm in the event that KP was unable to settle monthly invoices as they fall due.

The reasons given by the World Bank for declining to support the project with the partial risk guarantees were:-

(1) The country's effected generation system capacity of 1,370MW was rather small to accommodate the proposed 300MW wind power generation from the Lake Turkana Wind Farm project. They argued that there would be curtailment, which means, that due to the low demands, some electricity generated from the wind firm cannot be absorbed. The condition for support of the project was that it be developed modularly in three phases of 100MW.

(2) Since KP must pay for the curtailed energy, its financial condition would be adversely affected. In addition, if the cost of power is passed to consumers through an increase in the tariffs, it will entail the public paying for unjustified power costs.

(3) To evacuate the power from Loyangalani, a transmission line was to be constructed within a period of 26 months. They argued that this period was inadequate and KP would pay for power that would not be utilized.

(4) The KP lacks experience in managing a large wind power installation into its system and the project would cause system instability.

Here, I have got the document for the Power Purchase Agreement (PPA) as requested, for 300MW, and the letter for support for the Lake Turkana Wind Power 300MW farm.

(Sen. Moi laid the document on the Table)

Sen. Hargura: Mr. Deputy Speaker, Sir, I have got the Statements and the first one is on the partial risk guarantee. It was very clear, from the way the World Bank (WB) has stated, that they did not want to guarantee an intermittent power source which is dependent on a natural resource which you cannot control like wind which if it stops anytime, then you do not have power, or when it increases, then you have a lot of power. That is why they wanted power supply to be developed in stages of 100MW. Why did they pull out yet it has been clearly stated? I think it is still a valid concern even now. By then, the power supply for Kenya was 1,370MW. At any one time, an intermittent power source should not be more than 20 to 25 per cent. I think the risk is still valid. The objection by the WB is still valid and needs to be looked at. We need to have a clear desegregation of the Kenya Power source so that we know whether the power sources we are developing like wind because we have a new one at Kapedo of about 100MW; we have the troubled Kinangop---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Hargura! This is statement time and you have got a copy of the Statement. You are supposed to be seeking a clarification, if any, and not making a further statement.

Sen. Hargura: I am still going through the other two documents; the power purchase agreement and letter of support. But on one which was answered – the WB – my clarification is; why did the Government not take that advice? The WB is a major institution; it knows the setup of power and it has recommended that it is not good for the Kenyan system to set up an intermittent 300MW power supply like wind at the same time. Why is it that the Government did not take that advice and instead went ahead to get a partial risk guarantee from another organization?

The Deputy Speaker (Sen. Kembi-Gitura): Okay. Sen. (Prof.) Anyang'-Nyong'o, did you want to intervene on that point?

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I also needed clarification from Sen. Moi on the argument that wind power is intermittent. If wind power is intermittent, then it should be everywhere, including in The Netherlands, which is using it in a very big way. How come that the Kenyan wind power is particularly intermittent so that it does not become economical to invest in?

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I did not quite get clearly what the Chairperson of the Committee was saying because he was speaking very softly. This is a very important question that we need to interrogate. I have

asked the clerks to give me the answer that he was reading but they cannot avail it. Can you help us? He may probably be required to re-read the Statement louder for us to hear because he was extremely soft. I tried to strain my ears but I could not hear anything.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Wetangula! You should have complained at that point. I have no way of knowing that it was soft.

The Senate Minority Leader (Sen. Wetangula): Even Sen. Ong'era here did not hear anything!

The Deputy Speaker (Sen. Kembi-Gitura): Order! If Sen. Hargura heard it and he is right at the back there behind you and everybody else seems to have heard it, that is not an issue that I am going to entertain now.

The Senate Minority Leader (Sen. Wetangula): Then let me ask him something.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, ask for clarification.

The Senate Minority Leader (Sen. Wetangula): Can the Chairperson tell this House if he is aware of the evolving East African power pool that will be connected to the Southern African power pool and, therefore, the misleading advice from the WB that we should not have excess power is misplaced because we are going to have a forward and backward flow from each of the East African countries depending on the need of each country? This will be to the extent that any excess power beyond the needs of our economy in Kenya can be transmitted to Uganda up to Zimbabwe, to countries that may need extra power. Will the Government that you represent agree to this misleading advice from the World Bank, the advice that has sent many economies astray, the world over?

Sen. (Prof.) Lesan: Thank you, Mr. Deputy Speaker, Sir. I also want to seek some clarification. The Chair said that there would be 200 megawatts of power which the system will not be able to consume because of lack of transmission. Could it be possible that simultaneous development of transmission and generation of power is done so that it is not a reason for cancelling this project? What is the impact of the cancellation of this project on the investor confidence for those investors who are interested in investing in power generation in this country?

Sen. Billow: Mr. Deputy Speaker, Sir, I will appreciate if the Chair could clarify the Ministry's policy generally, regarding partial or full guarantees for this kind of power generation, whether it is wind farms or independent power producers. What is the policy? Does this particular partial risk guarantee fall within that official Government policy? This is important because of the many risks that we have seen already in one of the counties.

Sen.(Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, could the Chairman also inform this House that yesterday in the television and radio, we saw that there was a big problem in Nyandarua County relating to the wind Power—

The Deputy Speaker (Sen. Kembi- Gitura): Order! Sen. (Prof.) Lonyangapuo. That is a completely different thing. I know the line you are taking and that is a very different issue and it has nothing to do with the clarification of the Statement issued by Sen. Moi. Sen. Moi, would you like to make those clarifications briefly?

Sen. Moi: Thank you, Mr. Deputy Speaker, Sir. The Senator for Nyandarua is right here, and I am sure that he can get the clarification from my colleague.

There are many clarifications sought but I will try to deal with them as they came. On the issue of risk, the Senator for Marsabit was asking what has happened to that. The African Development Bank (ADB) took over what the World Bank was reluctant to do and they consulted the experts and came to the conclusion that yes it can be done. One of the issues which came up is that doing 300 megawatts at one go. They came to the conclusion that they will do it in phases. The first phase will be in 50 megawatts until they get to the 300 megawatts. That addressed some of their concern and those concerns which relate to consumption which you had raised.

On the issue of what the Leader of Minority has asked, the Government will not take the World Bank position. We will take the position that there is enough consumption, especially if we act as an integrated unit between the East African Community (EAC) and the Community Economic Development Assistance Corporation CEDAC countries because if you have excess power, we will sell it outside our country. When we have demand in our country, we will import power. We will take full advantage of the pool.

Regarding the issue which Sen. (Prof.) Lesan raised, if this was to be cancelled, it would be an enormous blow to investor confidence in Kenya. That is why we have the partial risk guarantee. It is basically the Government guaranteeing on issues, for example, politics which may come in. As you know whenever we have investors and this kind of magnitude of monies, politics just gets involved and sometimes it can derail the process. The Government will address those issues. Let me just tell my colleagues that the Government is inviting investors because they do not have the monies in order to invest in such projects—

(Loud Consultations)

Mr. Deputy Speaker, Sir, please, could you ask Sen. Wako to refrain from consulting across to Sen. Musila loudly? I think this will help the County of Busia. That is what I have to say on the issue of policy, The Government is committed to the Partial Risk Policy to attract investors so that Kenya can get electricity that it needs in order to further the economic outlook.

The Deputy Speaker (Sen. Kembi- Gitura): Thank you, Sen. Moi. What is it, Sen. Khaniri?

Sen. Khaniri: Mr. Deputy Speaker, Sir, on behalf of my Committee, the Committee on Lands and Natural Resources, I have a Statement that was sought by the Senator for Murang'a, Sen. Kembi-Gitura, and with your permission, I can deliver the Statement.

The Deputy Speaker (Sen. Kembi- Gitura): Thank you, Sen. Khaniri. I have a copy of that Statement as Senator for Murang'a County but I cannot interrogate it from here. So, may I request that you issue that Statement on Tuesday next week?

Sen. Khaniri: Mr. Deputy Speaker, Sir, I oblige.

The Deputy Speaker (Sen. Kembi- Gitura): Thank you. I appreciate. Sen. (Prof.) Anyang' Nyong'o, you have a point of order.

Sen. (Prof) Anyang'- Nyong'o: On a point of order, Mr. Deputy Speaker, Sir. You realize that Sen. Moi did not answer my question. Notwithstanding that, can you also tell us how much reduction in the cost of power—

The Deputy Speaker (Sen. Kembi- Gitura): Sen. (Prof) Anyang'- Nyong'o, we have moved on, we are not there now. That Statement is finished; Sen. Khaniri rose to issue a different Statement.

Sen. (Prof) Anyang' Nyong'o: I know that but I had my *ginene*.

The Deputy Speaker (Sen. Kembi- Gitura): Sorry, I did not quite get what you said?

Sen. (Prof) Anyang'- Nyong'o: I had my indicator on but you did not see me.

The Deputy Speaker (Sen. Kembi- Gitura): It was not on, it just came on when I called you. It is too late.

Sen. Mositet, is it a point of order?

Sen. Mositet: On a point of order, Mr. Deputy Speaker, Sir. I had indicated that I also wanted to talk about that issue.

The Deputy Speaker (Sen. Kembi- Gitura): Like I have said, it is too late; we have moved on. We are on a different Statement now.

Sen. Khaniri: Mr. Deputy Speaker, Sir, I am sure you did not hear this but to the best of my knowledge, there are only three languages that are allowed in this Chamber, that is, English, Swahili and the Kenyan Sign Language. Did you hear my good professor, my neighbor, Senator for Kisumu say that I have my *ginene* on? What is *ginene*?

Can he clarify what *ginene* is?

The Deputy Speaker (Sen. Kembi- Gitura): Sen. (Prof) Anyang'- Nyong'o did you say those words?

Sen. (Prof) Anyang'- Nyong'o: I apologise, that is a Latin word and it means something.

The Deputy Speaker (Sen. Kembi- Gitura): I think that is disadvantageous to Sen. Khaniri because he does not speak Latin. I do not understand Latin neither do I understand that other language, so I may not have that advantage.

There is something that I would like to put Members at ease about, and the Senate Minority Leader has raised that issue with me. You know that during last week's *Kamukunji*, we agreed that Statements will not be issued or sought on Wednesdays. But I brought it to the attention of the Senate Minority Leader who made those proposals and we have to get a communication from the Rules and Business Committee on their decision. Without that communication, then we do not know what the RBC decided about it. That is why it is 3.30 p.m. and we are still on Statements, which pursuant to the *Kamukunji* should not be the case today. But as long as we do not have the communication, we are going to get the Statements.

MANAGEMENT CRISIS, ALARMING DECLINING ACADEMIC PERFORMANCE
AND RAMPANT THEFT OF SCHOOL PROPERTY
AT GARBATULA HIGH SCHOOL, ISIOLO COUNTY

Sen. Adan: Mr. Deputy Speaker, Sir, I sought a Statement two weeks ago from the Chairperson of the Standing Committee on Education about Garbatula High School. Up to now, I have not gotten a response.

Sen. Karaba: Mr. Deputy Speaker, Sir, we have to wait until we receive the Statement from the relevant offices. As soon as I get that Statement, I will deliver it.

The Deputy Speaker (Sen. Kembi-Gitura): Actually, that Statement is due tomorrow and not today. My schedule shows that it is supposed to be issued tomorrow, 26th February.

Sen. Dullo, you are one day ahead of time. Be patient until tomorrow.

Sen. Adan: Mr. Deputy Speaker, Sir, he is requesting for more time.

The Deputy Speaker (Sen. Kembi-Gitura): You have risen too early. Your Statement is not due to be mentioned until tomorrow.

Sen. Adan: I am kindly requesting if it can be issued tomorrow.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Dullo, I have made my position very clear. Your matter will be mentioned tomorrow.

ENROLMENT OF PUPILS TO FORM ONE AND
RELEASE OF FPE FUNDS

Sen. Wangari: Mr. Deputy Speaker, Sir, I asked for a Statement on 11th February, 2015 from the Chairperson of the Standing Committee on Education regarding the criteria that was used in the selection of the students who were joining secondary schools and the implementation of the Kilemi Mwiria Report. It was due today.

The Deputy Speaker (Sen. Kembi-Gitura): Yes, yours is due today.

Mr. Karaba: Mr. Deputy Speaker, Sir, I have not gotten the Statement. I promise that as soon as I get it, I will lay it on the Table.

The Deputy Speaker (Sen. Kembi-Gitura): When do you hope to give it?

Sen. Karaba: Mr. Deputy Speaker, Sir, we rely on information that we get from the Cabinet Secretary. They have to give us the Statements themselves. So, it will depend on when they will give it to us. But I have already been to their offices and---

The Deputy Speaker (Sen. Kembi-Gitura): We cannot leave it open-ended and that is why you were supposed to give it today. When do you logically hope you will be able to give it?

Sen. Karaba: When I get it, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, if we do our business like that, then we will be wasting everybody else's time. You cannot tell me that you will give it when you get it. That is not going to be acceptable to me. Why had you said that you would give it on 25th? Why had you given a date before?

Sen. Karaba: If I had gotten it earlier, I would have given it. But I have not received it.

The Deputy Speaker (Sen. Kembi-Gitura): So, you want Sen. Wangari to wait until you get the answer?

Sen. Karaba: Logically that is how it should be.

The Deputy Speaker (Sen. Kembi-Gitura): Can you give us an indication of when you are going to give the Statement?

Sen. Karaba: Next week, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What date?

Sen. Karaba: On Wednesday next week. I will make sure that I visit those offices.

The Deputy Speaker (Sen. Kembi-Gitura): That is fine but I would like to tell you that it is important that you show respect to the House. You cannot say that you will issue a Statement when you get it. As the Chairperson of the Committee, you take full responsibility. That is not acceptable.

Sen. Karaba: I apologize, Mr. Deputy Speaker, Sir.

FINANCIAL MANAGEMENT AND IRREGULARITIES IN
PROCUREMENT BY NAROK COUNTY GOVERNMENT

Sen. Billow: Mr. Deputy Speaker, Sir, I want to read a brief Statement from our Committee.

On Wednesday, 26th November, 2014, the Senator for Narok, Sen. Ntutu, tabled a Petition to the Senate which had been signed by Mr. Joseph Tipanko ole Karia, a citizen of Kenya and resident of Narok County. The matter was referred to the Standing Committee on Finance, Commerce and Budget.

Following your directions, the Committee has so far held a total of 12 sittings, in which all the parties under the Petition were invited to respond, including the petitioner, sponsor of the Petition, Auditor-General, Controller of Budget, management of the Kenya Airports Parking Services (KAPS) that manages the park, management of Mara Conservancy Limited and the Narok County Government. In addition, the Committee held a retreat last weekend in which Members deliberated and approved the evidence obtained from those parties.

The Committee is in the process of writing its interim report which will be hopefully submitted to the House at the end of next week. We have also directed the Auditor General to conduct a special audit on matters related to the revenue collection and remittance and on the integrity and security of KAPS revenue collection system and report within 45 days. It is in this regard that we seek the indulgence of the House to allow us more time to conclude this Petition and report to the House.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, last week, I requested for a Statement from the Chairperson of the Committee on Education on the University of Eldoret.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Khalwale! You are moving too fast. Sen. Billow has given a Statement and I thought that you were rising on that point.

Sen. Ntutu: Mr. Deputy Speaker, Sir, I am very pleased to hear the report from the Chairperson of the Committee on Finance, Commerce and Budget. I only plead with the Committee to come with nothing but the truth.

The Deputy Speaker (Sen. Kembi-Gitura): That concludes Statements.

Sen. Karaba, are you seeking the Floor?

Sen. Karaba: Mr. Deputy Speaker, Sir, I want to raise an issue concerning the communication equipment in this Chamber. At times, we do not know whether we are communicating with you. How can we know whether we are really communicating? There are times when I make a request here and there is no response for even two hours.

The Deputy Speaker (Sen. Kembi-Gitura): I have just asked you whether you are requesting the Floor.

Sen. Karaba: I was requesting so that we could get an answer from you.

The Deputy Speaker (Sen. Kembi-Gitura): On whether we communicate? We actually communicate quite well, in the sense that I go by the requests that are on the screen. There are two sets of requests on the screen at all times. The first one is written “requests”, that is, if you want to debate. If there is a Motion and you want to be considered to speak, as it were, to catch the Speaker’s eye.

Then we have number two, which is, “interventions,” if you want to raise a point of order or intervene in any other way with the Speaker other than debate. I do not know whether we understand each other. That is the only way you and I can communicate from here, because if you stand in your place, I do not know what you want. I can only go by what is on the screen. I do not know what your issue is. Have you not been seen or what is your problem?

I will not hear you, Sen. Karaba, unless you are on the screen.

Sen. Karaba: Mr. Deputy Speaker, Sir, that is what I am struggling with on this machine. I am wondering whether it is functioning---

The Deputy Speaker (Sen. Kembi-Gitura): You heard me, Sen. Karaba. I do not want to altercation with you. You heard me say yesterday that if your machine is not working, that is administrative. You can either move from there to another place or ask the Secretariat whether your card works, but I have no control over your machine. My only way to communicate with you is on the screen. If your machine is not working, that is totally administrative. It has nothing to do with the Speaker.

PREVAILING CHAOS AT THE UNIVERSITY OF ELDORET

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I am intervening to remind the Speaker that we were promised to be given a Statement yesterday that I had requested for, from the Chairman of the Committee on Education on the issue of the riots at the University of Eldoret.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, are you communicating on what Sen. (Dr.) Khalwale has said?

Sen. Karaba: Mr. Deputy Speaker, Sir, we are working very hard on this one and we will be visiting the university by tomorrow. We have even discussed with the Senator

in charge of that county. I am sure that by Wednesday next week, we will issue a Statement.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir. I do not know if this Chairman is serious and we have previously praised him for being hard working. How can he possibly tell this House that he is working with the Senator for Uasin Gishu on this matter, when he is the one who led hooligans to raid the university and flash out the woman, Vice-Chancellor? How can he then work with him on the matter? The Speaker himself directed him that because of the volatility of the matter, the urgency thereof and the fact that the Senator has continuously incited youths, goons and hooligans to raid the university, the Statement was to be here yesterday. However, because of the nature of the business of the day, the Statement was not given. Honestly, how dare he tell us that he is going to work with the culprit to go and bring us a Statement?

Sen. Billow: Mr. Deputy Speaker, Sir, I think that this matter is of national importance. On the day the Statement was asked, somebody died after that. One student was killed in the same university. I think that it is important that the Chairperson of the Committee takes this matter with all the seriousness it deserves, and brings an answer to this House as soon as possible.

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir. I would also like to add my voice that this is a very serious matter, considering that the life of a woman who happens to be a distinguished professor is at stake. We do not know whether any hooligan will just ride to her house and throw her out or kill her. We do not want this matter to be taken lightly because we have one of our distinguished persons, as women, who should not be evicted like that. Her life is at stake and I do not think that this is a matter that should be taken lightly, because we never know what might happen.

Sen. Lesuuda: Thank you, Mr. Deputy Speaker, Sir. I also want to add my voice bearing in mind that the university was also closed indefinitely. It is nothing personal; not a Jubilee or CORD issue. It is an issue of national importance, for the sake of the students. Although the student who was raped and killed was not from Chepkoilel Campus, but Moi University, I would like to add that criminals can take advantage of this situation. I think that it is something that the Chairperson of the Committee on Education has to take seriously.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, you have heard what your colleagues have said on this issue.

Please, proceed, Sen. Kagwe.

Sen. Kagwe: Thank you, Mr. Deputy Speaker, Sir. I also want to add my voice but in doing so, I am also worried and concerned about some of the accusations that were made by Sen. Wetangula, against a Senator in this House. I think that in accordance with the Standing Orders, the Senator should be given a chance, if he is here, to respond to the issues raised by Sen. Wetangula.

Sen. Haji: Thank you, Mr. Deputy Speaker, Sir. In the same line, is it in order for the Senate Minority Leader, to discuss the character of the Senator without making a substantive request? The allegations are very serious.

Sen. Sang: On a point of order, Mr. Deputy Speaker, Sir. While I agree that it is important to receive the Statement early enough because I think that this is an important issue, it is also important to note that in finding a solution to the crisis, the Committee has to listen to both sides. For the Senate Minority Leader to vilify the Senator for Uasin Gishu and even try to intimidate the Chairman of the Committee on Education--- The Committee sat and agreed that they will listen to both sides. Why can we not wait until we have that information?

Regarding the allegations being made about hooligans raiding the university, we expect to get that from the Chairman. Where is the Senate Minority Leader getting some of this information? But also, when issues of accountability are raised about public servants, it is important that we do not tribalise those issues. Why should public servants who are being asked to account run back to their tribal cocoons and get some kind of support and cushion from their communities? We must be able to get this response and an answer to this issue. We cannot succeed by tribalising this issue.

(Loud Consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sang is on a point of order. Let him finish and I will give everybody a chance to have their say.

Sen. Sang: Thank you, Mr. Deputy Speaker, Sir. Please calm down, Sen. (Dr.) Khalwale. We must give the Committee time to investigate and give us an answer. We can discuss whether they are slow or not, but let us wait for the answer, then we will be able to discuss at that point.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, I am allowing you because I know that you have no card.

Please come to the front.

(Sen. Wako walked to the Dispatch Box)

Sen. Wako: On a point of order, Mr. Deputy Speaker, Sir. Whereas Sen. Sang is right in saying that we should not tribalise issues, is he in order to say so, when the first person who raised the issue of tribalism on this matter was none other than that person who organized demonstrations against the Vice-Chancellor of the University?

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

Sen. Melly, I can see that you have sought the Floor, but I will allow you to speak towards the end of this process.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I know that you know the Standing Orders very well. You listened to me and at no time did I discuss the person, personal conduct or character of any Senator. I did say – and it is common knowledge – that we saw the distinguished Senator – if he is distinguished at all – on television and in the newspapers being wheeled to hospital and confronting the administration of the university at the gates---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I am not going to stop you from contributing or from giving me a point of order. But because the HANSARD is there, you used words – if I heard you right – to the effect that “he led goons and hooligans.” Those are the words---

The Senate Minority Leader (Sen. Wetangula): They were mentioned to that effect, Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kembi-Gitura): Can you allow me to finish, please? If I heard you correctly, you said that “Sen. Melly led goons and hooligans” and you also talked about whether or not he is distinguished at all. Because I do not want to protract this debate too much, I would just like to refer you to the Standing Orders, more specifically to Standing Order No.90(4). I am reading it so that we can reduce these points of orders so that we can proceed to other businesses of the House. I am referring you to Standing Order No.90(4), which says:-

“No Senator shall impute improper motive to any other Senator or to a Member of the National Assembly except upon a specific substantive Motion of which at least three days’ notice has been given, calling in question the conduct of that Senator or Member of the Assembly.”

I think it is important because when you say a Senator led goons and hooligans to do an illegal act, then you will be imputing an improper motive as pertains to the putting in question the conduct of that Senator. So, I want you, even as you give your point of order, to work within those parameters, having that Standing Order in mind.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir. I was fully aware of these provisions. In fact, when your Office granted permission to Sen. (Dr.) Khalwale, the distinguished Senator for Kakamega, to ask the question or to seek the Statement, it was predicated on events involving the Senator; he said so on the Floor and the Speaker had no issue with it.

Mr. Deputy Speaker, Sir, I took exception and the House appeared to approve this; that it is improper for the Chairperson of the Committee--- This is not a case of hearing both sides because nobody is on trial. A criminal act has been committed---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I said that I do not want to protract this issue.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, let me just finish----

The Deputy Speaker (Sen. Kembi-Gitura): No, no, no; I am talking now. I do not want to protract this issue. But the point I am making – and this is important – is that I have no issue at all about Sen. (Dr.) Khalwale’s question, which must be answered by the Chairperson of the Committee. Whether he is going to do it today, tomorrow or another day, he will have to issue that Statement because it has been sought and it is the property of the House. Who Sen. Karaba – as the Chairperson of the Committee – is going to interact with, interrogate or to hear out is not an issue before this House at the moment. The point I am making – and this is important – is that he can talk to anybody, but give us an answer, which will then be the property of the House, which you will then interrogate.

(Sen. Wetangula consulted loudly)

Sen. Wetangula, you should wait for me to finish speaking, after which you can go to the podium and talk. But when I am talking, you are not going to talk because it will be unprocedural.

The only issue I have with you at the moment is referring to your colleague as a goon and a hooligan; and that he led goons and hooligans to attain a certain end. Everything else notwithstanding, that is the issue I have with you; that you have referred to your colleague as leading goons and hooligans to perpetrate an illegal act.

(Sen. Wetangula spoke off record)

Listen to me carefully; I am not here to defend anybody, any institution or any issue like that. But if you are going to impute improper motives, as it were, which could be based on facts – because I do not know; what you are saying could be very factual – but then that is what the Standing Orders contemplate and say you have to come by way of a Substantive Motion, place it here and then you can say everything you want to say because the Speaker will allow that Motion to come to the House. Only then can you now talk about goonism, hooliganism and everything you want to talk about. That will then be a debate for the House. But to rise in your place and call a Senator a goon and a hooligan; or that he led goons and hooligans, then that becomes the issue. That is the line you need to draw.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I draw the line. I never called the Senator a goon; I never called him a youth; I never called him a hooligan. So, we rest the case there.

Mr. Deputy Speaker, Sir, the issue is that the Chairperson of the Committee is not from outer space; he lives in this country and he knows the facts. It is unlikely that if an event happened in Korogocho, I was at the centre of it and an issue comes here and it goes to the Senator in charge of the Committee on National Security and Foreign Relations, that you will stand here and boldly tell this House that he has not gone to Korogocho to look at the matter or he has no Statement because he is waiting for me to accompany him there. That is against common sense. All I am saying is that the Government has many ways of getting information to this House, and that is why they go back to the Government. The Statement that was sought by Sen. (Dr.) Khalwale was not coming from the Senator---

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

The Senate Minority Leader (Sen. Wetangula): My point of order, Mr. Deputy Speaker, Sir, is that those who said that I imputed an improper motive on the Senator were out of order and I want you to rule as such. Two, I sought to know whether it was in order for the Chairperson of the Committee to, in fact, tell this House that he is going to be accompanied by a person who is the cause of the problem to go and solve the problem!

Sen. (Eng.) Muriuki: Thank you, Mr. Deputy Speaker, Sir. I wish to say something about this because what is happening is that a Senator asks a question or seeks a Statement from the Chairperson of a Committee, then in the process of the so-called “point of order,” we start debating the same issue; we start giving our own opinions and we start getting fully judgmental on what it should have been.

Mr. Deputy Speaker, Sir, I would like to urge the Chair to rule that this is, in itself, in order. If anything, we should wait for that Statement to come and then we interrogate it or, at least, seek clarifications after it has come. With that, allow me also to add that sometimes when you quote from the media – and each one of us is occasionally misquoted by the media – and then that is the basis on which you will say “someone did this or that”, I think that is not in order.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): The only question that is now outstanding, Sen. Karaba, is when you are going to issue this Statement.

(Several Senators stood up in their places)

Well, we still have Sen. Melly on a point of order. So, Sen. Karaba, I want an unequivocal statement on when you are going to issue the Statement.

(Sen. Karaba spoke off record)

Sen. Karaba: Mr. Deputy Speaker, Sir, I will do it on Wednesday after the Committee has visited the university from tomorrow.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I want to beg that in view of the urgency of the matter, if he could kindly bring the Statement on Tuesday. But, having said that, because the House is a House of records, I would like the Speaker to ask Sen. Sang to withdraw his Statement that Professor Akenga resorted to her tribal cocoon and sought my assistance.

Mr. Deputy Speaker, Sir, according to Standing Orders No. 81 through to 99, Rules of Debate; a Senator or a Member of the National Assembly is free to intervene in any matter within his community, constituency, county or outside. Therefore, when I intervened, I did so as a patriotic Kenyan.

Mr. Deputy Speaker, Sir, because I am very angry, allow me to say this; this is an attempt by the Senator to intimidate me by virtue of my tribe. We were in this House in the last Parliament when Ms. Nancy Barasa was challenged on the basis of Article 73 of the Constitution about leadership and integrity. We kept our cool as leaders from her community and she was hounded out of her office. Ordinarily, today Sen. Melly and the Member of Parliament (MP), hon. Keter, should be investigated under Article 73 of the Constitution so that they face the same consequences like Ms. Nancy Barasa. Integrity cannot just apply to Luhyas alone and leave out others who break the law with abandon, the way they are doing.

Mr. Deputy Speaker, Sir, I am very angry and I demand that the young Senator withdraws. The Luhya people are also people in this country.

(Applause)

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

Sen. Melly: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I am worried that if the distinguished Senator for Kakamega would behave that way, how would we behave as young Senators in this House? We do not want to go into fighting like what happened the other day, but I want to be very clear. The issues to do with the University of Eldoret are very clear, the Commission for Higher Education (CHE) has sat in Eldoret for the last three days and I was interviewed yesterday for over three hours. There were interviews between the University Senate and the CHE, the University Management and the Student Council. Tomorrow, the Committee on Education chaired by Sen. Karaba is going to Eldoret for further interrogations and meeting with the CHE.

Mr. Deputy Speaker, Sir, I have much to say but for now, I reserve my comments, I wish that we allow the investigations to be completed. Once the evidence is tabled, we can discuss issues and behave in a manner which we want to behave. But, I think that Sen. Wetangula should apologize for what he said because although I was not in this House, the words he used are very clear in the records. I am a duly elected Senator of a county, I am a leader and I am aware of the importance of unity of this country. But every other time, when there is an issue, people want to run to their tribes to hide.

Mr. Deputy Speaker, Sir, I think it is high time we also behave.

Hon. Senators: On a point of order, Mr. Deputy Speaker, Sir!

(Several Senators stood up in their places)

Sen. Melly: Mr. Deputy Speaker, Sir, I am still on a point of order. I am not yet through.

The Deputy Speaker (Sen. Kembi-Gitura): But he is on a point of order. Is he not?

Sen. Melly, you are on a point of order. You must realize that this is not a moment to make a Personal Statement. If you want to make a personal Statement---

(Sen. (Dr.) Khalwale consulted loudly)

Order, Sen. (Dr.) Khalwale!

If you want to make a Personal Statement, the Standing Orders allow you to do so but this is not the opportunity to make a Personal Statement. I allowed you to stand on a point of order.

Sen. Melly: Thank you, Mr. Deputy Speaker, Sir. I reserve my comments until the report is out.

The Deputy Speaker (Sen. Kembi-Gitura): There are a few more points of order and I appreciate in what direction they are meant to take.

Sen. Wetangula, you made a Statement and you have said that you will stand by it. Sen. (Dr.) Khalwale is very angry and he says he wants a withdrawal and apology

from Sen. Sang; Sen. Sang, what you said is on record; everybody's Statement is on record. I want to end this, I am going to look at the HANSARD and I am going to make a considered ruling on this issue on Tuesday next week. Should I find in my ruling that Sen. Wetangula has transgressed Standing Order No. 90(4), there will be consequences. I will request you to withdraw and apologize. Should I find that Sen. Sang has transgressed, I will ask him to withdraw and apologize.

An Hon. Senator: But he is!

The Deputy Speaker (Sen. Kembi-Gitura): You are not going to direct me on how I am going to do it! I have just told you how I am going to do it and that is the way I am going to do it.

(Applause)

That brings that issue to a close. Sen. Karaba, you have said you are going to give this Statement on Wednesday but when are you going to Eldoret?

(Sen. Karaba spoke off record)

You are going over the weekend. When will you be back? On Sunday? You are going to give that Statement on Tuesday. I want you to give a preliminary Statement on that issue on Tuesday. You should work overnight and very hard until you give that Statement so that this matter comes to a rest.

Sen. Orenge, do you insist on a point of order?

Sen. Orenge: On a point of order, Mr. Deputy Speaker, Sir. If you allow me, it is the practice in Parliament that then when there is a matter of this nature, the Government will normally be required to give a response within 24 hours because there is danger to life and limb. The circumstances obtaining in Eldoret that brought about the closure of the university definitely demonstrate that there is a danger to life and limb.

Mr. Deputy Speaker, Sir, we have had situations like Mandera, where because of external terrorism unattended for a long time, we have a situation we cannot resolve. Internal terrorism can also have consequences and I think this is an act of terrorism.

(Applause)

Mr. Deputy Speaker, Sir, it is not like this event happened this week; it has been days since it happened. There is no necessity of that Committee going to Eldoret. You and I belong to a Committee where in such circumstances we have summoned the people responsible to come here because, otherwise, what is the separation of powers? If the Senate is going to investigate and the police are investigating, the best thing is to call the people on the ground to come here and get the information, then we will be protecting life and limb. Otherwise, I have been in this House where a Member of Parliament stands up and says "my life is in danger" and people think it is a joke. The next day the man or the lady is dead.

I want to associate myself with the comments of the gracious lady, Sen. Lesuuda, that this is not a matter between political parties but it is a matter which concerns the lives, if not the life of a lady who is responsible for an important institution in this country. For that matter, this issue of giving us seven days to bring a Statement of this nature to this House, we will be like pathologists who are only interested in looking after the dead body instead of preserving life. I would plead with you that Sen. Karaba should come with the Statement - you say it is Tuesday because it is one day more. But he should not come back and say that he did not go to Eldoret because of logistical problems. Let that Statement be brought here as quickly as possible.

Mr. Deputy, Speaker, Sir, if you may allow me to add, if today I made a Statement that the people who killed - God rest his soul in peace - Hon. Muchai were goons, it follows because people who conduct themselves in such a manner cannot be anything other than goons.

(Applause)

Anybody who can invade a Government institution---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Orenge. I think you have made your point.

Sen. Orenge: Mr. Deputy Speaker, Sir, as a matter of fact, even if you found me; Orenge tomorrow invading an institution, I will obviously be a goon but I will never do that.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orenge, you have made your point. Sen. Mungai!

Sen. Mungai: On a point of order, Mr. Deputy Speaker, Sir. This is a matter that has made us quite uncomfortable. I have been to Eldoret and I know that Eldoret people are not goons. It is quite derogatory for anybody to call people of Eldoret goons. It is also very important that this particular House---

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! I think in the normal rules of debate, I think it is decent that if you expect to be heard, you should also hear other people. I think that is the lowest common denominator of debate. Having said that, Sen. Mungai, I did not hear anybody call the people of Eldoret goons. What I heard and which I said we shall rule on Tuesday is the issue of Sen. Melly leading goons and hooligans to commit an illegal act. That is the point of departure.

Sen. Mungai: I stand corrected, Mr. Deputy Speaker, Sir. Senators should remain united. The other day, we saw what happened to Sen. Ntutu and we were not happy. If Sen. Melly made a mistake or apparently was involved in something that was not pleasant, it is important that we give Sen. Karaba the chance that he has asked for and we be patient so that by Tuesday next week, we get the report.

The Deputy Speaker (Sen. Kembi-Gitura): This is going to bring a close to that debate and we are not going to reopen it again. If you want to know what I have said and directed, you can check the HANSARD. Sen. Karaba, on Tuesday next week, you give a Statement that has been sought by Sen. (Dr.) Khalwale and the other substantive issues of Standing Orders will be made on that day.

Next Order!

PAPER LAID

REPORT ON THE MEDIUM TERM BUDGET POLICY STATEMENT, 2015.

Sen. Billow: Mr. Deputy Speaker, Sir, today Wednesday 25th, I beg to lay the following Paper on the Table of the House:-

The Report of the Standing Committee on Finance, Commerce and Budget on the Medium Term Budget Policy Statement, 2015.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, if it is an issue to do with the University of Eldoret, I have ruled on that one and we have moved on. I am not going to reopen it.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, it has everything to do with Statements in the House and not the University of Eldoret.

The Deputy Speaker (Sen. Kembi-Gitura): Let me make it very clear that I am not going to reopen an issue that I have closed and moved on to the next Order.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir---

The Deputy Speaker (Sen. Kembi-Gitura): I have not allowed you to speak. I said that I am not reopening that issue.

The Senate Minority Leader (Sen. Wetangula): I will not be frivolous, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, I have made it clear that if it is to do with the University of Eldoret or the issue that we have been dealing with, I am not going to reopen it.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am reopening nothing. It is something different.

The Deputy Speaker (Sen. Kembi-Gitura): Let me hear you.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I believe I went to school well and I understand things fairly well. As a matter of procedure, when we request for Statements in this House, the Chairpersons of Committees bring the Statements from the Ministries of Government and all they do is forward the request to the Ministry and wait for an answer. If the answer comes and it is inadequate, we normally express our displeasure. This afternoon, Sen. Moi read a Statement on energy and here is a copy from the Ministry of Energy and Petroleum

signed by the Cabinet Secretary, a Mr. Chirchir. He did not go to the field to look for information.

What normally happens is that if the Chair finds the answer inadequate and he needs the House to be given more information, it is when the Speaker orders the Chair to go and investigate the matter. That is the point at which any Committee can go to the field. But when we have asked for a Statement here, I find it strange and preposterous that a Chair who has authority under the Constitution and the Standing Orders, who can simply through the Clerk's office forward to the Ministry of Education and tell them that the Senate requires information on this matter and that he has been given ten days to give the information. It is a waste of public funds and our time as the Senate. It is exceeding the ordinary jurisdiction of a Committee on Statements for the Chairman of a Committee to purport to visit the city simply because a Statement has been sought.

Ordinarily, this Statement would have been directed to Ministers if we had the old system. This is a question of procedure. It is only the inadequacy of the Statement that you in the Chair always say: "Now go and investigate and bring a better answer". Otherwise at this stage, the issue of going anywhere - since the word "Eldoret" does not have to be mentioned - by anybody should not arise.

The Deputy Speaker (Sen. Kembi-Gitura): I am sure that does not require an answer from me.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, it is directed at the Chair and not anybody else.

The Deputy Speaker (Sen. Kembi-Gitura): We have heard, but I do not think I can have a response to that except to say that I cannot possibly be seating where I am seated and tell Sen. Karaba or any other chairperson where to go or not to go. We expect an answer from him whether it is adequate or inadequate. I cannot direct a chairperson of any committee on how to go about their business except if they continuously give inadequate answers. That is the only thing I can say at the moment.

Next Order!

NOTICE OF MOTION

ADOPTION OF REPORT ON THE MEDIUM TERM BUDGET POLICY STATEMENT, 2015

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

THAT, this House adopts the Report of the Senate Standing Committee on Finance, Commerce and Budget on the Medium Term Budget Policy Statement, 2015, laid on the Table of the House today, Wednesday 25th, February 2015.

Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): Next order.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Deputy Speaker, Sir---

(Sen. Murkomen moved from his place and consulted loudly)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members! Sen. Murkomen, we are not going to conduct business when you are moving all over the place. Let us have some order.

MOTION

APPROVAL OF NOMINATION OF SENATORS TO SERVE IN VARIOUS COMMITTEES OF THE SENATE

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir. I beg to move the following Motion:-

THAT, pursuant to Standing Orders 177(1) and 178, the Senate approves the nomination of the following Senators to serve in select Committees as indicated below.

1. Sen. Moses Otieno Kajwang' to serve in Committee on:-
 - (a) Standing Committee on Agriculture Livestock and Fisheries;
 - (b) Standing Committee on Roads and Transportation; and
 - (c) Joint Committee on the National Cohesion and Equal Opportunity.
- (a) Sen. (Dr.) Agnes Zani to serve in the Standing Committee on Finance, Commerce and Budget.

Mr. Deputy Speaker, Sir, in relation to Sen. Moses Otieno Kajwang, this is to fill the void in the Committees left by the untimely departure of our distinguished late colleague, Gerald Otieno Kajwang the Senator for Homa Bay. These Committees had Membership from both sides of the House and Sen. M. Kajwang comes in to occupy the slots allocated to the Coalition for Reforms and Democracy (CORD).

In the case of Sen. (Dr.) Zani, it was a realisation that in the Committee on Finance, Commerce and Budget, the CORD Coalition had been under-represented by one Member and the Rules and Business Committee (RBC) directed that CORD be given an opportunity to nominate an additional Member, so that we can have the equitable balance of membership in the Committee. This is routine because Committees must be fully constituted to function.

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

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

I beg to Move and urge the House that we approve these nominations of Sen. M. Kajwang and Sen. (Dr.) Zani.

I invite Sen. Orengo to second the Motion.

Sen. Orengo: Madam Temporary Speaker, I wish to second this Motion. In many ways, it is a procedural Motion in the sense that we not only want our Committees properly constituted in terms of numbers, but also to ensure in the case of Sen. M.

Kajwang, that at least he belongs to one and in this instance, three Committees of this House.

Similarly, for Sen. (Dr.) Zani to serve in the standing Committee on Finance, Commerce and Budget.

Madam Temporary Speaker, this is, probably, not the time to speak to our new brother Sen. M. Kajwang. However, I want to put it on record that the people of Homa Bay County expressed their support by voting overwhelmingly for Sen. M. Kajwang. In fact, normally in by-elections, it is rare to find somebody winning with numbers beyond 100,000. I have participated in many by-elections. In fact, when I first came to this Parliament, it was through a by-election and I won by about 10,000 votes for the seat in the National Assembly. For a first timer in politics to win a seat by nearly 80 per cent of the vote, it is an expression of complete support for Sen. M. Kajwang. I can assure the House when he will first open his mouth in this Chamber, you will know that the late Sen. Kajwang is not dead as it were. M. Kajwang is an appropriate and proper replacement for his departed brother.

I can tell you on the ground in Homa Bay, the people weighed and listened in the debates that some of you may have seen on television. Although if it had happened now, it would have been impossible to see some of those debates because this Government does not want free media. M. Kajwang excelled himself. In those debates, he came out with flying colours. He is eloquent in all the languages that he speaks. I know some of my brothers who cannot even speak their mother tongue properly. There are people in this country who cannot speak any language eloquently, but M. Kajwang speaks many languages, including Kiswahili with the proficiency that you would expect from Sen. Hassan.

Madam Temporary Speaker, as for Sen. (Dr.) Zani, I think the industry of this particular Senator commends her to belong to the standing Committee on Finance, Commerce and Budget.

Without going on to say more, I wish to second this particular Motion and hope that Sen. M. Kajwang will enjoy himself in this House. This is the “Upper” House and not upper in terms of only constitutional ranking, but even by way of debates and conduct.

I support.

(Question proposed)

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. It pleases me this afternoon to support this Motion. Finally, what we all fought for 21 bruising days in Homa Bay County, mainly assisting M. Kajwang to become the Senator, has come to pass.

I have no doubt that the young Senator has the ability to serve in those three Committees. Before I make my comments on it, allow me to thank the people of Homa Bay on how they voted. More importantly, how they received us, especially in Kendu Bay and Rusinga Island, where some people had been set up to see if they could scare us. A young lady by the name of Betty, on the islands, came running with a white handkerchief and we realised that the whole place was “corded.” I thank them.

I noticed that Sen. M. Kajwang will sit on the joint Committee on National Cohesion and Equal Opportunity. Allow me to use this opportunity to guide the young Senator, that this is a very important Committee of this House. This is because without this Commission and equal access to opportunities in this country, you will never build the big family that you call Kenya.

It pains me to remember that in 2006, because of pronouncements by leaders in Nairobi, people started fighting in Marsabit and Moyale.

I remember the former President hon. Mwai Kibaki releasing an aircraft that was carrying five Members of Parliament plus a Member of the East African Legislative Assembly (EALA). They all perished because they were going to promote peace and national cohesion in that area.

Madam Temporary Speaker, some of you remember the great Dr. Bonaya Godana, who was the Member of Parliament for North Horr, a giant in the politics of this country. He died in this accident because he was fighting for one Kenya where we would only have one family called Kenya. I remember Dr. Guracha Galgalo who was my junior at the School of Medicine, former Member of Parliament for Moyale. He lost his life too. Also in the accident was hon. Mirugi Kariuki, Member of Parliament for Nakuru Town Constituency. He was one of the best MPs since the days of Mark Muithaga in Nakuru.

Leaders made pronouncements in Nairobi and people fought back home. Those leaders flew there and lost their lives; that is the reason we appeal to some of these Senators who do not have this history to know that the pronouncements they make in Nairobi can set some of the counties on fire. Like it or not, most of our counties are cosmopolitan and will remain so. There is no way you will wish Kikuyus, Luhyas and other tribes out of Eldoret, Uasin Gishu. Please, climb down from the ladder of hatred and accept to live with each other. Even us who come from Kakamega with beautiful institutions, we are proud to work with Prof. Koech as the Deputy Vice-Chancellor, Academics at the University of Masinde Muliro.

Madam Temporary Speaker, as we exit politics, we want to leave behind people who will give our children a united Kenya, but not to some little things called Kenya. I even do not know why we are struggling with the word “goon”. In English language, the word “goon” means a youth with intent to commit a crime after receiving a fee. Why would you put Sen. Wetangula to task about a goon when it is all very clear that those poor little children had been given some little money to do that? We are so humble and so patriotic that we cannot rise to the challenge because if we did so, we have the numbers to counter, but we shall never do it. Our strength will be in seeking peace in this country.

With those few remarks, I also want to congratulate Sen. (Dr.) Zani for coming in the Committee of Finance, Commerce and Budgeting. As Sen. (Dr.) Zani comes on board, we should get this Committee and that one of County Public Accounts and Investments Committee working. If these two committees do not work, then the Senate is not working. I am not saying that the other Committees are not working. The biggest item we are supposed to oversight in the counties is the issue of budget and its implementation.

Madam Temporary Speaker, speakers and clerks of county assemblies in the Republic of Kenya have met us in the Committee of Finance, Commerce and Budgeting

this morning, appealing to us to help them address the issue of ceilings in the budgets, to ensure that the governors give them enough money. All my colleagues here will agree that no single Speaker of any county assembly has ever approached a Senator and shared the budget with the intention of defending the budget. They are coming to us to defend that which we do not know.

I am in the process of moving this House to expand the strength of oversight in the counties, not by asking Senators to be given money to go and police governors. We would not have the time even if we are given billions of shillings. In my mind, I think we need a strong Senate oversight support unit that will have professional auditors, accountants and lawyers who will be looking at the daily movement of cash so that when there is any red alert, they quickly bring it to our attention.

Madam Temporary Speaker, for example, in the County of Bungoma, today, we will wait for the next one year to get the auditor's report about the purchase of 32 acres of land. The governor has spent Kshs163 million to buy 32 acres. By the time the County Public Accounts and Investment Committee comes to see the report, the governor would have already spent the money, destroyed evidence, left office or died, it will not happen. If we had a strong oversight support unit, it flags out this anomaly immediately; then we allow the Controller of Budget to freeze funds for that particular county. That is the only way we can strengthen devolution to make it work.

With those very many remarks, I congratulate the Members and support this Motion strongly.

Sen. Hassan: Madam Temporary Speaker, I rise to support this Motion principally because at the time when we welcomed Sen. M. Kajwang, I had not given a bit of a background. Sen. M. Kajwang is not a person who just found himself in the public space of leadership. I remember the young Sen. M. Kajwang as the Secretary General of the Moi University Student Organization, an organization which I also served as the Chairman. At that point, Sen. M. Kajwang led one of the most distinguished tenures of the students' leaders' organization. At that time, the students leaders were bent on compromise and never necessarily following the ideals that we had set. Most student leaders were compromised by state agencies, but Sen. M. Kajwang resisted that temptation. Today, he joins the ranks of some of the youngest elected Senators of this Senate. We welcome him for that reason.

Madam Temporary Speaker, he has been appointed to some of the most lauded Committees. In the Committee on Agriculture, Livestock and Fisheries, I want him to pursue all reasonable means to ensure that we can better the lives of our farmers, fishermen and all those involved in those sectors who are not well remunerated. Therefore, his job is well cut out and I know he is up to this job. The Standing Committee on Roads and Transportation is one of the most central committees of this Senate.

I want to tell the young Senator that when I joined the Senate, this was one of the Committees I tried very hard to join. This was basically based on issues of transportation to do with our ports authorities, which need to be devolved urgently. County governments have demonstrated that other services like the ferry services are functions of county governments. They should be devolved under the Fourth Schedule, part two of the Constitution.

Madam Temporary Speaker, I join my colleague, Sen. (Dr.) Khalwale in telling Sen. M. Kajwang how his job is well cut out in the Joint Committee on National Cohesion and Equal Opportunity. If there is a committee that is failing the Parliament of this Republic, it is the Joint Committee on National Cohesion and Equal Opportunity.

We are in a situation today where even the Coalition for Reforms and Democracy (CORD) is seeking an amendment to the Constitution to ensure that we end discrimination, marginalization and issues where a couple of people, at the exclusion of everybody else, are allocated State jobs. However, this Committee remains silent and indifferent. So, I believe that as you join the Joint Committee on National Cohesion and Equal Opportunity, you must tell them that it is time to equalize opportunities. We must equalize these opportunities through frameworks.

If I were to be selfish, I would have supported actions of storming public institutions that have been debated earlier in this House. But that is a wrong precedence. Today in Mombasa, we cry of marginalization in almost all State agencies. If we set that precedence today, we will see storming of institutions day in, day out. This will jeopardise the lives and properties of Kenyans. These kinds of actions are intolerable. But if somebody really needs to make a difference, then he must impact on the Joint Committee on National Cohesion and Equal Opportunity to ensure that policies are set and the Constitution is adhered to.

If today we were to do an audit of real ethnic opportunities, no institution in this country would stand the scrutiny of ethnic balance. This is because when Governments follow a policy of marginalization and exclusion, what you get is imbalanced State agencies. Today, when you follow up Government agencies and Ministries, you see them populated by members who are said to be the prime voters of the Jubilee Coalition.

Madam Temporary Speaker, I urge my fellow young colleague, Sen. M. Kajwang to break these jinx of a country that continues to sink itself in ethnicity and inequalities. He must also ensure that they evaluate budgetary proposals. We have said it in this House that in addition to the revenue allocated to counties, we want to know how much money is put in every county by the national Government in terms of national Government functions. It is possible that some counties that are already advantaged are also getting more resources when it comes to infrastructure development. Therefore, Sen. M. Kajwang must make sure that the Committee revolutionizes the way it works so that we can receive reports of how much money from the national Government Vote goes to Mandera, Kakamega, Mombasa counties and so on. We should not trivialize what is called equal opportunity by thinking it is the number of people employed in the university. Equal opportunity also means equality in the distribution of resources that this country has.

The job of the Committee is well cut out and I urge Sen. M. Kajwang to take it fiercely. If there is one issue in this country that irks people, it is the issue of national cohesion and equal opportunity. When you speak about it, you are called a tribalist; but so be it. We are told that we are against a certain community. When we spoke about reforms in the Moi regime, we were called reformers. When we speak about reforms now, we are told we are against a certain community. These are the same people, some of them on that side, who were asking former President Moi to balance his Government,

to balance the state of affairs and everything else. But, today, they are hypocrites saying, this is not the state we want; we want to continue with an ethno state.

The Senate Minority Leader (Sen. Wetangula): On a point of information, Madam Temporary Speaker.

Sen. Hassan: I accept the point of information.

The Senate Minority Leader (Sen. Wetangula): I wish to inform the distinguished Senator that a well known politician in this country, after the departure of President Moi from power, stood up and said, “We were all fighting for the new Constitution because we wanted Moi out. Now that he is gone, we do not need a new Constitution.”

Hon. Senators: Shame! Shame!

Sen. Hassan: Thank you for that point of information.

Madam Temporary Speaker, when we did this when Sen. Orengo at that time was championing the *Muungano wa Mageuzi*---

(Laughter)

Sen. Murungi: On a point of order, Madam Temporary Speaker. Is it in order for the Senate Minority Leader to purport to inform Sen. Hassan, who is very well informed of this issue, which is public knowledge and everybody knows; yet the Senator pretends that he did not know?

(Laughter)

The Temporary Speaker (Sen. Ongoro): Order, Senator Murungi! You are the one who is out of order because the Senator in question accepted to be informed and he has appreciated the information.

Sen. Hassan: Madam Temporary Speaker, I come from a religion that talks about the fact that we guide each other in the straight path; and not only to guide, but also to remind. I am happy that information reminded me of the very point I was making. When Sen. Orengo was fighting for democratic space in this country, people acknowledged him. When Sen. (Dr.) Khalwale, who I met in Kakamega during our *Muungano wa Mageuzi* days, they were called reformers. They were fighting against the same things; the excesses ethnicity and imbalance in public appointments in the Moi regime. We were all called reformers, but we call them the heroes of the second liberation. When they tell them now: “Please, stop ethnicity”; they tell them you are anti this community; they tell them they have a phobia against this community; is it hate speech or short memory?

But one thing I want to assure you Madam Temporary Speaker - and I know that you have also been a victim - we will continue to say these things no matter how unpleasant they look. We will call for reforms and balanced opportunities in this country; we will ask them, some who do not know how to spell it, to respect human rights. We will continue to urge them to imbibe these values. That is why I am telling the young Sen. M. Kajwang that this Committee is about human rights, equity, social justice, non-discrimination and remedying historical wrongs. Therefore, bring us an audit of the

opportunities that have been offered to some people. Let us not deal with shadows trying to invade universities. Let us invade where the real bread is buttered; people who take opportunities at the exclusion of others.

If we were to start invading institutions in Mombasa, we would raid all of them. Therefore, let us use structures. If a Senator is aggrieved, these are structures that you can use. Approach the Committee on National Cohesion and Equal Opportunity and put your facts right. If we started doing these things in Kilifi County, there would be no Kenya left. Young Senator, come with the audacity and the boldness.

We are far away from reforms. They talk about a new Constitution. However, this is like old wine in new wine skins. The values are the same; how they have messed up the country is the same and then you ask us why we are angry. We are angry because we need a country that is fair, equitable and desirable for every young Kenyan to live. That is why I come to Sen. (Dr.) Zani - a lady of distinction from my coastal region - despite the marginalization and lack of equal opportunities which were there then, she is a doctor. She is not a doctor *hivi hivi*; she is a doctor that is learned and a lecturer of repute. That is why today, she serves in this Committee in her own right. So, Sen. (Dr.) Zani, make sure you support---

The Temporary Speaker (Sen. Ongoro): Order, Senator! There is an intervention from Sen. Sang. What is out of order?

Sen. Sang: On a point of order, Madam Temporary Speaker. I did not want to interrupt Sen. Hassan. There was a discussion in this House sometime last week. Sen. Elachi, in her contribution, mentioned the words “my Government.” She was ruled out of order by yourself. Is Sen. Hassan in order to say Sen. (Dr.) Zani, coming from “my coastal region?” That is moving in a tribal direction.

(Applause)

The Temporary Speaker (Sen. Ongoro): Senator, you are out of order. I ruled last week and my reference was the Constitution. The issue at stake was the presidency. What Sen. Hassan is making reference to is a region which is not enshrined in the Constitution. I do not find him out of order because he is referring to a region within this nation which is called the “coastal region.” It is true that Sen. (Dr.) Zani comes from that region.

Proceed, Senator and complete your contribution. You only have one minute.

Sen. Hassan: Madam Temporary Speaker, thank you for that intervention. When I learnt English, I could say, “this is my country” and “this is my home.” Because this is my region, we come from this region together with Sen. (Dr.) Zani. This is my home. This is my region. We come from this region together with Sen. (Dr.) Zani, that is why I made that metaphorical reference; that she has come from adversity. She is one woman who must defend equal opportunity, but at the same time, she must defend and scrutinize the budget in a manner to bring fairness and equity.

The entire vision of the Constitution has been lost. The governors, for example, have started us on the wrong pedestal in terms of interpretation of the Constitution. The Constitution was about equity and service delivery. Today, counties are still going on the

models of the former municipalities. I tell you for a fact that it has been much hard to access services. It is a pity that the governors, rather than promote equity, have continued to think that they need to mirror what the national Government does. They are in motorcades; they have ambulances in their motorcades and sirens which the National Assembly has decided to remove.

Madam Temporary Speaker, these two distinguished Members of the Senate from the CORD have their work cut out. They have to add stamina and energy to these committees. As we approach the next two years of this Senate, which are the sunset years of this Senate - and I think if we are not careful, many of us will not be back in this Senate.

It is time that we started to go to the nitty gritty of what should inform the debates in this Senate. This Senate was about protecting the interests of the county, but we get budgets with the ceilings that are already agreed upon. We hear public pronouncements by the Deputy President that they have agreed with the governors on Ksh 279 billion, it comes to the Senate and it is a *fait accompli*, formulas come and they are *fait accompli*, things that come to this Senate are just processes for rubber stamp. It is important for these committees to up their game so that we are able to implement the spirit and the letter of this Constitution.

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

Sen. Sang: Madam Temporary Speaker, I rise to support this Motion. I want to take this opportunity to---

(Loud consultations)

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we are in session, please, consult quietly

Sen. Sang: Madam Temporary Speaker, I want to take this opportunity to congratulate my age mate, Sen. M. Kajwang, for being elected the Senator for Homa Bay County. I had a very good working relation with the late Sen. Otieno Kajwang. I remember that one of the last engagements with him, was discussing one of the Bills in this House, I was opposed to it. But courtesy of the lengthy discussion with him, he was able to convince me and I saw the sense in it. I supported it courtesy of his contribution. Therefore, I really want to appreciate the people of Homa Bay County. The people of Homa Bay had the choice of sending an old man to this House, but they chose a young vibrant leader. That adds to the existing numbers of Sen. Hassan, Sen. Murkomen, Sen. Melly and many other Senators in this House. I am sure we will add more value to the debates in this House.

Madam Temporary Speaker, given the choice of the various Committees that Sen. M. Kajwang joins, I am sure he will add value to them. Take, for example, the Standing Committee on Agriculture, Livestock and Fisheries; we are at a time when farmers in this country are facing many challenges. The farmers within the sugar belt region, the tea industry and the grain farmers are also facing challenges. I am sure the contribution of Sen. M. Kajwang in this Committee will be crucial in ensuring that we are able to help our farmers, to discuss and work with the various stakeholders within this sector.

We have had challenges on the issue of tea, grain and livestock. However, we have seen governors raising issues and pointing fingers at the national Government and yet this is a fully devolved function. We hope that the Committee on Agriculture, Livestock and Fisheries will take the initiative, engage with our county governments to persuade them to ensure that they devote, in their budgets, sufficient resources to the agricultural sector in this country so that we are a food secure and ensure that our farmers get returns from their produce.

Regarding the other issue of road and transportation, this is a major challenge. Whereas we know that roads is a devolved function in this country, we have not succeeded in ensuring that we have clear guidelines and the necessary legislation in ensuring that we transfer some of the roads that ought to be in county governments. We hope that Sen. M. Kajwang will be instrumental within the Committee in ensuring that in the discussions between the Ministry of Transport and Infrastructure in the national Government and the county governments, they agree and have this function transferred, together with the necessary resources.

Most importantly, and this has been alluded to by a number of my colleagues who spoke ahead of me, is on the issue of national cohesion and equal opportunity. This is one of the challenges that this country continues to face. It is important that we drive this country into appreciating that we do not need to tribalise everything. The times when public servants are being asked to account, whether it is the chicken scandal or within appointment in certain institutions, people run to their communities to seek refuge.

Madam Temporary Speaker, we need to see maturity in this country where even politicians should resist the temptation to run around and rally behind their public servants from their communities just because they are being held to account. I think this is very important, that the Committee which is a Joint Committee--- Among the various committees that we have in this Parliament, we have only two Joint Committees. That is the Committee on National Cohesion and Equal Opportunity and the Committee on Broadcasting and Library. We should see Members of the Senate and Members of the National Assembly driving the agenda in this country to detribalize it. It has come to a point where it is fashionable to appear to be protecting a public servant from your community. This is something that the Committee on National Cohesion and Equal Opportunity should take up.

I am a member of that Committee and I want to admit that we have not done much in the last two years, but maybe the person we needed and have been waiting for is Sen. M.Kajwang, to help us get on track and detribalize this country and deal with issues of tribalism. It is important to walk the talk, so that we as politicians should not be seen pointing fingers at politicians on the other side. In the same vein as you point one finger at your friend, four fingers are actually pointing at you. This is very important; that we politicians must work together in ensuring that we detribalize this country and ensure that we have a country that believes in national cohesion and that gives opportunity to every person.

Regarding the issue of equal opportunity, we are facing a major challenge in this country. Whereas, the challenge of school fees in this country can be seen from the education perspective, but it is an aspect of equal opportunities. That we have very many

young people in this country who work so hard in their Kenya Certificate of Primary Education (KCPE), they get good results, are admitted to national schools, but they are unable to go to some of those national schools because they charge exorbitant school fees.

A student or child who comes from a family that lives on less than a dollar per day, cannot afford school fees of close to Kshs150,000. Students who are supposed to access good education in good schools are unable to join the national schools and end up joining day schools within their villages, just because of the challenge of resources.

It is time that we looked at some of these inhibitive issues as issues of equal opportunity. In this country and the world over, we know that education is an equalizer. If there is discrimination in the way people acquire education in this country, then we are unlikely to get to an equal society. This Committee should look at its mandate and expand it to ensure that we have an equal society and country that believes in national cohesion and integration.

Sen. (Dr.) Zani is one of the Senators who has worked on a Motion, translated it into an *ad hoc* Committee and worked on a draft Bill; the Royalties Bill. This is one of the Bills that this country needs, save for the challenges that we have had in terms of ensuring that this Bill gets through the Senate and eventually to the National Assembly. We believe that Sen. Zani would be instrumental in helping the Committee on Finance, Commerce and Budget to deal with the issues and challenges that this House needs to deal with.

I am a bit concerned as a Senator that the Bills that this Senate has dealt with for almost three years are the Division of Revenue Bill, the County Allocation of Revenue Bill and the latest one being the contribution that we are making on the revenue sharing formula proposed by the Commission on Revenue Allocation (CRA). Unfortunately, we have been reduced, as a House, to rubberstamp decisions and proposals by the other House. Whereas our job under the Constitution is clear; it is our responsibility to deal with issues of division of revenue and allocating counties resources, we have always worked with figures that have already been worked on by either Members of the National Assembly, the Executive or constitutional Commissions like CRA. It is important that the Senate takes its role seriously and ensures that we are able to make informed contributions to some of these processes.

On the criteria for sharing of revenue, it is unfortunate that the first formula was worked out by the CRA, in conjunction with Parliament; then working as both the Senate and the National Assembly. We have an opportunity now to make drastic decisions on the criteria, but we have reduced ourselves into a House that just accepts what the CRA has proposed. It is important that this House takes its responsibility seriously. We should look at an innovative formula that will ensure that we have equitable distribution of resources across the 47 counties in this country, so that we are able to achieve the intention of devolution.

The intention of devolution is not to further marginalize counties in this country, but actually address marginalization. We cannot achieve that if we do not craft a working formula that will ensure that we are able to have some sort of affirmative action across the 47 counties in this country. I really hope that Sen. Zani and Sen. Moses Kajwang will

help the Senate within the various Committees that they are joining in ensuring that we have the Senate delivering its mandate in terms of enabling counties to function properly.

Madam Temporary Speaker, with those remarks I support the Motion and congratulate the two Members as they join those Committees.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I want to join my colleagues in thanking the Senate Majority Leader together with the RBC for bringing this Motion. I also want to congratulate Sen. Moses Kajwang on being elected as the Senator for Homa Bay. He is now about two weeks old. He is stepping in the shoes of a man who really did a lot of work in this Senate, the late Sen. Gerald Otieno Kajwang. If you may recall, his last assignment was to point at a malpractice that was taking place in Kapedo. There was an operation there and instead of the Army going to look for bandits they strayed and started demolishing people's property. We want leaders who can stand to correct things when they have gone wrong. We will remember that man for that.

Madam Temporary Speaker, I want to thank the RBC for looking at the strengths of Sen. Moses Kajwang and nominating him to these three Committees. I want to believe that it was not by trial and error. They looked at his Curriculum Vitae (VC) and we know that he will add value and enrich the work of the Committee. For example, agriculture, livestock and fisheries contributes heavily to our Gross Domestic Product (GDP). Where he comes from – around the lake region – the fish industry has gone down. Now, his first assignment is to sit in a Committee that will address how the fish will move from Lake Victoria into the processing plant, which is not far from the shores of the lake and attract investors to work there. That is your heavy assignment, Sen. Moses Kajwang. Whenever we visit Sen. Orengo, we will have a place where we can get properly processed fish.

Vision 2030 talks about heavy investment in agro-processing. Therefore, we have to address issues of agriculture. I come from a region where there is a lot of tension. Maize used to be the staple food for Kenya, but its production has now gone down. Sen. M. Kajwang, through the Committee, should address this issue because we know that he is capable of coming up with Bills that can revive our agriculture one more time. He should also look at roads as well, together with other Members of that Committee. We want equitable distribution of tarmacked roads among the counties. We should not concentrate in only some places and forget others. We have decided to build the whole country through the 47 units called counties.

Lastly, Sen. Moses Kajwang is joining the Committee on National Cohesion and Equal Opportunity. Start with your county. The Governor, Deputy Governor and the executive committee members are all from the locality. They can address meetings in vernacular. The same thing applies to West Pokot and Kiambu counties. We created ethnic counties. Can this Committee come up with Bills that can compel every county to ensure that Kenyans from all parts of the country are employed? We have not less than 42 tribes. Can we not employ at least one person from those tribes in every county? This is the Committee that can create that law. I would like to see a Pokot and a Giriama working in Turkana County. Even if they do not want to go there give them their slot, so that we all work as a country. This is something that you can do, as a Committee. Although we are not Members of this committee, we are willing to contribute heavily.

Sen. (Dr.) Zani is a senior lecturer of high standing as we know and a Member of this Senate. She is very articulate in education issues and is now joining the Committee on Finance, Commerce and Budget. Sen. (Dr.) Zani, issues have now come up in form of petitions as you saw today in your inaugural sitting in that Committee. There are many Petitions from the counties. If it is not the county executive, then it is the county assembly bringing their petitions. We have no doubt about your capacity and capability to sit for long hours and work. I want to assure the Senate that Sen. (Dr.) Zani and the other Committee Members are committed.

You saw the way they are transacting business working on the Narok case and many others, including the latest one we received today, where the county assemblies are saying that they have no salaries. They have avoided the Senate for two years, but now they have realised that their gates and highways are closed and they have to come back to where they were. As a Christian, in the Bible, it is said that the stone the builders rejected, finally, became the corner stone. I am hoping that with your presence in the Committee we will transact business.

I want to congratulate the two Members and hope that a lot of fruitful deliberations will come out of this in the course of their sittings.

Madam Temporary Speaker, I beg to support.

Sen. Madzayo: Asante sana, Bi. Spika wa Muda, kwa kunipatia nafasi hii ili nami nipate kuchangia. Kwanza, nataka kumshukuru sana Kiongozi wa Wengi katika Seneti kwa kuleta Hoja hii hapa. Nachukua nafasi hii kumtakia huyu ndugu yetu aliyeshinda uchaguzi mdogo juzi, Sen. M. Kajwang, kila la heri katika wakati atakapo kuwa ndani ya Seneti. Ushindi wake haukuwa rahisi. Lilikuwa ni jukumu ambalo alijitweka na kwa hivyo, alikuwa ni lazima ashinde. Nataka kumpatia heko kwa ushindi huo. Yeye ni kijana msomi. Ni mtu ana elimu ambayo nina hakika tutahitaji hapa katika Seneti. Nataka pia vile vile kuchukua nafasi hii kuwashukuru watu wa Kaunti ya Homa Bay kwa kufanya kazi kubwa sana kumpigia Sen. M. Kajwang kura. Ushindi wa CORD ulijulikana katika Kenya nzima.

Kuna watu wanaojulikana kama “*doubting Thomases*,” ambao wakiambiwa itakuwa hivi, wanasema haitakuwa hivyo. Nafikiria hivi sasa kwamba wale watu walikuwa na tashwishi ya kwamba pengine ni kijana na hawezi shinda, wamekubali kwamba ushindi ni wa Sen. M. Kajwang. Tunamtakia kila la heri; ndugu Sen. M. Kajwang, nataka kukuambia kwamba hivi sasa kazi yako ya Useneta imeanza leo, hakuna kesho.

Bi. Spika wa Muda, kinachopoteza nchi hii kwa ukweli kabisa ni ukabila. Sisi tunasema tuwe na “*National Cohesion*” na “*equal opportunities*”, ni sawa. Lakini, ukabila ndio donda sugu katika nchi yetu ya Kenya. Waanzilishi wa Taifa hili akiwepo; hayati Mzee Jomo Kenyatta, rais mstaafu Daniel arap Moi, rais mstaafa Mwai Kibaki, Bildad Kaagia na Jaramogi Odinga hawakuwa na ukabila; walizingatia ukenya. Walitaka Kenya iendele mbele kinafaka na ukabila uzikwe katika kaburi la sahau. Walitaka nchi yao. Walitaka kuona Kenya ikienda mbele. Walitaka kuona haki kwa kila Mkenya na Wakenya wote wawe na maisha mema. Hivi sasa, tunaona ukabila katika kupeanwa nafasi za kazi, masomo au kupewa udhamini. Nafasi mbalimbali hazigawanywi kwa usawa.

Nikitupa macho zaidi hasa upande wa Pwani, hakuna watu ambao tunaweza kusema kuwa hesabu yao iko sawa katika Serikali yetu ya kati. Tunasema ya kwamba sote katika Kenya tunataka usawa maendeleo na nafasi za kazi. Je, kuna usawa katika Kenya? Jawabu ni kwamba hakuna usawa. Jambo ambalo nataka kumwambia ndugu yangu, Sen. M. Kajwang, aliye kijana na wakati mzuri sana wa kuweza kuwa katika Seneti kwa muda mrefu na kuwa kama kielelezo kwa vijana wanzake katika Kenya, ni lazima tujaribu kuiupiga vita ukabila na kuuzika katika kaburi la sahai. Kwa hivyo, nachukua nafasi kumpa hongera kwa kuingia Seneti kama ndugu na mdogo wangu. Hapa majaribu ni mengi lakini najua ushindi huo alioupata kutoka Homa Bay ndio ushindi atakao upata ukiwa hapa.

Bi. Spika wa Muda, nataka pia kuchukua nafasi hii, kumpatia heko dada yangu, Sen. (Dr.) Zani. Yeye, ni dada yangu na daktari msomi, ambaye mimi najivunia sana, hasa nikijua kwamba anatoka katika kaunti ambayo mimi pia natoka. Yeye ni msomi wa hali ya juu, na tunajua kwamba yeye ni mwalimu katika Chuo Kikuu cha Nairobi. Sisi ni wachache katika eneo la Pwani, na tukipata daktari kama huyu ambaye ni mshupavu na apate nafasi, nina hakika ataifanya kazi hii kwa bidii. Mimi sina tashwishi kabisa ya kwamba uwezo huo yeye anao. Amekuwa hapa katika Seneti na kuleta Hoja mbalimbali. Amewahi kuungwa mkono katika Hoja hizo na pia hivi sasa, tunajivunia kwamba yuko katika Kamati tofauti tofauti na kazi yake inaonekana.

Nataka kuchukua nafasi hii kusema ya kwamba yeye kama Seneta, jukumu hili alilopewa haswa katika Kamati ya Fedha, Biashara na Bajeti na Sen. M. Kajwang, katika Kamati ya Ukilima, Mifugo na Uvuvi, Kamati ya Barabara na Uchukuzi na Kamati ya Pamoja ya Utangamano na Nafasi za Usawa. Hayo ni majukumu ambao hao wawili wamewekwa katika hizi kamati wana uwezo wa kutekeleza wajibu wao.

Bi. Spika wa Muda, naunga mkono Hoja hii kwa dhati.

(Question put and agreed to)

The Temporary Speaker (Sen. Ongoro): Next Order!

APPROVAL OF THE SENATE CALENDAR FOR 2015

The Temporary Speaker (Sen. Ongoro): The Senate Majority Leader has appointed Sen. (Prof.) Lonyangapuo to move this Motion.

Proceed, Senator.

Sen. (Prof.) Lonyangapuo: Thank you, Madam Temporary Speaker. I beg to move the following Motion:-

THAT, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2015 (February to December, 2015), laid on the Table of the House on Tuesday, 24th February, 2015.

Madam Temporary Speaker, this is the usual yearly calendar for the work of the Senate. The RBC sat and approved this said calendar on the 17th of February, 2015. From the calendar, you can see that we are now in week 3 since we began this regular Session.

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

The whole calendar is given from February and it goes through to April, when we will have the first recess of 25 days. It runs through to May, when we will have another 18-day recess in week 13, from 28th of May, 2015. Again, we will resume and proceed with Business up to week 20, on 30th July, when this Senate will again go for a 46-day recess. Thereafter, it will run from September all the way to the last week, which is 3rd December, 2015, when we will have a 67-day recess.

Madam Temporary Speaker, this calendar has been aligned to the budget cycle of the usual Government Budget cycle where, unlike in previous times, these sittings have been tailor-made to coincide with the times when the presence of Senators of respective Committees is required. Like now, the Committee on Finance, Commerce and Budget has gone through the sharing formula and the budget as well, so much so that at no time is the calendar put in such a way that serious business requiring out attention comes when we are out of Session.

Madam Temporary Speaker, it is just as clear as indicated here; Members can have access to it; they can get copies and keep them for perusal to enable them have a clear cut diary and calendar of the work of the Senate.

Madam Temporary Speaker, I beg to move and request the Senate Deputy Leader of Minority to second.

Sen. Abdirahman: Thank you, Madam Temporary Speaker. I stand to second this very important Motion regarding the Senate Calendar. This is a carefully planned calendar that enables us to know well in advance the periods when we will have the recess and the main activities for the whole year with regard to our sittings. This is an opportunity which is quite different from what we used to have in the earlier Parliaments in this country since it gives Members an opportunity to determine their own plans and programmes.

Madam Temporary Speaker, I beg to second without any hitch.

(Question proposed)

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I stand to support that the House approves the proposed Senate Calendar. I would like to start by congratulating the RBC for giving us this calendar. It is very clear what we are doing right through from February to December, 2015.

Without repeating what is on the calendar, the programme runs very well and in a very sequential manner throughout the weeks. It is very clearly indicated where recess is going to be. This will give Senators time to plan for their activities during the recess and, indeed, the times when we are here having our various sessions. This calendar runs right up to the end of the session. It has been very clearly formulated and put in a very sequential and clear manner. This essentially helps us to do things in a much synchronized manner.

Madam Temporary Speaker, you and other Members are aware that the RBC meets every week on Tuesday at 12.00 noon, not only just to plan the long term calendar, but also on a week to week basis in terms of exactly what sort of Bills and Motions will come up on the Order Paper. They do so, to ensure that our operations in this House are

very clear and synchronized. This will also ensure that there is no confusion of what is happening at any time. The weekly programme, therefore, is very critical because it helps us to set precedence about what is important, what needs to be prioritized, what needs to come up early within the programme so that within the weekly and daily programme, we can actually factor in all our Business and agenda for a particular Session, which is very important for the orderly functioning of the Senate.

Madam Temporary Speaker, apart from the weekly programme, we also have Committee meetings that are scheduled and which actually help in the work of generating the Business for the House. So, the various Committees and all this information is always obtainable online so that we know which meeting is happening when and when other Committees are meeting. This, indeed, encourages us to go even for meetings for Committees that we do not belong to because we know that we are entitled to go there so that we can listen to what is going on, be aware of the issues that are coming up and forge ahead together in terms of the decisions that we are making as a Senate. That keeps us close and co-ordinated, which enables us to move in a particular way.

Apart from that also, we know that we have had *Kamukunjis* as part of this calendar as a way to encourage consensus and to deal with our own internal issues. All this really helps us to create a lot of order; it helps us to plan and to know when we can be within the counties themselves, for example, when to go into the county assemblies. Even as we look ahead and coming from the information that came from today's meeting, for example, that when Senators were going to address the beginning of the Session in the counties, some of the Senators could not attend because we also had to be here at the same time.

These are the sort of issues that even as we go across synchronizing this calendar, we need to still keep in mind. But at the end of the day, there has to be a clear connection between the Senate and the county assemblies. As they move on with their programmes, we can support those programmes. We can also find ways of quick intercession so that we can keep in touch with issues within the county assemblies. They can bring these issues to the fore and we can discuss them altogether.

Madam Temporary Speaker, I beg to support this Motion. Once again, congratulate the RBC for bringing this calendar.

I beg to support that we approve this calendar.

Sen. (Dr.) Khalwale: Thank you, Madam Temporary Speaker. I want to support this calendar and, therefore, this Motion with only one point. There is something we are missing out on oversight of these county governments in the manner in which the calendars of this Senate and the respective county assemblies run. Whereas the Standing Orders and the Constitution anticipate that the Senate will give guidance to county assemblies on how they could carry out their business or any other matters they deem fit; there seem to be too much discretion to the extent that some of the county assemblies are literally dodging being addressed by the Senators.

In some instances, Members of the County Assembly (MCAs) have now become a sidekick of the Governor, a situation that is reminiscent with what obtained in this country when we did not have the Parliamentary Service Commission (PSC), where Members of Parliament (MPs) were at the mercy of the Executive. If we do not create a

strong bond between this Senate and the county assemblies, MCAs are now becoming sidekicks of the same governors, who they are supposed to oversight. These MCAs are given trips, allowances to attend public functions on behalf of the governors. As a result, they are failing in their oversight role over the county executive. I suggest that the leadership of this House sits with the leadership of county assemblies to make it mandatory so that on the day that the county assembly opens, the Senate should not be open so that that day, the Governor should give his opening address and the Senator should give his mandatory opening address, which are then debated.

Secondly, Madam Temporary Speaker, if you do not strengthen the county assemblies, the oversight role of this Senate on the county assemblies is weakened. So, it is in our interest and in the interest of the county assemblies that we strengthen the bond between the local assemblies and this senate.

Madam Temporary Speaker, I want you to think about the issue of budget. Yes, we have given ceilings or, rather, the Commission on Revenue Allocation (CRA) has recommended ceilings, which we appear to support. But in those ceilings, unbeknown to us, the governors have cleverly put some discretionary funds on the executive vote such that as soon as the county assembly vote is exhausted on foreign travel and that kind of stuff, the governors then use that discretionary vote that they have to now pocket the MCAs. It is important that we go even further because you have heard that even in some counties, MCAs are given travelling allowances.

Now, think about this issue; here in the Senate and in the National Assembly, MPs who come from Nairobi have their mileage zero rated. Why would an MCA travelling from Kendu Bay, in his home, to attend the assembly in Homa Bay demand to be paid mileage? Their salary should be such that they are paid enough to go on duty and back to their houses; just like the MPs in Nairobi are not given funds to travel to their other respective rural homes.

(Laughter)

I am sorry, Madam Temporary Speaker, you used to be an MP of Nairobi.

The Temporary Speaker (Sen. Ongoro): Thank you for correcting yourself.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, these are points of wastage that will make it difficult for devolution to work. We have to face it boldly and address it. Let me give you an example, I come from a ward called Idakho Central, that is my home. It is exactly 12 kilometres to the county assembly in the city centre in Kakamega and you will find that my MCA claims allowance. My wife travels from the same home going to her place of work at the Masinde Muliro University and she is not paid travelling allowance yet she is just as much of a public servant as these people. Unless we rationalize these things we will keep on encouraging wasteful expenditure.

With those many remarks, I beg to support.

Sen. Obure: Thank you, Madam Temporary Speaker. First, I want to congratulate my former Permanent Secretary (PS) for the manner in which he presented the Calendar of the Senate. This calendar underscores one major point, that we have come a long way. I recall those days when Parliament did not have control of its own

calendar; the days when somebody else in the Executive decided when Parliament should meet, when Parliament should be adjourned and when Parliament should be dissolved. The fact that this Parliament is now independent and can organize its own calendar is a very important step and, in fact, it is one step also which emphasizes the separation of powers between the various arms of Government. We are now able to determine when we will go on recess, when we will meet and when we will transact the various items which are part of our mandate.

Madam Temporary Speaker, I congratulate the RBC for going very deep into this matter and organizing a workable calendar. It is my hope that we will all devote ourselves and ensure we fully participate because the same calendar allows us periods of recess when we can go and refresh ourselves, re-energize and consult with our constituents in the various constituencies and wards. It is a very good calendar. I congratulate the Members of the RBC who prepared it.

Madam Temporary Speaker, I beg to support.

Sen. (Dr.) Kuti: Thank you, Madam Temporary Speaker. I also stand to support this calendar and also congratulate the RBC for coming up with a calendar that helps us to organize and prepare ourselves in advance. I would also like to join my colleague, Sen. Obure to remember the days when Parliament was at the whims of the Executive; where the Executive would call the Parliament to adjourn or to go on recess.

Parliament was at the whims of the Executive and they did whatever they wanted at any time. This did not give Parliament time to organize itself because it could adjourn at any time, especially when there were “hot” issues arising. Those were the tactics used by the Executive to allow Members of Parliament to cool off so that they could be lobbied while they are at home and then they are somehow whipped to vote in a certain way.

This is a big step, just like the promulgation of the Constitution where citizens are now free. Institutions are independent and can now run without interference from other arms of Government. Each arm of Government feels independent. This is a good step towards that realization. Many Kenyans lost their lives to make sure that we live in democratic environments. This is a step towards that and so I congratulate the RBC.

Other Committees are also doing a good job. I am really impressed by the Committee on Health where many Bills are being generated. Unlike the past environment when we were housed at the KICC where many Senators felt a little bit disappointed and not motivated enough to work, I think this step alongside having moved to this Chamber, we are now able to execute our mandate. I am very happy unlike in the past when I had a lot of skepticism on how we were working. I think we now feel more charged to execute our mandate. I am sure this calendar will help us plan and push through a lot of Bills.

In my Committee, we have six Bills which we are going to table and debate and hope to finish within one or two sittings. I feel now more than ever before I am a Member of a House that is really working.

I beg to support.

Sen. (Eng.) Muriuki: Madam Temporary Speaker, I also wish to put a word in support of this Motion. In doing so, through the Chair, I would like to address those Members who came to this Parliament recently. They may not know how difficult it was

being a Member of Parliament when it was a department in the office of the President. It was the office of the President that dictated the Standing Orders and the Order Paper. They would even determine when we would go on recess. Sometimes we would go on recess, but after a few days, we were recalled. We had no choice because there was no order. Until a gentleman called - it is good to remember people who have contributed immensely to this nation – Hon. Oloo Aringo came and told us that we could form a Parliamentary Service Commission (PSC) and have our own budget.

Our salaries, as meager as they were, used to be part of a salary schedule in the Office of the President. We have come a long way, to the extent that we now have our own calendar. It is very easy to take things for granted. It is very easy for human beings to take things for granted and assume that it is their right. I would like to inform the House that people work on these things. I would like to congratulate Members of Parliament for working very hard to the extent that we are now able to determine our own calendar. A calendar is for us as the Senate to plan when to do what business. It is a tool in itself.

I beg to support.

Sen. Elachi: Madam Temporary Speaker, I also rise to support this Motion. I know that it has been two years since the Senate came into being. We have consistently created a calendar to enable us to draw the agenda of the House and for Members to plan their days. We also give an opportunity to the country to understand how we are going to do our business. This also enables the public to follow and understand how the Senate works.

This is a calendar that also gives timelines and notes when we are going for recess so that we are able to plan ahead and that is why today the Senate is setting its own calendar. We want to thank the public for that trust they have given us. We should, therefore, bring Bills that can transform this country so that after five years as the Senate we are able to see what we were able to accomplish and for future reference.

Madam Temporary Speaker, this is a House that has faced challenges in terms of people understanding what we do. When we have a calendar, the media is able to understand what we do. Many times the question that people ask is what the Senate does. I think as we move on, we should stamp our authority as the “Upper House” to guide the country and the Government. Most of the issues we deliberate here are geared towards transforming our country and strengthening devolution which is the pillar of our country.

Time has come for us to look at all the Acts that were enacted when this House was being constituted and make amendments where possible. I congratulate Sen. M. Kajwang for being elected to the Senate. Being a lawyer by profession, I know he will make this House achieve a lot. The late Kajwang was one of those lawyers that we really depended on. I hope Sen. M. Kajwang will assist us to relook at the different laws that we have.

Madam Temporary Speaker, as we pass this calendar, we should note that we have very many Bills that are at the Second Reading stage. We should find a way of concluding this Bills which are very critical.

Most of these Bills are very critical. I know this is a House of debate and we respect that. However, it is also a House that can think of how we can fast-track these Bills so that we can see the President also assenting to Bills coming from the “Upper” House.

I thank the RBC chaired by the Speaker of this House. As Senators, we want to see a House that can come out and prove that, indeed, it is a House of scholars and one that has experienced Kenyans who worked tirelessly for this country. I hope by the time we are finishing our term, we will have learnt a lot from most of the Members in this House. Through you, Chair, we have learnt a lot. When you were the Assistant Minister for Nairobi Metropolitan Development, you taught us that planning is very important. I remember you took us to many programmes in Korogocho where we learnt a lot. As we look at this, it is one way of telling ourselves that when you plan well, you will succeed.

I beg support.

Sen. Chelule: Asante sana Bi. Spika wa Muda, kwa kunipa nafasi nami pia nichangie kuhusu ratiba ambayo imeletwa katika Bunge na Kamati husika. Nimesimama kuunga mkono kwa sababu itatupatia nafasi kujipanga kama Wabunge. Kama kuna kitu ambacho kinaweza kurudisha nyuma maendeleo yoyote ambayo unapanga kufanya, ni wakati huna mpango wowote wa jinsi ya kujipanga, na kujua nini kitafanyika lini na ni nani atafanya nini. Kwa hivyo, ninaunga mkono na ninawashukuru Maseneta wa Kamati husika ambao waliketi pamoja na kuangalia ni vyema kututengenezea ratiba ambayo itachukua mwaka mmoja ujao.

Awali nimemsikia, Sen. (Eng.) Karue akichangia kwamba wakati mmoja ratiba ya Bunge ilikuwa chini ya Rais na ilikuwa vigumu sana kujua ni nini kitafanyika kesho. Kulingana na ratiba ya leo ambayo imesomwa na Kiongozi Wa Wengi ambaye amewakilishwa na Sen.(Prof.) Lonyangapuo, ni ratiba ambayo inatupatia moyo na kutuwezesha kujipanga kama Maseneta, hapa Bungeni na kule nyumbani tunakotoka.

Ninachukua nafasi hii pia kumpongeza Seneta M. Kajwang ambaye amechaguliwa juzi. Pongezi sana, karibu tufanye kazi pamoja.

Sen. Orenge: Thank you very much, Mr. Speaker. I commend Sen. (Prof.) Lonyangapuo of West Pokot County. He is normally very passionate in whatever he does.

Sen. (Dr.) Zani: On a point of order Madam Temporary Speaker. Is Sen. Orenge in order to refer to you as “Mr. Speaker”?

The Temporary Speaker (Sen. Ongoro): He is completely out of order. Withdraw and apologise, Sen. Orenge.

Sen. Orenge: I withdraw, Madam Temporary Speaker. I was gender blind. In this new age of technology sometimes we never know. We are told that now in England, the Government of the United Kingdom (UK) has allowed the third gender; a child from three separate persons and I do not know how you do that. I still apologise.

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker. I do not want to interrupt my teacher, but what he meant was third gender. With third gender, probably the Chair could accommodate him. Once you have a third gender, you do not know whether you are dealing with Audrey or Andrew or a mixture of both. In that case -
--

The Temporary Speaker (Sen. Ongoro): Order! Sen. Dr. Khalwale, what is out of order that you are pointing out to Sen. Orengo?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, that we should accommodate Sen. Orengo in view of the changing technology these days.

The Temporary Speaker (Sen. Ongoro): You are out of order, Senator! With all due respect, the person in question is none other than the Temporary Speaker. I do not think Sen. Orengo is in any doubt that I am not a woman. He has already dully apologised and withdrawn. What he is now making reference to is a matter that is obtaining in the UK, just as a point of reference and he is not out of order. He is explaining situations elsewhere.

Proceed, Sen. Orengo.

Sen. Orengo: Thank you very much, Madam Temporary Speaker. Thank you again for protecting me from the bull fighter, or rather, the Senator for Kakamega.

Whereas we think it is a Procedural Motion, but arising out of the debate of the many things that have been said, it was important to put those matters on record. It is because of what people have said while I was sitting down listening, that I felt I should say something about this Motion. This is because in essence, what the Motion is trying to do and emphasize is that Parliament as a legislature, is supreme and cannot be guided by any authority in conducting its business. That is very important.

Sometimes it is important to put matters on record. There were days when even the Committees that were established in the National Assembly at that time, you had to seek authority from the Office of the President before you could actually table them in the House. I remember at one time a Committee on Defence and Foreign Affairs consisting of Koigi wa Wamwere as Chairman, Abuya Abuya and myself, was constituted. We were not allowed to sit for even one day because the Office of the President thought that that committee should not only, not be established, but it should also be removed from the Standing Orders. In fact, that committee was never in the Standing Orders at all for quite a period.

Madam Temporary Speaker, I am pleading to the Chair that in exercising the authority of the office of the speaker, that there are powers that are granted to the office of the speaker. However, it would be important on a consultative basis that the decisions of the Speaker are based on a broad consultation. Although all the decisions always rest with the Speaker, the courts are now speaking clearly everyday about how to enact legislation. The participation of the Senate is now mandatory in the sense that even if the Bill does not end up on the Floor, the Speakers of the two Houses should make a decision together on whether the Bill concerns counties and if it concerns counties or does not, whether it is a money Bill or not.

There is a position where the Speaker can decide to make that decision on his own, but Parliament is an institution and the Office of the Speaker is just an organ and part of the institution of Parliament. Therefore, I would urge the Speaker that whenever he has to make a decision with his brother in the National Assembly, he should consult widely with the leadership of the House. If need be, even with individual Members of this Senate. Now the courts are coming out on a regular basis to remind Parliament that a Bill

cannot be enacted and become part of the law of Kenya without the participation of the Senate.

The Constituencies Development Fund (CDF) Act has now been declared to be unconstitutional. One of the grounds on which it was declared so, was that the Senate was not involved in the formulation and enactment of the Bill. Even the case we had in the High Court recently concerning the security laws, it was a matter of debate as to whether or not what the Speaker did amounted to consultation. That debate going on in the courts is completely unnecessary if we decided to assert our authority in so far as legislation is concerned.

Madam Temporary Speaker, history has shown that unless parliaments fight for their turf or jurisdiction, they can easily lose it. At Independence we had a very strong Parliament. If you look at the debates those days, no power or authority could go beyond Parliament. You should sometimes read the HANSARD and look at the participation of the first President of this Republic when he was a Prime Minister and when he became the President. The President and the Prime Minister then were treated as a public or state officer who was accountable to the National Assembly.

I remember there was a day when I was reading when one of the back-benchers rose on a point of order against the Prime Minister then, Jomo Kenyatta and the Speaker ruled that the Prime Minister was out of order and he had to apologize. It took only about two years thereafter for Parliament to become a different animal, and seeing Jomo Kenyatta in the National Assembly was as if some power from Mars was entering.

What this Constitution is doing is that we are humanizing authority. Even the most powerful office is accountable to the people of Kenya and Parliament. In that regard, I would urge the Office of the Speaker, that it does not mean that you are any less powerful or less authoritative if you sit down with the leadership of the House to make a determination on whether a Bill concerns counties or not. There is a time I wrote an article about the former Speaker, hon. Kaparo, because I thought he made my day on a particular day when he stood firmly. I had so many controversies and arguments with hon. Kaparo. In that particular day, he stood up for Parliament. That reminded me of an incidence in the British Parliament in the 15th Century when the king was looking for certain Members of Parliament and he was demanding that they be ejected from the House of Commons and be hanged. The king was there with his troops and when the communication came from the king that he wanted the three Members of Parliament, the Speaker said “yes, your majesty you are looking for so and so, but I cannot see them”. You know the Speaker only notices those people who have stood up to speak.

So he said those Members had not caught his eye and it demanded that the king and his troops should leave the precincts of parliament. That was the beginning of Parliament exerting its authority. Even now as we feel proud that we have a Senate and a National Assembly, which is separate and distinct from the Executive, there are already signs that the Executive is using its numbers in order to turn around Parliament to be just as bad as the days when the Executive was in Parliament.

Madam Temporary Speaker, I urge Members of the Jubilee Coalition who are here to pass this message; there are times when we must stand together as the institution of Parliament. Like now, Members of the National Assembly are feeling that the Senate

is important because of that one statute called the CDF, but on matters of who has committed an offence in the National Assembly or has behaved in a disorderly manner, then the National Assembly suddenly has two ways of looking at things; that there are Members of the Coalition of Reforms and Democracy (CORD) who must be punished and there are Members of the Jubilee Coalition who must not be punished. The moment we begin to behave that way, we will be headed nowhere.

Sen. (Eng.) Karue, who has done a great job by bringing this CDF Act, should feel very proud. Sometimes I call him “Mr.” because he used to be my client when he was being harassed in his part of the world. He was arrested and charged with murder. People have come a long way in trying to come to this institution. Hon. Sen. (Eng.) Karue brought that CDF Act not in the sense that any part of the country should benefit, but he brought it for the whole country. Whenever you have heard him stand to say anything in this Chamber, and I have always listened to him, he is one of the few people, particularly on the other side of the House, who speaks like a Kenyan.

(Applause)

Sen. (Prof.) Lonyangapuo can talk about potatoes from morning to evening because of the inspiration from Sen. (Eng.) Karue.

Therefore, our duty to this country is very important in these formative years. If we go wrong on this new Constitution, and now you know we have established this calendar, it may be a simple routine affair. In the old days, it was never a routine affair for us to establish a calendar. It was left for the Executive. I want to tell you that there are ways that the Executive can decide that we need to revise that calendar because Parliament has to be on recess because they want to do certain things or to recall you, for example, when Parliament was recalled to enact the draconian law. You were brought in one day, you enact a very important Bill and then you go. This reminds me when Kenya became a one party state. People were brought to Parliament in similar circumstances. When they came, the Mover moved, the seconder seconded and then somebody stood up and said: “May the Mover be called upon to reply?”

(Laughter)

The only lone voice, and I need to put it on record, was myself and I was haunted. Those days are not very far from us because as Sen. (Dr.) Khalwale was speaking earlier, when it comes to issues of applying the law, when Sen. (Dr.) Khalwale says something in Kakamega or Nairobi, two days later, he is summoned that he must appear before the Criminal Investigation Department (CID) headquarters or Integrity House.

This is the only time I am differing with a prospective client because only Sen. (Dr.) Khalwale came to seek my advice and I gave him a day when we should go to Integrity House but when we went to Kakamega, he was of a different opinion and he announced publicly that he was not going to appear and, indeed, he did not appear. That was the end of the story, which shows that he was being summoned, not for a serious thing but it was just an act of intimidation.

Speaker Seroney, the great man, the only thing that took him to detention was that while he was at sitting where you are, Madam Deputy Speaker, when Hon. Martin Shikuku stood up on a point of order to say that, “Kenya African National Union (KANU) is dead” and somebody asked for substantiation, Speaker Seroney said that: “you cannot substantiate the obvious” and that ended up in the two of them going to detention.

Those days are completely gone and I believe that the true spirit of Kenyans as I see it today is that we will never go there. Even you Madam Deputy Speaker, the way I see you, you do not like going to prison but when it comes to issues of principle - I have seen you in circumstances where you are prepared to go to prison or to be arrested in defence of the Constitution and the law. Let us not regard these things that we are doing now, like having our Calendar, that they have come easily. They have been fought for and I agree with Sen. Hassan that if it takes—

The Temporary Speaker (Sen. Ongoro): Your time is up, Senator. There being no further request, I call upon the mover, the Senate Minority Leader, to reply.

The Senate Minority Leader (Sen. Wetangula): Madam Deputy Speaker, I beg to reply and in so doing, I laud the great contributions that have been made on this Floor in support of this Motion. This Motion is a testimony of changed times. I came to the National Assembly in 1993, the only other Members here who were there at the time, is the distinguished Senator for Siaya, octogenarian Senator for Laikipia and that is all.

Those days, Parliament was an extension of the Office of the President. There was nothing like going on a Calendar programme. The President would just wake up and in the middle of debate, a Clerk would walk in with a little message to the Speaker that Parliament has been dissolved. That is how bad it was and the Speaker had to cut short and stop the House and go away. Even going on recess was a nightmare.

Today, the Calendar we have placed before you has a programme where Senators can actually sit in their offices and plan their year. You can plan when to go to the United Kingdom (UK) or to Mombasa for holiday because the recess period is clearly defined and this has not come easy. I salute the industry of the distinguished Senator for Siaya because he has been in the trenches and fought this long winding battle to achieve this sweet victory.

I also join him in saluting the distinguished Senator for Nyandarua. Like Lord Jim, the distinguished Sen. (Eng.) Muriuki has also been my client and when he came to my office to seek my legal advice, he was a young heavily bearded handsome young man. He was wearing a very dark and immaculate beard with a flamboyant suit. When he walked into my office and asked me to advise him and after I advised him, he pulled out his cheque book and asked me if he could pay me. There were a few people in those days who could do that. That was Sen. (Eng.) Muriuki and he has remained a man of great distinction till today. You will never hear Sen. (Eng.) Karue engage in ethnic trivia on this Floor. When one day we write the history of the Second Senate, Sen. (Eng.) Karue will have a distinguished chapter, unlike the young energetic, restless and erratic Senators that we see here.

The Temporary Speaker (Sen. Ongoro): Order, Senator! Use parliamentary language in reference to honourable Senators.

The Senate Minority Leader (Sen. Wetangula): I withdraw the word “erratic” and use the word “unpredictable.” They are Senators who want to appear to know even things that they do not know. They are flamboyant, they flash around because they are close to people. They think that they are also in power. We want to remind them that we have seen it all. Let them consult Sen. Karue, Sen. Orengo and Sen. Obure, a man who rose from the ranks of football to a Minister for Foreign Affairs, Minister for Finance and now the distinguished Senator for Kisii. He is, of course, a “Corded” Senator.

For my brothers like Sen. (Prof.) Lesan, I love the way that you sit here quietly learning. When you speak, you speak sense, and we appreciate you. We do not want you to degenerate into a champion of ethnic bigotry. We want you to remain a distinguished national leader. When we bring this Calendar, we want you intermittently, to walk to Sen. Boni Khalwale and tell: “Can I visit you during this holiday and you visit me during the next holiday?” That is how we will build our country. But when you see people behaving as if some of us are visitors in this country or we are tenants and they are landlords, it hurts very many people.

As I salute those who have contributed, the tragedy of this country is that those who ought to learn never do so. There is a book that I read called “*God’s Bits of Wood*.” There is a woman called Penda who was a blind prostitute, but very brilliant. She could not see but every time she reminded people: “I do not understand how people with eyes do not see.” She always felt that she had seen what people do not see. She saved people in many situations. For those who have not read that book, it is about a revolutionary strike in Senegal. The author is called Ousmane Sembene, one of the greatest writers and film makers in Africa. I sometimes look at my colleagues here and wonder how people with eyes do not see, have ears and do not hear and yet, we are in one country.

Madam Temporary Speaker, as we approve our Calendar, I want to salute the Judiciary for what they did on Monday. They said exactly what we have been saying here, and you have been even more eloquent than some of us; that the problem of this country is not the inadequacy of laws, but the lack of the will to enforce the law. That is what the court said. They vindicated what we have been saying. We kept on asking: “Can anybody in his right frame of mind tell us that the massacre in Mandera and Mpeketoni and the gunning down of hon. Muchai on the streets of Nairobi was because there was no law?” Is all that we have seen in Kapedo because there was no law? People have taken leave. That is why you see young people – including in this House – who did not even have a second car, now living in the air. They fly from point A to B, abusing state resources and flamboyantly tell us: “We are the power.” President Moi used to say that some of these fellows are like balloons. You do not need a hammer but just a needle. You prick it and it just comes down. Most of them are just ballooning around, intimidating and stepping on people.

We will tell them that we have seen them come and go and it will come to pass. This House must stand. I was very impressed today; the Speaker of the National Assembly called me and told me that now more than ever before the National Assembly appreciates the Senate. We know that there is no way the Constituencies Development Fund (CDF) Act can be salvaged without the Senate. I told him that I am happy that he has finally come round to where we were. The CDF is a fund that affects counties. There

is no way that anybody will sit in the National Assembly and debate on the CDF without coming to the Senate. The Senate will have the final and critical word on whether or not to continue with the CDF or not in its current format or in a new structure.

Madam Temporary Speaker, this is the proverbial Biblical case of the rejected stone becoming the cornerstone of the house. I want to salute Senators, including Sen. Chelule. When you go out there, Kenyans on the streets of Nairobi, even when the Constitution defines all of us as Members of Parliament; meaning Senate and National Assembly, the ordinary Kenyan knows that a Senator is not a Member of Parliament. A Senator is a Senator and a Member of the distinguished Senate. Today, there is a noisy chap from Kibera who shouts out there with a loud hailer. He has been shouting since 2.00 pm saying: “The future of this country is not with Parliament, it is with the Senate.” He also knows that the Senate is not Parliament. He is shouting that outside the entrance to the Senate. Distinguished Senators, even from men and women on the streets, know that you hold distinction.

Madam Temporary Speaker, you remember the day that we had the Special Sitting that was frustrated by the distinguished men and women across the Floor. By 6.00 a.m in the morning when I came to my office to prepare, they were offloading three trucks of General Service Unit (GSU) officers around all the gates of Parliament. I stopped, laughed and I told the Commander: “You are coming on a day when the men and women, who sit in the Senate, even at the lowest moment, will exchange vibrant debate without abusing each other. We will be vigorous in placing our ideas, but we will not fight. So, you people are now being abused by the State, because there is no violence anticipated at Parliament.

We are not those chaps at the National Assembly. I am a President in waiting, and a young excited Member of Parliament, walks to me and tears my shirt in front of the camera and leaves me half naked. To date, he has not even been called by the police to record a statement. Such is the country where we live in. A young Member of Parliament stripped an old man like Sen. Muthama, left him half naked and to date, he has not been called to record a statement despite the fact that we launched a formal complaint with the police. A young Member of Parliament undressed Hon. Millie Odhiambo and touched her private parts on the Floor of the Chamber, yet to date; he has not been called to record a statement, despite the fact that this was recorded on camera. Then the National Assembly, then proceeds to punish the victims and leaves the aggressors. A man like the MP for Shinyalu, Hon. Anami, if you know him, cannot even harm a fly. The fellow cannot even engage in a hot-pursuit argument. The only thing that he knows is singing and dancing, nothing else!

The Temporary Speaker (Sen. Ongoro): Order Sen. Wetangula! Withdraw the word “only”.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, among the many things that he does is singing and dancing. By the way, he was the Director of Culture and he used to teach music at Lenana High School; he has also been punished. A man called Kiuna; a young man called Kiome; a man called Ngunjiri, who nearly bit off a finger of a Member of Parliament (MP) and infected him to the extent that hon. Simba Arati was hospitalized for a full week---

Hon. Senators: Rabies!

(Sen. (Eng.) Karue stood up in his place)

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I am talking about the dignity of Parliament.

The Temporary Speaker (Sen. Ongoro): Let us take that point of order from Sen. (Eng.) Karue.

Sen. (Eng.) Muriuki: Madam Temporary Speaker, with all humility and the very nice speech from the Senate Minority Leader, can he give us a chance to vote? We are remaining with only two minutes.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I am winding up; we have about three minutes to go.

The Temporary Speaker (Sen. Ongoro): You have four minutes.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, all I am saying is that if everyone behaved like the distinguished Senator of Nyandarua and copied from you, this House would be very good. I wish all the young and vibrant Members were here because every time they hear the word “Jubilee,” they do not even wait to know whether you are about to praise Jubilee or not; they are all up there as if they are being electrocuted.

(Laughter)

Sen. Chelule: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): Yes, Sen. Chelule; what is your point of order?

(Sen. Wetangula stood up in his place)

Sen. Wetangula, take your seat; Sen. Chelule is on the Floor.

Sen. Chelule: Madam Temporary Speaker, as much as I would want to appreciate what Sen. Weta is contributing to this---

The Temporary Speaker (Sen. Ongoro): There is no Senator in this House called Weta!

Sen. Chelule: I am sorry, Madam Temporary Speaker; I meant Sen. Wetangula. Is it in order for him to deviate from the real issue that we were contributing to? We are here to contribute to and approve the Senate Calendar, but I am surprised that he has deviated and he is discussing individuals who are not even here. Is he in order?

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, the distinguished lady started by saying that she appreciates what I am saying, which I

appreciate too. But we cannot talk about the calendar of this House until we put it in the historical, contemporary and future perspective; it is not possible!

In conclusion, Madam Temporary Speaker, this House must always stand to defend the independence and dignity of what Kenyans have fought for. I accompanied Sen. (Dr.) Khalwale to see hon. Martin Shikuku – he was dying – in a cancer rehabilitation centre in Hurlingham. We showed pain and he told us:-

“Young men, do not show any pain; in fact, do not even worry because I have paid all my bills for this hospital. Perhaps when I die, they will refund the excess to my family.”

He said further:-

“I am ready to go. I waited for the new Constitution and it has been delivered; now I am a happy man despite the pain.”

We could see the pain that he was going through, but he said he was happy because he has seen the new Constitution. Like the man in the Bible who waited to go and see baby Jesus and said “now I can go to my maker.” We salute that great man, Martin Shikuku.

With those few remarks, Madam Temporary Speaker, I beg to move that this House adopts, approves and abides by the calendar brought to the Floor from the Rules and Business Committee (RBC).

Thank you, Madam Temporary Speaker.

(Applause)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, we have only 30 seconds to 6.30 p.m. and, so, we cannot commence any other Business. Therefore, hon. Senators, it is now time to interrupt the business of the Senate. The Senate stands adjourned until tomorrow, Thursday, 26th February, 2015, at 2.30 p.m.

The House rose at 6.30 p.m.