

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 26<sup>th</sup> March, 2014

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

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

### PRAYERS

### NOTICE OF MOTION

APPROVAL OF SENATE CALENDAR FOR THE  
SECOND SESSION - 2014

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

THAT, pursuant to Standing Order No.28, the Senate approves its Calendar (Regular Sessions) for the Second Session.

**The Speaker** (Hon. Ethuro): Order, Senate Majority Leader. There is something else you need to do.

### PAPER LAID

THE SENATE CALENDAR FOR THE  
SECOND SESSION - 2014

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I hereby table before this House the Senate Calendar, Regular Session of the Senate, from February to December, 2014.

*(Sen. (Prof.) Kindiki laid the document on the Table)*

## STATEMENTS

## RAID BY POLICE OFFICERS AT MASJID MUSA MOSQUE

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I have two statements to issue. The first statement regards supplementary information concerning the police raid on Masjid Musa Mosque in Mombasa County. This is as a result of supplementary issues that were raised and which I deferred last week.

Mr. Speaker, Sir, during the Senate debate on the statement regarding the police raid on Masjid Musa Mosque in Mombasa County on 20<sup>th</sup> March, 2014, the Speaker directed that I provide supplementary information on whether the Government is aware of a series of killings of Muslim and Christian clerics at the Coast and what is being done to address the issue.

Mr. Speaker, Sir, there have been a number of incidences where both Muslim and Christian clerics have been killed. Each and every case is under investigations on its own merit. Once completed, appropriate action will be taken against whoever is found culpable of such killings. Meanwhile, the Government is employing the following measures that are aimed at addressing extremism and radicalization in the country at large:-

(1) SUPKEM, NAMLEF, KEMNAC and other Muslim organizations have been encouraged to unite and work for the common good of the Muslims. This will deny extremists the opportunity to continue capitalizing on the disunity that was existing in the past among these institutions.

(2) Encouraging the establishment of mosque committees acceptable to all leaders, sheikhs and imams. These committees will ensure that criminals do not use places of worship to perpetrate criminal activities.

(3) Promoting interdenominational consultative meetings incorporating bishops, pastors, sheiks and imams.

(4) Encouraging Muslim scholars to assist in sensitizing the youth at the grassroots.

(5) Cooperating among sheikhs, imams and preachers with the security teams to ensure that those extremists who try to interfere with the established systems and committees are dealt with firmly.

(6) The media has been requested to be objective in reporting and avoid airing or publishing inflammatory stories or those propagating radical ideologies.

(7) The Government is working closely with interfaith religious leaders, civil society community based organizations and NGOs in dealing with violent extremism.

(8) The Government has also initiated joint youth sensitization programmes in Mombasa mosques. These will cascade down to the sub-counties.

(9) There is enhanced cooperation with countries that face similar challenges to share information and experiences on extremism.

(10) The Government has partnered with various countries and international organizations to develop initiatives to counter violent extremism in Kenya. Already, for example, there is a joint initiative by NCTC and the Danish Government in training prison and probation officers on early detection, reporting and handling indicators of violent extremism.

(11) There is continuous training to enhance capacity among the security agencies on techniques of detection, investigation and prosecution of terrorists and violent extremism.

(12) There is up-scaling of security operations to map out suspected violent extremism in refugee camps and other areas.

(13) There is heightened monitoring of blog posting and social sites with a view to disrupt likely plans of terrorist activities and initiation of citizen security programmes to reduce crime and violence in Kenya.

Mr. Speaker, Sir, even as this statement was being prepared, sadly, the country witnessed another barbaric attack on a church in Mombasa. This underscores what I said before this House last week; that the issue of attacks on places of worship and spiritual leaders is not constrained to Muslim clerics or places of worship. It is across the faiths. The Government condemns any acts, practice or activity that reduces our places of worship into theatres of violence and murder.

Mr. Speaker, Sir, I thank you. I hereby table the supplementary information regarding the police raid on Masjid Musa Mosque in Mombasa County.

*(Sen. (Prof.) Kindiki laid the document on the Table)*

**Sen. Hassan:** On point of clarification, Mr. Speaker, Sir. I want to seek clarification because in the initial statement, I asked whether the Government was aware of the systematic human rights abuses at the Coast and other areas that are predominantly Muslim. My clarification arises from the fact that in 2007, closer to the elections, the then President Mwai Kibaki constituted a committee calling it the Committee on the Special Concerns of the Muslim Community in Kenya under the chairmanship of Eng. Sharawe. The secretary is the now Cabinet Secretary for Foreign Affairs. My clarification is, whether the Government intends to make this report public or it has started to implement the recommendations of what is better known as the Sharawe Report.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I would like the Senate Majority Leader to clarify what heightened security measures the Government intends to give to churches especially in the terrorist prone areas over and above the request by some members of the clergy that they be given arms.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, in the Government's raid on the mosque, some members of the public could not be accounted for after arrests were done. Can you

confirm how many members of the public were not accounted for, where they are and whether they are alive or not?

**The Speaker** (Hon. Ethuro): Senate Majority Leader, you may respond.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, regarding the first issue, yes, it is true the Government is in possession of the report that was handed over by a committee. That report was handed over to the President in the last months of the last administration. The operationalization of that report is taking place in accordance with Cap.102, which is the Commission of Inquires Act, and in accordance to the dictates of the new Constitution with regard to public inquiries.

On the second issue, it is true churches, mosques and other places of worship are increasingly facing dire security constraints and threats. Normally, the policy of Government in matters of security is that of providing armed security to institutions and persons; and it is normally assessed based on the needs that that person or institution is facing. So, I think it is expected, therefore, in light of what has happened in the last few weeks that churches, mosques and other places of worship will formally request the Inspector-General of Police to provide security in every institution of worship to avoid the kinds of things that we have seen in our country in the past few months and weeks, especially the latest incident. That will be a genuine and quite appropriate request. But it has to be done formally not in burial meetings and other public places because there will be no avenue for follow up. It is hoped that those institutions will formally request for that security.

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

**The Speaker** (Hon. Ethuro): Of course, Sen. Omar, the Speaker does not require information.

**Sen. Hassan:** Mr. Speaker, Sir, the information is directed to Sen. (Prof.) Kindiki.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): The information is accepted.

**The Speaker** (Hon. Ethuro): If Sen. (Prof.) Kindiki needs it; you can provide it to him.

*(Laughter)*

**Sen. Hassan:** Mr. Speaker, Sir, I want to commend Sen. (Prof.) Kindiki because of the information he has given. I want to share that some of these radical elements have even attacked mosques. In fact, none other than an hon. Member of the National Assembly, Hon. Hassan, the Member for Kamkunji was on a wheel chair for long because of a grenade attack in a mosque in Eastleigh. Equally, Muslim clerics have been subjected to the same treatment, including recently on 13<sup>th</sup> March, 2014, Sheikh Bakero was attacked by the same youngsters. I like the fact that the Senate Majority Leader generalized about places of worship because the threat is uniform.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I thank Sen. Hassan for that information.

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On the last issue about people who are unaccounted for, in my statement last week, I said that the position of the Ministry of Interior and Coordination of National Government is that it is true that a number of people escaped from lawful custody in between the time of arrest and the time they were booked in the police station. The whereabouts of those people are not known. The most constitutional and lawful thing to do so that we get at the bottom of this matter as raised by the Senator for Migori County, Sen. (Dr.) Machage, is for members of the public who cannot trace their loved ones, their relatives, friends, sons and daughters, to make a formal report. This is the only way we can be able to know how many people are still outstanding, so that we can account for every person who might have been involved during this raid.

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

**The Speaker** (Hon. Ethuro): Senators, this was supplementary information, the substantive one was dealt with last week.

**The Senate Minority Leader** (Sen. Wetangula): Yes, we are aware, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): So you have more supplementary questions to the supplementary?

**Sen. Hassan:** It is a clarification.

**The Speaker** (Hon. Ethuro): Order, Sen. Hassan Omar. I think you have had your fair share. Let me give this chance to Sen. Mutula Kilonzo Jnr. and finally to the Senate Minority Leader.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the point of clarification that I need to seek is this: The recent reports on Mombasa and the coastal area are generally very disturbing particularly on the issue of attacks in places of worship. Recently, we had persons who were arrested carrying bombs and other items that would otherwise harm the public. It is also in the public domain that in the raid of the mosque, over 200 people were arrested and they are facing court charges. Similarly, the people who were arrested with explosive materials are also facing charges. These incidences are obviously causing anxiety to the people of Mombasa County, this include the investors and people who look up to this country for security. What measures is the Government taking to ensure that these people are tried as soon as possible? Does the Government intend to set up special courts for prosecuting people like these ones, so that justice can be dispensed and so that the people in this country and investors can have confidence that we have a justice system that is working as quickly as possible so that we can have security in Mombasa?

**The Senate Minority Leader** (Sen. Wetangula): Could the professor clarify the following:-

One, on the Sharawe Report, the new Constitution requires that the report is not just implemented, but made public, having used public funds to process the report. When will it be made public?

Two, Kenyans are sick and tired of these knee jerk reactions from the Government, every time we have a security challenge, they come up behaving like dogs barking at a new moon and shouting at the top of their voices that they will leave no stone unturned until they get the criminal. The stones remain exactly where they are. Could the Professor assure this House what concrete---

*(Laughter and loud consultations)*

Excuse me, the Professor is not listening to what I am saying. Sorry, Mr. Speaker, Sir, for that interruption---

**Sen. Karaba:** On a point of order, Mr. Speaker, Sir. We have to be told exactly the English words that Sen. Wetangula has used. Did you hear him talk about “dogs barking to a new moon?” That is not a metaphor; it is a direct insult to the Government.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, the distinguished Senator for Kirinyaga County has repeatedly boasted on the Floor of this House that he was a teacher.

*(Laughter)*

If he was a teacher, he cannot fail to understand a simple phrase like “Dogs barking at a new moon.” This is a common English phrase.

Mr. Speaker, Sir, could the Professor tell this House the concrete steps that the Government is taking to address the issue of growing extremism, intolerance, radicalism and violence particularly among our young people? Kenyans are deeply religious people. When you get young people assaulting houses of worship and clerics, we are getting to a very dangerous direction. What concrete steps is the Government taking, not just to treat the symptoms, but to treat the disease because moving and arresting 50 youths, parading them in the media and taking them to court deliberately on wrong charges does not help this country?

**The Speaker** (Hon. Ethuro): Majority Leader, you may proceed. Order, Sen. Hassan Omar, you cannot be asking others without also identifying on what capacity you are asking.

Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, Article 50 of the Constitution of Kenya, among other things, demands that persons who are arrested by the police must be given a speedy trial. The prosecution and the courts of law are bound by the Constitution to ensure that those who have been arrested are taken through a speedy trial, and are tried in accordance with the principles of fair trial. However, for the avoidance of doubt, the sentiments by this House that in a particular matter like this one which is of great national interest, care needs to be taken to ensure a speedier and more fair trial given the gravity of the issues have been noted. These sentiments will be

communicated to the relevant departments, officers and institutions as the sentiments of the Senate of the Republic of Kenya.

Mr. Speaker, Sir, on the second issue on the Sharawe report, my understanding of the Constitution is that when reports by commissions of inquiry under Cap.102 are presented to the President, they are supposed to be made public at the time of presentation. There have been so many reports which have been presented in the past even after the entry of the Constitution but which were not made public, which in my view is unconstitutional. Likewise I want to make an undertaking before this Senate that immediately, we will communicate to all the Government departments involved to ensure, not only the Sharawe report, but also any other reports of inquiry which may have been submitted to Government after the new Constitution which demands their publication, that the Government complies with the rule of law and with the Constitution of our country.

Finally, Mr. Speaker, Sir, concerning the grave issue of insecurity and the mindless violence that we have witnessed in the past few weeks in our country, I would like to say the following; everybody is affected by this issue. It is in that context that one of the things that the President of our nation has decided to highlight in his address to the Joint Sitting of the two Houses of Parliament tomorrow is the state of security in our country. I am sure that, perhaps after his address, this House will have three days to see whether, perhaps, that will be an opportunity to respond to the things that have been highlighted by Sen. Wetangula. He will be addressing the issue of insecurity in one bulletin.

**Sen. Ong'era:** On a point of order, Mr. Speaker, Sir. Did you hear the Senate Majority Leader trying to preempt what the President will be telling the nation? Has he become the President's speech writer?

*(Laughter)*

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I thank Sen. Ong'era for her concern and point of order. I am glad she has used the correct title. Unlike her colleague, Sen. Wetangula, who has problems addressing the Senate Majority Leader by the title of his office, he keeps on saying: "The Professor" yet there are many professors in this House.

*(Laughter)*

Be that as it may, at least Sen. Ong'era is courageous enough to---

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Is the learned professor and my professional junior in order to say I have difficulties addressing him when, indeed, I addressed him properly and clearly as

“Professor” and he did not protest until he jumped opportunistically on to the address by Sen. On’era. Is he in order?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, the Senate Minority Leader has heard.

Regarding what I have said, in the communication by the Speaker to this House that was issued last week----

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

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

**Sen. Khaniri:** Mr. Speaker, Sir, Sen. Janet Ong’era rose on a point of order, which, in my opinion was a very valid one. The Senate Majority Leader has not responded to that point. Is he in order?

**The Speaker** (Hon. Ethuro): He responded to the supplementary one by Sen. Wetangula. So, you need to go back to the original issue. But even so, the Senate Majority Leader has been very generous to the Senate Minority Leader. It is true that there is a difference between his title as a professor and his title as Senate Majority Leader. The most applicable for now is the Senate Majority Leader.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Speaker, Sir. It so ordered by the Speaker.

*(Laughter)*

Mr. Speaker, Sir, on the point of order by Sen. Ong’era, I do not desire to be the President’s speech writer at any point in time, but as leader of Majority, I exercise certain functions which also come with certain privileges and advantages. It is in that connection that the Constitution and even the Standing Orders of this House recognize the Office of the Majority Leader as the nexus between information that the presidency cannot bring here directly and this House. That information can be obtained prior or at the time that is being released or after it has been released. I hope I have responded to that one.

In the interest of time with regard to concrete measures about insecurity, other than that, especially for Nairobi and Mombasa, these two counties are the gateways into Kenya. What happens in Nairobi or Mombasa can affect the investment climate and even tourism as well as the confidence that foreigners have in our country. So, I think discussions are ongoing to try and see how the county governments of Nairobi and Mombasa can partner with the National Government to supplement the security arrangements which are there in accordance with Article 247 of the Constitution, which allows for supplementary policing arrangement which, of course, are allowed under the Constitution subject to the command of the Inspector-General of Police. It is under discussion and soon, subject to approval in accordance with the procedures of this House, we will table proposals both legislative and other proposals to deal with insecurity, particularly in Mombasa, Nairobi and other parts of the country which are equally under threat of armed violence and extremists.

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I thank you.

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): On the same or different matter?

**Sen. (Prof.) Anyang'-Nyong'o:** On the same.

**The Speaker** (Hon. Ethuro): I am afraid, we have spent a lot of time on this matter. We need to proceed to the next matter.

Okay, let me allow you very briefly and in a professorial manner too, I suppose.

**Sen. (Prof.) Anyang'-Nyong'o:** Thank you very much for allowing me to raise this issue and address the Majority Leader. Yesterday, on television, I do not know which channel, I listened to a senior police officer addressing the issue of insecurity at the coast. He said that if anybody sees one of the criminals, he should shoot on the spot. I think this is going to increase lawlessness in this country.

**An hon. Senator:** It was the county commissioner!

**Sen. (Prof.) Anyang'-Nyong'o:** I am informed that it was the county commissioner.

Could the Majority Leader inform this House what measures the Government is taking to make sure that communication from the Government, particularly from senior persons, is done in such a way that it adds value to improving security in this country rather than improving the tendency towards lawlessness?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, with regard to the request for clarification from Sen. (Prof.) Anyang'-Nyong'o, first and foremost, according to him, this was in the media and we cannot rely on media reports but that notwithstanding, under the new Constitution, the police and law enforcement agencies or security forces are bound to operate within the four corners of the Constitution.

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

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Information allowed.

**The Senate Minority Leader** (Sen. Wetangula): Just to inform Sen. (Prof.) Kindiki that in fact at 1.00 p.m., this afternoon, the same officer was asked and was shown on television whether he was quoted out of context and he repeated that he meant every word and he said "shoot them on sight".

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, the Kenya Police Service is under the leadership of the Inspector-General of Police and there is an officer designated as the spokesperson of the police. Unless those statements are coming from the Inspector-General or the spokesperson, the sentiments of an individual officer, in my view, without the benefit of having listened or seen what Sen. Wetangula is talking about, I think we should say very clearly here that it is not a matter of choice or preference. The issue of adhering to the rule of law and due process is constitutional and anyone who breaks that order is to be subjected under the law. It is for that reason that we have a police oversight authority where complaints against excesses by police officers

can be conveyed. So, without pre-emptying what might happen, that kind of order will fly in the face of the Constitution and would not really wash. We expect the fight against terrorism and violence to be handled by the police and they should be supported because it is a very difficult task.

**The Speaker** (Hon. Ethuro): Order, professor and Majority Leader of the Senate. Just for avoidance of doubt and to clarify certain minds, I think it is important that I appreciate your wording of “flying” and “washing” but since we speak for the Republic, you may use simpler words that are very clear so that we may know if such orders are lawful, constitutional, legal or otherwise. I am sure that is what the Senate would want to transmit to the nation.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, shooting suspects without due process is illegal, unconstitutional and unlawful.

Mr. Speaker, Sir, I had a second statement, which is a statement on the business of next week. It is very brief and with your permission, may I proceed.

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

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 1<sup>ST</sup> APRIL, 2014

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Hon. Senators, pursuant to Standing Order No.45, I wish to present the business for the Senate for next week.

Next week on Tuesday, the Rules and Business Committee will meet at 12.00 p.m. in order to schedule business for next week.

The Senate will also commence debate on the Motion to record the thanks of the Senate for the Exposition of Public Policy contained in the address to Parliament by His Excellency the President tomorrow Thursday, 27<sup>th</sup> March, 2014.

On Wednesday, 2<sup>nd</sup> April, 2014, the Senate will continue with debate on the Motion to record the thanks of the Senate for the Exposition of Public Policy contained in the address to Parliament by His Excellency the President on Thursday 27<sup>th</sup> March, 2014 and to consider any other business scheduled by the Rules and Business Committee.

On Thursday, 3<sup>rd</sup> April, 2014, the Senate will finalize the debate on the Motion to record the thanks of the Senate for the Exposition of Public Policy contained in the address to Parliament by His Excellency the President on Thursday, 27<sup>th</sup> March, 2014 and thereafter consider any other business scheduled by the Rules and Business Committee.

I thank you and hereby lay this Statement on the Table of this House.

*(Sen. (Prof.) Kindiki laid the document on the Table)*

**The Speaker** (Hon. Ethuro): Sen. Adan.

## DELAY IN ISSUANCE OF BIRTH CERTIFICATES IN MERU COUNTY

**Sen. Adan:** Mr. Speaker, Sir, I wanted to respond to a Statement that was requested by Sen. Murungi.

On 17<sup>th</sup> March, 2014, Sen. Murungi requested for a Statement regarding the delay in issuance of birth certificates in Meru County. The Senator sought to be informed on the following:-

(i) The number of birth certificates that have been issued in Meru County in 2012, 2013 and 2014.

(ii) The reason for the unreasonable delay in issuance of birth certificates in Meru County.

(iii) Whether the Government has any plans to decentralize registration of births and issuance of birth certificates to the sub-county level.

Mr. Speaker, Sir, in 2012 and 2013, a total of 30,893 and 34,973 birth certificates were respectively issued in Meru County. So far in this year, 2014, a total of 7,494 birth certificates have been issued in the same county. It is true that there were delays in issuance of birth certificates in the country and not only in Meru County in December, 2013 and January 2014. This was occasioned by running out of certificates by the Government Printer which resulted in delays in supply of certificate booklets to the department. This invariably affected the supply of certificates to the registrars across the country which, unfortunately, translated to delays in service delivery to the applicants. However, I am happy to report that a steady supply of certificates was restored in February, 2014 though by that time there was accumulated backlog of applications in several registries. The department has since restored normal service delivery across the country.

Mr. Speaker, Sir, the Government recognizes the importance of providing registration services as close to the people as possible. It is in this spirit that the civil registration offices have been increased to the current 107. This increment was only made possible by the increased resources to establish offices, finances to cater for recurrent cost of running offices and acquisition of additional staff to run offices and serve the public. The Ministry has already requested the national Treasury for additional funding and approval to hire additional staff. The department has also made proposal for expansion in the Directorate of Immigration and Registration of Persons Strategic Plan. If the plan is funded, we shall be able to increase the number of sub-county registration offices.

Thank you.

**Sen. Murungi:** Mr. Speaker, Sir, I want to thank my neighbour Sen. Adan for this almost good answer. A birth certificate is a constitutional right of every Kenya. It is a constitutional right of every Kenyan to be given a name and to be registered at birth. Many people in my county are being denied their constitutional right through neglect and inefficiency by this Government. Seven thousand certificates for nine constituencies is

just a drop in the ocean. I think time has come for the Government to pull up its socks and make sure that children are given certificate as they are being born.

The question I want to ask is; a birth certificate is just like a marriage certificate, even the quality of paper is the same. A marriage certificate is given by a pastor. Immediately you get married, you are called with your witnesses and given a certificate on the spot. Is it possible for this Government to delegate the same powers to Medical Officer of Health (MoH) in every hospital where children are being born so that immediately you are born, you get your certificate from the hospital and not from some bureaucrat sitting miles away from where you are born? Is it possible for us to get there?

**The Speaker** (Hon. Ethuro): Sen. Hassan Omar.

**Sen. Hassan:** Mr. Speaker, Sir, in the same matter, issues of registration are directly tied to issues of election because how you register is how you vote. Can they further clarify where the registration centres are established? We may be establishing them in areas that may prejudice us politically.

**Sen. Karaba:** Mr. Speaker Sir, thank you very much. On the same concern, we have the registration of the Kenya Certificate of Secondary Education (KCSE) students. There is no way that somebody can be registered without birth certificates. On that note, I feel as if many students have been denied registration on the pretext of lack of birth certificates. Could the Government speed up the issuance of birth certificates so that this problem is resolved once and for all?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, when this matter came up, I tried to raise an issue and the distinguished Senator for Meru thought I was overloading his question. I still want to follow it up. The sequence of registration is; birth certificate, identity cards and eventually all the important documents like voters registration.

The new Constitution has given the Independent Electoral and Boundaries Commission (IEBC) a responsibility to carry out continuous registration of voters. We are now into the second year since the last elections. Could the Vice Chair of the Committee tell us when the Government will decentralize registration of births as requested by Sen. Murungi to the lowest level possible? Two, when will they decentralize the issuance of identity cards? From as far as Moyale and Turkana where you come from, people have to bring documents to Nairobi to process identity cards in this day and age. Third and last, when will the IEBC commence registration of voters, to be carried out continuously up to the next elections?

**Sen. Mbura:** Hoja ya nidhamu, Bwana Spika. Kuhusu swala hilo, kuna kitu sijaelewa. Mtu akitaka cheti cha kuzaliwa, ni lazima apeane kitambulisho cha nyanya, babu, watu waliokufa zamani ambao vitambulisho vyao vilipotea? Ukiwa Mdigo, mtu ambaye anakufa kutokana na mkasa wa *ferry*, hauwezi kupata cheti hiki hadi upeane vitambulisho vya watu ambao walikufa zamani. Hivyo ni sawa?

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, in giving this statement, Sen. Adan stated that a major part of the delay was occasioned by the Government Printer in printing the

birth certificates. Could the distinguished Senator tell the House what the Government is doing to enhance the activity at the Government Printer?

In saying so because it seems as if there is a backlog in all Government departments that require services from the Government Printer. Even this House, when Bills are published, first of all, they line up and take a long time. After they have been published, the publication loses meaning. The publication should imply that the documents are available to members to go through them before they are brought to the House. However, what is happening is that there seems to be serious backlog at the Government Printer. Even Bills that were due to come to this House, only two or three have been printed. So, the publication period ceases to have meaning because the backlog is too much. It seems as if the Government Printer is completely overwhelmed. Could the hon. Senator tell us what the Government is doing about the backlog? We are now talking about backlog in Meru, Nyandarua and many other places.

**The Speaker** (Hon. Ethuro): Order, hon. Senator. You have made your point.

**Sen. Ndiema:** Thank you Mr. Speaker, Sir. I want to seek further clarification in respect of this very important document. A birth certificate is very important for various purposes. Identity cards, passports and marriage certificates are also very important. When will the Government consider establishing offices at the devolved levels?

The Constitution talks about the Provincial Administration conforming to with devolution. This should now be devolved to the ward level and there should be one office whereby birth certificates, identity cards, passports and even marriage certificates and company registration can be done. This has been done in other countries.

**Sen. Elachi:** On a point of order, Mr. Speaker, Sir. Will I be in order to request that the Vice Chairperson is given time because this issue is raising a lot of interest? She should be allowed to go and research and even to consult with the Ministry of Immigration and Registration of Persons to enable her bring a comprehensive answer?

**The Senate Minority Leader** (Sen. Wetangula): Has the Vice Chairperson of the Committee expressed any inability or disability to answer the questions? It is preposterous for the Majority Whip to stand up even before the Chairperson of the Committee utters a word, to presume that she cannot answer the questions we have raised.

**The Speaker** (Hon. Ethuro): Indeed, Sen. Elachi, I did not see you being enjoined in the responses, while you show your empathy. However, let us hear from the Chairperson first.

**Sen. Chelule:** On a point of order, Mr. Speaker, Sir. This is on the same issue. I think it is better for her to get all our concerns regarding the matter. I want to add more issues so that she comes up with a comprehensive Report.

**The Speaker** (Hon. Ethuro): Sen. Chelule, I had already disposed of that particular matter. For you to revisit it is unacceptable. Secondly and more fundamentally with regard to the issues that other Members have raised, including what Sen. Wetangula has raised, we should leave the Chairperson to give the information sought and to handle

the matter. If she demonstrates--- Why are you working on the assumption that the Chairperson is not able? So far, she has demonstrated extreme competence, capability and alertness to respond.

Proceed, Sen. Aden.

**Sen. Adan:** Thank you Mr. Speaker, Sir. I think it is important for us to understand – with due respect to my colleagues – that when somebody asks me to get all the information, they should also remember that there is the HANSARD. It is always important for the HANSARD to record what a Member has requested. When a Senator stands up to say that I must get everything, they must also understand that we must respect each other. I am attentive, I am listening and I get everything that is asked.

Secondly, out of the points that were raised, some of them are policy issues that require consideration. These are pertinent issues that touch on sensitive and accountable documents. This is a concern for us, as a Committee and I will take that responsibility to raise the issues that have been raised by hon. Senators with the relevant departments so that we take immediate action.

**The Speaker** (Hon. Ethuro): Any time frame?

**Sen. Adan:** Two weeks from now is good, Mr. Speaker, Sir.

**Sen. Hassan:** Order, Mr. Speaker, Sir.

**Sen. Khaniri:** Mr. Speaker, Sir, did you hear what Sen. Hassan said? He said; order, instead of calling you.

**The Speaker** (Hon. Ethuro): Sen. Hassan, you have been challenged.

**Sen. Hassan:** Mr. Speaker, Sir, I said order and I quickly corrected it. I realized that I was directing that to the wrong person.

**The Speaker** (Hon. Ethuro): It is only fair to acknowledge that.

**Sen. Hassan:** If Sen. Adan will do a comprehensive research as a follow up question to what Sen. Emma said, we took up this matter of being asked for extra documents to court when we were together at the Kenya National Human Rights Commission (KNHRC). In fact, we got judgment to the fact that the extra documents are illegal by law. Further to that, the Minister for Immigration and Registration of Persons, none other than Sen. Kajwang, issued an administrative note that these documents should no longer be demanded based on that court ruling.

So, in your research, please, find out why they continue to demand for the documents despite a court order that exists to that effect.

**The Speaker** (Hon. Ethuro): You do not need to respond to that, Sen. Adan. You should just do what you had agreed to do. However, more important, Sen. Hassan, there is a reason why you did not get it right in the first place. Sen. Adan has already given us a period of two weeks. The information you have given us is something you could have taken to the Committee rather than speak after the event. We have allowed you but you should know that the window is being closed.

Let us move to the next business.

**The Speaker** (Hon. Ethuro): Sen. Adan, you mean you have another statement?

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

**The Speaker** (Hon. Ethuro): Let us first give a chance to Sen. Khaniri as we give Sen. Adan a break.

PAYMENT OF DUES OWED TO BUSINESSMEN FROM  
WEST POKOT COUNTY BY KMC

**Sen. Khaniri:** Mr. Speaker, Sir, yesterday, I gave a commitment that I would respond to the request of the Senator for West Pokot with regard to the Kenya Meat Commission, a statement he sought from the Committee on Agriculture, Livestock and Fisheries.

As per yesterday, I was still in the acting capacity as the Vice Chairperson of that Committee because they had not held their elections. I am made to understand that they had their elections today and we have a new Chairman in the name of Sen. Kiraitu Murungi. I take this opportunity to congratulate him.

*(Applause)*

Would I be in order to hand over the statement to Sen. Murungi so that he can issue it tomorrow or after acquainting himself with it?

**The Speaker** (Hon. Ethuro): Are you a Member of the Committee, Sen. Khaniri?

**Sen. Khaniri:** I am not.

**The Speaker** (Hon. Ethuro): Since the Standing Orders took effect on the day we adopted that particular Motion, then it is only fair that the new Chairperson is given that opportunity to demonstrate his leadership to the Committee. So, I will defer it to Tuesday next week.

*(Statement deferred)*

**Sen. Murungi:** Mr. Speaker, Sir, thank you for the directive. Our Committee started work today and Sen. ole Ndiema, who was a Member of that Committee, was elected the Vice Chairperson of the Committee. The Committee decided that all the pending business, including that statement, will be handled by my Vice Chairperson, Sen. ole Ndiema. So, he is going to deliver that Statement on Tuesday.

Thank you, Mr. Speaker, Sir.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Sen. Kiraitu! Order! That is an internal mechanism for the Committee to decide. The Chair and the House would have been satisfied, come Tuesday and Sen. ole Ndiema lays it on behalf of the Committee.

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

**The Speaker** (hon. Ethuro): What is it, Sen. Musila?

REASONS FOR ALLEGED REMOVAL OF  
DR. SIMIYU AS CEO OF GDC

**Sen. Musila:** Mr. Speaker, Sir, I stand on behalf of the Committee on Energy. Sen. (Dr.) Khalwale had sought a Statement on the affairs at the Geothermal Development Corporation (GDC) and I am seeking the indulgence of the House. Yesterday, the Committee held an extensive consultative meeting with the management and also the Board, and we are still to conclude the matters sought by Sen. (Dr.) Khalwale. I am, therefore, seeking the indulgence of the House to have this matter deferred until after two weeks, when we expect to meet both the management and the Board of the GDC.

Thank you, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): Sorry, Sen. Musila; I was distracted by the gracious Senator, Sen. Elachi. What was your request; was it to defer?

**Sen. Musila:** Yes, Mr. Speaker, Sir; to defer the Statement since we could not conclude the matter yesterday, and we are going to continue with our consultations in two weeks. Therefore, I am seeking the indulgence of the House and, indeed, Sen. (Dr.) Khalwale, to wait until that time.

**The Speaker** (hon. Ethuro): Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** I am most obliged, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): I would just like to encourage you, Sen. Musila, and your Committee, to expedite this matter since it borders on some sensitivity which might require urgent attention.

**Sen. Musila:** Indeed, Mr. Speaker, Sir, we are taking it very seriously and we are making good progress.

Thank you, Mr. Speaker, Sir.

*(Statement deferred)*

CONSTRUCTION OF SEA WALLS AND JETTIES ALONG  
THE COASTAL AREAS

**Sen. Kisasa:** Mr. Speaker, Sir, I sought a Statement three weeks ago from the Chairperson of the Committee on Roads and Communication regarding the jetties and the erosion which is taking place at the coastal strip, but to date, I have not heard any response.

**The Speaker** (hon. Ethuro): Chairperson of the Committee?



**Sen. Musila:** Mr. Speaker, Sir, Sen. Abu Chiaba is the new Chairperson since yesterday.

**The Speaker** (hon. Ethuro): Is there any Member of the Committee present here? Sen. Chelule?

**Sen. Chelule:** Thank you, Mr. Speaker, Sir. I happen to be a Member of that Committee and I am sorry that my Chairperson has just gone out; I hope that he is coming back. I want to request Sen. Mshenga to give us one week; that is if my Chairperson is not coming back to this House before we adjourn.

**The Speaker** (hon. Ethuro): Let me order that we have that Statement on Tuesday because Sen. Mshenga is talking of three weeks ago. So, really, whether new or not, there were some existing Committees before. You just have heard from the new Chairperson of the Committee on Agriculture; the only brief they have is on who delivers it, but the work has been done.

**Sen. Chelule:** But I hope, Mr. Speaker, Sir, that one week will be adequate for us to revisit the previous Committee Members.

**The Speaker** (hon. Ethuro): In any case, your one week from today, Wednesday, is---

**Sen. Chelule:** Mr. Speaker, Sir, it is Thursday.

**The Speaker** (hon. Ethuro): Your one week from today is actually---

**Sen. Chelule:** Okay; it can either be Wednesday---

**The Speaker** (hon. Ethuro): Order! Order!

**Sen. Chelule:** Wednesday, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): Your one week actually agrees with mine. Tuesday afternoon?

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

**The Speaker** (hon. Ethuro): Sen. (Dr.) Kuti?

#### DIFFICULTIES WITH THE PUBLIC ADDRESS SYSTEM IN THE SENATE CHAMBER

**Sen. (Dr.) Kuti:** Thank you, Mr. Speaker, Sir. I stand to raise an issue on the difficulties we are having with the Public Address (PA) System in this House for the last couple of weeks now. It is very irritating and we would like to know what is being done and when it can be resolved, because even yesterday as we were making contributions, it was very difficult because there was some nuisance of some sort.

**The Speaker** (hon. Ethuro): Order, Senators! Of course, we are all aware of that problem; our team is trying to sort it out and I have told them that it must be sorted out before Tuesday next week, when we resume our sittings.

**Sen. Adan:** Thank you, Mr. Speaker, Sir. Maybe we need direction from you. This Statement was sought by Sen. Hassan Abdirahman, but he has not been in the House

since yesterday and today. So, I do not know whether I should proceed and issue the Statement.

**The Speaker** (Hon. Ethuro): Issue it on Tuesday.

**Sen. Adan:** I am much obliged, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Sen. (Eng.) Karue?

#### INVITATION OF SENATORS TO THE DEVOLUTION CONFERENCE IN MOMBASA

**Sen. (Eng.) Muriuki:** Mr. Speaker, Sir, would I be in order to request the Chair to give communication with regard to a convention in which Senators have been invited to Mombasa in the coming week. The invitation is individual to each Member, although the list has all of us, but it does not seem to include or involve the administration of the Senate. Perhaps the Chair could give a communication as to how this is to be handled with regard to, maybe, attendance, facilitation, movement and also the mode of engagement in it.

**The Speaker** (Hon. Ethuro): I hope that is the end of Statements. If so, I also have some communications to make, but I will start by disposing of that matter raised by Sen. (Eng.) Karue.

We learned of that correspondence recently and we considered the matter before the Rules and Business Committee. So, we have asked our administration and the Clerk to engage the Governors so that we can find an appropriate way of participation. Since we will not be able to meet until then, we will communicate to you in other ways on the decisions we will have made, including the pertinent issues.

Hon. Senators, I also have a communication on marking the first Anniversary of the Senate.

#### COMMUNICATION FROM THE CHAIR

##### MARKING THE FIRST ANNIVERSARY OF THE SENATE

**The Speaker** (Hon. Ethuro): Hon. Senators, as you are aware, the Senate held its first sitting on the 28<sup>th</sup> of March, 2013, following the general elections which, in essence, marked its reintroduction after a 47 year break since the first Senate of independent Kenya was abolished. You will undoubtedly recall that it was during that sitting that you were sworn in before participating in the election of the Speaker and the Deputy Speaker. This is, therefore, to notify Senators that Friday, the 28<sup>th</sup> March, 2014, will therefore mark the first year of operation of the Senate.

*(Applause)*

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As is the norm during such occasion of commemorating an anniversary, this is a period for the Senate to critically examine its performance as well as to review and reflect on its first year of existence as it gears itself for the second year. It is a time to appraise our strengths and weaknesses as the guardian angel of devolution as set out in the Constitution.

*(Applause)*

Hon. Senators, the last one year has brought to the fore dark realities about our country; the recognition that it faces many challenges ranging from poverty, marginalization, unemployment and under-development, amongst others. However, tied to these challenges that we are meeting are tremendous opportunities to take the country forward. To put all these factors in proper context, where we are, as leaders, the Office of the Speaker will, therefore, shortly organize a forum to thoroughly examine one year of the Senate which will bring together several players in the area of governance.

*(Applause)*

We will also be organizing, after ours, all the stakeholders involved in the devolution process to review what we have been able to achieve and to agree on how to move forward to implement this new Kenyan experiment. I, therefore, just wanted to take this opportunity to sincerely thank all of you for proactively participating in the activities of the Senate for the past one year, and we look forward to more and productive outcomes in the years to come.

I thank you.

*(Applause)*

*(Sen. (Dr.) Khalwale stood up in his place)*

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. I want to thank you for what you just said, but I wish to request that so that we do not look like the other institutions or arms of Government that have demonstrated a lot of wastage and extravagance when they were marking such an event, that our Senate sets the pace by having a very modest budget so that we are not classified in the same group with some of the pretenders who want to say that they care about the poor when they keep on haemorrhaging the funds through such events.

*(Laughter)*

**The Speaker** (Hon. Ethuro): You can be sure, Sen. (Dr.) Khalwale, that the Senate is very alive to the principles of public finance management. One of them is cost effectiveness, efficiency and frugality. We are going to minimize the activities without losing the need also to celebrate our existence.

**Sen. Murungi:** Mr. Speaker, Sir, could you request Sen. Boni Khalwale to bring the bull on that great occasion and I will bring some Chuka drummers to commemorate the Senate, because the 47 counties should be seen during these celebrations of the Senate, because we represent the counties? So, let us bring the diversity and various peculiarities to be seen during those celebrations. Therefore, do not limit the budget.

**The Speaker** (Hon. Ethuro): I thought that you were actually saying that you were assisting the Senate by making the contribution from Chuka and requesting Khalwale to do the same.

**Sen. Murungi:** Mr. Speaker, Sir, if you requested, I could do so, but this is a public institution which should not be begging for charity. So, let us have a proper budget, so that we celebrate one year of the Senate in style.

**The Speaker** (Hon. Ethuro): We will take into account your suggestion.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. You might be tempted to choose to go his way; that I be requested to bring the Kakamega bulls to Nairobi. I would have no objection, but the bulls of Kakamega are just like the wildebeest of the Mara. When people want to see the wild beast, they go to the mara. They do not bring the wildebeest to Nyayo Stadium. I would, therefore, request that this event be brought to Kakamega, so that you enjoy bull fighting, amongst other things.

*(Laughter)*

PARLIAMENT OF KENYA DELEGATION TO  
THE 130<sup>TH</sup> ASSEMBLY OF IPU

**The Speaker** (Hon. Ethuro): Order, Senators! I have a second Communication to make.

Hon. Senators, as you are aware, I led a delegation of the Kenya Parliament, on behalf of the two Houses, to the 130<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) that was held from 16<sup>th</sup> to 20<sup>th</sup> March, 2014 in Geneva Switzerland. The delegation comprised of two Senators, Sen. Stephen Sang and Sen. Catherine Mukiite, and five Members of the National Assembly; hon. David Kosing, hon. Kabando wa Kabando, hon. Mishi Juma, hon. Boniface Gatobu and hon. Alice Wahome.

Hon. Senators, the IPU, as you are aware, is the international organization of parliaments that was established as the focal point for worldwide parliamentary dialogue and co-operation amongst people and for the firm establishment of representative democracy. The IPU supports the efforts of and works in close collaboration with the United Nations, individual parliaments and regional parliaments, whose objectives we

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share. The Union also co-operates with regional Inter-parliamentary organizations as well as international intergovernmental and non-governmental organizations which are motivated by the same ideals.

Hon. Senators, the recent Assembly was a memorable event to the union itself, Africa and, in particular, Kenya, in many ways. First, the IPU celebrated its 125<sup>th</sup> anniversary whose theme was “Renewing Our Commitment to Peace and Democracy.” Secondly, Mr. Martin Chungong who is a Cameroonian national, hence an African, has been elected as the new Secretary General of the IPU, becoming the first African to hold the post in its 125-year history. Your Speaker and the Parliament of Republic of Kenya nominated and lobbied for him. A record attendance of the IPU members made their choice on the closing day of the 130<sup>th</sup> IPU Assembly in Geneva.

*(Applause)*

Hon. Senators, thirdly, our own Sen. Catherine Mukiite and hon. David Kosing of the National Assembly were elected to become Members of the Standing Committee on United Nations affairs and Human Rights and Democracy, respectively. In addition, Sen. Stephen Sang was nominated to the Drafting Committee of Sustainable Development and Trade.

On your behalf, therefore, I take this opportunity to congratulate these Members of Parliament from Kenya on their election to these important Committees. This is the first time in the history of our involvement with the IPU that we got so many of our membership to the Committees. The election also marked another step in the enhancement of Kenya’s engagement in parliamentary diplomacy. Any other observations to the contrary, you can now appreciate, fell in the shadow of the great contributions and achievement that we have made at the global scene.

Hon. Senators, the Report of the delegation will be tabled before the House as soon as possible, in line with our Standing Orders and as required by the IPU.

I thank you.

**Sen. Hassan:** On a point of order, Mr. Speaker, Sir. You did indicate that through your nomination and lobbying, you were able to overturn 125 years of history. So, I think that it would just be in order for me to accolade that landmark Pan-Africanist initiative that has finally ended in us having an African Secretary General of the IPU. I would also like to laud the fact that this Senate actually made the right choice in having the Speaker in you, to continue to get more opportunities for Africans as we go ahead in terms of our parliamentary democracy. Therefore, min is just simply a message of congratulations to you, because you could not have said it in your own statement that you congratulate yourself for nominating the candidate from Cameroon and getting him to win. I thought that it was only in order.

I would also like to congratulate the Members of Senate and the National Assembly. I do not know whether that drafting Committee is supposed to be a big thing, but whichever way you look at it, I want to congratulate all of them.

**The Speaker** (Hon. Ethuro): The Drafting Committee is even greater. As a lawyer, you appreciate drafting.

**Sen. Hassan:** Absolutely! So, I want to congratulate Sen. Stephen Sang and Sen. Mukiite for that. I hope that you will represent us effectively in a manner that people will locate the Senate of this Republic as a House that really discharges its obligations with utmost diligence and professionalism.

Mr. Speaker, Sir, congratulations to all of you.

**The Speaker** (Hon. Ethuro): Next Order.

## MOTIONS

### DEVELOPMENT OF CLEAR POLICY GUIDELINES FOR ADULT EDUCATION

THAT, aware that Article 43 (1) (f) of the Constitution of Kenya states that every person has a right to education; recognizing that Vision 2030 underscores the critical role of education in Kenya's social-economic development; appreciating that, pursuant to Chapter 223 of the Laws of Kenya, the Government established the Board of Adult Education to coordinate adult education; concerned, however, that implementation of adult education programmes is hampered by absence of appropriate policies, including policies on recruitment, training, deployment, discipline and termination of services; the Senate calls upon the National Government to take immediate measures to develop clear policy guidelines for adult education staff recruitment, training, deployment and discipline in order to promote adult education.

*(By Sen. Karaba on 20.3.2014)*

*(Resumption of Debate interrupted on 25.3.2014)*

**The Speaker** (Hon. Ethuro): Who was contributing? I think that Sen. (Dr.) Kuti had five minutes to go. Do you still want to claim them?

**Sen. (Dr.) Kuti:** Thank you, Mr. Speaker, Sir. I was at that time speaking about the insecurity issues raised during the Motion for Adjournment by the Senator for Mombasa. I was saying that it is a time of reflection for all stakeholders, from the Head of State to people in charge of the security docket in the Government, political and religious leaders and even families and the nation at large, to stop and focus on issues of insecurity.

**Sen. Mohamud:** On a point of order, Mr. Speaker, Sir. I think that the Senator is addressing the wrong Motion, because as per the Order Paper, the next Motion is Motion No.8 by Sen. Karaba, which talks about adult education.

**Sen. (Dr.) Kuti:** I am sorry, Mr. Speaker, Sir. I got mixed up because there was a Motion for Adjournment which ended and I was contributing to it also.

*(Laughter)*

Mr. Speaker, Sir, I was actually contributing about the importance of adult education in this country, when the Motion for Adjournment by Sen. Hassan came. I was relating it actually to the implications that education has on the health of the nation. I was actually speaking at that time about the fact that studies have shown that if a population has basic education, the maternal and infant mortality rates will be remarkably reduced. This is simply because the educated mothers will appreciate from reading about maternal care, the importance of attending clinics. Also, if our traditional birth attendants have basic education, they will appreciate much better issues of maternal complications during pregnancy. Therefore, they will refer in good time and detect the complications that will face the pregnant mother under their care.

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

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

Mr. Deputy Speaker, Sir, also after delivery, studies have shown that if mothers are educated, they remarkably reduce the chances of their children getting diseases like diarrhea through basic hygiene. So, it is very important that adult education be revived. I happened to join primary school through adult education. As I was playing, I remember a primary school teacher held my hand. The first class that I attended was not Class One in the normal formal education. For about two or three months, I was attending adult literacy classes in the afternoon. Later I joined normal education after accompanying this teacher. It was not a formal organized trip to a school that children are taken on the first day. So, it was very much elaborate those days and I do not know what happened along the way. The adult literacy classes have now fallen apart because I think that the support and budget have not been forthcoming. I do not know whether the teaching is still ongoing. In fact---

**The Deputy Speaker (Sen. Kembi-Gitura):** Your time is up!

**Sen. (Dr.) Kuti:** Mr. Deputy Speaker, Sir, I beg to support.

**Sen. Kagwe:** Mr. Deputy Speaker, Sir, I also rise to support this Motion.

Mr. Deputy Speaker, Sir, the civilization of a society is measured by the weakest in that society. In other words, whether or not Kenya is a civilized society, is not

dependent on professors and lawyers. It is actually dependent on those who know the least, because they are the ones who have to be taken care of before the others.

Mr. Deputy Speaker, Sir, it is true, indeed, that there has been a lot of attempts at adult education. But those attempts have been a process of three steps forward and then two steps backwards. At every level, when you look across the country, whether it is in the north or in the south, you will find that there is no comprehensive way that adult education has been handled. You will also find that a whole community or group of people may not be fully integrated into in society simply because they have not been educated. It is really sad particularly because many of them in their youth may have wanted to be educated, but had to make sacrifices so that younger brothers or sisters could be educated. It is very usual in our society to find an older brother who sacrifices so that the younger ones could be educated. So it is only right and fair that we give them opportunities.

When you look at the economy that we run today, we run a knowledge based economy. Some people who have no education cannot take very great advantage of some of the opportunities that exist in a knowledge-based economy. Take for example a parent whose children are in Nairobi and cannot get money to come to see them, a parent whose children are in the United States of America (USA) or in Britain and cannot possibly travel there. However, if they were educated as adults and had knowledge to do technology such as *skype* or *facebook* which I am sure my friend Sen. Karaba understands very well or does not, if they had that knowledge, then they will communicate with their children whether in Kenya or outside Kenya for free. They do not even have to pay a thing to talk to their children in USA and other parts of the world.

Mr. Deputy Speaker, Sir, when we think about it, our nations were left behind in the last revolution because of lack of knowledge. It was the first President Mzee Jomo Kenyatta who actually proposed that adults must start being educated so that they can communicate with their own children. I think it is only right and fair that we look at our older people, particularly those who want to be educated.

The other aspect to remember is that life expectancy has changed dramatically. It used to be that if you live to the age of 50 years, you are very lucky and thankful. However, today we can expect people to live a lot longer than they used to and their useful life is a lot longer than before because of improvement in health. We know that people in their 70s are very healthy people. Consequently, there is no need for us to waste that life. The fact that people are old does not mean that they are not intelligent or cannot grasp issues. Therefore, investing in our old people is the right thing to do.

If we invest in the current generation of old people, it might actually eliminate the need to have such schemes. In an ideal situation, we should not have adult education because they should have been educated at the right time in primary and secondary schools. So, this is not something that can go on to give us problems. An educated adult will make sure that his or her own children are also educated. That means that if children are educated, then they will not need to be educated as adults. The issue of educating



adults is to ensure that the current generation of adults is educated to the extent that, in future, the only adults who should be looking for education are those who want to get second or third degrees and that will not be a matter for the state, but the individual.

Mr. Deputy Speaker, Sir, I want to support Sen. Karaba in calling for a review of the policy or establishment of the policy and to say that this is something that should be done at the county level. This is not a function that should be addressed at the national government level. If you leave it to the national Government, then it will not be addressed as holistically as it should be because the need for adult education in one county is not necessarily the same as the need for the same in another county. In some counties, you will need to give more emphasis because they have that challenge. In some counties, you will simply dismiss it because it is not there or it is in a very small measure. I want to propose that the national Government using our constitutional mandate should devolve that function under agreement between the Ministry of Education and the county governments. Let them devolve that function and let them also devolve funds for adult education to the county governments. The county governments can address the issue because they know best how the spread of illiteracy is in their own constituencies.

With those few remarks, I beg to support.

**Sen. Mohamud:** Mr. Deputy Speaker, Sir, thank you very much for giving me this chance to add some voice to this important Motion. Before I proceed, I would like to thank my newly elected Chairperson and thank him for bringing this Motion which is very important. The education staff is present at the county level. We normally see the county education officer in charge of adult education, but their presence is not felt. This is due to lack of clear policy guidelines on recruitment, staffing, punishment and motivation.

As you are aware, majority of the people in the pastoralist community are illiterate. You know the important roles played by parents as a stakeholder in education. You can imagine when a parent is not educated and the children bring a report from school; the parent may not know what is happening. I would also like to highlight the important roles played by adult education in terms of improvement of enterprise because if a person is not educated, you may not expect him or her to know what is happening in the country in terms of technology that Sen. Kagwe was talking about. There are people who cannot have access to social communication media like *skype* or *tango* to be able to communicate with their children abroad. This means that they are technologically behind.

I would like to urge that this function be devolved because the needs of counties are diverse. For example, in the marginalized areas, the level of illiteracy is different from maybe central province. The illiteracy level in north eastern is 80 per cent while in central province, it is 60 per cent. So, this function should be devolved to put us on the same level.

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, I rise to also support this Motion. First, I want to congratulate my Chairperson, Sen. Karaba, who is the Mover of this Motion for his election as the Chairman of the Committee on Education. I wish to support

this Motion on the strength that this Motion recognizes three important things which I will briefly mention.

The first recognition which this Motion brings forward is the recognition that there are still illiterate Kenyans 50 years after Independence. There is also a further recognition that those illiterate Kenyans desire to become literate. This Motion recognizes that situation. This Motion also recognizes the fact that there are facilities which are available to further education in this country. In fact, as we continue to speak, there are thousands of classrooms that are empty from 5.00 p.m. every day. They are also empty on Saturdays and Sundays. These are already infrastructural facilities that can be used for education. This Motion recognizes the fact these facilities can be used to give education to those illiterate individuals.

There is also a further recognition in this Motion; that this country nowadays is littered with several FM stations. These are outlets of communication which can be used to further education more specifically to those who are illiterate. There is also recognition that there is a new Government system which involves devolution. Devolution takes some of these facilities closer to the people and more particularly to the people who are literate. This is of course an opportunity that is recognized by this Motion.

The Motion also recognizes the positive role which a literate population can play in a country. First of all, this country has experienced very serious challenges when it comes to elections. When you look at those challenges very closely, some of them, are directly or indirectly associated with illiteracy. Therefore, there is recognition that we need to educate these individuals so as to alleviate some of the challenges that we have in terms of issues like universal suffrage in elections.

Mr. Deputy Speaker, Sir, we are aware of the ease with which governance can be monitored or administered in a country if the population is literate. This Motion recognizes that and urges that we give the illiterate a chance to become literate. We are constantly aware all the time that if we have an educated population, they are versatile in doing a lot of things like running businesses and being more economically productive. Therefore, for us to grow an economy that is well-founded, it is important that we get as many Kenyans as possible to become literate to a level where they can raise their own standards of living and raise the economy of the country. So, this Motion has this very good spirit and it recognizes a position in which we can find a way to give people some education.

The recommendation is that we develop a roadmap which comes up as a result of development of a good policy in which we can use to develop ways and means in which we can give an education to the illiterate. That is why this Motion is a good one because it is going to give a roadmap.

For that reason, I want to support this Motion and hope that the House will support it so that we can try and assist the illiterate in our society to become literate by developing ways and means by which we can educate them.

With those few remarks, I wish to thank you and support the Motion.

**Sen. Nobwola:** Mr. Deputy Speaker, Sir, I would also like to add my voice to this very important Motion which has recognized that illiteracy is a problem in our communities. I would like to say that adult education is very important if this can be devolved down to the grassroots level so that our old *mamas* and their children can be educated so that they can understand what is happening around them. This will also enable them to do business because if you are illiterate, it is very difficult to do trade. How do you trade internally and externally with other countries if you do not understand what you are doing?

We can also incorporate these policies in order to give guidelines on adult education. This will be good because when one is educated he or she will value education. If one is illiterate, he or she will not see the need to educate the children in order to prosper. This programme will also help eradicate poverty in our families and even in the counties because everybody will be educated and they will be in a position to interrogate many things going on in counties which are not right. By doing so, we shall have full participation by citizens of every county.

With those few remarks, I beg to support.

**Sen. Haji:** Thank you, Mr. Deputy Speaker, Sir. I wholeheartedly support this Motion because it affects my county and other counties. I also want to congratulate the Mover of the Motion, my brother. I read in the newspapers today that he has been elected to be the Chairperson for the Committee on Education. I think the Committee is very relevant to his area and there is no doubt that he will deliver the mandate given to him to the whole country.

Adult education is very important in the marginalized areas where people are not well educated. Those who are educated are people who also failed in their examinations; both in the primary and secondary levels. We know that education is a continuous process and, therefore, coming up with a policy of adult education is very important for us to achieve the 2030 Vision of increasing our literacy level.

As some of the speakers said, the issue of external trade by illiterate people is out of the question. People who do small businesses globally, fail at times because they do not know their profit margins after selling their commodities or goods. Some of them do not even know how to do book keeping. Even if they were to open accounts at the banks, they would be at the mercy of the bank clerks who would be asking them to sign certain areas without knowing the amounts withdrawn. This way, you find a lot of cheating going on in the accounts of such people.

Apart from streamlining the process of employment and also giving programmes to adult education officers, as one of the Speaker said here, most of the rural areas have illiterate people who tend to listen to FM stations. Sen. Karaba should also articulate the establishment of adult education through FM radios where people can listen and follow what is being taught. While at home, you will meet children who got grades Ds and Es and yet their parents will tell you that their sons and daughters are very educated and that

they have done very well in school. These parents do not understand the difference between grade “A”, “B”, “C”, “D” or “E”. This is a fact.

I talked on Friday evening in Garissa at a function and said that there is need for us to work hard, as a country, so that every Kenyan who was unfortunate not to go to school can know how to read and write something. Under devolution, we now have counties. I believe that counties will start producing their own papers to inform people what is happening and what is expected of them. If they cannot read, that will be a waste of public resources. When Sen. Halima spoke, she said that maybe in Central Province, the illiteracy level is at 8 per cent while in North Eastern, it is at 60 per cent. I can tell you that in North Eastern Province and other provinces, this rate is more than 90 per cent. You will not find anybody older than me who can read a letter.

Nobody should ask me how old I am. With those remarks, I beg to move and to encourage my brother, Sen. Karaba to take note of what we have said.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Senator. It appears that nobody else is interested in contributing. The Mover may now reply.

**Sen. Karaba:** Thank you very much, Mr. Deputy Speaker, Sir. Thank you my colleagues, Senators and all those who elected me to the position of a Chairperson this afternoon.

I am happy that this Motion has been dissected properly. It has been discussed and laid bare by the speakers. I am happy to note that the contribution was very rich in both words and material. It is also important to note that this Motion touches every corner of this country and affects the society. The Motion is very inclusive and is self explanatory in that we need to have our people literate. This is one of the requirements of the United Nations Charter on Human Rights and Education to which Kenya is a signatory. It is very important that a majority of us have seen the need of trying to scrutinize more on adult education since Independence.

Mr. Deputy Speaker, Sir, you will realise that 50 years after Independence, education has not taken root in Kenya. Education being one of the most important services that we have right now and which is akin to the development in other areas, we should take note that there is urgent need to cultivate literacy among all the people here in Kenya.

When you travel to other countries, even to visit our neighbours here in Uganda, you find very old men and women communicating in English language. This, of course, was noted when there was an evacuation in the Entebbe raid. The communication was that they should all lie down. Of course, they all did. Those people who did not understand English language were very few and only one or two were shot by the Israeli Commandoes. That tells you how important it is to have basic knowledge and skills.

We have also heard a lot from Members on how important it is for our population to know about life skills and how they can live longer by understanding some basics in life. We need to know more about proper diet and that is taught in English language. They need to know how to administer drugs. There are people who are given drugs and

are told to take them at the interval of one times three. They do not understand the instructions and can even take an overdose. In the end, the consequences can only be lamentable. What we have heard in this Senate is enough to say that this Motion is important and should be implemented forthwith. The Government should take urgent measures and make sure that it responds to the calls made by my colleagues, Senators. I am very happy that I have heard very important ideas coming from the Senate.

If the national Government will take what we have discussed here, this will be a Motion to alleviate poverty and to empower our society economically. I thank you very much for contributing to this Motion. It is my hope that since this is not a Motion affecting counties, we will work on it further so that it becomes an Act of Parliament under CAP 223. We should come up with a Bill and pass it into an Act of Parliament and make it more relevant to the keeping of our society.

I beg to move.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Karaba. This is not a county motion as it is spelt out by the Standing Orders. So, it will be by voting of all Senators. Therefore, I will put the question.

*(Question put and agreed to)*

APPROVAL OF SENATE CALENDAR FOR THE  
SECOND SESSION - 2014

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

THAT, pursuant to Standing Order No.28, the Senate approves its Calendar (Regular Sessions) for the second session.

This Motion concerns the calendar for this House for the Second Session which started on 25<sup>th</sup> February and which is expected to run until 4<sup>th</sup> December, 2014.

According to Standing Order No.28, read together with other relevant Standing Orders like 27, the Rules and Business Committee (RBC) is empowered to determine the Calendar of the Senate in every session and to submit its recommendations to this House for approval.

That was done on 25<sup>th</sup> March, 2014. The RBC of the Senate met, considered and determined the Calendar which we have tabled before this House and which, as I have said, runs from 25<sup>th</sup> February to 4<sup>th</sup> December.

Mr. Deputy Speaker, looking at this calendar, one is able to see that, in the overall, it compares very well with the calendar of the Lower House. That is important so that given that most of the legislative agenda is a to-and-fro arrangement between the two Houses, it is important that by and large, the two Houses should either be on recess or even be in session largely at the same time. That has been kept.

Mr. Deputy Speaker, Sir, the second thing that I want to say in moving this Motion is that the total number of days of recess is 159 days for the Senate and 158 days for the National Assembly. So, again, that balancing has been done.

Mr. Deputy Speaker, Sir, we would want it to be noted that the recess sessions are reasonable. The Senate is supposed to proceed on session from now until the 17<sup>th</sup> of April, 2014, after which it will proceed on recess for 46 days. It will again resume on Tuesday 3<sup>rd</sup> of June and will be in session for nine weeks, which will go up to 31<sup>st</sup> July, 2014, followed by 46 days of recess. This second recess will end on 16<sup>th</sup> September, 2014. The final part of the second session, therefore, will run from between 16<sup>th</sup> September, as I have said, all the way to 4<sup>th</sup> December, 2014 and, thereafter, the Senate will adjourn for 67 days until the third week of February. I think according to the Standing Orders, the Third Session should start on the third Tuesday of February, 2015. So, all the requirements of the Standing Orders have been considered, in particular Standing Order Nos. 26, 27 and 28.

May I make a few other---

**The Deputy Speaker** (Sen. Kembi-Gitura): I think for HANSARD purposes, Senate Majority Leader, you need to refer to Standing Orders No. 27(1) and 28(8).

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. I think somebody took away my copy of Standing Orders. Thank you for coming to my aid. For purposes of HANSARD, I am happy to say that the first Standing Order which has been complied with, as I said earlier on, is Standing Order No. 27, which says---

**The Deputy Speaker** (Sen. Kembi-Gitura): I am just correcting; that you said that the sessions shall start on the third Tuesday when, in fact, it should be on the second Tuesday.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Thank you, Mr. Deputy Speaker, Sir. It is the second Tuesday; I am sorry. That is noted. Standing Order No. 27(1) says:-

“Except for the Session commencing immediately after a general election, regular Sessions of the Senate shall commence on the second Tuesday of February and terminate on the first Thursday of December.”

Mr. Deputy Speaker, Sir, therefore, Standing Order No. 27(1), in that respect, has been complied with.

Mr. Deputy Speaker, Sir, the other points I want to make are the points which have been determined in the paragraphs that follow in Standing Order No. 27(2). It says:

“Despite paragraph (1), the Senate may, by resolution, alter the dates specified under paragraph (1) in respect of a particular Session.”

Mr. Deputy Speaker, Sir, in other words, this calendar is interim and the Senate, for reasons that can be given or justified, can actually alter these dates in accordance with Standing Order No. 27(2) of the Standing Orders of this House. Furthermore, Standing Order No. 27(3) says as follows:-

“Subject to paragraph (1), the Senate shall continue to be in session and may adjourn for such number of days as it may determine in its calendar.”

Mr. Deputy Speaker, Sir, again, this is to emphasize or to underscore the interim nature of this calendar.

Mr. Deputy Speaker, Sir, by and large, this has been done. What I just need to emphasize is that all the other avenues, even during recess, of reconvening the House remain open. For example, under Standing Order No.29, there is the provision of Special Sittings of the Senate. This can only happen on the request of the Senate Majority Leader or the Senate Minority Leader, with the support of at least 15 Senators.

Mr. Deputy Speaker, Sir, by and large, I think this is a straight forward matter. It is a matter which is tentative for public information, because if you look at the Standing Orders, the reasons we need to publicize our calendar is two things. One, it reaffirms the independence that the Legislature enjoys today from the Executive. This is because in the past, the calendar of Parliament used to be determined by the Executive. The President could recall the House at any time and, also, perhaps interfere with the dates of the sittings of the House. So, the first reason for this publication, to my mind and according to the law is, first of all, to assert the independence of this House.

Secondly and more important, it is for public information so that any person who wants to engage members of the public in any manner by way of petition or by way of influencing legislation can know when the Senate is in session and when it is on recess.

Mr. Deputy Speaker, Sir, finally, with regard to this calendar for this session, it is also important to justify that the recess periods are important because this is the time that hon. Senators are able to engage with their constituents in the counties. This is the time also when some of the Committees can visit places across the country and familiarize themselves with issues of importance to their mandate.

It is in this connection, therefore, that the recess periods have been packaged to allow considerable amount of time, three times a year. If you look at the calendar of the National Assembly, they also have three blocks of recesses, although theirs are classified; in every part there is a short recess and a long recess. But the upshot is that there are three major recess periods generally around April, August and then at the end of the calendar year, that is around December, so that then the third Session can begin in February, 2015.

Mr. Deputy Speaker, Sir, without much ado, I beg to move this Motion and request Sen. Chris Obure, the Senator for Kisii County, to second.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Obure:** Thank you, Mr. Deputy Speaker, Sir. First, I want to thank the Senate Majority Leader for the elaborate manner in which he has moved this Motion. Secondly, I want to thank the Rules and Business Committee responsible for this, for doing a very good job.

Mr. Deputy Speaker, Sir, I notice that this has been done in accordance with our own Standing Orders. I also note that this has been done taking into consideration the Business of the National Assembly which shows there is adequate harmony between the

two Houses. This will allow a steady flow and co-ordination between this House and the National Assembly in transacting national Business.

Mr. Deputy Speaker, Sir, I also note that sufficient recess time has been provided so that we can go out there and meet the electorate, receive new instructions and familiarize ourselves with the challenges of our own people so that we can serve them better. Most importantly, I note one other thing and this has been mentioned by the Mover, Sen. (Prof.) Kindiki. I have been in Parliament before. As he rightly put it, in those days, the House programme was set by the Executive. In fact, we really never knew when our sessions would commence or end as this was determined by the Executive. I am very happy because by the mere fact that we are now able to determine our own programme, this is sufficient demonstration that we are, indeed, independent as a Legislature and this is the way it should be. I want to thank the Senate Majority Leader and the Committee that prepared this programme for ensuring that this independence is sufficiently safeguarded.

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

*(Applause)*

*(Question proposed)*

**Sen. Musila:** Thank you, Mr. Deputy Speaker, Sir. I stand to support. This is a very well thought out schedule and just to echo the words of the Mover and the Seconder; that it is a step forward to reaffirm the independence of Parliament.

Looking at the manner in which it has been drawn, it has given sufficient time for recesses. Not for the purposes of resting, but for the purposes of giving Committees adequate time to do their work and even to tour around the country to familiarize themselves with counties, so that as we exercise our role in this Chamber, we are familiar with them.

So, Mr. Deputy Speaker, Sir, without much ado, I think this is a very straight forward matter and I beg to support.

**Sen. Hassan:** Mr. Deputy Speaker, Sir, thank you very much for this opportunity. May I also associate myself with the views of those who have spoken before me. In life, one of the most important things is about planning. I should reasonably tell you as a Senator in the Republic of Kenya where I will be on the 22<sup>nd</sup> day of February, or on the 4<sup>th</sup> of March, or any other particular day. So, what the calendar facilitates the Senators to do is to know the caches of time that is available. As Sen. Obure said, we can use this time to now go back to the county, not only to consult, but also to do anything else incidental to us in our role as Senators.

Unfortunately, Mr. Deputy Speaker, Sir, this is something we must candidly say in the Senate; we have only four clear roles as per the Constitution. But our electorates down there do not necessarily appreciate the role of a modern politician strictly as per the



roles as stipulated in the Constitution. We appreciate the role of a politician in a traditional sense, as they understand politics. They want you to be there for every other harambee or burial. As much as it is part of our African culture, I think we should also use this time to clearly demonstrate what our roles should be.

I think this is now quite a blessing that one of the Members of the Parliamentary Service Commission (PSC) represents these Senators here. This is the kind of time that also Senators should have been facilitated to discharge their mandates outside Parliament. This is because I think if the PSC had been able to facilitate Senators, I think this particular point in time, we should have been able to organize several *barazas*, meetings and stakeholders consultations to allow us, as Senate, to ventilate on some of the proposals and give our people the desires or the demands of the Constitution for people's participation.

Mr. Deputy Speaker, Sir, I want to commend the leadership of the House. I think there is nothing as important as having a calendar, which projects and gives you certain elements of reliability and certainty, as to where you will be on a certain date.

Mr. Deputy Speaker, Sir, as Sen. Obure did indicate, the times allocated for the recess are reasonable. I think that it is important for us to tour the breadths and widths of our counties. The other day, a Member of the National Assembly indicated to me that we have a longer recess than the one of the National Assembly. I told him that it is merely because we have a constituency that is bigger than any Member of the National Assembly. If he takes two days to tour his constituency, I will, probably, take 12 days, because that is the reality of the situation that we have.

So, I think that this only responds to the demands of the Senator, and you know the politics of our counties. If you are seen in one village, there is a snowball effect that Sen. Musila, Sen. Obure, Sen. Okong'o or Sen. Chiaba was seen in a certain village. So, if you do not make it to that other village by the next week, then they will say that you prefer one village or area over another. So, I think that this is very adequate time that a Senator can reasonably facilitate himself or herself to ensure that he tours the county. But as I put it strongly to Sen. Musila and other Members of the PSC, Senators need to be facilitated during those periods to discharge their mandate, particularly with respect to people's participation. It is very constitutional. In fact, very soon, our laws, Motions or processes in here will be rendered unconstitutional, because they fail to meet the threshold of people's participation. Only the PSC can facilitate the people's participation.

Mr. Deputy Speaker, Sir, by peoples' participation, I do not mean a Committee publishing a notice that we are debating a certain Bill and so, people should bring their views to County Hall. I do not think that, that is peoples' participation. Peoples' participation in the Senate structure should be: "The Senate will discuss these Bills in the Second Session" So, every Senator runs with those Bills to their people. By the time they come here, the whole country will be debating those Bills and talking about their aspirations. We do not want to do things in the traditional way that we understand. This Senate must borrow, but also integrate its own tradition and practices. We cannot only

have the Senate traditional practice that heavily borrows from existing practices of when we had a Unicameral House.

Mr. Deputy Speaker, Sir, I also hope that this opportunity will be used by the Senators to tour one another's county. The other day Sen. Sonko was in our county when I had just joked with him here that I would be happy if he joined us. I did not realize that actually Sen. Sonko actually listens with all his mind and heart. Before I realized it, he called and said: "I am here for that festivity that you told us about." I think that there is always excitement whenever a Senator appears in the company of three or four other Senators. So, let us use that opportunity as we go forward. Invite me to Tharaka-Nithi and let us go to Nyandarua very soon to meet the County Assembly. I have been once to Kirinyaga and also gone to Lamu. Every place that we go to there is always excitement. I will be going to Isiolo where I have been invited. So, I think that we must do this kind of thing, so that the Senate now establishes itself in terms of its overall thorax, as an institution that backs one another. Even if you were to invite me to Murang'a, which is close, I will also be there.

**The Deputy Speaker** (Sen. Kembi-Gitura): You are very welcome at anytime.

**Sen. Hassan:** Thank you, Mr. Deputy Speaker, Sir. But sometimes I pray that some of you do not invite me, because of the logistics of getting to some of your areas. I remember jokingly Prof. Lonyangapuo was asking me: "*Utakuja* West Pokot?" I did not answer it enthusiastically because you all know the infrastructure to get to West Pokot. But that said and done, I think that it would be important that we visit one another as part of "spirit building".

Mr. Deputy Speaker, Sir, I support this Motion that we adopt this as our calendar. I think that we can project reasonably what we are going to do for the next one year and the people of Kenya will be clear in terms of our calendar and mandate.

**Sen. Kisasa:** Thank you, Mr. Deputy Speaker, Sir. I also stand to congratulate the Senate Majority Leader for this Motion. As we all know, once you fail to plan, you will plan to fail. So, this calendar is giving us ample time so that we can be relevant in this House.

Mr. Deputy Speaker, Sir, we are going to implement whatever we are learning. We are also supposed to be seen and work with our community together.

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

**Sen. Nobwola:** Mr. Deputy Speaker, Sir, I rise to support the Senate Calendar which is well thought out. It gives us a vision of what we are supposed to do and where we are supposed to be in the next 12 months.

Mr. Deputy Speaker, Sir, the recess is long, but I think that it is good for us, because we shall be able to go back to our counties, interact with the electorate and fulfill some of the pledges that we made. Since most of us were new in the first year, this is the time now that we are getting our bearing. So, I think that we shall make use of this recess, as Nominated Members, to make an impact as we go out there and talk to our electorate.

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

**Sen. Chiaba:** Asante sana, Bw. Naibu Spika, kwa kunipa nafasi hii ili niungane pamoja na wenzangu kumshukuru Kiongozi wa Waliowengi Bungeni kwa kutoa ratiba ya vile Seneti itafanya kazi.

Bw. Naibu Spika, kupata nafasi inaonyesha kwamba ni muhimu sana sisi kwenda mashinani kujua vile hali ilivyo na vile vile kuungana pamoja na viongozi wote ambao walichaguliwa na kujua ni maendeleo gani yaliyopangwa na vile tutawapatia masomo ili tuweze kufanya kazi pamoja.

Bw. Naibu Spika, kwa hayo machache, naunga mkono Hoja hii ilioko mbele yetu.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, I would like to join my fellow Senators in supporting this annual calendar as tabled by the Senate Majority Leader.

Mr. Deputy Speaker, Sir, this calendar appears like a term-date calendar, in the sense that the total number of days that we are going to have recess is 159 out of 365 days-and-a-quarter. That is quite a good proportion of time. I believe that this time will be enough for all of us who are in active Committees to visit the counties and make sure that, at least, they appraise the problems that various counties are facing as they discharge their duties at the county level.

Mr. Deputy Speaker, Sir, it is also noted that the time for recess is very useful to all of us. There is no resting. It is a working recess. This is the time when most Committees plan to visit the various regions. It is my wish that anytime that these Committees visit, the host Senator is available to welcome them. We have noted that when we visit the counties during our normal recess or tours, we find that even the Senator is not there to welcome the Committees. So, I hope that when we proceed on recess and the Committees conduct visits, the concerned Senators will avail themselves to welcome those Committees.

Mr. Deputy Speaker, Sir, the first recess starts in April, when most schools are closed and then we reconvene again on 3<sup>rd</sup> June, almost one month after the schools have reopened. This conforms to the school calendar; it is also important for us to note that some of us are parents. Those of us with children in school will also have an opportunity to take them to school. So, I find this calendar very friendly, because it is taking care of the mothers and fathers of the day.

Mr. Deputy Speaker, Sir, I also note that the time given, particularly for the recess is adequate. This is the time that I would appeal to the Committees that are charged with the responsibility of visiting areas, like we have discussed the trouble spots around the Coast, to find time out to visit those areas and see to it that some of the problems that we have already articulated in this Assembly are solved. This is because as far as we are concerned, the Senate is supposed to act as an experienced Upper House, and should, therefore, provide the way. It is for this reason, therefore, that during recess we need to interact more, not only with the Senators, but also our friends in the National Assembly, so that anything that poses a legislative problem is solved by the two partners as we interact at the county level.

Mr. Deputy Speaker, Sir, it is also important that during this time, we see to it that capacity building in our various counties is achieved. We should provide counsel to most of the Members of the County Assemblies (MCAs), who have possibly gotten the idea that we are behaving like we are “oversighting” even what is not necessary. It is, therefore, important that we take time during the recess to counsel and interact with our friends, the MCAs and Governors, who are in the county governments, so that they can realize the importance and significance of the Senator.

Mr. Deputy Speaker, Sir, we will be going on recess when some of our offices are not well equipped. Some of the offices that we are going to occupy do not have enough furniture and equipment. If you have an office which is located in one area and there are about eight or nine constituencies in the county, it becomes a problem for one to visit all those areas. That is the reason we are requesting the PSC to think about the offices out there and allocate more money, so that we reach all areas in our counties.

Mr. Deputy Speaker, Sir, lastly, we need to visit one another. Some counties are very far away from Nairobi. Therefore, it is important that those who are in Nairobi visit those further areas and get to know the problems that are faced by the communities living there, so that as we discuss here, they will be able to appreciate those problems and suggest solutions.

Mr. Deputy Speaker, Sir, I support the calendar and hope that it will be adhered to without further changes.

**Sen. Okong’o:** Mr. Deputy Speaker, Sir, let me also take this opportunity to support this Motion as presented. I have to reiterate sentiments of my colleagues who have raised a number of issues which need to be addressed.

As you are aware the notion out there is that the Senate is the Upper House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why do you think it is just a notion?

**Sen. Okong’o:** Mr. Deputy Speaker, Sir, it is to those who do not understand the Constitution but it is provided in the Constitution that we are the supervisors and defenders of the Constitution.

**The Deputy Speaker** (Sen. Kembi-Gitura): Not that I want to engage you, but what do you mean, it is a “notion” that it is the Upper House?

**Sen. Okong’o:** Mr. Deputy Speaker, Sir, there are those who do not understand the Constitution very well. I was grounding it on the Constitution that the Senate is the Upper House. We have a constitutional mandate to protect counties.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Deputy Speaker, Sir. I am wondering whether it will be in order to request the Senator for Nyamira County to make it clear that-----

**Sen. Okong’o:** Mr. Deputy Speaker, Sir, I am just saying that this is the Upper House---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! I was not trying to interrupt you, but when you say that “there is a notion out there.....” The point I am making is that when you say that there is a notion out there that this is the Upper House, I do not know

how you interpret it. However, I am interpreting it the way I do. I think that is why the Senate Majority Leader wants that clarification from you as to whether that is what you meant to say.

**Sen. Okong'o:** Mr. Deputy Speaker, Sir, let me just say that it was just a misconception for those who have not read the Constitution very well. While I support this Motion, it will be very important for us to tour counties and show our electorate that the Senate is the Upper House. We have a constitutional mandate to safeguard the interest of counties. That is why I am saying that I support the Motion and reiterate the sentiments of my colleagues, Sen. Hassan and Sen. Karaba on the issues. It is understood that we have a huge task as the pioneers of this order of the new Constitution. It is very interesting that if you go to one corner of the county you are asked about your stand on several issues. With the current calendar and during the recess, some of us will carry out our mandate very well, where we shall try to move around with our meagre resources, to talk to our people in line with our role as stipulated in the Constitution.

With those few remarks, I beg to support.

**Sen. G.G. Kariuki:** Mr. Deputy Speaker, Sir, this is a straight forward Motion and I think it should not be subjected to any amendment. This is an opportunity for this House to air its views and what the problem would be in the next one year. It shows that the management of the Senate is doing a very good job because we can see them planning. If we do not plan today, we may remain unplanned. Therefore, it is important for us to appreciate what the Senate Majority Leader has put forward to us.

I hope that during recess, there will be no incident which will warrant this House to be recalled. It has been a practice in the past that during recess many things happen. I do not know why it happens during the recess. May be this time round with the new system of governance, things may have changed. I believe it has changed because we have very energetic leadership. We think the leaders of this nation will do what they say. I believe that they have a lot to lose if they do not stick to what they say.

Mr. Deputy Speaker, Sir, we, as a Senate, need to be aware that if this country does not do well, it will not spare any one of us. Therefore, all of us must be concerned with the security of this nation. There is insecurity all over, including Mombasa and Nairobi. We need to be extremely concerned, especially during the recess. The things which are going on in Mombasa County are matters of grave concern and we cannot see the end of it. These issues of terrorism started many years ago with the Palestinian movement and later it was taken over by Muslim extremists. We need to know that it is not the resolution of this House or through Cabinet meetings that will stop what is happening. It is when we decide to change our system of management of our security because we have to consider that this matter has been there for many years. We have to go by experience and look at those who have been fighting terrorism for many years. We should learn from them whether they were able to change anything. Many terrorists are freedom fighters of a certain group. We have to keep in our mind that we are dealing with

the results of terrorism. The boys who just come and throw bombs are just actors or employed to do that job. The big question is: Who is their employer?

Mr. Deputy Speaker, Sir, during the recess, we need to appreciate what has been put forward here because we must also understand that our people know very little about the Constitution. We need to take it upon ourselves to teach and train our people during the recess what the Constitution says about county governments, the national governments and the institution of Parliament; that is, the Senate and the Lower House. If our people understand these things, we will not be having many problems when we go back home. Since people do not understand what is contained in that document called the Constitution, they expect a Senator to be what is not stipulated in the Constitution.

Sometimes, I get sad when I see some of us behave as if we have no authority or power and we are seen not to be giving anything to the people. For example, the Members of the National Assembly can give something to build a primary school, but a Senator cannot do that. This is seen by some Senators as if they are lower than the Members of the National Assembly. We have to put our foot down and tell the country that money that is being used properly or improperly by the county governments comes from the Senate. It goes through the Senate to the county governments. We need to educate the public about what we do. When I go to my county my duty number one is to tell them that all the money that they see in the county passed through the Senate. This is true.

So, they should not worry about us doing a good job or not. Personally, I think we are doing a very good job. If we can assess the first one year, we have been having teething problems because we were trying to understand our own roles. The perceived bad feeling between the Lower House and the Senate will now come to an end because I am very sure that we now understand our roles. I have no doubt that we will be compelled by the Constitution to stick to our roles whether we like it or not. Other than that, there are those who still feel that we may not be useful to the state, but the only thing they can do is to fight for a referendum. If you cannot fight for a referendum and win then you should forget and stick to what is on the table. What we have on the table is from the Constitution and we need to understand it.

Mr. Deputy Speaker, Sir, I want to thank the leadership of the Senate for coming up with this programme, especially the Senate Majority Leader. We have been very concerned about this programme, but I am glad we now have it. If we continue this way, then the Senate Majority Leader will be getting a lot of honour from this House. I also want to thank the Speaker, the Deputy Speaker, the other Members of the Speaker's panel and the chief whips. I want to thank them because I have seen them do a job, since I am a good observer and, at the same time, a student of parliamentary democracy.

**Sen. Mohamud:** Mr. Deputy Speaker, Sir, I rise to support this very important Motion. I would like to thank the Rules and Business Committee (RBC) for doing what is supposed to be done. By looking at the calendar, I can say that is very well planned and

the time for recess is very adequate. That is the time we re-energize ourselves and attend to our electorate because that is the time we are supposed to do a lot of groundwork.

With those few remarks, I think the Motion is straight forward and I support.

**Sen. Ongoro:** Mr. Deputy Speaker, Sir, I stand to support the calendar as presented by the Senate Majority Leader. I have gone through it and I do not think there are any major changes that I would recommend. While supporting this, may I take this opportunity to condole with the grieving families who lost their lives and their loved ones in the barbaric attack in a house of worship by fellow Kenyans. I want to grieve with the families and the entire Christian community and the nation of Kenya. I want to state that these attacks in churches are going out of hand.

In my opinion, I do not see what statement anybody could be making by attacking a place of worship. When you see the picture of the young boy aged one and a half years going through so much pain and suffering because somebody somewhere was annoyed with a Government policy, then I do not know what to make of it. What wrong did that child do? For those who lost their lives, the only criminal offence that they could have done is to go to worship their God. I think it is time that this nation comes out strongly to refuse to continue condoning and tolerating people who are hiding behind religion or any ideology or belief to kill fellow Kenyans and fellow human beings.

In my opinion, and as a Christian, the Bible states very clearly that when you are slapped on one cheek then you should turn the other. What is not very clear is how many times you are supposed to be turning your cheeks. This is not indefinite.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki) On a point of order!

**The Deputy Speaker** (Sen. Kembi-Gitura): What is your point of order, Senate Majority Leader? Do you want to give the number of times?

**The Senate Majority Leader** (Sen. (Prof) Kindiki): On a point of order, Mr. Deputy Speaker. I do not want to give, although I know the number. I was listening to Sen. Ongoro. She was making a very important contribution that relates to a very serious matter that is relevant to our country today. This is about the security incident.

However, I was just wondering whether she is in order in terms of the rules of relevance and if whatever she is saying applies to the Calendar of the Second Session of the Senate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Can you quote for me the Standing Order that you are relying on?

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Deputy Speaker, Sir, rules of relevance are not provided for in any particular Standing Order. However, Standing Order No.1 says that anything that is not specific---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Kindiki, there is a Standing Order that talks about rules of relevance. I want you to quote it and to tell me what it says.

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Deputy Speaker, Sir, is it in the new Standing Orders or the old ones?

**The Deputy Speaker** (Sen. Kembi-Gitura): You rose on a point of order. It is upon you to tell me which one it is. I will not help you.

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Deputy Speaker, Sir, can I rephrase my point of order? My point of order is: Is Sen. Ongoro in order to discuss the insecurity in Mombasa while we are discussing the Calendar of the Second Session of the Senate?

**Sen. Ongoro:** Thank you, Mr. Deputy Sir. I beseech you to rule the Senate Majority Leader out of order. This is a House of debate. I started by talking about the Motion on the Floor of the House.

I am at liberty to debate any other Motion that, in my opinion, pertains to this. When I walked in, Sen. G.G. Kariuki was on the Floor. He extensively discussed this same issue. I did not see the Senate Majority Leader raising any point of order. So, are his points of order selective and discriminative against women and Christians?

Thank you, Mr. Deputy Speaker, Sir, for protecting me.

**The Deputy Speaker** (Sen. Kembi-Gitura): Senate Majority Leader, are you satisfied or do you want to persist?

**The Senate Majority Leader** (Sen. (Prof) Kindiki): Mr. Deputy Speaker, Sir, for the record, I think I am not against women and I am not discriminatory. I just raised a very valid issue. For the record, I support and respect every Member of this House.

**Sen. Ongoro:** Thank you very much for supporting and respecting me. Women, children and Kenyans who have committed no offence have also lost their lives. To state that I am angry is a big understatement. I believe my emotions are reflective of the many Kenyans who are out there. For how long will we tolerate the killing of innocent people and yet we claim to be a sovereign state?

This is the highest form of insecurity. If you cannot be secure in a house of worship, a church, which even during war is sacred, where are you safe? During the years, we have seen an orchestrated attack towards the Christian religion pointed and directed at the places of worship.

The other day, in a church in Eastleigh, we lost many children who were attending Sunday school classes. We have had a record number of churches in this country attacked. What is amazing is that we are not seeing very strong statements from the leadership of this country and even from religious leaders. We have not heard them condemning this. However, when I make such statements in the Senate, which is the Upper House, the Senate Majority Leader, who leads the majority in this country, who are being killed day and night, does not see my point.

I stated that I have read the Bible which states that when you are slapped on one cheek, you should turn the other.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Ongoro, with respect to you and although I heard you quote Sen. G.G. Kariuki and what he said, if you look at Standing Order No.109, you will see that it refers to this matter. I do not propose to stop you because you are raising very important issues. However, yesterday, we had a Motion of



Adjournment where this issue was discussed for two hours. Probably, that could have been the actual place to ventilate the issues of national importance that you are now raising.

Standing Order No.109 talks about relevance. That does not mean that what you are saying is not important. No! I would be the last person to rule on that issue and say that. However, as the Senate Majority Leader said, we are now dealing with a statistics Motion which you started by saying is clear and does not need an amendment. That is how you started your contribution. That is the question that one has.

I heard most Members who contributed on this issue saying that the calendar is important because you can arrange your own diary and know when you will go back to the county or where you represent. They then raised the issues that they would talk about and the importance of knowing that they will be on recess for 46 days because they will talk about security, insecurity, *Katiba* or whatever else they want.

I think this depends a lot on how you couch your entry point of debate to these issues. However, the rule of relevance is there. Although I will not raise it myself, when it comes from an hon. Senator, it is my duty to consider it and give it due consideration and ruling.

**Sen. Ongoro:** Thank you, Mr. Deputy Speaker, Sir. I still want to say that I feel very relevant in my debate. This calendar that has been presented here contains a proposed recess for 46 days. I am building my case towards supporting the activities that we are supposed to undertake during the recess. That is why I am presenting my case.

I started by saying that I am supporting the calendar as presented; without amendments. The calendar contains a proposed recess. I want to conclude by making a proposal to Members on the activities that we should engage in during the recess; which, I cannot present without building a case to support my presentation.

What I am presenting touches on the security of our nation. I am building my case by saying that the attacks on churches are becoming too frequent. During the recess, we, as leaders in this nation, should all try to get to the root bottom of this. Children who are the future of this nation are losing lives.

I want to state, because we, as a nation, are supposed to remain united and not to allow a section of this nation to think as if they are under siege, but we should try and understand the mindset of these very bad people who keep on killing other Kenyans. I do not know who they are, but they cannot be normal human beings.

Yesterday, I listened to the County Commissioner in charge of Mombasa making a statement that I did not agree with. He said that people should be shot on sight. I do not agree with that, but can only try to understand his frustration with this situation. I do not support what he said, that when this people are found, they should be shot on sight. That does not solve the problem. They should be arrested, interrogated and given an opportunity to express themselves and we should use them to try and understand why they do the things that they do.

As it was said by Sen. G.G. Kariuki, we can use these same people to lead us to their masters so that we know where the problem is coming from. This problem may be postponed, but one day, it may become a much bigger problem than what we are witnessing.

With this, I would also want all of us, to refrain, during the recess from making extreme political, ethnic or religious statements that might only escalate a situation that is already bad.

With those few remarks, I beg to support.

**Sen. Elachi:** Thank you, Mr. Deputy Speaker, Sir. I also rise to support the Calendar knowing very well that Standing Order No.28 gives us that opportunity to ensure that as Senators we know our calendar and that we plan ourselves better within the period we have been given. This is also an opportunity for the Chairpersons of different Committees to look at the calendar and to understand when they can take an opportunity in terms of bringing their reports to the House and using the House to debate on issues that they want us to work on.

When we talk about the calendar, I can see we have a number of times that we will go on recess. That will be an opportunity for Senators to plan what they want to do within their counties and how they can go round as different Committees so as to understand what the counties are going through. The county assemblies will also want us to help them. We will also use the opportunity to see whether we are building synergy in terms of devolution and if we can build capacity for the different county governments that we have.

When we talk about the calendar, we also appreciate the new Constitution. Indeed, Parliament has the powers to have a one year calendar which is not interrupted by the Executive.

As we support these efforts, we hope and believe that it will help this Senate. As we look at the calendar, let us also take the opportunity to be in the House to follow up debates in terms of Committee reports. We should ensure that we have Members in the House who can support the reports. We should not just have the Chairperson laying a report on the Table with just few Members around. I hope that the calendar will assist Senators in terms of planning and in terms of knowing how they can deal with both their family issues and work issues.

I know it has been a long time and some of us are already excited after seeing the recess. However, I want to urge hon. Members that since we now have many Committees, it is time to work in Committees. This is not a recess to go home and rest. Since this is a calendar that will be gazetted and which will be printed in the mass media, Kenyans will follow us up; they will want to know whether we, indeed, work as we have been mandated or whether we are just taking advantage of our position. Hon. Senators should be very careful to understand that this is one way of being monitored.

Any member of the public will know that today is a sitting day; we are in the House and that the House has very few Members. I would like to urge my fellow

Senators that this is a very serious way of doing business. I hope they will respect that it is not just a calendar for the Senate, but a calendar for all Kenyans to follow with regard to our programmes and to understand what the Senate is doing and, indeed, to know that the Senate has work to do, not just the way our Members in the Lower House have been talking and saying that they want to edit the Constitution. The first thing they would want to edit is to understand whether the Senate has relevance. They know very well that the Senate has a huge responsibility in terms of devolution. But because they would want to put a perception outside there; and the fear they have that Senators have been there for a while in politics and, therefore, whenever you go out there, you find yourself more relevant than they are. Therefore, they bring in a perception by trying to tell Kenyans that the Senate has no role, but it is there to stay.

Therefore, this calendar helps us even to remove that fear from the Members and even from the citizens. They will understand that, indeed, the Senate has a huge role. Indeed, the Senate has a calendar that it follows to do its work. The Senate is open and that if you want to audit them or if you want them to be accountable for what they do, it is a matter of looking at their calendar. So, we will know the date to walk into the House and when to proceed to recess. You are invited to sit in the gallery and watch them debate on the different issues that are affecting Kenyans.

Mr. Deputy Speaker, Sir, as I finalize, I just want to thank the Senate Majority Leader and the RBC for making that effort and for ensuring that, indeed, we have passed this calendar. I just hope and believe that it will be a guide in terms of us doing our Business.

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

**Sen. Sijeny:** Thank you, Mr. Deputy Speaker, Sir, for giving me a chance to contribute to this Motion. I wish to support the Motion and congratulate the RBC for a job well done. I know it has taken them a long time to come up and compile all this report.

Mr. Deputy Speaker, Sir, this is a very good calendar; it gives us clearly when and what we ought to be doing. The main reason I support it is because it has given us the vacation dates. These vacation dates will be well utilized, especially with the Committees which, as we all know, have been increased. There is a lot of work. It will give us time to network with all like-minded partners. For those who would desire to do research, to do benchmarking or any other important thing which will enable us exercise our work properly and to lead the country to where we desire. It is also a time where, especially during the recess, the Senators can utilize to build their capacities and even the capacities of their colleagues within the counties.

Mr. Deputy Speaker, Sir, I would like to speak specifically about the Committee on Delegated Legislation, where I sit. We had started the exercise of building the capacities of our colleague Members who are in the Committee on Delegated Legislation within all the counties. This will give us a good opportunity to continue doing that so that, being the pioneer Senate after the promulgation of the new Constitution, we really

have a lot of work to do to help them come up with their policies, rules, regulations and generally also to create awareness among the people at large in the country. So, this will give us a well focused programme. I, therefore, beg to support.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo, you have not contributed?

Proceed.

**Sen. (Prof.) Lonyangapuo:** Mr. Deputy Speaker, Sir, I also rise to support this Motion as brought by the Senate Majority Leader stating the calendar for the Senate for the whole of this year. It stipulates exactly what we are supposed to do, when and the real Business of that particular time.

Mr. Deputy Speaker, Sir, you note that all of us remember that it is exactly one year since we came in as the Senate. There have been a lot of challenges that we have gone through. Indeed, as we go into year two, we need to look back and take stock of what we have achieved and how much we are yet to achieve. Particularly looking at the devolution business, I see that the Senate Majority Leader has really given us a time table which has a lot of business sponsored by himself and the Senate Minority Leader and touches mainly on what we are going to do, what we need to put up an anchor so that devolution can thrive.

Mr. Deputy Speaker, Sir, it is just the other day that we strengthened the Committees and we even introduced new Standing Committees in the Senate. One of the key Committees that were not in existence is the Public Accounts and the Public Investments Committee, for which a lot of work is now going to come as we complete one year. I believe that the relevant Committee Members, particularly during the recess that we are going into in the next few weeks, will have a lot of time to sit – nearly daily – to look at the books that will have already come through from the Auditor-General touching on the counties.

It is time that we rectified what we were unable to put into focus in the first year, rectify it as the Senate. As we go into year two, we need to put into perspective what is required. There have been a lot of misunderstandings, people sometimes do not know the role of the Senate and you can imagine that sometimes a lot of the Business of the Senate is quickly taken up by our colleagues in the Lower House. It is, indeed, the right time that, as we produce this almanac calendar, we need to assign ourselves duties to know the relevant Government departments that are supposed to produce Bills which are supposed to be discussed by the two Houses. We should sit down and produce work that is appropriate for each House to avoid the confusion that normally occurs when people are thinking that a lot of business is transacted in the Lower House, yet it touches on the Upper House.

If we were as militant as some people would have imagined, we would have already stormed some of these departments and brought the business to ourselves. We also did not want to shame the Executive for dealing with some of those Bills that have

already been assented to. So, producing a calendar that is specific, that is tailor made for a specific business is, indeed, laudable. The Senate is able to pronounce itself where even members of the public can examine and know what business is being tabled and at what time.

Again, Mr. Deputy Speaker, Sir, as you note, this week has been a serious time in Kenya where we have had a bad attack by elements that want to destabilize and make the people of Kenya fearful. The Senate, which is the Upper House, needs to critically think and look, as we adopt the business that will come before this House. We want to see to it that some of the Motions, Bills and business that we will be discussing improve the existing laws. We want also to see to it how we can make each of us accountable to ourselves and how we can assign ourselves duties. Remember that there is no other patriotic person than myself, yourself and every Kenyan in the villages and counties that we represent.

This Motion also calls upon all of us, as Senators, to take our work seriously to the extent that when we are given work, we should not imagine that being the Senator of West Pokot, I should be absent on my duty. How would I explain to myself the salary that I earn? Sometimes, I keep hearing people talking about allowances, which I do not know; do they exist or are people just imagining? Sometimes we end up saying that we want to give out allowances which do not exist.

Mr. Deputy Speaker, Sir, when we have come here, we need to transact business and stand tall. We, as the Senate, should use this time of recess to visit our counties. I want to host the whole Senate in West Pokot, even if it is under a tree. What is the problem with that?

*(Applause)*

Under that tree, we can listen to the issues that are affecting our people in the counties.

Mr. Deputy Speaker, Sir, although each of us have different constituencies or the counties, it makes a serious and strong point when we start visiting our people in those counties. Today, I had three people from my county who visited me. When they saw and greeted Sen. Wetangula and Sen. Hassan, they were excited and one of them said: "Today I will not wash my hands because I have greeted these people that I have been seeing on television and reading about them in newspapers." How privileged it is that we can all go to Tharaka-Nithi County and listen to the issues of those people on the ground. I am wondering whether the Senator for Tharaka-Nithi County is listening to me.

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

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

Madam Temporary Speaker, this is a well presented work and we, as Senators, need to stand to support it. Like I did mention earlier, we can only make it better by presenting ourselves with all the work and presenting rich Motions and Bills that we need to be undertaking.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. Ongoro): I now call upon the Mover to respond.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Madam Temporary Speaker, I thank you, for this opportunity. I am gratified, having sat here and heard the very useful comments that my colleague Senators have made in support of this Motion.

Madam Temporary Speaker, I do not want to really repeat what has been said. The only other point that I will add in reply is that it is hoped, as we have said before, that during this Session, we will spend a little more time debating and passing Bills. This is because last year, we did a bit of work in terms of passing Bills, but the majority of our work was on Motions. So, it is hoped that during this Session, we will have more legislation. I want to give the assurance to this House, from the Office of the Senate Majority Leader, that we have lined up a number of Bills on devolution and on other aspects of our legislative mandate to ensure that, during this Session which ends in December, we will be proudly talking of not less than two dozen – if not three dozens – of Bills. That can be done.

So, Madam Temporary Speaker, with those two remarks, I beg to reply.

**The Temporary Speaker** (Sen. Ongoro): This Motion before the Senate does not affect counties---

*(Technical hitch – no sound)*

*(Question put and agreed to)*

*(Applause)*

Next Order.

RELEASE OF KCSE CERTIFICATES WITHHELD  
BY SCHOOLS ON ACCOUNT OF FEES BALANCES

**Sen. Musila:** Madam Temporary Speaker, I beg to move the following Motion:-

THAT, aware that on November 3, 2004, Parliament passed a Motion requiring the Government to release all KCSE certificates held by schools on account of fees balances; appreciating that in December 2006, the Government ordered the release of KCSE certificates held by schools but that the certificates were released only that one time; concerned that

since 2007, schools have continued to withhold certificates especially those of orphans and children from poor families on account of fees balances; aware that Section 10 (1) (b) of the Kenya National Examinations Council Act (No.29 of 2012) outlaws the withholding of certificates by any person or institution; the Senate urges the National Government to take immediate measures to release all certificates held by heads of secondary schools since 2007 and to ensure that no head of a school, person or institution continues to withhold KCSE certificates.

Madam Temporary Speaker, you would have noticed that I came here carrying a very huge file. This file is historical because in November, 2004, Parliament passed a Motion, that I sponsored, which is more or less similar to the one before us. At that time, over half a million certificates of children from poor backgrounds were held by schools. This Motion which we passed was not implemented. Parliament exerted pressure. In 2006, I had 145 Members of Parliament sign a petition to effect on behalf of these children. As the court was about to give its ruling in August 2007, the former President Mwai Kibaki ordered that all certificates be released. Indeed, they were released, but only up to 2006.

Madam Temporary Speaker, from 2007 until now, the certificates of poor children are being held by schools on account of school fees balances that have not been paid. This means that those children from poor families, mainly orphans, who even scored very highly in KCSE could not get their certificates up to now and, therefore, cannot access employment. The only crime that they have committed is that they were born in poor families. These certificates are being held as security.

Madam Temporary Speaker, in order to permanently put this issue to rest, in August 2012, during the Ninth Parliament, I sought the indulgence of the then Minister for Education, the late Mutula Kilonzo, to put an amendment in the Kenya National Examinations Council Act which was being debated. I have already circulated a copy of an excerpt of that Act. Act No.29, Section 10 (1) (b) reads:-

“Functions of the Kenya National Examinations Council-

To award certificates or diplomas to candidates in such examinations and such certificates shall not be withheld from the candidates by any person or institution.”

Madam Temporary Speaker, this law was passed and I thought that the matter was finalized. A year and a half since the passing of this law, schools continue to withhold certificates of these children. I want to inform the Senate that this matter has been brought to this House severally. I wrote to the Cabinet Secretary for Education, Prof. Kaimenyi, on this matter, drawing his attention to the law and requesting him to order schools to release these certificates. To date, the Professor has ignored or refused to even acknowledge my letter. I even went further and wrote to the Attorney General of this country, asking him to draw the attention of the Cabinet to the law. To date, again, even the Attorney General has not acknowledged my letter.

Madam Temporary Speaker, the next step that I took was to seek a Statement from the Chair of the Committee on Education. A Statement was brought by the former Chairman, Sen. Mutahi Kagwe, and the Senate rejected it and asked him to bring another Statement. As of today, we have not received any answer to the questions that we asked. Therefore, I felt obliged to bring this matter to the Floor of the House, so that this Senate can send a strong signal to the national Government, particularly, the Cabinet Secretary for Education, that he is breaking the law by withholding certificates of students who did their examinations seven years ago.

Madam Temporary Speaker, you know very well that no one would allow his or her certificate to be held for seven years if he was able to pay the amount that he or she owes. These students were allowed to continue by the heads of schools, did their examinations and most of them passed very well, because it is known that children from poor parents pass very well. But because of the fees balances which they could not pay, the heads of schools have taken those certificates as security, which is illegal. Therefore, I urge this House to send a very strong message.

Madam Temporary Speaker, I am pleased that Sen. Karaba was today elected as the Chair for the Committee on Education, and he was with me when we were fighting for the original Motion to release the certificates. He was then the Chair. What a coincidence that today, the Chair that we dealt with this issue at that time is now also the Chair! So, I am very confident. Knowing the Senate Majority Leader here, being my very good neighbour across the river, I am sure that this matter is not going to end here; failure to which, I will do exactly what I did in 2007. I will go to the High Court of Kenya to seek orders for the Government to release the certificates, but is it worth that?

Madam Temporary Speaker, since we have an able Chair, an equally able Senate Majority Leader and a very effective Senate, I am very confident that this matter will be resolved. This is a matter affecting about 500,000 former students of secondary schools of this Republic who are waiting to get their certificates. They cannot seek or access employment in the Army or wherever, because their certificates are held. Therefore, they are condemned to permanent poverty by a Government that professes to be pro-poor. How can you say that you are giving poor people cash transfers of Kshs2,000 each and ignore orphans who did examinations seven years ago and keep their certificates? I hope that this matter will be resolved once and for all and the poor students whose certificates are being held illegally are released forthwith.

Madam Temporary Speaker, I beg to move and request Sen. Obure from Kisii County to second my Motion.

**Sen. Obure:** Madam Temporary Speaker, first of all, I want to thank Sen. Musila, the Senator for Kitui, for the concern that he has expressed through this Motion on the plight of poor students in our public secondary schools. I also thank him for the relentless effort that he has made to ensure that this matter is resolved.

Madam Temporary Speaker, as you have heard, in November 2004, Parliament, the supreme legislative organ of this nation, passed a Motion seeking the release of all



certificates held by schools on account of unpaid balances of fees. The same Motion required that schools stop the practice of withholding certificates. Indeed, the Government then issued instructions to all heads of schools to release any such certificates held. Indeed, some of the certificates were released, but only once, at that time. We have even seen that subsequently, legislation was passed in the National Assembly, through an amendment to the Kenya National Examinations Council Act. That amendment was very specific that certificates shall not be withheld from the candidate by any person or institution. That is a law passed through an Act of Parliament.

Madam Temporary Speaker, one would ask: “Why are we being called upon to debate this Motion?” A number of fundamental issues are being raised through this Motion by Sen. Musila. First, this is really a signal that free primary and secondary education is not working in this country. Secondly, it is really a signal of the depth and extent of impunity in this country.

Madam Temporary Speaker, the fact that law cannot be enforced and Parliament will pass laws which nobody cares to implement, is precisely what we were trying to address. When werafted the new Constitution, we wanted to ensure that the citizens of this country operate within the law. The law is supposed to be obeyed, practised and to guide our lives. This is what we were trying to achieve when we passed the current Constitution. This also shows that our systems have virtually collapsed and we should not be talking about this in this House again. We should be asking the law enforcers including the Director of Public Prosecutions (DPP) to explain to us why action has not been taken against those violating the law.

Madam Temporary Speaker, fees and payments to schools for our children is the responsibility of parents or guardians. What are these schools achieving by holding certificates of students? They should be looking for other means of recovering money from the parents. They should be looking for other forms of punishment to the parents and not the students. The Constitution of Kenya under the Bill of Rights gives every Kenyan child the right to education. The children have gone to school and exercised their rights but once they have finished school and are due for award of certificates, they should be given the certificates without anybody feeling that they have a right to withhold them. Nobody has a right to hold the certificate of a student.

Madam Temporary Speaker, the second point that I want to raise here is that the Kenya National Examination Council (KNEC) by law, examines students but in the same law, the Council is supposed to award certificate to students directly and not through schools. Why is KNEC not doing that? When I studied in those years in Cambridge, there was a direct relationship between myself as a candidate and the Cambridge Institute. That certificate was awarded to me directly and not through the school where I went. Therefore, we should be insisting that the KNEC which has a direct relationship with a candidate who is examined, to be giving the certificates directly to the students.

Madam Temporary Speaker, with increasing levels of poverty in this country, the majority of students from poor families are the ones who are finding themselves as

victims of this practice. Sen. Musila talked about 500,000 certificates being withheld. You will find that these certificates belong to students from poor families, orphans and children of single parents. So we are denying them opportunities for personal advancement and this should never be allowed to happen in Kenya now.

You will recall that in 2003, the NARC Government introduced free primary education to allow access to education for all children in Kenya irrespective of their social or economic status. You will remember that this was received with considerable relief at that time. Later on in 2008, the Coalition Government extended this gesture to day secondary schools, again with specific intentions to allow poor students to benefit. So, by withholding the school certificates, we are reversing all the gains. I think we should not allow this to happen. We are subjecting these students to extreme suffering because they cannot join any college. Eventually, they degenerate into despair and hopelessness. These are the people who are cultured into all these acts of terror and crime. Some of them drift into drug abuse, petty crimes and later into major crimes. For female students, if their certificates are withheld, they start roaming the streets of our towns. The cure to this is what Sen. Musila has prepared in this Motion. We should stop this practice immediately and release these certificates to students so that they can get on with their lives.

Madam Temporary Speaker, this is an important Motion which this House must support immediately, pass and together with the national Government through the Ministry of Education ensure that this practice is stopped immediately in our schools. As a nation, we need to move together.

With those few remarks, I beg to second.

*(Question proposed)*

**Sen. Sijeny:** Madam Temporary Speaker, thank you for giving me this opportunity to contribute to this Motion. First and foremost, I wish to say that this is very embarrassing. It is a great shame to our nation. This is a nation which says that it has an education policy of free education until secondary level. The other day the whole country was in an election mode. Every political party had a manifesto indicating that they will offer free education from primary to secondary level but we still see schools withholding certificates. This is hypocrisy and double standards. Do we want to say that we have not had a government from 2006 or is it the Government which is not sensitive to the needs of students? I remember when the late Prof. Saitoti was the Minister for Education, parents were harassed left, right and centre and told that they must take their children to school.

It is an offence under the Children's Act and the Constitution if one does not take a child to school but what is the point of subjecting this young mind to grueling exams after burning the midnight oil studying and then they are denied certificates? It is indeed very sad and uncalled for. This should not be permitted in all circumstances. We told the

children to study and work hard because the sky is the limit. However, we are the same people who are causing darkness by blocking the young men and women from pursuing their dreams. They cannot get free scholarships to leave this country to go and study elsewhere, be paid for school fees and compete with the international world because they have been denied these certificates.

After the current Chief Justice took up the mantle, we have seen some reforms taking place. He went round this country and showed us the state of some court registries. Some had rats, cockroaches and even termites which would destroy the files. Are these principals or heads of institutions telling us that they have kept these documents safely? We have seen that some of these schools do not have classrooms. Where are the certificates being kept? Someone must be responsible. They should and must be given to these young persons.

These are students and I feel for their parents. By the time these children went to school, education was not free. They had to suffer to sell their few chicken, cows and goats. Now that I have had the chance to visit some counties like the one that the Mover of the Motion comes from, I know that it can be very hot. Most people there toil in the hot scorching sun to educate their children and yet they are prevented from realizing their dreams. When these parents get tired, who will help them? If you have prevented their children from pursuing higher education, what kinds of jobs can they get? What job can you get today with a Form Four certificate? Even the recruitment of a security guard requires one to have more qualifications. This is not permissible and we urge the national Government; the Jubilee Government, to ensure that these certificates are released to former students knowing that the leadership loves education and are well educated. They should also give young people a chance.

This will take care of idleness and bitterness. This is a group that has been very bitter and angry. That is why someone would stone you if you are living in a big palatial home and driving a big car. You will be stoned for no reason by someone who is very bitter. These people are being denied a chance to reach the highest that we have reached in the economy. They have seen their parents get tired taking care of them and they know that their parents will die poor because there is nothing they can do. They cannot even educate their younger siblings. This will only increase poverty. We have been talking about growing the economy but at this rate, we cannot do it if we do not cater for the youth who are young people.

The Government should come up with ways of ensuring that school fees arrears are paid using other ways. For instance, if the former students were used to construct new classrooms or desks, they would have completed by now and paid off their debts. Why can they not be allowed to do so? Madam Temporary Speaker, this is, indeed, a very cruel violation. It violates the right to education of the young people. If the Ministry in charge, through its bodies, cannot release the certificates, I am willing to be one of the lawyers who will go to court to ensure that these children get their rights even if it means

citing the Cabinet Secretary of the School Heads for contempt. We will ensure that they are punished accordingly because this is a shame and this situation ought not to continue.

We conduct harambees everyday to contribute money to children who want to go to school, those who are dying and others who are poor and yet we are the same ones stopping children from having their certificates.

I beg to support.

**Sen. Karaba:** Thank you very much, Madam Temporary Speaker, for giving me this time to also thank Sen. Musila for doing a commendable job. Before he moved this Motion, I was seated next to him and I was impressed to see the arrangement of papers that show the first time that this Motion was moved from November, 2004. As he moved the Motion, it is already on record that I opposed it. I opposed it because I knew the repercussion that it would have on the head teachers of secondary schools. At that time, I had just moved from being a head teacher to become a parliamentarian. I could, therefore, see the agony that the Motion would put the head teachers through at that time; 2004. The agony still persists.

However, the Motion today reads something different. The Motion was passed by a majority even if I opposed it. The certificates of those former students should have been released them. That is what the Motion is seeking now. The Motion was passed and, subsequently, other amendments done to the Kenya National Examinations Commission (KNEC) Act and we have seen it here in written form. One of the functions of the KNEC is to release, after completion of any examinations, certificates to candidates. Just like you may be issued a certificate for attending the Senate sessions for five years that would be a certification of attendance, the same thing is done for students. This certificate, according to me, is important. The culture of the people we have is what may cause my friend, Sen. Musila, to be frustrated for nothing. The people who are charged with the responsibility of making it happen may not have done it then because there was no free education.

Today, educational services are also not free. You have to pay for these services and they are paid for in terms of money. The head teachers, at that time, and even now, held on to the only paper availed to them; the certificate, with the understanding that the parents would be kind enough to pay the money which the boys or girls may have spent during their stay in school for either four or six years. The culture of Kenyans is very interesting. Once they are told that something is free, they go for it even when they have a lot of it. Even here, if we were asked to parade for free things, we would parade.

I condemn parents because when they are asked to pay money for certain services, they readily agree to do it. They even go ahead and engage themselves with the arrangements that are provided for by schools. I am talking out of experience. We allow the students to complete Class One; this can either be Form One; and going by the experience that I have, that boy and girl who is very bright will never at one time be sent away by the headmaster. The same student will continue to Form Two with the arrangements which could be local, and the false promises which are given by the parents

that by the Fourth Year when this boy finishes, maybe after he passes his exams, certainly he will go to the university and that is what happens.

But what happens is that those people who do not perform so well will not even be sympathized with by the community. But if a boy passes his examinations very well, the community will sympathize with him and pay for him all the fees arrears so that he can proceed with his studies at the university. That has happened, and you find that accrued fees arrears are paid after the four years. But there are times when such things do not happen. You find there are grievances which were there before, but the parents and the headmaster will not even feature anywhere. The students takes off, the parents take off and they have forgotten that the student was in school. That is the nagging problem that we are now facing, and that is why Sen. Musila is now agonizing; that the Motion has now come to the Senate.

If the parents had agreed to meet the obligation by paying the fees on time, we will not be having problems of certificates of former students being withheld. Because as far as parents are concerned, the headmaster will hold that certificate on the promise they gave the headmaster. But when the students fail in their exams, the same thing continues. But the lack of information that we were discussing earlier in the Motion has made the parent suffer because of the ignorance that after the Form Four and maybe the Form Six; maybe after the university or the college, the certificate will be withheld. But what startles every other person is that you may have somebody in Form Four having accumulated fees balances of about Kshs80,000, but he will afford to go to the university after that and pay fees; or he may go to another college and afford to pay fees. So, you can, therefore, see that we get mixed reactions from the parents on their promises.

So, Madam Temporary Speaker, these promissory notes could be false. I would, therefore, ask myself; what do we do to make sure that this money is paid? Because if you do not pay your fees now, of course, the principal will be held responsible and accountable for fees not paid, and he can be disciplined. The only discipline he can be given is sometimes to be sacked, because some roles are clearly stipulated in the Teachers Code of Regulations. For instance, if you do not collect fees, then you will be sacked; you do not even qualify or you are not even worthy to be the head of that school because you have not collected money.

So, Madam Temporary Speaker, Sir, this Motion is asking us to address ourselves to the question: why does it happen? Why is the Government taking this long? Is it that they are realizing that there is a lot of money which is held by the parents? Is there a way that, maybe, you can get the parents to pay this money through other methods like through the Constituencies Development Fund (CDF), because the CDF is there? Can the CDF, since it is about devolved funds--- I do not know, it is not devolved; but that money can be used to pay up the debts, and some provision is there.

Is there a way that we can sweet-talk those people holding the Constituencies Development Fund (CDF), so that we can also bail out the school head who will have saved this boy from collapse, because he will now have a certificate? We are, therefore,

asking for the understanding of the parents, head teachers and also the Government. Let the Government also tell us what happens to a Bill which is passed and assented to and then nothing happens from there. What is the Committee on Implementation doing? There appears to be a tussle in the Ministry of Education. The Secretary of the Kenya National Examinations Council says that the certificates are supposed to be given and then the Cabinet Secretary says that they should not be released. The Government again says that this should happen. Why can they not have this problem solved once and for all, and from maybe next year, if there will be anybody who will not have gotten their certificates, we can resort to another method of releasing certificates and paying the money that they owe, because that is the money that the school heads will have held to pay for the services rendered and even for the students who will join the school in future to continue with. So, I see this Motion as a wake-up call.

Madam Temporary Speaker, we need to find out exactly what is the genesis and root cause of this problem. If we can get to know exactly the root cause, we can come up with a solution and that is the only way that we can solve the agony of my friend, Sen. Musila.

Madam Temporary Speaker, I beg to support.

**Sen. Elachi:** Thank you, Madam Temporary Speaker. I also rise to support the Motion, knowing very well that under Article 43 of the Constitution, on social and economic rights, education is one of the rights for every Kenyan.

Madam Temporary Speaker, we have to look at the challenges that we have faced for many years. I remember very well that during the former President Kibaki's time, he had to ask the heads of schools to release the certificates of those students who had finished school, but could not get their certificates due to lack of school fees. This Senate can now resolve this issue once and for all. We need to ask ourselves: Are all the certificates that are being held for children from poor families? This is something that can be confirmed within the schools. The schools can provide this information and the Government can then step in and order the release of certificates of these former students.

But where did this idea of withholding certificates come from? I think that it is an old policy that should be done away with, because it discriminates against those who do not have certificates. They cannot move on and achieve higher levels of education or even look for jobs. That certificate can also give you an informal job or even an internship, where you can get money and continue with your education.

**The Temporary Speaker** (Sen. Ongoro): Order, Senator! You have eight minutes remaining to continue with your debate when the Motion next comes up for debate.

Hon. Senators, I want to also take this opportunity to remind you that tomorrow's Sitting will take place at the National Assembly, Main Chamber. It is a Joint Sitting of Parliament. It would have been in order if they joined us here but, of course, our Chamber is much smaller. So, we have honourably accepted to move to that Chamber. That is not indicating by any means that we are conceding any ground.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, it is now time to interrupt the business of the Senate. The Senate stands adjourned until tomorrow, Thursday 27<sup>th</sup> March, 2014, at 2.30 p.m.

The Senate rose at 6.30 p.m.