

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 27th July, 2016

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MARELL
ACADEMY, BUNGOMA COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to recognize the presence of visiting students and lecturers teachers from Marell Academy from Bungoma County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker Sir, for the opportunity to join you in not only acknowledging, but also welcoming the presence of Marell Academy, a school from Bungoma County. This is one of the top 10 schools in Kenya in the Kenya Certificate of Primary Education (KCPE) examination for the last several years. This school is a testimony of how private enterprise can help grow education in the country. The school posts some of the best results, sending many students to national and other top schools.

On my behalf as their Senator, I want to heartily welcome them to the Senate and assure them that this Senate will provide an opportunity for them to learn whatever they have come to learn.

I also want to acknowledge the continuing and qualified support that I enjoy from the school, the parents, the management and everybody that has anything to do with the school.

Welcome *na mujienjoy katika* Senate.

The Speaker (Hon. Ethuro): Sen. Wangari. Sorry my screen is malfunctioning.

Sen. Wangari: Asante, Bw. Spika. Nilikuwa ninashangaa kwa nini haunipi nafasi lakini nimeona ni kwa sababu ya hitilafu za mtambo wetu. Ningependa kukushukuru

pamoja na ofisi yako kwa kuwawezesha wanafunzi wengi kutoka sehemu mbalimbali za nchi yetu kufika hapa na kujifunza jinsi tunavyofanya kazi katika Bunge letu. Ukitaka kujua ya kwamba shule hii ni hadhi ya juu, wao hawana walimu bali wana wahadhiri.

Yangu ni kuwakaribisha katika Bunge hili na kuwatia shime kuwa wanaweza kuwa chochote wanachotaka katika maisha bora watie bidii katika masomo yao. Kama Mbunge ambaye alifika hapa akiwa mchanga---

The Speaker (Hon. Ethuro): Order, Sen. Wangari! I am sure many of your colleagues, including the Speaker are lost. *Wahadhiri ni akina nani?*

Sen. Wangari: Asante, Bw. Spika. Ni lugha ya Kiingereza ni *lecturers*. Ukiwatanguliza kwetu ulisema ni kikundi cha wanafunzi na wahadhiri. Hii ni shule ya hadhi ya juu au kiwango cha kipekee.

Tunawakaribisha hapa na mkirudi nyumbani msalimie watu wote. Ninawasihi mchukue mienendo mizuri ambayo sisi tunafanya tukiwa hapa katika Bunge hili. Tafadhali yale mabaya yabaki hapa.

The Speaker (Hon. Ethuro): Next Order.

(Loud consultation)

Kuna wale walikuwa wanaomba kuongea lakini sioni majina yao kupitia mtambo huu. Ikiwa unataka kuzungumza tumia kipaza sauti kuomba nafasi ya kufanya hivyo.

Sen. Leshore: Thank you, Mr. Speaker, Sir. I want to join you and the Senator for Bungoma to welcome *vijana kutoka ingo*. I want to tell them that they should emulate us. Your Senator has been a very good politician. He has been in this House for the last 20 years, so you should emulate him. Please, do not go back and burn the school.

Sen. Sijeny: Thank you, Mr. Speaker, Sir. I also wish to join---

The Speaker (Hon. Ethuro): Order, Senators! Let us be as brief as Sen. Leshore.

Sen. Sijeny: Mr. Speaker, Sir, I wish to also welcome the students. Indeed, you have made a wise decision to come and see what happens in Parliament, especially in the Senate. We want to encourage you to work hard, learn and understand what you are being taught. Remember those strict Christian and good traditional family values that you have been taught. You are the future leaders and you should aim high to pursue any career of your choice. You can be doctors, lawyers like me, and even professionals like your lecturers. The space is always open.

You are welcome and you can always come to the Senate. We want to see a President come from you because we know where the next President will come from. Thank you.

Sen. Obure: Mr. Speaker, Sir, just to join my colleagues and yourself in welcoming the students from Bungoma, I want to acknowledge and appreciate the example they have set for the others and not just in Bungoma, but to students in other counties as well. This achievement does not just come. It is testimony of the hard work of the proprietor and the managers of the school.

I want to advise the students that if they really want to achieve greater success, they must be focused, committed, dedicated and work very hard to be able achieve those

results. There is no shortcut. I hope that they will learn something that will inspire them to greater success out of this visit.

Sen. Kanainza: Thank you, Mr. Speaker, Sir. I want to join you together with my colleagues in welcoming the pupils of Marell Academy which is in Bungoma County that is neighbouring Kakamega County. I would want to inform them that this is the Senate, the “upper” House, which is full of brains and I believe they will learn a lot. We are nurturing these children to be future leaders.

As a leader representing the youth, I wish them well and welcome those aspiring to join politics.

The Speaker (Hon. Ethuro): Could we hear from, Sen. Karaba. My machine is now working. Sen. Njoroge spare your---

Sen. Karaba: Thank you very much, Mr. Speaker, Sir. That is the kind of predicament that we normally face this side when our machines fail and we are seen to be incapable of operating them. Many at times, we have been referred to as analogue yet it is not our fault. It is always the fault of the machine.

Thank you very much for allowing me to say a word to the young men of Marell Academy. The word ‘academy’ is precisely used to refer to a school of people with brains. I hope that you are using your brains well.

As the Chairman of the Committee on Education, I wish you a good stay here. When you go back home, tell those people that they should be disciplined and learn what is important so that when you get to higher levels of the academic world, you will desist from anything that is evil, especially burning of schools.

Sen. Njoroge: Asante sana, Bw. Spika. Nachukua fursa hii kuwapongeza na pia kuwatakia heri njema. Naipenda sana Kaunti ya Bungoma kwa sababu niko na marafiki wengi sana katika eneo hilo. Rafiki wangu wa kwanza ni Seneta wenu ambaye ni kiongozi wa wachache katika Bunge hili. Niko pia na marafiki wengine ambao wametoka upande huo kama vile mhe. Jirongo na mhe. Ababu.

Kwa hivyo mkirudi nyumbani nawatuma msalimie wazazi wenu na mjiepushe kuiga tabia mbaya ya wenzenu ambao wanachoma shule zao. Nawaomba muige mfano mzuri.

The Speaker (Hon. Ethuro): Order, Members!
Next Order! I do not want this House to be another House for ASK showground ya kutuma salamu.

(Laughter)

PAPERS LAID

REPORT OF THE MEDIATION COMMITTEE ON THE WATER BILL

Sen. Kivuti: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Wednesday, 27th July, 2016.

The Report of the Mediation Committee on the Water Bill (National Assembly Bill No.7 of 2014).

REPORT ON THE PHYSICAL PLANNING BILL

The Report of the Standing Committee on Lands and Natural Resources on the Physical Planning Bill (National Assembly Bill No.46 of 2015).

(Sen. Kivuti laid the documents on the Table)

The Speaker (Hon. Ethuro): Order, Members! The Chairperson deserves an applause because one of those reports has a constitutional deadline and he has worked very hard to meet it.

COMMUNICATION FROM THE CHAIR

APPEARANCE OF THE CHAIR OF NPSC AND IG BEFORE THE COMMITTEE

Order, Members! I have Communication to make. As you are aware, on Thursday, 21st July, 2016, I directed the Standing Committee on National Security and Foreign Relations to invite the Chairperson of the National Police Service Commission and the Inspector General (IG) of the National Police Service to appear before the Committee to respond to supplementary questions raised on the Statements raised by Sen. Njoroge regarding the 2016 police recruitment exercise. The chairperson of the National Police Service Commission and the IG have confirmed their availability on Thursday, tomorrow, 28th July, 2016.

I, therefore, invite you to the meeting of the Standing Committee on National Security and Foreign Relations to meet the Chairperson of the National Police Service Commission and the IG on Thursday, 28th July, 2016 in the Senate Chamber, Ground Floor, Main Parliament Buildings.

I thank you.

NOTICE OF MOTION

ADOPTION OF MEDIATION COMMITTEE REPORT ON THE WATER BILL

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

THAT this House adopts the Report of the Mediation Committee on the Water Bill (National Assembly Bill No.7 of 2014) laid on the Table of the House today, Wednesday, 27th July, 2016.

The Speaker (Hon. Ethuro): Chairperson, I thought you had two.

Sen. Kivuti: Mr. Speaker, Sir, I beg for your indulgence. We have been working round the clock, burning the midnight oil on eight constitutional issues. As we speak, we finished and signed the other two Mediation Bills around 15 minutes before this House sat. Our Clerks are taking it to the Clerk of the Senate so that they are brought to the House in the next five minutes or so.

I seek your guidance so that we can have this matter dispensed with today because it is listed on the Order Paper.

The Speaker (Hon. Ethuro): I will do so on condition that you expedite it in the next 30 minutes.

Sen. Kivuti: Most obliged, Mr. Speaker, Sir.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise pursuant to Standing Order No.33 of--

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lesan! You are completely out of order. Look at your Order Paper. We are on Notices of Motion.

Let us go to Statements!

STATEMENTS

CAUSES OF INCREASED DEATHS IN WESTERN KENYA

The Senate Leader of Minority (Sen. Wetangula): Mr. Speaker, Sir, I wish to request for a Statement from the Chairperson of the Standing Committee on Health concerning the recent rise in the number of deaths recorded in Western parts of Kenya.

I rise pursuant to Standing Order No.45(2)(b) to seek for a Statement from the Chairperson of the Standing Committee on Health concerning a rise in the number of deaths recorded in the Western parts of Kenya particularly in Bungoma County.

In the response, the Chairperson should address the following;

1. Whether the Cabinet Secretary for Health is aware that Bungoma County in particular is recording an average of up to 15 deaths in a month in each sub-location of the county. Bearing in mind that the county has 176 sub-locations, it can translate, on average, to over 2,640 deaths per month.

2. Whether the Ministry is aware that some, if not, most of the deaths are arising out of easily curable and preventable causes.

3. Whether the Ministry has conducted a community autopsy to establish the real causes of these deaths and what measures it has put in place to ensure that this situation is brought to a halt.

4. Whether it is the deteriorating services in the health sector countrywide that could be occasioning this; and that more deaths are caused by lack of proper coordination between the national and county governments and/ or because of the underfunding through inadequate revenue allocation to the counties. While health is a devolved function, the bulk of funding for health is still held at the national Government which has a very limited responsibility on matters of health.

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

Sen. Nabwala: Mr. Speaker, Sir, I would like to ride on that Statement. The same problem is in Trans-Nzoia County. Per week we are burying 10 to 15 people. We are wondering what is happening. Could that investigation also include Trans-Nzoia County?

Sen. (Dr.) Machage: Mr. Speaker, Sir, on behalf of the Chairperson, we will provide the Statement in---

There seems to be more interventions.

The Speaker (Hon. Ethuro): Well, you finish your bit. I will still allow more interventions.

Sen. (Dr.) Machage: Mr. Speaker, Sir, we will reply in the first week of the after recess.

Sen. Sijeny: Mr. Speaker, Sir, as they give the Statement, could the Cabinet Secretary also state how many of those deaths are of women and maternity related? Are there also infants dying? We want to know the statistics.

Sen. Obure: Mr. Speaker, Sir, what my Leader has raised in this House is a matter of great concern not just in Western Kenya but in most parts of the country. Concerning my own county, Kisii, I request the Ministry of Health to inform the country what is happening. Many of these causes of death are diseases that can be cured or prevented. The same information should be provided in respect of Kisii County.

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33

DESTRUCTION OF FACILITIES IN SECONDARY SCHOOLS

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise pursuant to Standing Order No.33 of the Senate Standing Orders, today, Wednesday, 27th July, 2016, to seek the adjournment of the Senate in order to discuss the very important issue of what is happening to our schools at the moment.

Today, there is great destruction of the infrastructure of our schools in this country. As of last night, there were close to 110 schools that have lost property as a result of fire. This has been caused either deliberately or unintentionally, some of which, of course, is accidental. This country spends up to a third of its budget on education. In fact, the most expensive investment in this country is in education and its subsequent infrastructure; which is the buildings hosting these schools.

Mr. Speaker, Sir, Kenya is very advanced in this region in providing education. This is exemplified by the fact that the leadership of the East African region has had some association with the education of this country. The destruction of schools in the last two months is probably equivalent to what terrorists are causing to this country. This is a very important item that this Senate must pronounce itself on as regards to the ongoing destruction of schools. The amount and the nature of destruction of schools is very frightening in that even the rate at which it is going, perhaps by the end of the year we will not have any schools in this country.

There have been issues which we know. One of the issues which perhaps precipitated this is the leakage of examinations in this country which we experienced last

year. I thank the Cabinet Secretary for Education for taking stern action to stem the stealing and exposure of examination.

The Speaker (Hon. Ethuro): Order! Order, Sen. (Prof.) Lesan! I do not want to use the “c” word on a professor. When I did my statistics, one good example was a confused professor with a bunch of keys.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I am quite aware of what this issue is about. I am not confused about this. This is the world where I come from, and I know what I am talking about when it comes to education.

The Speaker (Hon. Ethuro): Order, Sen. (Prof.) Lesan! The confusion is not on the issue. It is on the procedure. Do you want to give notice of the Motion or do you want to move the Motion? You cannot move what does not exist. You must move it first.

(Several Senators stood up in their places)

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I wish to move a Motion of adjournment of Senate to discuss the issue about the burning of schools.

The Speaker (Hon. Ethuro): Order Members! I am satisfied that you have more than the requisite numbers and therefore you will move it from 5.30 to 6.30 p.m.

Any other statements to be issued? Let us hear from the Committee on Labour and Social Welfare.

INDUSTRIAL ACTION BY MEMBERS OF KPWU

Since there is nobody to give a response, let us go to the next statement.

(Statement deferred)

The next statement was directed to the Standing Committee on Roads and Transportation?

PERSISTENT TRAFFIC CONGESTION ALONG NAIVASHA-NAKURU ROAD

Sen. Sijeny: Mr. Speaker, Sir, unfortunately the Cabinet Secretary(CS) did not attend the meeting as was expected because he had to go to State House even though he called me. The Statement was not availed and we did not discuss. I have informed the Senator who sought it and we could avail it in two weeks’ time if so allowed.

Sen. Obure: Mr. Speaker, Sir, I am familiar with these developments and I have no objection whatsoever. However, with your indulgence, I want to clarify that the traffic congestion we are concerned with is on Nairobi-Naivasha Road, the section between Rironi and Maai-Mahiu and not Naivasha-Nakuru road.

The Speaker (Hon. Ethuro): It should be corrected accordingly. Let us have the Chairperson of the Committee on Education.

(Statement deferred)

ELEVATION OF PROVINCIAL SECONDARY
SCHOOLS TO NATIONAL SCHOOLS STATUS

Sen. Karaba: Mr. Speaker, Sir, I am yet to receive the Statement from the CS Education. You can allow me to struggle to get it in the next one week.

The Speaker (Hon. Ethuro): Sen. Lesuuda.

Sen. Lesuuda: Mr. Speaker, Sir, I sought the Statement on behalf of Sen. Kagwe who is not in the House. We can issue it later.

The Speaker (Hon. Ethuro): So, it is not your Statement

Sen. Lesuuda: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): The Standing Committee on Health. Sen. (Prof.) Lesan. This is where you will demonstrate your competence and no confusion whatsoever.

IMPLEMENTATION OF GOVERNMENT POLICY ON
FREE MATERNITY SERVICES

Sen. (Prof.) Lesan: Mr. Speaker, Sir, yesterday you directed that the Senate Majority Leader provides time to seek the answer for this Statement. The Senate Majority Leader is, unfortunately, not in the House, but I also made attempts to try and get the answer. The information required needs to be collected throughout the country and compiled to be given to us. They asked that we give them until next week. That is the information I have so far. Unfortunately, it does not satisfy the House because the House requires a Statement.

The Speaker (Hon. Ethuro): Who sought the Statement? Sen. Sijeny.

Sen. Sijeny: Mr. Speaker, Sir, the answer is not satisfactory at all. It is a bit vague---

The Speaker (Hon. Ethuro): Order. There is no answer.

Sen. Sijeny: Mr. Speaker, Sir, the explanation, is a bit vague and not giving any specific period. Any time is no time. The situation is still bad, children are still dying, day and night, and women are also dying. It is a pathetic situation. How possible is it, even hygienically, that four women who just delivered are sharing a bed? Concerning the ruling you gave yesterday, this House should give the sanctions, because this matter is not being treated properly as it deserves.

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

The Speaker (Hon. Ethuro): Sen. Wangari.

Sen. Wangari: Mr. Speaker, Sir, I had indicated that I will talk to the Statement, but---

The Speaker (Hon. Ethuro): Order. We are on this Statement. First is Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, when it comes to matters health, we expect the Committee Chairperson and the Government to be positively responsive to the House. Matters of maternal health care all over the country are of grave concern because the much talked-about free maternity healthcare has come a cropper. It is not going on and women are detained with their children.

I once visited my county hospital where you find a woman with a new born sharing a bed in a tuberculosis (TB) patients' ward. That child is going to leave that hospital having contracted TB. Could this good professor of medicine and the Jubilee Government he sits with, tell this House, and the country why it is so difficult to get information that should be readily available since this Statement was sought on 16th, June, 2016 which is more than a month ago? Yesterday, you rightly directed that they must give an answer today.

Sen. Nabwala: Mr. Speaker, Sir, I had earlier sought a Statement from the Committee on Agriculture, Land and Natural Resources about maize storage by the National Cereals and Produce Board (NCPB)---

The Speaker (Hon.) Ethuro): Order, Senators. You should be following the proceedings. This is because I look at your requests and I do not know the one you want to talk to. Therefore, you should hold your horses when you realise you are not yet ready.

Sen. Mutula Kilonzo Jnr: Mr. Speaker, Sir, this matter is urgent to the extent that mothers in this country are being punished for bureaucracy of the Kenya Government. It appears, and the Chairperson should clarify, that this money once it is remitted to the Ministry, it failed to remit the sum. Worse still, the Ministry is insisting on conditions. What condition would there be in free maternal health-care other than the birth of a child? The only condition has been fulfilled.

(Laughter)

I get concerned when the Kenya Government which offered this as a pre-election campaign tool is punishing a child who cannot talk.

Could you please make an order just like you sanctioned the Committee on Finance, Commerce and Budget, that we are unable to function on anything?

Mr. Speaker, Sir, could the answer be given urgently? This is because from where I stand as a Member of the Committee on Finance, Commerce and Budget, something is afoot. There are snakes under the rocks and we want to look for those snakes because if this Senate cannot defend the function of health, it is this lethargy that is giving the naysayers that counties have failed in the health function and it should revert to the national Government and that is the reason. If there is something that justifies devolution of health, it is the free maternal healthcare.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Yesterday, I heard you clearly giving a directive that this Statement should be given priority and should be responded to today at exactly 2.30 p.m. and the secretariat put it there. Yesterday, the Senate Majority Leader himself undertook, on behalf of the Committee and the Government, to issue this Statement today given the nature of the urgency. Is there an attempt to water down the directives given by the Speaker in this House?

I am saying this because it is like we are taking the Speaker for a ride. Whoever gave the undertaking has also disappeared because he is not in this House now. Is it in order for people here to give undertakings and disappear?

(Laughter)

Sen. Kanainza: Mr. Speaker, Sir, it is really a big concern when we talk about the free maternity care for our women and children. The other day, money was raised and I remember Safaricom gave Kshs50 million towards achieving this goal. The Chair should explain to us what is happening with the donations and the sponsorship being given to the Government to support this cause. This is a big concern that the Committee on Health in this House is failing to do its duties. Maybe, we will still call upon you, as the Speaker of the House, to redirect or even reconstitute the Committee so that they are able to perform their duties.

Sen. Sang: Mr. Speaker, Sir, it is very sad when matters of this nature which are very urgent and very important are responded to in that manner. Various committees and the Government – in this case the Cabinet Secretaries (CSs) – are handling some of these issues very casually. There is a growing trend within the CSs in this country to take for granted issues being raised in this House. We do not stand here to raise issues and seek statements on our own behalf but we do this because of the counties and the people that we represent.

Mr. Speaker, Sir, one of the greatest challenges this country is facing is lack of proper priority. What would be more of a priority to a CS that would allow him to take three, four or five weeks to respond to such an important matter that affects the lives of this country? I request you to extend the direction that you gave yesterday to the Ministry of Interior and Coordination of National Government to this particular Ministry whose officials are perpetually unable to respond to issues in time, so that many of the Kenyans who need these answers can be satisfied.

Sen. Nabwala: Mr. Speaker, Sir, I rise on a point of order although I am a bit late. Our committee has been having challenges and I tried to raise that yesterday. We have not had the Chair and the Vice Chair for some time because they are always “flying blue”. So, there is a disconnect between the Committee and the Ministry of Health. Sen. (Prof.) Lesan has been trying to resolve these issues but I think we need to reconstitute the committee.

Sen. Wangari: On a point of order, Mr. Speaker, Sir. Despite the challenges in the Committee, I do not think it is right for a Senator to declare another one to be “flying blue.” Being a House of record, I do not think that is the route we want to take. I do not even know what “flying blue” means but I think the Committee on Health in this House has had its own challenges and it is time we discussed that, maybe in a *Kamukunji* or in another setup. For the record and because we are also doing this for the country, we should not impute improper motive on a Senator who is not inside the House. I do not think Sen. Nabwala is in order.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I make no excuses for not giving this answers but I sympathise on the fact that we have been very slow on this issue which is

very urgent concerning matters in this country. I want to undertake that we are doing our best to try and bring the answer to the House. The only reason that was given to us is that the records in the counties are not up to date and being the first records, it has taken time for the CS to compile. In fact, when I talked to them yesterday they said they are willing to give us an interim report which does not have the entire answer to the question that was asked in the House.

Mr. Speaker, Sir, we apologise for not giving an answer but I want to assure the House that we are trying very hard to get the relevant officers in Government to give us the appropriate answer. If we get an interim answer, we would like to bring it to the House as early as tomorrow afternoon.

The Speaker (Hon. Ethuro): Sen. Elachi for Majority Leader.

Sen. Elachi: Mr. Speaker, Sir, I also took an undertaking. When I went to the Ministry, I was told that at that time, they were going to Addis for a meeting. Therefore, they requested to be given time to give us the answers when they come back.

Sen. Wamatangi: On a point of order, Mr. Speaker, Sir. Now that it is clear that there has been no headway for a long time on this matter and especially on many questions to the Committee on Health, is the Chairperson in order to mislead the House? In spite of the fact that he says he has been struggling, what he would have done is to seek the assistance of the House to summon the CS, such that all those questions which have been pending can be answered once and for all. Could you direct the Chair to write down all those statements that they have been unable to answer and seek your assistance to summon the CS to this House?

Lastly, it is time for this House to take a relook at the effect and usefulness of seeking statements in this House. When statements are sought, do they serve the purpose? The casualness with which requests for statements are taken is a serious issue. It has become a ritual or something customary and the most you can expect even when some of them are answered is just a chronology of stories and events which sometimes may not even serve the purpose. This is a serious issue for this House. Let us have the CS for Health here to answer all those questions. You should also direct that statement must be brought here on time. Like we do in committees---

The Speaker (Hon. Ethuro): Order, Sen. Wamatangi, please conclude.

Sen. Wamatangi: Mr. Speaker, Sir, I will conclude. Reading Article 125 of the Constitution, this House has got the powers of the High Court in requiring provision of evidence or even summoning individuals to come to this House. Could you direct that every time a statement is sought and an answer is not here, a summons be issued for the relevant CS to come and answer those questions so that we do not appear to be casual on matters of life and death?

The Speaker (Hon. Ethuro): Order, Senator, you tone is a bit worrying to me.

Sen. Sang!

Sen. Sang: On a point of order, Mr. Speaker, Sir. Is the Majority Whip, through Sen. Elachi, in order to try and cajole this House into believing that because some officers in a Ministry had to travel to “I do not know where”; that this House can wait for such a period in order to get responses? Is she trying to suggest that an entire Ministry had to travel? In fact, it now appears that the problem might not be the ministry but our

colleagues in the House. If she can take that for an answer and try to persuade us to believe in the same answer, I think she is completely out of order.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I would want to bring to your attention the casual manner in which the Majority Whip is treating this House. When she stands there and says she contacted them and they said they were travelling to Addis Ababa and she does not know what happened thereafter, who are they in the first place and when did they travel to Addis Ababa? Did the whole Ministry travel to Addis Ababa? This is the casual nature in which we do not want this House to be treated because we represent counties and their governments and therefore people of those counties. When a question comes here, we are representing every single individual in our counties so that they can get the services that they deserve from the Government.

Those casual approaches do not in any way reflect well on this Government.

Sen. Leshore: Mr. Speaker, Sir, I think the problem lies with us here. This morning, I passed through the Ministry of Health Headquarters and they were celebrating International Standards Organization (ISO) certification. They have attained that today. So, the problem lies with us here. We must have a *kamukunji* to discuss it and see that we serve Kenyans.

Sen. Elachi: Mr. Speaker, Sir, I think it is important to give an answer as it is. I was sent a week ago and I went. The key person who is supposed to come and be interrogated to answer all the questions you are asking is the Principal Secretary for Health, Dr. Nicholas Muraguri. He was not around. If he is back today, then we can order that he be in this House on Tuesday in a *kamukunji* to be interrogated by the Members. At the time I went there, he was not there. He had left with the First Lady.

The Speaker (Hon. Ethuro): Order, Members. For the Majority Whip, you are just making your case even worse. Only yesterday, the Majority Leader out of failure of the Committee assumed the responsibility of providing the answer. The Majority Leader, as eloquently put by Sen. (Prof.) Lonyangapuo, has decided to disappear. Now, you are the next closer person and then you disappeared with the answer itself.

(Laughter)

How does one accept the explanation that an officer is travelling? The law is very clear that until you get a written letter from the President, nothing else will excuse any person especially in Government from appearing before the House or responding to issues sought by the House. That is the law. So, I think the outrage by Members is that you should not have accepted that in the first instance because it is nothing.

Secondly, we are talking about a stated Government policy. I said yesterday that this is something that the Government is self committed to from the days of the Grand Coalition Government to this particular one. When we have a stated Government policy, it should be all systems go, especially on a matter like this one. In fact, Sen. Mutula Kilonzo Jnr. put it that; which other condition do you need other than the birth of a child? You do not want to deal with children who cannot speak because we do want them to cry as sign of life and also you will risk the lives of the mothers who are already alive. That is basically what we are doing.

Since the Majority Leader had made a case that maybe, we will give them up to tomorrow, we had wanted him to make attempts today and bring an interim report. For the Acting Chair of the Committee, I had exonerated the Committee further. My directions were clear to both of you. So, I will give the Committee and the Majority side leadership up to tomorrow. Let me promise you; if by tomorrow you do not deliver, be prepared for sanctions. That one, I will promise you.

(Statement deferred)

Order Members, we move to statement (e) on National Security and Foreign Relations.

HARASSMENT OF *BODA BODA* OPERATORS BY POLICE
IN KAKAMEGA COUNTY

(Statement deferred)

Statement (f) for Committee on Labor and Social Welfare!

CONDUCT OF CHINA JIANGXY INTERNATIONAL (K) LIMITED

Sen. Madzayo: Mr. Speaker, Sir, I have been very desperate trying to get some information about where the response is. Incidentally, the Ministry has not responded to us yet. Therefore, I would ask for more time.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, what do you have to say?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I do not know how much more time the Chairman will require noting that this Statement is long overdue. It is nearly two months now. When he confesses here that he has been struggling to look for the response, I do not know what that means. This was very urgent and you directed several times that this should be done but the Chairman still looks like he is not sure on how to handle it. I would request that they give the Statement tomorrow.

Sen. Madzayo: Mr. Speaker, Sir, I cannot promise that I am able to give this Statement tomorrow but I will try my best. I am sure I should get the response in another one week or so. After that time, I will be able to make a comprehensive response to the Senator.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, when did you seek this Statement?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I sought this statement two months ago and it is surprising the way the Chair is handling it.

The Speaker (Hon. Ethuro): Sen. Madzayo, how do you explain that kind of duration?

Sen. Madzayo: In a week's time, I will be able to get a response because I will take the opportunity to physically visit their offices and demand for these answers, that much I can promise the House.

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo, let us allow the Chair one more week. In the event we will go on recess, you will communicate directly to the Member.

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

The Speaker (Hon. Ethuro): Make sure you notify my office.

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

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

POOR STATE OF ROADS AND BRIDGES
IN WEST POKOT COUNTY

Sen. (Prof.) Lonyangapuo: On a point of order Mr. Speaker, Sir. Yesterday, I sought the Chair's intervention in asking the Chair of the Committee to respond to some specific Statements that are urgent regarding the destruction of the bridge linking Kitale-Kapenguria and Lodwar around Makutano Town. The Chair directed that the response be made today at 2.30 p.m. However, it is not appearing in the Order Paper.

The Speaker (Hon. Ethuro): I do remember. Sen. Sijeny, what is your response?

Sen. Sijeny: Mr. Speaker, Sir, I undertake to inquire and I request the Chair, if I can be allowed, one more week to give a response.

The Speaker (Hon. Ethuro): Sen. Sijeny, you were in the House yesterday and you followed the deliberations. You should be reporting to us what transpired from yesterday up to now.

*(Sen. Sijeny stood from her place and walked towards
Sen. (Prof. Lonyangapuo's place)*

(Sen. (Prof.) Lonyangapuo stood in his place)

The Speaker (Hon. Ethuro): What is it, Sen. (Prof.) Lonyangapuo? She is coming to consult you.

Sen. (Prof.) Lonyangapuo: On a point of order Mr. Speaker, Sir. This is an easy way of running away from the Chair's directives. This is the second time the Chair is directing this particular Statement and now, the Senator thinks she can come and convince me.

(Laughter)

Mr. Speaker, Sir, I request tomorrow that the Statement be issued because there is a possibility that the House will go on recess.

The Speaker (Hon. Ethuro): Order, Sen. (Prof) Lonyangapuo! Let the consultations take place then from there, you can figure out. Being convinced is part of it.

(Sen. Wangari stood in her place)

The Speaker (Hon. Ethuro): Order Sen. Wangari! We are moving to the next Statement.

INDUSTRIAL ACTION BY MEMBERS OF KPWU

Sen. Madzayo: Mr. Speaker, Sir, it is a similar situation and I would urge this House to give directions because the Ministry of Labour and Social Welfare seems to be in labour itself. They are unable to come up with Statements. I have called the office myself but incidentally, there is a miscommunication amongst the officers there. That is why we are failing to get the responses to this effect. I would urge the Speaker's Office to write a protest note to the Ministry informing them that they should respect the official communication from this House and that Members demand answers to their Statements and they should respond in time.

Thank you.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker, Sir. Indeed, this is an urgent matter in that; the industrial action is active on the ground. Last week, there has been enormous destruction of property within the estates where this industrial action is taking place. While I appreciate the difficulty that Senator is going through - like I did in the Ministry of Health - could it be possible that the Chair intervenes with the Cabinet Secretary so that some discussion continues as we wait for the answer in this House to attempt to resolve the industrial action which is taking place on the ground?

The Speaker (Hon. Ethuro): That is a fair request. The Chair of the Committee is ordered to consider it actively.

Sen. Sang: Mr. Speaker, Sir, I have an interest in that particular matter. We are also affected in Nandi County because of this industrial action by the tea pickers. However, before the Committee seeks your support or indulgence of the Speaker's Office, sometimes as Committees, we take for granted some of the powers that are given to us.

If you look at Article 125, some of these Ministries are not doing their job. The Members can engage the provisions of the Constitution to summon them. Before we appeal for your administrative powers in order to help us sort out some of these things, committees must exhaust the powers given to them. One such power is under Article 125 of the Constitution. We can even bring a censure Motion against some of these Cabinet Secretaries. So, it is still incumbent upon us, as committees in this House, to take seriously our responsibilities and escalate that to the levels allowed to us by the Constitution. We can only appeal to you as a measure of last resort.

The Speaker (Hon. Ethuro): I cannot agree more.

Sen. Wangari: Mr. Speaker, Sir, I will seek another Statement after your ruling.

The Speaker (Hon. Ethuro): I have dispensed with this and that is why I have come to you.

SHOOTING OF ULANDA GIRLS' SECONDARY
SCHOOL STUDENT

Sen. Wangari: Thank you, Mr. Speaker, Sir. On 29th June, I sought a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the case in Migori County where a Form Two student from Ulanda Girls' Secondary School was hit by a bullet fired by a Prison Warder on 27th May, 2016. I am still waiting for this Statement but it is almost one month. The girl has a permanent disability. So I am seeking your guidance on the same from the Chair to respond.

The Speaker (Hon. Ethuro): While on your feet, when was it due?

Sen. Wangari: Mr. Speaker, Sir, it was due in two weeks but so far, four weeks have elapsed.

Thank you.

The Speaker (Hon. Ethuro): That should be the Committee on National Security and Foreign Relations. Sen. (Dr.) Machage, you are there.

Sen. (Dr.) Machage: Mr. Speaker, Sir, as the Chair looks for the answer, would you allow me to put an addendum? Now that the child is out of hospital, could the Ministry foot the hospital bill?

The Speaker (Hon. Ethuro): Order Sen. (Dr.) Machage! Sen. Wangari was only reminding. So, your addendum has nowhere to hang.

Sen. (Dr.) Machage, your addendum can be part of the clarifications.

Order, Members! That is the end of Statements. We will now go back to Order Nos.5 and 6 for purposes of allowing the Chairperson of the Mediation Committee to introduce Bills with the constitutional deadlines.

Sen. Kivuti, start with Papers.

PAPERS LAID

REPORT OF THE MEDIATION COMMITTEE
ON THE LAND LAWS

Sen. Kivuti: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday 27th July, 2016:-

The Report of Mediation Committee on Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015)

REPORT OF THE MEDIATION COMMITTEE
ON THE COMMUNITY LAND BILL

The Report of the Mediation Committee on the Community Land Bill (National Assembly Bill No.45 of 2015)

(Sen. Kivuti laid the document on the Table)

The Speaker (Hon. Ethuro): Next Order.

NOTICES OF MOTIONS

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

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE LAND LAWS

THAT, this House adopts the Report of the Mediation Committee on Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015), laid on the Table of the House today, Wednesday, 27th July 2016.

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE COMMUNITY LAND BILL

THAT, this House adopts the Report of the Mediation Committee on the Community Land Bill (National Assembly Bill No.45 of 2015) laid on the Table of the House today Wednesday, 27th July 2016.

The Speaker (Hon. Ethuro): Order, Senators. The Chair and Members of the Mediation Committee need a round of applause for a job well done.

(Applause)

Members, as you notice, we should be going to Division.

(The Speaker (Hon. Ethuro) consulted with the Clerk-at-the-Table)

My trail of thought was to go to division, but since the Papers have been laid and Notices of Motions given, we will proceed according to the Order Paper. We will now go to Order No.8.

Sen. Kivuti, you may move to the Dispatch Box. Hon. Members, I have one more reminder. Today, in the Order Paper, there are many divisions that we are unable to do because of the numbers. I want to encourage everybody to be here tomorrow, being our last day, so that we can dispense with all the Divisions. You may as well conclude with these Bills today, so that they join the list of voting tomorrow or later in the day, if you raise the numbers.

Next Order!

MOTIONS

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE COMMUNITY LAND BILL

Sen. Kivuti: Mr. Speaker, Sir, I beg to move the following Motion:-

THAT, this House adopts the Report of the Mediation Committee on the Community Land Bill (National Assembly Bill No.45 of 2015).

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

Sen. Obure: Mr. Speaker, Sir, I wish to congratulate the Chairman of the Mediation Committee on attaining success in the deliberations of this Committee. Despite the general belief that there exists poor relations between this House and the National Assembly, the Mediation Committee has, indeed, proven that getting together and discussing issues can take us a long way.

I congratulate them and second this Motion.

(Question proposed)

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

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

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I take this opportunity to congratulate the Members of the Mediation Committee - I was one of them - for putting in many hours. As the Senate, we did away with the entire Bill. The Mediation Committee had to look at the Bill clause by clause to make sure that we could agree on the many areas that we had issues with.

The Community Land Bill is a sensitive Bill because it legislates on land, especially the pastoral lands and other areas where for a long time the communities have owned the land. We had to make sure that all interests are taken care of by this Bill. I want to also confirm that we agreed on all the clauses. We believe that this Bill will serve the intended purpose.

I support.

Sen. Sang: Mr. Temporary Speaker, Sir, I want to take this opportunity to congratulate the Mediation team led by Sen. Kivuti. This is one of the interesting Bills that this House rejected almost every clause. Therefore, it is important that through the mediation process we now have an agreed version of the Bill. I want to believe that even as we move forward, we will have many situations where Bills will be referred to mediation because of the various perspectives that we have in terms of looking at Bills.

I want to encourage that once we have a Bill of this nature that is referred to a mediation process, the space for public participation is critical. Many of our county governments raised concerns about the Community Land Bill. Even as the Mediation Committee sat to review and agree on the various provisions, it is my hope that they consulted members of the public and got views from county governments.

Sen. Lesuuda: On a point of information, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Lesuuda, whom do you want to inform?

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I want to inform Sen. Sang.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Sang, do you want to be informed?

Sen. Sang: Yes, Mr. Temporary Speaker, Sir.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, may I inform my colleague, Sen. Sang, that the Bill was rejected because the Committee had not done public participation. We actually did public participation and received views from the stakeholders including the Cabinet Secretary, Council of Governors, among others. In the end, we had to relook at the Bill afresh and in totality.

Sen. Sang: Mr. Temporary Speaker, Sir, that is exciting because this process of mediation takes the centre stage. Every House will discuss Bills but if there is disagreement, future mediation committees should take cue from what this Committee did to encourage public participation. I say this because, I have sat in mediation committees and sometimes because of the---

Sen. Kivuti: On a point of order, Mr. Temporary Speaker, Sir. As furtherance to the information given by---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Kivuti.

Sen. Kivuti: Mr. Temporary Speaker, Sir, I am giving some information which may be useful to the Chair---

The Temporary Speaker (Sen. (Dr.) Machage): You are on a point of order and not a point of information. Kindly execute it properly. Sit first and inform the Chair the Member you wish to inform.

Sen. Kivuti: Mr. Temporary Speaker, Sir, may I inform Sen. Sang.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Sang, do you want to be informed?

Sen. Sang: Yes, Mr. Temporary Speaker, Sir.

Sen. Kivuti: Mr. Temporary Speaker, Sir, the information I am passing is not for the interest of Sen. Sang alone but to the House. As you are aware, this report was tabled a few minutes ago. Therefore, all the Senators present, have not had occasion to read and interrogate it. I do not know whether whoever is responsible can make copies and issue them to the Members so that as we debate, we will know what it contains.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Kivuti. If your thoughts were so, then you should not have moved the Motion today. What happened is the urgency given to you by the Standing Orders on moving a Motion on the same day that you give notice by leave of the House. If you knew that Members have not read the report, then you should not have done so. You are out of order. In fact, you are making things worse.

Sen. Kivuti: Mr. Temporary Speaker, Sir, with your permission, it is not the prerogative of the Chair to distribute whatever has been laid on the Table of the House. I was only seeking the Chair's intervention to allow Members to receive the report. This has happened before. The report is not voluminous and copies can be given to Members as they debate.

I only needed to give that information so that it can help not only Sen. Sang but also the other Members.

The Temporary Speaker (Sen. (Dr.) Machage): So, you should have stuck on your first point of order; whether you would be in order to request the Chair that the report be distributed in the House for Members to look through instead of interrupting Sen. Sang's line of thought.

Proceed, Sen. Sang.

Sen. Sang: Mr. Temporary Speaker, Sir, this challenge could have been surmounted a little bit by the Chair in his moving remarks. He should have given us some of these details. If the Chair moves the Bill in two or three sentences, then those of us who are not part of the mediation process cannot comprehend. The Chair and the seconder of the Motion did not do justice to us because we are now left to speculate. The points that the Chair is now trying to share should have been raised while moving the Bill. Nonetheless, my emphasis is on the central role that the mediation process is gaining in the legislative process in a bi-cameral Parliament.

We should think through while reviewing our Standing Orders to provide for an elaborate procedure on how to carry out mediation. The Houses of Parliament should carry forward some of the input that they received in their various processes when processing the Bills. The aspect of land Bills is an important resource because the community land is vested in the counties.

We hope that as we enact this law, we will curb the potential mischief by various county governments especially the county government officials. We have witnessed county governments allocating land to individuals. The passage of this Bill is timely so that we can effectively ensure proper management of community land in our country. Various communities need to benefit from the community land.

Mr. Temporary Speaker, Sir, I congratulate this team and encourage the House to adopt the Report so that we can fast-track the process of actualisation of the community land law. In this case, we shall have proper management of community land in our country.

With those few remarks, I beg to support.

The Temporary Speaker (Sen. (Dr.) Machage): I thank the Chair who did a good job. The Bills have been scheduled in the Order Paper because of the constitutional timelines. We may not have the luxury of time. It was a request by the Rules Business Committee and not the Chair. I want that corrected; that these Bills have been scheduled on the Order Paper today.

Be that as it may be, it may be possible in some of the Bills whose time is almost expiring as per the Constitution to be expeditiously passed without much ado. The amendments can be made later because nobody bars the House from discussing amendments on such Bills. The important aspect is to meet the constitutional timelines.

I request Members to spend much time on this so that we can have the process rolling. I might have been a bit harsh on the Chair.

Sen. Karaba: Mr. Speaker, Sir, as much as many people appreciate the good work done by the mediation team, I experienced some problems. We had a Petition from Kirinyaga *Mihiriga Kenda* over the same. I am sure that this one has been captured appropriately in the report which was tabled by the Committee on Legal Affairs and Human Rights. This is another report which has been tabled by the Committee on Land

and Natural Resources mediation team. I am of the opinion that the *Mihiriga Kenda* Petition will be adequately captured in favour of the petitioners.

Mr. Temporary Speaker, Sir, therefore, your wise ruling over this issue is awaited so that the *Mihiriga Kenda* in Kirinyaga will get a fair hearing and deal. I am yet to find out whether to support or not but in the mean time, I support the mediation team for doing well to expedite to the level that my petition from Kirinyaga can be heard.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. The onus whether to support or not, lies on you. This House will always be fair to everybody, including your request.

Hon. Members, I have a Communication to make.

(Debate on the Motion suspended)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MATUNGULU GIRLS HIGH SCHOOL

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, I wish to recognise the presence of visiting students and teachers from Matungulu Girls High School, Machakos County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

Sen. Sijeny: Mr. Temporary Speaker, Sir, I also join you in extending the warm welcome to them. I am happy that these are girls. I have been a champion and advocate for the girl child for many years.

You are in the right place. We want you to be very good girls. Work hard. You are future leaders. Currently in the world, the space is for women in the present and the future. You will make better leaders. Understand what you are studying. You can achieve anything. You can become lawyers, doctors, engineers but also take up leadership positions wherever you are; be it in class, at home or in Sunday schools. Remember the good values you have been taught. Make us proud. The sky is the limit. Next time you come back in five or 10 years, we would like you to stand here as Senators for the areas you come from.

Thank you very much. God bless you.

Sen. Sang: Mr. Temporary Speaker, Sir, I join you and my colleagues in welcoming this wonderful school from Makueni. I would like to persuade them that for whatever reasons or however much they have issues with their school administration, they should desist from burning schools.

In the next one hour or so, this House will be expressing itself specifically to the issue of the menace that is gaining currency in this country where schools are being burnt. I ask those girls to spend more time in school working hard to be better persons in the future. They should avoid this menace of burning schools at all costs.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I join you and my colleagues in welcoming the students and teachers to this Senate. I would like to let the students know

that there is no barrier to be anything that they would want to be in this world. I remind them of the huge sacrifices that their parents have made for them to acquire education.

In whatever action they take, they should always remember that their sponsor, parent or guardian has sacrificed a lot for them to have education. Please postpone everything else. The world will not run away. When you are in school, focus on what has taken you to school. I wish you the very best.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, allow me to also welcome the students of Matungulu Girls High School. I urge them to be good growing citizens of this country. They come from a region that is truly “CORDED.” We work very well with the Member of Parliament (MP) and another leader; my brother, hon. Stephen Kalonzo Musyoka. When you go back, tell your parents to remain on course. Be of good conduct. Do not burn any dormitories.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Wetangula! Whereas this speaker belongs to that cause, it is not the right venue to do it.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, let me finish by urging the students to remain of good behaviour. We have not heard of their school torching their dormitory. Do not be tempted to do that. The Ministry is cropping in the dark trying to tell us the reasons. The reasons they have advanced are false. We have a Motion on it later. As you go back, remain “CORDED.”

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

Sen. Lesuuda: On a point of order, Mr. Temporary Speaker, Sir. Is the Senate Minority Leader in order? You have just ruled that it is okay to say that but this is not the forum to do so.

The Temporary Speaker (Sen. (Dr.) Machage): Order! The term “CORDED” means a lot. So, I may not understand in what context he used it. I assume he used it in the English context.

I will allow only one Member to welcome the students, and then we go back to the Motion.

Proceed, Sen. Hassan.

Sen. Hassan: Mr. Temporary Speaker, Sir, I felt compelled to speak.

Makueni County is the county of my “twin” brother. Your Senator, Sen. Mutula Kilonzo Jnr., was born exactly the same day like me on 23rd October, 1975. We are both lawyers. We are now Senators of this House and leaders in the coalition. Therefore, remain focused and true to the aspirations and dreams not only of your family and yourselves but also of the society.

Younger politicians and people generally are looking to the youth as the future and hope of this country. As you move forward, make sure that you commit yourselves to integrity, detribalize yourselves and do not take to the vices of ethnicity to mitigate greed. When you graduate from the schools you are in, you will go into universities that are diverse. Make an evaluation on the basis of competence and character, but not on the basis of ethnicity and you will grow up to be responsible Kenyans. You are the true Kenyan renaissance. There is hope in this country because some of you are still there. We look forward to you doing the very best. So, take my greetings. When you see me, you

have seen the Senator for Makueni. When you see the Senator for Makueni, you have seen me.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. It is good to hear that from a youthful Senator. This House also has Senators who were Ministers in the Government in 1975.

We now go back to the Motion.

Proceed, Sen. M. Kajwang.

(Debate on the Motion resumed)

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I would have wished to welcome the young ladies but since you have closed that session, allow me to go straight to the Motion. However, when I see young bright ladies like the ones who have visited us today, it is important to encourage them.

This week, two things are happening; in the world of academics and in the world of women empowerment. The first significant thing is that Hillary Clinton is poised to be nominated as the presidential candidate for a major political party in the United States. If all factors are held constant, she is likely to become the President of the United States of America. I encourage the young girls that the sky should not even be the limit. They should not impose any limits upon themselves.

In the United Kingdom (UK), Theresa May is the Prime Minister, in Germany Angela Merkel---

The Temporary Speaker (Sen. (Dr.) Machage): Under your Standing Orders, Senator, there is a section of irrelevance. Tread carefully. I might invoke it.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I am on my way to establish the relevance of my comments on the Motion that is before the House. However, all the same, before I get to detailed discussions on the Motion, I welcome the delegation and ask the young ladies to work hard so that one day, one of them will run this nation.

Mr. Temporary Speaker, Sir, back to the Motion that is before us, I share the views raised by Sen. Sang which you have appropriately guided us on. For such a fundamental issue that was sent for mediation, it would have been proper if the Paper had been laid on the table much earlier so that Members of this House would familiarize themselves with the contents. When we rejected this particular Bill after Second Reading, we rejected it because of some errors of omission by this House. When it came for Second Reading, there were a few Senators in this House who debated it and on the basis of their debate, approved it. This matter was then supposed to go for Third Reading.

If the report on mediation comes to this House and we approve it automatically or with the pressure of constitutional deadlines hanging over our heads, we might find ourselves in a situation where when this matter comes up again for substantive debate, our colleagues who are not there today will again reject it on the basis of emotions and fear.

Mr. Temporary Speaker, Sir, I am comforted by the fact that when we adopt this Motion, this Bill will come back to this House for Second Reading when we shall have

an opportunity to discuss and debate it. This is where I beg your indulgence that this Report on mediation allows the Bill to come back to this House.

I am not sure whether it will come back for the Second Reading or Third Reading. However, I hope that once we adopt this Motion, then this Bill will come back and we will get an opportunity to deal with it. We will discuss the sticky issues that Members of this House, especially from the marginalized areas, had with the land laws that had been brought to this House.

Sen. Boy Juma Boy: Asante sana Bw. Spika wa Muda, kwa kunipa nafasi niunge mkono Hoja hii. Hoja hii ni ya muhimu sana haswa kwa sisi ambao twatoka maeneo ambayo yako na hili swala la ardhi ya jamii. Kwale inajulikana sana kuwa na matatizo ya mashamba. Tuna eneo Bunge la uwakilishi nzima; Kinango mpaka Lunga Lunga ambalo ni eneo lililotengwa kama ardhi ya jamii.

Ndio maana ilipokuja Hoja ya kupitisha sheria hii, nilikuwa mmoja katika wale waliopiga kura kuiangusha maanake maslahi ya Kaunti ya Kwale hayakuwa yametiliwa maanani. Hata hivyo, baada ya kwenda katika mapatano ya Hoja hii na pia kwa sababu mimi ni mmoja kati ya wanakamati wa Kamati hiyo ya ardhi, na licha ya kuhakikisha kwamba yale mambo yanayohusu wananchi wa kawaida wa chini yametiliwa maanani, kwa hivyo, hakuna jambo la kuipinga Hoja hii tena.

Kutokana na swala hilo, ndio maana ninasimama leo nikiunga mkono Hoja hii kikamilifu kusudi swala hili lihakikishe kwamba sheria hiyo ije ijadiliwe kusudi, raia ambao ni watu wa kawaida waweze kutiliwa maanani vile swala hili lilivyo.

Kwa hayo machache, naunga mkono.

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

The Senate Leader of Minority (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I know that we have constitutional timelines. However, this issue of land is extremely emotive and can cause problems in the country. Members of this House represent counties and their governments where public land is domiciled. The Bill that came from the National Assembly had a lot of unacceptable clauses and we rejected it almost in total. I would have expected that the Bill, having gone to mediation, we do not turn ourselves to what now looks like a rubberstamp.

I expected the Chairperson of the Committee to walk the House through what it is that we rejected and what it is they have mediated and agreed so that the House can benefit from the industry of the team that we sent to Mediation. However, when the Chairperson simply says he begs to move and that is the end of it, then the House is not helped. Then, we are constrained as representatives of the people and the counties to ask the House to give us time to read through the mediated version, compare it with the rejected version and then debate the matter from an informed position.

We are not doing something right. For us now to just acclaim---

The Temporary Speaker (Sen. (Dr.) Machage): Order!

The Senate Leader of Minority (Sen. Wetangula): I am on a point of order, Mr. Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Order! The Chair can also make you sit.

Not that I did not value the substance of what the Senate Minority Leader was trying to give to the House, only that the debate was taking a little longer yet the point had been hit. I refer you to Standing Order No.55 that governs how such reports should be handled.

I will appreciate the academia or the analytic brain the Senate Minority Leader may be having on such issues on matters of presentation. That, however, may not give him leeway to dictate to other Members of this House how to present their reports to the Floor of this House. They do what is wise and what they think is necessary. Therefore, I rule that, that part on reprimanding the Chairperson's mode of presentation of report indicated as an unfair statement to the Chairperson.

Standing Order No.55 gives you the leeway either to reject or accept the report. Use your conscience. Just before you came, Sen. Wetangula, I had advised the House that on some of these matters on constitutional deadline deals, Bills that are supposed to be caught by the constitutional timelines. While we might be very critical, it is advised that the reports for mediation, such as we are, can come with amendments later so as to avoid a constitutional crisis.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I did not mean to be harsh on the Chairperson of the Committee. In fact, he was already saluted for having done his work expeditiously. However, this House cannot seek solace and comfort. In fact, the Standing Order allows us to reject a report. Our duty is not to reject reports but to make good laws which will come out of informed decisions, having read and understood what is before us.

Sen. Sang may be interested in hearing that when we were debating the new Constitution on matters of land, I visited my friend, the late Bargetuny - God rest his soul in eternal peace - in Nairobi Hospital and the poor old man had tubes through his nose and mouth, but there was somebody seated next to his bed reading to him the Chapter on land in the new Constitution. That is how emotive the matter is.

Mr. Temporary Speaker, Sir, I encourage this House that we have a duty to the country. We can abdicate the duty and be rubber-stamps, move on and make statistics that we passed so many Bills because the Constitution says so. It is not the Constitution---

The Temporary Speaker (Sen. (Dr) Machage): Order, Sen. Wetangula. Whereas I appreciate the good message, I will not be of the opinion of obligating this to be a rubber-stamping House. That is a nomenclature that I would not have thrown to the faces of the Senators of this House.

However, you also have your own obligation as a Senator and your Standing Orders are with you. If you believe in that very strongly, you can move a motion of your thought, which will be considered by the House and either accepted or rejected. However, this Chairperson is bound by the procedure that is there. I am bound to continue looking for contributors although at this time, I see none.

Sen. M. Kajwang: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr) Machage): What is it Sen. M. Kajwang?

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, I was seeking your guidance even as I was making my contribution to the Motion, because this is a Motion with regard to the mediation effort. My assumption is that the Bill that we need to consider will be

introduced to this House either at the Second Reading or Third Reading. You could guide us because it is coming---

The Temporary Speaker (Sen. (Dr) Machage): Hold on. I will guide you on that. I want it to be understood that we have no second and third stages on this report. This is not the normal Bill that you are used to. We are just discussing a report given to us by the mediation committee. Listen to me carefully. The report will either be rejected or approved by this House. There are no further stages. What is it, Sen. Bule?

Sen. Bule: Mr. Temporary Speaker, Sir, I am trying to ride on the same point of order that has been raised by the Senate Minority Leader---

The Temporary Speaker (Sen. (Dr) Machage): Order. I refer you to Standing Order No. 109. Please have a seat. You now need to know the procedure of the House. Open the Standing Order which says:-

“The Speaker or the Chairperson of Committees, after having called attention to the conduct of a Senator who persists in irrelevance or tedious repetition either of the Senator’s own argument or arguments used by other Senators in debate, may, after having first warned him or her, direct that the Senator discontinue his or her speech”.

You will be out of order. You do not begin to say, “I want to speak again as so and so has spoken”. Continue, but the Standing Order is against that.

Sen. Bule: Mr. Temporary Speaker, Sir, I wanted to further that point. Land is a very important issue which has to be scrutinized thoroughly. It is an ambush to give a report without giving us time to read and understand what he is telling us.

We need to understand that this House has been used as a rubber stamp---

The Temporary Speaker (Sen. (Dr) Machage): Order! I have ruled on that. I have also ruled on your earlier thought and instructed Sen. Wetangula that if he so wishes, the Standing Orders of this House give you and Sen. Wetangula and others who may be of the same opinion, authority to stand on a Motion seeking that this Motion be suspended until the report is distributed and read.

You have your Standing Orders, use them. Otherwise, this Chair is bound by the procedure. Right now, I do not have any Member wishing to contribute apart from a point of order from Sen. Kivuti which I will give him in a minute. After that, I am going to call for the mover to reply. Somebody has to come up and move that you want to be given more time.

What is it Sen. Kivuti?

Sen. Kivuti: Mr. Temporary Speaker, Sir, I seek your indulgence on whether the Senator is in order to confuse the process of mediation? This is because mediation only comes after the Bill has gone through all the processes; First Reading, Second Reading, Committee Stage and then it is thrown out at whatever process.

The Mediation Committee takes each of the thrown out Clauses and goes through them. It does not matter if he uses the word “with a toothpick or fork.” That is why we brought a mediated report. Are they in order?

The Temporary Speaker (Sen. (Dr) Machage): They are quite in order because you may not have read their thought. In my own reading, the thought in Sen. Wetangula and Sen. Bule is that, it is unfair for this House to discuss the report of mediation before it

has been seen by the House. I understand that and since the ball is already rolling, I am waiting for a Member to come up with a Motion requesting that the discussion of the same is deferred until you look at the report. I have cautioned you so that does not happen. I will call for the mover to reply, since I am bound by the procedures of the House. I hope I am clear.

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

The Temporary Speaker (Sen. (Dr) Machage): Let me listen to Sen. Obure.

Sen. Obure: Mr. Temporary Speaker, Sir, I am one of those who seconded this Motion. I did so because I know that this Mediation Committee has gone through a very thorough process which has involved all the Members from communities which raised serious objections to the Bill. I have seen Members of Parliament from what we used to know as marginal areas. They have sat with the Committee and gone through the Clauses.

I am aware, that the Committee invited the public for public hearings on this Bill. I have gone through the report which has been presented here and I know that it is thorough. If Members would be patient and seek an opportunity to read, they would be satisfied that all the areas of difference and conflict have been ironed out.

Sen. Musila: Mr. Temporary Speaker, Sir, I rarely differ with my brother here on the left but for this one, I beg to differ because this House had a position on the clauses that were sent to mediation committee and I would like to know what became of that. Was our point of view taken or did we take the point of view of the other House, if anything, for comfort? I want to accept your invitation and move, under Standing Order No.99, that this Motion be suspended until another time.

I thank you.

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. Looking at Standing Order No.155 on the consideration of a report of the mediation, I want to seek your guidance because when the Motion was moved by the Chair---

Standing Order No.155 (1) states that:-

“The report of a Mediation Committee on the Bill prepared in terms of Article 113 of the Constitution shall be laid on the Table of the Senate by a Senator who is a member of the Mediation Committee authorized by the Committee in that behalf.”

That was done this afternoon.

Standing Order No.155 (3) states that:-

“Where the report of the mediation committee includes an agreed version of the Bill in terms of Article 113(2) of the Constitution, the Senate shall consider the report of the mediation committee upon a Motion “That the report of the Mediation Committee be approved” and the Senate shall vote to approve or reject the Motion.”

This is where I want to seek your clarification because I have just received the Report. If you look at the Report with regard to this particular Order, it is just a Report of the Committee and it does not include an agreed version of the Bill. The clarification I would like to seek from you is whether that is the understanding of the Committee, which then means that we will still be waiting for another opportunity to interact with the agreed version of the Bill, or is it included? The anticipation here would be that the report comes

together with the agreed version of the Bill and if you look at the Report, I do not see any agreed version of the Bill.

The Temporary Speaker (Sen. (Dr.) Machage): Order. I have listened carefully to all of you and you all have an argument. As I said earlier, I was waiting for procedure to be followed to act. The Speaker does not act in a vacuum unless it is necessary on an issue that is not prescribed by the Standing Orders to invoke Standing Order No.1, but on this, your own Standing Orders, as very ably put by Sen. Musila, are prescribed under Standing Order No.99.

You will remember this Bill was defeated at Second Reading and it was, therefore, sent for mediation. What we have here is a report that can only be either accepted or rejected. We have no other proceedings thereafter. We have no phases or stages of looking at this again. It is either accepted or rejected but the House has shown an interest in looking into the Report.

Therefore, I will put the question.

(Question put and agreed to)

(Debate on the Motion was suspended)

The Motion, therefore, is suspended until tomorrow.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. I think the point raised by the distinguished Senator for Nandi is very important. It is necessary for the Chair to give the necessary guidance that the Chairman of the Committee, in bringing the report---

We want to make it clear that we are not questioning the competence of our Members to the Mediation Committee because we appointed them and we know that they are men and women of absolute integrity and intellect. What we want is to know if we have done the right thing. I expect that when we come back tomorrow, the Chairman will bring to the House, in accordance with Standing Order No.155 (3), a report of the Mediation Committee as agreed at the mediation plus the version of the Bill that is now to be the new Bill that we are agreeing on after mediation, so that we know what it is we rejected and what it is that has been brought.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Wetangula. Whereas I respect you a lot, I do not want to remind you of Standing Order No.109. A ruling has already been made on the same and a vote has been taken. So, going back to it is an anomaly. That is not your duty because the Chair is here and he is able.

Sen. Lesuuda: On a point of order, Mr. Temporary Speaker, Sir. I do not know whether I will be pre-empting debate but I know that we have other Bills which we mediated on. There is the Water Bill and also the Land Laws Bill. I do not know whether we will follow the same path although by now, those Bills should have been in the House. By the time we were discussing this one, if these Bills were in the House, the Water Bill would have been disposed of.

The Temporary Speaker (Sen. (Dr.) Machage): Senator, you are also being hit by your own Standing Orders. You are pre-empting debate and that is against your

Standing Orders. Please, read you Standing Orders and understand them so that I do not appear dictatorial like somebody would want to believe.

*(The Temporary Speaker (Sen. (Dr.) Machage)
consulted with the Clerk-at-the-Table)*

Listen carefully. These are my instructions on the way forward. For a similar reason that we have deferred Order No.8, I will now defer Order Nos. 9 and 10.

ADOPTION OF THE MEDIATION COMMITTEE REPORT
ON THE LAND LAWS BILL

THAT, this House adopts the Report of the Mediation Committee on the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015), laid on the Table of the Senate on 27th July, 2016.

ADOPTION OF THE MEDIATION COMMITTEE
REPORT ON THE WATER BILL

THAT, this House adopts the Report of the Mediation Committee on the Water Bill (National Assembly Bill No.7 of 2014), laid on the Table of the Senate on 27th July, 2016.

(Motions deferred)

The Temporary Speaker (Sen. (Dr.) Machage): Next Order.

COMMITTEE OF THE WHOLE

The Temporary Speaker (Sen. (Dr.) Machage): Because we do not have the numbers for Division, I will further defer Order Nos. 11, 12, 13 and 14.

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

THE COUNTY OUTDOOR ADVERTISING CONTROL
BILL (SENATE BILL NO.11 OF 2015)

THE EMPLOYMENT (AMENDMENT) BILL
(SENATE BILL NO.1 OF 2015)

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILL NO.6 OF 2015)

(Committee of the Whole deferred)

The Temporary Speaker (Sen. (Dr.) Machage): We will also defer Order Nos. 15, 16, 17 18 and 19.

BILLS

Second Readings

THE COUNTY GOVERNMENTS (AMENDMENT)
BILL (SENATE BILL NO.21 OF 2015)

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT)
BILL (SENATE BILL NO.9 OF 2015)

THE CONSTITUTION OF KENYA (AMENDMENT)
BILL (SENATE BILL NO.16 OF 2015)

THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT)
BILL (SENATE BILL NO.4 OF 2014)

THE PARLIAMENTARY POWERS AND PRIVILEGES BILL
(NATIONAL ASSEMBLY BILL NO.35 OF 2014)

(Bills deferred)

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. Thank you for the directions that you have given us specifically on the three motions on the mediation reports. However, looking at the Motion that we have just deferred which was that the House adopts the Report of the Mediation Committee and it does not indicate that it is the Mediation Report together with the agreed version of the Bill, would I request that---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Have a seat. I am becoming impatient now. You know there are some things we do not pronounce when we make certain recommendations to the House. What you have just expanded is silently thought to be in that. It is not that you are very out of order but I stand to guide you, unless you have something else.

Sen. Sang: Mr. Temporary Speaker, Sir, the presumption that you have given this House is that each of those reports will have an accompanying agreed version of the Bill.

The Temporary Speaker (Sen. (Dr.) Machage): Correct. When Notice of Motion is given, it is assumed that every Member is able to pick the document. It is your duty to have picked the document immediately after the Notice of Motion was given. I think you have a lot of relevance to demand what happened.

BILLS*Second reading***THE SELF HELP ASSOCIATION BILL
(SENATE BILL NO. 2 OF 2015)**

The Temporary Speaker (Sen. (Dr.) Machage): I can see the Mover of the Bill is not in the House. Therefore, the Bill is deferred.

(Bill deferred)

(Loud consultations)

The Temporary Speaker (Sen. (Dr.) Machage): Order! You do not make that kind of discussion in a House I preside. You cannot do that. Yes, Senate Majority Leader!

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

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I beg to move that The Physical Planning Bill (National Assembly Bill No. 46 of 2015) be read a Second Time.

This is a Bill to make provisions for the planning, use, regulation and development of land and for connected purposes. This Bill gives effect to Article 66 (1) of the Constitution which provides that the State may regulate the use of any land or right over land in the interest of defense, public safety, public order, public morality, public health or land use planning.

Mr. Temporary Speaker, Sir, generally speaking, the purpose of physical planning is to allow the State to regulate how land is utilized so that our country can be safe and orderly so that people can move around, transport themselves and their goods. It is also to ensure that our health and environment are maintained.

Towards this end, the Bill seeks to replace the Physical Planning Act No. 6 of 1996. It intends to provide for the planning, use, regulation and development of land in Kenya and it is divided into seven parts. In the first part, it deals with the preliminary matters, including objects of the Bill which include providing for the preparation and implementation of physical development plans at all levels of Government, the administration and management of physical planning in Kenya, the procedures and standards for development, control and regulation of land use and physical planning, the coordination of physical planning between the two levels of government, dispute resolutions and the functions of the relationship among the two levels of government and authorities.

Mr. Temporary Speaker, Sir, I am aware because I have been in consultation with the relevant Committee and it has taken time to ensure that the differential roles that are created for national Government and county governments have been respected. The Chair assured me yesterday that they have prepared not less than 10 amendments to ensure that it is respected to strengthen the existing Bill.

Part (2) deals with establishment, functions and powers of the institutions that will assist in physical planning in our country. These include the National physical Planning Consultative Forum, the Cabinet Secretary, the National Lands Commission - because of the powers vested upon the Commission under Article 67(2) of the Constitution - the National Director of Physical Planning and the County Physical Planning Consultative Forum.

In other words, you have the National Physical Planning Consultative Forum but you also have the County Physical Planning Consultative Forum to bring together key stakeholders to ensure that physical planning is harmonized and there is a synergy between the planning by the national government as well as the planning done by the county government. The county will have to do its own physical planning. So, there is a difference between planning by counties as well as planning by the national Government.

Mr. Temporary Speaker, Sir, the issue of physical planning has become one of the biggest challenges that we have had as a country since Independence. Our towns are poorly planned, we have roads which have been encroached into because the road reserves have not been marked and permanently protected from encroachment. We have towns all over the country that have poor sewerage except a few towns. I can give an example of towns which although the infrastructure is still below standards, I think it gives a semblance of a planned town; that is Thika and Nakuru towns. When you go to Nakuru or Thika, you will find a certain area designated as an industrial area. I think that has been respected largely.

The issue of sewerage and other infrastructure has a bit of mess but at least in the towns I have identified, you will find good high-end areas, medium-end areas and low-end areas for low income earners. Although I do not agree with the nomenclature that we normally give because you will find in Nakuru, for example, one place which is elevated to be called *Milimani* where the rich stay and you have another place for low income earners called *Bondeni* which is in a valley somewhere.

Mr. Temporary Speaker, Sir, that notwithstanding, there is need to ensure that our physical planning meets international standards. Time has come for this country to develop a more sophisticated and modern physical planning model. In fact, even in the teaching in our universities, very little attention has been given on physical planning studies and I hope going forward, this is an area that our children can concentrate in and develop careers around it.

I know that because of devolution, you are likely to see more urban centers of growth emerge in our country. I know a number of counties, for example, Taita Taveta County, Tharaka-Nithi County, Laikipia County, Nyandarua County, Tana River County and Kirinyaga County where residents have agreed that their county headquarters is going to be away from the traditional big towns under the former districts.

In Tharaka-Nithi County, we are building a fresh town in the middle of nowhere. There is a big town called Chuka. It used to be a municipality but we are now building our new county headquarters in a place called Kathwana which used to be the headquarters of a chief of a sub-location there. It could be a disadvantage in the initial years but I always tell my brothers and sisters in the county that we have an opportunity to build a well planned town which can be a model town for other counties.

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

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

Mr. Temporary Speaker, Sir, we hope that the physical development plan which I am aware the county of Tharaka-Nithi did early this year, will be implemented so that we have an industrial section, high income residential area, middle income residential area, administrative quarters, where we can put up hospitals *et cetera*.

We should not construct a bus park next to the provincial hospital where there are patients in the Intensive Care Unit (ICU) fighting for their dear lives. This is because there will be buses and *matatus* hooting. Physical planning is an important thing. In many countries, it is a discipline that is well funded and there is a lot of expertise.

Mr. Temporary Speaker, Sir, in this country, we do not have enough experts in planning. Instead of our students wasting their money studying courses which have been studied since the days of Vasco da Gama, this is one area that we should encourage our students to specialize in. I am not trying to cast aspersions at any discipline. I still believe that we will need anthropologists in this country, but we need more Kenyans specializing in area like this one.

The Temporary Speaker (Sen. Sang): Senate Majority Leader, you might want to give illustrations for you to be understood clearly with regard to the serious propositions that you are making.

The Senate Majority Leader (Sen. (Prof) Kindiki): Mr. Temporary Speaker, Sir, I am just saying that physical planning is an area which we need to invest more research and expertise in. It is an area that will solve many of our problems, especially in urban areas and emerging centers of growth like the counties.

In about ten counties out of the 47, the county headquarters are outside the traditional big town. That gives us an advantage, using the county governments system, to have well planned towns and cities, and that needs manpower. That is what I am saying.

In Part 3, the Bill deals with types of physical development plans, their contents, how they are prepared, revised, modified and can be withdrawn. They can be withdrawn or modified with time. For example, there is a 1973 master plan for Nairobi, but much of it has not been implemented. Assuming that the plan has been implemented, 30, 40 or 50 years is a long time.

Mr. Temporary Speaker, Sir, it is being modified to take into considerations emerging issues like terrorism, so that we can know where to place security installations like the police headquarters. Part 3 deals with how the physical development plans can be

revised, modified and withdrawn. It also deals with how disputes concerning physical planning can be resolved.

These types of development plans include, the national physical development plan, the regional physical development plan, the county physical development plan, the local physical development plan and special area plans. The advantage we have in the Senate is that we have a few Members who are specialists in this area, including the Chairman of the Committee, Sen. Kivuti. That advantage, coupled with the advantage that we are the protectors of devolution will give us the best possible input that we can make towards improving this Bill.

Mr. Temporary Speaker, Sir, Part 4 deals with development control. It sets the objectives of development control, the authority of planning authorities to undertake development control, the procedure for obtaining planning permissions for development and offences relating to violation of development control. If there is an area that has brought untold anguish in this country, it is the one on violations related to development control.

Initially, there were parts of Nairobi which were designated for particular types of buildings either industrial, residential or mixed development, but the flouting of those plans and corruption, especially in the local authorities, that has brought down the entire noble objective of having a planned country cannot be over-emphasised. We have cases where buildings have collapsed, because a ten-storey residential structure is next to a river bed. I do not think any physical planner would have envisaged a building 15 meters away from a flowing river.

Mr. Temporary Speaker, Sir, I hope that this aspect of development control will help us. In many towns in this country, we have areas designated as middle-income residential areas. Someone may, therefore, take a loan, get an approval and establish a home either for rental purposes or residence as a family.

However, somebody else may get an approval to establish a metal works garage just outside that residence to do welding and fabrications of all manner of metal works. You can imagine the agony the family will go through for the rest of their lives. Therefore, the issue of development control must be respected. This Bill puts strict penalties for people who either collude with the authorities or violate development control arrangements.

There are provisions in Part 4 that penalize people who violate development control in such a way as to interfere with the preservation of heritage sites, like museums, archives and historical monuments which should be preserved. In this country we take the issue of heritage sites casually. We have historically significant monuments and sites which are irreplaceable. The treasure in those monuments and sites is great. For example, we have sunken cities of Gedi in the north coast and so many other places in Lamu.

In western Kenya, we have places that my brother, the Senate Minority Leader, is more conversant with, including the Crying Stone in Kakamega and the Elephant Caves in Mt. Elgon. These must be preserved so that no one puts up a five-star hotel because they have realised that many people are going to Kakamega because devolution is taking root. That notwithstanding, development must always respect the environment and our national heritage.

In this country, not many Kenyans visit the national museums; some do not even know what is there. However, in many civilizations, the most important part of a country's infrastructure is museums and places of records; the archives. People who do not know their history have no idea how to traverse the present and the future.

Mr. Temporary Speaker, Sir, Part 5 is on how to enforce development control related issues. Part 6 deals with the liaison committee which will liaise between the national Government planning and county government planning. Part 7 is on miscellaneous matters, including the repeal of the 1996 law and the transitional provisions between the existing laws.

Assuming that somebody had their plans approved under the old law, today and tomorrow the new law gets into place which is completely different, the transition provisions provide for a bit of transition, so that transactions involving physical planning that would have started before the entry of this Bill are not affected or invalidated, for purposes of harmonious transition into the new planning arrangement.

Mr. Temporary Speaker, I do not want to over-emphasise the importance of this Bill. It is one of those Bills that we must dispose of before August. Therefore, I beg to move. I request the Senate Minority Leader to second this Motion on this Bill.

Thank you.

The Senate Majority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, this is a Bill that has originated from the National Assembly. I hope some of the technical points will be canvassed by the Committee chaired by the Senator for Embu County.

Mr. Temporary Speaker, Sir, the history of the growth of our towns and urban centres, their planning and the zoning of Nairobi, Mombasa, Nakuru - which we used to be told was one of the best planned and cleanest town in Kenya - Kisumu - if you fly over Kisumu you see the ring road, avenues, estates - estates like Milimani for *wadosi*, industrial area and commercial centre. The planning was very admirable.

Towns grow and are planned. Most big cities in the world have evolved largely along lakes, rivers, highways and ports. I have had the privilege to visit what are commonly called textbook cities. They are planned properly from zero to a city. They include Brasilia, the new capital of Brazil, Lilongwe in Malawi, Abuja in Nigeria, Dodoma in Tanzania, Milton Kents in the United Kingdom and Islamabad, the capital city of Pakistan which is one of the best planned cities I have ever visited. There are also cities that grew slowly but surely into megacities such as London, Nairobi, Rio de Janeiro, Mexico City, New York and others.

Mr. Temporary Speaker, Sir, even where they grew that way, there must be some degree and element of planning. Unless planning, regulation, zoning and management of these cities is done, there will be chaos. There will be inability of either the government at the national or county level to provide services.

Regrettably, out there in the countryside, anybody whose land borders the road wakes up in the morning and builds a hotel, bar, garage or anything. Those who carry out planning are just watching. In the countryside, there is a shop in a place like here and another in Westlands by way of distance and yet another in Rironi. People are continuing to build such shopping centres. The danger is that the moment such commercial centres are set up, the authorities are obligated to provide the services. There must be electricity,

water, sewerage services and security. The rich countries in the world cannot possibly provide security to every shop scattered five kilometres apart unless it is a social congregation.

Mr. Temporary Speaker, Sir, in a planned town even in the middle of nowhere, there is a provision for a communal hospital, nursery school, primary and secondary school and a social hall among others. In Nairobi, we had Industrial Area, high-end residential areas, middle-class residential areas, among others. We are not advocating for classes but this is the reality of our town. I come from a school of thought where I will be happy to see a smashing of the wall of classes so that people live at a level of equity and egalitarianism.

However, today what was an industrial area is a cocktail of something no one can understand. There is an industry, shopping centre, residential estate and hazardous industry all in one place to the extent that what this Bill tries to cure is important.

Mr. Temporary Speaker, Sir, when this Bill is passed, one would expect that there must be sacrifices. What sacrifices are we thinking about? If an area is an industrial zone and the National Environmental Management Authority has designated it as such, then those who have their residential areas there must give way. That is the only way we can have an orderly development of our country and cities. I see we are creating the National Physical Planning Consultative Forum which is good because it will coordinate between the counties and the national governments.

This is critical because we do not want people to sit at the national Government and micro-manage what is going on in Kerugoya, Kutus or Mwea. However, we want to find out how what is going on in Mwea, Kerugoya or Kutus can impact on the national government and vice versa. It is only by doing this that we can stop what we can see today in Nairobi. In early 70s up to 80s, the Commonwealth Development Corporation (CDC) sponsored the development of beautiful middleclass estates like Buru Buru Phase One, Two, Three and Four. Then, they moved on and developed Umoja One across Outer Ring Road. They were well planned.

Today, if you go to Umoja, you cannot tell what it was. People have built some strange looking storey buildings. When you look at it, you think it is getting ready to take off. Some look like chimneys or something you cannot understand yet we have planners and people who regulate this kind of thing.

Mr. Temporary Speaker, Sir, in the United Kingdom, if you live in an area like Buru Buru as it then was, even to change the direction of a window on your house, you must get authority and approval. This ensures that buildings look good; the environment is good to live in and appreciate the works of architects, planners and so on.

In Lavington, you will find somebody with a very good house on an acre or two. The next day somebody comes and puts up a 12 storey building next to him or her. He or she ends up with no privacy. I know some friends who have had to sell their properties and move to other areas so that they look for an environment that they intended to have when they bought properties in Lavington. I would like to see a zoning or rezoning like what the Kibaki Government did by designating and rezoning all areas along Ngong Road up to Junction around Kingara Road, down Argwings Kodhek and Lenana Road from residential to commercial. Very beautiful structures are coming up. The same is

happening between Museum Hill and Westlands. We must avoid planning then fail to respect those plans. A good plan is nothing if it is not implemented to the letter.

This Bill sets up a forum that will monitor and oversee physical planning, prepare status reports on the preparation and implementation of physical development plans, develop monitoring networks and formulate oversight parameters relating to physical planning and so on. This is the only way we can avoid the situation where people build residential houses next to the sewer and on road reserves. For instance, the highway from Mombasa to Malaba - this road was planned to be a dual carriage, carrying the artery of our economy.

The other day, I was reading that Malaba border point is the single busiest border crossing in the entire Africa carrying traffic from Mombasa to Uganda, Rwanda, Burundi, South Sudan, Democratic Republic of Congo (DRC) and beyond. Yet if you look at that highway, starting with Eldoret town; the section of what they call Uganda Road in town. How do you ever expand that to a dual carriage without massive destruction of property? At least for Eldoret, it is a town we can excuse ourselves, we can do a bypass.

Along the Nakuru-Nairobi Highway, there is a little town called Kikopey where there is smoke. I am told people stop there to eat meat. At Kikopey, people are building right up to the shoulders of the road. This road, even from the plans that we have been shown over and over will be a dual carriage any time. In fact, if it were not for corruption and contradictions in our planning and implementation of plans, one would expect that by today we should have a dual carriage highway from Mombasa to Malaba. That will, probably, give us a 10 per cent Gross Domestic Product (GDP) growth overnight.

You sit and hear Sen. Karaba and Sen. Kembi-Gitura argue as to whether there should be a dual carriage passing through Murang'a or Makutano. Of course, I am sure you have heard them engaging in unhelpful quarrels here. Eventually when the President wants to please both of them he will say, "What are you quarreling about, you will have both dual carriages." This is at the expense of national interest. This is the danger we have in this country. So, there will be a dual carriage from Kenol through some place called Maragua then end up in Sagana. Then another one from Kenol to Makutano - Sen. Karaba has thrown his weight around - it will, therefore, pass through Kirinyaga and end up in Embu. Not that we do not need those roads, but what are our priorities?

Mr. Temporary Speaker, Sir, I believe as the Senator for Nandi from time to time when you are not part of the sky team, you drive home.

The Temporary Speaker (Sen. Sang): Order! The Senate Minority Leader, I have always met you where we take the skies to the western part of the country. So, I am sure you might want to include yourself in that.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, if you decide to drive from here to western Kenya, you will be in a traffic jam from Nairobi to Eldoret. That is where it starts easing. From Nairobi to Nakuru, we used to take 45 minutes. Nowadays you cannot use less than three hours. From Nakuru to Eldoret we used to take one and a half hours. Now you cannot take less than another two hours and then you go on to Malaba. If you go to Kisumu, you will find the same thing. This is due

to lack of proper planning and execution of planned and structured development. Sometimes I cry in my county. There is a big town called Chwele. The Government has seen it grow into one of the biggest commodity exchange markets in this region only competing with Karatina and, probably, places like Luanda and one or two others. However, the place is growing as an unmitigated slum.

One day I was shocked when I was driving around Chwele. I was told that a young school boy had fallen into a pit latrine. He went to relieve himself. He ended up in a latrine whose edges had worn out. It caved in. It was full. It took us two days to scoop our human waste to remove the body of this boy. If there was planned development, such towns would have a sewer line. So, the idea of anybody dropping or falling into a pit latrine will not arise. You will have roads, avenues, proper police stations, industrial centres, proper sources of water and disposal of storm and waste water. However, there is no such thing.

I am also happy about this Bill because it provides that counties that have a commonality of interests can plan together. I can imagine a situation where the distinguished Senator for Kirinyaga can have his county and Embu planning together because of the proximity to each other. The Bungoma and Kakamega counties can decide to plan together on how to harness the use of the waters of River Nzoia. As we do so, we want those counties that want to plan together to take into account the fact that the environment must be protected, aesthetics must be taken into account and we must avoid destroying our wetlands.

There is somebody in Nairobi who is building and blocking the Nairobi River opposite T-Mall. One building is over and the other building is coming up. You will all remember that there were terrible and frightening floods in South C and South B areas a few months ago that were attributed to the blockage of the river by that development. The gentleman walked to the court, injuncted Nairobi County Government in perpetuity and is continuing the construction with total impunity. I fail to understand how our own courts are pervious to this kind of situation. That is why this Bill would have done a lot more to set up physical planning courts under the Judiciary with a special jurisdiction, special knowledge and special focus on how to adjudicate on environmental and planning matters.

If you walk to the High Court to a judge who ordinarily hears criminal cases about assaults, robbery, murder and you go there challenging a physical development plan, chances are that the judge may not fully appreciate the magnitude of what you are talking about. We need to have these courts, just like we now have Land Courts where we expect judges to specialize in appreciating when an old woman is being disposed of her 0.5 acre by a rich neighbour. A court should be able to understand this and even move *in situ* to see what we are talking about.

When we are talking about destruction of wetlands and greenbelts like the ones that the late Prof. Wangari Maathai fought for, you remember those notorious companies called Ballistic Missile 1990, Fired Aph and others that invaded Karura Forest. She had to put her life on the line while Bishop Gitari walked with his robes from All Saints Cathedral to Karura Forest. Why did they do that? It is because our planning had

collapsed such that somebody could walk into Karura Forest, curve it out, build an estate to sell houses and become rich at the expense of our environment.

Today, you see people destroying wetlands without caring whether they are affecting the future. Nairobi used to be called 'Nairobi' because according to the Maasai, that word meant a place with cold waters.

(Sen. Bule consulted loudly)

Mr. Temporary Speaker Sir, do you notice the distinguished Senator for Tana River, but forgive him for he is rarely here.

The Temporary Speaker (Sen. Sang): Order, Senator!

The Senate Leader of Minority (Sen. Wetangula): Mr. Temporary Speaker, Sir, we want to see every planning as Clause 13 provides. There must be proper formulation of county policy on physical planning. There is a lot of money going into the county though it is not enough and that is why those of us in CORD wanted it to be pegged at 45 per cent, but those of you in Jubilee are stuck to 15 per cent of the Budget. We want more money to go to the counties. I want to come to your county one of these days and see that most beautiful urban centre, the Nandi Hills, has been properly planned with proper designated areas.

If you go to some countries you will realize that not every city or town must have an industrial area. I believe that was the philosophy behind Mzee Kenyatta's designation of Thika as a Birmingham of Kenya. Of course, the choice of Thika was self serving though it looked like a good idea. If you went to the United Kingdom (UK), you will see Birmingham was set up as an industrial town away from the bustle and hustle of London which is a centre for finance management and other things.

Building along rivers per se is not offensive. If you go to the city of Bangkok, there is a huge river flowing in the middle of the city and most hotels are actually on the embankment of the river. If you go to London, and I am sure that these distinguished Senators have been there, Westminster is on the embankment of River Thames. That in itself is not offensive as long as you are able to control and manage the flow of the river. You must respect the area that you designate to have a greenbelt. You can still build along the river banks and manage the flow of water without any problem. The problem is when we have uncoordinated and unplanned development.

The Temporary Speaker (Sen. Sang): The Senate Minority Leader, this is just to alert you that at 5.30p.m. we will proceed to the adjournment Motion by Sen. (Prof.) Lesan. You will have used your 30 minutes by that time so you have the liberty to use your 30 minutes the next time this Bill appears on the Order Paper. Stand advised.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. As we talk about planning, we must also think of, and I have not seen it in this Bill, the protection of farmlands. That must be part of our planning. We are completely and recklessly destroying our farmland because there is no planning. Planning is not just about buildings, it is about land use. If you go to a farming area that generates food for the country, you will see that people have subdivided land into half and even quarter an acre. We must teach ourselves that if you are a family of 10 sons and your

father left you with 50 acres, you can still have three acres to build your houses, one acre for family cemetery and maintain the rest as farmland to feed yourselves.

The big farms in Trans Nzoia County are being subdivided in a manner you cannot appreciate. The same thing is happening in Uasin Gishu and Nandi counties. I saw the other day, and the distinguished Senator has maintained a studious silence, an agitation that they must subdivide Mwea Rice Schemes and get title deeds. I have no problem with getting title deeds, but what do they want to do with that beautiful scheme? Are we going to subdivide the scheme that is giving this country more than 60-70 per cent of our rice into unproductive portions because of selfish interest? I would love to hear a loud voice from the distinguished Senator for Kirinyaga County where Mwea stands. In fact, you must protect national interest even at the expense of irritating your voters. I will stop here and I hope I will have time to pursue my arguments on this Bill.

The Temporary Speaker (Sen. Sang): The Senate Minority Leader, you have a balance of 30 minutes to contribute to this Motion when it appears again. The Senate Minority Leader and the Senate Majority Leader have one hour to contribute to a Bill.

Hon. Senators, as earlier directed by the Speaker, we will now proceed to an adjournment Motion by Sen. (Prof.) Lesan.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO. 33

DESTRUCTION OF FACILITIES IN SECONDARY SCHOOLS

Sen. (Prof. Lesan): Mr. Temporary Speaker, Sir, I rise to move the Adjournment Motion to discuss the issue of destruction of education facilities in this country. I feel very sad that I have to discuss this issue, because it is an issue that should worry all of us, as Senators, or citizens of this country.

Our country has invested enormously in education personnel and infrastructure that supports this huge investment that is useful to the country. It is saddening that in the last two and a half months, something has happened to Kenyans, including the children who we send to these institutions. It has resulted to the destruction of close to 120 dormitories or boarding facilities in schools. Almost 99 per cent of them were not by accident, but deliberate acts for reasons unknown to any of us.

We are aware, therefore, that although we are at peace time, we have destroyed more buildings in our schools than have been destroyed in the war-torn South Sudan. We all know that it has taken pain, time and sacrifice to develop these facilities and it was for good reason that we developed them. For reasons unknown and which we demand to know - why it is that academic institutions are needlessly being destroyed and yet the need for education and search of knowledge is ever too high and getting higher than it is.

Mr. Temporary Speaker, Sir, I am aware that the Cabinet Secretary for Education (CS) has been trying his best to stem the tide of destruction of these facilities. I am yet to get satisfied as to why the facilities are being destroyed. It is incumbent upon every citizen to ensure that this mindless destruction is stopped.

We are aware of the very serious issue that we had last year and in the years past where the quality of our certificates have been seriously undermined by the leakage of examination. I am glad and I encourage the CS for Education to ensure that he stems the tide of examination leakage since we know this has a direct influence on the quality of certificates and, therefore, the worth of our personnel in the country.

The stoppage of this examination leakage, therefore, is a must and must be done in the country. However, it should never be taken as an excuse by anybody to destroy physical facilities in schools.

I urge the CS for Education that if this is the reason for destroying our institution, stern action must be taken against any person; be they students, teachers, workers in the institutions or whoever they are. They must be brought to book and answer for their actions.

We must search far and wide and find the reasons that the institutions must suffer this destruction.

I urge the Government, including the security arms, to ensure that this destruction of institutions does not continue. I also call upon parents, including ourselves and the Senators who have grandchildren in various schools, to take responsibility for the behaviour of their children, both at home and in school.

Records indicate that the consumption of illicit drugs in our schools is at an all-time high. This has coincided with the destructive behaviour that we are unable to explain. The consumption and availability of these drugs is mind boggling because in the last few years, it has tripled among the youth, especially who are in school. We have information that the use of amphetamines, mandrax and other psychotropic drugs in schools has increased significantly.

I urge the CS for Education and the parents to look into this and ensure that the availability of these drugs, the use of hashish, marijuana, some which are availed from chemists is curtailed. This is in order to have sensible and reasoning youth in the country. We do not want to develop zombies and useless youth who destroy their future by burning institutions.

I brought this Motion because I would want the Senate to pronounce itself on this activity which is going on in our country and is punitive to our parents who are contributing significantly in infrastructure development and is destroying the future of the youth who have been misled in some way. I urge that the Senate pronounces itself, suggests if there are any reasons, criticizes and identifies ways of halting this destruction.

I very sadly ask my colleagues to speak clearly so that this behaviour of burning institutions which we know is very retrogressive, stops. This country is a first destination in the East and Central Africa for those seeking for education facilities. I ask my Senate colleagues to pronounce themselves on this issue in order to save these facilities.

I beg to move.

Sen. Sijeny: Mr. Temporary Speaker, Sir, this is a very important and serious issue. It is sad and disheartening to see what is going on in this country. We, leaders or adults appear to be helpless. I wonder what the State is doing about it. This is beyond individual institutions or the school heads to handle. At the rate at which it is happening, it looks as if there is coordination or something similar.

Last time I stood here and said that we are going to lose this generation of the youth if they are not checked. There is a lot of damage going on. We can now see what is going on. Waking up, deciding to burn anything even if it is your exercise or note book, is a serious thing. For you to want to destroy your own and your colleagues personal belongings, books, beddings and going ahead to burn the library is very serious. We know how parents have suffered for many years.

For many years, parents have always contributed funds for building schools. The children of parents who cannot afford to get the money are denied access to the schools. I am thinking about the people in the rural areas who invest all their money in their children only for schools to be burnt later. I have seen some selling all their cows, chicken and even household goods. They do not even know how it feels to listen to a radio. They sell their property so that they can buy their children books and other items to go to school. As much as we are talking of free education, it is not free *per se*. We know that there is still some fee and money that has to be spent and the parents have to look for it. After going through all that thorough investment, we see what happens when schools are being burnt.

Mr. Temporary Speaker, Sir, this is psychological torture to the children. We need to find out what is it that is going on in the minds of the children. As the police invest in investigations and security, they must start finding out what is going on in this country. We saw what happened during the Post-Election Violence (PEV) in 2007/2008. Very many children and even adults were, and still are, traumatised to date. Many of them cried for many nights because of seeing a lot of fire and people dying. Some time back, about 68 children in a school in Machakos were burnt to death. If we do not watch out, this is where we are headed. To me, it is more of a criminal activity. It is very criminal in that anyone who has an intention to destroy anything--- I do not know whether it is evidence that is being destroyed by the schools. If a bursar's office and the administration block are burnt, what does that mean?

The Ministry of Education should come out very clearly and tell us because after getting involved in this for so long, they must be having a clue. Keeping quiet and trying to hide things will make matters worse. Just the other day, some legislators were being arrested and accused of destroying evidence. If some people, whether teachers or bursars know that they made a mistake, it is always good to own up and say you know you have erred, but you are ready and willing to correct it. You should correct the situation instead of trying to destroy evidence.

We need to know whether it is criminals or the Al Shabaabs who have joined schools or if it is the radicalisation of children because we have had cases of children disappearing. If we do not watch it, they will soon start burning our homes, churches and even this Parliament. So, this is something that has to be controlled and stopped at the beginning.

We know there are times parents also have a problem. When there is a problem between couples, what they do is to throw the children to boarding schools without preparing them psychologically. These are children who are used to hostile environments or violence in the home, but nothing has been done. As they invest a lot in security, every school must have serious counselling sessions. They need serious professional counselors

to deal with these issues. We need counselors that can also reach teachers because if teachers debrief students, they also have to find a way of coping and talking to the children so that we avoid all this.

The churches and religious leaders also have a role to play. This is the time to come in very quickly. The way they were involved in the IEBC matters, this will be another national disaster that should be taken care of and all religious leaders should come together.

Mr. Temporary Speaker, Sir, I beg to support and condemn it in the strongest terms.

The Temporary Speaker (Sen. Sang): Hon. Senators, this is a Motion for Adjournment. Our Standing Order No.33(4) states that:-

“No Senator speaking on a matter under this Standing Order shall speak for more than five minutes without the leave of the Senate, except that the Mover may speak for ten minutes.”

So, the timing here is five minutes. Therefore, Senator, you still have one and a half more minutes.

Sen. Sijeny: Mr. Temporary Speaker, Sir, thank you for adding me time. I strongly believe and I know I am not wrong. Social media or mobile phones have a major role to play in all these things. It is high time we controlled the access of mobile phones and the social media. Why should children have mobile phones while in school?

When President Obama was here, we witnessed cases where internet was inactivated and in some cases phone calls could not go through. Why can that not be done in schools? If children have to access the internet, they should have particular times to do so, so that they do not get involved in all these criminal activities and share wrong information. That is where the main problem is. Social media will ruin our country if we do not watch out. They need to be controlled.

Mr. Temporary Speaker, Sir, with those few remarks, I beg to condemn in the strongest terms. I request that serious action be taken by the state.

Sen. Karaba: Mr. Temporary Speaker, Sir, I am very saddened by this kind of a Motion which has come this time. I am saddened in the sense that the Government spends a lot of money in the Ministry of Education. In fact, more than one third of budgetary allocation in this country goes to education. If a school is burning every other time and when we raise calls, we do not seem to get the actual root cause or causes, then we are lost in the game.

Mr. Temporary Speaker, Sir, this is a very sad story to tell, listen to or imagine. All the same, the story was there last year and the other years. I remember there was a time people thought devil worshipping was going on in schools. We have had quite a number of reports and commissions which have been set and task forces which have been instituted. Coming to think about those task forces and commission, so far, nothing has been implemented for the good of the students and parents so that we know the root causes. What makes students in a big school like the one in Kisii to go on strike because of a football match between Germany and Portugal or between Portugal and whichever team? Can you imagine of a school being burnt because of that? If it is true that it can happen, could it be prevented?

There are very many questions to be answered, but I believe it has a lot to do with what the CS is doing right now. He is trying to come up with very many reforms in the Ministry of Education. These reforms must be backed by the Senate. We must back the reforms because without doing so, we will be in the list of shame in the world for not having reliable and dependable examinations. This will be very bad for us because when we produce somebody from our schools and the person cannot compete internationally in various universities, then we will have lost our “sight”.

Mr. Temporary Speaker, Sir, you can imagine of a student who passes Class Eight through cheating. The student then goes to Form One in a very good school and finds that it is not possible for him to cope. What eventually happens is that he commits suicide. If the boy manages to cope, he will be forced to again cheat in the Kenya Certificate of Secondary Education (KCSE) to get a Grade A. He will get a cluster of 48 points and pursue any degree he wants. He could decide to do engineering or medicine, but he might decide not to do the examination. He could either commit suicide or start saying that the Vice Chancellor should go. There might be other lecturers who might have found their way to that university through unfair means. They will support the system of cheating and that is what we call a rotten society.

If we are not careful about our education, we are going to be regarded as a rotten country and society. This is what triggers corruption. If there is no fairness in education, you will find that there are some areas in Kenya which will do the exams for the first time and---

The Temporary Speaker (Sen. Sang): What is your point of order, Sen. (Prof.) Lesan?

Sen. Karaba: I hope my time will not be consumed by the point of order.

Sen. (Prof.) Lesan: On a point of order, Mr. Temporary Speaker, Sir. Since this is an issue that I find Members interested, I want to ask that you use your discretion over the Standing Order that requires that contributors have five minutes and that we allow more time for each of the speakers that are contributing in this debate as it is that we have time. I am asking for your discretion.

The Temporary Speaker (Sen. Sang): You are completely out of order! The Standing Order says unless for more than five minutes without the leave of the Senate. So, you are not asking me to do anything new. I was just reading to you so that you know. I already exercised that discretion with regard to Sen. Sijeny. So, what makes you believe that I will not do the same?

Sen. Karaba: Mr. Temporary Speaker, Sir, there is a likelihood that the same will be done to me. Is it true?

The Temporary Speaker (Sen. Sang): Proceed, Sen. Karaba. You have two more minutes.

Sen. Karaba: Mr. Temporary Speaker, Sir, this thing should not even have been the way it is. According to Sen. (Prof.) Lesan, we should take a longer time to discuss it. This is an issue, a catastrophe and a disaster which we must think about what is happening. If it is cheating which is causing all these things, let us get to the root and see to it that no student will be allowed to do this or that.

I have been a headmaster and I am suspecting that the cause of this problem is not Form Ones or the Form Twos. They are the fellows who might have thought that they will cheat. However, they have no way of cheating going by the reforms that have been introduced by the Ministry. Some teachers thought they will cheat so that they will be promoted when their students score high grades. Some head teachers may have thought of facilitating cheating so that their students get Grade As and for them to be recognized by the TSC as the best head teachers.

Do you consider that there are some schools that do not have laboratories, they do not do Physics, Chemistry and Biology the way others do because they do not have laboratories. They do not do practical at all? Let us test them on theory only and avoid practical. If we continue with these practical tests, most of these teachers will have leaked the exam very early because they know what will be tested. They know well in advance the kind of a chemical and what specimen to use in those practical tests.

Mr. Temporary Speaker, Sir, those schools with those good facilities are the same schools which will shine and continue shining by getting Grade As. That is the reason the former Education Minister said there will be no ranking. There was hue and cry because they wanted to be ranked even unfairly so that they will be noting that their schools are doing well yet it is through cheating that they have been ranked them highly.

Mr. Temporary Speaker, Sir, this issue should not be left the way it is. We should further discuss it, open it and come out with a solution. The solution is that even a Form Four who will have caused a problem should not be treated like he is next to God. He should be deregistered. If somebody has messed and he knows that he will come back and do the exam, this student should be deregistered and should not be allowed to sit for the exam so that others can learn from it. We heard that the students are prosecuted. It never used to happen before because they could treat students like children. We should have a penal code which will make sure that the students in class are responsible for their behaviour. Even some of the teachers who are involved should be sent packing. That is what is happening.

Mr. Temporary Speaker, Sir, when they are not ready to do mock exams, they riot. Probably we should to be using mock examination to gauge them if the national examination results are cancelled. The mocks will now put them in a worse position because they are not prepared. Fellows will cause chaos hoping to cheat in the exams and pass. When they pass, they go to the universities and continue causing problems.

Mr. Temporary Speaker, Sir, we are now facing a crisis. I would urge the Government to post more policemen and we should not succumb to the pressure because the moment we succumb to pressure and close the schools early, the students now will be using that as a reason in future to be closing schools at will. So, I urge the Government to take serious measures. We should take it upon ourselves as responsible leaders not to utter things on the streets. You find people creating a slogan “*haki yao*” then the students will continue doing the same. So, I urge even political leaders to behave maturely.

Sen. Lesuuda: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this Motion. I also thank Sen. (Prof.) Lesan for bringing it, so that we can air our views and deliberate on this important, but also sad situation.

Mr. Temporary Speaker, Sir, it is a sad and shocking situation. It is something that has left all Kenyans wondering what is happening. We know that it has happened in the past, but we have never seen it happen in the magnitude that it is now happening in this country. It is almost like a daily routine. Every day, there is a school being razed down. It is a moment that we have to pose as a country and ask ourselves what is going on. It could just be a problem at the surface, but there is an underlying problem that we have to look out for and find out what is going on.

Mr. Temporary Speaker, Sir, when you think about it, it shows that there is a fabric that is not together in our country where children resolve to burn, cause chaos and mayhem regardless of what the situation is or why it is happening. It is also a question where you ask whether they are also learning bad manners from grown-ups and the things that we do when we want to protest instead of having dialogue or sitting down to raise issues. It is not just about the schools, but it also dents our education system as a country.

Last year, the issue of exam cheating was all over the newspapers and media. As if that was not enough, now it is the issue of discipline. These things are all over the international media, social media and online. Other countries are wondering the sort of students and young people we are bringing up. This is not something to be taken lightly; we have to look at it as a whole. We have had different reforms in our curriculum and done piecemeal reforms to fix things. It is time to realise that there is a big problem that needs to be fixed.

There are all manner of speculations regarding why the schools are being burnt down and none of them holds water. There is speculation that maybe the teachers and the students are not happy or that there is a problem with the Cabinet Secretary. Ultimately, there is no reason big enough for students or anybody else colluding with them to raze down a school. It is sad because ultimately it is the parents who will bear the brunt. They will have to raise money to build those dormitories. This is something that the parents, the stakeholders and the State need to look at.

We also have to relook at the security in the schools. Given that cases of schools being burnt are now rampant, we should anticipate it and heighten security in our schools. One wonders whether there is no student who can report these happenings. We have heard stories of students securing everything, including their boxes, and then burning the dormitories. Is there no student who can raise the alarm regarding such plans?

As I conclude, we have read that the CS will meet the stakeholders and the clergy tomorrow. As a daughter of a bishop, I know that sometimes we overburden God on things---

The Temporary Speaker (Sen. Sang): Sen. Lesuuda, you have one more minute.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, it is important for them to sit down and talk. Since these cases could be demonic, we would like to blame the devil for every bad thing. I had initially thought that we should close all the schools and get a solution to this problem, but I am sure that there is wisdom in not closing the schools. As they sit down, they should get us a lasting solution, not only on the burning and indiscipline that is in our schools, but all other issues that have been raised regarding education. We should work on them in a systematic manner and make sure that we implement them, so

that we raise our standards of education and bring back the glory of education in this country.

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, it is a sad time for this country which has worked hard on its education system. Education is one of the greatest pillars for social mobility and general human development. Since Independence, there have been various commissions on education matters which produced various reports, including, the Gachathi Report and the Koech Report. These reports have proposed various systems of education over time and made various suggestions. With all that, we still have chaos within the educational sector, for example, about the system that we want to adapt in terms of education. We keep moving from a system that gives many years in primary to one that gives the 8-4-4 system. The tenet of the 8-4-4 system was to ensure that people gets some skills to enable them look for employment.

We are already considering further reforms in our education sector, thus producing students whom we do not know. We do not know whether they are targeting to be self employed or they are getting the right skills. The other problem is the curriculum that we have within the education system. What sort of Kenya are we trying to develop through our educational system? What sort of values do we hope this Kenya will have? Is there anything in the curriculum that addresses these values? By 1990, there was a core education curriculum and subjects to ensure that these values are instilled in our young people. They included social education and ethics and religious education. We had the support from members of the family including parents; the issue of parents not having enough time for their children due to commitments did not exist.

We seem not to have a value system anymore. We do not have values that can lead us to patriotism; thinking about the importance of institutions.

It was very rare to witness riots in the universities and students would never burn their own institutions. They would riot out there, but make sure that their libraries and classrooms are safe. However, this started changing about ten years ago. Students are turning inwards and destroying their own institutions. The question to the students who are rioting is: What will they sit for their examinations from if they burn down their schools?

Mr. Temporary Speaker, Sir, one of the reasons for what is happening is cheating in examinations. The levels of cheating have increased across all the institutions, unfortunately with all the stakeholders quite aware about this situation and not working hard enough to ensure that it is appropriately addressed. It started with what we used to call ‘*mwakenya*’, a small piece of paper that students used to write some answers. The last time I caught a student cheating, he was using three foolscaps. How did he expect to remove the foolscaps, read through them and answer questions? It meant that he had not revised at all.

We have students who will come out of that system and become doctors and lawyers. If a student gets a mean grade of “A” through cheating and goes ahead to study Medicine, he or she will be expected to treat patients and administer medicine. This is very dangerous. I know that there are various factors that come into play, which we need to address. Various stakeholders’ meetings have been held at various levels, but when the crisis begun, we needed to have been able to hold a roundtable meeting with all the

stakeholders and find a way to deal with this. For example, yesterday, one school quickly sent away students after getting intelligence reports that the school would be burnt. Somehow, for the last two to three months schools have been burnt and nothing much has happened in terms of addressing the issue, since the stakeholders are all confused.

The Temporary Speaker (Sen. Sang): Sen. (Dr.) Zani, you have one-and-a-half minutes.

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, did you mean two minutes?

The Temporary Speaker (Sen. Sang): You have one-and-a-half minutes.

Sen.(Dr.)Zani: Mr. Temporary Speaker, Sir, when you think about the nexus of a set of students waiting for examinations papers to come to them, you will realize that the teachers and the parents are involved in the whole scam.

Mr. Temporary Speaker, Sir, despite the removal of ranking, there is still a sense of competitiveness. You will find the newspapers ranking schools and many people are geared about passing.

It is a shame when one has a certificate and does not know what it is all about. It is also a shame when one is invited to talk about a subject matter, but does not have an idea about it. Soon, our students may be barred in other countries because it will be in the public domain that they will not be able to perform. Therefore, this is an area where we have to find solutions.

Mr. Temporary Speaker, Sir, I hope that through this process, that such resolutions can be made. From the way things are going, probably students will not have prior knowledge of the exams. Therefore, it is in their results that we shall know what kind of students they are. However, we need stakeholders to sit together and find solutions and let the solutions be adhered to. It is unfortunate that though this is a sector that has had policies and research for about 50 years, it still oscillates. This oscillation is because of the financial gains for some individuals who wish to reap. These range from the supply of books, aiding cheating in examination and the change of system among others. At the end of the day, it is something that we have to address. The moment to deal with it is now.

The students must do the exams whatever the circumstances. If the whole issue is about avoiding examinations, it should be a lesson. The teachers, parents, religious leaders, curriculum developers and universities should sit together and address the crisis. This is a crisis that is taking place among a different group of youth. This group is not similar to those of the 1960s. They have a different way of thinking and doing things. The study that was done sometimes back revealed this. Therefore, we need to understand the circumstances surrounding this problem and look at the various factors like technology, social media and many others. From these, a solution should be mapped for once that will get us out of this mediocrity that we are currently experiencing in the education sector.

Mr. Temporary Speaker, Sir, it is possible to achieve it. If all the stakeholders come together with seriousness, then it will be addressed with honesty. It should not be about name-calling, bashing or blaming one another. It was a good show when we saw the students hiding their faces in the courts because they knew it was not the right way of doing things. The society expects a change to come once and for all. They should change their behaviour and know what they are expected to do. The other sectors can come in

and help out in looking at the issues that need to be addressed. However, the level of shock suggests that we should have found a way of addressing the matter quickly in a comprehensive manner. It should be addressed in a conclusive manner too.

When we compare our educational systems with others like in Singapore and India, we find that they are doing better. In Kenya, we have situations where some sit for an examination for others yet we have technology and identification systems that can be used. We only need to clear the whole set up and find a way forward.

(Sen. (Dr.) Zani spoke off the microphone)

The Temporary Speaker (Sen. Sang): Order, Senator! In fact, you went beyond your allocated two minutes and you showed no signs of concluding.

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, when Sen. (Prof.) Lesan consulted with me that he was bringing this Motion, I was happy. I congratulate him for doing so. That is why I have joined the few Members in the House to voice our concern about what is going on in schools.

Mr. Temporary Speaker, Sir, Sen. (Dr.) Zani has brought out some valid points. Why are we playing with our education system? Today we have this and tomorrow we have that. Any CS who comes in to the Ministry of Education wants to appear like he or she wants to reform something. This is not because it is necessary, but because it is fashionable to appear to be doing something new.

Mr. Temporary Speaker, Sir, I asked the current CS for Education why he intends to do away with 8-4-4 system. I also asked him how widely he had consulted. Why did we have 8-4-4 system, in the first place? If we want to do away with this system, one would think that the Ministry wants to align the education system of Kenya with the rest of East Africa systems because their system is 7-4-2-3. However, he had no idea. He just wanted to appear to be reforming something. This is where our problem lies.

We have been students at one time or another. We have been student leaders in our own right. Some of us led strikes when we were in schools. The conventional expectation is that when students strike, it is largely because they are dissatisfied with the management of the school. Their target will be the administration block, the head teacher's residence, car or his house. I have not seen any situation where systematically, every school has a dormitory burning. Why would students destroy their own property? This is because in the dormitories, they have their boxes, clothes, beddings, books and even hidden foods. In my community we have *kamakhallange*. We would take it in the morning during breakfast. Why would students burn down what they own in schools? It does not add up.

Mr. Temporary Speaker, Sir, since this cycle started, neither a single school's administration block has been targeted nor the head teacher. Property is just going up in smoke. Schools are happily calling parents and imposing heavy fines. I was in Kitale and Bishop Kewasis told us that in one school where he was protesting, a dormitory was burnt out of about 10 dormitories. The school used the opportunity to call all the parents regardless of whether their children were in that dormitory or not and required each

parent to pay Kshs 6,000. The school collected about Ksh10 Million when the cost of rebuilding is about Kshs2.5 Million.

Yesterday, the CS for Education informed the country that the ongoing torching of dormitories in schools is because of exam cheating. How callous? A school like St. Patrick's Iten has never been cited for examination cheating, but a dormitory went up in flames. Sunshine Secondary School has never been cited in examination cheating, but a dormitory went up in flames too. There is a school in Trans Nzoia County called Bikeke that has never been cited in any examination irregularities, but their dormitory went up in smoke.

Mr. Temporary Speaker, Sir, we must avoid a situation where when there is a problem, instead of looking for solutions, we blame each other. After the blame, the problem does not go away.

Mr. Temporary Speaker, Sir, we even saw the Government setting up a committee ostensibly to investigate what is going on in schools. The committee is full of policemen. Why can they not appoint professors, academics, sociologists and people who can look at the psychology of the children's mind and ask them to investigate what is going on? Instead, we are told that the Inspector General is going to lead the team. What is happening to schools today is not a crime, but a social problem. We are herding children and locking them up in cells like common criminals. They are taken to court with a lot of fun fair and announcing on radio that yesterday 50 were taken to court. This does not solve the problem we are having.

If we were in mature democracies, my friend the CS, Dr.Fred Matiangi, would have reconsidered his position and gone home because it cannot continue happening like this. Look at what happened in the United Kingdom the other day. For no fault of his own, the former Prime Minister David Cameron, reconsidered his position. When the people of the United Kingdom voted to leave the European Union, it was neither his fault nor his making, but he stepped down.

Mr. Temporary Speaker, Sir, we need as a country to investigate what is going on. We have maintained a conspiracy of silence from the top to the bottom and nobody is talking. As I thank Sen. (Prof.) Lesan for bringing this Motion, I would have expected the Chair of the concerned committee - and I am not criticising the Chairman of the Committee on Education - to come here understanding Standing Order No. 45 (1)(b) unsolicited, to make a Statement of a fundamental importance to the country as to what the Senate of the Republic of Kenya thinks about what is going on. The Chair should not have to wait for a Member to ask a question; neither do you have to wait for a Member to solicit a Statement.

Sen. Karaba: Mr. Temporary Speaker, Sir, on a point of order. Sen. (Prof.) Lesan is a Member of my Committee and this was done through my consultation. So, you need to understand, the Senate Minority Leader.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir. A Motion of Adjournment is definitely not a policy statement or a statement of a policy nature that one would have expected. However, we shall live with that. It is an omission that is not vital, but it is an omission that is noticeable when as the Chairman

of the Committee tells the House and the country that this Senate takes a very dim view of what is going on in our schools.

Today, we have recorded 110 schools that have gone up in smoke. That is not a small number because it is still going on. Now, we are told that the CS has called a stakeholder's meeting tomorrow. He has called bishops, among others, to meet and discuss. What is going on in schools is not spiritual, because there is no evidence that there is a shortage of spirituality in our children burning schools. We should do proper investigations. There are a lot of educationists like Sen. (Dr.) Zani who is a university don. There is also Sen. Karaba who has been a headmaster of a school for a long time and I am sure he knows what it means.

Mr. Temporary Speaker, Sir, we have had so many wrong policy decisions. Somebody just wakes up and says that we cannot administer corporal punishment on errant students. That is piled there. Somebody wakes up and also says in secondary schools, the head teachers have no role in appointing a head boys or prefects. How can we run schools like this? If you are a headmaster - Sen. Karaba has been a headmaster - you appoint a prefect or a head boy who will work with the administration of the school. You will find a rich man's son coming to school with money to buy bread for his colleagues and he is elected the head boy with no interest on how the school is run or what is going on in the school. That is how he becomes the president of the school. The headmaster or the headteacher has absolutely no control on who becomes the prefect or a head boy. We have even said students representatives will now sit in the Boards of Management or what we used to call Board of Governors.

How do you run a country like this? This liberal romanticism, as we call it, is destroying our country. Where there is no discipline, Adolf Hitler said, "Even robbers without discipline will not succeed." You have to be disciplined if you go on a mission. However evil the mission is, your success will depend on your level of discipline. Even when a murderer is embarking on his evil mission, if he has no discipline, he will not succeed.

Mr. Temporary Speaker, Sir, we have thrown discipline through the window. All we are talking about is rights. I am a lawyer who believes in people's rights. We are talking about rights, rights, rights, rights. Nobody is talking about responsibilities. Rights are nothing if they are not moving with attendant responsibilities; that, this is my right, but I am responsible also in this manner. That is how we can have our country running.

This "snoring" Jubilee Government is letting us down. No wonder we keep on questioning the legitimacy of this Government. Things are happening, but the leadership is just busy looting the country and stealing whatever is in sight, for instance, Eurobond, land, National Youth Service (NYS) scandal and so on. Give us leadership.

Sen. (Prof.) Lesan: On a point of order, Mr. Temporary Speaker, Sir. Did you hear the Senator whom I have a lot of respect for, associate looting or what he refers to as stealing everything with this debate? It has nothing to do with our discussion this afternoon regarding destruction of property in schools. Does he have any factual information that what he is claiming is true?

The Senate Minority Leader (Sen. Wetangula): Mr. Temporary Speaker, Sir, if the distinguished Mover of the Motion listened to me, I said, "You have misplaced

priorities.” While schools are going up in smoke, you are preoccupied with theft of public resources and corruption. Not necessarily you, but you know that even the President has acknowledged that corruption in this country has reached a level he cannot manage. He has acknowledged that his office is the headquarters of corruption. He said so. We can go on and on. Priorities are forgotten. How do you expect us as leaders to appreciate that this Government is not giving a blind eye to what is going on when they do not talk about the situation? About 110 schools have been burnt.

I thank you for your concern. You are doing better than your leadership. We salute you. The President should have reshuffled the entire lot at Jogoo House. He should be finding out from the TSC what kind of head teachers we have; not probably, the Karaba calibre at his time. These days people are appointed head teachers because of who they are related to, not because of their capacity. Those days, I am sure Sen. Karaba rose to become the headteacher of Machakos High School without anybody pushing him through. Nowadays, any idiot as long as---

ADJOURNMENT

The Temporary Speaker (Sen. Sang): Order!

This was an Adjournment Motion. Therefore, there is no question to be put. Senate Minority Leader, you have no minutes left for this Motion.

Hon. Senators, it is now 6.30 p.m., time to adjourn the Senate. Therefore, the Senate stands adjourned until tomorrow Thursday, 28th July, 2016, at 2.30 p.m.

The Senate rose at 6.30 p.m.