

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 2nd April, 2014

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BARINGO COUNTY ASSEMBLY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to take this opportunity to acknowledge the presence of a delegation visiting us today. Allow me, therefore, to introduce to you, a delegation of Members of the County Assembly of Baringo who are seated at the gallery.

The delegation is led by the Chairperson of the Committee on Implementation, hon. James Cheptoo. As I proceed to introduce the rest I request that when an hon. Member is called, he or she should stand up and be acknowledged in the normal tradition of Parliament. The delegation consists of:-

Hon. James Cheptoo;
Hon. Lotela J. Nelson;
Hon. Cyrus Kibii;
Hon. Richard Kitilit;
Hon. Lucy Ngetich;
Hon. Emmy Buttuk; and
Hon. Isaiah Kibowen.

They are also accompanied by the following staff:-

Mr. Joseph Koech, Clerk to the Assembly;
Mr. Renson Kachike, Secretary to the Delegation;
Mr. Stanley Kipchumba and,
Mr. Henry Kipkebut.

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On behalf of the Senate, and on my own behalf, I extend a warm welcome to you. I wish you a happy and fruitful visit that will translate into better service to the people of Baringo County and the country at large.

(Applause)

Hon. Senators, only on Monday, the County Assembly of Baringo was hosting your Speaker at the launch of their strategic plan and revised Standing Orders. So, I want to thank you for coming to visit us too.

Thank you.

(Applause)

Next Order!

STATEMENTS

The Speaker (Hon. Ethuro): Hon. Senators, first, let us start with the requests and then we will get the responses for statements that have been sought.

Sen. (Prof.) Lonyangapuo!

STATUS OF THE ECONOMIC STIMULUS PROGRAMME

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I rise to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the Economic Stimulus Package Programme initiated by the Government of Kenya in 2009 under which Constituency Industrial Development Centres (CIDCs) were established in each of the then 210 constituencies and funds set aside to buy tools to operationalise the centres.

I would like the Chairperson to provide a status report of each centre indicating:-

- (a) How much money has so far been spent per centre?
- (b) Whether the tools and equipment for each centre were bought and delivered to the respective centres?
- (c) What activities are currently being undertaken at each of the centres?
- (d) Whether the centres have taken off successfully and if not, which ones have, and which ones have not?
- (e) Finally, what measures are being undertaken to assist centres that have not taken off to take off?

The Speaker (Hon. Ethuro): Is the Chairperson here? Sen. Mutahi Kagwe?

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Sen. Kagwe: Mr. Speaker, Sir, in the absence of the Chairperson, I am a Member of that Committee. I undertake to forward that information to him and make sure there is a response next week.

The Speaker (Hon. Ethuro): On which day next week?

Sen. Kagwe: Thursday, next week, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): I guess if you say next week without specifying the day, it could just as well be on Wednesday.

Sen. Kagwe: Mr. Speaker, Sir, whatever you say.

The Speaker (Hon. Ethuro): Let us have the statement on Thursday, next week.

Sen. Kagwe: Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Lonyangapuo: Most obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Next statement, Sen. (Prof.) Lesan.

PAYMENT OF DUES OWED TO POST GRADUATE DOCTORS

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I rise to request for a statement from the Chairperson of the Standing Committee on Health regarding the postgraduate doctors who are in training. The postgraduate doctors currently undergoing training at the medical school at the Moi Teaching and Referral Hospital and whose services have been devolved to various counties have not received their salaries for the last two months.

Mr. Speaker, Sir, could the Chairperson:-

(1) Inform the Senate how many doctors are undergoing post graduate studies at Moi University Medical School and are sponsored by the national Government?

(2) Indicate the devolved units where they are serving as they undergo their training?

(3) Indicate the tier of Government which is responsible for their stipends or salaries during their period of training?

(4) A total of 27 doctors based at the Provincial Medical Services, Nakuru, have not been paid since January, 2014. Who is responsible for the payment of their salaries and when are they going to be paid?

The Speaker (Hon. Ethuro): Is the Chairperson here? Yes, Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Speaker, Sir, the Chairperson is not in the House. Apparently, the hon. Questioner is also a Member of the Committee. All the same I seek your indulgence that this statement is answered in two weeks time.

The Speaker (Hon. Ethuro): How is that, Sen. (Prof.) Lesan?

Sen. (Prof.) Lesan: Mr. Speaker, Sir, the doctors are going through a difficult time without salaries. It would be feasible to get this answer within a week.

The Speaker (Hon. Ethuro): That sounds like a valid request.

Sen. (Dr.) Machage: Very well, Mr. Speaker, Sir. He will participate in getting the answer.

The Speaker (Hon. Ethuro): So, one week? Next Wednesday.

Sen. (Dr.) Machage: That is okay, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Except, Sen. (Dr.) Machage, you described the Chairperson and the Senator from Bomet, but you did describe in which capacity you are responding.

Sen. (Dr.) Machage: I did, Mr. Speaker, Sir. I am just a Member just like him. The Chairperson and the Vice Chairperson are not in the House.

The Speaker (Hon. Ethuro): Vice Chairperson of the Committee on National Security and Foreign Relations.

Sen. Adan: Mr. Speaker, Sir, I have a statement for the Senator for Bungoma County. Apparently, it looks like the Senator is not in the House. So, maybe with your guidance, I can issue it tomorrow.

ACTION TAKEN AGAINST PERSONS RESPONSIBLE FOR
IRREGULARITIES IN NATIONAL EXAMINATIONS

Sen. Karaba: On a point of order, Mr. Speaker, Sir. I have a statement for Sen. (Prof.) John Lonyangapuo. He wanted me to issue his statement today. The statement was on the position on illegal handling of national examination papers by unauthorized people. I have a statement from the Principal Secretary, Mr. Kipsang. I will read it on his behalf and on behalf of the Ministry.

In particular, the Senator wanted to know the following---

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir.

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, my understanding is that the tradition of the House is that we get answers from the Cabinet Secretary and not the Principal Secretary. The hon. Senator has said that he has a statement from the Principal Secretary. So, I think it is below the standard of our practice.

Sen. Karaba: According to this one---

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Sen. Karaba. Just wait for a moment. What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Speaker, Sir, is it in order for Sen. Karaba to read a statement in this House on behalf of the Principal Secretary?

Sen. Karaba: Mr. Speaker, Sir, I have a statement and I will go on to read it.

(Laughter)

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

Sen. Karaba: Mr. Speaker, Sir, I am reading the statement in my capacity as the Chairperson of the Committee on Education. After that I will respond to any question that the Members so deem necessary.

The Speaker (Hon. Ethuro): Order, Sen. Karaba! There were two points of orders that were raised. I think you have responded to the one by Sen. (Dr.) Machage, that, indeed, you are doing it as the Chairperson. Of course, your sources could be many, including from the Ministry, which is the authoritative source. This now takes us to the next point of order by Sen. (Dr.) Khalwale, whether the responses should be coming from the Cabinet Secretaries or the Principal Secretaries.

My own take is really between the Cabinet Secretary and the Principal Secretary, as long as it is signed and the Ministry letter head is there, that is good enough for our purposes.

Sen. (Eng.) Muriuki: On a point of order, Mr. Speaker, Sir. Is it in order for the Chairperson of the Committee to say he is reading a statement whereas the understanding is the Committee gets the answer whether from the Principal Secretary or the Cabinet Secretary, but the Committee and the Chairperson own that statement, so that they have the answer. It is not about reading the statement; you must have exhausted the issues raised, so that the Chairperson answers the issues in his capacity as the Chair. If you say that you are just reading a statement, and, therefore, you wait for us to give a few subsidiaries, then you become a messenger.

The Speaker (Hon. Ethuro): What do you have to say, Sen. Karaba?

Sen. Karaba: Mr. Speaker, Sir, I am reading--- Sorry, I am issuing an answer to--

The Speaker (Hon. Ethuro): Order, Sen. Karaba! You are completely oblivious of what your colleagues are telling you. You want to proceed as if the interventions have never been made. That is not only being unfair to yourself, but also to the Senator who asked for the statement. For sure the Chairperson of a Committee of the Senate is not a mere messenger or a courier. Whatever statement you get, you must internalize and interrogate it, so that when you bring it to the House, you bring it as the Chairperson of the Committee, to be owned by the Committee. That must be very clear to you.

Sen. Karaba: Indeed, it is true, Mr. Speaker, Sir. This is my statement explaining the position of the Government on illegal handling of national examination papers by unauthorized people.

Chairman Karaba responds as follows---

(Laughter)

In particular the Senator, Prof. John Lonyangapuo wanted to know the following:-

- (1) The identities of the unauthorized people or persons;
- (2) Where those persons were taken to and what action was taken against them?

(3) A disclosure of the person who is responsible for the custody of the marked examination papers before the results are released?

I would like to respond to the issues raised by the Senator for West Pokot County as follows:-

On issues (1) and (2), the Kenya National Examinations Council (KNEC) is not aware of persons caught with examination papers on the eve of the examinations. However, there were people, mostly teachers, who were caught with extracts of question papers just before the official time of starting the examinations.

These people and actions taken against them are summarized below. They are not many, they are only three as follows:-

(a) Mr. David Nyauma, who is the Principal of St. Clement's Secondary School, accessed KCSE examination questions before the time stipulated for the papers to be done. He forwarded the same to Mr. Henry Owego, Deputy Principal of the same school. These people have since been arrested and charged in a court of law.

(b) Mr. George Mugambi, the Principal of Nkubu Day Secondary School, was adversely mentioned by candidates in the examination centre as having supplied them with extracts of History and Government paper before the time scheduled for the examination. He was arrested and charged in a court of law.

(c) Mr. Moses Olwa Michenga, the Accounts Clerk of Kanga High School, was caught 30 minutes before the official time of the start of the paper with a photocopy of the Business Study paper two. He was also arrested and charged in a court of law.

(d) Lastly, Mr. Joseph Mugo, the Supervisor of Kyenyo Secondary School. He opened the question paper containing CRE paper one at around 8.00 a.m. while the paper was supposed to start at 11.00 a.m. He has also been arrested and charged in a court of law.

(e) Others on similar charges are, Mr. Gechobe Silas Anyona, Supervisor of Hot Springs Secondary School. He opened a Geography paper. There is also Silas Nyakweba, a teacher of Musabaha Academy. He was also arrested and charged in a court of law. There was also a husband and wife who also got some papers and gave them to the matron of the same school. They have also been arrested and charged.

Mr. Speaker, Sir, concerning the custodianship of the KCSE examination answer scripts, the KCSE is examined by 31 subjects using 77 papers. Candidates are required to sit for a minimum of seven and a maximum of nine subjects. This means that the KNEC handles approximately 9.5 million answer scripts for the KCSE examinations annually. It is, therefore, not possible for the number of answer scripts to be in the custody of an individual as insinuated by the Senator. The answer scripts are, therefore, kept in secured KNEC go-downs after being received from the marking centres before the release of the results.

Thank you, Mr. Speaker, Sir.

Sen. Okong'o: On a point of order, Mr. Speaker, Sir. Before the Chair read out the statement, you gave a ruling, which I am not intending to challenge. Perhaps, I need

you to relook at the ruling which is that any statement given on a Ministry's letter head can be tabled in this House. The Principal Secretary does not sit at the Cabinet to make decisions of policy. Some Principal Secretaries might make decisions in their Ministries, but are their Cabinet Secretaries aware? So, with your indulgence, this is an issue which you need to guide us on.

The Speaker (Hon. Ethuro): I thought I was clear that between the Cabinet Secretary and the Principal Secretary, they respond on behalf of the Ministry. So, what we need to ascertain here is that there is a signature from that authorized officer, so that it is genuine and not fake. Sitting at the Cabinet is for decision making. But in terms of delivering and responses, that is a job fairly done by the Principal Secretary. Even you, as a Member or a Chairperson of the Committee, you take the decision, but whoever conveys that decision is not usually your good selves. It is in that kind of arrangement that I accepted a statement from the Principal Secretary.

Sen. (Prof.) Lonyagapuo!

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I do not know whether the law has changed, but when I was Permanent Secretary for five years, we never were allowed to send any statement directly to Parliament. That never happened. Fortunately I am here with my former Minister, Sen. Obure. I would do all the work, including typing, and leave him to do the signature. So, we need to look at that again.

While appreciating the response by the Chairperson of the Education Committee, the way he answers my questions, he began with a negative by saying: "He is not aware." But he proceeds again to name some people who were culprits. I do not know what that means. Essentially, I want to bring to his attention that it is so common knowledge that at around the time when exams are about to take place, some fellows are found peddling some papers resembling examinations. I want to know whether they have ever been captured. The Chairperson proceeded to name just but a few of them, as opposed to the ones we normally read in the newspapers.

Secondly, I had asked when all the examiners have done their work, what is the security of the papers that have been marked? He has told me that there are 9.5 million scripts every year that are normally stored by many people. I did not insinuate. He says I insinuated. It is true and even common knowledge in the newspapers that around the time when examinations are about to be released we even hear some headmasters were called to send some money so that, for example, somebody's position can be improved. I want to be sure that the scripts are in safe hands. He should have confirmed that they are secure and in safe hands rather than saying that I insinuated, even when the boss of the KNEC came recently to the Committee of Education in the Lower House to confess that some fellows mess around with examination papers before the release of the official examination rankings.

The Speaker (Hon. Ethuro): Any other intervention before the Chairperson responds? Sen. Kiraitu Murngi.

Sen. Murungi: Mr. Speaker, Sir, Meru County has been the hardest hit by this exams leak scandal. It is very unfortunate that top performing schools like Meru School could not receive their results because of leaks by a few students. What is most painful is a situation where students are being punished because of mistakes of others. He has mentioned the case of the headteacher of Kyenyo Day Secondary School. It is true the teacher opened the examination paper at 8.00 a.m. instead of 11.00 a.m. It was a mistake and he reported it to the education authorities who are higher than him. He informed them about the mistake that he had made. He had not distributed those papers to any of the students. But the results of the students were cancelled because the paper was opened before time.

Mr. Speaker, Sir, could the Chairperson explain what justice there is in cancelling the results of all those students who did not even see the exams because the teacher immediately noted the mistake and reported? What can the Ministry do, at least, to correct that particular mistake because it is very unfair since no students were involved? It is true; it is on record that the headmaster reported he had made a mistake and he asked what he should do regarding that particular paper.

The Speaker (Hon. Ethuro): Chairperson, you may respond.

Sen. Karaba: Mr. Speaker, Sir, the question by the Senator for West Pokot was based on the people who were caught with examination papers a few days before the commencement of national examinations last year. The reason I am saying that I am not aware is because “a few days” is different from “the same day”, when I am giving a report of those who infringed on the Kenya National Examination Council (KNEC) rules, by either opening the examination papers earlier or having the same information before the actual examination started. That is with regard to Sen. (Prof.) John Lonyangapuo.

Mr. Speaker, Sir, coming to Sen. Kiraitu’s concern, it is true that some school heads can willingly or unwillingly open the question papers before time. It is very hard to know whether those who open them before time have any intention of leaking it to the students. That is the mistaken answer that we have here; that if a paper is opened before the examination, anything would have happened before that time. Even if the head teacher reported the matter, he would not have known whether the same had been leaked to the students. The students who are affected are the ones who are on the receiving end. As you have heard from my answer there are some students who even reported the matter to the authorities after they were told about the paper by a matron. So, it is only the students, especially those who are honest, who can tell us the truth.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, you need to remind Sen. Karaba that, that is the way my name should be pronounced. It is “Sen. (Prof.) Lonyangapuo.” He has forgotten.

(Laughter)

The Speaker (Hon. Ethuro): Senator, you may forgive him. I can only do so because I happen to be a good neighbour.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I had asked about what mysteriously happens after the marking and before release of examination results. I just want to know what takes place to the extent that some people call even the heads of schools to say that they can change their positions. I want that cleared and my questions were not based on the KCSE results of 2013. It is a ritual that can happen and we need to improve.

Mr. Speaker, Sir, lastly, Sen. Kiraitu had asked why students are still penalized when the school takes the initiative to quickly announce that there is an anomaly and no cheating has taken place, and yet the examination officer and the Kenya National Examination Council (KNEC) officers are there. One case last year was that of Chewoyet Boys High School where one student left a jacket on the wall of a classroom and when the students and examinations officer came in, they removed it. Revision notes were found in that jacket. As a result, the student got a "Y." He did not get his results, yet everybody who witnessed reported that, that jacket was removed from the examination room. So, it looks like the KNEC officers are fighting people who are giving solutions to some of these malpractices.

(Sen. Karaba stood up in his place)

The Speaker (Hon. Ethuro): Order, Chairperson! Sen. Kiraitu also has an issue.

Sen. Karaba: Mr. Speaker, Sir, I will respond to that one also.

The Speaker (Hon. Ethuro): How do you respond to something that you have not heard?

Sen. Kiraitu!

Sen. Murungi: Mr. Speaker, Sir, I know that the Chairperson is very enthusiastic, but he should not answer questions which he has not been asked.

Mr. Speaker, Sir, I think that the HANSARD will bear me correct because he said that he is giving a mistaken answer. Therefore, if he got a mistaken answer, he should not give it to this House. He should interrogate it and satisfy himself with the education authorities that the answer that he is giving to this House is not mistaken, but is, indeed, correct.

Secondly, regarding the issue of the head teacher of Kyengo Secondary School, he is one of those who are being charged, and he is the same person who reported that, that paper had been mistakenly opened at 8.00 a.m. instead of 11.00 a.m. He handed over the papers which had been opened to the education authorities right there, on the spot, and they were not seen by any students. Should this person, who is innocent, be punished because in Criminal Law, you have not committed any crime unless you have got what we call *mens rea* or a guilty mind? This headmaster did not have the *mens rea*. So, should

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the KNEC authorities be the ones to punish innocent teachers and students under the guise of fighting examination cheating?

Sen. Karaba: Mr. Speaker, Sir, it is very hard to establish whether or not, the head teacher did not access the information that he saw on the opened examination papers. What is important is the answer that the examiners get upon the students writing the answers. It is possible that students of the same centres maybe gave almost similar answers to questions in the particular paper which was opened. If that happened, it is possible to conclude that the students must have had clear knowledge of the questions before answering them.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. Sen. Kiraitu has asked very clear questions, but the Chairman of the Committee is just saying: "It may have happened, it is possible, it might be and it would have been." That is not the answer that we expect in this House. We expect him to bring a categorical answer and unequivocally factual. But he cannot bring us probabilities when he is responding to a very specific question.

The Speaker (Hon. Ethuro): Indeed, Sen. Karaba, you owe it to this House to give facts. When you do not have them, there is no harm in asking for more time, so that you can now go and look for those facts wherever they may be, and then you come back to the House. Members are raising some serious issues. They are not speculating, but speaking from position of knowledge and the Chairperson can only do better than what you are being asked.

Sen. Karaba: Mr. Speaker, Sir, do I then seek more time to have this one done, going by your ruling?

The Speaker (Hon. Ethuro): How much time?

Sen. Karaba: One week, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): What kind of information will you be looking for?

Sen. Karaba: Particularly from the Senator for Meru.

The Speaker (Hon. Ethuro): There is also the outstanding issue from Sen. (Prof.) Lonyangapuo.

Sen. Karaba: Including that one also, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Sen. Karaba, I would encourage you to check the HANSARD, so that you really get the concerns of Members and then, respond accordingly on Tuesday, next week.

Sen. Karaba: Mr. Speaker, Sir, I have another Statement.

The Speaker (Hon. Ethuro): Proceed!

GOVERNMENT POSITION ON EXTRA CHARGES
LEVIED BY SCHOOLS IN KISII COUNTY

Sen. Karaba: Mr. Speaker, Sir, the Statement was sought by Sen. Chris Obure, on the levies imposed on public secondary schools in Kisii County.

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Mr. Speaker, Sir, pursuant to Senate Standing Order No.43(2)(c), Sen. Chris Obure of Kisii County requested the Chairperson of the Standing Committee on Education to give a Statement on the levies imposed by public secondary schools in Kisii County. In particular, the Statement by the Chairperson is expected to address the following issues:-

(a) whether the Cabinet Secretary is aware of the number of students in various day public secondary schools in Kisii County, who have been sent away from school for failing to pay levies imposed by the schools;

(b) whether the Cabinet Secretary is in agreement that this is a violation of the national Government policy, which guarantees free, quality secondary education for Kenyan students, including those in public secondary schools;

(c) whether the Cabinet Secretary is aware that allowing schools to levy extra charges to cater for other non-tuition fees has opened the window to lock out students from very poor families from accessing free secondary education; and,

(d) what measures the Cabinet Secretary is taking or intends to take to provide interventions to protect the very poor students who often find themselves victims and are unable to utilize tuition already paid by the Government in those schools.

Mr. Speaker, Sir, I wish to respond to the issues raised by the Senator as follows:-

(a) I am not aware of the number of students in various day public secondary schools in Kisii County who have been sent away from school for failing to pay levies imposed by the schools. If there is any, then this has not been brought to the attention of the Ministry, to enable necessary measures to be taken against schools which are doing this and hence, violating the Basic Education Act of 2013.

(b) I am totally in agreement that sending students away from school would result in violation of the national Government policy that guarantees free quality education for Kenyan students, including those of day public secondary schools. The Basic Education Act (No.14 of 2013) provides for free and compulsory education for every child. That is the reason in secondary schools the Government is providing capitation of Kshs10,265 per student per year, under the free day secondary education programme. That takes care of tuition, repair, maintenance, local travel and transport, administrative costs, electricity water, conservancy, activity fees, personal emoluments and medical fees. This provides financing for critical items and thus, making education affordable to secondary school students in Kenya. In addition, the Government is providing constituency bursary funds through the Constituencies Development Fund (CDF), which plays a critical role in enhancing equity and retention in schools.

(c) There are guidelines for implementation of free secondary education issued in 2008 via Circular Letter Ministry of Education No.G19/1/44 dated 9th January, 2008. These guidelines were intended to provide a framework for regulating fees and other charges, with a view to making education affordable to all Kenyans regardless of their social and economic backgrounds. However, these same guidelines which all schools were expected to adhere to, instead gave a leeway to schools' boards of management and

the Parents and Teachers Associations (PTAs) to levy charges not exceeding Kshs2,000 per development project and other extra levies which had to be agreed on by all the parents and approved by the local district education boards.

In addition, the guidelines allowed parents to provide school uniforms and lunches for their children and meet other costs, such as providing facilities, thus creating a loophole that was abused by some management boards and PTAs. Consequently, the Ministry has issued a Circular Ref. No. Ministry of Education Vol.III, dated 7th February, 2014, prohibiting further increase of school fees, including those recently approved by PTAs to be suspended forthwith until the recommendations of the new taskforce, constituted to review the unit cost of education in Kenya, are released. The findings of the taskforce will inform the accurate cost of secondary education in Kenya.

Indeed, the ministry has taken intervention measures to protect the affected students from poor family background and households. There is the issuance of above quoted circular dated 7th February, 2014 outlawing any increment in fees for public schools. This was circulated to all county directors of education, sub-county directors and all principals of public secondary schools. This was to ensure that no new levies, including the recent approved levies by the District Education Boards (DEBs) are charged. All the boards of management were directed to stick to this deadline without exception and no compliance will lead to disciplinary action.

Mr. Speaker, Sir, also, the Ministry will ensure that the free day secondary education funds already paid by the Government to public schools are utilized for the intended purpose and properly accounted for. These include requiring schools to issue receipts to students for the accounts disbursed by the Ministry.

Lastly, the Ministry undertakes to ensure that the recommendation of the task force constituted to review the unit-cost of education in public secondary schools which is expected to inform new fee structure for public schools will be implemented fully.

Thank you.

Sen. Obure: Mr. Speaker, Sir, first, I want to thank Sen. (Mwalimu) Karaba, who has just recently taken over as the Chairperson of the education committee in the Senate, for quickly coming to grips with this matter and providing the answer within a reasonable time. However, in response to (a), the Chairperson says he is not aware of students who may have been sent away from schools for failure to pay these levies. In my question, I had given a list of students who have been sent away from schools. That list included the name of the student, the name of the school, the class enrolled and the constituency where he comes from. This is a common practice all over my county. Despite having provided that list, I am being told that the Ministry is not aware.

I also want to seek clarification on another issue. The ministry now agrees that sending away students in these circumstances is a violation of both national Government policy and, indeed, a violation of the Basic Education Act, No.14 of 2013. What is the Cabinet Secretary doing in the face of this violation of the law?

The Cabinet Secretary is the highest holder of office in the education sector---

The Speaker (Hon. Ethuro): Order, Sen. Obure! Please, seek clarifications. You do not need to describe the pecking order.

Sen. Obure: All right, Mr. Speaker, Sir. In the face of these violations, would the Chair agree that the Cabinet Secretary has failed in discharging his responsibilities by failing to ensure that the law is enforced? Lastly, there is this task force which has been formed to make recommendations on the unit costs; could I know when they are likely to make their recommendations?

Sen. Karaba: Mr. Speaker, Sir, it is true that Sen. Obure gave a list of six students. The reason I am saying I am not aware is that this had not been communicated. The procedure is that the list should be communicated to the county education officer. He is the one to communicate to the Ministry so that relevant action can be taken, but that has not taken place. That is why I am saying I am not aware. Many other students could have left school for other reasons which could not be necessarily fees. When you talk about violation of guidelines, this violation has been taking place many times. That is the reason the task force has been formed. I am aware they will be meeting for the last time tomorrow then thereafter they will release the timetable and proper fee guidelines in the country to be followed by all schools regardless of the status.

Sen. Obure: Mr. Speaker, Sir, in fact, my question was very specific. I gave a list of students from various constituencies in my county who have been sent away for failing to pay fees. This is a matter which the Ministry could authenticate on the ground considering that the matter has not been addressed, and also considering that the Chairperson is saying that the Ministry is not aware. Could I request that this matter is left in abeyance until the Ministry is in a position to investigate and establish the correct position on the ground?

Sen. Karaba: Mr. Speaker, Sir, I thought I had given the answer to my friend, Senator. However, it becomes very hard in the headquarters to know who is being sent away. So, the most important person to handle that matter is the director of education in that county. Anytime a student is sent home, there is a sheet given by the principal showing the reasons for sending the student home. This is because there could be other reasons other than just fees.

Sen. Obure: On a point of order, Mr. Speaker, Sir. Are we now being asked to go back to the county education directors to discuss matters of policy relating to the education sector?

Sen. Karaba: Mr. Speaker, Sir, I have exhaustively answered that question. That is all.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Sen. Obure, in his search for an answer, attached a list of students who had been chased away and he has not responded to that. It would be in order that the Chairperson goes back again to the Ministry so that they bring a substantive answer here when they have dealt with directors on the ground. We do not deal with directors when we are in this House.

The Speaker (Hon. Ethuro): Mr. Chairperson, you can pursue that matter by Sen. Obure, but I do not think you should come back to the House. We are now talking about specific students. If for some reason Sen. Obure would not be satisfied with the responses you have provided then he is at liberty to approach the Speaker for that matter to be reinstated. Let me guide it that way.

Sen. Karaba: That is well guided, Mr. Speaker, Sir.

HEINOUS EXECUTION OF SHEIKH ABUBAKAR
SHARIF MAKABURI

Sen. Hassan: Mr. Speaker, Sir, first and foremost, I wish to thank you for granting me this opportunity to make this Statement pursuant to Standing Order No.45(2)(a).

As this Senate is aware Sheikh Abubakar Sharif Makaburi and Mr. Afidh Bahero were heinously executed yesterday, 1st April, 2014 at Shanzu in Mombasa County at about 6.30 p.m. According to eye witnesses, a saloon car drove outside the Shanzu Law Courts and sprayed bullets at Sheikh Abubakar and Mr. Bahero as they walked to a nearby mosque for prayers. Both were buried this morning at 1.00 a.m. according to Muslim tradition.

At this juncture, let me take this opportunity to convey my heartfelt condolences and that of the people of Mombasa to the families of Sheikh Abubakar and Mr. Bahero. Similarly, the Governor of Mombasa of County, His Excellency Hassan Ali Joho and the Speaker of Mombasa County Assembly wish to convey their condolences and that of the entire Mombasa County Government, the County Assembly of Mombasa and all the people of Mombasa to the families of Sheikh Abubakar and Mr. Bahero. We, as the leadership of Mombasa County, equally wish to condemn the heinous executions. We want to assure their families of our support during this trying time.

You will recall that on Tuesday, 25th April, 2014, I sought a Motion of Adjournment pursuant to Standing Order No.33 with respect to the attack on Sunday 23rd April, 2014 on the Joy of Jesus Church in Likoni in Mombasa. This presented an opportunity to discuss the attack, condemn all acts of murder and terrorism. We expressed our concerns on the ground about incidences of insecurity in Mombasa County. On Wednesday, 26th April, 2014, together with Senators Moses Wetangula, Amos Wako, Dr. Khalwale, Mike Sonko and George Khaniri, we visited baby Satrin Osinya at Kenyatta National Hospital. This weekend together with Deputy President, His Excellency William Ruto, Hassan Ali Joho and Kwale Governor Salim Mgalla Mvurya, the Senator Majority Leader, Sen. (Prof.) Kindiki, a host of Members of the National Assembly, including its Majority Leader, Hon. Adan Duale, we visited the Joy in Jesus Church, recognizing our responsibilities as leaders of all Kenyans regardless of whatever other considerations persuasions or affiliations. We spoke and condemned the attack on

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the church and other places of worship and the senseless killing of worshippers. All forms of violence and murders are unacceptable and require the strongest condemnation.

The execution of Sheikh Makaburi and Afidh Bahero was heinous and requires all our condemnation. No life is more important or lesser than the other. Following the attack in the town of Mombasa County which is rich in diversity, our tranquility has been put to the test. This Senate must now act, owing to continued acts of insecurity which put into question the very legitimacy of the state and its duty to protect its citizens.

Whereas security is the mandate of the national Government, leaders of Mombasa have met severally to deliberate and propose measures towards addressing all manifestations of insecurity. The proposed measures, include, but are not limited to strategies to address the causes which include poverty, marginalization, historical and current injustices, exclusion, unemployment, under-education and challenging the narrative that offers the ideological basis of radicalization to offer proactive scholarship and dialogue; and all that is premised on a culture of constitutionalism that embraces justice and equity for all.

This brings me to an important public policy issue that I must address in this Senate. The systematic profiling of the members of the Muslim faith must end. I recall an esteemed writer, Betty Waitherero, in her article on Sunday, 30th March, 2014, who alluded to our concerns as leaders of the Muslim faith. The use of terror to profile, stigmatise and oppress an entire community further stated how the xenophobic narratives are used by state and by a large Kenyan public. Unfortunately, this narrative offers the basis to articulate the reneging on fundamental rights of members of the Muslim faith.

My fidelity to our Constitution and my commitment to the regime of rights are unwavering. If we voted for it as our basic right, then we must adhere to it. If we are fed up with its unbending principles and values, then we must change it. However, I bet, any attempt to tamper with the basic tenets of the Constitution will not succeed.

Muslim leaders have offered their unequivocal support towards combating terrorists. However, we will not be cowed to demand justice when necessary. We will speak out against any transgressions and forms of injustices. We ask for no favour, no special consideration or any one's discretion; we demand justice as enshrined in the Constitution here in Kenya, by right and not by discretion or favour, for all the innocent souls who have lost their lives. We demand speedy investigation and resolution of the execution of Sheikh Abubakar, Mr. Bahero and all other unresolved murders, regardless of the religious affiliation of the victims, the nature of the allegations or whatever consideration.

Once again, on my behalf and that of Mombasa County, I wish to offer our condolences to the families of the victims and appeal for calm in the county at this very trying moment.

Sen. Hargura: On a point of order, Mr. Speaker, Sir. We are a developing country and we are strained in terms of security. However, a trend is developing where

Muslims; especially at the Coast, who have cases in the courts, end up being killed. We are now developing an ingrown American way of fighting terrorism which is not good.

Would I be in order to inform the Government that it has responsibility, while enforcing the rule of law, to do its work and ensure that it carries out investigations instead of carrying out the deaths?

The Speaker (Hon. Ethuro): Order! While I appreciate the gravity of the matter, we also have our Standing Orders. The Senator for Mombasa made the Statement under Standing Order No. 45(2) (a). That is his statement to the House. We cannot debate it. If you want to debate it, remember that you have other options like moving a Motion of Adjournment. That is available to you. You can also bring it here as an ordinary Motion.

Sen. Billow: On a point of order, Mr. Speaker, Sir. I thought Standing Order No.46 is what does not allow debate. However, 45(2) (a) does not specifically state which statements should not be discussed.

The Speaker (Hon. Ethuro): Standing Order No.46 is also clear that such a matter must not be debated. A Senator may make a statement on a county issue or an issue of general concern. That is the approach that I approved. It was not meant for debate.

You cannot make any comment.

Sen. Billow: On a point of order, Mr. Speaker, Sir. The way Standing Orders are worded, in the face of 46; there is an express provision that it cannot be debated. However, there is no express clear prohibition on Standing Order No.45 (2) (a).

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I appreciate your direction to the House. However, reading Standing Order No.45 and Standing Order No.46 very clearly, it appears that you can allow comments and additional issues on the statement. Standing Order No.45 is completely silent on whether we can debate such a statement or not.

Standing Order No.46 goes a little further and gives the discretion to the Chair because it says; may not be debated. That means that it can be debated depending on the discretion of the Chair.

Mr. Speaker, Sir, your position is always fortified with a fallback through Standing Order No.1, that gives you absolute discretion. Issues which are grey like this require you to read the mood of the House and the country and see whether you can extend your magnanimity as it were, to the House, for a few of us to make a few comments and ventilate on this unending chains of inexplicable assassinations in the country.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. Again, I agree with hon. Wetangula. The wording of Standing Order No.45(2)(a) is that;

“a Senator may make a statement on a county issue or an issue of a general topical concern.”

My worry is that the matter that has been raised is of general and topical concern.

Mr. Speaker, Sir, if you do not give us the opportunity to say something at this juncture where it may be topical, then if the matter ends up in court or in another forum,

the Senate may not have the opportunity to express itself at the very first instance on a serious matter like this one. More particularly, I urge you to use your discretion to allow us to say something on account of the fact that the most important fundamental right and freedom in the Constitution is the right to life. The loss of life of any Kenyan without regard to status and religion is something we cannot gloss over.

I beg you to allow us to say something on this matter.

Sen. Mutula Kilonzo Jr.: On a point of order, Mr. Speaker, Sir. Just to add on what my seniors have said, Standing Order No.46 is very clear. In drafting of that order, there could have been an import. The import here is that once a Senator makes a statement of a personal nature, which in my own reading of Standing Order No.46, there is no reason for another Senator to debate on the issue since it is personal. Under Standing Order No.45(2)(a), an interpretation of that nature would, ideally, be an infringement of what appears to be an issue that should be discussed since it is in the public domain.

I urge you to reconsider your ruling.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. We all agree that the Constitution supersedes any other legislation.

“Article 238(2) (a) of the Constitution says that the national security is subject to the authority of this Constitution and Parliament.”

The matter raised by Sen. Hassan not only touches on that specific incident that took place, unfortunately, yesterday in Mombasa but on national security in general. Article 238(2) (a) specifically says that the national security is subject to the authority of this Parliament. Therefore, we should be allowed to ventilate in respect of that position.

Sen. Murungi: On a point of order, Mr. Speaker, Sir. The Constitution is the parent Act and statute. The Standing Orders are meant to provide procedures and modalities for implementation of the Constitution and other matters which are specifically referred to in the Constitution. I am not saying that the matter raised by Sen. Omar Hassan is not of grave concern. Indeed, it is of very grave concern and requires the full attention of this Senate. However, the procedure chosen by the Senator to make a personal statement under Standing Order No.46 does not permit any debate.

An hon. Senator: It was under Standing Order No. 45(2) (a).

Sen. Murungi: Mr. Speaker, Sir, if it was under Standing Order No.45 (2) (a), then, there would be no restriction. There is no restriction because the restriction is provided for under Standing Order No.46 which says that the matter may not be debated. So, if this was under Standing Order No. 45(2) (a), then there is no restriction.

Therefore, being very honest, we cannot, in reading this statute say that the matter cannot be debated. The House should be allowed to express itself.

(Applause)

If this was under Standing Order No.46, then there would be no debate.

An hon. Senator: You are very clever.

Sen. Murungi: I cannot be clever by the season.

(Laughter)

The Speaker (Hon. Ethuro): Order, hon. Members. I want to say the following. First, the statement was made under Standing Order No.45 (2) (a). The argument is whether the provisions under Standing Order No.46 apply. Let me start from where Sen. Wetangula started. He said that such a matter may not be debated. A personal statement could be debated. However, we do not debate a personal matter. How do you debate a personal matter? That wisdom must prevail all the time.

Whenever we put statements to Committee Chairpersons so that they give information, by the time they make the statements, we do not allow a debate to take place. However, we allow clarifications. That is because the information is coming from one party to another. So, my difficulty in entertaining a debate on this matter is that on definition, statements should not be debated.

Secondly, even if you were to seek for clarifications, from who now? Sen. Hassan Omar has spoken on a matter affecting his county or a matter of general topical concern. Now, will we be imposing an obligation on him to be an authority on what transpired last night? I think that will be unfair to the Senator.

Then, because you already persuaded yourselves to go beyond Standing Order No.45 by visiting Standing Order No.46, I thought the lawyers also to my left would go further to wonder why Standing Order No. 33 was provided for. Standing Order No.33 is the adjournment of the House on a definite matter of urgent national importance. So, I am not refusing the debate on this matter but the Standing Orders are equally – to respond to Sen. (Dr.) Khalwale’s point in terms of the Constitution – derived from the Constitution; Article 124 which gives us the procedure in which we can conduct our business.

Standing Order No.1 which you want to plead with the Speaker to use is also very clear; it states “whatever is not provided for”. When you decide, it must also agree to some precedence and to some form. So, it is still aligned to what is provided for. I want to believe that if the House seriously feels that this is a matter that is important as I feel, then the right procedure is Standing Order No.33. Then we will allow debate. That one I will be more than glad to grant you any time even now. But I am afraid for purposes of Standing 45 (2) (a), I must admit this is the first time we are using it. So, my understanding is, so far, I would like it to remain at that level.

FATAL ASSAULT OF YOUNG MAN AT
KAMUKUYWA MARKET BY APS

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, there was a Statement to be issued in relation to a request I made. I am sorry I came in late but I saw

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you and explained where I was and you appeared to understand that I had a legitimate reason. I sought that you indulge me---

The Speaker (Hon. Ethuro): I also understand why it cannot be done tomorrow. The Vice Chair is ready and the only reason she was not giving the Statement was because the Member was not there. The Member being the Senate Minority Leader was providing leadership on behalf of this House elsewhere. The Chair is satisfied that that Statement should be given now.

Sen. (Eng.) Muriuki: On a point of order, Mr. Speaker, Sir. This is on a different matter. We are very honoured today to have visitors from the County Assembly of Baringo, but if you see where they are seated, they cannot see us unless they stand and yet they came to see the proceedings of the Senate. Would I be in order to request that something be done; either the parapet is lowered so that they can see and listen?

The Speaker (Hon. Ethuro): It is noted and thanks for that observation. But from where I sit, I can see them. We will make sure that everybody can be seen.

Sen. Adan: Mr. Speaker, Sir, I wish to respond to this Statement that was sought by the Senator for Bungoma who is also the Senate Minority Leader.

On 25th March, 2014, Senator Wetangula requested for a Statement on the death of a man who was allegedly assaulted by Administration Police officers (APs) at Kamukuywa Market Camp and the subsequent skirmishes at the market that led the police to fire in the air shooting a young girl and a man who was critically injured. The Senator specifically sought to be informed on:-

- (i) The names of the Administration Police officers who committed the crimes.
- (ii) Whether the officers will be prosecuted for the offences of murder.
- (iii) Whether the family of the deceased man will be compensated for the loss of his life.
- (iv) Whether the young lady and the man who were shot will be compensated.

On 24th March 2014, residents of Kamukuywa in Kimilili Constituency, Bungoma County, staged a demonstration alleging that on the previous day, the deceased by the name Hamisi Yusuf aged 26 years had been assaulted by Administration Police officers who were stationed at Kamukuywa District Officer's (DO) office inflicting serious injuries which according to them led to his death.

The demonstrators who numbered about 300 armed with crude weapons attacked the AP post and pelted the officers with stones. The demonstrators also caused major damages to the Assistant County Commissioner's office and a milk cooler. In an effort to contain the demonstrators, the Sub-County Commissioner accompanied by a few police officers attempted to address the rioters but they were cornered and had to seek refuge in a nearby hotel since the angry rioters were baying for their blood. As a result, police officers were forced to use teargas canisters, blank ammunition and occasionally fired in the air to scare off the rioters who had now blocked the Kaptama-Kitale-Kimilili Road.

During the commotion, 15 police officers were injured and two police vehicles extensively damaged. Two rioters, Pastor Simiyu aged 22 years and Zippora Wanyonyi

aged 15 years were injured on the left arm and the left thigh respectively and were both admitted at Kimili District Hospital.

Mr. Speaker, Sir, following the allegation against the APs, the DCIO Kimilili opened an inquiry file No.2/2014 to establish the actual circumstances which may have led to the death of the victim. Calm has since been restored in the area and the police are appealing for any person or persons who may have any information which may help unearth the truth in respect of the incident to report to the DCIO Kimilili and such information will be treated with utmost confidence. Once investigations are finalized, the file will be forwarded to the Director of Public Prosecutions for perusal and advice. Appropriate action will be taken in accordance to the advice. The issue of the involved officers; if any action will be taken against those found culpable and the issue of compensation will be determined once the investigation and subsequent judicial process are completed. The cause of the death is yet to be known as a postmortem has not yet been performed.

Thank you.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I thank the distinguished Senator for her Statement. You can see a very clear case of official cover up where the victims are now being made to look like they are the aggressors. They are now the ones being investigated. They are the ones the DCIO is inviting information to incriminate.

The incident happened in the manner I described in this Chamber. An innocent young man was arrested going home, taken to the AP camp, and released at midnight, and on reaching home, he made what in law we call a dying declaration to his mother and said: 'Mummy, whatever you do I am dying because I have been thoroughly assaulted by the APs'. He died an hour later. Senior lawyers like the Deputy Speaker understand what a dying declaration means and it can be a basis of a conviction if people are prosecuted.

Mr. Speaker, Sir, in the Statement, you can see that even those who fired their firearms unlawfully have not been suspended, no inquiry has been opened on them and nothing has been done. I want to urge the Chairman of the Committee that the information you have been given is grossly misleading to this Chamber and extremely embarrassing to you who is giving it because it is false. Please, go back and seek more information so that we get facts right and help Kenyans who become victims of trigger happy officers whenever they abuse the privileges of holding arms legitimately.

Sen. Munyes: Mr. Speaker, Sir, I wonder what happened that week because a similar incident happened in Turkana at a place called Kalemng'orok where the local community was demonstrating over cattle rustling incidences. Instead of the police dispersing the crowds with either teargas or some form of force, they decided to open fire, killing two people.

Could it be that that week, there was some change of policy within the police force to ensure that Kenyans are killed when they ask for their rights or what levels of force do police undertake in certain incidences? Is this something we can control?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, under our Constitution, the right to assemble, demonstrate and picket is protected. Members of the public also have the right to petition public authorities. While you were away yesterday, this same incident that played out in Kamukuywa also played out in Kajiado where Sen. Mositet was tear-gassed and the person accompanying him was actually shot under similar circumstances. It is important that this Senate must raise its voice on this issue.

Since the peace loving people of Bungoma approached a public authority; the police station to present a petition that a son of their village had been killed by an officer who was at that time at that station, if the intention was to break the demonstration, why did the police use live bullets on a crowd that did not have a homemade gun or anything resembling a grenade, but were simply walking around with twigs and sticks singing circumcisions songs? I could hear them when that incident was being aired on *Citizen Television*. Why did they use live bullets and what happened to rubber bullets in this country?

Sen. Mositet: Mr. Speaker, Sir, as we sit in this Senate, the Inspector of Police who shot my very close friend – who is still in hospital – is still in office right now working, and the citizens are demanding for this officer to be disarmed first and then be arrested, because he is a criminal.

Mr. Speaker, Sir, I feel that it is high time that the security of this country is checked. We should not allow them to use the weapons – which are supposed to protect the citizens of this nation – to kill them.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Chairperson?

Sen. Adan: Thank you, Mr. Speaker, Sir. First, I would like to respond to concerns raised by Sen. Wetangula. According to the Statement and report that I was given by the relevant Ministry, the inquest file has already been opened. That clearly means that it does not also leave out the officers who caused the said killing. It is a matter of concern for us and also as a Senate to allow the inquiry process to proceed. Then from there, we can follow up the other issues that might come up out of that.

Secondly, Mr. Speaker, Sir, maybe we need some guidance from you. It looks like whenever a Statement is issued, there are new statements which are being sought by Members; for example, the Statement made by the Senator for Turkana and also the Senator for Kajiado. So, I do not know whether we can continue lumping Statements together, because it is confusing and it will also delay the process of actually getting the relevant information that is required. But as for change of policy, I do not think there is a change of policy at all, because the policy remains the same. Similarly, the constitutional provisions and relevant legislations remain the same in terms of protecting the lives of people in this country. The police are also supposed to adhere to those rules and regulations and also to the relevant legislations that are in place.

Thank you, Mr. Speaker, Sir.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Order, Sen. Dullo! I will respond to the other one, but before that, there is a question of why the officers did not use rubber bullets.

Proceed, Sen. Dullo.

Sen. Adan: Now, Mr. Speaker, Sir, I would not want to answer to that particular question. But as a matter of concern, it depends on the circumstances that took place at that particular time. It could be a life threatening situation; maybe, that is why the live bullets were used. I do not want to respond to that.

(Several Senators stood up in their places)

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

Sen. Billow: Mr. Speaker, Sir, it is common knowledge that hundreds of Kenyans have lost their lives due to extra judicial killings by police and security forces. It is common knowledge and it is happening daily. So, could the Chairperson explain why the police cannot use other means at their disposal and why they must take somebody's life? We cannot be killed by terrorists and, at the same time, be killed by the police. How are we going to survive? You should be able to answer why the Officer Commanding Police Division (OCPD) in Mombasa three weeks ago issued a shoot to kill order if there was no change of policy, and then these incidents happen after that.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Sen. (Dr.) Machage.

I will allow the points of order.

Sen. (Dr.) Machage: Mr. Speaker, Sir, on her own admission, the Chairperson of this Committee has said that she is not able to answer that question; she is not ready to answer that question and she has no information to answer that question. Would I, therefore, be in order to request that the Chairperson be given more time, especially so to answer why rubber bullets are no longer being used?

The Speaker (Hon. Ethuro): Sen. ole Ndiema.

Sen. Ndiema: On a point of order, Mr. Speaker, Sir. The honorable Senator for Bungoma sought clarification as to why no action has been taken---

The Speaker (Hon. Ethuro): Order, Senator! We all know that.

Sen. Ndiema: Mr. Speaker, Sir, the point I am trying to seek clarification on is why the officers are still in office, yet there is an accusation that they tortured a suspect and killed him.

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

Sen. Abdirahman: Mr. Speaker, Sir, listening to a number of Senators or colleagues who spoke on this matter, and realizing the gravity of the situation, I want to

suggest, if you will agree with us, because I do not think the Chairperson is able to handle this question, what the police are doing amounts to serious insecurity issues? I am thinking that, probably, summoning the Cabinet Secretary (CS) to appear before the Departmental Committee may get us to the bottom of the matter, if you will buy this, so that the House gets sufficient response on this matter in form of some report.

Thank you, Mr. Speaker, Sir.

(Applause)

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, this is something very serious which must be interrogated, particularly because Kenyans are watching. The Chairperson stated the circumstances under which the police can use live bullets. This is something that should be clarified because they are also watching and Kenyans are also watching, and you do not know how circumstances of a person who is not armed can be life threatening.

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

Sen. Munyes: Mr. Speaker, Sir, questions can be different, the way the Chairperson is responding, unless she would want to discourage supplementary questions in this House. Because if you ask whether there was a change of policy or why there was no tear gas as opposed to the shooting of two Turkana youth who were shot on the road demonstrating. I think the Chairperson should know that when you ask a question, there will be supplementary questions and, therefore, she should go back to actually investigate, get more supplementary information and understand that there could be a question like that when you come to the House.

Thank you very much, Mr. Speaker, Sir.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): We need to conclude this matter.

What is it, Sen. Mositet?

Sen. Mositet: Mr. Speaker, Sir, I heard the Chairperson say that at least they use the live bullets when their lives are threatened. Yesterday, my people were very innocent and I was very innocent; and I still tend to think that the inspector was aiming the bullet at me. He came running with his pistol and it is not the people who went for him. After that, the citizens decided to demonstrate and demanded that OCS, Mr. Fredrick Mokasa, must be removed from that police station, we were tear gassed.

So, Mr. Speaker, Sir, in my county alone, there have been cases which have been reported. At one point, the citizens caught some thugs with guns and after that, the police released---

The Speaker (Hon. Ethuro): Order! Order, Sen. Mositet! I think you have made your point with the initial Statement.

Sen. Mositet: So, Mr. Speaker, Sir, my point of order is that the inspector who shot Mr. Joshua Munene yesterday went straight for him, shooting yet the inspector himself was not under any threat by any person.

The Speaker (Hon. Ethuro): Sen. Muthama; that must be a point of order?

Sen. Muthama: Mr. Speaker, Sir, it is not a point of order; I just want to ventilate on what has been going on. Mine is just to add onto what has been said.

(Laughter)

I am very honest.

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

Sen. Muthama: Mr. Speaker, Sir, will I be in order---

The Speaker (Hon. Ethuro): Okay; let us reward you for your honesty!

(Laughter)

Sen. Muthama: Mr. Speaker, Sir, will I be in order to actually put it very straight that we have been having problems here by seeking statements and getting the answers? What has been happening is that most of the Chairpersons of the Committees here just get written statements which do not allow them to move a step forward from what has been written. If you listen to what was presented to this Senate by the Chairperson here, it is exactly the information that was given. Now, if you ventilate beyond that, she has no answers!

Mr. Speaker, Sir, I think we should find a way of having those CSs who interact with their officers to come here and respond to our questions. That will give us a way forward, because from what she has stated---

The Speaker (Hon. Ethuro): Order! Order, Sen. Muthama! You have done more than enough ventilation!

Sen. Muthama: Thank you, Mr. Speaker, Sir.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Senator, I was only taking the former ones, I am not entertaining any new ones. So, let me take Sen. Wetangula, Sen. Njoroge and Sen. Keter.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, you listened to the Chairperson of the Committee and in a very clear admission of inadequacy, she said

that what she read to us is what she was given. Meaning that she did not even interrogate the Statement she was given. She has been gracious and honest to the House that, that is inadequate. I am not blaming her because she is only a recipient and a conveyor belt of information to this House.

Mr. Speaker, Sir, that being the case, may I request that in view of the gravity of the matter – the loss of life and the assault on unarmed people exercising their constitutional right to demonstrate--- The community I come from is called the “*Mulembe*” community; the people of peace. Our people have a history of more than 150 being arrested by one police man and being herded to the police station---

Sen. (Dr.) Khalwale: Like a flock of sheep!

The Senate Minority Leader (Sen. Wetangula): Yes, like a flock of sheep as he says.

Mr. Speaker, Sir, in view of this, may I request that this matter be referred to the Committee that will call the CS and his office to be properly interrogated not only on this matter, but also on matters that are similar being raised from Turkana, Kitengela, the Abubakar Makaburi matter and all others.

Thank you, Mr. Speaker, Sir.

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

Sen. Njoroge: Mr. Speaker, Sir, going by the answer which the Chairperson attempted to give on security, I find that it was not necessary for the Chairperson to even imagine that the police officer’s life was in danger, and that is why he had to shoot. Because, one, I do not think the Chairperson had sought any clarification from the Ministry to come up with that kind of an answer. To this regard, it is my opinion that the interrogation or the investigation which should be done by this House should be done by the Committee of the full House, because the Chairperson seems like she has already taken a stand that the life of the police officer was in danger.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Finally, Sen. Keter before we dispose of this matter.

Sen. Keter: Thank you, Mr. Speaker, Sir. The Chairperson has tried her best to respond to supplementary questions which were raised. But knowing the fact that she is not a CS who can say authoritatively that “I take responsibility,” I wanted to say what my colleague, the Senate Minority Leader, Sen. Wetangula, has said; that security issues are so serious that if we leave it to the Chairperson of the Committee or any Member of the Committee to answer, that person will only be reading what has been provided. You know very well that we are trying to avoid questions that are now coming in through statements. Why do we not give the chance to the whole Committee to summon all those people and give us a report so that we will deal with the report, which will touch on the policy and everything else which is not necessarily narrowed? But if there are selected issues which have been raised, those issues can be tackled by that Committee. That can be the best way for this House so that we can ventilate on the report. Otherwise, we will

blame the person responding to issues which she cannot take responsibility for. To me, she has tried her best.

CONSIDERED RULING

COMMITTEE CHAIRPERSONS HAVE THE POWER TO GET INFORMATION FROM THE EXECUTIVE

The Speaker (Hon. Ethuro): Order, Members! I will try to respond to what the Chair was inviting me in terms of other Members introducing other issues. Maybe if you can recall the words of Sen. Kiraitu *versus* Sen. Wetangula, whether Statements are being overloaded, yes, that tendency seems to be there and it must be discouraged. But for you, you are not lucky today. One, the most pertinent one by Sen. Khalwale was not responded to. Sen. Munyes from Turkana actually gave a similar situation and the kind of clarifications that he sought were actually very relevant to the same statements of Bungoma, in terms of policy, how the police reacted and actually confirming to you further that the situation may not be that isolated. So, it was equally expanded by the Senator for Kajiado.

So, to that extent, I think that they were admissible in terms of how the police respond to these issues. But, definitely, in previous situations where other issues were added, as I referred to the one between Sen. Kiraitu and Sen. Wetangula, you know how I responded. We disallowed the one by Sen. Wetangula and restricted to what Sen. Kiraitu had sought. So, for today they were actually very relevant. In fact, I thought that you would praise them for giving you even a better perspective, so that you can deal with this matter.

Now, on how we can proceed on this one, I really want to submit that a Chair of a Committee of the Senate is a very powerful person. This is because your power is not only just drawn by being the Chair, but by the fact that you are a Member of the Senate, the Senate being one Chamber of Parliament. The entire authority of Parliament is with you as the Chair. So, if information must be sought, you have the constitutional power and law to get that information from whatever source. This is because even what the Members are making popular by saying “refer it to the whole Committee” that Committee is still chaired by the same Chair. It is the Chair to convene the meetings to discuss the same matter and ask for the relevant Cabinet Secretary to make an appearance. So, that, to me, is not generally a solution that we should run to. Whether you do it alone or with the Committee, I think that I want the Chairs to be confident that they have the power to summon anybody to come before them and give the necessary explanations that the Committee will require of them. It is a constitutional duty and must be performed.

For purposes of maybe the subject matter in terms of security concerns that seem to be rampant, that is why we would invite your Committee, which you can do in your

own Motion. It helps to know that the mood of the House is in that direction. You may wish to consider that matter more comprehensively, so that when you make the report, maybe during the debate on the Report, Members will have an opportunity to revisit those issues.

So, I would order that you deal with this comprehensively as a Committee.

Thank you.

Next Order!

MOTION

THANKS FOR THE PRESIDENTIAL ADDRESS

THAT, the thanks of the Senate be recorded for the exposition of public policy contained in the Address of the President to Parliament on Thursday, 27th March, 2014.

(Sen. (Prof.) Kindiki on 1.4.2014)

(Resumption of Debate interrupted on 1.4.2014)

The Speaker (Hon. Ethuro): Who was on the Floor? Sen. Khalwale, you had the Floor with a balance of 14 minutes.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. When one looks at the Report of the President, the nearest that you can give it, to some of the pupils in the rural areas who do not understand parliamentary procedures, is the analogy of a report card. A student takes a report card home and would like the family to see how he has performed in school.

Mr. Speaker, Sir, when I dismissed and opposed the President's Report, I was guided by the fact that one of the biggest tragedies in this country is that we now have very many graduates who are well educated but jobless. We have many Form Four leavers with good grades and jobless. We have a lot of able-bodied youth who are jobless. It is amazing that the President of the Republic of Kenya failed to speak to the national value of good governance and social justice. Why did he not talk about unemployment? We would have expected him to talk about how he is trying to improve the tourism sector, so that more jobs can be created for our youth.

Mr. Speaker, Sir, the President should have told us what he is doing for the private sector, because the private sector is now employing more young people than the Government. What partnership is the Government putting in place between the private and the public sectors to enable the private sector to thrive and employ our youth? We would have expected that the President speaks to the affirmative action that his Government intends or is playing towards local contractors who use manpower from

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Kenyan youth rather than foreign contractors, like the Chinese, who come with drivers from China, when we all know that all the graders in this country can be driven by our youth. The President should address the need to improve the access to business by our local contractors, especially in road construction. In great economies like the United States, their infrastructure was not fixed by foreign contractors. It was fixed by local contractors. If you know of anybody in your county, big or small, that is the person that I am speaking for this afternoon; that the President refuses to hold his or her hand.

Mr. Speaker, Sir, regarding unemployment among the youth, former President Kibaki responded by creating the Youth Enterprise Development Fund (YEDF). The YEDF has been a total failure. To date, since 2006, only 230,000 youth have accessed that money in the whole Republic. It is important that we review this Fund with a possibility that this money should be channeled through the county governments. I believe that the youth will be nearer those funds if they went through their Governors.

Mr. Speaker, Sir, the President has refused to respond to an easy industry that is now employing millions of youth the world over. This is the sports industry. We would like the President to set aside money and put up youth centres to pick out talented soccer players, because playing soccer is the highest paying profession in the world today.

Mr. Speaker, Sir, the President spoke on the issue of the wage bill. I was amazed that in the many years that I have been in Parliament and listened to many statements from our Presidents, at no time has a President ever been booed on the Floor when presenting a statement. The booing that took place when the President spoke on the issue of the wage bill has gone viral on twitter. This is unfortunate and it is simply because the Assembly was rising to the possibility that probably by requesting a pay-cut for himself, the Deputy President and the rest of the civil servants, the President was waging propaganda on the public instead of telling them how he wants to fix our economy.

Mr. Speaker, Sir, the President cannot be keen on cutting down the wage bill without admitting in public that his Government is wasteful. It is so wasteful that if you go in the records, there are so many ghost workers. In all offices of the Government, everyday is a party. People take cakes, *mandazi*, scones and sausages for tea at 10 O'clock and 4 O'clock. During lunches, three-course meals are served in public offices in the Republic of Kenya, all at the cost of the taxpayers.

Mr. Speaker, Sir, there is the issue of seminars and workshops. We would like to see critical seminars and workshops and not workshops meant to go and celebrate. Today, I was listed to Chair a session in a meeting that is going on at Leisure Lodge in Kwale and I refused to go. This is because what is going on in Kwale is celebration; partying upon partying. What are they celebrating? Probably they are partying because of the big jobs that they have got. I look at some of those Governors and they have really become fat.

(Laughter)

Mr. Speaker, Sir, the President should have addressed these things not just by looking at others, but starting with himself. The motorcades in the convoys of the President and Governors are not acceptable at all and should not be acceptable. I do not know how many of you had the pleasure to watch the motorcade of His Excellency the President when he was going to Arusha. There was a very strategic cameraman who was taking those photographs. It was a national and international shame for this country. It was drama. Now that we are talking about that motorcade of the President that was going to Tanzania, let us ask the President what he was going to do in Arusha, because the only thing that we saw was when he was addressing Kenyans at Kitengela and when he came back and was eating meat with the Deputy President at the home of some old man. Surely, if he was going for business in Arusha, we would have been shown some of the business that he was doing in Arusha. They were going for fun and we are saying that this is wrong.

Sen. Keter: On a point of order, Mr. Speaker, Sir. I did not want to interrupt my friend, the Senator for Kakamega, but is he in order to say that the President travelled all the way to Arusha for fun, yet he is the Chair of the East African Community (EAC) and visited the East African Legislative Assembly (EALA) there?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg my brother to bear with me. I have served this country in Arusha for five years and know that the President, as the Chair of the EAC, has every right to go to Arusha but do not front for it. If the Chairman of the EAC is in Arusha doing any function, it will be covered by the media in Uganda, Tanzania, Burundi and Kenya. None of the media covered that and so, it means that the President was on private agenda. Why was it not made public---

Sen. Njoroge: On a point of order, Mr. Speaker, Sir. Is it in order for the Senator to mislead this House? I was in that convoy. That large convoy was made up of well-wishers who escorted the President up to the border. Again, I proceeded up to Arusha and the President, when I was seated in that Assembly, addressed the East African Legislative Assembly. It is wrong when my colleague Senator says that the President went there for fun. I would like to say that for the time we spent there, the President did not even have a single minute to shake hands with his friends in Arusha because of his busy schedule.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Motion No.8 reads that; the Senate to record the exposition of public policy contained in the Address of the President in Parliament and not to discuss the conduct and behaviour of the President on other occasions. Is the hon. Senator in order to discuss the conduct of the President without moving a substantive Motion?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I will start with Sen. (Dr.) Machage's issue. Yes, he is right, I am not supposed to do that but I happen to know that in exposition of his policy, the President is supposed to update us on our international obligations and his trip in the region is part of that international agenda. That is why I am referring to it although I am really constrained. As for Sen. Njoroge, you are a new born in politics. Sit down and learn.

Regarding the issue of corruption, the President chose to tell the Republic that after the Auditor-General's report of the wasted Kshs500 billion---

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, let me assist you. I do not think you discussed the conduct of the President because if you did so, I would rule you out of order. All you are saying is that the important business that the President went to do in Arusha was not covered.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I said that much. I beg that you give me a few minutes for that interruption.

I was speaking on the issue of corruption. After the Auditor-General reported wastage of Kshs500 billion, the President told the Republic that he has constituted a Cabinet sub-committee to look into the issue of corruption; really? Can you possibly send a thief to catch a thief since there is no honour amongst thieves? It is not possible. The people who are actually involved in the wastage of public funds are those Ministers.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. Whereas I respect my brother, Sen. (Dr.) Khalwale, is he in order to refer to a Committee of the Cabinet as thieves? He should withdraw and apologize. This is not parliamentary language unless somebody insinuates that it is language. It is very clear what you are saying; that you are sending a thief to catch a thief in reference to the Cabinet Committee.

The Senate Minority Leader (Sen. Wetangula): Is the distinguished Senator for Nyeri in order to deliberately distort the English language. Sending a thief to catch a thief is a common English saying. It does not mean you are calling anybody a thief. This is common language which the distinguished Senator, who has the privilege of having been at the University of Nairobi with me, should understand.

The Speaker (Hon. Ethuro): Let us allow Sen. (Dr.) Khalwale to proceed.

Sen. (Dr.) Khalwale: I would not have put it any better than Sen. Wetangula.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You still must respond to Sen. Kagwe's point of order. I do not think Sen. Wetangula did that for you.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I thought I was going to be repetitive but to answer Sen. Kagwe; I went to a good school. For all the many years that I remained in school, the medium of learning was English. So, I understand idiomatic expressions in English and this is just one of them.

The reason why I am refusing the attempt by the President to form a Cabinet sub-committee to fight corruption is because we have accountability institutions in this country that are funded by the taxpayer. The President should empower the Ethics and Anti-Corruption Commission (EACC), the Director of Public Prosecutions (DPP) and the Office of the Controller of Budget. He should allow the Public Accounts Committee (PAC) of the National Assembly to roam in all his departments and Ministries. He should also allow us so that we help him to get to the bottom of this corruption. We know that the President does not steal but it is the people working under a president who normally perpetuate corruption.

Mr. Speaker, Sir, very quickly, I want to mention the point of fulfillment of international obligations. I would have expected the President to speak to the issue of how Kenya is handling public debt under his watch. He mentioned nothing. We know that the former President Kibaki started doing what Moi had refused to do. He started paying KenRen. We want to know if President Uhuru is going to continue paying them. This is the phantom fertilizer factory. We want to know.

The Speaker (Hon. Ethuro): Your time is up.

Sen. (Dr.) Khalwale: I beg that you give me only two minutes so that I can conclude one point.

The Speaker (Hon. Ethuro): I agree there were many interruptions, so I give you two minutes only.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, we would like the President to tell us if he is going to continue paying for the Anglo Leasing security contract? We would like him to tell us how he is going to use the billions that he borrowed from China. When you talk to what the President came with from China, people only refer you to the standard gauge railway line.

On the issue of the East African Community (EAC), we would have expected the President to speak to the issue of monetary union in the community. This is a very sensitive issue, we cannot subject our country to monetary union before we are clear on the fiscal policies of the other partner states lest Kenya finds itself where the European Union (EU) is. The bedrock countries in the EU are now bailing out countries like Greece, Spain and Italy who are poor performers with poor economic policies. This is something that we should discuss as a nation. Since no *mwananchi* was involved, no National Assembly Member was involved, no Senator was involved, the President should have told us exactly what he thinks about it.

The one minute that is remaining, I will talk about the issue of security. I will go specifically to the disquiet between the Inspector-General and the Chairman of the National Police Service Commission. This matter must be settled once and for all. The Constitution recognizes cultural diversity of this country. How come that among the senior officers who were moved, the Inspector-General chose to target only Luhyas? The Provincial Police Officer (PPO) of Coast, Mr. Atwoli gone, he is Luhya; the PPO of Rift Valley, Mr. Oduor gone, he is also Luhya; the Deputy Commandant of Police Training College in Kiganjo, gone, he is also Luhya; the Commandant of the General Service Unit (GSU), Mr. Saiya gone, he is also Luhya. Why is the Inspector-General only targeting Luhyas? I was so pained with this thing that I tried to call the Deputy President but I could not get him. Thank God I accessed him through Sen. Keter and told him that we are also Kenyans, who have been elected by those people to protect them. Where do they want these senior police officers who have spent their lifetime growing from junior to senior to go?

The Speaker (Hon. Ethuro): Your time is up.

Sen. (Dr.) Khalwale: I oppose.

Sen. Kembi-Gitura: Mr. Speaker, Sir, thank you very much for the opportunity to contribute on this important Motion on the Presidential Address on the state of the nation on 27th March, 2014. This is a very good speech and needs to be supported. This is partly because it is candid and recognizes the problems and issues that the nation is facing at the moment. It deals with them candidly. These include issues of security, corruption and everything else that ails the country. I think it is unreasonable to expect that the President would set down everything that is happening in the nation today in a general address like this one. One also needs to read the reports that were annexed to the speech so that one can understand exactly where the President was coming from. I am clear myself that it was a candid address of the situation of the nation at the moment and it needs to be embraced and also to bring life to it.

Mr. Speaker, Sir, at page two of this address, the President talks clearly about corruption in this country. He talks about the danger that we face as a nation if corruption of yester-years comes into play into the current system and particularly if it is devolved to the counties. That is clear in his Address. That fear of corruption being devolved to the counties is a fear that we, as Senators, have continued to talk about when we talk about our oversight role as enunciated under Article 96(3) of the Constitution. We have talked about corruption, for example, the other day, we worked closely as a Senate with Sen (Dr.) Khalwale on our first impeachment in this House. The underlying thing about that Motion was that we were dealing with corruption. We dissected corruption and we talked about exactly what role we have as Senators.

So, it is this issue that we have continued to talk about. I want to reiterate that the Motions we have had in the Senate when we say that we have the role of protecting devolution or being the guardian angels of devolution - we talk about it consistently because we believe in devolution. Anybody who does not believe in the present set up of devolution in this country then can only be asking for a revolution in this country. So, how is devolution going to work if we cannot, as Senators, have oversight over the funds that we ourselves vote to go to the counties? You have noticed that many Governors say that they have now changed their tune. They say that the oversight role is by the county assemblies and not by the Senate. To us, that is a very ridiculous argument and it needs to be clarified and seen for what it is. If Senate does not have that role, then I cannot understand who is going to have it. I want to urge my brothers and sisters, fellow Senators, not to relent and to keep the fire burning on the issue of our oversight role until we are able to deal with it finally.

Mr. Speaker, Sir, we have been talking about loss of funds in this country at the national level. The Auditor-General talked about Kshs500 billion and almost Kshs300 billion going to corruption. Even as we talk about the wage bill, we need to consider seriously about sealing the leakages that are there in the national government system so that the Kshs300 billion ceases to leak and it reaches the people. If you think about what that kind of money can do for this country, then you will see the need to talk about

corruption; candidly, without fear or favour. We should talk about it as a bipartisan policy in this Senate.

The President also talked about the sovereignty of the nation and also of the African states. This is an interesting topic, particularly now. The African Union (AU) states are having a conference with the European Union (EU) States in Brussels today and tomorrow. The issue of sovereignty is very important. At the end of the day, the Economic Partnership Agreements (EPAs) which the President referred to on page 9 of his State of the Nation Address between the EU and the African Caribbean-Pacific and European Union (ACP-EU) nations is a very important tool of trade. However, this is supposed to be an agreement. We know that the Europeans are pushing us and insisting that if we do not sign the EPAs by October of this year, then they will move us to the regime where we do not have the duty free or quota free facilities as African Member States of the ACP-EU.

They are pushing us to sign the EPAs, never mind that the agreement has not been reached, by giving us a unilateral deadline. The only reason they can give us a unilateral deadline is because of the feeling they have of more sovereignty than we have. They also feel that we need them more than they need us. That attitude, in my view, must be disabused. The reason they want to force us to sign the EPAs, which the President has referred to, is partial and must be seen for what it is. They want us to continue to be the sources of raw materials while they continue to be the people who give us the finished products in this country. That, to me, is completely unacceptable.

The first President of this country, in 1963, made one major statement when he said that we may be poor but we are proud people and that we have a proud heritage. That pride of heritage and sovereignty must continue to govern us and to lead us as a nation. The EPAs, if signed as unilateral documents, forced on us by the European Union, will cause havoc in this region. Partly, that will bring a breakup of the East African Community (EAC). The EAC must be protected, at all costs, so that it thrives. Some people who want to revive the history of this country have been writing in the papers, telling us that the Community is not good for this nation. They are saying that we cannot have a monetary union in this region. They have said that it failed in 1977 and, therefore, it will fail again. That attitude is defeatist and shows lack of understanding. It is lack of understanding that our strength lies with the interstate trade of the African region and not so much with European countries that are, most likely, looking for our raw material.

As long as there is no agreement, I want to beseech the President and his Government to ensure that our country does not sign the EPAs until outstanding issues, particularly the export tax, the issue of the most favoured nation and other issues are dealt with once and for all. When he signs the agreement, we should know that we have entered into it with our eyes open and that we will take the consequences. However, if we sign it the way it is, two things will happen and I can see that clearly. It will be a nail in the coffin of the EAC that we have worked very hard to have.

The EAC has over 250 million people. That is a very big market. Uganda is our biggest trading partner in the world. That is a fact. We cannot sacrifice Uganda, Tanzania, Rwanda or Burundi or the countries in the Common Market for East and Southern Africa (COMESA) region so that we continue to have an exploitative trade with the Europeans which, at the end of the day, does not benefit this country.

When we talk about EPAs, there is also another issue that goes with that of trade in this country which has continued to bother me. This is the spur of trade towards building a nation towards achieving our Vision 2030. How will we achieve Vision 2030 unless we spur trade in this country? I worry because the last few months and the coming month of June, the banks and insurance companies continue to put their quarterly or half-yearly results, you will continue to see that they are making substantial sums of profits after tax.

The question I keep on asking myself is: Why is it that we now hear of figures that we never used to hear about before? Banks are making Kshs7 billion, Kshs8 billion, and Kshs10 billion or Kshs20 billion after taxes. The interest rates continue to soar and yet we borrow money at either 16 per cent or 18 per cent or even 20 per cent. Although I am not an economist – there are many of them in this House – something must be wrong. If a company can have an after tax profit of so much money and yet the person who spurs that growth continues to borrow at 16 percent, 18 percent or 20 per cent; the converse must be true. If the banks have become so profitable, at the same time, the rates should come down substantially so that we spur economic development in this country. We should develop, invest and, therefore, build an economy that is strong which does not rely on foreign countries which we have continued to deal with, unfortunately.

Finally, I would like to look at the issue of peace and security. It is common sense and common knowledge that without peace and security in any region, it is not possible to have a fully fledged economic growth. All of us know that although we may want to castigate the Government, unfortunately, we are in a situation in the Horn of Africa region where there is a lot of insecurity caused, not by us but by our neighbouring countries and, as you know, you do not choose neighbours. Somalia is our neighbour and will remain our neighbour. There is rising insecurity in Somalia. Therefore, for that reason, and the fact that there have been fights in South Sudan, we will continue to have proliferation of small arms or other arms.

We need to support the Government policy in issues of working towards security. I admit and agree with my colleague Senators that the issue of insecurity is of tremendous worry to all of us. This is a matter of great concern and each one of us now feels so much insecure that they do not know how their neighbour is. I was shocked, recently, to learn that a fellow Member of Parliament had been shot outside his gate. I wondered what will happen to the people that he represents and what they feel if we are feeling a sense of insecurity. We need to support that position so that we have continued peace and security in this country. I urge the Government, with the threats we have of terrorism, to enhance its efforts towards building formidable peace and security in this country.

Finally, I want to touch on the issue of the new Constitution that we have been talking about. The Constitution has good things but it also has areas that have made it difficult for us to proceed as a people. The issue we were discussing this afternoon; the one that Sen. Wetangula and others spoke about, with regard to not getting adequate answers is a constitutional problem. We need to look at our Constitution, our Standing Orders and the enabling laws. We cannot continue to talk about matters of insecurity and ask Chairpersons of Committees questions when we know that many things they are saying are their own personal opinions. Once they complete giving the statement, that is it and they have nowhere to go.

In the Ninth and Tenth Parliament, the Cabinet Ministers stood and gave answers. If they were not satisfactory, he or she was told to go back. We must look at our system. I have published a short paper on this. We should have the Constitution or the law changed. The Constitution does not forbid the appointment of Deputy Cabinet Secretaries. It does not talk about it and that means that it can be done and neither does it say that a Cabinet Secretary cannot come here and address a Committee of the Whole on the issues that exist. I think these are issues that we need to think about. This is, obviously, hampering the way that things should work, not just in the Senate but also in the National Assembly. We need to see the face of the Government talking to the people in the Senate and National Assembly, dealing with issues of insecurity, education and all other things so that the citizens of this country know what is going on. They should know that when a Member who represents them asks a question, this is a serious question that will not just be answered by a colleague who may not have full knowledge. We have seen Chairpersons of Committees trying to answer questions in this House but again you will hear them say; "I am afraid, that is all I can say. I know nothing else, however, much you may keep on asking." Even if you were to send them back, unless the Cabinet Secretary comes here and is interrogated by the House, it will be very difficult to deal with such issues.

It is my honest opinion that this is a very good state of the nation Address. It sets out the issues and talks about them. If somebody wants to know more than what is involved, they can always look at other reports.

I beg to support.

Sen. Orenge: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to the Presidential Address. Although I was away when this Address was given and would have liked to be there to listen to it, I have had the opportunity to read the Speech carefully together with the Reports accompanying it.

Right from the outset, I want to say that the governing of Kenya is not just a responsibility of the Government. This is a responsibility of the people of this country. That is why the Constitution states in very clear terms that sovereignty belongs to the people and the organs of state exercise authority as a delegated function of authority in the manner that is clearly set out. This Constitution makes it possible, at all levels, for the

people themselves to participate in issues of governance including the Parliament; National Assembly and the Senate.

I was gladdened and heartened by the fact that the President included a Report relating to the implementation of national values as set out in Article 10 of the Constitution and said as much in his Speech. One of the most important values that are contained in Article 10 is the rule of law. Additionally, there are the principles values of transparency and accountability. Governments normally rely on what the Executive does. If you have any country where the Executive does not follow the law as spelt out in the basic law, then problems begin.

Although there have been recommendations to the President and to the Government with regard to the way they have run Government in the last year or so, I do not want to say anything to the contrary, but they must be judged upon constitutional principles. We should find out whether in reality we can say that the Government is being run in a manner directed by the people after we promulgated the Constitution of Kenya in August, 2010.

One of the things that the President can help us with is that of the rule of law. It should be made clear that the President shall not assent to any Bill unless he is satisfied that Article 110 of the Constitution has been complied with. Because if this remains a matter in which he continues to keep silent, then I must say with tremendous respect that we should consider ourselves not really as part of the legislature of this country but a mere peripheral body in the structure of the legislature because it would then mean that the trend that has been established where Bills go to the National Assembly without any participation of the Senate will continue.

I am glad that so far – I am not aware of any evidence to the contrary – other than the Bills that were assented to during the month of December and January or thereabouts, the President has not assented to any further Bills. But we would want to hear from him openly and clearly in a public statement – because this is a matter of the Constitution – to the effect, unequivocally, that he shall not assent to any Bills that have not been debated or dealt with in accordance with Article 110 of the Constitution. I want to invite my colleagues on the opposite that this is a matter in which they can help the Senate and the country better because otherwise, it would mean that the entirety of the Senate is just a debating club. It is true that in so far as law making is concerned, in one year, this Senate that consists of people, I really respect, only two Bills have gone through this Senate that have become part of the laws of Kenya. Other than the issue of oversight, the principle responsibility of a legislature is law making.

So, we must not be shy about saying this; that over the last 12 months, this Senate, the component of law making of the part of this Senate has almost been zero. We have been given the warning light that you can bring as many Bills as possible through the Senate but as to whether or not they are going to be accepted as law is another question. I hope that this is a matter which the President should bring to a close because the Supreme Court has spoken on this matter and they have said clearly that any law that

is enacted or purportedly enacted that has not been settled in the Senate or has not been subjected to Article 110 of the Constitution cannot be a law as envisioned by the Constitution of the Republic of Kenya so that one day when we have Kenyans of another generation who may want to take an audit of the laws that were made during the year of Messrs. Mutahi Kagwe, Keter and Mutula Kilonzo Jnr., they will find that no legislation in that period was made in accordance with the law. That would be a very bad statement on our part.

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

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

Mr. Temporary Speaker, Sir, secondly, when we are talking about this issue of security, I think the first principle is to admit what the Constitution says because we elected a presidential system of Government as opposed to a parliamentary system of Government. The Constitution is so clear that in terms of executive authority, it is exercised by the President of the Republic of Kenya and is assisted by the Deputy President and Cabinet Secretaries. The Constitution also says that the President is the Commander in Chief of the Kenya Defence Forces and the Chairman of the National Security Committee which has the responsibility not only to integrate policy but supervise security matters and operations in the country.

In line with the recognition in the Constitution that the disciplined forces so to speak which include the police are subject to civilian authority, in the National Security Council of this country, out of a membership of about 11, eight of a number thereabouts, are members of the Cabinet. Only three are non-members of the Cabinet. The President, the Deputy President, the Cabinet Secretary for Internal Security, Foreign Affairs, Defence and the Attorney-General in order of ranking are the superior bodies in the National Security Council. The only three public or State officers who sit in the National Security Council are only the Chief of the Defence Forces, the Inspector-General and the Director of Intelligence. So, in matters to do with security in the constitutional arrangement in Kenya today, the responsibility stops with the President and members of the Cabinet and the National Security Council.

Mr. Temporary Speaker, Sir, in fact, to put this matter more appropriately is that if you look at the appointments within the security apparatus in this country, they are all presidential appointments, for example, the Inspector-General and the Director-General of the National Intelligence Service are appointed by the President. I remember when we were discussing the legislation to do with the National Intelligence Service, there was a suggestion that the Director of Intelligence should have security of tenure that cannot be interrupted by a new president. I think Parliament in its wisdom said that when a new President comes in, he must have a Director of Intelligence with whom he is comfortable within the operations of Government. That is the law of the land.

So, I would want to disagree with those who want to suggest that if there are security failures on the part of the organs of Government, then responsibility should be borne by these particular security agencies. When President Carter sent a team to try and rescue Americans who had been detained at the United States Embassy in Tehran, people said; okay, he tried, it was not his problem, but the people did not understand him because they wanted a President who if you ask them, they would want to feel that they are secure under his leadership. I want to say to this Senate that today if Kenyans do not feel safe, then the Principal State Officer in Government who is the President must bear responsibility. It cannot be the responsibility of the Inspector-General in accordance with this Constitution. If he feels that there are failures within the national security organs, then he must do something to show that indeed there are those failures. For example, when he promised that he was going to have a commission of inquiry in relation to what happened at the Westgate, he changed his mind and we have information that he was being compromised by a certain head of security forces to the effect that discussion of any---

Sen. Keter: On a point of order, Mr. Temporary Speaker, Sir. With due respect to Sen. Orengo, he has said that he has some information that the President of the Republic of Kenya was compromised by some agents. Could he elaborate who compromised the President?

Sen. Orengo: Mr. Temporary Speaker, Sir, I have the information in the sense that he made a public commitment that he was going to establish a commission of inquiry and he failed to do so. Being a Senator and somebody who was working in Government, my sources tell me that the President changed his mind purely because elements within the security forces said that they were not going to appear in a public forum to discuss the operations at the Westgate. If Sen. Keter has any other answer apart from what I am telling him, then he is free to say so. But this information that I have is information that cannot---

Sen. Keter: On a point of order, Mr. Temporary Speaker, Sir. I want to agree with Sen. Orengo that issues of security are very serious. He has gone further to say that having been a Cabinet Minister, he has got some information that some security agents prevailed upon the President not to form a commission of inquiry. I think this is a serious allegation. He needs to elaborate who these security agents are for record purposes.

Sen. Orengo: Mr. Temporary Speaker, Sir, I said that I have information but I did not say that I was going to disclose the sources of my information. But if he has anything to suggest that the sources of my information are not correct, then he is free to say as much, but I am sure he will not have any other reasonable explanation other than what I have stated.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Whereas I agree that you are a good debater, sometimes it is good to be reminded of Standing Order No.94 which states:-

“A Senator shall be responsible for the accuracy of any facts which the Senator alleges to be true and may be required to substantiate any such facts instantly”.

So, if there is a demand for that substantiation and you cannot do it now, just withdraw and proceed with your contribution.

Sen. Orengo: Mr. Temporary Speaker, Sir, I know that this Government is overwhelmed, it is fumbling on issues of security, but this is a matter on which I cannot withdraw because I have the information and a right---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Orengo! The Chair just read to you a Standing Order and I am not in a hurry to invoke Standing Order No.110 to rule you disorderly. Please, just do the respectful thing and continue. Just withdraw.

Sen. Orengo: Mr. Temporary Speaker, Sir, I said that I have information that the President was compromised. I do not know whether you want me to substantiate whether the President was compromised or not and what is the basis of the information I have which I have given or you want me to give the source of the information. The fact is clear and I can repeat that on the basis of the information I have; the Judicial Service Commission of Inquiry which the President made a public commitment that he was going to establish, they have not established it.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Orengo. Just freeze there. Please withdraw.

(Sen. Orengo stood up in his place)

Sen. Orengo: Mr. Temporary Speaker, Sir, I have already said that I am not going to withdraw because I have the information.

The Temporary Speaker (Sen. (Dr.) Machage): Very well, then I will order you out of the House for the rest of the day. Serjeant-at-Arms, make sure this is done.

(Sen. Orengo withdrew from the Chamber)

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

Sen. Kagwe: Thank you very much, Mr. Temporary Speaker, Sir. I rise to also make my comments on the President’s Speech. When the President stands in front of the Assembly, he is not just an individual; the President is the symbol of the nation, as rightfully, former President Moi used to remind us all the time. The President is the symbol of the nation in the sense that the Office of the Presidency is probably the most important office in this land and, therefore, when we refer and address this particular President’s Speech, it is important for us to keep this in mind and to remember that whatever our ideas are or whichever side of the House we sit, by the end of the day, the President is a representative of Kenya as a whole. The respect we should carry is, therefore, the respect for the office; not even so much the respect for the person, rather

the respect that, that office should have in our minds and in all Kenyans' minds. Therefore, when we do so, I have no doubt in my mind that we do so with respect, irrespective of whether I agree with the statements or not; whether I agree with the President or not, It is important that we do so with some modicum of respect.

Having said that, Mr. Temporary Speaker, Sir, I would like to touch on what the President spoke about *vis-a-vis* the economic recovery of our nation. I have sat here and listened to the contributions being made and accusations that the President made no reference to the recovery of our economy. As a businessman, in addition to being a Senator, I know one thing; that the cost of doing business is the largest handicap as far as the development of business in our country is concerned. One of the issues that the President addressed is the matter of the generation of electricity, because for any outside investor, the first consideration is the cost of electricity. The cost of electricity in South Africa is 6 cents per Kilovolt; the cost of electricity in our nation is 18 cents. Therefore, when anybody is coming to Kenya, they will wonder "what is it, over and above the cost of electricity, am I getting so that I can invest in that country?" The fact that the President promised that over the next three years, Kenya is going to add an additional 5,000 Megawatts to our national grid is what is going to be a substantial key –not necessarily the panacea – but generally, it is going to be of critical importance because of bringing down the cost of electricity. That is going to generate a lot of operations that can create the jobs that each one of us really wants to achieve.

Mr. Temporary Speaker, Sir, we are also aware of the diversity the President spoke about. He spoke about diversifying our economy and we know that, for the first time, we are going to be an energy and mineral producing nation, and this diversity in the investments that people can make in our country can surely create jobs. I think nobody speaking in this House will suggest at all that we do not increase the opportunities that our youth have. But for them to do so, there are certain steps that must be done so that opportunities for the youth increase. For example, talking about the security of our nation, nobody is going to invest in an insecure nation. The kind of crime that we are faced with today in Kenya is such that we need to rethink about our justice systems.

Mr. Temporary Speaker, Sir, I respect our Constitution, but we are faced today with circumstances that were, perhaps, not envisaged at the time we were creating the kind of justice system that exists today. How do you deal with an individual who actually wants to come, commit a crime and die in the process of committing the crime? You cannot, surely, say that you are going to arrest an individual like that! You cannot surely say that evidence is going to be given against an individual like that! Therefore, even as we talk about justice – and indeed I support the fact that we must have it – we must also rethink carefully; we need a paradigm shift in our thinking as far as security is concerned.

Mr. Temporary Speaker, Sir, firstly, the aspect of religion in our schools – be they be Christian or Islamic fundamentalism – is something that must be addressed and we must remove religion from our schools because this is where ideas – of terrorism, hating others and ideas that are not conducive to national unity – come from. Therefore, I would

like to urge the President to institute that according to our Constitution, religion has no room in the classroom. It is time to implement this to the letter and ensure that no Christian or Muslim fundamentalist is brought to the classrooms to train people to kill other people or Kenyans. This is part of the security address that must be made.

Mr. Temporary Speaker, Sir, the use of technology, as the President himself rightly pointed out – the issue of the Closed Circuit Television Cameras (CCTVs) – CCTVs are no longer things that are run in large cities. CCTV today is something that people are using in their own houses. It, therefore, means that it is not difficult for the Government to insist---

Sen. (Dr.) Khalwale: On a point of information, Mr. Temporary Speaker, Sir.

Sen. Kagwe: I will accept the information, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Khalwale: Thank you, Mr. Temporary Speaker, Sir. What the Senator is raising is very important. In fact, if you now go to Kiambu, it is so well covered with CCTV that they have even put cameras on trees. So, he is quite right; it is nothing mystic.

Sen. Kagwe: That is correct, Mr. Temporary Speaker, Sir, in spite of the amount of the sarcasm---

The Temporary Speaker (Sen. (Dr.) Machage): What is the mischief?

Sen. Kagwe: No amount of sarcasm is going to stop me from advocating for CCTVs across this country.

Mr. Temporary Speaker, Sir, it will not surprise me at all if the hon. Senator for Kakamega actually has CCTV in his own house. It will not surprise me in the least because it is, indeed, a matter that can get us--- These are no longer alien. As you can see, analogue thinking is such that people still think that these are things that are very huge and can only put in a very wealthy place. These are very simple gadgets now; their cost has become so low that county governments can actually afford to install them. And not even that; the cost is such that the Government today can insist that if you are running a public place, ensure that you have installed CCTV in your place. Because if you go round the estates, when you look at the *Daily Nation* and the *Standard* newspapers when they are advertising for properties, even advertisements for very cheap apartments and so on declare “CCTV available.” So, if CCTV can be made available in these places, it goes without saying that the only reason why CCTVs are not available everywhere is because of the kind of thinking that my colleague has; that it is a major issue. But it can be done in a manner that satisfies both the consumers and also ensures that we have got security in our country.

Mr. Temporary Speaker, Sir, I also want to address that matter of CCTV *vis-a-vis* possible abuse. The President himself spoke at length about the issue of technology and use of technology in terms of broadband, and so on but what we have to be careful about that. What the President should be made aware of is that there is also attempt to abuse the same system by people whose greed overrides their responsibility to duty and to the people. Last year, the military surrendered some of the frequencies it has been using, and these frequencies were taken back by the Government in order to upgrade the military

system. What that meant is that they freed the frequencies, such as the 800 megahertz range, so that they can be used for purposes of security in the country by rolling out 4G and also ensuring that other people who may want to provide and work together with security forces can be given these frequencies.

Now, there are those people who would like to be allocated the frequencies as individuals and then sell them back to the Government, something akin to how it used to be years back when people were allocated properties by the National Social Security Fund (NSSF) and the National Hospital Insurance Fund (NHIF), and so on, and then sell them back to Government institutions at exorbitant prices. Basically, this is theft. Therefore, this is something that, hopefully, the President is going to be alive to so that we do not end up wasting money from the Government. The Government should simply sell the frequencies to the users of the frequencies; there is no need to go through third parties to do so.

Therefore, Mr. Temporary Speaker, Sir, I believe that with the kind of motivation and Speech that the President made, it is possible for us to look at it positively if we wish to – and I think we should – and it is possible that the values that he spoke about in his Speech are enhanced. But for values to be enhanced, one of the issues that must be addressed by our people, our Senate, our National Assembly and leadership as a whole, is the issue of discipline in our nation. When we talk about corruption, it is a symptom of indiscipline in our society. When we look at how our drivers behave – never mind about alcoholblow – when you look at the indiscipline that our society has, then you can appreciate that until and unless we address the issue of indiscipline all the way from the schools and into the work places, we are not going to develop this nation.

Mr. Temporary Speaker, Sir, when Singapore started its move from a third world nation to a first world nation, the first thing they addressed was the issue of societal discipline, where you have a responsibility towards your neighbour, and your neighbour has a responsibility towards you. That is why they went to the extent that you could not chew bubble gum and throw it on the road; you could not throw a piece of paper on the floor; you could not eat a banana and throw its peeling outside your car window onto the road; and if you did so, you were so heavily fined because when you do that, it means that you do not care about the driver who is behind you. You will find people drinking water today and throwing the bottle right out of the bus to the extent that it can even hit the windscreen of another car and cause an accident; this is pure and complete indiscipline!

When you see *matatus* behaving the way they behave, they are our representatives as an indisciplined society. Therefore, until we address our indiscipline – and indiscipline starts all the way from school, where we teach our children that doing certain things is wrong – like stealing a pen from another person is wrong; abusing another person is wrong; denying another person their rights is wrong – only a person who is trained like that can then be an adult who is also going to be a disciplined individual. But when we allow the teacher to be the example of drunkenness in the village; then we agree and

accept that, that teacher is the one who is going to discipline our children so that our children can grow up disciplined, the only thing we can be sure of is that, that child is going to grow up aping and believing that being drunk is a very hippy thing or a very good thing to show, because that is what the teacher has shown them.

So, the matter of discipline in our society is an issue that we need to address as a society. We should ask ourselves “where does it begin and where does it end?” Even in our own houses and even in Parliament – you travel overseas with parliamentarians and you see serious indiscipline, where people will leave duty and go to shop for suits, clothes and bags! These are people who are representing our country out there in London, Johannesburg and in Madrid, and all they are doing is shopping!

Hon. Senators: Shame! Shame!

Sen. Kagwe: Mr. Temporary Speaker, Sir, this is the indiscipline we are talking about! These are the things that, whether we like it or not, we have to address them as individuals because every time, as legislators, when we point at the nation, we point at the President for what we have not done, and we must shamefully point the other three fingers at ourselves.

(Laughter)

The symbol of pointing is such that when I point at Sen. (Dr.) Khalwale, three fingers are pointing back at me. Therefore, as we look at the President’s Speech and criticize the President – and we should rightly do so; it is the duty of some of us in this House to do so. As we do so, we must also ask ourselves very serious questions regarding what we can do for our country and not what the President can do for our country.

Mr. Temporary Speaker, Sir, I support the Speech.

Sen. Obure: Thank you very much, Mr. Temporary Speaker, Sir, for the opportunity.

Mr. Temporary Speaker, Sir, last week on 27th March, 2014, the President delivered his Address to the nation. That was a very important day, because people were waiting for this message. The President was required by the Constitution to address the nation and apprise it on what progress has been achieved or is being achieved in terms of promoting the national values and principles which we, Kenyans ourselves, adopted when we adopted the new Constitution.

Mr. Temporary Speaker, Sir, the values and principles which we want to promote are very well defined and understood. There are issues of national unity, community integration and cohesion, devolution, equity and social justice, protection of the marginalized groups. We were also expecting the President to apprise the nation on the performance of the economy; why interest rates continue to be prohibitively high and how many jobs are being created in this economy at the moment. We also expected to hear something about the menace of unemployment, the state of the country’s security, the cost of living and many other issues.

Mr. Temporary Speaker, Sir, many of us know the President as an energetic and very well informed person. He is down to earth, very pragmatic and understands the various challenges facing the nation. Therefore, the expectations were very high. But his Address, in my opinion, fell short of the expectations in many aspects. He failed to reassure anxious Kenyans of their security and livelihoods, going forward. The Speech has not given Kenyans any hope, in my opinion.

Mr. Temporary Speaker, Sir, talking of national unity, human dignity, equity and social justice, I read on page 3 of the Speech, paragraph two, and I quote:-

“In conformity with the constitutional values of national unity, human dignity, equity and social justice, my Government is committed to bring an end to the suffering of Kenyans who have been displaced and were living in camps, by allocating adequate resources to resettle them.”

On the same page, he continues to say how a cash payment programme has been put in place and Kenyan households are receiving Kshs400,000 and so on. In this House, I represent Kisii County and during the events following the general elections of 2007/2008, the Abagusii Community was among the most affected during that violence. While members of other communities moved to live in camps, the Kisiis who were on the run did not do so because it is not their way of life. It is taboo to live in camps, and I believe that it is also taboo for other communities, particularly in Western Kenya. Instead, they moved to seek refuge with relatives back in Kisii and Nyamira counties. Many of them went there completely empty handed, leaving behind their properties and belongings. Many of them are still, to this day, supported by those relatives. Some of them are also supported by churches and other well-wishers, and live miserable lives. The Government, of course, registered these people and their whereabouts and living conditions are known and documented. We are now told that those who were displaced and moved to the camps have been settled and some of them, like those in Sen. Murkomen’s county, have actually been given cash handouts to the tune of Kshs400,000. None of those in my county have been given any assistance whatsoever from any source in the Government.

Mr. Temporary Speaker, Sir, today, this Motion is asking us to record our thanks for the exposition of public policy as contained in the President’s Speech. The question is: What do the Kisii people thank the Government for? What do these IDPs thank the Government for? Other IDPs have been settled and given financial compensation, but those from my county have not been given such treatment. They have neither been settled nor received any cash compensation. What human dignity are we talking about if people are going to be allowed to live in those kinds of conditions? What equity and social justice are we talking about? I am raising these issues on the Floor of this House because they are very pertinent, particularly to the people who left their homes in those circumstances.

Mr. Temporary Speaker, Sir, the other issue is security. We can talk about lofty plans, growing our economy and peace, but if there is no security all, that will be empty

talk. Security, therefore, continues to be a major challenge and issue of great concern to all right thinking members of our Kenyan community. I, therefore, want to welcome the various measures outlined in the President's Speech. In particular, I would like to appreciate the substantial investments which have recently been channeled to the area of security, in terms of equipping the security apparatus and agencies, to enable them improve their performance. But security and safety of Kenyans and their properties is a matter that cannot be left to the national Government alone. This is a matter which every citizen of this country must be involved in. In fact, we must accept or learn to be each other's keeper, if we want to upgrade our security.

Mr. Temporary Speaker, Sir, in this Senate, we have debated and passed Motions urging the national Government to formally engage this category of people in villages called *wazee wa kijiji*. These are people who understand their environment and the conditions in which residents in their villages live. They are respected and help us to sort out differences between members of the community. They know which among their sons is not upright. For many years the relationship between them and the Government has been very informal. I think time has come when we should try and set aside some funds to compensate them for the services they render. That would be a very significant measure in terms of enhancing community security.

Mr. Temporary Speaker, Sir, we have also talked before about the role which police reservists play, particularly in more difficult areas or areas with difficult terrain in our country. Their contribution to guaranteeing security is so critical. Therefore, we need to engage these people formally, give them allowances or a salary because we are convinced they will help in improving security where they operate. The role of what we used to call the Criminal Investigation Department (CID) is no longer seen. This is one department of the police which has failed miserably because they are not able to undertake reasonable or comprehensive investigation. That is why many times people have attempted to take the law into their own hands.

I have a situation in my own county where public secondary schools are being burnt down, one after another. Some of them have been burnt down in a span of a few months. People will burn down a school because they are unhappy about something. This is a criminal act and should never be allowed to happen. These things happen even as the police are based a short distance from these institutions and yet nothing concrete has been put in place to arrest those situations. We need to do something about the CID. I do not know whether it is their training or their morale, but something needs to be done quickly to ensure that they perform.

Mr. Temporary Speaker, Sir, regarding the performance of the economy, for many years, the economy in the rural areas, including where I come from, has been depended on agriculture. That is where people derive their livelihoods and yet the sugar cane industry is collapsing. Farmers no longer expect to derive their earnings from activities in cane farming. Tea industry is today dying out. Just like coffee, it is going to be a dead industry in a few months because of the high levels of tax imposed. We need to

do something very quickly because these are crops which have supported the economy for a long time. They have provided employment to people and supplemented the income of the people involved.

Mr. Temporary Speaker, Sir, finally, regarding the issue of laptops, I know this was a great idea, but we are using huge resources to invest in an area which is most likely to go to waste. It is never too late to review this policy. Let us go for a programme where we can build laboratories in every school so that all the students in that school are involved. We are going to give laptops to children who are five years old and yet we have older children in the same school. They will take it away from them and you will never see them again. Why can we not get a facility in which all the students in that institution can benefit?

With those few remarks, I oppose.

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

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

Sen. Keter: Mr. Temporary Speaker, Sir, thank you for this opportunity. I want to say from the outset that I support this Motion. I support it in the sense that the President's Speech touched on all areas. He also called upon all of us, as leaders, to contribute in all the aspects he mentioned. When you talk about security, high cost of living, the Internally Displaced Persons (IDPs) and so on, it calls for the collective responsibility of elected leaders who represent counties or constituencies. The comments which have been made by my colleagues are very constructive in the sense that those who are opposing are not doing so for the sake of opposing. They are also giving ideas on how to improve. Those are positive ideas. In the end, they would have contributed positively towards the Presidential Speech.

I want to start from where my colleague from Kisii, Sen. Obure, has mentioned about the IDPs. In the Speech, the President said that about 8,000 households have benefitted and about 700 have been paid Kshs400,000. He said that the exercise continuous. He did not say that from that point the exercise had come to an end. I want to appeal to my colleagues that this is an exercise which is continuous. There are also integrated IDPs in my county, Kericho, whereby some left where they were working and came without anything. They went and joined their relatives and were classified as integrated IDPs. Up to now, they have not been paid a cent. These people left their land and property so they are in the same predicament as those my colleague talked about. I want to thank the Government for one thing; there were IDPs who we call "government generated IDPs" by the former Prime Minister. These are the Mau evictees. I want to thank them because they fulfilled their mandate in exercising their right of voting. I remember in the 10th Parliament the former Prime Minister is on record that---

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Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. For purpose of record in this House, I think it would be disorderly for this House to record from the Senator that the Prime Minister unilaterally asked people to leave the Mau. The decision to leave Mau was a decision of the Grand Coalition Government where he was a stakeholder. The Prime Minister and his people were also stakeholders and a decision was made. So, let that be on record so that we do not vilify Raila Odinga. He has since left, he is not a threat to you, we are the ones who are a threat to you. Is he in order to mislead the House?

Sen. Keter: Mr. Temporary Speaker, Sir, I wish to inform my colleague that at that time, I had been sacked from the Grand Coalition Government. I was the first Assistant Minister to be sacked for not having done anything wrong, but for not following the former Prime Minister. I want to say that it is on record, on the Floor of the House, where he said that he was ready to go and bake *mandazis* and *chapatis*. He said that and it is on record. I know the exercise might have been carried out by the Grand Coalition Government, but he was the leader.

I am thanking the Government for---

Sen. Obure: On a point of order, Mr. Temporary Speaker, Sir. I do not think we should allow this to go into the records of this Senate; that IDPs were generated by the former Prime Minister. We know that this was a Government policy that we were - all of us - pursuing as a coalition Government which was at that time led by retired President Kibaki.

Sen. Keter: Mr. Temporary Speaker, Sir, whether this was a policy by the Government or not, I have said, and it is in record that the former Prime Minister, on the Floor of the House, in the Tenth Parliament, said that the people who were in Mau Forest had to be evicted. He said that he would not compromise. He said that he was ready to go to Kibera and cook *chapati* and *mandazi*. He said that and it is on record. I am just reporting what he said.

The Temporary Speaker (Sen. Murkomen): Order! I think we need to proceed. As far as I am concerned, Sen. Keter has given his own personal account of the situation at that time. At no time did he say that it was the policy of the Prime Minister. He said the former Prime Minister was the one prosecuting the matter. To the best of my knowledge, Sen. Obure and Dr. Khalwale have given their perspectives of the same matter.

Sen. Keter: Mr. Temporary Speaker, Sir, I was saying that I am happy, indeed, that all the Mau evictees, but not all of them, were rescued. There are some who remained and should fall under the category of people who did not benefit. There are some who were evicted from Embobut Forest that were left out and likewise the integrated IDPs who have not benefited from the exercise.

The President said that the exercise would continue. We will make sure that enough money is given so that the area they had settled on is cleared. We do not want to see white tents and people who are suffering saying that they lost their properties. This is

something we should encourage as leaders. We should look at what has already been done and look at how much we still need to do.

The other area that the President talked about elaborately is the energy sector. He mentioned, on page 5, in part; “that a key pillar of the foundation is a strong diversified economy. Hon. Members, expensive energy has been a major constraint to the realization of our economic dream.” This is, indeed, true. The cost of living is high. The cost of goods in this country is unbearable. He elaborated the policies that the Government intends to carry out. He said that they have moved to the most elaborate one which is the provision of 5,000 megawatts. Currently, we are doing about 1,600 megawatts. It is a pity we are talking about 1,700 megawatts, 50 years after Independence.

Other economies like South Africa are talking of between 30,000 megawatts and 50,000 megawatts. Nigeria produces almost 50,000 megawatts. Egypt is producing thousands of megawatts. Kenya is supposed to be in the league of the countries I have mentioned. However, how do you do that when you are doing about 1,700 megawatts? Therefore, this is an elaborate exercise by the Government. Even if we were to achieve 5,000 megawatts or even double our today’s generation, that would lower the cost of energy.

Currently, our electricity bills are very high. The items being charged in the bills like the petroleum levy, as a result of the Independent Power Producers (IPPs), is charged at unit cost which is about 22 cents per dollar. If we move to the elaborate measures that the President talked about like the coal plant in Lamu, that will cost us about 8 cents compared to about 22 cents. You can see the savings in terms of the margins. That will contribute a lot towards the economy. When you go to the Liquidified Petroleum Gas (LPG) project in Mombasa, the 1,000 megawatts which is also based on 8 cents of a dollar, you will see that the upcoming projects are very vital. If we complete the projects, the cost of operating our businesses will come down.

The President also went ahead and mentioned the Lamu, Lokichor Pipeline which is crucial in the sense that we are having explorations of oil which has been done. We are having oil discoveries in Turkana and we need to explore that. Ghana did their plan of exploration of oil within three years after which it was up in the market. That is how they fund their economy. Uganda has also discovered oil, but has taken long to explore it. They are pursuing the idea of the East African Community (EAC) building a refinery in Uganda which does not make any economic sense.

As much as we are in the EAC region, it is better if we build a pipeline all the way from Lamu, Lokichar all the way to Uganda. We can also build a pipeline extending from Eldoret all the way to Turkana going into South Sudan. As we are talking now, South Sudan is having problems with its brothers and sisters because their refineries are in North Sudan. However, the oil wells are within South Sudan. So, the oil has to be piped through North Sudan. If we had an efficient pipeline, we could tap the market and evacuate their oil. That would open up the northern part of this country which for many years has seen no change. The leaders from this region in the Ninth Parliament and the

Tenth Parliament, including other Parliaments, have been talking about marginalisation. They have been left with oil. Kenya is a growing nation.

I want to talk about security which is very serious. The President elaborated measures on how to tackle security. If you read the Report on National Security – I know that a debate on this will come up after the debate on the Speech - you will see that we already have new vehicles. The 1,200 vehicles are everywhere.

We want to applaud the Government because the mere presence of those vehicles is a good sign. Even the criminals are scared when they see very good police vehicles moving around. Previously, they used to have vehicles that used to make very bad sounds and a motor bike would even go past the vehicles because they were slow. Right now, we have an increase of the Land Cruisers and Land Rovers. Those vehicles are there. There is an increase of security officers; one officer vis-a-vis 500 persons is a welcome exercise. We have few officers. We also want our police officers to change their attitude. No matter how much equipment is given to them, if their attitude is not ready for change, then the security problems will continue.

We also want the people in charge of security, as Dr. Khalwale said, to carry out fair transfers. There should no victimization. We do not want a police officer who has committed an offence like the ones who were being mentioned as victims of transfer to either my county or to the one of Dr. Khalwale. If a police officer commits an offence, he must be dealt with so that the problem is not transferred elsewhere. We also want police officers to be transferred on professional grounds, particularly if they are going to add value to where they are going or to new stations. We would not support victimization or where tribalism is being used as a basis to effect those transfers.

Finally, if we fix corruption, all these problems will be solved. For example, the wage bill issue. The President started with a good gesture by reducing his salary by 20 per cent and Cabinet Secretaries 10 per cent. The problem is that all the Cabinet Secretaries have chase cars. When Sen. Obure was the Minister for Finance I used to see him driving himself. The current Cabinet Secretaries some of who nobody knows and who I think are not under any security threat, are having chase cars fitted with sirens. I think Parliament needs to regulate the use of sirens because nowadays you cannot differentiate between an ambulance, a fire brigade vehicle, a Governor's vehicle or a Cabinet Secretary's vehicle. So, sometimes when the Deputy President is on the road, people do not give way. Even when an ambulance is rushing to evacuate people involved in accidents or who have been subjected to terrorism attacks, people do not give way because they imagine it is a Governor moving around.

I beg to support.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir, for the opportunity to contribute to this Speech. From the outset, I must say that somebody obviously has either misled or given a wrong impression about the allocation of revenue as we can see on Page 2 where the President says that the minimum allocation is 15 per cent and, therefore, he chose to allocate them more than is required. That is not correct

factually because that determination is vested at the Senate of the Republic of Kenya together with the National Assembly. It should not appear to the Kenyan public that the Jubilee Coalition Government is choosing to allocate because it creates a very bad impression that there was a choice whether to have it more or less. The law says it and that is the issue we were discussing yesterday under Articles 203 and 219. It is not a choice. The law mandates that where there is an audited account, there must be sharing of that revenue.

Mr. Temporary Speaker, Sir, what is even more sad is that, while we want to celebrate that in the last financial year there was a double allocation of 32 per cent, we are all aware from matters that are before this Senate, that the allocation for this financial year is 23 per cent. There is nothing to celebrate. When the International Monetary Fund (IMF) Director was here, she gave out three things that this country must do if we must move forward. One of them which I want to mention is called complete fiscal devolution. If the national Government is retaining 77 per cent of the national revenue, there is nothing to celebrate.

We have stated as the Senate that the transfer of functions must be followed by resources. So, when we celebrate that functions have been transferred and yet Governors are spending a lot of time in our committee rooms saying that they are stuck, there is nothing to celebrate. We should be saying that we are going to devolve funds and not just the transfer of functions where funds have not been granted to the counties. So, I expected the President to take this opportunity to give an unequivocal assurance to the Governors that, in fact, the money that has been proposed by the Commission on Revenue Allocation (CRA); Kshs279 million is available and will be allocated to the counties because that is what the Kenyan people voted for.

Mr. Temporary Speaker, Sir, the issue of poaching is very sad. It is sad for many reasons. Most of the tourists are now going to Tanzania. Last year, several elephants were killed in a park in Tanzania and, consequently, not less than four Ministers were removed from office by Parliament. Rhinos are being killed as if it has now become a statistic. These animals that we love and preserve so much are employing Kenyans. I get worried when we are employing so many CCTV cameras on roads and other places to catch petty thieves and yet there are people who are interfering with the economy of this country by poaching our animals and leaving them for the dead and nothing is happening.

The President should declare poaching a national disaster and make it a very painful exercise. That is the measure that I would have expected the President to come up with so that if you are found poaching, you better kiss your life goodbye because you would spend the rest of your life in prison and we should possibly pursue your relatives and other people to compensate this country for animals that have been killed. Why can we not track our animals so that we know where our rhinos are? Why is it that these poachers are operating as if in this country, we do not value the things that matter to us most? So, if the Government is thinking of creating employment, while at the same time, it is not stopping these senseless killings of our animals, I can assure you that we are

going to retrench many people who are working in our parks and hotels. This is because we will not to attract tourists into this country for purposes of our wildlife.

I did not see anything about environment in this Speech. While it is true to say that you have resettled people who were removed from this forest, we must, in fact, state that for food security of this country, we must protect our forests. The forests where we are removing these people are forests that are giving us water. We need to remove these people from the Mau Forest and many other places. It is not enough to compensate people for destroying their environment. In places like Japan, the reason there is food surplus is because they have met the minimum threshold under international standards for food security by protecting forests. People are cutting trees in Mau Forest. I overflew the Mau Forest recently and I noticed that there are new settlements. There are more *mabati* houses in the Mau Forest. People are having fun. It has become a commercial venture so that when you go into the Mau Forest, you are assured that you will get a cheque of Kshs400,000 from the Government of Kenya. This is a disaster.

Sen. Keter: On a point of order, Mr. Temporary Speaker, Sir. I was really following the debate and did not want to interrupt the Senator. Is he in order to allege that those people have settled in the Mau Forest so that they can be compensated? Those are people on their land. It is only the Mau Forest which has extended to their pieces of land.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, is it in order for Sen. Keter while on a point of order to mislead the House that the people who had been evacuated from the Mau Forest planted the forest and the forest extended to where they have settled when we know that politicians in this country – we are prepared to give you names – actually bought out innocent Kalenjins from their homes and cheated them that they would give them land in the Mau Forest? Now when the Government throws them out of the Mau Forest, instead of asking these politicians to settle the people on those lands, they come and raid our Consolidated Fund.

The Temporary Speaker (Sen. Murkomen): Sen, (Dr.) Khalwale, you stood on a point of order, but you are now engaging in a debate. Yes, Sen. Keter?

Sen. Keter: Mr. Temporary Speaker, Sir. I have listened to Sen. (Dr.) Khalwale. He says some politicians made their people move from where they were staying to the Mau Forest. I think it is good that we do not speculate and just say “politicians”. Politicians can be many or a single politician. I am also a politician. So, would I be in order to request him to substantiate or tell us who these politicians are?

The Temporary Speaker (Sen. Murkomen): Sen. (Dr.) Khalwale? Remember the Standing Orders.

Sen. (Dr.) Khalwale: Yes, I do.

Mr. Temporary Speaker, Sir, a Member is not expected to substantiate on a matter which forms the record of this House. This matter touches on the record of the Parliament of Kenya which was tabled here by a Committee of this House. A Special Committee was set up by the former Prime Minister. Through the former Minister for Forestry and Wildlife, hon. Noah Wekesa, a report by experts was tabled and adopted by the House.

The hon. Senator was a Member at that time. That report showed who was supposed to move out, including one of the most powerful politicians in this country who has grabbed land and he has planted there a whole tea estate, and you know his name.

(Applause)

The Temporary Speaker (Sen. Murkomen): Point of Order---

(Laughter)

Sorry, I mean, Order, Senators!

I wanted to say that those points of order you are using, you are actually engaging in debate. A point of order is basically expected to correct a Member who is on the Floor, but it is now becoming a debate between Sen. (Dr.) Khalwale and Sen. Keter.

(Several Senators stood up in their places)

Order! Order, hon. Members! I think it is not appropriate for us to deviate from the subject matter. As far as I am concerned, Sen. Keter gave his own opinion, which like Sen. (Dr.) Khalwale said, I do not agree that the solution for the forest was moving the people.

(Laughter)

But on a balance of the issues raised, I think Sen. (Dr.) Khalwale, it is not also good to speculate and do guess work, unless you table certain information, and so on, and so forth, because that can lead us to an unnecessary direction.

So, let us proceed.

Because Sen. Mutula Kilonzo Jnr. was making a submission, but I need to rule on that---

(Several Senators stood up in their places)

Order! Order! I am the one speaking!

Hon. Senators, I wanted just to be clear that in my ruling and for the record, that it is not correct for Sen. Mutula Kilonzo Jnr. as well to speculate in his mind and to cast aspersions on poor Kenyans who are in public record and Government record that they are worthy of compensation. He just imagines that they are going there to make money. So, let us avoid that direction and let us move on.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir. The overall objective of the Government of Kenya and Jubilee should be to protect our forests so that,

then, we can assure this country of the food security. Resettling people and paying them money, in my perspective, is not a solution to the problem. But there is a more fundamental point that I wanted to state that is missing. I am on record on the Floor of this House on an issue involving residents of Makueni who were evicted from a forest similar to the one in Mau and Embotut forests, where the Speaker hails from. These poor Kenyans that you have so ably defended are still seated in some place in camps; they have never been compensated. They do not have even title deeds and now the Government is asking these poor people to pay the Government for the title deeds, which they are rightfully entitled to.

Mr. Temporary Speaker, Sir, in terms of what the President said, we would have expected him to say: “We thought the priority would be the people of Mau, but we are thinking about other Kenyans as well – the ones in Kisii, Nyandarua, Makueni *et cetera*--” And that at some point during this year or next year, the issue would be addressed. So, by the time he comes to deliver another report, he would say: “In fact, we have achieved what we have done”. The Constitution requires him, not only for him to give a historical report, but he should also say “Whereas we have considered these people who we all love as Kenyans, and because we also have investments in the Rift Valley, we have also put in to place mechanisms of resettling other people who are also Kenyans and who also voted for the Government. Whether they supported it or not, they are entitled to this compensation.

Mr. Temporary Speaker, Sir, let me address matters security. We all know that it is not enough to set up Closed Circuit Television (CCTV) cameras everywhere because the purpose of the CCTV cameras, like the Senator for Nyeri has said, is to detect and deter. But while all this CCTV cameras and all these mechanisms are being put in place, crime has not reduced. Crime has, in fact, increased. But there is a point that in terms of measures that the Government is taking, I would have preferred to hear that the Government will ensure that the people who are responsible would take responsibility because these people are paid by taxpayers’ money to be in offices, to prevent crime and to protect people. People will not live under nice looking bridges or on very beautiful roads. Our people need to sleep well at night, knowing that as the CCTV cameras are rolling and knowing that the security forces have not gone to sleep. They want to make sure that when they wake up, they have peace. Political responsibility is one of those measures that I would have expected the President, under Article 132, to have mentioned. This is what I expected to hear from him. I have not seen it in this Speech. Maybe it is just that I never saw it, but do not recall reading anything to show that those measures are being taken.

Mr. Temporary Speaker, Sir, on funds, if devolution will work, the Government must stop creating small little funds everywhere because it will not help us. For devolution to work, we must have a central place where funds are allocated, spent and then accounted for. These small, little funds that are very entertaining to people are not going to help this country.

(Applause)

What is even worse is that even in the last Government, nobody ever accounted for these special funds allocated for specific purposes. I have not heard of a report about this or the other fund. Even if the report exists, we do not have a person who has taken responsibility to say that this has helped this or the other, or it has moved this country forward.

Lastly, Mr. Temporary Speaker, Sir, it is interesting because if the Government wants to create employment, we want to hear what it will do in terms of spurring growth. I would have expected just a simple thing, for example, the Konza City project in Makeni, which Sen. Mutahi Kagwe was responsible for when he was a Minister, to say “we intend, in the next one year, to create 100,000 jobs by making sure that the Konza City dream comes to reality.” Why? Because the Government of the Republic of Kenya has invested more than Kshs1 billion in a 5,000 acre land in Makeni, and it is lying idle. Nobody is taking action, yet we are saying that we want to create more funds, we want to create employment, we want to do this or the other; it is not going to work. This report has left a lot of things undone.

As the people who are close to them, particularly Sen. Keter, please, we are asking you to help this country because the purpose of such reports is so that, then, we can interrogate them and help. But how do we help when you have more omissions than commissions? It is not possible and it is not helpful to say “Okay, we are going to do “X”, “Y” and “Z” yet that “X”, “Y” and “Z” is not here.

As my last point, Mr. Temporary Speaker, Sir, in terms of Article 132, there are several things that we are supposed to have. They include reports and gazette notices of the actions. I have not seen them. So, for purposes of practice and procedure, maybe this House for the next report that will be issued, under Article 132, we must demand that under sub-clauses 1, 2 and 3, those measures that the Government has taken or intends to take are tabled here, so that we can interrogate them one by one.

Mr. Temporary Speaker, Sir, with those few remarks, I oppose.

Sen. Hargura: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to the Motion concerning the President’s Address to the nation.

Mr. Temporary Speaker, Sir, as stated clearly, it is a constitutional requirement which he has to do. He has indicated the areas that he was addressing. It is good that we have national values which, if implemented, will make us a better society. But we do not know whether we are implementing them.

Mr. Temporary Speaker, Sir, I will go straight to the first item there, which is devolution. We, as Senators, know very well what we have gone through for the last one year. We were even thinking of going for a referendum and I do not think that, that was the case of a Government which was doing very well along that line. We know very well that the Transition Authority (TA) which is supposed to midwife this process and run for

three years is under siege. The same Executive which the President heads is already having legislations in Parliament, to actually do away with the TA. So, I do not think that the President was right in saying that devolution is on course, when we are having the body which is supposed to run devolution going down through underfunding and legislation.

Mr. Temporary Speaker, Sir, on funding, we were told that the counties are getting 15 per cent funding. I believe one year is a long time for us to see where that 15 per cent is going to. There is also a problem with the audited accounts. The audited accounts could be three years old and so, I think that the Executive should not have been proactive in legislation of doing away with an institution like the TA. The allocation should be 15 per cent of what we are budgeting for this year or taxes for this particular year and not three years or so ago. So, the 15 per cent allocation is not current.

Mr. Temporary Speaker, Sir, on the issue of resettlement of IDPs, we had a lot of problems in my county this year. I would like to thank the President because of the initiative that he took, of getting two eminent persons, that is Sen. Yusuf Haji and hon. ole Kaparo, to bring us together and sort out that problem in Moyale. But I would like to bring in the issue of IDPs. During the incidents of insecurity in Moyale, over 8,000 households were displaced and some people are actually living in Ethiopia. So, that is an urgent case. We are talking about IDPs, but here are Kenyans who are living in another country. We are holding over half a million refugees, but we also have our own refugees across the border. So, I think that the same gesture which was extended to the IDPs should also be extended fully to the people, so that they can be resettled and participate in nation building, like other Kenyans.

Mr. Temporary Speaker, Sir, we all know that without security we cannot talk about development. Therefore, we must make sure that our security is functioning and we are at peace with ourselves. But the way the security issue is being handled in this country – and the President did not elaborate it further – is not going to sort us out of this situation. Today we are having the issues of killing of clerics, we are having issues of bombs everywhere, especially at the coast and in Eastleigh. We, as a Government, need to sit down and ask ourselves what is going wrong. Unless we stop these knee-jerk reactions where one day when there is insecurity somewhere, the Government goes there picks everybody whether innocent or not, the next day they keep quiet until another strike takes place.

I think we have to invest in our security intelligence. Just like the United States of America (USA) has invested in homeland security, we have to invest very much in this so that the rule of law is applied. When somebody is killed because people think he is the one who is radicalizing people, it will not solve our problem. We do not know what he was telling those people. By eliminating him, we are telling them that what he was actually saying was correct. Thus you are creating more radicals.

No religion supports killing of innocent people. For Islam, it is very clear that you cannot take a life. That is even in our criminal system. You could be hanged for murder;

that is what is there. It is natural. You cannot go around killing people. When people do that then it is for the intelligence system to try to understand why it is happening rather than involving a whole community or a whole religion. I was even surprised when a Senator said that we should not be teaching religion in schools. We should because that is what our Constitution recognizes. That is the sovereignty of God; unless we want to go the American way where they have removed anything to do with God from their systems. We should have a living God and we have to teach religion. Why do we go to Sunday school to learn then we do not teach Christian Religion Education (CRE)? Those are double standards we are advocating to please the West. I think that is what we are seeing now. We are supposed to be what we are. You are supposed to be a complete person who believes in God. It is only through that system of believing in God that you can attain the peace you want.

Mr. Temporary Speaker, Sir, the other issue concerns the economy. You know very well that without power we cannot move. Yes, but we have to invest in cheap renewable energy. The other day I was surprised when the new chairman of the Geothermal Development Corporation was taking the Chief Executive Officer (CEO) head on because he is trying to make sure there is investment in that field. We know very well that there are people who have invested in thermal energy. That is where we are losing a lot. We have Kenyans who have invested in thermal energy and they are now fighting the renewable cheap energies. So, let us not give lip service. Let us invest and let us stop having the same people who have invested in thermal energy making the decision on geothermal investments. They are the same people who produce thermal energy using diesel generators and we are paying about 20 cents per kilowatt while renewable energy will be cheaper. So, let us match our words with our actions.

The Temporary Speaker (Sen. Murkomen): Order, Senator. You have a balance of eight minutes and you will continue tomorrow.

ADJOURNMENT

The Temporary Speaker (Sen. Murkomen): Hon. Senators, it is now time for the interruption of the business. The House, therefore, stands adjourned until tomorrow 3rd April, 2014 at 2.30 p.m.

The Senate rose at 6.30 p.m.