

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 16th July, 2014

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

INVITATION TO PARLIAMENT WEEK

The Speaker (Hon. Ethuro): Hon. Senators, I have a Communication to make on the Parliament Week.

As hon. Senators are aware, the national values and principles of governance set out in Article 10 of the Constitution binds all state organs, including Parliament, to provide amongst other things, for participation of the people, transparency and accountability. Article 118(1) (b) of the Constitution further requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

Hon. Senators, in light of this constitutional provisions and as part of Parliament's public outreach responsibility, the Parliamentary Service Commission (PSC) has organised a Parliament week which is scheduled for the period of Monday, 28th July, 2014 to Friday, 1st August, 2014. The Parliamentary week will be preceded by a breakfast with the media, which will be held tomorrow, Thursday, 17th July, 2014 and which will bring together the leadership of Parliament and the representatives of the media industry, including the Media Owners Association (MOA), the Kenya Editors Guild (KEG) and the Kenya Parliamentary Journalists Association (KPJA), among others.

Hon. Senators, a number of activities have also been lined up for the Parliament Week as follows:-

(1) A public lecture which will be held on Monday, 28th July, 2014 at the University of Nairobi (UoN), Taifa Hall, between 2.00 p.m. and 4.00 p.m. The theme of the public lecture is: "*Separation of Powers under the Constitution of Kenya, 2010: A Case for the Eleventh Parliament.*" The Speakers of both Houses will each present a paper at the public lecturer which will be responded to by four distinguished university professors.

(2) Sporting events, including football and netball matches are scheduled for Thursday, 31st July, 2014, commencing at 9.00 a.m. to 11.00 a.m. at the Nyayo Stadium.

(3) An open day will be held on Friday, 1st August, 2014, at Parliament's Public Parking space situated opposite Sheria House. The open day shall officially be opened by the leadership of Parliament. It will provide a forum for the various directorates and departments of Parliament to exhibit and inform the public on various matters concerning Parliament and on their roles and responsibilities.

(4) A number of media appearances have also been scheduled in various media houses at which a number of Senators will be called upon to participate in.

(5) A documentary on Parliament will be aired on all television stations, which will focus on Parliament, its roles and achievements and which will feature Parliamentary leadership.

Hon. Senators, as you will observe, there are quite a number of wide ranging activities that have been organised and scheduled. Therefore, this is to urge and invite you to fully participate in the various activities that you may be called upon to participate in so as to ensure the success of the Parliament week. I thank you for your participation and cooperation in anticipation.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I want to thank you for the Communication that you have just made. Our key role is to protect the county governments. There is the arm of the county government known as the county assembly, how nice it would have been that in the programmes you see how to factor this in, so that it stands out clearly that besides what we do here, like our sister House at the National Assembly, we also have a role in the counties. I do not know whether it is too late for you to think about this.

The Speaker (Hon. Ethuro): It is never too late to think about anything. Definitely, that will be put into account. Whether it will happen or not, will depend on the logistics. But that is a good suggestion.

Next Order!

PAPERS LAID

REPORT OF THE *AD HOC* COMMITTEE ON ESTABLISHMENT OF THE PUBLIC COMPENSATION BUREAUS

Sen. Obure: Mr. Speaker, Sir, I wish to lay on the Table of the Senate.

The Report of the *Ad hoc* Committee on the Establishment of the Public Compensation Bureaus.

(Sen. Obure laid the document on the Table)

Sen. Billow: Mr. Speaker, Sir, I wish to lay the following papers on the Table of the Senate, today, Wednesday, 16th July, 2014:-

REPORT OF THE FINANCE COMMITTEE ON THE PUBLIC PROCUREMENT
AND DISPOSAL (AMENDMENT) BILL, NATIONAL ASSEMBLY
BILL NO.31 OF 2013

The Report of the Standing Committee on Finance, Commerce and Budget on the Public Procurement and Disposal (Amendment) Bill, National Assembly Bill No.31 of 2013.

REPORT OF THE FINANCE COMMITTEE ON THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) BILL, SENATE BILL NO.10 OF 2014.

The Report of the Standing Committee on Finance, Commerce and Budget on the Public Finance Management (Amendment) Bill, Senate Bill No.10 of 2014.

(Sen. Billow laid the documents on the Table)

(The Senate Minority Leader (Sen. Wetangula) stood up on a point of order without logging in)

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! You can do better than that. I am looking at my screen; I do not see your request. Now it is showing. What is it?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I thank the Chairman of the Committee in which I sit for laying on the Table the report on the Bill that we started debating yesterday. I am not in any way slighting my Chairman---

(The Speaker consulted the Clerk-at-the-Table)

Can I go on, Mr. Speaker, Sir?

The Speaker (Hon. Ethuro): I am listening.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I get the impression you are not.

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! Listening is not looking at you. In fact, when I look away from you is when I give you the full dedication of one ear.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am the father of the committee system in this Parliament together with the late Dr. Godana, hon. Juluis Sunkuli and others. I am sure you know this.

The purpose of the committees is to prepare reports that assist Members in debating the Bills and circulate them in good time so that they assist the Members. But when a report is tabled when the Bill is virtually going through the end of the Second Reading, it does not quite help the plenary. I would want to request, not particularly about this report, but generally, that you issue a directive that reports must come to the Floor before we start the debates on Second Reading of Bills. That is the purpose for which we

send Bills to Committees, so that there is some in-depth work that can inform and assist the House.

(The Speaker consulted the Clerk-at-the-Table)

Mr. Speaker, Sir, I have no doubt that with the interruptions you are getting, you have missed the last point.

The Speaker (Hon. Ethuro): It is true I have missed the last point. But it has nothing to do with the interruption. You may wish to repeat the last point.

(Laughter)

I was trying to determine whether I can agree with you or otherwise.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I was requesting the Speaker that you give a general direction that the reports should, as much as is practically possible, be brought to the House to assist Members because the committees do much more in-depth work, including and not limited to sometimes calling experts to talk to them, so that they can assist the plenary in the debates when we start the Second Reading stage of Bills.

The Speaker (Hon. Ethuro): Sen. Kajwang, I have given you the chance.

Sen. Kajwang: Sorry, Mr. Speaker, Sir. It has taken some time for the microphone to switch on.

On what the Senate Minority Leader has said, there was a Bill that we debated, went through the Second Reading and actually completed. I think it was on the Alcoholic Drinks Control (Amendment) Bill. After we finished the debate is when it went to committee. The committee has sat on it and I do not know for how long. Some of us who participated, with a lot of passion on this, had a mind of introducing some amendments to it. So, it has reversed the way we do business in this House.

After the First Reading, a Bill should be submitted to a committee which should do its work. After that, we start a debate with the report on our table. If it is not there at the time we are debating the Second Reading and we vote, we should forget about it. But to give the committee another chance after the debate at the Second Reading is actually taking us back and forth and we do not know how to proceed. Therefore, the direction that has been sought by the Senate Minority Leader is important, so that the committees now know that if they do not bring a report on time, then they just forget about it and they debate and propose amendments like everybody else.

Sen. Billow: Mr. Speaker, Sir, I agree with the Senate Minority Leader. We tender our apologies. We actually worked towards that deadline. The reasons the reports were not tabled before the Second Reading of that Bill yesterday was beyond the ability of the committee. The committee dispensed with it. The delay was technical. The Bill is still before the House. I am sure Members can take advantage of the observations and recommendations in the report, especially those Members who have not contributed to the Bill. But I agree entirely that we should have tabled the report earlier.

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

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, it is not “Kaniri” it is “Khaniri”

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! The last time when the issue of English was on this Floor, which was last week, we said that English was a language in the Constitution. I am sure the one you are referring to is not. I am under no obligation knowing that we may be coming from different parts of the---

Sen. Khaniri: Mr. Speaker, Sir, he is advantaged in that he comes from a part of the world where that name originates.

I am rising on a point of order to seek your guidance on whether Sen. Wetangula was in order to raise the point of order that he raised, that he wants you to give a directive. The best of my understanding is that the provisions for introducing a Bill in this House are explicitly provided for in Standing Order No.116 all the way to Standing Order No.120. These Orders give provisions on how a Bill should be processed in this House. Is the Senate Minority Leader in order to ask the Speaker to give some guidance or to issue some directions on this matter when it is explicitly provided for in the Standing Orders?

The Speaker (Hon. Ethuro): Order, Sen. Khaniri! Yes, Sen. George Khaniri. That will be my homework. Next time I will pronounce the name properly.

I want to confirm that Sen. Wetangula was completely in order. The directions could as well just be making references to the same provisions that you have referred to. But I guess, more importantly, there is Standing Order No.134. Of course, Sen. Wetangula was right in raising the point of order, but very wrong in trying to impose punitive measures on the chairman of the committee. That is what you are attempting to do and even inviting the Chair to make a general statement.

First, the report was actually ready by yesterday by the time the Bill commenced Second Reading. But because it was already late, it was brought to me when I was already on the Chair when we were about to proceed with Business. So, there was no way in which I could do both things, especially knowing that Sen. Wetangula always reminds me to concentrate. So, there was no way I would do multi-tasking.

(Laughter)

So, I was the one who deferred it. I said: Let me read the report overnight so that I can approve it for tabling today fully knowing that you will not exhaust the deliberations.

Secondly, during the Second Reading, you usually do not alter much on the Bill. On the face of it, you can proceed. The most important thing before the Third Reading is that we would already have availed you the copy of the report. I think at that point, you would be seized of the proceedings and you can bring the necessary amendments.

The third point, which is even more important now, is just the timelines. Let me read to you Standing Order No.134 (1).

“Whenever a Bill is referred to a Standing Committee, the Chairperson of the Committee, the Vice Chairperson or a Senator designated by the Committee to which

the Bill is committed shall present the Committee's report to the Senate within 30 calendar days of such committal.

(2) Upon presentation of the Bill under paragraph (1) or if the Committee's report is not presented when it becomes due, the Bill shall be ordered to be committed to the Committee of the Whole on such day as the Rules and Business Committee shall, in consultation with the Senator who introduced the Bill, appoint."

The business of the House, therefore, shall not stop if the Committee has not performed its duty. So, after 30 days, we will always bring that business, especially given that this is a matter that has already been dealt with by another House. It is important for us to just do it at the next available opportunity. So, if you even look at the report, following the submission to the Senate of the Public Procurement and Disposal Act, the Bill was read a First Time on 4th June, 2014. So, 30 days have obviously elapsed since 4th June, 2014. That is why we brought it for debate yesterday afternoon. So, nothing is lost; we are fully seized of the matter. The only small thing is just to encourage Committees to operate within the 30 calendar days. However, I cannot really be harsh on committees because, so far, we have really done well. I think most committees have submitted their reports within the stipulated period. Even this one, they just operated on the edge; it is just delayed by 24 hours. So, I will not be harsh on this Committee. I know this Committee where you belong, Sen. Wetangula, by the way, it was in your interest to have ensured so. Therefore, if there is any culpability, you must share.

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

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

(Sen. Wetangula spoke off record)

The Senate Minority Leader (Sen. Wetangula): ---I did not launch any assault on my Chairperson, and he understood me as such.

Two, Mr. Speaker, Sir, I want to draw the attention of the Chair using my Chairperson or our Committee as a guinea pig, so that he can give general directions.

Three, Mr. Speaker, Sir, the purpose of the Bills going to committees is not limited to bringing amendments, but to inform debate because they do a much more thorough work than individual Senators. So, when they Table them in advance, it informs and helps debate because there is no point for me to debate going east and then the Committee brings a report convincing that we should have gone west and then when the HANSARD reports are read in future by our children and grandchildren, we look like we were directionless. So, that is the point I was trying to bring to the Floor; that the Committee system, in fact, was to take heavy work from plenary to Committees so that then the Committees will assist plenary in informed debate. Not all of us have all the time to go through every bit---

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! I think you have made your case and I agree with it completely. However, you are forgetting the limitations on time "within 30 calendar days." Two, I have just read out to you in the event that the 30 days elapse, the business of the House cannot stall because a Committee has not delivered the

report. Thirdly, you also want to create the impression that the House must always, at any time, agree with the Committee. It is not necessarily so.

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

The Speaker (Hon. Ethuro): Proceed, Sen. Kajwang. I have seen your point of order, Sen. (Dr.) Khalwale, but Sen. Kajwang had this before yours.

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

Sen. Kajwang: Thank you, Mr. Speaker, Sir. Unfortunately, I think you concentrated on the Senate Minority Leader's point so much that you forgot to deal with mine which was more serious than his. Mine actually is that the House went on - because there was no report of the Committee - and debated the Bill at the Second Reading stage. Then after we voted, the matter went back to the Committee and the Committee now called for public participation; working backwards. Up to now, the matter has not proceeded to Third Reading. I do not know whether it is because we are waiting for the report of the Committee after the Second Reading. I think that is not the way to do the business. If the train has left you, it has left you. If the Committee did not bring a report at the Second Reading, that is too bad. We should have proceeded to Third Reading and finished with the business. I do not know what directions you would want to give on that.

The Speaker (Hon. Ethuro): Sen. Kajwang, which Bill was that one?

(Sen. Kajwang spoke off record)

The Speaker (Hon. Ethuro): We need to find out the particulars of that particular Bill. But if that is the case, that is definitely not the appropriate procedure. The Standing Orders are very clear; a Bill is read a First Time to be committed to the Committee; it is up to the Committee from that stage now to engage in public participations and public hearings and then they bring a report for all the good reasons that Sen. Wetangula has elucidated to inform the House. That is the proper procedure.

Yes, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, indeed, you are right that because of the timelines involved, the House cannot be held back. But it is important that we also start considering the possibility for possible sanctions. I know, for example, that I had the Bill for the seat of County Governments where we wanted to put in a law to specify which town the seat of the government will be to avoid conflicts. Believe me or not, this report did not come. After the Second Reading is when now I am starting to get isolated reports from different counties on what they think. Obviously, we are going to lose out on that kind of contribution. So, maybe, we should imagine or consider sanctions and at the same time, weigh the possibility of a Committee which is still not able to conclude its report to come and appeal to you so that you make a decision for extension.

Thank you, Mr. Speaker, Sir.

(Applause)

The Speaker (Hon. Ethuro): That option, Sen. Wetangula and Sen. (Dr.) Khalwale, is always open. What is not provided for---

(Sen. Wetangula spoke off record)

I said Sen. Wetangula?

(Laughter)

(Sen. Wetangula spoke off record)

Maybe I am pronouncing it better than the other one.

(Laughter)

So, Sen. (Dr.) Khalwale, that option is---

(Sen. Wetangula spoke off record)

Order, Sen. Wetangula! You are not going to reduce the Chamber to some language class.

That option is always available. If the Committee has issues, we will always understand and act accordingly.

Yes, Sen. Murkomen? Let us not really flog a dead horse.

Sen. Murkomen: Mr. Speaker, Sir, I do not want to go in that direction because I have seen a Bill that I sponsor on the Order Paper yet it was committed to the Committee less than two weeks ago. I sit in the Committee on Legal Affairs and Human Rights, which basically I guess is the Committee to be committed to.

The Speaker (Hon. Ethuro): Order, Sen. Murkomen! You need to help us; which Order Paper are you referring to?

Sen. Murkomen: Yesterday's Order Paper.

The Speaker (Hon. Ethuro): I am sorry; which one?

Sen. Murkomen: Mr. Speaker, Sir, it was in the Order Paper yesterday.

The Speaker (Hon. Ethuro): Order! You are completely out of order!

(Laughter)

You are living in the past! This is today; Wednesday afternoon.

Sen. Murkomen: Even then, Mr. Speaker, Sir---

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

Sen. Murkomen: I have only one thing, Mr. Speaker, Sir, if you allow me---

The Speaker (Hon. Ethuro): Order! Order, Sen. Murkomen! In front of all the Senators present, I will be more harsh on you than any of them because you assist this Chair. So, if I were you, I would keep my peace for now.

(Sen. Murkomen spoke off record)

As long as it has nothing to do with your Bill.

Sen. Murkomen: Mr. Speaker, Sir, it has, but not in the initial question I asked. It is in relation to Standing Order No.130(1), which says that:-

“A Bill having been read First Time shall stand committed to the relevant Standing Committee without question put.”

(2) Notwithstanding paragraph (1), the Senate may resolve to commit a Bill to a Select Committee established for that purpose.

Mr. Speaker, Sir, I do not know the right interpretation and I am not asking that you rule now. However, I am just wondering if a Bill, for example, relates to inter governmental relations, matters of cities and urban areas and it is appropriate to be sent to the Committee which I Chair, which is the Sessional Committee on Devolved Government, is Standing Order No.130(2) relevant? If it is relevant, should the Senate specifically vote to commit that Bill to that Sessional Committee? It could be the one for Devolved Government or it could also be another Committee so that this procedure can be complied with. I am saying this because I chair the Committee---

The Speaker (Hon. Ethuro): Hon. Senator, just before you explain; how many Committees are you referring to?

Sen. Murkomen: Mr. Speaker, Sir, in this situation, I am just referring to the Sessional Committee on Devolved Government.

The Speaker (Hon. Ethuro): Okay.

Sen. Murkomen: For example, if a Bill relates to inter governmental relations, cities and urban areas, the functions of that Committee, include those issues. The question is: Should we be voting on the Floor of the House to commit a Bill to that Committee when it is necessary that a Committee handles a particular Bill? It looks like it is one of the new provisions we put in our Standing Orders after we revised them. So, I am not asking for an immediate ruling, but we might need direction---

The Speaker (Hon. Ethuro): Order, Senator! In fact, there I do not need a single minute to rule on that; that is obvious and so clear. Standing Order 130(1) says:-

“A Bill having been read a First Time shall stand committed to the relevant Standing Committee without question put.”

(2) Notwithstanding paragraph (1), the Senate may resolve to commit a Bill to a select committee established for that purpose.”

I do not know which reasons are being contemplated here and I would not want to do so. The Senate may decide that they would want a Select Committee. Therefore, a Senator just puts a request in the normal Motion of establishing a Select Committee, he comes to the Senators to convince them that, maybe, that should not go to the relevant Committee. Depending on the nature of the matter, the Senate may decide that, maybe, we need a bipartisan, regional, or whatever other reason.

Depending on the matter that the solicitors may have, there could be some interests that they feel could be represented better by a Select Committee rather than a Standing Committee. This is just a proviso for any eventuality. Let us not be speculative. When the matter will be alive, we will deal with it at that moment.

Hon. Senators, there is no debate before us. The Chairperson of the Committee had already conceded. The Senate Minority Leader has already made his case and it is supported by many Senators. Is that not satisfactory? Let me allow the last Senators that I am seeing on my screen, Sen. (Eng.) Muriuki and Sen. Sang.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, allow me to take you back to the very fundamental issue raised by Sen. (Dr.) Khalwale, both generally on what to do and specifically on the Bill that had been sponsored by Sen. (Dr.) Khalwale with regard to the headquarters of counties.

The issue here is that the Bill came and was committed to the Committee. The Committee held public hearings, but whoever was supposed to respond did not come for one reason or the other which is another issue that the House should look at. However, now, the House has gone ahead and conducted the Second Reading. That means that there was no clear ruling. In this particular case, what happens?

The Speaker (Hon. Ethuro): Sen. Karue, that is an obvious matter. Sen. (Dr.) Khalwale had already explained that the public participation did not take place during the First Reading and Second Reading. For some reason, it took place after Second Reading. Since we are yet to reach the Third Reading, I do not think that all is lost. Some of it has come to my desk, I have referred to the relevant Committee and there will be a Third Reading that will capture those kinds of issues.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, I am so guided.

Sen. Sang: Mr. Speaker, Sir, in accordance with the Standing Order that was referred to by Sen. Murkomen, since we have Standing Committees and Sessional Committees, we have the Committee on Devolved Government and the Committee on Delegated Legislation. The Standing Orders seem to suggest that Bills can only be subjected or committed to Standing Committees.

On several occasions, the Committee on Devolved Government has taken any other business in this House because its mandate is quite wide. On several occasions, we have had Bills that we knew that if they were not committed to the Committee on Legal Affairs and Human Rights, they would have to go to the Committee on Devolved Governments. The directions you are giving is that unless a Select Committee is appointed to look at certain legislation, most likely, they would be within the existing Standing Committees.

That means that we have several Bills that have been tabled in this House for the First Reading. We are waiting for the Second Readings, but the Bills have not been committed to the relevant committees. However, most likely, that committee will be the Committee on Legal Affairs and Human Rights; if at all your directions are that, a Bill cannot be committed to a Select Committee. We may need your direction because we have almost two to three Bills that ought to be brought to this House, but have not been committed to the relevant Standing Committees.

The Speaker (Sen. Ethuro): Sen. Sang, you are introducing a new dimension. My understanding is that since we established Sessional Committees when they were supposed to be established, they are part and parcel of the Committees of the Senate. Each of those Committees has a specific mandate.

Standing Order No.130(2) provides for a specific case. This is not like the Sessional Committee. This would apply both to the Sessional or the Standing Committee,

depending on the matter. However, I appreciate your observation and would like to look at it. For the other bit of committees, there are Bills that may not be specific to certain committees whether Standing Committees or Sessional Committees. The default position is always the Committee on Legal Affairs and Human Rights. That is the Committee for lawmaking. I am yet to know whether there are Bills which have so far not been referred to some Committees. If they are there, let me know, but I highly doubt.

Let us proceed.

PAPER LAID

ANNUAL REPORT OF THE COMMITTEE ON ENERGY, ROADS AND TRANSPORTATION FOR THE PERIOD OF MAY 2013 – APRIL 2014

Sen. Mwakulegwa: Mr. Speaker, Sir, I beg to lay the following Paper on the Table:-

The annual Report of the Standing Committee on Energy, Roads and Transportation for the period between May 2013 to April, 2014.

(Sen. Mwakulegwa laid the document on the Table)

NOTICES OF MOTIONS

ADOPTION OF REPORT ON ESTABLISHMENT OF PUBLIC COMPENSATION BUREAUS

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

THAT, the Senate notes and adopts the Report of the *ad hoc* Committee on the Establishment of Public Compensation Bureaus laid on the Table of the House on Wednesday, 16th July, 2014.

ADOPTION OF ANNUAL REPORT OF THE ENERGY COMMITTEE FOR THE PERIOD MAY 2013 TO APRIL 2014

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

THAT, this House adopts the Annual Report of the Standing Committee on Energy, Roads and Transportation for the period between May, 2013 to April, 2014 laid on the Table of the House on Wednesday, 16th July, 2014.

The Speaker (Hon. Ethuro): Sen. Karue, I am seeing your request.

Sen. (Eng.) Muriuki: I want to seek a statement.

The Speaker (Hon. Ethuro): Do so now.

STATEMENTS

ANNUAL RENTAL EXPENDITURE ON
KENYAN FOREIGN MISSIONS

Sen. Kagwe: Mr. Speaker, Sir, I rise to seek a statement from the Chairman of the Standing Committee on National Security and Foreign Relations. I want to know what foreign missions are located in Kenya Government owned Government premises overseas. How much rent are we paying as a country per month and, therefore, annually? Preferably he should do a table for overseas missions to show how much we are spending in rental terms. Why have we not considered purchasing the offices in areas we have long term interests?

Finally, why are most missions complaining of underfunding to the extent that they cannot function properly?

The Speaker (Hon. Ethuro): Yes, Mr. Chairperson or Vice Chairperson or even Member of the Committee on National Security and Foreign Relations? This is just conveyance and not a substantive matter.

(Sen. Ongoro consulted with Sen. Kagwe)

Sen. Ongoro, if you are a Member, you need to put a request so that we acknowledge you.

Sen. Okong'o: Mr. Speaker, Sir, have you noticed that hon. Members are canvassing without passing through the Chair? Would I be in order to say that most of those Members are totally out of order and that you should reprimand them?

The Speaker (Hon. Ethuro): Which Member did what, hon. Senator?

Sen. Okong'o: Mr. Speaker, Sir, hon. Members threw words on the Floor starting with my party leader. This moved to Sen. Ongoro and to my good friend to Sen. Kagwe without passing through you. You did not notice that, but I noticed it and it is very serious. They were throwing words without passing through the Chair.

The Speaker (Hon. Ethuro): Thank you, Sen. Okong'o for your serious observations. That was out of order for all those who are mentioned. I have noticed some tendencies creeping in where we seem to be talking to the Chair through gesturing out of turn, persistently. You know what to do when you want to address the House. That should serve as a warning to all the responsible Senators. If your machine is not working, let me know in advance.

Unfortunately, Sen. Kagwe, there is no one from the Committee willing to respond to your issue.

Sen. Ongoro: Thank you, Mr. Speaker, Sir. I dully notified the Clerks-at-the-Table that I forgot my card and responding on behalf of the Committee---

The Speaker (Hon. Ethuro): Order Sen. Ongoro! It is not enough to notify. You should apologize for not being digital. Secondly, we have made provisions that you can actually leave your cards at the entrance, so that you do not really have to be carrying it. We will keep them for you.

Sen. Ongoro: I will do that, Mr. Speaker, Sir. On behalf of the Committee, I want to beg Sen. Kagwe, if he could give us two weeks to respond. I will inform my Chair.

The Speaker (Hon. Ethuro): Sen. Ongoro, do not only inform your Chairperson, but actively ensure that the Chairperson convenes a meeting to discuss the matter and all is done within the two weeks and that it is reported before the end of the two weeks.

Sen. Ongoro: Much obliged, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Any other requests?

IMPENDING MASSACRE IN TURKANA COUNTY

Sen. Munyes: Mr. Speaker, Sir, I wish to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations on the deteriorating security in Turkana County. In the Statement, I would like the Chairperson to state whether he is aware that there is an impending massacre likely to occur in Kaptir and Nakwamoru region of Turkana County; a Mpeketoni/Lamu kind of atrocity that has been caused by continuous killings, livestock theft and destruction of crops in farms along the Turkwel Irrigation Scheme. Secondly, whether the Government is taking any action to avert this massacre.

Sen. Ongoro: Thank you, Mr. Speaker, Sir. I beg the hon. Senator to give us a week; in view of the seriousness of that allegation if we could give the answer next Tuesday.

Sen. Munyes: Mr. Speaker, Sir, I think the matter is so grave. As I speak, these villages are being surrounded. Given one week, I think there will be a very bad scene. I think so many people would have been killed in the next one week if there is no action taken immediately. So, if she can make it two days, I will appreciate. The Government should take swift action to address this issue as we wait for that Statement.

The Speaker (Hon. Ethuro): Sen. Ongoro, prevention is better than cure. Why do you not bring an interim Statement to the House tomorrow and then you can have a comprehensive one thereafter?

Sen. Ongoro: I oblige, Mr. Speaker, Sir. I will try my best to locate my Chairperson and tomorrow, we will give a preliminary answer to that Statement.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, I am seeking for guidance from the Chairperson. I requested for a Statement from the Chairperson of the Committee on Education with regard to university students who are undertaking professional courses which are not accredited by their professional bodies. The answer did come, but it was in four parts. We got an answer to parts (a) and (b), but we were promised that parts (c) and (d) would come two weeks ago, but they have not come. I wish to get direction from the Chair.

The Speaker (Hon. Ethuro): Sen. (Eng.) Muriuki, when the Order has been called, you do not do interventions; you do requests. Secondly, your Chairperson has just entered the Chamber, so sit next to him as he settles and then he will respond after a while.

Sen. Obure: On a point of order, Mr. Speaker, Sir. The Senator for Turkana County has raised a matter of grave concern; he has talked about a massacre of Kenyans.

This is certainly a very urgent matter, but I want to know who is perpetrating that massacre.

The Speaker (Hon. Ethuro): Sen. Obure, that is why we have said that they give an interim report tomorrow; within 24 hours. That is the best the Committee Member can do for now. So, we will take it that your intervention will also be part of the response that she will give tomorrow.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. This is related to the various questions that are being asked in terms of the flow of the questions. Once the question has been asked, I think there is some sort of grey area. What happens is that when a question is asked, it is supposed to go to the Ministry concerned and the Chairman of the Committee. I can tell you that there are some questions that have been asked here which I have never got on behalf of my Committee. Consequently, I am not even sure whether the questions have been forwarded to the concerned Ministry or not.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. First of all, the distinguished Senator for Nyeri is out of order for making reference to questions because we do not have Question Time in this Chamber. We seek Statements and that is what is even on the Order Paper. There is no Question time.

Sen. Kagwe: Thank you for reminding me.

The Senate Minority Leader (Sen. Wetangula): Thank you.

Sen. Kagwe: Then sit down.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, did you hear the distinguished Senator for Nyeri ordering me to sit down?

The Speaker (Hon. Ethuro): Sen. Wetangula, and you still call him distinguished?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I withdraw the accolade.

More seriously on the---

The Speaker (Hon. Ethuro): Sorry Senator, I did not hear him say so. But if he did, then he is completely out of order. It is only the Chair who decides who speaks and who does not.

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

The Senate Minority Leader (Sen. Wetangula): I am still on a point of order, the Senator for Nyeri.

The Speaker (Hon. Ethuro): But you have challenged him. Let us hear him. What is it Sen. Kagwe?

(Sen. Kagwe spoke off record)

The Speaker (Hon. Ethuro): Order! Order! You need to be given the microphone first. I want both of you to be careful. I will need to check the HANSARD and tomorrow we will know who is not saying it as it is. I am avoiding the other words.

Sen. Kagwe: Mr. Speaker, Sir, I was sitting right next to the gracious Senator and she has just told me that she did not hear me say anything of the sort. However, ---

The Speaker (Hon. Ethuro): Order, Sen. Kagwe! That does not help you.

Sen. Kagwe: Mr. Speaker, Sir, in view of my great respect for the Bungoma Senator, in the event that you heard anything of the sort, I would like to expressly apologize and, indeed, say that even the matter of sitting down---

The Speaker (Hon. Ethuro): Order, Sen. Kagwe! You know that this is a House of decorum and dignity. We cannot engage in probabilities; “if my neighbour did not hear me”. So, are you telling us that you cannot hear your own words yourself?

Sen. Kagwe: Mr. Speaker, Sir, in all those circumstances, I really apologize.

The Senate Minority Leader (Sen. Wetangula): Thank you. When we were in school together, you used to be a very good person.

(Sen. Keter stood to approach the Chair)

Mr. Speaker, Sir, every time I stand up to speak somebody stands to speak to the Speaker. I just cannot understand that.

(Sen. Keter moved back to his place)

In relation to the matter raised by the distinguished Senator for Turkana, if you heard him clearly, he said that villages are surrounded. A matter having been raised here, even as we wait for a response tomorrow, this is the sort of matter which the Chair should actually direct the Chairperson of the Committee concerned to immediately, not tomorrow, get in touch with the security organs to avert a possible loss of human life. Tomorrow may be too late. I implore you that you direct the office of the Clerk or whichever office you find appropriate, to get in touch with the Chairperson of the Committee to communicate with the State organs in charge of security, so that that this be a pre-emptive action to stop the possible loss of lives. We have lost far too many lives in this country to sit back and wait for tomorrow.

Thank you.

The Speaker (Hon. Ethuro): It is so directed; both the Clerk and the Member responsible. In fact, if the Member can take leave and look for the Chairperson so that it can be acted upon immediately. We want to see, at least, some preventive measures taken in terms of providing security in the affected areas.

UNCONDITIONAL RELEASE OF KCSE CERTIFICATES
WITHHELD BY HEAD TEACHERS ON ACCOUNT
OF SCHOOL FEES BALANCES

Sen. Musila: Mr. Speaker, Sir, I rise to make a general Statement on a matter that is very dear to my heart and, indeed, to this honourable House. It is only a month ago that this Senate passed a Motion urging the Government to release all KCSE certificates held by heads of schools since 2006 on account of school fees balances.

On Monday 14th July, 2014, the Deputy President, while officiating at a function in Murang'a County directed heads of schools to release these certificates unconditionally. I take this opportunity to congratulate the Deputy President and, indeed, the Government for this move. This action will see the release of over half a million

certificates held by schools unlawfully and allow these boys and girls, most of whom are orphans and from very poor families, to join others in seeking employment. Sadly, these young people missed the Kenya Police Service recruitment on Monday 14th July, 2014, as they lacked their certificates.

Mr. Speaker, Sir, since the Deputy President's announcement, there have been statements attributed to stakeholders, particularly heads of schools and the Kenya National Union of Teachers (KNUT), claiming payment of some sums of money by the Government before they release these certificates. In 2006, the former Government of President Kibaki released even more certificates that had been held by schools following a Motion of the National Assembly and a High Court order that I had filed through Mutula Kilonzo Jnr., now the Senator for Makueni. At that time, similar claims were made by schools that if schools released those certificates, they would not function thereafter. The Government did not pay any money to those schools then and no school collapsed as a result of the release of certificates.

Mr. Speaker, Sir, Section 10(1)(d) of the Kenya National Examinations Council Act makes it unlawful for any person or institution to withhold certificates or diplomas for candidates on examinations administered by the Kenya National Examinations Council (KNEC). The certificates being held now, therefore, are withheld unlawfully and must be released in accordance with the directive of the Government, Motion by this Senate and the law.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): I will allow very brief interventions, at least, in appreciation of what we did as a House.

Sen. (Prof.) Anyang'-Nyong'o, are you on a point of order?

Sen. (Prof.) Anyang'-Nyong'o: Yes, Mr. Speaker, Sir. I was actually on a point of order in the previous discussion, but I think events moved too fast. I have just talked to Governor Nanok. Since he will be in town tomorrow from about 10.00 a.m., would it be in order for you to use your office, for him to meet the relevant Committee for a briefing from the ground, so that we can get clearer information on this issue?

The Speaker (Hon. Ethuro): You are completely out of order on two accounts. One, it is already past the event, on your own admission. Two, there are ways of doing it. It does not have to come through my office.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I did press this button written "INT" in time. I expect that when I press it, it is seen in your environment.

The Speaker (Hon. Ethuro): It is true that I saw it, but there were already many interventions by other Senators. So, I have also to make a decision. First, the statement is being sought. It is not even a response to a statement, where we should entertain as many interventions as possible. So, I was fully satisfied that even the additional two were already one too many.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, but given the importance of the---

The Speaker (Hon. Ethuro): Order! The importance cannot just be gainsaid because professor Anyang'-Nyong'o has said it.

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. The point raised by the distinguished Senator for Kitui County is so important that this Senate has to pronounce itself fully on it.

The idea and act of schools withholding certificates of children who have finished school is actually criminal. It has the effect of denying these children an opportunity to participate in seeking opportunities beyond school. Right now, there is a police recruitment exercise going on. I have no doubt that, probably, each and every one of these Senators in this House has been visited by a young person who wishes to be assisted to get their certificates out of school by paying money, so that they can go and participate in the recruitment. This is wrong.

Certificates are the property of the children who sat exams. There are very few cases in this country where children pay their own fees. Where there is a default it is a civil debt for which the school can pursue the guardian, parent or the Constituencies Development Fund (CDF) bursary committees that have committed themselves to pay fees for these children. It will help this country a great deal not only by Sen. Musila making a Personal Statement, but even you, as our Speaker - this is the protector of counties and everybody in this country lives in counties - to make a reasoned directive and ruling that schools must, as a matter of duty, release certificates to every candidate who has sat for exams and had their certificates withheld in school. It serves no purpose at all for a school to hang on a certificate of child for ten years. You will be surprised that some have been held for 20 years, meaning that the lives of those children are completely truncated by a malicious act of a school teacher. It is unacceptable and we have to bring it to an end.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Senators! If you want to make an intervention, do it under “request” because the matter is already alive. But if you put it under “intervention” it will be a point of order.

(Several Senators requested to speak)

They are quite many. So, a minute each, please.

Sen. Elachi.

Sen. Elachi: Mr. Speaker, Sir, I also want to thank the Government, but also note that when you look the amount that is outstanding - Kshs14 billion - it means that we still need, as a House, to come up with a mechanism that will assist in future. We know that we have young students who passed very well. So, if you get a mean grade of “A,” “B,” “B-” or even a C+”, that certificate must be released for you to join the university. Maybe the money advanced to you by the Higher Education Loans Board (HELB) will enable you to clear the outstanding fees.

Given the outstanding fees of Kshs14 billion, we need to find a solution, once and for all. But I want to thank this House for debating and highlighting this issue so loudly that now the Government has acted on it.

Thank you, Mr. Speaker, Sir.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I want to thank the Deputy President, but also remind him that this is not the era for roadside declarations. I hope that he will follow it up quickly with---

The Speaker (Hon. Ethuro): Order, Senator! You cannot thank and take it away in the same sentence and breath.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I was just sticking to procedure, so that we are seen to be a country that is led by the dictates of the Constitution.

Mr. Speaker, Sir, having said that, may I also speak to the other plight, namely, the HELB. When young people leave university and do not get an opportunity to be employed, they face a penalty of 5 per cent. So, by the time a youth then gets a job, the university follows him or her up. I know of a boy from Bungoma who was in my office, who has been paying this money for the last ten years, because he has been getting casual jobs on and off. So, it is important that this particular issue of the penalty by the HELB be addressed.

Mr. Speaker, Sir, the issue that I was raising earlier on is under Article 135 of the Constitution of Kenya.

The Speaker (Hon. Ethuro): Order! Sen. Khalwale, I was not for a moment saying that you are not right. I was just saying that it does no harm to appreciate liberally and then you can qualify later. But when you are doing it like the third word takes away the second word, it does not bring out what you had intended to do.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, now that---

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

Sen. Mong'are.

Sen. Okong'o: Mr. Speaker, Sir, let me also thank the Deputy President for coming out clearly on this issue.

Mr. Speaker, Sir, let it be clear also to the headteachers and principals that this matter is also captured in the KNEC Act which finds it illegal to withhold those certificates. Let it be known, loud and clear, that some of us who are lawyers, especially in our counties, are going to engage those principals even if it means taking them to court, so that they can release those certificates.

Thank you, Mr. Speaker, Sir.

Sen. Abdirahman: Mr. Speaker, Sir, I want to add my voice to this very important issue raised by Sen. Musila.

Mr. Speaker, Sir, we passed a Motion in this House in the last Session and I want to thank the Deputy President. But that is not sufficient. We want the Ministry to give a clear policy guideline on this. Headteachers or principals are adamant and will not be willing to give in. I would suggest that the Departmental Committee on Education calls the Cabinet Secretary, so that we get a clear policy direction and save innocent Kenyans who are failing to get jobs or join universities or colleges.

Thank you, Mr. Speaker, Sir.

Sen. Lesuuda: Mr. Speaker, Sir, I just want to add my voice in congratulating Sen. Musila for being consistent and pushing this matter. I also want to congratulate this House for ably debating and even passing this Motion. I also congratulate the Deputy President for taking it up. Just as my colleagues have said, I hope that the directive is going to be made formal in a policy.

Mr. Speaker, Sir, if we say that the certificates are not the property of the school, maybe, in future, they do not have to go back to the school itself. If these certificates are the property of the KNEC, then they should go to the office of the District Education Officer (D.E.O.). This is because for as long as the schools are holding the certificates, then these certificates are their property.

Mr. Speaker, Sir, also, it cannot possibly be that these students would just love their certificates to be in those schools for 10 to 15 years. So, I really hope that this is something that the schools and stakeholders can just look into, as matter of urgency, so that if any other employment opportunity comes for these students, then they should be assisted. I think that it beats logic why we have free primary and secondary education---

The Speaker (Hon. Ethuro): Order! I gave one minute. I do not know why Sen. Lesuuda seems to be having more than the one minute.

Sen. Lesan.

Sen. (Prof.) Lesan: Mr. Speaker, Sir, I also want to thank the distinguished Senator for Kitui, Sen. Musila, for bringing this issue to the Senate passionately. I also join the others, of course, in thanking the Deputy President for making the declaration, which we have taken. Whether it was made on the roadside or otherwise, a declaration has been made.

Mr. Speaker, Sir, it is incumbent upon us, as legislators, to also streamline the laws and legislations that govern examinations. We are aware, of course, that there are the Teachers Service Commission (TSC) and KNEC regulations. As we have observed, there is contradiction in that legislation. I think that it is incumbent upon us, as legislators, to correct that impact.

Mr. Speaker, Sir, secondly, we are aware of a lot of money used as bursaries for students. If we can streamline the way the bursaries are given or awarded, it is possible to minimize the outstanding fees at the end of a year. So, I want to suggest that some of the money that has been used for bursaries should be used in a very sensitive manner in which we can capture some of these students who eventually will not have paid for their certificates at the end of the year. I am sure that this can be done.

The Speaker (Hon. Ethuro): Order! You have exceeded your time.

Sen. Billow Kerrow.

Sen. (Prof.) Lesan: Thank you, Mr. Speaker, Sir.

Sen. Billow: Mr. Speaker, Sir, I am really surprised because if the Kenya National Examinations Council Act outlaws the holding of certificates and it is an offence under the Act, what the Deputy President has done in essence is simply to direct the head teachers who are engaged in the illegality to release the certificates. I think the person who is sleeping on the job is the police and other institutions of law enforcement; that is, the Director of Public Prosecution (DPP) and his team. They need to enforce the law. You cannot allow schools to punish innocent children. That is the direction it should take and not Motions.

Sen. Kivuti: Mr. Speaker, Sir, I stand to congratulate the Deputy President for making this wise move. Personally, I think the issue of solving school fees can also be addressed globally. Since we already have secondary schools being supported by the Government, we can have that money increased maybe by Kshs1000 per student. Therefore,

they will not have to pay school fees at all. In that case, there will be no need to withhold any certificate.

The Speaker (Hon. Ethuro): Well-done, Sen. Kivuti for maintaining your one minute.

Sen. Sang: Mr. Speaker, Sir, I want to congratulate His Excellency the Deputy President and it is important to note that he did not issue a directive. He was just reminding everybody that there is a law and asked the head teachers to comply with it. I want to agree with Sen. Lesuuda that the certificates do not belong to the schools. The issuing authority is the Kenya National Examinations Council (KNEC). Therefore, there is no justification for withholding these certificates. I want to ask the teachers' union that this is a matter between the schools and the Government. Why is the Kenya National Union of Teachers (KNUT) raising issues when this is a matter of what the law says? In fact, we should not hold any negotiations on this issue because we cannot engage in negotiations over an issue where the law is clear. Therefore, I really want to appreciate what the Deputy President said.

Sen. Ndiema: Mr. Speaker, Sir, I also want to join in thanking the Deputy President and this Senate for this compassionate step. I want to agree that in order for this situation not to arise in future, the Government should just go ahead and waive all the fees for examinations. Also in accordance with the Constitution, these certificates contain vital information which should not be withheld.

The Speaker (Hon. Ethuro): Again, well-done, Sen. Ndiema.

Sen. Wamatangi: Mr. Speaker, Sir, I congratulate Sen. Musila and the Deputy President for clarifying this matter. Albeit, this matter had come to this House and we discussed it. In the Deputy President's directive, the key word that delivered the required message was that teachers should ask the Government while addressing the issue of balance of fees. That is where we, as legislators, need to come in. If we do not come out clear, then are we saying is that in future if a student joins Form One and goes all the way without paying fees, are we declaring that education is going to be free? So, we need to be clear.

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, I want to compliment Sen. Musila for following such an important matter so passionately. Mine is to try and give a way forward. First, looking at the way our country is moving in terms of growth of the economy where it is registering 6 per cent growth and recently we discovered oil and coal, the Government should declare universal free secondary education. Secondly, the Government should bring a Supplementary Budget so that it can get Kshs14 billion to enable us clear all fee balances and move on.

Sen. Obure: Mr. Speaker, Sir, first, I want to thank Sen. Musila for championing this very grave matter. I want to say from the outset that the victims are generally very poor and very needy students particularly girls. I also want to say that it is very disturbing to note that there is a specific law which makes it a criminal offence to withhold a student's certificate. Therefore, as a Senate, we insist on enforcement of the law by those responsible.

Sen. Kagwe: Mr. Speaker, Sir, in congratulating the Senate and the Government, I just want to raise two things. First, in these days of "*haki zetu*", it is very easy for the Deputy President to issue that directive but there will be some head teachers who will

refuse to issue the certificates. I think it is important for us to remember that and we will still insist on money being paid to schools. Therefore, what we should be asking ourselves, since the Deputy President said the Government will pay, is: What method and manner in which the Government would transfer that money to schools?

Secondly, in terms of a long term solution, we should copy from other jurisdictions. For example, in Britain, you start paying for loans when you reach a certain threshold of earnings. Therefore, the issue that was raised by Sen. (Dr.) Khalwale where you start paying even if you are still a casual worker does not arise elsewhere.

Sen. Kittony: Mr. Speaker, Sir, I also want to add my voice to this issue and thank Sen. Musila for championing this cause and bringing it to the House. I also want to congratulate the Deputy President. He has done this country proud and relieved tension from many parents. This is a remarkable statement that he has made. Therefore, I join the rest of my colleagues in congratulating him.

Sen. Kanainza: Mr. Speaker, Sir, I also want to add my voice and thank Sen. Musila for following up this matter. As a way forward, we have a lot of funds in this country meant for needy students. There are funds from the Ministry of Education, the bursaries from the Constituencies Development Fund (CDF), the County Education Fund and the Ward Fund which has an allocation for bursaries. It is my plea that these funds should be consolidated and managed by one office so that they can help needy students. If we do so, the issue of not having paid school fees will not arise. I support

Sen. Nabwala: Mr. Speaker, Sir, I rise to thank Sen. Musila for following up on this matter of the release of school certificates. By holding back certificates, we are denying our children the opportunity to move forward and get jobs or to go for higher education. Therefore, I want to thank the Deputy President for the decision that he took. Already, there is a law but somebody somewhere is sleeping on the job. Therefore, I congratulate him and also thank the Senate for taking this matter very seriously by deliberating on it so that teachers out there who are defying the order to release those certificates---. They should check themselves. Since the order was issued, action should be taken so that we can know whether that the Government is serious.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, first, I want to take this opportunity to thank all of you for standing with me when I had a challenge.

Three years ago, the then Prime Minister announced that people in the North Rift will not pay fees due to drought. Due to this, students refused to pay fees and there was no money from the Government. I am hoping that after the announcement, payments have to be made to schools because books and everything else required in school must be paid for. We should not paralyze our schools. Instead, we should enable our education system to be up to date.

Sen. Omondi: Mr. Speaker, Sir, I want to thank you for giving me this opportunity. I want to thank Sen. Musila and the Deputy President for coming out to support the issue that is of concern to all parents and learners. I want to request that the directive from the Deputy President should be in the form of a circular because most institutions rely on circulars or written communication for them to implement the directive. It is a good initiative and a good support to parents and learners within the community who depend on us as legislators. Let us support this initiative by coming up with a written communication or circular.

The Speaker (Hon. Ethuro): Finally, the Chair of the Education Committee, Sen. Karaba.

Sen. Karaba: Thank you very much, Mr. Speaker, Sir. Much as I would like to support this announcement by the Deputy President, it is also important to know why this amount of money accumulated over the years. There must have been a reason and I would like to find out what happened. The moment that money is not paid, some schools will certainly grind to a halt. I support.

Sen. Bule: Bw. Spika, nakushukuru kwa kunipa fursa hii. Ningependa kumpongeza Naibu Rais wetu na pia Sen. Musila kwa kuleta Hoja hii. Nafikiri Wakenya wengi wamepata matatizo kwa kukosa kupata vyeti vyao vya shule kwa sababu vyeti hivyo vimetiwa “mbaroni” na waalimu. Hii ni fursa muhimu sana kwa wanafunzi waliokosa vyeti vyao kwa muda mrefu. Kwa hivyo, langu ni shukrani na pongezi kwa Naibu Rais na Serikali ya Jubilee. Asante.

Sen. Chelule: Thank you, Mr. Speaker, Sir. I also want to take this opportunity to congratulate Sen. Musila for making sure that what he brought to this Floor the other time has gone through. We are so happy; I am one of those parents who are so happy, especially when the Deputy President was very concerned and gave a directive on the same issue.

Mr. Speaker, Sir, I want to take this opportunity to thank some head teachers who have started implementing the directive. I have witnessed one who has done that. I want to congratulate the Deputy President---

The Speaker (Hon. Ethuro): Order, Senator! Order! Did I hear you are one such parent?

(Laughter)

Sen. Chelule: Mr. Speaker, Sir, sitting in this House, I am still a parent. But it does not mean that I have failed---

(Sen. Chelule spoke off record)

(Laughter)

The Speaker (Hon. Ethuro): Sen. Leshore?

Sen. Leshore: Thank you, Mr. Speaker, Sir. I wish to join my other colleagues to congratulate Sen. Musila. I also want to congratulate the Deputy President for giving those directives.

We, as a Senate, are here to protect our citizenry. By saying so, I mean that we are here to protect, follow and observe the law. The head teachers or principals must observe the law. The law is very clear and I would like the Committee on Education to ensure that, by Friday next week, those principals who will not have released these certificates are taken to court.

Thank you, Mr. Speaker, Sir.

(Applause)

The Speaker (Hon. Ethuro): That is the end of that matter, hon. Senators. We are still on statements. Yesterday we terminated the interrogation of the Chairperson of the Committee on Lands and Natural Resources. So, let me now allow Sen. Zipporah Kittony to proceed with the interventions.

MEASURES TO ERADICATE POACHING
OF WILDLIFE IN KENYA

(Resumption of Statement interrupted on 15.7.2014)

Sen. Kittony: Mr. Speaker, Sir, I would like to thank the Chairperson, the Senator for Embu, Sen. Kivuti, for his answer on the statement regarding wildlife poaching, which I requested on 11th June, slightly over a month ago now.

Mr. Speaker, Sir, if you visit the Nairobi Animal Orphanage at the Nairobi National Park in Langata, immediately after you gain entry at the gate, there is a small information booth in the form of a question and it asks: "What is the major threat to wildlife?" Once you open that space, there is nothing in it but a mirror. This is a demonstration that the most undisputable threat to wildlife is human activities surpassing droughts, wild fires and others.

Having said that, Mr. Speaker, Sir, I have always been appalled by the issue because almost every day we hear about poaching in the news bulletin. But today I am confident that with the recommendations and measures stipulated by the Chairperson, I am hopeful that poaching will no longer dominate the news again. The main reason I get disturbed whenever I hear, read or watch the news regarding poaching of wildlife is because I am aware of the damage it causes to our tourism sector. Wildlife constitutes approximately 80 per cent of our tourism industry and it is also our foreign exchange earner.

Mr. Speaker, Sir, I urge the Committee and other stakeholders involved to ensure that these measures are implemented to the letter, not only by talking to us today, but they should truly be implemented. We do not want our country to be overtaken by other low ranking countries with respect to tourism. Our beautiful country is known for wildlife and also for its flora and fauna. We should always remain high and respected. We are going to be in that niche if we guard our wildlife and other tourist features.

Mr. Speaker, Sir, poaching of wildlife is a serious issue. From this statement, I accept that the numbers of living Sitatungas, which are in my neighbourhood are only 256 at Saiwa Swamp. This shows how extremely endangered they are. That is why I urge both levels of Government to come up with extra-ordinary measures to permanently curb the menace and protect the Sitatungas. I think similarly having *Operation Okoa Ndovu*, there should also be *Operation Okoa Siatungu* given the decline we have realized.

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

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

Madam Temporary Speaker, in the statement, the Chairperson has failed to explain to the House or to deny the establishment of the County Wildlife Conservation Compensation Committees (CWCCC), which I think need to be addressed. It was legislated last year and it was intended to come into force by January, 2014. Up to now, nothing has been done. Now that we are in the devolved system of government, if legislation is put in place, it should be complied with. I am asking the Committee to relook into this issue and have it implemented as soon as possible.

Thank you, Madam Speaker.

The Temporary Speaker (Sen. Ongoro): Chairperson?

Sen. Kivuti: Thank you, Madam Speaker. I would like to acknowledge with thanks the comments from my colleague, Sen. Kittony. It is very rare when you give a very comprehensive answer to get such compliments. Thank you very much. She has raised only one query about the establishment of the CWCCCs in the 47 counties.

In my reply yesterday, I stated that when this Act was enacted this year, the Ministry actually took action and all the Chairpersons for these committees were in place by 30th June, 2014. The respective committees are expected to be in place in all the 47 counties by the end of August, 2014, which is next month.

I thank you, Madam Temporary Speaker.

Sen. (Prof.) Lesan: Thank you, Madam Temporary Speaker. First, I want to thank the Chairperson for the answer he gave. But I must say from the outset that the answer given does not give any hope to the animals existing in the parks at the moment.

The Chairperson gave us a report and mentioned that it is only up to 25th of June. But it is understood and we are clear that from the 25th of June up to date, which is only a period of two weeks, we have since lost close to 10 rhinos within that time. I do not know whether the Chairperson was being strategic to end the report on the 25th of June, because the death of the rhinos happened on the night of the 26th June. So, it is important and incumbent upon the Chairperson to let the House know.

Secondly, what is the role of the security agents on this issue? We know that Ol Jigoi is a private sanctuary, and this is the sanctuary which is well guarded with a lot of security for animals; but this is the same place where some massacre of rhinos happened. Will the Chairperson inform the House whether the security agents who are charged with the responsibility of taking care of these animals are actually involved in the poaching of these animals?

Thirdly, Madam Temporary Speaker, we are aware that the Kenyan ivory and rhino horns usually get arrested in the ports of Singapore or Philippines when they have actually gone through the Port of Mombasa. Could the Chairperson tell us whether the training he says is being given to the officers is adequate enough to help them detect the contraband – the rhino horns in Mombasa? I know the Chairperson said that there are sniffer dogs around, but I believe that the handlers of these dogs must go through some training so that this contraband is arrested when it is still in our port.

Madam Temporary Speaker, the information that we have at the moment is that there are only about 1,000 rhinos in the country. We are aware that it is very possible, using the current technology, that we can actually trace and track these 1,000 rhinos using a very small amount. It only costs maybe US\$100 Dollars to put a collar or something on these rhinos and we can actually save them using the current technology. Can the

Chairperson tell the House whether the Kenya Wildlife Service (KWS) or the Government can use more superior technology to preserve the wildlife in the country? Could the Chairperson please clarify these issues?

Thank you, Madam Temporary Speaker.

Sen. Mwakulegwa: Thank you, Madam Temporary Speaker. I would like to request the Chairperson to clarify the following. One, what technology has the KWS embraced to prevent and curb poaching, especially in the identified areas like Tsavo East and West National Parks?

Two, what criteria is the KWS allowing commercial grazers to access national parks with their animals, thereby becoming difficult for them to identify the poachers and the commercial grazers? How much are they paid? Is it a strategy by the KWS to actually earn revenue through commercial grazing in national parks?

Thirdly, Madam Temporary Speaker, who is in charge at the KWS? We know that the term of the board of directors has expired. We do not have a substantive chief executive officer and, therefore, who is making these decisions at the KWS?

Finally, from January to June in Tsavo alone, we have lost 88 elephants; most of them are killed and are never reported by the KWS. But I am quoting figures from the Taita Taveta Association of Ranches and the county government. We have lost 88 elephants from January to June in Tsavo. What is happening in Tsavo is that there is no tourism going on. We are losing our national heritage as the Taita Taveta County.

Sen. Billow: Madam Temporary Speaker, on this issue on the loss of wildlife, a report that was published last year and which is in the possession of the Government clearly shows that nearly 80 per cent of the poaching is done in private ranches and not in public parks. This is 80 per cent of all the killings and yet it is very clear that the single most important challenge that is facing wildlife today is that of management, specifically by the Board of Directors.

Due to lack of sound judgment, coordination, appropriate policies and direction by the Board, we have had a lot of disjointed directives regarding the management of wildlife which has not helped in reducing poaching. Early last year, nearly 30 senior officers of the Kenya Wildlife Services (KWS) from the pastoralist community were dismissed, suspended or demoted on the grounds that they were aiding poaching.

Hundreds of thousands of animals were moved out of the commercial ranches in parts of Taita Taveta. Even after that action, poaching has continued to increase. In fact, it is getting worse. Could the Chairman of the Committee tell this House what action the Government will take to address the issue of management, in particular the Board of Directors of KWS? To some extent, that has in some quarters been implicated because of the presence of private ranch owners in the board who have been implicated in some of the poaching that is going on in this country in some private parks.

Sen. ole Ntutu: Thank you Madam Temporary Speaker. First of all, wildlife is our national heritage. It is being alleged that the KWS is involved in killing wildlife. What action has the Ministry taken to bring to book these selfish greedy officers? In several parks, you will find rhinos and elephants being killed. They are supposed to be protected by the KWS. What is the role of the KWS if it cannot protect our national heritage?

Sen. Kagwe: Madam Temporary Speaker. I rise to join my colleagues in seeking certain clarifications. For example, I think whenever we have talked about wildlife; it has always been the case that money does not follow the action. It is so said. I wish to ask the Chairman to clarify, for instance, how many drones we are using in Kenya at the moment and whether it is true that there was an offer for drones from the American Government which the Kenyan Government has never taken up for use in protection of animals?

Secondly, we have been talking about the issue of human-wildlife conflict. If you visited some of the areas that this is occurring, for example, Kieni Constituency in Nyeri County, you will see the elephant corridor we have been talking about for a long time. This is meant to protect people as well as the wildlife. I wish to ask the Chairman to clarify whether there has been any thinking regarding the elephant corridor in Kieni from Mount Kenya to Aberdares and how much money has been put aside to pay the people within the corridor so that elephants can get access from one mountain to another?

My third clarification is; even if we try to protect wildlife and the demand for ivory in China continues to be as it is, what action will we take as Kenyans *viz-a-viz* our discussions with the Chinese Government to ensure that they do not allow ivory in their own country?

In the recent World Economic Forum of the Chinese and Americans, the issue of poaching came up. What is the involvement of the Kenyan Government in those discussions? More so, we must provide sufficient funds to do the work that we want to do *viz-a-viz* the protection of wildlife.

Sen. (Prof.) Lonyangapuo: Madam Temporary Speaker, I would like to seek further clarifications. On two occasions this year, live on our television, we saw security officers working for the KWS shedding tears and crying next to dead elephants. Could the Chairman clarify what scenario was being shown to Kenyans? Officers who are supposed to be protecting animals are very helpless. What is the missing link that can lead to the scenario where the protector, with a gun, would cry?

The Temporary Speaker (Sen. Ongoro): I am not seeing further clarifications unless someone has a faulty card. Therefore, Mr. Chairman, please, respond.

Sen. Kivuti: Thank you Madam Temporary Speaker. I stand to clarify some of the issues that have been raised. With regard to the point raised by Sen. (Prof.) Lesan about Olsogoi where ten rhinos were killed, apparently, it is not possible to change statements every day. This statement was sought before that date. We had the answer as at 25th June. That is not to say that a mistake done after the statement is correct. I would like to state here that the Government is taking steps with regard to this issue of poaching. If you look at the 16 technical steps that I outlined yesterday, I do not have to read them again, you will see that they are all meant to deter and to protect animals and to ensure that poaching is curbed.

I explained about the efforts and the yields of and how the percentages of poaching have reduced between January and June this year. I am not trying to say that those levels are adequate. That is why we, as the Government, would like to see the levels reduced to zero. Sen. (Prof.) Lesan also wanted to know about the tasks and rhino horns at Singapore and the Far East. That, again, was contained in my reply yesterday. The intervention to protect animals is not only destined here on Kenya.

The measures I outlined go up to Interpol, the Far East and to international bodies. I outlined them all and I do not think it is necessary for me to repeat what I read yesterday. We go beyond the boundaries of Kenya. We go to the region and to international circles and do everything possible. We have only managed to reduce this by 30 per cent from where we were at the beginning of this year to the figures I gave you yesterday.

The other three Senators asked about the issue of use of technology. The number of technology being used is not few. I outlined, at least, six technologies. It is good that Sen. Kagwe has brought another question of an extra technology which I also agree would go a step further in curbing poaching. I do not want to say that the issue of superior technology is what we have dealt with so far and that it is adequate. I request any Kenyan with good ideas on technology which can benefit the efforts being undertaken by the KWS, to bring them forward. I am happy that some of the ideas are being brought to the Floor of this House.

Sen. Mwakulegwa asked about technology and commercial grazing. I do not want to say that I have all the answers to all the questions and particularly on why commercial grazing is allowed in Taita Taveta. I propose that I be allowed extra time to raise this matter with the Ministry so that we do not just say that since we have answered the question, then the matter rests there. It does not. I am saying this so that we can give more ideas on technology as suggested by Sen. Kagwe and Sen. Mwakulegwa.

The next issue is about the Board of Directors of the KWS. That has been asked by three of my colleagues. I would like to state that I am aware that the Government constitutes many boards. I am sure that you have heard about expired boards. This does not include KWS alone. I am aware that the Government is taking a bold step and that very soon these Boards will be reconstituted including that of the KWS and other Government boards which are in this category.

With regard to 88 elephants which were killed in Tsavo, from January, that is also included in my Report where I gave figures of all the elephants and rhinos killed. That would touch on all the elephants killed before 25th June when this Report was made.

Sen. Billow said that most poaching is done in private parks and that we should find a way of either moving the animals or changing the policy in protecting animals that are in private parks. According to the learned Senator, he read somewhere that, that constitutes about 80 per cent of the poaching menace. With regard to this, I do not want to qualify the issue of moving animals because that would kill private parks which are also enterprises within Kenya. Maybe we should be talking about how to enhance the security therein. As I gave the Report yesterday, I also gave a list of all the private parks and what the KWS has done to support them. I said that the KWS has given the police vehicles because the national heritage of the wildlife is not only limited in national parks but also extends to private reserves.

Madam Temporary Speaker, Sen. ole Ntutu asserted that KWS may be involved in the killings. I would like to state here, without doubt, that KWS is not involved but if there is an officer who could be a crook and we know that all officers in the Kenya Government are not saints, if such an officer is found, he or she should be treated like any other poacher. The same fate should befall anybody who is employed by Government who is involved in breaking the law.

Sen. Kagwe brought up the issue of drones. I have mentioned that in terms of the new superior technologies, that can be utilized. I do not want to comment on the offer given by the United States of America (USA), but notwithstanding, I believe maybe not one drone will be enough for all the parks. If the drones were actually offered by the US Government, if Sen. Kagwe has such information, he should let the Chairman have the information and I promise to personally and passionately move that issue forward because it will save this country a lot of efforts.

With regard to the elephant corridor between Mt. Kenya and the Aberdares, I did not have that request in the Statement but I am not going to close it up. If Sen. Mutahi would like to bring it up as a supplementary question we are going to address the issue including any other issues that can improve our parks. I am talking about the suggestion to remove commercial grazing and having a corridor between the national parks and migration corridors so that this kind of projects, particularly the ones that involve money can actually be implemented in the future.

Madam Temporary Speaker, on the issue of demands in China and the Far East that was also contained in my report and the mitigating factors that have been put in place, this were explained. I would like to make sure that this answer is given to all Senators who have an interest in reading through, so that at least even after we have finished reading, I will appreciate comments which we can take up later in our Committee so that we make sure the matter is addressed to the satisfaction of Members.

Madam Temporary Speaker, on the issue of officers crying over a dead elephant, I do not want to say that it is bad to cry when what you are guarding has been killed. It could also be a way of public awareness, letting the public to know that this is sad. I am not trying to qualify why they cried because I did not interrogate that particular matter in my answer, but I do not think that it is a good idea when something happens and people cover it; it is better when it is exposed. Even if those wardens had guns and the elephants were killed, in the same way if a Kenyan is killed, I would like to see all police officers go around there and cry.

The Temporary Speaker (Sen. Ongoro): Sen. Kivuti, in your opening remarks, you made an observation that you might have to bring a more comprehensive response in view of the matters that have been raised since your last statement which was still being contributed to and I support that. You have now reiterated that even in the matter that was raised by Sen. (Prof.) Lonyangapuo, you have not had adequate time to actually go back to the Ministry to reference and find out why the wardens were crying. I think I support your earlier statement that, in view of everything, and all matters arising on this issue, you still have to factor in all the questions that have been raised and then you bring to the Floor of the House a more comprehensive answer as you had earlier observed.

Sen. Kagwe: Madam Temporary Speaker, indeed, the ruling that you have made is perfect for this situation. In view of the fact that this pushing is a continuous exercise and it is happening all the time, would I be in order to request that in your ruling, you actually rule that the Committee should give us a report at the end of every month? What is happening is a matter of emergency and a serious issue of global concern. In doing so, I would also urge that the Chairman responds to the matter of human-elephant conflict.

It is very well for us to protect the elephants and we should do so with all the energy that we can master. At the same time there is serious destruction that is currently

going on among the peasant farmers in Taita and Nyeri, Kieni Constituency. After growing of maize on small *shambas* for a whole year, elephants go there and clear them overnight. Those people must be compensated from the money that we get from tourism. Unless we do that, elephants will always be the enemy of the people and those people who are growing on small *shambas* will always be against those elephants.

In giving the Statement that you have directed the Chairman to give, he should address the matter of human-wildlife conflict and the compensation to human beings, their crops and their economic activities.

Sen. Mwakulegwa: Madam Temporary Speaker, I would like the Chairman to make further clarification. The Wildlife Conservation and Management Bill was actually operationalized in January this year. To date, the Minister has not appointed the compensation committee so that this compensation can actualize. Why has the Minister delayed appointing the Compensation Board so that he can effectively start paying the people who have lost their livestock and their crops to wildlife destruction?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, there are those in this country who believe that the increased rate of poaching especially against elephants is because of the increased number of Chinese traders in the country. In his Statement, could the Chairman clarify what the Government is doing at Government to Government level to ensure that these Chinese stick to what brought them in this country? Finally, could you clarify the point raised by the Senator for Nyeri which you seem to dodge; the issue of use of technology, specifically the drones? You seem to appear to say that you are leaving it to the Senator for Nyeri to give you information on what the Government of the United States is doing in order to assist us using technology. Surely you have an office of the Ministry of Foreign Affairs with a High Commissioner in the US. It is your responsibility to tell us and not the Senator for Nyeri.

Sen. Billow: Madam Temporary Speaker, the Chairman did not answer my question satisfactorily. I would appreciate if he can. I raised the point that the Board of Directors of KWS has been a problem either for lack of appropriate management policies, directions or complicity because some of the members represent private ranches and reserves. Could the Chairman tell this House whether the Government should propose restructuring of the Board of Directors so as to avoid conflict of interest in the management of that institution?

Sen. Obure: Madam Temporary Speaker, as you may have seen, these matters have generated considerable interest. I know that the Senator for Nyeri has suggested a periodic report on what is going on in this sector. He has suggested monthly reports but to me, monthly reports appear to be too soon and too short. I know you want to give some direction on this. Could I suggest that maybe we could do with the half yearly reports or quarterly reports?

The Temporary Speaker (Sen. Ongoro): You are always free to give your interventions. The Chair is here to respond. I do not see any further requests for interventions. Chairman, could you give your closing remarks and we move on?

Sen. Kivuti: Thank you, Madam Temporary Speaker. I will need your intervention in terms of the Statement which was sought and the answer which was given which was point to point and very elaborately answering the Statement sought. They were five of them. After the interventions, other requests are being made.

The issues which have come out afresh are only four: The issues of superior technology which can be used by the KWS, restructuring the Board of Directors and putting it in place, creation of migration corridors and the commercial grazing issue. The issue of wildlife conflict is already contained in this Report and I would beg Members to go through it. I am requesting that instead of giving this Statement and then another one, if you could rule that we get a new Statement with the new requirements which I am sure have been captured in the HANSARD so that we do not have to repeat what has already been answered.

The Temporary Speaker (Sen. Ongoro): Chairman, this is a debating Chamber and Members are at liberty to interrogate any Statement to whichever extent. Until and unless they are satisfied, you have a responsibility. Whether it was contained in the first Statement or not, there is no way we can have a question of 10 pages. Why we have a short question but allow interventions is so that you can factor in everything. From all indications, the hon. Senators are not satisfied with the answer you have given. Sen. Kittony is not in the House either and, therefore, I rule that we give you time to go and consolidate and factor in all the questions and matters arising. Even as you were responding to the earlier Statement, some matters happening within that issue were taking place and they have been raised on the Floor of the House. It is your mandate to go back to the line Ministry and factor in all these questions and bring a comprehensive answer until each and every Senator who raised an issue is satisfied. I give you an additional one week to bring that answer.

(Statement deferred)

We will, therefore, move on to another Statement. Sen. Catherine Mukiite, you were seeking a Statement from the Chairperson of the Standing Committee on Land and Natural Resources. You have to make your requests and I will give the ruling.

ALLOCATION OF LAND TO SQUATTERS IN CHEPCHOINA
PHASE II SETTLEMENT SCHEME

Sen. Nabwala: Thank you, Madam Temporary Speaker. I had sought a Statement from the Standing Committee on Land and Natural Resources on Chepchoina Land Allocation Scheme Phase II. I wanted to know what criteria the Government had used to allocate land to the needy or poor people. I also wanted a list of the allottees of land in that area and to know why foreigners were allocated land in the area instead of the local community. Also, I wanted the Committee to give an account of the landless in Kenya per county.

I cannot remember the date when I sought this Statement, but the Chair of the Committee on Land and Natural Resources responded. The House interrogated that Statement and the Senators were not satisfied. So, he was asked to go back and have a meeting with the Cabinet Secretary for Land, Housing and Urban Development and bring a comprehensive answer on the Floor of this House.

The Temporary Speaker (Sen. Ongoro): Chairman, what she has presented is the true order of things. What is your response or request?

Sen. Kivuti: Madam Temporary Speaker, what Sen. Mukiite has said is correct. If you check the HANSARD, this was a joint matter concerning Sen. Mukiite's request and also Sen. Mutula Kilonzo Jnr.'s question. It was ordered that we do a thorough investigation, which is going on. Sen. Mukiite can attest to the fact that we sat with the Cabinet Secretary for Land, Housing and Urban Development yesterday and she is also invited among others to sit with the National Land Commission tomorrow, Thursday. The deliberations of the open investigations are such that we may deem it necessary to interrogate other evidence, in which case, we may need an extra four weeks.

Madam Temporary Speaker, I beg your indulgence.

The Temporary Speaker (Sen. Ongoro): Chairman, to the best of my knowledge, this Committee was given up to 4th July, 2014 to present before the House a more comprehensive answer. You are already two weeks overdue. Even if you were to ask for additional time, it is only proper that we remind you that according to the schedule before me, you had been given up to 4th July, when you did not present a comprehensive answer. Now, we are on 16th July. How many more days are you requesting, so that you bring this answer to the House?

Sen. Kivuti: Madam Temporary Speaker, I beg your indulgence. I completely do not agree that four weeks elapsed by 4th July, 2014, because we were given the four weeks sometime in June. We met the following day and scheduled who to interrogate. But be it as it may, if the Chair rules that we bring the report – where it has reached – we shall take the obligation and follow the ruling. It might be of interest to you that this matter is very grave and may require more intervention and investigation, but your ruling shall prevail, if you rule that we bring whatever we have investigated.

The Temporary Speaker (Sen. Ongoro): Okay! Mr. Chairman, I want to remind you that the Chair does not speak without facts. This Statement was first sought on 15th April, 2014 and was due on 6th May, 2014, after which, you requested for more time and it was granted. We gave you up to 4th July, 2014. That was a month from the earlier date, that is, 6th May, 2014 to 4th July, 2014. I think that is more than four weeks. You are right to have made reference to four weeks, but it was even overdue. Now, we are on 16th July and, therefore, I completely overrule your facts. We have very clear facts here. If you are requesting for more time, please, do so but do not confuse the facts that we have. These facts are very true. How much more time do you need, because we cannot give you indefinitely? What is the Ministry tackling that is so difficult that they cannot give you appropriate answers to this question?

Sen. Kivuti: Madam Temporary Speaker, we are talking here about land matters, tribal conflicts and big issues which could even cause discontent between the communities involved. I had requested the Chair to give us four weeks, but if you decide to give us whatever time that you think, we shall comply.

The Temporary Speaker (Sen. Ongoro): How much time are you requesting for?

Sen. Kivuti: Madam Temporary Speaker, I am requesting for four weeks.

The Temporary Speaker (Sen. Ongoro): So, it is from 4th April, 2014 to 16th August, 2014. Are you asking to give the answer on 16th August, 2014?

Sen. Kivuti: Yes, Madam Temporary Speaker. We are talking about documents of land allocation, which have continued to “pour” to our Committee. If we do not

interrogate all the matters we will give you half-baked information, but I will take the ruling from the Chair.

The Temporary Speaker (Sen. Ongoro): Okay. I think the points that you have raised are also very grievous and understandable. If Sen. Mukiite would oblige, I think that we will give you that extra four weeks, in view of the seriousness of the issue, so that once and for all, you will give us a comprehensive answer.

Sen. Mukiite, are you in agreement?

Sen. Nabwala: Madam Temporary Speaker, this issue is grave and emotive and people have lost lives in Chepchoina. We had the opportunity with Sen. Zipporah Kittony to meet a delegation from the area. We were informed that 11 people had died and challenged to go to the ground to see it for ourselves. These people have been displaced and other people brought on that land. I also understand that there are many cases of double allocation. We were told that already some people have been allocated land on Phase III. There are people out there who have been displaced and have nowhere to stay.

If the Chair says that he needs four weeks, and given that on 16th August we shall be on recess, what I would have expected him to do is to constitute a special committee, as we had agreed. That committee will go to the ground, verify the facts and maybe within two or three weeks when his committee meets with the Cabinet Secretary for Lands, Housing and Urban Development, then he will have his own facts which he can use to interrogate the Statement.

The Temporary Speaker (Sen. Ongoro): Chairman, I am in agreement to give you the four weeks. However, given those same reasons that you raised of this matter being grievous and very emotive, if again we sit on it for that long without the public seeing us to be doing something, I think that it will raise even more emotions. The request by Sen. Mukiite that we constitute a small sub-committee, under your chairmanship or within the Committee, would at least, give you that adequate time, even while we are on recess. The public will see that your Committee is dealing with this issue. I think that is the way we should go, but I have granted you four weeks. However, it is going to be more than even two months, because we will be on recess, during which time it would make sense if we are seen to be doing something.

Sen. Kivuti: Madam Temporary Speaker, I would like to clarify one thing. The committee which Sen. Mukiite is talking about is not a committee of the Senate. What we agreed with the Cabinet Secretary yesterday – and Sen. Mukiite was there among others – was that we need an intervention of a committee that is politically-based, but with the involvement of the Executive. This is because the Senate Committee may not be in a position to resolve this matter. So, we agreed that this matter must be resolved both politically and administratively on the ground. That committee should go on the ground and bring facts. But before those facts are brought it means that our report will be half done. We can only come and say: “We have put a committee which is working on the ground and it will give us a report.”

Madam Temporary Speaker, the issue has been clarified by Sen. Mukiite; that this matter is emotive is true. For that reason, I know that Sen. Ndiema did not wish that this matter flairs up in public. So, if we are dealing with an emotive matter which might cost lives, we must try to be a bit more cautious. It is good that I am bringing it to your attention that a committee will be formed by the Ministry and it will involve the

Executive, County Commissioner and the local political leaders. They will be given the terms of reference – where to go and do on the ground. But as it were, I take your ruling.

The Temporary Speaker (Sen. Ongoro): I think we could leave that matter to rest and give him the four weeks. If those four weeks find us in recess, we will count whichever number of weeks before recess and the number of days after recess to bring that comprehensive answer to the House.

Very well, I think we can move to the next Statement by Sen. (Dr.) Khalwale.

AGREEMENTS SIGNED BETWEEN THE GOVERNMENTS
OF KENYA AND CHINA

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am waiting for a Statement from the Chair of the Committee on Finance, Commerce and Budget.

Sen. Billow: Madam Temporary Speaker, I beg to reply.

There is a Statement that had been forwarded to the Chair and to the Clerk but there is a revised Statement which came in this afternoon. I wanted to get both Statements combined but the Senator for Kakamega wants to continue with whatever we have. Therefore, I will give the response.

Madam Temporary Speaker, the hon. Senator had sought to know the details of the agreements with China, the amounts involved, how much of the money has gone into infrastructure, how much is grant and how much is loans. I want to state that Kenya has a long standing and strong relationship with the Republic of China, covering key aspects of economic development and corporation as well as other areas, both political and cultural. Over the years, Kenya has benefitted substantially from development co-operation through financial and technical support by the Government of China. Through this support, the Republic of China has made notable contribution to our national development agenda which has enabled Kenya to attain substantial achievements in terms of economic growth and improving welfare.

Our current development co-operation with China is based on the Fifth Forum for China-Africa Co-operation (FOCAC) Action Plan of 2013-2015. FOCAC is a platform established jointly by China and other friendly African countries in 2000 for collective consultation and dialogue as well as co-operation mechanism between developing countries. The idea is to foster friendship, consensus and co-operation between China and Africa.

The Chinese Government has earmarked US\$20 billion under the FOCAC Action Plan for 2013 to 2015 to assist African countries in the development of infrastructure, agriculture, manufacturing small and medium enterprises. Specifically, the cumulative financial support from China to Kenya amounts to Kshs460.46 billion which includes Kshs2.57 billion in grants and Kshs2.1 billion in interest-free loans. Out of the Kshs460 billion, Kshs31.3 billion is in respect of completed projects and Kshs429.33 billion is in respect of ongoing projects. The list of the projects is provided in the many schedules attached to the Statement. Out of this, Kshs460 billion that has been given by China, the amount for infrastructure as sought by the Senator is Kshs338.5 billion.

The rest of the detailed information is available in the Statement and the hon. Senator can read it. I have attached a list of all the projects that have been completed,

those ongoing, those financed through loans, those financed through grants, those financed through concessional loans and so forth.

Let me stop there, thank you.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, when President Uhuru went to China hopes were very high amongst Kenyans that when the money comes, it would change their lives. One area where members of the public were very expectant is in the health sector and, indeed, the President came with quite a bit of money. This money, Kenyans would be interested to know, that they would repay for a period of 40 years according to this answer. Kenyans would also like to know, with a lot of anger, that the money which was brought and distributed in hospitals according to this answer, seems to have been skewed to follow either political interests or executive power as evidenced in the following:-

Money has been taken to Kenyatta University Teaching and Referral Hospital – US\$120 million; money has been taken to upgrading Moi Teaching and Referral Hospital – US\$291.5 million; money has been taken to Nyeri Provincial General Hospital – US\$50.5 million; a further US\$6.12 million has been added for upgrading of Eldoret Hospital as it becomes a teaching hospital attached to Moi University. Finally, Kshs1.5 billion has been set aside for reconstruction of Gatundu Sub-district Hospital.

Madam Temporary Speaker, looking at all those hospitals, those of you who care to know where they are located, they are serving political interests or the whim of the executive. They have left out the whole country apart from those two areas where these hospitals are. Could the Chair explain---

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

The Temporary Speaker (Sen. Ongoro): Order, Sen. (Dr.) Khalwale. I am granting a point of order to Sen. Kagwe.

Sen. Kagwe: Madam Temporary Speaker, I do not know where the list being read by Sen. (Dr.) Khalwale is coming from but I can confirm one thing; I know for a fact that the Nyeri Provincial General Hospital has received no money from any quarters for many years. In fact, the hospital is virtually collapsing, and the Senator is aware of the presentations that have been made to us in the Committee for Finance, Commerce and Budget. So I do not understand why the hospital is in the list when I know for a fact that we are desperate and the hospital is about to close.

The Temporary Speaker (Sen. Ongoro): This was an intervention. Please, point to your specific point of order. Is he misinforming the House or what is out of order?

Sen. Kagwe: Madam Temporary Speaker, could the hon. Senator clarify where the list came from? Am I in order to state that the provincial hospital in Nyeri has not received any money?

The Temporary Speaker (Sen. Ongoro): You are quite in order to ask for those two clarifications.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, the answer I have is signed by Dr. Kamau Thugge, the Permanent Secretary at the National Treasury and he listed Nyeri Provincial Hospital as I have read and he has said that US\$50.5 million would be spent by a construction company called Shanghai Urban Construction Group. That is a fact. So the question I am asking on this particular point for clarification is: All these hospitals are either in Nairobi or peri-urban Nairobi if you leave out Nyeri Provincial Hospital---

The Temporary Speaker (Sen. Ongoro): Sen. Billow, are you requesting for a point of order?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I am asking my clarifications and he will respond.

The Temporary Speaker (Sen. Ongoro): Proceed.

Sen. (Dr.) Khalwale: Why has it not occurred to the Government that the provincial general hospital in Kakamega serving 5.5 million people would be better placed to attract this kind of support instead of taking it to Nairobi and peri-urban Nairobi area that has Kenyatta National Hospital (KNH), Gatundu---

The Temporary Speaker (Sen. Ongoro): Order, Sen. (Dr.) Khalwale. I am granting a point of order to Sen. Wamatangi.

Sen. Wamatangi: On a point of order, Madam Temporary Speaker. Is the Senator for Kakamega in order to mislead the House because he first insinuated that or rather he reported that the President went to China and came back with money---

The Temporary Speaker (Sen. Ongoro): Senator, you requested for an intervention or point of order, you have to direct us to what is out of order.

Sen. Wamatangi: What is out of order is the insinuation by the Senator that the works that have been carried out, for example, in Gatundu Hospital are done using money from China. For the record, the upgrading of Gatundu Hospital started seven years ago when Kibaki-Raila *nusu mkate* Government was in power. This is not work that has been done---

The Temporary Speaker (Sen. Ongoro): Is he misinforming the House?

Sen. Wamatangi: Yes, he is misleading the House.

The Temporary Speaker (Sen. Ongoro): Sen. (Dr.) Khalwale, are you misinforming the House? Which facts are you presenting to the House?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I want to beg my colleagues whom I respect from Central - I am a nationalist and Kenyan patriot - If you knew what I did when I was the Chair of the Public Accounts Committee (PAC) and this should be on record, to ensure that Othaya District Hospital was completed, then you will be grateful to some of us.

The answer that I am querying, I am speaking on facts signed by the Permanent Secretary, Dr. Thugge, and a copy is right next to you. I am not imagining it. They are trying to justify how that money was spread. Allow me to seek my clarification:

The second clarification is that out of the particular loan, there is construction of a maize process plant to be built in Bomet. This project was meant to be built in Lugari, Bungoma, Trans Nzoia or Uasin Gishu. If it is not for political considerations, why move this project from the bedrock of maize production and take it to a tea growing area in Bomet?

My third point of clarification is that it is indicated here that the interest rate will be---

(Several Senators stood up on points of order)

The Temporary Speaker (Sen. Ongoro): Order, Senators. Everybody will be given a chance. If you want to give an intervention, please just insert your card and I will give you time.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, my third point is on the issue of interest. How on earth could the Jubilee Government go for very expensive money at 3.7 per cent when the money we get from the World Bank is at 2 per cent interest? What is it that they want in China that they refused to go to the World Bank and get the same money at a cheaper cost to our economy?

Finally, the issue of project employees; could the Chair clarify whether part of the agreement is to ensure that jobs that can be done by Kenyans are done by the Chinese simply because the money has come from there? You all know that today Chinese are driving our trucks, they are pushing wheelbarrows on our construction sites, they are sitting behind our computers and so on. Why are these jobs being taken away from Kenyan youth?

Sen. Billow: Madam Temporary Speaker, first, let me clarify that the hon. Senator for Kakamega has in fact misled the House. When I started giving my response, I made it very clear that after the original Statement that was submitted last week, there is a revised Statement provided this afternoon, and I personally gave him a copy. He knows that all those figures have been replaced by a revised Statement and a schedule of figures.

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

Sen. Billow: I have not finished giving my response.

The Temporary Speaker (Sen. Ongoro): This is a point of order and we can grant. Senator, what is out of order?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, he is stating that I am misleading the House when I have the answer signed by the Permanent Secretary, received by the Clerk, copied to various places and marked to me. The piece of paper he is giving me, has not been signature whatsoever. So, how can I be out of order not to refer to something which is unsigned? Instead, I am referring to something which was signed and received by the Senate. This one has not been received and I want to table it so that I am---

The Temporary Speaker (Sen. Ongoro): Please, table it, because those are very serious issues you are raising.

(Sen. (Dr.) Khalwale laid the document on the Table)

Sen. Billow, is the other report you are referring to not signed? Has it been received by the Senate or are you the one now misinforming the Senate?

Sen. Billow: Madam Temporary Speaker, I am not and I do not have a history of misinforming anyone, including this Senate.

I advised the hon. Senator earlier on in the afternoon that the schedules attached – not the main statement – have been revised and there is a set of revised schedule. I want him to appreciate this; I said because this schedule is to replace the schedules which are attached, could we, therefore, defer this question so that I can get it properly attached? He said “no, we go ahead with it.” He cannot now dishonestly decline that he has ever got anything from me.

(The Temporary Speaker (Sen. Ongoro) consulted the Clerk-at-the-Table)

Madam Temporary Speaker, I want to repeat what I said because you were consulting. What I mentioned is that earlier on in the afternoon, I advised the honorable Senator that the schedules attached to the statement have been revised and that I have a new schedule. Could we, therefore, defer this question to tomorrow so that I can give you a statement with the new schedule? He insisted that I can go ahead the way it is and that I should just give him this statement. That is why I gave him a copy of that schedule – not the statement – nothing has changed on the statement.

The Temporary Speaker (Sen. Ongoro): Order, Senator! I have now been presented with the two statements that you are referring to and which Sen. (Dr.) Khalwale is also referring to. The first one which is dated 7th of July, 2014, has been received and duly signed by the Clerk's Office and Director of Legislative and Procedural Services; and it is signed by one Dr. Kamau Thugge, EBS, Principal Secretary National Treasury. The other schedule which I have and which I think is what you are making reference to has no signature whatsoever on any page at all. It has neither rubber stamped nor does it have a signature and there is no statement here indicating that it is replacing any earlier statement.

This is the Senate and we will only debate authentic documents as presented. If there is any replacement of any document earlier presented to the Senate, those representing it know that they must duly sign and follow due process to have it stamped. Otherwise, we cannot consider them as authentic or of any use whatsoever. Therefore, I rule that we will only discuss and debate this statement that was presented earlier which is signed and received by the Senate.

Proceed.

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

The Temporary Speaker (Sen. Ongoro): What is it, Sen. Kagwe? Stick to your point of order.

Sen. Kagwe: Madam Temporary Speaker, you are absolutely correct. In view of the fact that there seems to be a communication breakdown between the person who raised the matter of the statement and my Chairperson, Sen. Billow, and in view of the fact that the Chairperson has clearly said that the statement he is reading is a wrong one, and the correct one cannot be read because as you rightly ruled, the statement is not properly in the House; in view of this and to prevent us from discussing a document that is incorrect, would I be in order to ask that you rule that the Chairperson gets proper documents and we discuss proper documents in the House?

The Temporary Speaker (Sen. Ongoro): Sen. Kagwe, your request is---

(The Temporary Speaker spoke off the record)

I might take issue with the Chairperson; why did he in the first place present to this Senate a document which is not signed, even including the copy that he has before him? They attempted to mislead the House that there is a document replacing the earlier

one. So, it is only he who can make that request since he is in the House and I will then rule. But the person who asked the question is also in the House and we will interrogate that matter.

Proceed to respond.

Sen. Billow: Madam Temporary Speaker, let me clarify, because it is very important. There is a misconception in the way this matter has been taken. What I gave the Senator this afternoon is not a statement – and I have said that several times – it is not a statement; it is a schedule that I wanted to share with him because it really helped to address some of the issues. Actually, it just replaces the schedule which is attached; it does not change the statement. Nonetheless, if we can go ahead on the basis of even the old one--- I will go ahead on the basis of the signed one. Can I go ahead on the basis of the signed one?

The Temporary Speaker (Sen. Ongoro): Hon. Senator, I have to respond to the matter that you have raised. You have been a Cabinet Minister in this Government and you know that if you are to replace a Schedule with another one, you cannot just bring a piece of paper, pluck off one and replace it. That Schedule, as I have seen, has a person, but it is not signed. We are in agreement that it is not signed.

Sen. Billow: I agree.

The Temporary Speaker (Sen. Ongoro): Therefore, I make this ruling that we cannot discuss a document that is not authentic and which is not signed. You will be in order, though, to ask for more time – I believe Sen. (Dr.) Khalwale will not object that we give ourselves more time – to present this Senate with authentic documents and then we interrogate them. Make that request accordingly and I will give a ruling.

Sen. Billow: Madam Temporary Speaker, I withdraw that particular statement because I presented it to the House on his own advice that we go ahead. I now completely withdraw it but I want to continue answering the question on the basis of the signed statement that is before you. Can I proceed?

The Temporary Speaker (Sen. Ongoro): Very well; proceed.

Sen. Billow: Excellent.

Madam Temporary Speaker, if you go through this statement, it is clear that various loans and grants that have been given by the Government of China to this country have substantially been spent on projects that serve the entire nation. I want to give examples; the largest chunk out of the over Kshs400 billion is on the Standard Gauge Railway (SGR) project which serves the entire country---

(Several hon. Senators stood up in their places)

Can I finish? Can you allow me to continue expressing myself?

(The Temporary Speaker (Sen. Ongoro) spoke off record)

Yes; really.

The Temporary Speaker (Sen. Ongoro): But if something is out of order, please point it out.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I have not in any way asked for a clarification on the Standard Gauge Railway line. That is your own clarification; you have already answered me. I want you to respond to why you---

The Temporary Speaker (Sen. Ongoro): What is out of order?

Sen. (Dr.) Khalwale: He is misleading the House by trying to answer a clarification which I have not asked for. I asked you to respond to why you have taken money to hospitals only in the areas that the Deputy President and the President comes from and left out the whole country? This is US\$558.2 million for hospitals.

The Temporary Speaker (Sen. Ongoro): Well, you have already directed us to what is out of order. So, your point of order is that he is misinforming the House.

Proceed, Sen. Billow.

Sen. Billow: Madam Temporary Speaker, I would really appreciate if the Senator would allow others to talk, because I have to present my argument before you can understand wherever we are going. So, the point really is about the skewed allocation and I was trying to explain that there is nothing about the distribution of loans and grants from this Government in general and specifically on health; the ones that he mentioned. The Moi University Teaching and Referral Hospital is a teaching and referral hospital. This is not a facility that you can say will be specifically serving a particular region or community. That would be a wrong conception.

The Kenyatta University has preceded most universities and serves the entire country including people from his own county of Kakamega. Therefore, it is wrong for him to say that funding Kenyatta University is in any way funding a particular community or region served by the current regime.

Thirdly, the construction of the maize flour processing factory in Bomet of Kshs100 million through a grant was completed long before this Government came into power. This is among the completed projects. It was completed by this Government. The last one he talked about was Gatundu Hospital. Again, this is the list of applications for grants which have been submitted.

This is not a project that has already been funded. Gatundu is one of the counties that can legitimately receive funding from China in the same way that any of these other counties can. We are talking about Kshs460 billion that has been given in terms of loans and grants spread around this country. It is wrong for the Senator to specifically pick Kshs1 billion for a hospital in Gatundu out of Kshs460 billion that is being provided for.

That is not fair. We should not pick out one item and ignore that there are projects here worth Kshs460 billion across the country.

Sen. (Dr.) Khalwale: On a point of order, Madam Temporary Speaker. I would like the House to understand me very well. I did not refer to the Kenyatta National Hospital. I referred to the Kenyatta University Teaching, Research and Referral Hospital.

An hon. Senator: Of course!

Sen. (Dr.) Khalwale: Why can you not listen? I am a doctor of medicine. You are not. The formation of the Kenyatta University Teaching, Research and Referral Hospital is an attempt to start a medical school there and put up a teaching and referral hospital, 28 kilometers from Kenyatta National Hospital. What is the use of putting up a second teaching and referral hospital here at Juja when other far flung areas like Kakamega and Kisumu would do well with these kind of universities?

I am insisting that the money meant for health; US\$558.2 million has been shared amongst these hospitals. Those hospitals are in the areas that the President got votes from; Central and the Rift Valley. Is this by happenstance or it is the intention of the Government?

Sen. (Prof.) Lonyangapuo: On a point of order, Madam Temporary Speaker. Would I be in order to say that we are debating an issue that we do not even have a document to refer to? As you rightfully ruled earlier, there is an illegal document that should be replaced and a proper one brought. Every Member should also get a copy of the same so that Kakamega does not appear as if it has a shortage of support. Other counties also have the same problems. Would I be in order to say that?

Sen. Murkomen: On point of order, Madam Temporary Speaker. Is Sen. (Dr.) Khalwale in order to mislead the House and pursue a particular trajectory that seems to categorize universities to belong to one community or one political party against others?

The question he is asking is related to Kenyatta University and Moi University, all of whom are independent institutions that serve all students in the country. I have been to all those universities and I do not see how that university has something to do with whether somebody voted for the President or not. This is an unacceptable trajectory.

Sen. Wamatangi: On a point of order, Madam Temporary Speaker. I wanted to raise a point of order related to what Sen. Murkomen has said. However, let me point out what is out of order. Establishing a facility such as a university is extending services to the whole country. Although the Senator says correctly that he is a doctor of medicine, those are two different things. When a hospital is established, it will serve the people of Kakamega, Mumias and Machakos. It is very wrong to try and imply that these facilities are set up to serve certain communities or groupings or political persuasions. It is mischievous.

Sen. (Dr.) Khalwale: Madam Temporary Speaker, I would like to respond to the two points of order by Sen. Murkomen whom I respect and Sen. Wamatangi. You should see the difference. The difference is that there is no bias in terms of admission to university for students in any part of the country. As far as the teaching and research is concerned, this is perfectly in order. However, once a university hospital becomes a teaching and referral hospital, besides teaching students, it serves people in the catchment area for medical ailments at a very sophisticated level.

This is not hypothesis but real. You do not know these things. If Kenyatta University is serving the people in this catchment area; this is the same catchment area as the Kenyatta University Teaching, Research and Referral Hospital is serving, what is the problem with the money from China going to develop a former provincial hospital which has a quench to be a teaching and referral hospital? Do you not see anything wrong with this?

A population of Nairobi of four million people will now be served by the Kenyatta University Teaching, Research and Referral Hospital, when another population of 5.5 million in western Kenya has nothing to fall back to. Does this not strike you; the House of equity? These are the questions we are asking. I do not want to say that they did not deserve to get that money. They do but we want services to spread around the country. This, for God's sake, is a loan. Taxpayers will pay for 40 years and all Kenyans will pay. Why should this favour one section of the country?

The Temporary Speaker (Sen. Ongoro): Hon. Senators, I want to make a ruling on this. Going by the mood of Senators, this is a very important Statement. The statements coming forth are even more serious. I want to order that we defer this Statement to another date.

Mr. Chairman, we will give you time to update your documents and to present the one that you are most comfortable with. Affix anything else that you want, present a copy to Sen. (Dr.) Khalwale and have enough copies for the Members that will be in the House so that we do not have the two of you speaking from another platform of information while we have nothing to make reference to. Let us have this Statement on Wednesday next week. We give you enough time to collect all your documents and to circulate and then we will have it dealt with on Wednesday next week. Is that okay with you Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Most obliged, Madam Temporary Speaker.

The Temporary Speaker (Sen. Ongoro): We are trying to state that there is no need to conclude today in view of these grievous facts. We can have it on Wednesday when Sen. (Prof.) Lonyangapuo, Sen. Murkomen and yourself have a copy. When they will be interrogating the matter, it will not only be you and Sen. (Dr.) Khalwale making reference to documents which they have not even seen. You are the Chairman and you have to respond.

Sen. Billow: Madam Temporary Speaker, with all due respect, you should allow me to respond because the procedure of the House is such that if a Statement is tabled on the Floor, it means that it is with the Clerks-at-the-Table and if anybody needs it, he can get a copy from them. As Senators, when we are presenting Statements as Chairs, do we make photocopies and run around to give them to every Member?

The Temporary Speaker (Sen. Ongoro): Sen. Billow, the Clerks-at-the-Table have informed me that you did not present them with a copy. They have only seen the copy that has been tabled by Sen. (Dr.) Khalwale and, therefore, you are out of order trying to mislead this House that the Clerks-at-the-Table already had a copy and they failed in their duty of making copies. I stand by my earlier ruling; this matter comes up on Wednesday next week when we have followed the due process. Present the document that you are comfortable with duly signed to the Clerks-at-the-Table. They will then make enough copies and circulate to the Senators and then you can give us your response so that when Sen. (Dr.) Khalwale is making reference to something that is not contained in the official documents, then we can correct him.

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

The Temporary Speaker (Sen. Ongoro): This matter is not on the Floor of the House and, therefore, I do not know what is out of order unless there is a new issue. Even the person who sought the Statement has already left the Chamber. I think it is very comfortable for us, and we are actually giving you enough time. It is in good faith. What is your point of order?

Sen. Billow: Madam Temporary Speaker, as you earlier on ruled, I only debated the question of the Statement which was validly before this House. I withdrew this other one and, therefore, it is wrong for you to tell me to bring back a schedule that I had already withdrawn. I have only agreed to go ahead, so there is no document. I will only be presenting this one and there is nothing else to be debated.

The Temporary Speaker (Sen. Ongoro): Sen. Billow, you are absolutely out of order. We have honourable Senators here who would want to have a look at that document and the Clerks-at-the-Table here are insisting that you never presented them with it.

Sen. Billow: It was signed and received!

The Temporary Speaker (Sen. Ongoro): Excuse me, hon. Senator. I am not going to engage in an argument. I will go by the official statement from the Clerks-at-the-Table. They have stated that you did not give them the document, which you should give them now. They will then make enough copies to circulate when this matter comes up before the House on Wednesday next week. Clerks-at-the-Table be ready to receive the document and make enough copies.

Next Order!

MOTION

ADOPTION OF REPORT OF STANDING COMMITTEE ON EDUCATION,
INFORMATION AND TECHNOLOGY RETREATS WITH COUNTY EXECUTIVE
MEMBERS IN CHARGE OF EDUCATION AND
INFORMATION TECHNOLOGY

Sen. Kagwe: Thank you very much Madam Temporary Speaker. I beg to move:-

THAT, the Senate adopts the Report of the Standing Committee on Education, Information and Technology on retreats with County Executive Members in charge of Education and Information Technology (ICT), held at the Great Rift Valley Lodge, Naivasha on 11th to 14th September, 2013; Serena Hotel Mombasa, on 17th to 20th October, 2013 and at the Continental Resort, Mombasa, on 19th to 22nd December, 2013 laid on the Table of the Senate on Thursday 3rd April, 2014.

Madam Temporary Speaker, from the outset, let me say that the Motion that is in front of the House is to adopt a Report that I tabled here and the Report was the result of three meetings. The first one is that the Committee met with all county executives from the 47 counties responsible for education and ICT. These sessions were done when the committees had not been separated. The second session was with the chairmen of the committees of education and ICT from the 47 counties. Having met the CECs responsible for education and ICT, and having met the chairmen of the committees of the county legislatures responsible for ICT and education, the third meeting was a combination of the two. We then invited the CECs for education and ICT, the chairmen for education and ICT from the 47 counties and then met with the whole team in Mombasa.

The reason why we did so was because we wanted to centralize and discuss the matter of ICT and education as affecting the entire country, county by county. We have gone around this country, we have visited about 20 counties and we are still going on. We have compared the performance of these counties in the areas that are charged with the Committee, we have gone and urged action on the various aspects that we felt were important for the Committee and we have seen the difference between when we started these sessions and the present day.

Madam Temporary Speaker, if you look at these reports, you will find that the actions that the CECs are taking at the county level have become a little bit more focused than they were prior to these visits. The reports we got from each of those counties were informed on the activities that the counties are supposed to undertake in accordance with the Constitution and specifically the Fourth Schedule. The Fourth Schedule of the Constitution gives very specific areas of concentration to the county governments. These areas of concentration is what we went to emphasize to the teams that we met and urged them to concentrate on improving those areas first, particularly the ECDs, nursery schools or otherwise known as kindergartens, the polytechnics that the CECs handle at the county level and the infrastructure of the institutions that I am talking about.

The information that we got during these engagements--- In fact, the Committee coined the word CONES which is the County Oversight and Networking Engagements because part of our work is to network with the county executives and the chairmen of the committees that run the counties.

A number of things were pointed to us as very important. The first one is how much Early Childhood Development (ECD) education has been ignored. When we visited Kwale, Kisii, Nyeri, Kisumu, Homa Bay among other counties, we saw how the ECD infrastructure was in a deplorable condition in those counties. Those classrooms are not worth the children of this country.

Madam Temporary Speaker, education starts at the age of three and four years. It has been proven by psychologists and psychiatrists that it is at that point that children begin either to like or hate school. In many of the areas that we went to, children of between ages three and 6 years hated the experiences that they were going through. These children had nothing to eat or drink. It is a pathetic situation. In most of the counties that we visited we also spoke to the Governors.

When we met in Mombasa with the County Executive Committees (CECs) we asked them: "What is the difference between when we left you and now?" We emphasized to them that it was critical that long before they start talking about the infrastructure of primary and secondary schools, it is very clear that they are charged with the responsibility of the ECDs. We also told them that the reason we brought in the chairmen of the committees in the county legislatures, was so that they could get assistance in budget terms from the county assemblies. When we brought the chairmen of the committees we told them that when the budget process starts, it is their responsibility to work with the CECs responsible for education and see to it that the county budgets reflect the Fourth Schedule. We told them that it would be wrong to budget for primary schools which are a national responsibility and leave out ECDs.

In some occasions the Governors said that they had no problems with the ECDs. The only reason they thought they had no problems with the ECDs is that they had allowed such low standards of ECDs, particularly in the rural areas, that it has become acceptable that a three or four year old child can simply walk into something that resembles a classroom and it is okay. We called these people to these forums to tell them that it is not okay for our children as young as four years old, to be in a classroom that is worse than their brothers and sisters in Class Seven and Class Eight in other institutions.

Madam Temporary Speaker, in certain countries in this world, for example, Norway and the other Scandinavian countries, the most important class is the

kindergarten or nursery school. The teachers in those institutions are very well remunerated. What we found out was that a nursery school teacher almost across the whole country is a person who is mistreated by the teachers in primary schools and the parents of the very children that they teach. They are mistreated in terms of working conditions. In fact, we spoke to very many teachers who earn Kshs400 and Kshs500 as their pay. This money is paid when parents contribute.

Madam Temporary Speaker, it was such a pity seeing the condition of these teachers, who were struggling with small children, virtually doing so much more than a primary or secondary school teacher does. These are people who are virtually carrying nappies around. At some point, they had to clean the noses of these small babies, as is expected. However, their contribution was totally ignored. Through the effort of the Committee and the many meetings that we had, we emphasized that these people must be properly paid. There is a Bill that the Committee on Education is going to bring to the Floor of this House to deal specifically with the nursery schools teachers. It will deal with how they should be remunerated, the curriculum that they should be using and so on.

Madam Temporary Speaker, we considered all these activities a great success because that experience and engagement has made many counties to now budget properly for ECDs. In fact, it is not just the county governments, but even the neighbours of these nursery schools are beginning to respond. I was personally invited to launch one kindergarten in Kwale County. The Member of the County Assembly (MCA) of the area has said specifically that there was no other classroom in that whole ward with better infrastructure than the kindergarten that he had managed to source money from external funding. The money to put up that class did not even come from Kwale County Government. But just following the discussions that we had in Mombasa and Kwale counties, he took it upon himself to build and make sure that those children in his ward were being treated better than they were prior to the exercise that we had carried out.

Madam Temporary Speaker, I want to really thank the State University of New York (SUNY) because it is the one that funded that whole exercise. They funded the Naivasha meeting with the CECs, the Mombasa meeting with the MCAs and the joint meeting that we had. I want also to thank the Senators and those who came, particularly the Speaker and his team. We invited them to come and address those people.

I also want to thank the many Kenyans who are responding to this call. We have heard of many old boys' and girls' associations that are now responding to ensure that the classrooms in the old schools or kindergartens where they went have been constructed through their own efforts. Some wealthy individuals were touched by the fact that we were pointing out that their own children were attending to such ECD schools. If you look at the ECDs in Nairobi, particularly in the affluent areas, you will find that those places are really neat and well done. In most circumstances, the kindergarten class is actually more expensive than even the Standard One classroom.

In view of the fact that the new Constitution was made in an attempt to make Kenya as equitable as possible, the idea that the Committee presented in these three meetings is that there should be no difference between a child in Nairobi County and a child in Kwale County. If, indeed, it is the Government of Kenya that is funding, there should be no difference between a child in Hola and a child in Kisumu, Nyeri or any other area in this country. What we found out is that the inequality in the treatment of

ECD classrooms was not just from county to county where there was a bit of more equity, but here I am talking about equality in poverty or low standards. There was a big difference between the way those children were treated and the way that the upper classes were treated. There was also a big difference between certain ECDs that were funded, for example, by the religious organizations and the ones that are funded by the Kenya Government. Therefore, we emphasized a lot of things to these people.

Madam Temporary Speaker, we emphasized the issue of cleanliness. Wherever we went to a kindergarten that was in a poor state and spoke to the teachers, there was a corresponding absence of children because of health issues. Wherever we went to a kindergarten that had adequate facilities and was clean, every child was always there. Therefore, there was a direct correlation between the state of the ECD infrastructure and health of the children. We emphasized and are glad to say that we are beginning to see differences. This can only be good for our children.

Another area that we emphasized in the meetings was the area of sanitary provisions. We were horrified when we went to certain areas where kindergartens had no toilets. When we asked them where the children help themselves, they pointed to a maize *shamba*. They told us there is a little bush which serves as the boys' toilets. When we do this, we cause more harm than just the mistreatment of those children. These are children who will grow up believing that it is okay to use a bush as a toilet. After all, that is the way they were brought up. That is what they see and you cannot blame them for thinking like that. It is the standards that we, as a nation, have set for our little children. That is why I am saying it is pathetic. I have never seen a situation where in a household, the older children are given food by the mother before the little babies. So, we must ask ourselves, as a nation, as a family called Kenya, why then we should be feeding the 15 year old children before we feed the 4 year old children. When you see the kind of change occurring across the country, we now understand why there are county governments, we now understand why this House is so important and so crucial for the survival of all those children.

Madam Temporary Speaker, the other area has to do with polytechnics. We started a process of emphasizing to the various counties the need to specialize in certain areas. Prior to those meetings, every place we went to was doing exactly the same thing as the other one. We had dress-making in Kisumu, Nyeri and Mombasa counties. We also had other things that were common across. It is only in Kakamega County where we found some serious polytechnic work going on. In the rest of the country, there was nothing to speak about yet the polytechnic is probably the most important institution that a county can have if they are going to industrialize. So, as we went round and as we met these people, we urged specialization within polytechnics. For example, when we went to Sigalagala Polytechnic in Kakamega County, we asked them why they do not have a mining course because the polytechnic was in a mine and the mining was still going on even as we were there. The issue was, now that we know there is going to be minerals all over the place, why can we not start courses on minerals?

Madam Temporary Speaker, Singapore developed on the basis of ship building. That is a very small country, but they embarked on building ships and boats. When you go to Kisumu and look at the Lake or go to Mombasa and look at the Ocean, there is no reason we too cannot start such course in our polytechnics and build skills that can build

yachts. When you travel across the world, you will find that yachts are very expensive. One of the reasons a yacht is so expensive is because the skills used to build a yacht are rare. If we can train our people and literally start selling yachts from Kisumu and Mombasa, there would be a big impact across the country. This can only happen if we start thinking big and think in terms of specialization.

Madam Temporary Speaker, we met these people and emphasized the issues that I am raising here. We said that polytechnics must be properly funded. We asked the County Executive Committee members and the Members of the County Assembly why they clamour to build secondary schools, which is a function for the national Government while ignoring the polytechnics which are seriously needed more than the secondary schools.

They should focus on constructing the polytechnics which are so important because they are few. We asked them why they were only concentrating on building secondary schools instead of focusing on polytechnics. Members of the National Assembly should factor it in the national Budget so that the national Government can avail money to build those institutions. Indeed they have because in this year's Budget every constituency has been given some Kshs5 million for use in primary and secondary schools, but none has been given for the polytechnics. So, we need to think about that and urge the county governments, particularly the CECs responsible for education to really focus on polytechnics. They should build reputable polytechnics. The polytechnics should offer skills that can fill the gap that exists in our country.

Whereas there are so many jobless people, when you carry out an assessment, you will find that, on the one hand there are people who cannot find jobs while on the other hand, there are people who cannot find employees in certain fields. The gap that exists is huge. In addition to the gap, there are situations where people have been trained, but it takes them a very long time when they join the market to become useful employees. Therefore, to reduce the time between when a person is employed and the time a person becomes productive, the polytechnic would be crucial institutions. This is the reason we had these three meetings.

Madam Temporary Speaker, we also emphasized on Information Communication Technology (ICT). We have moved two Motions in this House which we also wanted to brief the team that we had in the three meetings. One Motion was seeking that the Government ensures that every county is connected via the Fibre Optic Cable (FOC). The other one had to do with the use of technology in the county government, particularly by the MCAs and CECs.

If we want to create transparency in our country and if we want resource management to be transparent and effective, we emphasize that it is necessary that the CECs and the MCAs work together to ensure that ICT is a centralized activity within the county administration. The only way it can be done is when the MCAs also appreciate and see the importance of ICT. If the leadership at the county level, that is the MCAs and the members of the executive do not appreciate the importance of ICT, then the whole topic of ICT which is a crucial part of our Vision 2030 will remain just a paper discussion.

The MCAs should be engaged the way we believe that they are now, because we are very proud of some of the developments we have seen since then. For example, if you

go to the Kisii County Assembly, you will find that the use of ICT. We were very proud of that and we emphasized and told the MCAs that if they can be able to convince their colleagues in the other county assemblies to also embrace ICT, it will even be possible for them to engage in cross conversations via video conferencing. It would even be possible for CECs to engage in conversations and exchange views with CECs from other parts of the country through video conferencing. Therefore, we believe that it was important to do this.

Madam Temporary Speaker, one of the recommendations that came up from both the CECs and the MCAs, is the need to meet with the CECs and the chairpersons in the assemblies responsible for finance, not to talk about finance, but to talk about the importance of the polytechnics, ICT and ECD so that when the county assemblies present the budgets for these, there should be concurrence from the finance sector of the county administration. Therefore, we feel that the Committee's should continue from where we left and engage the CEC in charge of finance in the counties. This also formed part of the thinking that we developed in Mombasa and Naivasha through the teams that we had.

In fact, following that meeting, the State University of New York (SUNY) actually committed to support a meeting between the Committee and the CECs responsible for finance when we are ready. We are still discussing with SUNY to see whether that can be done. It is not to say that if we do not get funds from outside, we cannot do it ourselves. In fact, the Senate is quite capable of doing that but we also appreciate and continue to thank those from outside who believe that the work that we are doing here, both the Standing Committees and *ad hoc* committees is a good job worth supporting by those who are able to do so. I want to thank the Committee on Education very much.

Madam Temporary Speaker, I once stated on the Floor of this House that one time when we were in Hola, we went to a kindergarten that was so desperate and the children were so hungry that Sen. Karaba actually led us in a small fundraising to buy food and *unga* for those children. It was as heart breaking as that. I urge my colleagues to please travel around this country to see the kind of situation that actually exists on the ground in the various counties. The beauty of going round is also to remove the perception amongst ourselves that certain areas are very advanced. When we went to Nyeri County with Sen. Joy Gwendo, who is seconding this Motion, she asked me where we were because she could not believe that we were in Nyeri County. This is because she had always believed, like my friend, Sen. Wetangula insinuates, that there are only tycoons in Nyeri. We pray that Sen. Wetangula's prayer comes to pass and we become tycoons in Nyeri. We have very desperate situations in our county, particularly in the drier parts of Kieni and other parts of Nyeri County.

Madam Temporary Speaker, as we travelled, we were happily surprised in certain areas; disappointed as we saw them. We are continuing with our visits to counties.

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

Sen. Kagwe: I accept the information, Madam Temporary Speaker.

The Senate Minority Leader (Sen. Wetangula): First, I would like to congratulate you for moving the Motion very eloquently. My information to you is on evidence of contradiction and obscenity in our society. Recently, you will remember I

pointed out to you about Ruthigiti in Kiambu. You read about people in Baringo eating cats. These are areas that have produced presidents. These are the contradictions in our society. I agree with you fully that even where there is obscenity and opulence, we still have pockets of abject poverty.

Sen. Kagwe: Thank you for the information. In the midst of bad things, we can still pluck out some good things. The only thing we can pluck out of that situation is that it is a myth that when a president comes from a certain area, everybody in that area becomes wealthy. In fact, in many circumstances, those are the areas with one or two, very wealthy people and millions of very poor people. Those are the real circumstances on the ground. If Kenyans appreciated the position that you cannot be wealthy simply because a president comes from your area, we would be much better Kenyans.

Madam Temporary Speaker, I want to thank my colleagues in the Committee and to say how committed they are and continue to be. We have bonded very well because of these visits. When we went to Nyanza, we were invited for a prize giving day. The whole committee attended the event. When we visited Kwale, again, we were invited for another school event. Members of this Committee have worked very well together. Where the Member was the Senator of the area, we made sure that at some point, their invitation to the committee was honoured. We went to their houses, and had a meal. We have done in every county where a Senator is a Member of this Committee. That is the process we have bonded through and become a real team. This is a team that I am very proud of. I have no doubt that as we continue to work into the future, we will make a difference, and not only for the Senate, but a difference more precisely for the people we serve beginning with the little children who are our clientele in the ECDs.

With those remarks, I beg to move and ask Sen. Gwendu who is a Member of this Committee to second the Motion.

Sen. Gwendu: Thank you, Madam Temporary Speaker, for giving me the chance to second this Motion even though it is very difficult to speak after my chairperson who has spoken very eloquently and given out the history of our Committee and detailed everywhere we went. I will just emphasize the recommendations that we made in the Report from the meetings that we had.

Allow me to draw your attention to the meeting that we had at the Great Rift Valley Lodge with members of the executive committees from different counties in the country. Part of the issues we discussed was the rebranding of our polytechnics. From the visits we had, we noted that in the counties we have polytechnics, but students do not join the polytechnics because of the history and the name behind them; the village polytechnics. They feel like they are going to school in the village. When somebody goes to Chiga primary, Chiga Secondary and then Chiga Polytechnic in the rural area, he or she feels a villager. So, we advised the county executive committees to rebrand these polytechnics so that they are given a new name and then the people would have a new attitude towards the schools. We also advised the executive to sensitize the people on the importance of these polytechnics.

Madam Temporary Speaker, when we visited Germany the other day, we appreciated the importance of polytechnics. They are a driving force behind most economies. We visited a polytechnic in Germany and you could not believe that it was a polytechnic. When we were informed of the fees being paid at the polytechnic, a common

citizen could not afford. It is only companies that send their staff to those polytechnics to better their skills. In other words, you choose the people you need to work for you and take them to the polytechnics. From this experience, we encourage Senators to sensitize our people on the importance of polytechnics considering the times we are living in and also considering that not everybody is blessed with the same academic skills. For example, the Senate Minority Leader is a very good orator, probably, because he studied law and he is good at it. The other person may not be good in Mathematics, but is good in electronics. Such a person should be encouraged to go to a polytechnic to better their skills and get employed. So, our people should be encouraged to embrace the polytechnics as drivers of our economy.

We also encouraged the county executive officers to start IT training programmes in their counties and establish what we call ICT champions. These are supposed to be people who champion policies on ICT in the county. They could be the MCAs and other people who understand ICT. They would then come up with ICT policies in the counties and champion things like fibre connection in the counties. In Kisumu County, the fibre connection cable passes right next to the building where the Governor is hosted, but it is not connected to the Governor's building because of a few complications here and there. If we have ICT champions, then through sensitization and stakeholder's meetings, such issues can be sorted out. I want to stress sensitization because right now we know that polytechnics and ECDs have been devolved. As my Chairperson has stated, there are schools that we visited and we found out that in certain areas of our country Class One classrooms are much better than the ECD classes. We were surprised because the children whose foundation was being laid should have a much more comfortable class than those who are in Class One.

We encouraged them that the pupils in the ECD classes should have better classrooms so that they embrace studies and appreciate going to school. We even started something called "the best classroom project." These are some of the things that we discussed in these meetings. The child should wake up in the morning knowing that they are going to a happy place, where the walls are painted and there are numbers and letters on the walls. We encouraged the CECs to sensitize the people and ensure that the budgets for education are passed so that they can be able to build classrooms that suit these children because some of them complained that these classrooms cannot be built due to the budget constraints.

Madam Temporary Speaker, some of them also complained about the staffing levels and remuneration of the ECD teachers. The children are eager to learn, but if you look at their classroom environment it is not good for them. So, we encourage the CECs to ensure that the best classroom projects are done at the ECD level. We also sensitized the CECs that the polytechnics are important since they drive our economy.

Madam Temporary Speaker, I would like to thank the Senate for supporting the Committee on Education when it was still merged. It gave us an opportunity to visit counties to see the situations and bring a report, so that we are able to encourage the counties to help us build the country.

I beg to second.

(Question proposed)

The Senate Minority Leader (Sen. Wetangula): Thank you very much, Madam Temporary Speaker. May I start, for the few minutes left, by congratulating my distinguished colleague and Senator from Nyeri for doing a wonderful job. I did not expect anything less for a man with the privilege of being my year mate at the university. You have done a wonderful job. I have gone through your report and it is actually excellent. It is all encompassing, deep, and clear and gives a way forward. It talks about simple things that matter in this country.

Madam Temporary Speaker, three years ago, I talked to President Thabo Mbeki of South Africa and he told me: “My brother, you cannot believe this. South Africa is importing fitters, welders and mechanics from Sri Lanka, Malaysia, Indonesia and India to meet the labour shortage of skills in South Africa.” I lament and cry because in this country we are turning every middle level college into a university forgetting that the wheel that turns and grows the economy is not necessarily or exclusively the PhDs and Masters, but the middle level college graduates. For every top engineer, you need about 300 fitters. The engineer does not touch anything. He simply tells them: “Do this, fix this and press this.” It is just like when you go to hospital where every doctor requires about 200 nurses. That is how economies run. After the war, Japan and Germany were razed to zero but today they have developed to be the most resilient and vibrant economies in the world.

Madam Temporary Speaker, I am entitled to one hour and intend to use the whole of it.

The Temporary Speaker (Sen. Ongoro): Yes, Senate Minority Leader. You are entitled to one hour and have 56 minutes remaining, when you next get the chance.

ADJOURNMENT

The Temporary Speaker (Sen. Ongoro): Hon. Senators, it is now 6.30 p.m. The Senate stands adjourned to tomorrow, Thursday 17th July, 2014, at 2.30 p.m.

The House rose at 6.30 p.m.