

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

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

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

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

#### PRAYERS

#### PETITION

##### FINANCIAL MISMANAGEMENT AND IRREGULARITIES IN PROCUREMENT BY NAROK COUNTY GOVERNMENT

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a Petition by Mr. Joseph Tipanko ole Karia on the Financial Mismanagement and Irregularities in Procurement by the County Government of Narok. The Petition states as follows:-

“I, the undersigned, Joseph Tipanko ole Karia, a citizen of the Republic of Kenya and a resident of Narok County wish to-

Draw the attention of the Senate to the following:-

(1) THAT, the Mara Conservancy (herein referred to as “the Conservancy”) was exclusively mandated to manage the Mara Triangle by an agreement dated 12<sup>th</sup> April, 2005, between the Conservancy and the now defunct County Council of Trans-Mara;

(2) THAT, the Conservancy has been acting in serious violation of its obligations under Clause 8.3(a) and (b), Clause 8.4 and Clause 8.5 of the said agreement;

(3) THAT, the County Government of Narok and the Conservancy together with its collecting agent, Kenya Airports Parking Services Limited Company (KAPS) have been and continue to engage in unabated suspect financial transactions which already have and continue to cost the County Government millions of shillings;

(4) THAT, the Conservancy has deliberately failed to remit and/or account for the “Council Portion” of the revenue collected from the Mara Triangle as outlined under Clause 8.3(b) since the commencement date of the agreement;

(5) THAT, the Conservancy has deliberately failed to account for the “Running Costs” as provided for under Clause 8.3(a) of the agreement;

(6) THAT, the Conservancy has been misleading the public and government auditors in the pretence of transparency and accountability by publishing false information in its official website [www.maratriangle.org](http://www.maratriangle.org) regarding the amounts of revenue purported to be collected and divided by the Conservancy in accordance with Clause 8.3(a) and (b) of the agreement;

(7) THAT, the report by the Auditor-General for the Financial Year 2012/2013 indicated that the auditor were unable to obtain any financial records necessary to make any meaningful audit report on the transactions between the Conservancy and the County Government;

(8) THAT, tourists and visitors lodging at Kichwa Tembo Camp (KTC) which is under the management of Bush and Beyond Company Limited and situated within the Oolololo Private Game Ranch do not pay park viewing fees to the collecting agency when and if they make entry into the park;

(9) THAT, the directors of Oolololo Private Game Ranch are the Narok Governor, Samuel Kuntai ole Tunai and Mr. Kuya ole Kijape, a Member of the County Assembly of Narok, all of whom are former directors of the Conservancy and that this amounts to conflict of interest;

(10) THAT, despite having knowledge and information on the blatant breach of the agreement by the Conservancy and the enormity of the losses in public revenue, the County Government has stood by in acquiescence as the two companies continue to siphon public funds through financial manipulation and corruption; and

(11) THAT, the Narok County Governor, Mr. Tunai, has tactfully orchestrated and managed to successfully curtail and/or frustrate any internal or external audit or probe into the transactions and operations between the Conservancy and the County Government;

(12) THAT, I have made all reasonable effort to have this matter addressed by the relevant authorities to no avail.

(13) THAT, none of the issues raised in this Petition is pending in any court of law, constitutional or any other legal body.

WHEREFORE, your humble petitioner prays that the Senate intervenes and:-

(1) Demands for and closely examines the records of the transactions between the Conservancy and the County Government, including copies of receipts that had been or ought to have been issued by the then County Council of Trans Mara and the Narok County Government's Chief Finance Officer to the Mara Conservancy in furtherance of the agreement from the commencement of the agreement up to date; and

(2) Asks the Auditor-General to undertake an audit of all the transactions in furtherance of the agreement and on account of all park entry fees to the Mara Triangle collected or payable by tourists and visitors lodging at Kichwa Tembo Camp and an inquiry as to why some tourists and visitors are exempted from paying park fees."

This Petition is dated 20<sup>th</sup> November, 2014. The name and signature are appended. The address is P.O. Box45-20500 Ololunga. Identification Number is 0198781, Mr. Joseph Tipanko ole Karia.

**Sen. Mositet:** Mr. Speaker, Sir, the Petition you have read from Narok County has come at the right time. I would like to request you to ask the relevant committee to move fast on this issue because from what we have read and saw a few days ago on the happenings in Narok County, if the Senate will not move fast, then we will be setting ourselves up for a bigger or major problem like the Makeni County one. I believe the committee which will be responsible for this will move fast and not necessarily wait for the 90 days. If possible, they should move to the ground to assure the residents of Narok County that the Senate is there for them and will do everything to protect them and their interests.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I want to thank you for finding that this Petition is admissible to this House. I say this because while in our proceedings there has been attempts by various governors to give the impression that the Senate can only, as per Article 96(3) oversight funds allocated to the counties by the national Government and not revenue realized on the ground. That you have found this admissible, it is very nice because I believe that revenue raised on the ground must be accounted for and by virtue of Article 96(1) which says that the Senate must defend the interests of the counties and their governments. It is, indeed, important that this money be looked into.

Mr. Speaker, Sir, I do not know which committee you will refer this matter to. However, if it happens to come to the Committee on Finance, Commerce and Budget, where I sit or the County Public Accounts and Investments Committee, where I also sit, we still have a problem because it will require that we talk to the governor, financial officer and other players there. You know the court case that is impending. Again, it will tie our hands and we will find it very difficult to get down to the bottom of this matter. Maybe you could guide us on that.

*(The Senate Minority Leader stood up in his place)*

**The Speaker** (Hon. Ethuro): Sen. Wetangula, is it on the same issue?

**The Senate Minority Leader** (Sen. Wetangula): No, it is a different matter.

**The Speaker** (Hon. Ethuro): Yes, Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, the importance of tourism in the economy of Kenya cannot be underscored. The Mara Conservancy actually neighbours my county, Migori County. Interference with the same also affects the economy of Migori County. The management of the transition in many counties is wanting. Actually, many resources that were hitherto collected by many counties are yet to be fully accounted for by many of the current governors in this country. Therefore, this is just one example of what is likely to happen in many counties in the process of accounting for what had been a normal collection by the previous local governments. Therefore, the Petition that has been raised by the people of Narok County is important and an eye opener to the whole country on the truth about mismanagement and corruption of public resources.

I support this.

**Sen. Musila:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to also raise concerns similar to the ones raised by the distinguished Senator for Kakamega County. We already have issues with the revenues collected by county governments during the transition period. As I speak, there are investigations by the CID that are going on in Kitui County about monies collected and not accounted for. Of more concern is that this House, through the committee chaired by Sen. (Dr.) Khalwale has attempted to summon governors to explain some of these problems. My concern is that what we have read points to alleged inefficiency of the governor. Of necessity, the governor will have to be summoned.

As you know, Mr. Speaker, Sir, already governors have decided not obey those summons with some support of the courts. I just want your guidance. What are we supposed to do because that committee will have a serious problem because they cannot conclude any investigations before they talk to the governor?

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, in support of what my fellow Senators have said, I just want to suggest to my senior, Sen. Musila that under Article 125 of the Constitution, the Senate has got powers to call the attendance of witnesses, summon for evidence, call for production of documents and issue any commission to any person. Therefore, the fact that there is a gag order against governors does not stop the Senate from calling for evidence from any other person. The Senate should not look as if we have been rendered impotent by virtue of that court order.

**The Speaker** (Hon. Ethuro): Hon. Senators, the Petition shall be committed to the Standing Committee on Finance, Commerce and Budget pursuant to Standing Order No.227. If you look at that Standing Order, Sen. (Dr.) Khalwale, you will recall it is referring to a Standing Committee. That is why we cannot put it to your Committee although there are issues that are quite applicable in your case as well. However, they will come to you in the normal way through the report of the Auditor-General. For now, Petitions are committed to Standing Committees. The relevant one is the Committee on Finance, Commerce and Budget.

On the other matters that Senators raised, especially yourself and Sen. Musila, I want to make it abundantly very clear that as far as I know, there is nothing stopping the Senate from summoning governors. In fact, what exists is that in the Kerugoya case, when the first attempt of trying to gag this House was brought before Judge Mumbi in Nairobi, she referred the matter to the Chief Justice, the President of the Supreme Court to establish a three-judge bench. The matter was referred to a three-judge bench in Kerugoya. The Kerugoya High Court, of a three-judge bench, where we were not even represented gave the following orders. It says in part two as follows:-

“The Senate can summon governors, Members of the county executive committees and other officers.”

That is a judicial determination. What the Council of Governors has done is try to go to the Court of Appeal to try to review that. Those are processes that are ongoing. As far as I am concerned, and I think I had occasion to tell you last time, nobody can injunct Parliament. Parliament must proceed. We will do our part, keep summoning them. We will keep a file of those summons and somebody else, including the voters, will know who obeys the law and who does not.

*(Applause)*

Next Order!

## PAPER LAID

REPORT OF THE LAND AND NATURAL RESOURCES COMMITTEE ON  
PUBLIC HEARINGS ON THE BENEFITS SHARING BILL

**Sen. Khaniri:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the House, today, Wednesday, 26<sup>th</sup> November, 2014.

The report of the Standing Committee on Land and Natural Resources on the public hearing held on 29<sup>th</sup> November, 2014 on the Natural Resources Benefits Sharing Bill 2014.

*(Sen. Khaniri laid the document on the Table)*

## STATEMENTS

### FUNDING OF UNIVERSITIES IN KENYA

**The Senate Minority Leader** (Sen. Wetangula): I thank you, Mr. Speaker, Sir, for allowing me to seek the following Statement from the Chairperson of the Committee of Education regarding universities funding in Kenya as espoused in the Universities Act, 2012. The Statement should:-

(1) Elaborate on the total amount of funds the Government has distributed to the Universities in the Financial Years 2013/2014 and 2014/2015, through the Ministry of Education.

(2) The number of students in each and every university that has benefitted from this Ministry's funding for the Financial Years 2013/2014 and 2014/2015.

(3) The formula used in sharing out the funds to the universities as brought out in answer to number (1) above.

(4) Give reasons as to why despite the President assenting to the Universities Act, 2012 in 2013, the concerned Cabinet Secretary for Education has not established and gazetted the Universities Funding Board of Trustees as set out in Section 54 of the University Act.

(5) Table a list of persons who have been executing the Board of Trustees functions since 2013 of managing the Universities Fund, advising the Cabinet Secretary in matters of University Education on funding, on developing the criteria for allocation of the funds to the universities as set out in Section 54(4) (a) to (g) and (5) of the Universities Act.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Ethuro): Is the Chairperson of the Committee on Education here? Vice Chairperson? Is there any other Member of the Committee here? Sen. Yusuf Haji, being the Chairperson of the all powerful Committee on National Security and Foreign Relations, could you defend the Chairperson of the Education Committee? At least, convey the message to him.

**Sen. Haji:** Mr. Speaker, Sir, I will convey the message to him.

**The Speaker** (Hon. Ethuro): Sen. Haji, you will tell the Chairperson that we expect a report next Wednesday. That will be in seven days' time.

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

**The Speaker** (Hon. Ethuro): What is it Sen. Hassan Omar?

**Sen. Hassan:** Mr. Speaker, Sir, I also sought a Statement about three to four weeks ago, on the state of insecurity in the Coast region.

**The Speaker** (Hon. Ethuro): Order! We need to dispose of the matter on the Statement sought by Sen. Wetangula then----

**Sen. Hassan:** I thought---

**The Speaker** (Hon. Ethuro): Sen. Hassan, it helps to be alert and to know your neighbourhood.

*(Laughter)*

**Sen. Haji:** Mr. Speaker, Sir, I would like to appeal to my friend, Sen. Wetangula, to give him two weeks. Anyway, I will pass the message.

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

STATE OF INSECURITY IN LAMU AND OTHER PARTS  
OF THE COAST REGION

**Sen. Hassan:** Mr. Speaker, Sir, about four weeks ago, immediately after the Kapedo attack, I sought a Statement on the state of insecurity in the Coast region and in particular the curfew in Lamu County. I was promised that the answer would come the following week. However, the following week, the Chairperson of the Standing Committee on National Security and Foreign Relations indicated that he would personally summon some of these duty bearers in the event that Statement was not availed to him. So, the coming Thursday, Sen. GG Kariuki, made an undertaking that, that Statement will be presented before this House today. So, I seek that response.

**Sen. Haji:** Mr. Speaker, Sir, Sen. Hassan Omar is very correct. He demanded a Statement about three weeks ago. In the first week, I assigned my deputy, Sen. Fatuma, to follow up since I was not in Nairobi. She did everything possible and there has not been any response. For the last two weeks, as late as this afternoon, I have been following up those statements asked by Sen. Hassan and the gracious lady Senator who was here. We have no response. Either these people are not capable of giving any response, because they do not know what they are doing, do not know what to say or there is a deliberate attempt to refuse to respond to questions asked by this House. I was going to summon these people, but I was told by the Clerk Assistant, Joseph Mwangi, that there was an order given by the Senate Director of Committees that in the view of the cases pending in court, that we cannot summon these people. I do not know how it is related. I even questioned, what relation will the court case have with summoning of Cabinet Secretaries? So, my hands are tied.

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. That is a very grave matter, for a member of staff to advise the Committee that it cannot summon a Cabinet Secretary. The summoning of a Cabinet Secretary is a constitutional matter. It is in the course of the work of this House and the committees that we have delegated the plenary work to. I sit in the same Committee. We have been having a lot of difficulties in getting the Cabinet Secretaries under our watch to appear before the Committees.

If your office could help to find out why a Clerk would give defective advice to the Chairperson of the Committee knowing it is not founded on any law or any Clause of the Constitution. If Cabinet Secretaries cannot respond to invitations, the next avenue is summons. You can see the challenges of security that this country is going through. The Chairperson is right. There is either a dereliction of duty or a total abdication of responsibility by persons given an opportunity to serve this country. Every insecurity challenge is happening in counties that we oversight, protect and defend. We will require

your office's intervention to make sure that there is a positive and responsible response to make the work of this House easier, better and successful.

*(Applause)*

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I really want to sympathize with the Chairperson of the Committee. However, of greater importance is that, on the ground, in matters security, the Government is not there or it has refused to deliver. Now that, that failure on the ground is now extending to this House whereby the Government does not want to be questioned on issues of security, it simply means that, if you do not stand firm, the Government will go scot free because already such a frustration is being experienced in the "Lower House." You remember how the Speaker and the Senate Majority Leader were summoned to State House to go and be prevailed upon to go slow on summoning Cabinet Secretaries to Committees. We must defend this Republic because when we fail, you will see the deaths of Kapedo, Mandera, Lamu and everywhere. As an opposition in this House, even if somebody will desert you and you are firm, we will stand with you. I know our colleagues here on matters of security are going to stand with you.

**Sen. Billow:** Mr. Speaker, Sir, the statement made by the Chairman is, indeed, a very a very serious matter. I agree with my colleagues on this. Security is one of the key challenges today that we have in this country. If the Cabinet Secretary and those who are responsible have now advised that they are not willing or able to come to respond to Parliament, which is responsible for oversight in the functions of the Executive, it is important that this House communicates through a resolution or through your office, on this grave matter. The decision by a department of Government and the person heading it that are not willing to respond is, indeed, a very serious matter that will impact negatively and adversely on the performance of the Government and also on the lives of the people of this country. It is important that we communicate this decision through your office to the Head of the State, so that this matter is addressed.

**Sen. Hassan:** Mr. Speaker, Sir, coming from Sen. Haji, who is an extremely respected elder not only in this Senate, but in this society, generally, that statement demonstrates the frustration and an attempt to forestall what is broadly captured as representative democracy. When we ask these questions, we ask them on behalf of the people of the Republic of Kenya. Any disrespect is disrespect, not only to the Senate, but also to the 40 million Kenyans.

I continue to bring to the attention of this House, particularly Article 238(2)(a) of the Constitution which says:-

"National security is subject to the authority of this Constitution and Parliament."

Mr. Speaker, Sir, this means that no Cabinet Secretary in charge of security or any actor in the security arena, can recuse himself of the responsibility to attend to any summons or respond to any queries of Parliament. This is because Parliament has direct authority under the Constitution on matters of national security. I find it sad, particularly when now there is a deliberate discussion on the reorganization of national security. Not only are they not able to provide security, but they are even unable to answer questions. This becomes quite frustrating for those of us who must represent our people effectively.

Mr. Speaker, Sir, assert not only the authority of the Senate, but that of Parliament in its totality on matters of national security.

**Sen. Khaniri:** Mr. Speaker, Sir, the Constitution of Kenya gives Parliament three broad responsibilities. The first responsibility is legislation; where we make laws for the country and laws that have to be abided to by every citizen and institution.

The second responsibility is representation, where we represent our counties and our colleagues in the “Lower House” represent their constituencies. The third broad responsibility is oversight; a very important responsibility. It is because of the third responsibility of oversight that Article 125 was put in our Constitution. This is the power to call for evidence. For those who may not be very familiar with this, Article 125 (1) of the Constitution, says that either House of Parliament and any of its Committees, like the one that Sen. Yusuf Haji chairs, has the power to summon any person, including Cabinet Secretaries and Governors to appear before it for the purpose of giving evidence or providing information.

Article 125 (2) says:-

“For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court.”

I have never heard of any people, anywhere, who do not honour the summons of a high court. This Constitution gives us the same powers as the High Court of this country. I appreciate that you have led us in following the rule of law and adhering to the Constitution to the letter. We appreciate that fact and support you fully. This is a constitution that was overwhelmingly passed by Kenyans in the Referendum and we stand behind you. Assert yourself and ensure that the Constitution is adhered to. As long as we are following the rule of law, at the end of the day, history will judge us correctly.

Thank you, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): Hon. Senators, I have heard you. I was equally shocked by what I heard from my Chairman, in terms of an officer telling him that Cabinet Secretaries are barred from appearing before Committees. It is unbelievable. I want to believe that, that must be a very junior officer who does not know his job.

My office will facilitate the Chairman to ensure that all the Cabinet Secretaries that he need to appear before him will appear before him as and when needed, because that is the law. This is a democracy. If somebody out there thinks otherwise, then he is not living in this great Republic. I cannot believe that somebody can even imagine such things. They can tell the Chairman that maybe there are delays somewhere, but to say that they cannot really come, is rendering this country not a democracy, but another thing, which is not what we have.

Thank you.

## POINT OF ORDER

### THREATS IN THE SOCIAL MEDIA ON THE LIFE OF SEN. HASSAN OMAR HASSAN

**Sen. Hassan:** On a point of order, Mr. Speaker, Sir. In my seven or eight years’ career in the human rights fraternity, I handled extremely delicate work. During that time, I never ever spoke about any threats to my person, safety or security. I have never said that I feel scared or under threat. I have never even given any particular cognizance to



some of the hate emails or messages that I have constantly received. But in every situation in life, I think that there is a red line.

Mr. Speaker, Sir, over the last few days, my attention was brought to some bloggers who are well known to many of us and in the world of social media, where they uttered comments that not only have raised my concern, but the concerns of many of my friends and even adversaries. I think that I must not take these comments very lightly.

Subsequently, based on these comments, which I have shared in a letter that I have addressed to the Director of Public Prosecutions (DPP), I thought that it is necessary – as a matter of even personal responsibility – to bring it to the attention of this Senate. This is part of the excesses in the social media and there is need for us to curb crimes and disallow the perpetuation of such heinous utterances.

Mr. Speaker, Sir, on the social media, my team brought to my attention that on 22<sup>nd</sup> November, 2014, a Mugo Wairimu, posted on his or her *Facebook* account and also *Twitter* account @Arapwairimu the following remarks:-

“Mombasa Senator Omar Hassan should be eliminated like Makaburi and Rogo. He is openly supporting and probably financing terrorism.”

By the time this dossier was printed for me, which I subsequently shared with the DPP, there were 80 comments. Almost 90 per cent of those comments appeared to urge on the writer. People kept telling him:-

“I second, that guy sucks. I support you on this.”

There were many other comments that can plant the seeds of hatred and opportunistic killing.

Mr. Speaker, Sir, again, on 22<sup>nd</sup> November, 2014, a blogger who is well known, a Mr. Willy Omosa, posted on his *Facebook* account the following comments:-

“Omar Hassan is another *Al Shabaab* sympathizer. He should have one bullet. We cannot have leaders siding with terrorists.”

Again, when I printed this dossier which I sent to the DPP, there were about 40 comments many of which had cheered him on; that it is important to execute this terrorist. However, what even brought about my buy-in was not fear. We, as Muslims, are assured by God that we shall all test death. The time and circumstances are well known to only the Creator.

Again, yesterday when I was on the verge of going to check on the progress of this complaint to the DPP – of which letter I copied to you, Sen. Wetangula in his capacity as the Senate Minority Leader of this House and Sen. Prof. Kindiki, as the Senate Majority Leader whom I recognize – my social media team again brought to my attention the following information on the continued commission of this crime, perpetuated by one Mr. Willy Omosa. He wrote on 23<sup>rd</sup> November, 2014 at 21.30 – I have printed it out as further information for the DPP. It says:-

“If Omar Hassan would have been shot dead at the time he defended Muslim terrorists, we would not have had the Mandera attack. If Mohammed Ali would have been jailed for inciting remarks to his Muslim following, we could have been safe. The fact is that these humans are still alive and inciting terrorists. That way, we cannot have peace. Lastly, how do we call a house full of grenades a Mosque? That is a devil’s workshop. Just bring it down with a caterpillar.”

Mr. Speaker, Sir, by the time I printed this post this morning, there were 55 likes and at least 50 comments. In fact, as Omosa participated, he said: "Omar Hassan must go first. He must be *"makaburid"* and many other things to that extent."

Mr. Speaker, Sir, I am never scared. Over the last seven or eight years, I have faced a lot of threats to my personal security, but I never made a fuss out of it. However, there are red lines. Mugo Wairimu has 15,000 followers on his *Facebook* account. He continues to post hate messages. I have seen some of them in the past, but I have taken them very lightly. There is a red line.

I am asking this House to take consciousness of this fact and assert itself to the offices that bear responsibility to arrest and prosecute these individuals. This should be deterrence to those who want to pose an actual threat to anybody's life or security. We do not live in a kangaroo state. You cannot publish such kind of information or casual comments on the personal safety and security of an individual and that individual is not just any individual; he is the Senator for Mombasa County which has one million people. I, therefore, find it offensive and I hope the DPP will act with speed.

I have also spoken to the Law Society of Kenya (LSK) to partner with me to ensure that we bring some perpetrators of such crimes to book. I do not believe there is any Kenyan law or freedom of expression that allows this type of transgression.

Mr. Speaker, Sir, I thought that it was important to share this information with this House, so that it can be in the public domain and in the knowledge of all of you.

Thank you.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Speaker, Sir, indeed, Sen. Hassan has written a letter. It was copied to you, my colleague Sen. (Prof.) Kindiki and me. This goes much further than the complaint the distinguished Senator is raising. If you reflect on the history of this country, you will find that when J.M. Kariuki stood on the Floor of the House and said his life was in danger, within a month he was not there. The distinguished Senator for Laikipia, who has been here much longer than anybody else, can bear me witness. When Tony Ndilinge stood in the National Assembly and said his life was in danger, within two weeks, he was not there. We can cite many others.

However, what is more important is that Mugo Wairimu and a few other reckless social media addicts, including an elected Member of Parliament (MP) in the "Lower House" called Moses Kuria, who this morning was restrained by the High Court from engaging in vitriol and hatred on the social media---. He started spewing out hatred, malice and vitriol against the Muslim community, after the Mandera incident. The High Court has restrained him and I salute it.

Mr. Speaker, Sir, as our presider and leader of the House, you are duty-bound, not just to receive this complaint, but to go further and pen a complaint to the DPP to expedite any investigations that may be carried out in this regard. I say so because it is chilling to read a statement in a blog such as "Mombasa Senator, Hassan Omar, should be eliminated like Makaburi and Rogo." We know that Makaburi and Rogo were eliminated in the most bizarre circumstances and their deaths remain a mystery up to today.

He goes on to say that Omar Hassan is another *A Shabaab* sympathizer. Does he have the capacity to gauge who sympathises with *Al Shabaab*? To the best of our knowledge, Hassan Omar as a distinguished Senator for Mombasa, has been a fearless defender of his constituency which is the County of Mombasa, the safety and interests of his people and the security of Kenyans at large. This can be borne by the testimony of his

contributions on this Floor which you preside over. I do not even recall any single occasion where you, as the Chair or any other presiding officer deputising you, has ever cautioned Hassan Omar for either using hate language or language inconsistent with the expectation of the public of him, as a distinguished Senator.

Mr. Speaker, Sir, there is even another online publication called the *Kenyan Daily Post* that is even worse than what Mugo Wairimu and Omosa have been posting. I want to urge the Chairman of the Committee on Information and Technology, the distinguished Senator for Nyeri - he does not even need a formal complaint to rein in these characters – to respond to the Media Council and have these blogs pulled down, so that society can have civility. The hatred that you see laced with ethnic-thinking is dangerous for this country.

Yesterday many Senators spoke here, including Sen. Khalwale and the Senator for Mandera. They said, and I agree with them, that the problem in this country is not religion. The problem is the insecurity caused by criminals that the State is unable to handle. When somebody starts thinking in the manner we are seeing, it becomes very dangerous. You have a duty constitutionally in law, in fact, and as a human being to protect and defend the safety and interests of each and every Member of this House, regardless of our political persuasion.

I urge you to come out very strongly on this because anything less can lead to disastrous consequences and we do not want to go that direction. This recklessness has happened in other countries and the results have been disastrous. You may recall that the First World War did not start by one country invading another. It started by some lunatic gypsy shooting a prince in Austria. That started the World War II. A spark can light a fire that can consume everything in its wake.

**Sen. Billow:** Mr. Speaker, Sir, the issues raised by Sen. Hassan are very serious. Members of Parliament are elected to represent people and because of democratic ideals of representative democracy, they give views that are often in conflict with views which are held by the Government or positions which are held by other interest groups or even the views held by their own colleagues in the House. That is the essence of democracy. We must allow Members of Parliament to express their views. The issue he has raised touches me because I am one of those who are getting such messages for simply raising some objection to some of the strategies used by the Government.

For instance, when Sen. Hassan and I issued a statement last week against the closure of mosques in Mombasa and argued that the Government should have arrested those people and left the mosques open or arrested them in their homes, the Deputy President made remarks over the weekend that the elected leaders making such statements are people siding with terrorists and should be quizzed by the police. We have all heard it. When you hear that kind of thing at that level, then you can imagine what goes on in the social media.

Mr. Speaker, Sir, a few months ago when operations in Eastleigh were going on and Members of Parliament from northern Kenya criticized the Government, a senior advisor in State House tweeted, and I still have it; “that Sen. Kerrow is a Senator for terrorists.” I was in Malaysia with other Members of Parliament. The Nation Media House called me to get a comment on that. I just ignored because I thought those people do not know what they are doing.

As Sen. Wetangula said, a Member of the National Assembly who had a case in court because of hate speech published a harsh-tag; “kill your own.” He further said that it is time to move all non-Somalis from northern Kenya so that they can kill their own. I agree with the Senator and I am glad that the courts today restrained him from using social media. In other countries, they ban such bloggers and even ban sites so that they do not expose such kind of hate speech to society. It is very common nowadays. Try to post something in the social media and you will see the kind of messages you get. The situation where somebody threatens the lives of people and action is not taken, is not acceptable. It is important that the Senate, through the Office of the Speaker, communicates to the director of public prosecutions that action should be taken over these matters. Those of us who have been threatened should forward it in writing and the Speaker to take up the matter with the relevant authorities so that people are prosecuted to avoid bloodshed in this country.

**Sen. Hargura:** Mr. Speaker, Sir, what we are hearing from Sen. Hassan is very serious. The direction we are taking is not good at all. We know that we have freedom of speech, but I am sure nobody has the freedom to incite others to take other people’s lives. Sen. Hassan has always been biased towards human rights. As a representative of his people, whenever anything happens, he has a right to defend them. He is always fair minded in the sense that; do what you are doing, but respect other people’s rights. We are having cases where Kenyans can incite others and if this kind of incitement is not nipped in the bud, then nothing will stop Kenyans from killing each other along religious lines.

I am surprised about what Sen. Billow has said; that even the highest offices in the country are making such statements. Therefore, the earlier an action is taken, the better. Things just start like this. Somebody is testing waters; then tomorrow he or she might decide to act. That will be the beginning of killings which we cannot stop.

Mr. Speaker, Sir, I request that as you have been urged by my colleagues, you should take very stern action by writing to the DPP so that we stop this kind of incitements. If somebody tries something and he is not warned, then others will go a step further and nobody’s life will be safe. We, as leaders, represent our people and make comments in this House. If arising from what you have said here somebody will write hate statements or incite others to kill you, then we might not have leaders representing people because everybody will be afraid. Therefore, whatever gains we have made democratically will be lost through irresponsible actions and utterances by these bloggers.

**The Speaker** (Hon. Ethuro): Hon. Senators, the list is growing longer so we will have to reduce time to a maximum of two minutes. Therefore, make sure you have collected your thoughts properly.

**Sen. Kagwe:** Mr. Speaker, Sir, I wish to, first of all, condemn in the strongest terms possible, those who would wish to abuse our fellow Senator.

**The Speaker** (Hon. Ethuro): Order! You are talking in your capacity as the Chairman, therefore, I will give you four minutes.

**Sen. Kagwe:** Mr. Speaker, Sir, thank you very much. Much obliged. There are three things we are faced with here. The first one has to do with the security of Sen. Hassan. I agree that we must not take it lightly. We must not assume that these people are just speaking from the darkness. There must be a reason they are saying so, and there are or they, probably, have masters or crazy people who can react tomorrow in a manner that can harm Sen. Hassan. Therefore, among the things I believe that were asked from you, I

would also urge you to speak to the security apparatus to ensure that they give Sen. Hassan sufficient security; that no harm comes to him.

The second thing has to do with hatred and hate speech. There are all sorts of abuse of freedom of speech in this country. When freedom of speech is such that it interferes with the freedom of others, it begins to be oppression of speech and not freedom of speech. Therefore, it is important for the DPP who is in charge of prosecution to take action. They should take action in such a manner that they must not only act, but they must also be seen by us, as a Senate and by the public as a whole, to be acting.

The third thing is the misuse of Information and Communication Technology (ICT), especially social media. Yesterday, Sen. Sijeny shared with me a posting in social media of a person who was stripping a woman in a *matatu* and touching her private parts. That clip had been posted in the social media. My Committee on Information, Communication Technology has two Bills that we are discussing. We have the Access to Information Bill and the Data Protection Bill. We intend to amend the existing laws to ensure that abuse of the internet becomes part of what can be addressed in terms of prosecution. People are hiding under the guise of the fact that if you abuse somebody verbally, it is different from if you abuse somebody through the internet. It is the same thing. In fact, verbal abuse is sometimes less than social media abuse. Therefore, we must take action to ensure that crime in ICT is seen as crime and not excused because it is social media.

I want to agree that we must have a civilized society where we must agree to disagree. Agreeing to disagree does not mean that we become enemies or abuse each other. It is a hallmark of a civilized society. Therefore, I urge, like the rest of my colleagues, that you take whatever action that is necessary to ensure that such a practice does not continue, not only with Sen. Hassan, but the rest of us.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Kwalwale, you have two minutes.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, when I look at the names of the people who are posting these kinds of hate speeches against Sen. Hassan, I wish I had time, it appears like there is mobilization and more scaring mobilization bordering on ethnic lines if I was to read the names. However, as we urge you to take strong action, we should also ask the DPP to look beyond these threats in connection with what is happening in Mombasa. We know that Sen. Hassan and the Women representative for Nyeri County, hon. Nyokabi, are going through a smear campaign that they fixed certain suspects at the International Criminal Court (ICC). Probably, this could be creating an opportunity for those who want to eliminate Sen. Hassan because of the assumed fixation of certain people. They want to eliminate them and blame the war against terror. Those people are prepared to see dead MPs and Senators.

Mr. Speaker, Sir, when the Senate Minority Leader, Sen. Wetangula, collapsed of exhaustion when we were at the Aga Khan hospital in Kisumu, hon. Moses Kuria posted that, "Sen. Wetangula, rest in eternal peace." These are people with murderous intentions.

Mr. Speaker, Sir, I condemn.

**Sen. Gwendo:** Mr. Speaker, Sir, as I add my voice to this social media misuse, in some countries, social media is well used and politicians can actually use it in campaigns unlike in our country. In my own opinion, I think we are misusing the democracy we have. We are misusing democracy and leaders in this country have been facing the most

painful part of this misuse. We are abused because people assume that we do not go to social media. I have actually faced the insult of social media.

Mr. Speaker, Sir, just to correct my colleague, Sen. (Dr.) Khalwale, this has nothing to do with Jubilee Government or CORD. We all get insulted on social media. The electorate thinks that this is the only way they can communicate their complaints and what they think they know about us. If there is anything this House can do about control of social media or defining the exact use of social media, then this is the time we can do it because social media is going on to even promote violence and insecurity of this country.

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, about four years back, in the exercise of trying to interpret the constitutional draft of the Sessional Paper No.3 of August 2008, on the National Land Policy, I was bundled and thrown into jail and labeled, “hate speech monger.” This was done without even having printed my speech for Kenyans to validate what I was trying to educate them on. What is happening now is evident to me that the law that was used by the National Cohesion and Integration Commission (NCIC) is discriminative against small mortals or lesser mortals of this country. It is used impartially on certain communities in this country and never used to every Kenyan equally. Sen. Hassan was there clapping his hands when I was in that situation. Now, he is in the same boat.

*(Laughter)*

We are in the same corner of smaller mortals in this country. It goes to the extent where known individuals openly wish a Member of Parliament death and they are walking scot-free. This means they have a lesser mistake than Machage ever did to have one-and-a-half year of incarceration in the Kenyan courts of this country. You call that liberal politics because of freedom---

**The Speaker** (Hon. Ethuro): Time is up, Senator!

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, give me two more minutes because I am a Member of the Speaker’s Panel.

*(Laughter)*

**The Speaker** (Hon. Ethuro): Order, Senator! Yes, you are there when I am absent. For now, I am present. Therefore, you are disqualified.

*(Laughter)*

**Sen. (Dr.) Kuti:** Mr. Speaker, Sir, I just want to make two comments. One, I want to use this opportunity to clear Sen. Hassan as an impartial leader in this country because he uses every opportunity to unite this country. Whenever he speaks, he says he represents a cosmopolitan county where there are Muslims and Christians mixed. Last week when we had a seminar in Mombasa, he had to cut short his presence in our midst to go and preside over a Christian function. Therefore, it is very unfortunate that some people paint him as a religious or ethnic chauvinist. We need to clarify that as people who know him better and have worked with him.

Secondly, I want to stress the statement given by Sen. (Dr.) Khalwale. There has been a low tone condemnation of the Kenya National Human Rights Commissioners (KNHRC) during the time of the post election violence that they have fixed people. I do not think we should take the statement by Sen. (Dr.) Khalwale lightly because why should people in print media say that somebody should be shot dead and not warned like the other one who said "kill your own"? That one actually is a vague one. This one is about somebody saying a specific person be shot dead. That must be taken very seriously.

Mr. Speaker, Sir, I condemn.

**Sen. Boy Juma Boy:** Bw. Spika, lizungumzwalo hapa ni tishio la maisha ya mmoja kati ya sisi hapa Maseneta. Mambo haya kutokana na takwimu tunazozipata ni kwamba kila wakati Serikali huonywa kwamba kuna kitu fulani kitatokea na hakuna lifanywalo. Habari zilielezwa kuhusu maafa ya Kapedo, Mandera na kwingineko. Ikaja *Motion on Adjournment* hapa tukawa wakali na kukashifu maafa haya. Swali langu ni hili: Tunangoja mpaka amalizwe ndio tuje na Hoja ya kusema tuna huzuni, Sen. Hassan amekufa?

(Laughter)

Naomba hatua ichukuliwe kabla ya kuleta hoja hapa ya kuzungumzia kifo cha Sen. Hassan. Seneti inafaa kuchukua hatua ili tuelezwe kinaga ubaga kile kinachofanywa kulinda maisha ya wananchi.

**Sen. Sijeny:** Thank you, Mr. Speaker, Sir. This is a very sad thing. The incidences of insecurity are getting out of hand. Apart from harassing women and innocent young girls in the streets, *matatus* and everywhere else, they are now invading our Chambers and selecting one of us. Today, it is Sen. Hassan Omar. Tomorrow, it will be you or someone else. You wonder where we are coming from, where we are headed and what we, as a nation, want.

Mr. Speaker, Sir, elections are at the corner. How will we be treated? Will we leave our houses to go and campaign? Can we work or sit here comfortably and feel or believe that our children are safe? I concur with my colleagues. This is the time we must take action. We, as Kenya Women Parliamentarians (KEWOPA), have condemned this. We are ready and willing to go an extra mile. Not only to protest and amend the laws, but also to impeach, if not in the usual way, frog march and remove people from offices.

I concur and say that something has to be done.

**Sen. Abdirahman:** Thank you, Mr. Speaker, Sir. I want to join my colleagues in condemning the two gentlemen who made the very unfortunate remarks in *Facebook* regarding Sen. Hassan Omar in the strongest terms possible. This is unfortunate. This is a time when this country needs unity more than ever. Fighting terror needs a concerted effort that will unite this country more than divide it. I do not think that it is right for anyone to cast aspersions on Sen. Hassan or any other Member of this House for that matter.

Leaders have every right to comment on any issue that touches on the lives of Kenyans. Let me put it this way: Recently, the Attorney-General talked about the regulations of churches and mosques, which I personally spoke about. Places of worship are different from places of charity and Non-Governmental Organisations (NGOs).

Therefore, leaders have every right to proactively and very constructively help the Government to look for ideal solutions.

There is a challenge in this country. We cannot fight terrorism without engaging everyone. This is worrying all of us, whether we are from the north or the south, irrespective of our party affiliations or religious denominations. We need to work together as a team and ensure that we help our people and nation. I condemn these people. They must be taken to court, not tomorrow but yesterday. The DPP must act.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I want to take this opportunity to express my disgust that 50 years after Independence, we are struggling with very basic things, including national cohesion, unity, national identity and tolerance.

I condemn all those who have threatened Sen. Hassan Omar. I request that if it is possible, the Speaker of the Senate should write to the DPP on behalf of all Senators of Kenya. He should ask for thorough investigations. I suggest that the Speaker should write another letter to the Head of the CID and to the Inspector-General of Police so that Sen. Hassan can get adequate police protection as a leader in this country.

Having said that, I know that we have a lot of work to do. I have known Sen. Hassan Omar for many years. I supported him to be the Chairman of the Students Union in Moi University when I was a leader of the Christian Union and yet I knew he was Muslim. I have not changed my mind about Hassan Omar. However, of late, since I owe him a duty of truth, I have seen my brother becoming a bit partisan in terms of his *Kenyaness*. He was a more vibrant and tolerant leader than he is today. I want to appeal – I must say this – for instance, the ugly incident we saw in Uhuru Park this afternoon should not happen in our country. People should not be heckled in a funeral. We have to live with one another. We do not have to agree politically. I know every Kenyan, whether Muslim, Christian, Luhya, Meru or Luo, all want a united country.

Lastly, when you hear Hassan Omar making that claim, I want to say that J.M Kariuki made such a claim in 1975. We all know what happened a month later. He was dead. Other leaders, including Anthony Ndilinge, made similar claims. A few weeks later, he was dead. We must not allow intolerance to reign. The perpetrators must be brought to book right on behalf of the Senate.

I condemn.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I have only three things to say. From a reading of this letter, I recall that we have a famous saying that goes: “He who represents himself has a fool for a client.” Sen. Hassan Omar is a good lawyer. However, in making this request, he was very polite. I will request you to use your official letterhead to protect this Senate by stating clearly that no investigations should be conducted on Mugo wa Wairimu and Willy Omosa because an offence has already been disclosed in these postings. Therefore, these people should be charged in court immediately. I say so, and support Sen. Kindiki.

I want to bring to the attention of this House the fact that my late father was threatened the same way. A few months later, he died mysteriously. Therefore, this is a very serious issue. These people have suggested that Sen. Hassan should be killed. We do not need investigations, but prosecutions immediately.

**Sen. Kittony:** Thank you, Mr. Speaker, Sir. I stand as an angry Kenyan to say that what has been going on is very disturbing, indeed. I want to say, here and now that



the responsibility should start from us. We should condemn such acts. When you look at what is in the social media, you wonder why we are watching and enjoying what is happening. Why could they not condemn it and report it accordingly? We watched it, laughed and that was it. However, this is a very sad situation. If these were my own grandchildren undergoing this, I would have felt very sad. So, we cannot allow our country to continue allowing such things to happen.

Security has to start from us. We cannot, all the time, be talking about insecurity. Let security start from you and me, so that we stop these acts, once and for all. Social media is good when it is not abused. However, when it is abused, then we have to find laws to stop it. It is young girls and young women of Kenya who are suffering.

Today, a programme has been launched for 16 days to sensitize people on violence against women. Probably, people have forgotten that the lives we are all carrying are God's gifts which we need to nurture and respect. We need to respect one another. We are the ones to stop what is happening in the society. It is our unity and the way we carry ourselves that will help this country to gain its lost glory by condemning these acts.

I condemn in the highest manner possible.

**Sen. Madzayo:** Asante, Bw. Spika, kwa kunipa nafasi hii. Jambo la kwanza nashtumu vikali hao watu wawili kwa kutoa taarifa kama hii kwenye mtandao. Mhe. Hassan, Seneta wa Mombasa ni Seneta ambaye huongea kulingana na fikra zake. Hayuko hapa kuongea ili kumpendeza mtu yeyote. Ni mtu ambaye anaongea vile anavyofikiria na hivyo ndivyo Katiba yetu inavyosema; ya kwamba kuna uhuru wa mtu kusema vile anavyotaka.

Jambo la kusikitisha ni kwamba hivi sasa ametishiwa maisha yake. Waswahili wanasema; "Lisemwalo lipo na kama halipo laja." Kwa hivyo, tishio hili kama halipo hivi sasa, Sen. Hassan amelitubua na ametuambia. Kwa hivyo, ni muhimu kwamba Bunge la Seneti, kupitia kwako Bw. Spika lichukue hatua ya kutetea maisha ya ndugu yangu Sen. Hassan ili lisemwalo likiwa halipo na laja, tuweze kulikinga lisiweze kumfikia.

Nashtumu sana kitendo hiki.

**Sen. Chelule:** Asante, Bw. Spika; asante kwa kunipa nafasi hii nizungumze pia kuhusu usalama katika nchi yetu. Nazungumzia mambo ambayo yametendeka siku chache zilizopita. Jambo la kwanza ni yale maafa yaliyotokea Mandra. Pili, ni kitendo cha kuwavua akina mama na wasichana wetu nguo. Tuna hofu sana kama akina mama na wananchi wa Kenya kwa mambo na vitendo vinavyoendelea hapa nchini.

Tumeketi hapa kama Maseneta na sisi ni viongozi tunaowaakilisha wananchi pale mashinani. Tuko na Kamati ya Usalama na Maswala ya Kigeni ambayo tumesikia Mwenyekiti akilalamika kuwa mawaidha yake hayatiliwi maanani. Wakati mambo yake hayatiliwi maanani na ilhali ni mwakilishi wetu katika Bunge hili kwa masuala ya usalama, inatushtua sisi kama viongozi.

Ninampa pole zangu mwenzetu Sen. Hassan Omar kwa kutishiwa maisha yake. Kama viongozi, Serikali inafaa kuchukua hatua mwafaka.

Bw. Spika, tunaposimama hapa tuna mioyo mizito kwa sababu mambo yanayofanyika hapa nchini si mambao ya kawaida. Tuliona jana picha ambayo msichana moja alivuliwa nguo zote. Ingawa wanaowavua akina dada nguo wanasema kwamba wasichana wanavaa nguo fupi, hata unashangaa; kama suruali pia ni fupi. Nguo za juu

zinavuliwa hadi chupi. Kwani chupi pia inatikiwa iwe ndefu? Unashangaa ni kwa nini watu wanaendelea kutenda kitendo kama hicho. Sisi kama akina mama na viongozi tunashtumu vikali vitendo hivi. Wasichana wetu jana na leo wanahofia kutoka nyumbani, hawajaenda shule kwa sababu wanahofia maisha yao.

**Bw. Spika** (Hon. Ethuro): Seneta, muda wako umekwisha!

**Sen. Chelule:** Bw. Spika, ninashtumu kwa ukali sana.

**Sen. Nabwala:** Mr. Speaker, Sir, I also condemn the action of the people who are tweeting and targeting the life of Sen. Hassan. Senators in this House represent counties and their interests. When we have insecurity in counties, Senators have to come out and speak. This is because if we do not speak out for our people, then we shall be failing in our mandate. Cyber crime is a criminal act. If an SMS which is sent out to a person carries a bad message, it is punishable by law, where a person can be sentenced or fined. Cyber crime is more serious, particularly in this case where someone's life is targeted; a Senator who is representing people out there.

We should bring a Motion to this House on cyber crime to make it a criminal act. If someone tweets, he or she can be taken to court and charged because you may find someone eliminating one of us and the next day there will be another. As we know, the Senate is under attack from different angles. We need to stand up and condemn this action. Through you, I request that you do the letter to the DPP, as other Senators have suggested, and let the world know that one of our Senators is being targeted. If something happens to him, then the whole world will know what has been planned or done by whoever has done it, because it is well known, because it is on *twitter*.

I condemn.

**Sen. Omondi:** Mr. Speaker, Sir, I thank you for giving me this time. I join my fellow Senators in condemning this issue. Indeed, our colleague, Sen. Hassan is under threat. His life is under attack because if he is being attacked through social media then something somewhere is cooking. We should not just assume it. The security of Sen. Hassan should be beefed up. What worries me is the way our security apparatus or institutions handle cases. When you report that you are under threat, it is taken lightly. Many of us have been threatened and nothing has happened. We must speak loudly that Sen. Hassan is under attack and everybody should know. Something should be done.

For some of us, nowadays people ask why we are quiet. We have received threats that; *umeingia kwa Bunge na moto; go slow*. We are speaking the reality. I have reported these. Up to now, no action has been taken. The way it is going, we cannot take it for granted. Something somewhere is amiss and I wonder what has happened in this country. Kenyans have taken the law in their hands and they do things the way they want.

I condemn.

**Sen. Mugo:** Thank you, Mr. Speaker, Sir, for the opportunity to also join my colleagues, the Hon. Senators in condemning the threat very strongly.

Nobody has a right to threaten somebody else and talk about somebody else's life. No matter what one person says or does because there are channels if one wants to put a case against somebody, one can always go to court. To threaten another life is wrong and criminal in its nature. I wonder why we need another law for cyber crime. Any crime is a crime. The laws we have should be sufficient to charge anybody in court.

I know Sen. Hassan very well and I think he knows that. I took him back to university when I was an Assistant Minister for Education when he had been thrown out. He also worked closely with me and told me when he wanted to join the Kenya National Commission on Human Rights.

I know his passion for defending other people, especially those he feels are downtrodden. Sometimes some people might see that he has gone out of the way, but that is no reason to threaten anyone. From what I know, I do not think Sen. Hassan has an evil mind. I think the people charged with legal action; the prosecutor should take action against those people who have threatened the life of another individual because apparently they are known. We are elected or nominated to this House to speak for our people. You cannot start threatening a Senator or a Member of Parliament in order to silence them. I, therefore, join my colleagues in what they have said that the Speaker should write to the offices that be and make sure that justice is done.

I condemn.

**Sen. Ong'era:** Mr. Speaker, Sir, thank you for giving me this opportunity so that I may also join my colleagues in solidarity. Before I comment on this issue, I want to clear something that the Senate Majority Leader mentioned. There was no heckling at Uhuru Park. What happened was that people were seriously mourning one of their beloved who has departed. When they mourn, can you stop them from mourning in a manner that they want to do it? This is a man who was loved by a majority---

**The Speaker** (Sen. Ethuro): Order, Sen. Ong'era! I was there myself, you cannot misrepresent facts; we all saw them. I will seriously say from where I am sitting that if there is any one time that this country and the two Houses united, it was to mourn the departed comrade Sen. Kajwang. I think nobody should take that away from the leadership.

**Sen. Ong'era:** Mr. Speaker, Sir, I want to congratulate you in the way you have led the Senate in going to mourn the late Sen. Kajwang and also my colleagues in the Jubilee Coalition. They reminded us that we are a united front as Members of Parliament. I hope that this will continue. I commend you for that. I want to give you that assurance as a parliamentary leader on behalf of CORD although my leader is seating here and he has not spoken.

This is a very serious matter. I have always been saying that social media in this country needs to be controlled. I recently led a delegation of Pan African Parliament (PAP) Members to Ethiopia. We saw how they manage their security. I think Kenya needs to borrow a leaf from them. You cannot just post anything on social media. This country is under attack from fake accounts. I am not even sure whether this Mugo or Omosa even exist. Social media has become a recipe for disaster. It is where everything and anything can be posted without any control. It is very unfortunate that such a statement has been made on Senator No.1; a Senator from Mombasa who we really respect.

Mr. Speaker, Sir, time has come when Members of Parliament need to be given extra ordinary security. I think that Sen. Hassan should be treated like any other Senator in this House. I think he should be given security to the level we have seen Sen. Wetangula and Sen. (Prof.) Kindiki being given because his life is under threat. I have a feeling that one of these days, this country will find itself in a

very unfortunate situation; a situation where we allow anybody to make any comment. Therefore, in solidarity, I want to join my colleagues in the suggestion that---

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

**Sen. Ong'era**: Mr. Speaker, Sir, I support.

**Sen. Adan**: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I really longed to be given this opportunity because I think I am the one who knows Sen. Hassan more than anybody in this House. I worked with Sen. Hassan for five good years at the KNCHR. For Sen. Hassan to stand here and say that his life is under threat is something very serious. I also remember at one time Sen. Hassan was threatened when he was trying to defend the *Mungiki* sect members. His driver was carjacked by people who thought that Sen. Hassan was in that car. I can confirm to you that the Commission did not know that Sen. Hassan's car had been carjacked.

Let me confirm to this House and the whole Republic that Sen. Hassan has never associated himself with ethnicity. He has a passion for human rights. Therefore, we should not take this issue lightly. Sen. Hassan is the only child of his mother. If anything happens to Sen. Hassan, his mother will never forgive us. If anything happens to him, their whole generation will be cleared.

Mr. Speaker, Sir, Islam does not allow the killing of anybody because there is no jihad here. I think we, as Kenyans, are losing direction because Islam does not allow killing. Instead of us dealing with the common enemy, we are turning on each other. This is very wrong and we must get our facts right. This is not a light matter. Sen. Hassan is not known to just create issues and he is not a complainant at all. I think what has been posted on the website is very clear. We have structures that are well known in terms of tracking down who posted those statements. We should condemn this and not allow it to happen to anyone of us.

Thank you.

**Sen. Murkomen**: Mr. Speaker, Sir, I can see Sen. Hassan smiling and I am happy that he can still afford a smile after such serious threats. Sen. Hassan and I are avid users of the social media. He has the third highest followers after I and one other on *Twitter* and on *Facebook*. He is equally followed by so many people. He is a politician that I have always said has a very great future in politics. I usually joke that he needs a bit of pruning here and there, but he is going very far.

The problem with this country, particularly with regard to the use of social media is that there are people who think that they can post anything that they want to say and write anything that they want to write and get away with it. The problem with the security system in this country is that they do not take things that are in social media as seriously they do those things that were said through television or through the media, yet it is a medium. I could have said it by texting, posting on *Facebook* or *Twitter* or saying it publicly on television, radio or anywhere.

Mr. Speaker, Sir, for anyone to wish somebody else to die, or that somebody else should be killed, is sufficient to charge that person with attempted murder; contemplating to kill a Senator. These things are serious. Sen. Hassan and other people who use social media will tell you that we are the people who withstand the highest amount of vitriol spewed on us through social media. We, as politicians, have been very patient. People call you all kinds of things. They even sometimes call your mother, relatives, brothers

and sisters. However, when they cross the line to go to the extent of pre-meditating and planning to terminate the life of another person, it must be taken seriously.

That is why he should record the same statement that he gave the DPP with the Criminal Investigation Department (CID). The CID section that deals with digital issues and social media must track those people, arrest and charge them with attempted murder. If we do not do that, we will continue encouraging all kinds of characters to use social media to issue threats or otherwise. I have seen even my colleagues, who are Members of Parliament, writing things that you could never even have contemplated. You would never have contemplated a Member of Parliament writing something about another tribe or that we should let other people to suffer. We are the centre of unity. We should be the ones bringing this country together. What is happening in Mombasa and Mandera counties is that we are being set up by criminals, so that we can start fighting based on tribe and religion.

Mr. Speaker, Sir, when Sen. Hassan Omar's life is under threat by cyber criminals – some characters who are sitting behind a computer and writing anything and everything, contemplating and planning – all of us must condemn them. It is not only the religion of Sen. Omar Hassan, his political party or region that should do that. We must stand with him. As I said yesterday, if they do the same in churches, we must all stand and condemn it. If some characters want to misuse the mosques, we must condemn them. Therefore, I stand here to condemn the threats. I will walk with my brother. If he needs legal services, I can give him freely to ensure that those who are after his life are brought to justice.

Thank you, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): Senators, I think that everybody who wanted to express himself got the opportunity.

You have made a number of suggestions. One is for the Inspector General of Police to enhance the security of the Senator. The other one is that a letter should be written to the DPP from my office. I will prosecute these two issues immediately I leave the Chair.

*(Applause)*

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. My point of order is on the arrangement of business on the Order Paper.

**The Speaker** (hon. Ethuro): Order, Sen. Wetangula!

**The Senate Minority Leader** (Sen. Wetangula): If you could hear me out, Mr. Speaker, Sir.

**The Speaker** (hon. Ethuro): I do not want to hear you, because I am getting there. Hear me first.

Next Order!

## BILLS

### *First Reading*

#### THE MINING BILL (NATIONAL ASSEMBLY)

BILL NO.8 OF 2014)

*(Order for First Reading read – Read the First  
Time and ordered to be referred to  
the relevant Senate Committee)*

### COMMUNICATION FROM THE CHAIR

#### REORGANIZATION OF BUSINESS ON THE ORDER PAPER

**The Speaker** (Hon. Ethuro): Order, Members! Sen. Wetangula, before we proceed with the rest of the Orders, I would like to address an issue that might be of immense interest to you.

You know that we have a published calendar. We, as House, agreed that we will go on recess on 4<sup>th</sup> December, 2014. So, we have only next week. We must ensure that the business originating from the National Assembly is disposed of on priority basis. We must also dispose of the business that you have generated and is still pending.

Order Nos.9, 10 and 11, are not yet ready in terms of the concurrence process. So, they will be deferred until they are ready, most likely next week.

### BILLS

#### *First Readings*

THE REGISTRATION AND IDENTIFICATION OF  
PERSONS BILL (SENATE BILL NO.39 OF 2014)

*(Bill Deferred)*

THE COUNTY GOVERNMENTS DISASTER MANAGEMENT  
BILL (SENATE BILL NO.40 OF 2014)

*(Bill Deferred)*

THE REFUGEES BILL (SENATE BILL NO.41 OF 2014)

*(Bill Deferred)*

**The Speaker** (Hon. Ethuro): We have agreed that Order Nos.12 and 13 be brought tomorrow, with a view to concluding them tomorrow. The rest of the Orders will follow after the Motion under Order No.19. So, we will fast-track Motion No.19, which becomes the next Order. The rest of the business can follow.

Depending on how we perform tomorrow, next week we may have to increase the time for business. There is also a possibility of Wednesday morning being a day for business. So, if you work efficiently, you can earn more time to yourselves. If you do not,

you will have to spend a bit of more time than usual. So, if there is a Bill or Motion in your name, please, be ready to prosecute it.

Sen. Wetangula.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Speaker, Sir. You have dealt with one limb of my concern in relation to Order No.19, which I was going to plead with you to bring forward, so that we dispose of it.

Mr. Speaker, Sir, the second limb has to do with the responsibility for Bills. If a three-star Bill comes to the House, it means that it is a product of a Committee. Ownership and credit should be given to the Committee and not the individual or Chairperson of the Committee. So, a better way of designating the originator of the Bill should be done, other than making it look as if it is an individual bringing the Bill, when it is a product of a full Committee. So, it should be listed either as a Bill from a particular Committee or giving it a better description than making it appear like Order Nos.10 and 11. They are products of a Committee in which I sit. So, it should not look as if it is an industry of an individual.

**Sen. Murkomen:** On a point of order, Mr. Speaker, Sir. If the Senate Minority Leader had been careful, he would have seen the three asterisks, which clearly indicate that it is a Committee Bill. I do not think there is anything wrong with the Mover being the Chairman of that Committee, as long as there is an explanation in the Order Paper.

**The Speaker** (Hon. Ethuro): Order, Senators! Both of you, the Senator Minority Leader and the Chairperson of the Committee on Devolved Government, cannot squander the valuable time of this House by discussion things that can be discussed elsewhere. Since you have brought them to my attention, I will give you in equal measure.

First, Sen. Murkomen, you have used the words “if he was careful enough,” and yet, you are the one who is not careful enough. The Senate Minority Leader was so careful enough that he read that three “stars” denotes a Committee Bill. So, his proposal is that instead of putting the name of the Chairperson, we need to put the title. For example, the title should be “Chairperson, Committee on National Security and Defence.” If you look at the other Bills, they are indicated “The Senate Majority Leader.” That is the way I understood Sen. Wetangula’s input.

Secondly, Sen. Wetangula, being the Senate Minority Leader sits in a very privileged position. That position gives him a lot of access, including to one very prominent Committee known as the Rules and Business Committee (RBC). That is one area where house-keeping issues should be raised rather than on the Floor of the House. He is doing it as if he is Sen. (Dr.) Khalwale, who does not have that privilege. Even Sen. (Dr.) Khalwale has the privilege of being a Member of the Liaison Committee. You are talking about a matter that does not exist, in the first instance. I hope both of you are guided.

Next Order!

**MOTION****MEASURES TO COUNTER TERRORIST ACTIVITIES, OVERHAUL  
AND STREAMLINE FRAMEWORK AND OPERATIONS  
OF NATIONAL SECURITY**

**Sen. Billow:** Mr. Speaker, Sir, this Motion follows the numerous incidents of terrorist attacks across the country in the past three years, starting with the recent one where 28 people were killed in Mandera, Lamu, Westgate and other parts of this country in which hundreds of people have been killed. Terrorism is a global problem---

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

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

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Sen. Billow, you know the procedure; you have been in the House for a long time. Can you execute your Motion properly? Read the Motion first before you continue.

**Sen. Billow:** Mr. Temporary Speaker, Sir, I beg to move:-

THAT, noting that there have been numerous incidents of terrorist attacks across the country in the last three years, including the most recent at Arabiya town on Saturday, 22nd November, 2014 in Mandera County which have resulted in the loss of hundreds of innocent lives, injuries and massive destruction of property contrary to the principles and objects set out in Articles 238 and 239 of the Constitution; aware that Pursuant to Article 239 (1) of the constitution, the national security organs are the Kenya Defence Forces, the National Intelligence Service and the National Police Service whose primary object is to promote and guarantee national security; recognizing that most of the attacks could have been averted with proper co-ordination between and among the security organs; concerned that the multiple attacks are signs of leadership, institutional and structural flaws within the organs hampering their capacity to effectively deal with threats and cases of terrorism and other criminal activities; the Senate calls upon H.E the President to institute legislative and other measures to counter terrorist activities and overhaul and streamline the framework and operations of national security organs in the country, including initiating where necessary, the process of removal of the respective head of an organ.

**The Temporary Speaker** (Sen. (Dr.) Machage): Very well, I hope you know that while moving your Motion, you must read as is on the Order Paper to the letter. I will excuse you and order that the HANSARD records only what is written here. That must be observed.

Continue.

**Sen. Billow:** Mr. Temporary Speaker, Sir, it is a very critical time in the history of this country. For the first time this country is facing serious challenges in security. We have our own usual challenges in which thousands of Kenyans are losing their lives every year due to various crimes reported in this country. Those are on the increase.



However, in the last three years the issue of terrorism has dominated news in this country. Terrorism has also claimed the lives of many Kenyans. We have reached a situation where Kenyans are living in fear and cannot travel freely. They cannot even go to supermarkets, offices and buildings without being inspected or scanned. We are literally living in a country where Kenyans are asking other Kenyans to leave some counties because of fear due to insecurity. We are literally telling each other that Kenyans from this part of the country should not go to that part of the country because of insecurity. As I speak, hundreds of public servants are leaving Mandera. Literally, this is an exodus due to fear and nothing else.

Mr. Temporary Speaker, Sir, this insecurity is largely related to terrorism which is a global problem. However, the situation for this country changed significantly in October, 2011 when the Kenya Defence Forces (KDF) moved to Somalia. The then Minister for Foreign Affairs, who is now the Senate Minority Leader, said very clearly that they were moving the KDF to Somalia on the request of the Transitional Federal Government (TFG) and that the measure of success of the KDF in Somalia would be the crippling of *Al Shabaab*.

Following many incidents of explosions across this country from Garissa, Mandera, Mombasa, Nairobi and other places where Kenyans have lost their lives, the claim cited by *Al Shabaab* has been the presence of the KDF in Somalia. In the last three years, instead of incidences of terrorist attacks going down, it has been on the increase. When these forces went into Somalia, we were told that they would be building a buffer zone between the border of Kenya and Somalia so that terrorists do not enter into the country. What has happened is a situation where our lives have been turned upside down. We have had many of attacks in Nairobi, Mombasa and in most parts of this country. Even while boarding matatus, Kenyans have been required to produce identity cards and they are also scanned. That is the situation we are in today. Today this country has been listed as the 12<sup>th</sup> most terrorist prone in the world. We are in the league of Afghanistan and Somalia.

Mr. Temporary Speaker, Sir, we must ask ourselves why this is happening. Why is the security situation deteriorating? Why are the levels of terrorist attacks in this country increasing? These are questions that Members of this House need to debate and ask. When a strategy does not work, you have to change it. What we see today is a situation where we have left the Government to pursue a particular strategy and we need to ask ourselves whether those strategies are working. For example, is the presence of the KDF as a strategy to fight *Al Shabaab* working?

There are about 500 to 600 hundred kilometres between Wajir to Mandera on the border with Kenya that are not secure. That should have provided a buffer zone, but our KDF are not there. They are right in the sea; in Kismayu. We need to ask ourselves whether our presence in that country has helped reduce the incidences. Whether the strategies we are seeing in coast and North Eastern by the Government are helping to reduce these incidences. The reality is that the situation is getting worse.

Our forces in Kismayu have been accused by none other than the United Nations (UN) through the UN Monitoring group on Somalia. Their annual report which is published every July – this is available on the UN Website – has accused the KDF forces in Kismayu of engaging in trade of charcoal and supporting those who are engaged in illegal sugar trade. They are literally in business. We need to ask ourselves whether these

strategies are working. For a long time, our security forces have argued that the KDF, the National Intelligence Service (NIS), the Kenya Police Service (KPS) are incapacitated by lack of resources. Parliament, last year voted Kshs165 billion to our security forces combined.

After the Ministry of Education, this is the single largest sector that receives resources; Kshs175 billion is an awful lot of money. This Government has made sure that our security forces have the necessary equipment and vehicles up to the extent of providing insurance to police and many other things to make it possible for our security forces to act effectively in combating terrorism and other crimes.

After the Constitution was passed, the Government embarked on a process of reforms, particularly police reforms. After many years, it was decided that we needed a KPS and a unified command that brought together, for instance, the regular police and the administration police. As recently as a few months ago, amendments were done to the National Police Service Act to give the Inspector-General more powers so that he can deal effectively with his force. Institutions like the NIS were revamped. They now get Kshs17 billion for their operations and yet we still have a problem after that has been done. The question is: Where is the problem?

In many Motions here, I have said that the key challenges are in three areas. One is in the leadership of those institutions. Two, there is a challenge in the institutions themselves and in the structure. In the institutions, we also have challenges. We are in a situation where the KDF is being asked to police towns and highways to prevent or get involved in attacks like the one in Westgate Mall or situations like the one in Lamu. These are internal matters which our NPS should have taken care of.

We have a situation where there are still differences between the administration police and the regular police in terms of their work and relationships. The more serious issue is where there is no coordination. In which case, the NIS have been telling us that intelligence has been given to police. However, the police say that they have not been given any intelligence. There is clearly a glaring disconnect between the different arms and absolute lack of coordination.

The police reforms that were done to change the leadership and the commands structure we can say have literally stalled. We have not seen any fundamental activities in terms of vetting changing the face or structure of these institutions. All our regions face serious challenges. We have seen it in Kapedo, Turkana, Lamu and everywhere else. This country is faced with a serious matter. Kenyans have been patient and what we are getting from the Government is deflection. Deflection means that when something happens because of a particular failure, we are told that it happened because of something else. We get denials. We did not expect, after the new Constitution came into force, that our Government would continue in the path of deflecting, denying, pledging and promising this or that. We expected nothing else, but action.

We also expected, under the new Constitution, which demands public participation at all levels, involvement in policing our country. The Constitution requires public participation. How many leaders in this House are involved in matters of security in their respective counties? What about the county government? What about members of the public? If our leaders cannot be involved, do we expect the police to call members of the public to get their support and a buy-in from the public in some of the measures?

It is time we asked His Excellency the President to take action.

**The Temporary Speaker** (Sen. (Dr.) Machage): Who is seconding you?

**Sen. Billow:** I will ask the Senator for Makueni, Sen. Mutula Kilonzo Jnr. to second me.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Temporary Speaker, Sir. I want to thank Sen. Billow for this Motion. Many things that we will contribute on this Motion, we said them yesterday in no uncertain terms.

As I second this Motion, allow me to express my disappointment. The issue about the security of our people in the national Government and counties is something we have raised severally. This is an issue that is on top of everybody's agenda. We are asking ourselves whether or not the Government is doing enough to take action to prevent the activities of terrorists to ensure that Kenyans live in peace.

The person who is charged with this responsibility is none other than His Excellency the President. In his capacity as the Commander in Chief of the Defence forces, he is the person who should initiate the changes that we are asking for in this Motion, which include legislative measures, taking disciplinary action and any other action required lawfully to ensure that the people of this country enjoy the security they should get under the Constitution. Under the old Constitution, we did not have a provision where the citizens of this country were guaranteed of security.

However, in the new Constitution 2010, we have given a specific provision saying that the people of this country are entitled to adequate security. What we saw in Mandera County is chilling and troubling. To some extent, the pictures that you see in the newspapers today; people lining up at the airstrip in Mandera with bags ready to be evacuated is a serious issue. I say so, because the people who live and work in Mandera are attempting to move from there to other regions. What guarantee is there if you move from Mandera to Makueni, Machakos or Nairobi that the same actions will not take place by these same hoodlums who will not blink in order to take the life of a person?

While this is happening, the Government, in its many statements --- I am happy that the Kenya Television Network (KTN) yesterday analyzed some of them that the national Government has made severally out of incidents that have happened in Kapedo and Baringo. All of them seem to have been written from the same script. It is like every time they do it, they just change the headline and the person who will read it. No serious action has been taken by this Government even at the time that we lost so many Kenyans at the Westgate Mall to ensure that we have security. What is the downside?

Mr. Temporary Speaker, Sir, again, the electronic and print media have given very chilling pictures of a ghost town called Lamu where many tourists used to visit to watch the old town and the sites, but it is now empty. Most of us will attest to the fact that in the last few months that we have been to the coastal City of Mombasa, there are no tourists. Those are the people who provide income. Those are the people who employ the young people in Mombasa who are now turning to crime and we are watching. It is also a matter that does not need a lot of explanation; that the tourist cycle is such that if you affect tourism now, in the next one year, we will not have tourists in Mombasa and Lamu. When these alerts are sent to other places, because the incident in Mandera was broadcast all over the world, nobody will want to step into this country. It is worse than even the Ebola virus. Why would a Government watch as we destroy our economy without taking action?

I hope that this is one of those Motions that we will ensure that it is acted upon. Unless action is taken, we will continue talking about these issues. In the event that action is not taken, we must ourselves as legislators start wondering whether we should not take up that role of ensuring that security in this country is properly done by taking those actions that will ensure that the people who are responsible for certain things take action and, in default, disciplinary action is taken against them.

Mr. Temporary Speaker, Sir, yesterday Sen. (Dr.) Khalwale with other people were protesting in what is now called "Occupy Harambee House". They were tear-gassed and that will go into history as one of those protests where people were attempting to take action. They were ignored. I am sure no action will be taken. The officers in charge of security are still enjoying their perks. They are still in office while people are dying and no action is being taken. It is time this Senate considered whether or not the function of security should not, in fact, be a shared function with counties. This is because it is now apparent and we have records that NIS releases information to the police, but no action is taken. Who do we blame? These people are paid through our taxes, nobody takes action or checks what they are doing. If you are in a county like Mandera, it is assumed that the intelligence will come all the way to Nairobi. Somebody from Nairobi will send a signal all the way to Mandera and then that person will then send another signal to another person to take action.

The management of counties and the people running county governments are not aware of what these people are doing. As a result, we are having a huge chain of command and sometimes broken telephone where nobody is taking action, no one is checking and nobody knows why nobody is checking. Perhaps, it is time that the national Government admitted that some of these functions cannot be undertaken without the assistance of county governments. Secondly, the people we call County Commanders are not even answerable to the Governors. I am glad this has come now because I remember the last contribution by Sen. Kajwang, there was a proposal to form a county security board at the county level where these County Commanders were going to be answerable to the governors.

Mr. Temporary Speaker, Sir, why is the function of security a secret? What is so secretive about the fact that crime is about to be committed? Why should that information wait to be relayed in whatever form? I do not know how they use it, maybe it is a Morse code, but whatever method they use, why would there be such bureaucracy? The survivors in Kapedo said that they attempted to communicate when they were ambushed, but nobody went to their rescue. If police officers can be ambushed by gangsters, they communicate and nobody saves them, and much later, 21 of them are killed in cold blood wearing our court of arms, how safe are ordinary mortals like us and the people we represent?

These are such serious issues that I do not think there is any other issue that should occupy the Head of State of this Republic now other than the issue of security. We must say so and say so loudly; that it has gone out of hand and we are tired of press conferences. We are tired of unconfirmed reports of people who die. The 100 people or whatever number that His Excellency said that they were killed as a retaliation is not equivalent to one Kenyan. It is not a justification for the death of one Kenyan. It is not compensation for the death of one Kenyan and it will never be.

I second the Motion.

*(Question proposed)*

**Sen. Obure:** Thank you very much, Mr. Temporary Speaker, Sir, for giving me this opportunity to support this Motion.

I want to start by thanking Sen. Billow Kerrow for raising these concerns, initiating this Motion and executing it very effectively. I want to assure him that his concerns are also shared by very many Kenyans of goodwill.

Mr. Temporary Speaker, Sir, the objective and, indeed, the mandate of any Government anywhere in the world is, first and foremost, to protect the lives and property of its own citizens. In our case here in Kenya, this is achieved through the various institutions which are financed by the public, namely, the KPS, the KDF and the NIS. Their primary duty is to promote and guarantee security to all Kenyans. Despite the large amount of resources which have been made available to these institutions, in the last year or two, we have seen cases where we have lost many lives. We have seen serious violations of security in a number of our counties. We have seen problems in Baringo, West Pokot, Turkana, Tana River, Kitui, Bungoma and even in our own City, Nairobi, where people lost their lives and massive property destroyed. We have seen serious violations in Lamu and more recently, in Mandera.

I do not have a chance to speak yesterday on a similar Motion, but in the case of the attacks in Mandera a few days ago, my own county and the neighbouring County of Nyamira lost eight lives. Some of these people were professionals; clinical officers working in Mandera, teachers employed by the Teachers Service Commission (TSC) to teach children in Mandera and Government officers. I want to take this opportunity to convey my personal condolences not only to the families of the deceased from Kisii and Nyamira, but all those who lost their lives in that incident.

Mr. Temporary Speaker, Sir, in the case of Lamu, the role of our security forces left much to be desired. The attacks took place at 8.00 p.m. and continued to 3.00 a.m. Not a single attempt was made to respond. Innocent people were killed and property destroyed and nothing significant was done by the police. Up to this day, we really do not know who the perpetrators were. There were even suspicions of complicity from among our own security forces in the case of Lamu. These are serious issues where the lives of innocent people are lost without good cause.

The effect of all this is really serious. It creates hopelessness and despair among citizens. The negative impact that this brings to the economy is huge. Look at the performance of the tourism sector today in Kenya. The bed occupancy rates are now at the lowest ever, because of these kinds of incidents. What does that mean to the economy? It means loss of jobs and foreign exchange earnings which propel other sectors to perform well. We are losing all those opportunities. What are the consequences in the long run? It means increasing levels of poverty. This is what this means to us. In addition, these attacks are causing serious suspicions among Kenyan communities themselves. Issues of faith and religion have been introduced. We should never allow ourselves to fall into these traps. We, as Kenyans, must reject this wherever we are. We must also promote security to ensure that Kenyans live and work anywhere they chose.

The question in the mind of everybody today is: What is really the problem? Why are our security agencies not performing? That is the question that this Motion wants an answer to. We have been told about lack of coordination between the various security agencies. Misunderstandings between the two institutions; between the Regular Police and the Administration Police, infighting among officers, poor morale and failure to use intelligence have been mentioned as the possible cause for poor performance of the security agencies. But these are issues which can be addressed and resolved. Why are we not resolving these matters for the sake of Kenyans and the good of the country as a whole?

How long can we wait to see changes? The patience of Kenyans is running out. We are urging the national Government and his Excellency the President to address these issues as a matter of priority and urgency for the good of this nation and for peace to be seen everywhere.

I want to conclude by saying that, the cost of the mistakes we are making and of these lapses we are making in security are far too high. We cannot afford the cost of this. Therefore, I am urging that urgent steps be taken quickly to respond to these challenges.

I support.

**Sen.Leshore:** Thank you very much, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to this very important Motion. As I read this Motion, I agree entirely with the Mover, up to the counter terrorist activities. I say so, because the President has already been mandated and the Constitution also mandates the National Security Council (NSC), which constitutes of the President, the Deputy President, Cabinet Secretaries in charge of Defence, Foreign Affairs, Interior and co-ordination of National Government, the Attorney General, Chief of Defence Forces, Director General of National Intelligence Service (NIS) and the Inspector- General.

It is their mandate to exercise advisory control over national security organs and perform any other function prescribed by the national legislation. The Chairman, who presides over the Council, appoints the secretary.

Article 241(1) (6) (b) states that:-

“The Council shall assess and appraise objectives, commitments and risks to the republic in respect of actual and potential national Security capabilities.”

That is a mandate given by our Constitution to the NSC. We should not pinpoint a certain individual to say that they are the ones who are failing. Otherwise, if you want to say or pinpoint, we should say the NSC is a failure. We are not going to say so, because we have seen the action taken by our KDF within or outside the country. We have seen several incidences where our NIS and our policemen have involved themselves in and they won successfully. Therefore, let us see where the future is. Every person today in Kenya lives under threat.

Whenever I call my county anytime in the morning or in the evening, I ask them: Have the people of Isiolo, Baringo, and Turkana attacked you? I am sure people in Turkana will also ask that: Have the Pokots, Samburus, attacked you? My friends from Isiolo, when they call, they will also ask the same question. So, who is safe in this country? None of us is safe, from Sen. Omar to those patriotic young boys who were killed in Mandera, Kapendo and Baragoi. Nobody is safe in this country.

I have suffered, not from *Al Shabaab*, but within our own borders in the city of Nairobi. If I had exposed the threats against me the way Sen. Omar did today, I would not have been on this wheel chair. I am sure you remember when you saw me the first time how handsome I was.

(Laughter)

But I am still handsome

**The Temporary Speaker** (Sen. (Dr.) Machage): You are still handsome, Mr. Senator.

**Sen. Leshore:** Thank you, Mr. Temporary Speaker, Sir. You know when it becomes secret issues.

**The Temporary Speaker** (Sen. (Dr.) Machage): You are still the same Leshore that I knew.

**Sen. Leshore:** I do not want to be so emotional. I do not want to defend ole Lenku, but if today you give him those military uniforms, what will he do alone? There is some disconnect on the ground between our NPS officers, the APs, the regular police, the military and the regional coordinators. I enquired immediately after I heard that the bus was attacked, I know the gentlemen who were running the NIS in that region. I worked with them sometime back in Mandera. During our time, we used to know anything happening in Mogadishu within one hour. What has happened now that we have given them Kshs23 billion and they cannot know what is inside Somalia which is 20 kilometres away? If *Al Shabaab* had that camp 20 kilometres away, why did our military, the KDF allow it to exist all that time and we have gone up to Kismayu?

Let us ask ourselves and push the NSC to tell us what is happening. If they have failed, they should tell Kenyans that they have failed because everybody from the top to the bottom has taken off to defend the people of Kenya. Kenyans have given them that mandate and resources. If they are lacking resources, they should come back to us and tell us that they do not have enough resources. For the last one or two years, I have seen every police station and AP unit have got brand new vehicles, bullet proof vests and helmets. The same with our military, we have equipped them to the teeth.

I want to urge this House and Kenyans to emulate the Israelis. Israelis do not tell anyone of them to quit, once your conscience tells you that you have failed, one should go home. We do not need to remind them to go home, they should quit and we get somebody else who can perform those duties. We must give our boys the incentives and courage. I remember when I was a young moran, the seniors, or the generation ahead of me used to encourage us. They used to tell us to be proud as warriors to defend our motherland. We, as Kenyans and as leaders, let us not allow ourselves to be divided by these *Al Shabaab* antics. They are trying to divide us along religious and ethnic lines. Let us stand as leaders of this great Nation. Kenya is a very proud and beautiful country. Let us not allow it to go the *Boko Haram* or the Nigerian way, where we hear that soldiers run leaving guns behind, it is shameful. Let us come together, as leaders of this great nation and support each other.

I heard yesterday my fellow good friend Sen. (Dr.) Khalwale talking about the incident in Mandera. Let us come together as leaders. Today is my day, tomorrow will be

your day. Let us mourn Kenyans wherever they are, they were killed and maimed. Let us all as leaders be united.

Let us not see Sen. (Dr.) Khalwale as a Member of the Opposition. You remember one time, you, Musila and I were in Kenya African National Union (KANU). Did we take each other as enemies? We used to be friends. So, why should I take you as an enemy when you are in the Opposition? Today you are on this side, tomorrow you will be on the other side of the Opposition. I remember seeing my brother in the Party of National Unity (PNU) and I asked him, you also what to start? We used to be good friends when we were young officers. Now he is in the Opposition. Why should I be his enemy? Why should I not mourn when he mourns?

I urge all Kenyans to stand up as the people of this country; from the President to the rest of us. Those are our sons. We must give them proper incentives. Let us not blame the NIS. They are doing a good job. Let me tell you that they are provided with every bit of information, but there is a disconnect with implementers. The President should check the issue of implementers, but not the providers of intelligence reports.

**Sen. Sijeny:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity to contribute to this timely Motion brought by Sen. Billow. There is this monster called terrorism. It is tearing our country apart. It is also tearing the whole world apart. It is a pity that it seems to have found a soft landing place in our country. Many parts of the country have suffered. Innocent Kenyans have been invaded; they have lost lives and property. Most Kenyans are now confused as we have seen in Mandera and they do not know what to do next. They have packed their things and want to go home because where they work has become so unsafe. No one is ready and willing to give them a lift to go back home. Do we know what our sisters and brothers are going through wherever they are? We, as a nation, have not solved the problem of Internally Displaced Persons (IPDs). However, we are still getting more in the name of terrorism.

Mr. Temporary Speaker, Sir, unless this Motion is taken seriously and implemented to the letter, terrorism will continue to cause a lot of harm to us. It has increased poverty as much as we are trying very much to eradicate it. When you cannot work or teach, what happens next? We have embraced nationalism where any Kenyan can look for employment, do any business anywhere in the country. However, there are parts of this country which are worse like Mandera and the coast region. Nairobi is not any safer. We have seen in broad daylight some hooligans terrorizing Kenyans. You walk with your handbag and it is snatched from you. People on motorbikes are stealing from us. Our privacy has been invaded. These are just acts of terrorism.

Mr. Temporary Speaker, Sir, in the recent past, we have seen a different act of terrorism where people are invading women's privacy, torturing them and treating them in the most inhumane way we have ever seen or heard of. This has nothing to do with dressing. These are just acts of terrorism. They are calling themselves "*gaza*". Unless this situation is watched and dealt with immediately, it will be very bad.

This reminds me, during the post-election violence when there was a lot of violence, especially in the Rift Valley, the Eminent Lady Graca Machel called ladies to Serena Hotel and we were told that the voice of women is not being heard. There were women from both ODM and PNU. She asked us whether we had given birth. We raised our hands. We were asked whether the pain of labour is different between a Kikuyu child or a child from another tribe. We looked at one another and realized that we are all



women who go through the same problems. This is what we are telling Kenyans. We are all Kenyans and we suffer the same pain. We do not know when the terrorists are going to land on us. That is why this Motion is timely. We ask Mr. President to be very stern. As a leader, he has to forget about friendships, Memorandum of Understanding (MoUs) and other things. Kenyans are looking at the President and asking for help.

The Constitution gives the President the power and the authority to deal with these people. We, as legislators, will bring in the law. However, the President has other measures at his disposal to assure us of our security. We do not know what became of the “*Nyumba Kumi* Initiative”. Just the way we have worked so hard to eradicate illicit brews, we can still handle the issue of insecurity. We have seen it done before. When we were growing up, there was a Mr. Shaw who used to handle criminals. For a while, bank robberies and other crimes reduced drastically. Therefore, we are urging the President to take action.

Kenya is losing out because international conferences are no longer coming to Nairobi. When you go to Kigali, Kampala, Dar es Salaam or Arusha, these places have become a beehive of activities because of the issue of insecurity in Nairobi. We are losing a lot of revenue. Initially, Kenya was respected so much internationally. People used to cite Kenya as an example of peace. But nowadays, we cannot even stand up in front of people to give an opinion. That is not fair because we are intelligent people who have worked very hard to build this nation for the last 50 years. Why should someone come and destroy it in one day? The worst enemy is corruption. Why would people want bribes instead of working? Take care of your security personnel, pay them well, give them all the equipment and the tools they need. Let them be enabled to work.

Mr. Temporary Speaker, Sir, we should strategize and take on other measures as the Mover suggests. I know for sure that Kenya will be a safe place again to live in. As much as we fight to improve the budget allocation on health, we also need to improve allocation to security so that all that is needed is provided. If the President feels he is unable to help, we have big brothers and sisters like the FBI or even countries like the United States of America (USA). It has not come to that. However, if that is the last resort, we can always ask for assistance and we can be helped. We have done it in other countries; Kenyan security personnel have gone to many countries to restore peace. So, why can Kenya not be helped?

**Sen. Mositet:** Mr. Temporary Speaker, Sir, thank you for giving me this chance to contribute to this good Motion. Just like my colleagues who have expressed themselves before me, let me say that I am also a sad leader because of the many things which have befallen our country. I just want to tell fellow leaders that they should not engage in blame game. We should look at it soberly and think about our great nation. Look at yourself as a leader who was elected and sworn in.

Mr. Temporary Speaker, Sir, security is paramount and it comes first before anything else. I just want to echo the sentiments of other Senators who spoke yesterday and say that development cannot take place without peace. No matter the amount of development we can put into this land, if we will not have peace, then it will be in vain. I call upon each and every leader to think and take the issue of security seriously. Let us not just think about a department because wherever we have reached, the issue calls on sober minds to think, contribute and ask what we can do for this nation. What can we do,

so that the department of internal security can function properly? We hope the generations to come after us can find a good nation; a nation where they can invest without fear and go about their duties everyday without any fear that their tomorrow will not be good or safe.

Mr. Temporary Speaker, Sir, let me take this opportunity to condole with families all over the country who lost their dear ones through the incidences of terrorism. I also encourage my President and the entire leadership of the Government and tell them not to feel as if terrorists have won. They have not won. As Kenyans, let us stand firm and strong.

We have read and we have been told by many people, including the Governor for Mandera that the information about what happened there had already been given to the police. The information was provided that some heavily armed people had been spotted in that area. I feel as leaders, irrespective of where we are or the department that we work for, we really need to take security seriously. I would have expected those leaders to call for meetings or the Governor to call all leaders and tell them: "Please, our county has some problems. Some heavily armed people have been spotted." From there, maybe they could have sensitized the people on the issue. To hear the story that already this information had been passed without any action, as the leadership, let us sober up and not look at the issue of security as just a departmental or a particular ministry's concern.

The County Police Commandant on the ground squarely takes the blame of what happened in Mandera. I believe if that information was passed to him, he should have passed a word and not even allowed the bus which was heading to Nairobi continue with its journey. I feel that if heads are to roll, those are the ones which should roll.

Mr. Temporary Speaker, Sir, our KDF used to guard our country against external aggression. I do not know the kind of structure that is in place for coordination between the army, regular police, the APs and the CID. How is the coordination done? This Motion is calling upon his Excellency the President to institute legislative and other measures to counter activities of terrorism, and others so that we can have good coordination. There should be coordination where people will not say they belong to a particular line and that they cannot listen to whoever is calling or asking for an immediate action. At times we have heard that the regular police are called and they say: "No, until my boss tells me to do so---."

This issue of security has reached a point where the entire leadership in all areas – at the local and even ward level – need to discuss it. We do not necessarily need to say that we do not have a police force here or it is upon the Officer Commanding Station (OCS) or Officer Commanding Police Division (OCPD) of that area for us to have security. Let us also the elected leaders, leaders on the ground, pastors or religious leaders take this matter seriously. That way, we will ensure that we are policing our environment. By so doing, I also believe it will be difficult for other people to penetrate this country and take away the dear lives of our people.

Mr. Temporary Speaker, Sir, the other issue is the morale of the police. I believe our police force still have a lot of requirements. We know the way they live and the allowances they earn. We seriously need to look into the welfare of our officers. Whenever they are working, they should not negotiate on their duty simply because of lack of some facilities.

A lot of money is normally allocated to security in the national budget. I heard my Chairman of Committee on Finance, Commerce and Budget move a Motion talking about strategies. We have always heard that there is this strategy and we want to use the *Alcatel* or a particular system to do monitoring. What is shocking is that most of the people behind the security systems and those engaged in that – the ones you expect will be looking for the best alternatives. Instead, they will always ask themselves what they are getting out of it. I believe we have been losing a lot of money because we have not been getting the best in terms of equipment or systems which we may want our police to have, for them to discharge their duties effectively.

As I finish, let me say once again that the Motion is good. However, I feel I may not support the last part of it. This is because I do not think we will be really solving this problem. The Motion says in part; “Initiating, where necessary, the process of removal of the respective head of an organ.” You see if ---

**The Temporary Speaker** (Sen. (Dr) Machage): Order! Unfortunately, our Standing Orders do not allow partial support of a Motion. You support a Motion as it is, unless you intend to move an amendment.

**Sen. Mositet:** Mr. Temporary Speaker, Sir, I move an Amendment that the Motion reads that ---

**The Temporary Speaker** (Sen. (Dr) Machage): Order! Order! If you have an intention to move an amendment, then the Chair must be privy to your intention. You should draft it. I may excuse you and remove the one hour requirement, but it must be written. The Chair must be privy to the information that the amendment has no intention of skewing the thinking of the Mover of the Motion from what his intention was. The only person who may have moved an amendment to change the intention of that is the Mover himself who could have moved an amendment during the moving of the Motion. So, let us be careful here.

**Sen. Mositet:** Mr. Temporary Speaker, Sir, in the spirit of nationhood and to ensure that we get the best of ----

**The Temporary Speaker** (Sen. (Dr.) Machage): Order! Draft your amendment. Let the Mover of the Motion look at it. If he agrees with the shifting of the idea, that will be good.

**Sen. Madzayo:** Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii. Ningependa kuunga mkono Hoja hii iliyoletwa hapa na Seneta wa Mandera. Ningependa kusema amani ni kitu cha maaana katika nchi yoyote. Bila amani hatuwezi kuwa na maendeleo yoyote katika nchini. Biashara huimarika kama kama kuna amani. Watalii watazuru nchini ikiwa kuna amani. Uchumi wa nchi yetu hutegemea sana watalii. Vijana wetu wanaweza kufanya biashara ikiwa kuna amani nchini.

Jambo la kushangaza ni kwamba hakuna amani katika nchi yetu ya Kenya. Hakuna amani kwa sababu ya mambo tofauti tofauti. Viongozi wakuu waliopewa mamlaka ya kuongoza nchi hii, hasa katika upande wa amani wamezembea kazini. Watu wawili ama watatu katika vitengo vya upelelezi, ujasusi na wanaokabili fujo nchini wamezembea katika kazi zao.

Ukiangalia upande wa Lamu utaona kwamba usiku huo kabla ya kisa kutendeka, Gavana alipiga simu na kuzungumza na watu wa Idara ya Ujasusi. Idara ilijua kabisa kwamba Mpeketoni kungekuwa na shida lakini hawakuchukua tahadhari yoyote. Tunauliza kwa nini hakuna jambo lilofanyika kama Idara ya Ujasusi ilipeana habari

kwamba kungetokea maafa fulani. Kwa nini watu ambao wamepewa mamlaka ya kushughulika na kuchukua habari kutoka kule hawakuchukua hatua ya kuzuia mambo hayo? Jambo kama hili halifai kuruhusiwa kutendeka katika nchi huru. Kama watu wamepewa mamlaka ya kufanya kazi, basi wafanye kazi. Kama watu hawawezi kufanya kazi, basi wawachie wale ambao wanaweza kufanya kazi.

Jambo lingine ambalo linasikitisha sana ni hali ya usalama katika Mkoa wa Pwani kuanzia Kaunti ya Lamu, Kilifi, Mombasa, Kwale, Taita na Tana River. Maeneo haya yote hutegemea shughuli za kiutalii. Sasa hivi, tunaona baadhi ya Misikiti imefungwa. Haya ndio maeneo tulikulua na kusomea. Visingizio vingi vinanza kutokea hapa na pale. Watu wamekuwa wakisema wamepata hiki na kile ndani ya Misikiti.

Jawabu si kufunga Misikiti lakini kuwauliza wale ambao tumewapeleka Kiganjo kusoma kujua kwa nini vitendo kama hivi vinafanyika na vile tunavyoweza kuvipinga. Hatufai kukimbilia Misikitini tukisema kuna watu ambao wanafundishwa mambo fulani na wanafaa kushikwa na kuwekwa ndani. Hivi sasa, ukiangalia mahali kama Mombasa au pwani kwa ujumla, kuna vijana wengi ambao wameshikwa. Wamewekwa ndani. Watu wamekuwa wakishikwa kutoka kwa nyumba zao, wanasimamishwa na kuwekwa katika malori na kusafirishwa hadi vituo vya polisi. Watoto, wanawake na vijana wanashikwa bila sababu yote. Hatuwezi kuwa na hali kama hii ya sitofahamu.

Katiba yetu inasema kushika Mkenya mwingine na kumweka ndani kwa vile unamshuku, huo ni uvunjaji wa sheria. Lazima kuwe na kielelezo fulani ya kwamba mtu fulani ana husika na kitendo fulani ili umshike na kumweka ndani. Hivi sasa, sivyo mambo yanavyoendelea huko Mombasa. Mandera ni mahali ambapo panajulikana. Tuko na ndugu zetu Wasomali na Waethiopia katika Kaunti ya Mandera. Kwa nini mabasi yanayosafiri nje na ndani ya Mandera hayazindikishwe na askari kuwe usiku au mchana? Tunawacha raia waende zao Nairobi bila kujali usalama wao. Hiyo ni hatua ndefu. Lazima kuwe na mipango ambayo itafanywa kisawasawa ili wawe na usalama wakisafiri nje na ndani ya Mandera. Usalama wao wanaposafiri unafaa kuwa umehakikishiwa na Serikali.

Jambo la kusisitiza ni kuwa uti wa mgongo wa uchumi wa pwani ni utalii. Watu wetu wa Taita Taveta, Mombasa, Kilifi, Kwale na Tana River hutegemea utalii. Wakati huu, hakuna mtalii ambaye anazuru mbuga za wanyama kama vile Tsavo National Park. Mahoteli yote yamefungwa. Taita kuna mahoteli karibu ishirini na yote yamefungwa. Ukija Mkoa wa Pwani kuanzia Lamu hadi Lunga Lunga, utaona mahoteli mengi yamefungwa. Watu wataendelea kuishi vipi?

Kulingana na Katiba, usalama wa nchi uko mikononi mwa Rais. Rais wetu ataingia katika kumbukumbu za historia kama hatachukua hatua. Yeye si Rais peke yake lakini pia Amri Jesi Mkuu wa Majeshi yote ya Kenya. Lazima achukue kiboko sasa na kuwafuta watu kazi ambao wamezembea. Nakubaliana sana na Hoja hii ya kwamba Rais ana mamlaka ya kuangalia na kuona ni nani ambaye amezembea na kuchukua hatua mwafaka. Rais wetu akiwa hatachukua hatua, hilo litakuwa kosa kwa vile ana mamlaka ambayo amepewa na wananchi 40 milioni. Ningependa kusema kinaga ubaga. Hatufai kuficha jambo lolote ikiwa baadhi ya Wakenya wamepoteza maisha yao. Kama Bw. Kimaiyo hawezi kufanya kazi yake, basi Wakenya wamechoka naye na litakuwa jambo la busara ikiwa atang'atuka cheoni chake ili Rais amchague mtu mwingine ambaye itaimarisha usalama wetu.

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

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

Bw. Spika wa Muda, pia ikiwa Bw. ole Lenku ameshindwa kuyazingatia mambo ya usalama, basi ni lazima ang'atuke mamlakani ili ampe nafasi Rais amchague mtu mwingine ili aimarishe usalama hapa nchini. Huyo mtu mwingine ataiendesha dao la usalama na wananchi watakuwa na imani naye. Hivi sasa, Wakenya hawana imani kabisa na watu hawa wawili. Ni lazima Rais aliyechaguliwa na Wakenya na ambaye yuko katika mamlaka sasa kama Rais wa Jamhuri ya Kenya na Amri Jeshi Mkuu wa Majeshi na kuambatana na Katiba hawafute kazi hawa watu wawili na kuteua wengine ambao watafanya kazi vizuri. Wakenya wanafaa kulala katika nyumba zao wakijua kuna amani. Watu wa pwani ni watu wa amani.

Hivi leo ukiangalia, watu wanaenda Disemba kwa likizo. Zamani wakati kama huu Mkoa wa Pwani ulikuwa na watu wengi sana, hasa watalii. Hata watu wetu wa kutoka bara ama kutoka nchi za huku juu walikuwa wanakuja kule kwa sababu ni mahali pa kustarehe.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, I join my colleagues in thanking Sen. Billow for not being tired of bringing this topic of security again and again. It is like it is a dominant subject in our Motions, Bills and the Business of this House. If you can recall, since we constituted the sitting last year, a number of statements have been made regarding security. Motions have been made on security and nearly every Member in this House has sought a statement or moved a Motion or a Bill on security issues. That tells you that we are entering into a time when, if we are not careful as Kenyans, we might play or lose the destiny and the statehood of Kenya.

Mr. Temporary Speaker, Sir, the Mover of this Motion has said that it is as a result of the tragedy that took place in his own home county. Many other counties have suffered similar fates. The national security organs which we know are the KDF, NIS and NPS. Their primary objective is to promote and guarantee national security. We need to see how they can work together. I do not think there is anything that may be required to be written even further although the Mover says we need to get more legislative measures and more documents to be reproduced. If there is a country that is very good at producing papers, it is Kenya. We may be already having these legislative laws we require in order to be effective. However, we are lacking the implementation bit.

Mr. Temporary Speaker, Sir, when a governor says that the information was passed about some bandits crossing from another country to Kenya and they were planning an attack, whom did he talk to? Who was given the first information? That Governor is alive and kicking. He should be asked: Whom did he pass that information to? Whoever received the information should shed tears and say, he is sorry because of his inability to take action and this tragedy took place. If that information had been reacted to, sufficient protection would have been given over that period of time when these crooks were seen around. In fact, the necessary protection would have been given to all the vehicles and all persons who live there.

Mr. Temporary Speaker, Sir, as we suggest that some people must go, the person who must go home very fast and, in fact, to jail from Mandera is the officer who was given the information by the county government system, but he failed to act. Do we

know the name of that person? Why is the character still on the government payroll? Here, we are talking about somebody higher in the rank called ole Lenku and another one called Kimaiyo. However, here we have a name of an officer whose physical address and house number is known, but he failed to take action.

Mr. Temporary Speaker, Sir, the Kapedo tragedy is a living example of what has gone wrong in our systems. On 30<sup>th</sup> of September, 2014, some funny killings took place in Kapedo centre where somebody's head was chopped. Up to today, it has not been found. The body is still lying in a mortuary in Kabarnet Town. When the young men went to report to our General Service Unit (GSU), Kapedo, the officers did not take action. I believe they also reported to the chief, DO and the DC, but they too did not take action. Do we know the names of the officers who these young men reported to that one of them had been killed by some fellow within there and he ought to be arrested? What did the GSU officers do? They escorted the said killer to run away. He went and hid himself. It was just like the usual killings between the two communities; the Pokot and the Turkana. They must have told him, "Go and hide, this episode will be forgotten. When it is forgotten, you can come back." This means it is something that has been ongoing.

**Sen. Billow:** On a point of order, Mr. Temporary Speaker, Sir. Did you see the hon. Senator for Busia County who is the Attorney-General *Emeritus*, enter the Chamber as if he is entering a restaurant without going through the usual procedure of bowing to the Chair? Is he in order?

**The Temporary Speaker** (Sen. Mositet): Sen. Wako, did you walk in without giving respect to the Chair and the House?

**Sen. Wako:** Mr. Temporary Speaker, Sir, I stood there and did it. If they did not see, then let me do it again so that they can see.

**The Temporary Speaker** (Sen. Mositet): Then, can you do that?

*(Sen. Wako went back and bowed at the Bar)*

Now, you can come in.

*(Laughter)*

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, the hon. Senator for Busia County needs to be told that even at Busia border point, he cannot just cross like that.

Mr. Temporary Speaker, Sir, what I was saying is what was the action that was required by the communities so that, that problem be sorted out immediately. For two consecutive months, this problem matured until it went outrageously wrong that we lost our young men; 21 officers the other day. Who was given the first information? There must be somebody who was told. What did he do? Is this inaction or inertia? What must have made our officers, who were the first to be told this, not to act? That person should have been sent home or to jail because we ended up losing people because they failed to take action.

Mr. Temporary Speaker, Sir, we know we have recruited officers. These officers were supposed to start their training in July, 2014. Therefore, 10,000 officers are not being trained because the court cancelled the whole recruitment process.

Mr. Temporary Speaker, Sir, we need more police officers in Mandera, Garissa and Lamu to beef up security. The Lamu situation is very dramatic because I hear that up to now, they are still extending the curfew as if the Kenya Government does not exist there. What is so difficult when we have already taken possession and removed the culprits? Why must we continue oppressing the economy of that place? Something has gone wrong with our system. We are not fighting another country. These are just problems that we need to stop. We do not need to spread them so as not to affect our economy.

Mr. Temporary Speaker, Sir, something must be weirdly wrong. Suppose we have called officers to go and arrest a situation, why must they go in such a manner as if they are going to destroy everything there and come and tell people, this has happened. Look at the two vivid examples in Mandera. In a twinkle of an eye in the afternoon, we heard that 100 criminals had been killed. That is okay. Lamu has a KDF camp very close to the Lamu Port where we are constructing the new port. Why did they not even act that night? The most dramatic one is what happened in Kapedo. After the KDF officers went there, instead of going to look for the killers and maintaining peace and order, they lost direction and pounced on innocent people in town centres and telling them to surrender guns which do not exist in town centres.

Mr. Temporary Speaker, Sir, the framework and the operation of our officers needs to be relooked at again. What must have gone wrong? If things were right at the beginning of our Independence, what has gone wrong right now? Could it be because of the competing forces that we have just introduced? We have an Inspector-General and the other officers below him. In my county, there is a County Commandant for the Administration Police and the County Commander for the police service. I wonder who is reporting to who. We have an OCPD and everybody is competing there. The competition is about who has the latest car. There is a County Commissioner and a fellow called the Governor. What is the relationship between these people? One is very rich while the other one is poor. What is happening here? The first priority in any county is security before you talk about development. Which development can you pretend to do in Mandera today when the security is very poor to the extent that everybody who is working for the people of Kenya in that county is quitting? Some are going to West Pokot, others are coming to Nairobi. Is Nairobi or West Pokot any safer? Where did patriotism in our officers go to? Where did the commitment to duty and honesty amongst our officers go to? We have people who reside in those tough terrains called the Kenya Police Reservists (KPRs). How many do we have in Mandera, Lamu and especially in the counties that are at the Kenyan border? Do we know them and have we vetted them or we just give out guns haphazardly? In the whole of Tiaty Constituency, there is no single KPR out of the 250,000 people residing in that sub-county. How do you expect three police stations to operate in such a huge sub-county which is 43 per cent of the entire Baringo County? Criminals easily move around that county.

Mr. Temporary Speaker, Sir, I want to move an amendment if you allow me---

**The Temporary Speaker** (Sen. Mositet): I have not seen that amendment yet. I think the best way to go is to allow the Mover to come up with the amendment.

**Sen. (Prof.) Lonyangapuo:** Mr. Temporary Speaker, Sir, the Mover has already seen it.

We should have a complete overhaul of what we have. When a problem erupts, for example, in Mandera, people start blaming the leaders; that it could be as a result of the utterances of some leaders. We start panicking and talking hopelessly instead of addressing the real situation. For the last three years, we have been undergoing inspection before we enter shopping malls or even offices. Why are we subjected to this exercise? This means that things have fallen apart. We should go back to the restoration order. Three years ago, Kenyans enjoyed their peace and free movement. However, now if you do not have an identification card which you could have forgotten in the office, you cannot access, for example, the KICC where some of us have offices. That is where we have reached. We want a peaceful country where you can walk without any identification even at night. If there is anything that we must do, we must do it right.

Mr. Temporary Speaker, Sir, I can see we have allocated Kshs165 billion this year to the sum total of our security agencies, including the KDF, NPS and NIS. This is more than what we gave them last year. However, the more we give, the more the problem becomes aggravated. This means that the root cause is not being addressed. Could we all sit down and work as a team? We must work together with even those in the opposition. We should even work with the county assemblies and county governments. How can they pretend to be leading anybody when their people are very insecure? We are telling them not to hold weekly or monthly meetings with the national officials on the ground. Although we want some people to be relieved of their duties, immediate people who have been charged with the problem on the ground must be able to tell us why this problem has persisted.

At this point, I want to move an amendment as follows:-

That, the Motion be amended by deleting the full stop at the end of the Motion and inserting the words; “and further that the Standing Committee on National Security and Foreign Relations to:

- (i) investigate the circumstances under which the Mandera Bus attack and the Kapedo massacre occurred;
- (ii) establish whether there were failures in institutional command or operational structures that led to the attacks and;
- (iii) (c) determine who is culpable for the increased incidences of terror and major attacks in the country and report to the Senate within 90 days.

I beg to move and ask Sen. Murungi to second the amendment.

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I need your guidance because I would like to support the amendment together with a further amendment to the amendment. I am not quite clear on the procedure.

**The Temporary Speaker (Sen. Mositet):** We will deal with the first amendment and then after putting the Question and we dispose of that, a further amendment can be moved.

**Sen. Murungi:** Mr. Temporary Speaker, Sir, I rise to second this amendment by Sen. (Prof.) Lonyangapuo.

The issue of national security has become an urgent and almost a permanent feature of our political life. It is only the other day we were talking about Kapedo and



before that we were talking about the issues in Mombasa, Mandera and Lamu. We do not know where next we shall be talking about issues of insecurity.

His Excellency the President has been holding a meeting today with the security officers regarding the deteriorating security situation in the country. We too as a legislature; as a Senate, have a duty also to do much more than what we have been doing. We have passed Motions upon Motions on the legislature calling upon the Government to do various things, but it is our mandate which we have been given by the Constitution to do proper investigations and make more concrete recommendations to the Government as to what can be done to stem the spiraling and deteriorating security situation in the country.

Therefore, it is appropriate that we proceed in the way that has been proposed in this Motion; urging the Committee on National Security and Foreign Relations, especially now that we are going on recess to take more time to investigate what has been happening. They must establish the root cause, the impact and come up with the long term solutions to the security problems that we have seen in those areas. It is not only issues of security that have arisen; issues of massive human rights violation have also taken place. It is appropriate that, in addition to the Committee on National Security and Foreign Relations, we also incorporate the Committee on Legal Affairs and Human Rights in that investigation so that we can have a thorough investigation which involves even legislative proposals that may arise after we discover the root causes of insecurity and even propose changes to the law.

I support the amendments as being proposed as we seek long term solutions to this situation, but also bearing in mind that we might need to expand the investigations to include the Committee on Legal Affairs and Human Rights.

I beg to support.

*(Question of the amendment proposed)*

**Sen. Wako:** Mr. Temporary Speaker, Sir, I support this amendment whole heartedly. The effect and the crux of which is to investigate, find people who were responsible and make a suitable recommendation. If that is so, then I agree with what Sen. Murungi stated that the Standing Committee on Legal Affairs and Human Rights---

**Sen. Omondi:** On a point of order, Mr. Temporary Speaker, Sir. I would like to know if I am not reflecting on the request list because I requested to give my contribution a long time ago.

**The Temporary Speaker** (Sen. Mositet): Hon. Senator, I think we are trying to give a direction on this Motion. It was an amendment then a further amendment. After that, I will give you an opportunity. I can see you are there; so be patient.

**Sen. Wako:** Mr. Temporary Speaker, Sir, the purpose of my intervention is to make sure that when she speaks, she does so comprehensively on the amendments and further amendments. In as much as the amendment talks about investigations, finding people who are culpable, making suitable recommendations and ,maybe, consider such other and further matters that are incidental to the foregoing, then the Standing Committee on Legal Affairs and Human Rights becomes very relevant. This is because the joint Committee is almost like a commission of inquiry. This is a human rights commission of inquiry. Therefore, it is a matter of justice and law and the mandate of the

Standing Committee on Legal Affairs and Human Rights is to consider all matters relating to constitutional affairs, relating to the organization and administration of law and justice. It falls squarely within our purview. In as much as it will also be required to make recommendations on legislations ---

**The Temporary Speaker** (Sen. Mositet): Sen. G.G Kariuki, do you have an intervention?

**Sen. Wako:** Mr. Temporary Speaker, Sir, I am moving that there be a further amendments ---

**Sen. G.G Kariuki:** On a point of order, Mr. Temporary Speaker, Sir. Through the amendment which my friend, the former Attorney-General Sen. Wako wants to introduce, does it suggest in any way that the Committee on National Security and Foreign Relations will not be in a position to deliver and has to be added another group calling itself the Committee on Legal Affairs and Human Rights? I need a clarification. You have to make a ruling. I believe it is not genuine because I am a Member of that Committee and we have been tasked by the House through the first amendment to do the needful whereas another amendment is coming and if we are not careful another amendment will come for the inclusion of the Committee on Finance, Commerce and Budget. Where are we going?

**Sen. Billow:** On a point of order Mr. Temporary Speaker, Sir. Every Committee in this House has a mandate. However, there are many instances where from the Floor of this House, the Speaker has directed that two Committees work together on a particular issue. It happened, for example, when the issue of Isiolo came here; both the Committees on Finance, Commerce and Budget were involved. It is normal that sometimes two Committees look into the matter because of the different mandates. For example, in this one where there are human rights, the mandate of this Committee is to assist.

It is also useful because we normally have challenges of quorum, and so when you have nine Members and sometimes you have to do this kind of work, you need more Members. In fact, it is good when they are two. That is what we have realized in our Committee when we worked with the Committee on Devolved Government.

It is not undermining them, but it is helping them to work together more effectively.

**The Temporary Speaker** (Sen. Mositet): Please, hon. Senators, if possible, let us dispose of this Motion today because as we had discussed earlier, there is lot of work ahead of us. We need to dispose of others tomorrow and, by next week, we will try to finish what is pending.

**Sen. Obure:** Thank you, Mr. Temporary Speaker, Sir. In light of what Sen. G.G Kariuki has said and in light of what Sen. Murungi and Sen. Wako have proposed, and considering that the time limit we have given them is very short, would I be in order to suggest an *ad hoc* Committee comprising of Members of both sides or other Members of the Senate be given that specific task of 90 days?

**The Temporary Speaker** (Sen. Mositet): That is another amendment you want to bring.

Sen. Adan, do you also have an intervention.

**Sen. Adan:** Thank you, Mr. Temporary Speaker, Sir. Unfortunately, I belong to the two Committees. I do echo what Sen. G.G. Kariuki has said in terms of inability of the Committee to deal with the matter or the responsibility that has been allocated to it.

Maybe it is good to clarify that we are not merging the two Committees because the Committee is unable to deal with the matter. But I agree with the point that was brought out by Sen. Billow Kerrow regarding quorum. We normally face a lot of challenges. Through this we can strengthen the two Committees to come up with an effective report.

**The Temporary Speaker** (Sen. Mositet): Let me make a ruling on this. First of all, Sen. Billow, that was not a point of order. Standing Order 206 provides that two Committees of the Senate considering similar matters may, with the approval of the Speaker, hold joint sittings.

Considering the gravity of the matter and we know very well that the country is also watching to see what we can do about it, I feel that there is nothing wrong if the two Committees can work together. But this is not because this afternoon the Chair of the Committee on National Security and Foreign Relations said that they are unable to reach the Cabinet Secretary. We are just doing this so that, at least, we can expedite the work and ensure that good work is done in the shortest time possible, as we had indicated.

Sen. Wako, continue moving the further amendment.

**Sen. Wako:** Thank you very much, Mr. Speaker, Sir. I just want to assure the Vice Chairperson of the Committee on National Security and Foreign Relations and the former Minister in charge of Internal Security, who served this country very well that, that we are in no way questioning the capacity and capability of that Committee to discharge its work. What we are saying is that in view of the national importance of this issue, and all the issues relating to this matter, it is necessary that the two Committees work together.

Mr. Temporary Speaker, Sir, I beg to move that the Motion be further amended by inserting the words “and the Standing Committee on Legal Affairs and Human Rights” after the words “Foreign Relations.”

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Mositet): Who is seconding?

**Sen. Billow:** Mr. Temporary Speaker, Sir, I second.

*(Question of the further amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

**The Temporary Speaker** (Sen. Mositet): We are now debating the Motion as amended and further amended to include the two committees.

**Sen. Omondi:** Mr. Temporary Speaker, Sir, I want to support the Motion as amended with further amendments. I want to concur with my colleagues on the issue of insecurity in this country. I want to say that prevention is better than cure. Kenyans are tired of insecurity. Kenyans are tired of being told that investigation is being done after people have lost their lives. As I am speaking right now, Kenyans are mourning their loved ones. It has become a routine that investigation will be done, but after burial nothing continues.

It is time for this country to change strategy on how to handle the issue of insecurity. It should not be a routine. After 50 years, the routine on security in this country has not changed. The security organs are not changing to cope with the increased

hooliganism in this country. Allow me to say that as we join Kenyans to mourn their loved ones who perished in Mandera, Kapedo and Mombasa, it is time for the security organs be held accountable. People have just decided to take the law into their own hands, do whatever they want. This is because if the issue is reported, the way it is handled is not good. Therefore, nobody is deterred from repeating. We are not going to allow this because it is painful to lose innocent lives while criminals are moving about freely.

**The Temporary Speaker** (Sen. Mositet): Sen. Omondi, please, try to finalize. Whatever you have done is not bad, but try to finalize so that we can dispose of the amendment.

**Sen. Omondi:** Thank you. We, as leaders, must unite so that we can bring this to an end; so that Kenyans are assured of their security.

I support.

*(Question that the words to be added be added, put and agreed to)*

*(Question of the Motion as amended proposed)*

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, the amended Motion reads as follows:-

THAT, noting that there have been numerous incidents of terrorist attacks across the country in the last three years, including the most recent at Arabiya Town on Saturday, 22<sup>nd</sup> November, 2014 in Mandera County which have resulted in the loss of hundreds of innocent lives, injuries and massive destruction of property contrary to the principles and objects set out in Articles 238 and 239 of the Constitution; aware that pursuant to Article 239(1) of the Constitution, the national security organs are the Kenya Defence Forces, the National Intelligence Service and the National Police Service whose primary object is to promote and guarantee national security; recognizing that most of the attacks could have been averted with proper co-ordination between and among the security organs; concerned that the multiple attacks are signs of leadership, institutional and structural flaws within the organs hampering their capacity to effectively deal with threats and cases of terrorism and other criminal activities; the Senate calls upon H.E the President to institute legislative and other measures to counter terrorist activities and overhaul and streamline the framework and operations of national security organs in the country including initiating where necessary, the process of removal of the respective head of an organ, and further that the Standing Committees on National Security and Foreign Relations and Legal Affairs and Human rights to;

(a) Investigate the circumstances under which the Mandera bus attack and Kapedo massacre occurred;

(b) establish whether there were failures in institutional command or operational structure that led to the attacks; and

(c) determine who is culpable for the increased incidents of terror and major attacks in the country and report to the senate within ninety days.

**Sen. G.G. Kariuki:** Thank you, Mr. Temporary Speaker, Sir. The original Motion was okay, but I also do not have a quarrel with the amendment. In the main debate on the Motion, we talked about people who are supposed to be thrown out of the system because we claimed they are not doing the right job. We must know that if Kimaiyo, the Inspector-General or ole Lenku had the opportunity to explain themselves the way we do here, you would also find that they have major problems and that is why they cannot move. This is something we need to think about very critically. You cannot expect the two gentlemen to be in a situation where they do not care and, therefore, need to go. That will not be an answer. We need to change our political culture as far as security is concerned. We have a problem in the Northern Province. This has to be dealt with mercilessly. This should not be through attacking people with guns, but to do a very serious organizational structure that will improve the affairs of security in this part of the world.

That is not a simple thing. Someone cannot just come and claim that he will create peace in those areas. You have to move the military personnel, have a base somewhere like Mandera, South Horr and another near the Elemi Triangle to make sure that whatever happens is visible. You have to keep watch towers all over the place so that you see through all the facilities when we are being infiltrated. The way things are now, we cannot stop people from Somalia from coming into Kenya. This is very difficult. In fact, when a decision was taken to take our army to Somalia, I remember that it is only me who stood up to say that we had done something without being prepared and we should be aware that we have opened a new chapter. This is a chapter that will be handled internationally. When these are international affairs, it is not fair that we sit here and start accusing one another.

Owing to limited time, I want to say this. If we could have this House in camera and bring all the people involved in matters of security so that they come here and speak freely, I think we would get answers. However, answers cannot come from the National Security Council where all the bosses are. This can only be done somewhere where politicians will baptize these people and I know they would say something. This is very critical. We should not assume that there are people from certain tribes and cultures. Which tribe does not have criminals in this country? I just want to be told. The fact is that some of the criminal gangs have a wider area of operation than others. I thank you very much for allowing me to say those words.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mositet); Order! Sen. G.G. Kariuki, if you want to continue tomorrow, you will have five minutes.

Hon. Senators, it is now time to adjourn the Senate. The Senate stands adjourned until tomorrow, Thursday, 27<sup>th</sup> November, 2014 at 2.30 p.m.

The Senate rose at 6.30 p.m.