

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 30<sup>th</sup> September, 2015

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

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

### PRAYERS

### STATEMENTS

**The Deputy Speaker** (Sen. Kembi-Gitura): We have a few statements and we shall start with those who may wish to seek them, if there are any. There are none interested to seek statements. There are three statements to be issued today. Yes, Sen. Khalwale.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Just to appeal to you, there is a statement you have approved that I seek. It is on its way. So, I request that I ask for it at the end of issuance of statements. It has just arrived.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is here already. Proceed, Senator.

#### CONSTRUCTION OF KAKAMEGA-KABURENGU-WEBUYE ROAD

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, pursuant to Standing Order No.45 (2)(b), I rise to seek a statement from the Chairperson of the Standing Committee on Roads and Transport regarding the status of the construction of the Kakamega-Kaburengu-Webuye Road.

In the statement, the chairperson should state:-

1. When the construction works officially started and when the project was supposed to be completed;
2. What percentage of the works has been completed to date and how much money the contractor has been paid so far;
3. What the original budgeted cost of the project was;
4. The reason for the delay in the completion and indicate when the project will be completed.

**Sen. Obure:** Mr. Deputy Speaker, Sir, I know that Sen. (Dr.) Khalwale has raised a matter which is close to the hearts of many people in that region. We will try as much as possible as a Committee to ensure that we get a response for him in two weeks' time.

**Sen. (Dr.) Khalwale:** Two weeks is okay, Mr. Deputy Speaker, Sir.

*(Interruption of Statements)*

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM MALAWI PARLIAMENTARY SERVICE COMMISSION

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make.

Hon. Senators, I am pleased to acknowledge and welcome to the Senate this afternoon, a delegation from the Malawi Parliamentary Service Commission who are seated in the Speaker's Gallery. These hon. Members are here on a benchmarking visit. I request the Members of the delegation to stand when their names are called out so that they are acknowledged in the usual Senate tradition.

1. Hon. Vitus G. Dzoole, MP - Leader of delegation
2. Hon. Aaron Sangala, MP
3. Hon. Ralph Jooma, MP
4. Hon. Abubakar Mbaya, MP

The delegation is accompanied by the following officers-

1. Mr. J. Mdala- Chief Policy and Planning Officer; and
2. Ms. L. Jambo- Secretary to the Deputy Clerk of Parliament

Hon. Senators, as you all know, Kenya and Malawi have had very cordial relations. Our Parliaments have a lot to learn from each other. I take this opportunity on behalf of the Senate and on my own behalf to wish the delegation a happy and fruitful visit to the Senate.

I thank you.

*(Resumption of Statements)*

Now, there are three statements to be issued.

Could the Chairman of the Standing Committee on Labour and Social Welfare respond to request for a statement by Sen. George Khaniri?

#### THE STATUS OF THE NEW NHIF RATES

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you reading the statement?

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

**Sen. Khaniri:** On a point of order, Mr. Speaker, Sir. I rise to seek your guidance on this particular statement because I have just received it now. Secondly, it is on a letterhead of the National Hospital Insurance Fund (NHIF) and a ruling has been made here before that communication to this House should be from the Cabinet Secretary (CS). Thirdly, it is not signed.

So I want to get your guidance whether it will be in order for the Chairman of the Standing Committee on Labour and Social Welfare to deliver this statement in its form and format.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Madzayo, what do you have to say to that?

**Sen. Madzayo:** Mr. Speaker, Sir, I think it is true what Sen. Khaniri is saying---

**The Deputy Speaker** (Sen. Kembi-Gitura): It is either true or it is not. It is not what you think. So, let us know what your position is.

**Sen. Madzayo:** Yes, Mr. Deputy Speaker, Sir, I noticed that it is not signed. I need, maybe, a bit of time to have it signed and I will be ready by Tuesday next week.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Khaniri raised the fundamental issue of the fact that it is on a departmental letterhead not on the ministerial or CS's letterhead. What do you have to say to that?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, as I said, I have noticed the erroneous nature of this answer. I will put things right by Tuesday, next week.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. This is a very serious issue. There are many people in this country who would want to give the impression that the Senate can be taken for granted or be treated casually. It is not possible to imagine that a document can be submitted to this institution without a signature.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you are out of order. I have already made a ruling on that issue. The Chairman of the Standing Committee on Labour and Social Welfare, Sen. Madzayo, has undertaken that he will regularize the issue.

If it is not, and the same thing happens on Tuesday, when he said he will issue the statement, then you can rise on a point of order but now it is too late because I have already ruled on the issue.

Sen. Khaniri, Tuesday is good for you?

**Sen. Khaniri:** Most obliged, Mr. Deputy Speaker, Sir.

*(Statement deferred)*

**The Deputy Speaker** (Sen. Kembi-Gitura): The second statement is from the Joint Committee on National Cohesion. This statement was sought by Sen. (Eng.) Muriuki Karue. Who is the chairperson?

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, this Committee is a joint committee of both Houses. The person we have substantially in the House is the vice chairperson, Sen. Hargura.

I should also, perhaps, alert the Chair that I was contacted by one of the clerks serving the Committee who indicated that the statement will be ready next week, which I was quite happy with.

**The Deputy Speaker** (Sen. Kembi-Gitura): Was this statement not brought some time back, but was not interrogated?

CRITERIA FOR APPOINTMENT/REGIONAL DISTRIBUTION  
OF APPOINTMENTS TO PARASTATALS

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, there was a question I had raised regarding appointments which had happened sometime in March, 2015. So, I requested the Speaker and he agreed that I withdraw that and ask the question regarding all parastatals throughout the country. The gist of the question was the number of directors appointed at the time when there were appointments around March. An answer did come but it was very inadequate. I requested the Speaker if I could withdraw it and he agreed. Then I reframed the question to include the directors in all the existing parastatals. That is the question which is in the Order Paper.

**The Deputy Speaker** (Sen. Kembi –Gitura): Sen. Sang, are you on a point of order? Is anybody here from that Committee?

**Sen. (Eng.) Muriuki:** I happen to be in the Committee.

**The Deputy Speaker** (Sen. Kembi –Gitura): But you cannot answer your own question. Sen. Sang, are you a member of the Committee?

**Sen. Sang:** Yes, Mr. Deputy Speaker, Sir, I am a member of that Committee.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is the position?

**Sen. Sang:** Mr. Deputy Speaker, Sir, if you allow me, I will inform the Vice-Chair that this Statement has been pending for long. Therefore, I request for two weeks.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Karue, since you are a member of the Committee and you appreciate the problems they are having, because it is a joint Committee, I will allow the two weeks for you to get the answer.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, that is quite in order.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much.

*(Statement deferred)*

Sen. Khaniri, there is a Statement that we deferred to today and Sen. Lesuuda said yesterday that it is a very long one. Are you able to summarize it?

OPERATIONALIZATION OF THE PROTECTION,  
PREVENTION AND ASSISTANCE OF IDPS AND  
AFFECTED COMMUNITIES ACT, 2015

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, I rise to issue a Statement on the countrywide status of resettlement of Internally Displaced Persons (IDPs.) I will go directly to the issues that were raised by Sen. Khaniri.

The first question was on the issue of a comprehensive and up to date data of IDPs in the country generally and in Vihiga County---

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I have had an opportunity to look at the Statement being read by the Chair. Whereas the Statement is on a letterhead, the person who has signed the letter is not the Cabinet Secretary. Some unknown person has signed it on behalf of the Cabinet Secretary. Could the Chair make a decision on whether a Statement read in this House can be received when it has not been signed by the Cabinet Secretary?

**The Deputy Speaker (Sen. Kembi –Gitura):** Can you possibly refer me to the Standing Order or regulation that requires that the Cabinet Secretary must sign? I have not seen the Statement, but what you are saying is very different from what Sen. Khaniri raised. This is because apart from coming from the departmental head, it was also not signed. In the present one, which again I have not seen, if you are saying it is signed for and on behalf of the Cabinet Secretary, then that is a legal document. That commits the Cabinet Secretary. But if it is signed by anybody else other than the Cabinet Secretary, then that could be an issue. I think those are the rules of correspondence all over.

Sen. Karue, is it on the same issue?

**Sen. (Eng.) Muriuki:** On a point of order, Mr. Deputy Speaker, Sir. The Statement traditionally should be signed by the Cabinet Secretary. On the other hand, maybe we could accept the Statement if it was signed by a person with a title. But that person with a title should indicate that he or she signed on behalf of the Cabinet Secretary. Otherwise, anybody in the Ministry could say that they are answering a question.

**The Deputy Speaker (Sen. Kembi-Gitura):** Yesterday, I did allude to the fact that we are following a presidential system of Government. So, a statement that is rendered in this House technically is a statement by the Chairman of the Committee and not anybody else. That is the system that we are following. In the parliamentary system, the Ministers stood out on the Government side and gave statements in that capacity.

But, currently, as far as I am concerned, unless the person seeking the statement raises the issues themselves, that they are not satisfied for one reason or another, I do not believe that the Speaker has a right to look behind the Chairman of a Committee issuing a Statement, because that is the proper position under the Constitution under the Presidential system. These technical issues may be useful for veracity and other things, but at the end of the day, the person that we will hold responsible for the statement is not the Cabinet Secretary. It is the Chairperson of the Committee because he or she is the one authorized under the Constitution to deal with those issues.

So, if Sen. Madzayo had stood here and issued a Statement without telling us that it is from National Health Insurance Fund (NHIF) and not signed, he takes the responsibility as the Committee Chair. That is the way I would understand it. But having said that, on the current issue, the Statement that is in front of me now is signed by somebody on behalf of the Cabinet Secretary, Anne Waiguru, OGW. If we insist that the Cabinet Secretary and nobody else must sign everything, it will pose technical issues.

I can see many people are seeking the Floor.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, with due respect, I seek your guidance. When a similar matter was brought to the attention of Speaker Kaparo, during the Ninth Parliament, where you and I were Members, he did rule that as far as Departmental Committees are concerned, especially the oversight Committees, it is the Permanent Secretary who is supposed to sign all documents. At that time, the challenge was that the Assistant Minister had signed and he said that the substantive Minister should sign. My understanding is that given how governments behave, there is nothing that can stop the Cabinet Secretary from disowning the Statement. The only way one would want it to be admissible is if the person who has signed here would have written: “Mr. Ochieng for and on behalf of the Cabinet Secretary for that Ministry.” But this is not

the case. Anybody could have initialed this, including her secretary. How can the Senate use a document that is signed by an anonymous person?

**Sen. Haji:** On a point of order, Mr. Deputy Speaker, Sir. I agree with your ruling. If we insist that Cabinet Secretaries must sign all letters, it will be very unfortunate because we may end up not giving any Statements. They are very busy people and in any Government a letter signed for the holder of the office is as good as the letter signed by the officer concerned. The ruling by Speaker ole Kaparo that my brother is referring to was done during a different Parliament. This is the Senate and we are in a different system today from the one we had at that time.

Thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Billow, do you still want the Floor?

**Sen. Billow:** Mr. Deputy Speaker, Sir, with all due respect, if anyone of you has served in the Government, which I had the privilege of serving, you have two ways of signing a document. If you are not available, you authorize your name to be put there as the substantive office holder and somebody signs or initials on your name. That person takes responsibility. In this case, it is written "Anne Waiguru." It is not just "the Cabinet Secretary for Devolution and Planning." If it is written "Cabinet Secretary for Devolution and Planning," you could say that it is not signed by the Cabinet Secretary. But when an individual has initialed on behalf of that substantive office holder, I do not think we have any reasons to challenge it. If there is anything that comes out of it, that person will be held responsible by the Cabinet Secretary. So, I do not think we really need to split hairs on this matter. That is the procedure in Government. Let us bring this matter to a close.

**Sen. (Dr.) Machage:** On a point of order, Mr. Deputy Speaker, Sir. Is Sen. (Dr.) Khalwale in order to mislead this House that an Assistant Minister would never sign documents during those times of the former Speaker, hon. Kaparo, when he served as my Assistant Minister? He used to sign for me, deliver the Statements on the Floor of the House and they were authentic and carried all the powers I had bestowed on him.

*(Laughter)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, very much for that information. However, on a point of correction, you were not bestowing the powers upon Sen. (Dr.) Khalwale. Those powers are bestowed by the appointing authority, which was not you. I think that, essentially, settles the issue because I am satisfied that the ruling that I have made is correct and the ruling that Sen. (Dr.) Khalwale has referred to given by the former Speaker, hon. Kaparo, was during a different dispensation. Even assuming that what you are saying is correct and I have no reason to doubt you, it was given during a different constitutional dispensation. That is the difference as far as I am concerned.

Sen. Madzayo, if you want to raise a point of order, press the button written "intervention".

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, I have looked at this document. The name of the person who signs the letter on behalf of the Cabinet Secretary (CS) must be disclosed.

**The Deputy Speaker** (Sen. Kembi-Gitura): Why? Under what law?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, to pass the test?

**The Deputy Speaker** (Sen. Kembi-Gitura): Under what law are you making that assertion? Does anybody here doubt the veracity of that document?

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, yes, I do.

**The Deputy Speaker** (Sen. Kembi-Gitura): Are you saying that it is not signed by the Cabinet Secretary (CS)? On what grounds can you possibly say that? The other thing that I said more fundamentally is that strictly speaking, in the new constitutional dispensation, the person issuing the Statement is the Chairman of the Committee. It is assumed that that Statement has gone through the Committee, they had an occasion to discuss it and they have come up with a position which adopts or does not adopt the position of the Cabinet Secretary (CS). I think that is the position. I cannot possibly understand why you would say that this document is not signed for and on behalf of the Cabinet Secretary (CS). I do not know whether you are testing the contents of the document or the document itself.

*(Sen. Madzayo resumed his seat)*

Sen. Madzayo, I do not know what you have in front of you but the document I have is signed for the Cabinet Secretary (CS).

Sen. Lesuuda, could you proceed and give the Statement?

OPERATIONALIZATION OF THE PROTECTION,  
PREVENTION AND ASSISTANCE OF IDPS AND  
AFFECTED COMMUNITIES ACT, 2012

**Sen. Lesuuda:** Thank you, Mr. Deputy Speaker, Sir. Let me start with the up to date data of Internally Displaced persons (IDPs) in the country generally, and in Vihiga County in particular. There is an annex which I will table.

IDPs in Vihiga were categorized as integrated IDPs and were 814 in total who were registered. Out of the 814 IDPs, 447 were paid start-up capital of Kshs10,000. The rest are yet to be paid the amount.

On the second question, the details are there on efforts made by the Government towards operationalisation of protection, prevention and assistance of IDPs. If I could go to ---

**Sen. (Eng.) Karue:** On a point of Order Mr. Deputy Speaker, Sir. The Senator, on behalf of the Chairperson, is giving us the Statement and she has chosen to pick some of the items and not others. I think we want to hear the others because we also have queries.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay. Sen. Lesuuda, even I tried to follow you but I could not. It is not too long a Statement, go through it. He is raising fundamental issues. It is six pages without the annexures, so read it.

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, the Ministry states as follows:

Before responding to specific issues that were raised, I wish to state that an estimated 245,416 IDPs households made up of 663,921 individuals were profiled by the set deadline of 31<sup>st</sup> December, 2008. Given that various IDPs were faced with different situations and needs, the profiled IDPs were grouped into the following four main categories:-

1. The 70,000 IDP households who voluntarily returned to their farms through Operation *Rudi Nyumbani*.

2. The 5,227 IDP households resettled in Government procured land.

3. The 2,593 Turkana IDPs who were settled on land donated by the then Lodwar Municipal Council and Turkana County Council. The Government is constructing houses for them on the donated plots.

4. There were 932 IDP households who were paid Kshs400,000 each in *lieu* of land.

5. All the other IDPs numbering 165,846 households were categorized as integrated, living among the various communities in the country and were programmed to be paid Kshs10,000 per household as start-up capital.

Let me now move on to the more specific issues that were raised by Sen. Khaniri. The first question was on the comprehensive and up to date data of IDPS in the country generally, and in Vihiga County in particular and it is provided in annexure 1.

IDPs in Vihiga were categorized as integrated IDPs and 814 IDPs were registered, out of whom, 447 were paid start-up capital of Kshs10,000. The rest are yet to be paid the amount.

The second question was on efforts made by the Government towards the operationalisation of the Protection, Prevention and Assistance of Internally Displaced Persons and Affected Communities Act 2012, which included the following:-

The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012, was gazetted on 4<sup>th</sup> January, 2013 through the Kenya Gazette Supplement No. 220(Acts No. 56) and became effective on 18<sup>th</sup> January, 2013.

Following the enactment of the Act, the following has been done to operationalize it:-

- i. The Chairman of the National Consultative Coordination Committee (NCCC), Mr. Aden Wachu, was appointed by His Excellency the President on 19<sup>th</sup> February, 2014, and subsequently gazetted on 28<sup>th</sup> February, 2014 vide Gazette Notice No. 1361.
- ii. The National Consultative Coordination Committee was gazetted on 3<sup>rd</sup> October, 2014 by the Cabinet Secretary vide Gazette Notice No. 6853.
- iii. The Secretariat of the NCCC has been constituted and offices secured.
- iv. The Committee has taken over from where the previous Board left and has held several planning meetings, met and visited various Internally Displaced Persons (IDPs) groups and it is already implementing planned crucial activities.

c) On what the Government is doing to address the plight of integrated IDPs who were victims of violence between 1992 and 2007 and who formed the bulk of IDPs in the Western region, I wish to state as follows:-

The previous Government intervention programmes were specifically targeting 2007/2008 post-election violence victims. The Ministry was aware of the existence of victims of previous violence but could not address their plight or resettle them because there was no framework that defined how far back in time we could go in resettling IDPs or what other categories of IDPs could be assisted. With the coming into force of the "Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012", the National Consultative Coordination Committee which is the body legally mandated to make these determinations; the issue of previous victims



will be dealt with. One of the challenges that will, however, be faced in addressing their plight is to determine their numbers as they were never officially profiled.

d) Comprehensive data, inclusive of names from the 2008 government exercise for all profiled IDPs is provided in various tables in annex 2.

The data includes lists of IDPs and forest evictees settled in GoK procured farms, list of payment of various cash transfers made to IDPs including those paid Kshs10,000 start-up capital, Kshs25,000 for reconstruction of burnt houses and Kshs400,000 resettlement in lieu of land.

e) On comparative analysis of how much money in total has been spent by Government in resettling IDPs from outside western region including an analysis of compensation provided per household, I wish to respond as follows:-

For the last five years, the Ministry has received Kshs4,291,142,912 as distributed in Table 1 here below:-

**Table 1: Analysis of Budget Estimates for the Financial Year 2008-2015**

FINANCIAL YEAR	RECURRENT KSHS	DEVELOPMENT KSHS	TOTAL KSHS
2008/2009	0	950,000,000	950,000,000
2009/2010	28,326,422	0	28,326,422
2010/2011	26,129,707	0	26,129,707
2011/2012	0	350,204,000	350,204,000
2012/2013	20,073,577	1,672,672,200	1,692,745,777
2013/2014	19,839,893	510,000,000	529,839,893
2014/2015	8,897,113	705,000,000	713,897,113
<b>TOTAL ALLOCATION</b>	<b>4103,266,712</b>	<b>4,187,876,200</b>	<b>4,291,142,912</b>

In addition, in 2013/2014, the Ministry received Kshs2,742,652,968 from other Ministries which was pooled together under the cash payment programme. Kshs2,342,652,968 was received from the Ministry of Lands, Kshs200,000,000 from the Ministry of Interior and Coordination and Kshs200,000,000 from the National Treasury. The Ministry of Devolution and Planning contributed Kshs407 million towards the programme.

The resettlement programme in general has utilized approximately Kshs15 billion since its commencement in 2008 and the amounts have been spent as follows:-

**Table 2: Amounts allocated and utilized for IDPs resettlement**

ITEMS	AMOUNT	CUMULATIVE TOTALS	SOURCE
Procurement of land	3,279,100,360		From Ministry of Lands for purchase of land
GoK support	4,776,351,167		Special programmes
Food	966,766,245		Special programmes
Non food	117,615,000		Special Programmes

Turkana houses	1,000,000,000		Special programmes
Sub-total	10,139,832,772		
Cash payment	3,149,652,960		Mobilized from Ministries of Land, Interior, Treasury
Sub-total	13,289,485,740		
ADB project for construction of houses, farm inputs to 22,000 returnee IDPs	1,700,000,000	1,700,000,000	ADB project loan
Grand total	14,989,485,740		

i) Through “Operation *Rudi Nyumbani*”, 74,847 households were successfully persuaded to voluntarily return to their previous farms. They were assisted as follows:-

(a) All were each paid Kshs10,000 as start-up capital

(b) 37,843 households among them received Kshs25,000 each for reconstruction of burnt houses.

(c) 71,473 houses were constructed for them (about a house for each household).

(d) Other humanitarian support such as relief food and non-food items was provided.

ii) 6,158 IDP households were resettled on Government procured land.

(a) Each received Kshs10,000 start-up capital.

(b) 2.25 acres given to each household.

(c) A two-roomed mud walled house (4,845 houses in total constructed).

(d) Other humanitarian assistance provided.

(i) The Government is constructing 2,593 permanent houses for Turkana IDPs.

The land was donated by the then Turkana County Council.

(ii) Each household will get a permanent house.

(iii) Each household got 2.25 acres.

(iv) Each has been given Kshs10,000 start-up capital.

(v) Through cash payment programme, 934 IDP households and 7,139 forest evictee households were paid Kshs400,000 in lieu of land resettlement.

(vi) 165,846 integrated IDP households were to be paid start-up capital of Kshs10,000 each. To date, 75,293 IDPs are yet to be paid. All the rest have received the start-up capital.

(vii) Out of the 640 Kenyan IDP households in Uganda (refugees), 397 were persuaded to return home. Each of the returning household was paid Kshs37,000 (Kshs25,000 for burnt up houses and Kshs12,000 for transport). The remaining 246 households were brought back in April 2015 and each was assisted with Kshs100,000 for households of up to three persons and Kshs150,000 for households of more than three persons.

(e) The Government also provided other humanitarian assistance that included food, tents, construction of hospitals, dams, roads and psychosocial counseling, *et cetera*.

(f) Information regarding where IDPs were before they were displaced, where they moved to and the various interventions done is contained in annex 1 and in responses of (a) and (d) above.

The Ministry has not yet undertaken a study to conclusively determine the current situation of the IDPs. We also do not know exactly who among the IDPs are genuinely in tented camps as proper profiling has not been done. I am, however, aware the National Consultative Coordination Committee is in the process of profiling them to determine their numbers. I am also aware that there are many masqueraders claiming to be IDPs and agitating for assistance, worsening the perception on IDPs resettlement programmes.

(g) The Government is profiling those IDPs who were not profiled in the last profiling exercise, especially the so-called integrated IDPs.

The National Consultative Coordination Committee has undertaken to re-profile all IDPs to determine who among the genuine ones are yet to be resettled and the status of those considered resettled. However, there is fear that some people are taking advantage of the situation to claim IDP status for purposes of benefiting from resettlement programmes. This is especially the case with those claiming to have been missed in the initial profiling as the process of establishing their status this late in the resettlement process is very complicated.

There is also fear of the ever expanding demands of the IDPs, whose solutions are not economically feasible and needs to be carefully controlled. IDPs have developed a culture of changing their demands immediately one is met. Some of those who were assisted to return to their farms during “*Rudi Nyumbani* operation” are now demanding the same treatment as those who have not been settled. Those paid Kshs400,000 are now demanding Ksh1 million, those settled on farms are in addition demanding cash payment and the integrated IDPs want both land resettlement and cash payment.

In the current Financial Year (2015/2016), the programme has been allocated an amount of Kshs2.205 billion which will be utilized to profile and settle those who have not been assisted in the past.

In conclusion, I wish to request all leaders to assist the Government to conclude this programme by calling upon all those affected to forget the past and engage themselves in nation building like other members of the society. It should also be understood that the Government’s intention in the programme has never been to compensate the affected households but rather to assist them to pick up their lives and continue living like other Kenyans.

Thank you .

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Senator. There are a lot of requests on this issue and I will be requesting that you try to be as brief as possible in interventions or while seeking a clarification.

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, under normal circumstances, I would have thanked the distinguished Senator for the statement. However, in this case, I do not think that I will. It is a very sad day for Kenyans, particularly the people of Vihiga, and Western Kenya, as a whole. It is very clear from the statement that the distribution of Internally Displaced Persons (IDPs) fund which totals to about Ksh15 billion was done in a very discriminatory manner. The criterion for profiling IDPs is totally skewed.

Mr. Deputy Speaker, Sir, the people of Vihiga and Western Kenya, as a whole, suffered the same fate like all other IDPs. They were displaced from the parcels of land

that they had acquired, especially in the Rift Valley. I do not understand how they ended up being called integrated IDPs while the others qualified to be total IDPs. I also do not understand how some IDPs were paid Kshs400,000 to be resettled, others were built for houses and yet the IDPs from Western Kenya are paid Kshs10,000. Could this be clearly explained to this House and to Kenyans why our IDPs are identified to be paid Kshs10,000 while others received Kshs400,000 and even had houses built for them yet the IDPs from our places also lost their houses and properties?

You also heard from the distinguished Senator that not all the IDPs were paid. There are some that are still pending eight years down the road; they are still waiting for the Ksh10,000. Is this really fair? This Government is applying the analogy of *The Animal Farm* where some Kenyans are more Kenyans than others.

Why is the Government reluctant to operationalize the Protection, Prevention and Assistance of IDPs and Affected Communities Act of 2012? I say this because the Act was passed and gazetted on 4<sup>th</sup> January, 2013 yet the President appointed the Chairperson of the National Consultative Co-ordination Committee in February 2015; 14 months down the road. Is the Government serious about the Act?

**The Deputy Speaker** (Sen. Kembi-Gitura): According to me, the appointment was made on February 2014 not 2015. Just to have it clear on record.

Sen. Lesuuda, first, you will have to listen to all the interventions and then answer them accordingly.

Please, proceed, Sen. (Prof.) Anyang'-Nyong'o.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to contribute to this statement. First, I would like to request Cabinet Secretaries not to use the phrase "Forget the past and engage in nation building". It is a hackneyed phrase, extremely authoritarian and goes against the spirit of justice, truth and reconciliation. In order to have closure, what we want on this issue is justice, truth and reconciliation and not repeating this phrase *ad nauseum* "Forget the past and engage in nation building" as if what we have been engaging in is not nation building. Therefore, I would like that statement purged from the rhetoric of Government.

Secondly, Kshs15 billion has been allocated for the IDPs programme. However, the criteria for profiling IDPs are extremely discriminatory. "Profiling IDPs" is also another wrong phase. The word "profiling" is a very negative concept. What the Government should have done was to identify IDPs with their predicament. During the 2007/2008 crisis, hon. Dalmas Otieno and I were responsible for ensuring that all the IDPs who were displaced from former Central Kenya; Nyeri, Kiambu and many other place and were held up at Limuru Police Station travelled back home. We organized buses to ferry them to Kisumu where they were housed in a church, St. Stephens Cathedral. Those were people who had been out of their regions for a long time, some as long as 50 years. The church had to identify the homes that they could go to.

Therefore, to recognize them as people who were integrated, yet that was an emergency measure so that they could have somewhere to go to--. We did not want to take them to go to tents because that was very inhumane. Instead, they were taken to people's homes. The Government's responsibility was then to go to those homes and see how those people could be properly treated as Kenyans. However, to abandon them and give them a token of Kshs10,000 is a terrible abuse to humanity. I know of a man who lost his shop and children in Naivasha. He is housed in my location yet he was only given

Kshs10,000 just because he is profiled as integrated yet other IDPs are receiving Kshs400,000.

Rather than go on and on trying to deal with Ms. Waiguru, the Cabinet Secretary for the Ministry of Devolution and Planning, I propose that we have a special audit of the IDP programme by the Auditor-General.

When I was the Chairman of the Public Investments Committee (PIC) in the Seventh Parliament, we had a problem with the tea factories in Kericho. As a Committee, we ordered the Auditor-General to do a special audit and from the report of that audit, Parliament then knew what to do. However, at the moment, we cannot rely on statements by a Cabinet Secretary who tells us to “Forget the past and engage in nation building”; a mere child who was born the other day when we have been in politics for ages. I, therefore, ignore that statement and ask for a special audit to deal with this issue properly.

*(Sen. (Dr.) Khalwale consulted loudly)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Khalwale! You are out of order!

I allowed Sen. (Prof.) Anyang'-Nyong'o more leeway because I recognize the wide spread importance of this issue. You notice that he made a statement instead of seeking a clarification. However, I will be strict onwards. We have more than ten requests from Members who want to speak on this issue.

Please, proceed Sen. (Eng.) Muriuki.

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, whereas I would like to thank the Chair for bringing this statement, it is very unfortunate that the Government of the Republic of Kenya is taking the matter of the IDPs very casually. It is also very unfortunate that seven years after the 2007/2008 Post-Election Violence (PEV), we are still talking about it to date. My specific request for clarification is: What was the criteria of paying some of the IDPs Kshs400,000 and land, while others only received Kshs10,000? It is good for the Chair to get it clearly that the word “integrated” is used to insult the kind Kenyans who gave a portion of their land for someone to pitch tent with their children. It is like they made a mistake because they are being insulted. Are we implying that the Internally Displaced Persons (IDPs) are not Kenyans and, therefore, they were not supposed to be given somewhere to even put up a tent? I do not see the need of asking about what criteria was used.

There are over 30,000 IDPs in Nyandarua. Virtually, 95 per cent of them were integrated because people were kind since they had a few acres of land to give. As a result, majority of them received only Kshs10,000.

**The Deputy Speaker** (Sen. Kembi-Gitura): Could you seek a clarification, Sen. (Eng.) Muriuki?

**Sen. (Eng.) Muriuki:** Mr. Deputy Speaker, Sir, could I also know whether or not the Chairperson is aware that when the Cabinet Secretary (CS) announced in Nyandarua that the programme was over, IDPs from Nyandarua took to their feet to march to the State House, but they were stopped by the Government somewhere between Gilgil and Naivasha, yet the answer did not come? They were asking the same question: “Why were we given Kshs10,000 whereas others were given land, some Kshs400,000 while others were given both?”

Thank you, Mr. Deputy Speaker, Sir.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, this is a very serious national matter. It did not occur to me that Kshs15 billion has been sunk in the IDP scam. This is a matter that I doubt if the distinguished Senator who has read the Statement will have sufficient facts to respond to the supplementary requests we are making, because I am sure what she has is the Statement from Ms. Waiguru and no more.

Mr. Deputy Speaker, Sir, in western Kenya where God blessed me to come from, people were expelled from Naivasha, parts of central Kenya and many parts of the Rift Valley. They settled in benevolent homes of friends and relatives like Sen. (Eng.) Muriuki has said, yet we have a case where IDPs were paid Kshs400,000. They left the camps but again went back and were paid Kshs400,000 over and over. From the Statement that we have received, some were bought land, others were built houses, while others were given both and money on top of that. Nobody wished to be an IDP. IDPs were born out of systemic failures of the state in failing to protect individuals, their families and properties.

Mr. Deputy Speaker, Sir, I request for a breakdown of the Kshs15 billion. I would like to know how much was spent in Turkana, Trans Nzoia, Nyandarua, Bungoma, Kakamega and Vihiga. I heard no mention of the IDPs in the former Coast Province. We want a clear breakdown because this is a county with a new Constitution that emphasizes equity for everybody.

Mr. Deputy Speaker, Sir, I have a very clear view that the distinguished lady may not have all these facts. Therefore, I have requested the questioner, Sen. Khaniri, to bring a Motion in this House, enjoying bipartisan support, and set up a special select committee of this distinguished Senate to properly and thoroughly investigate the scandal of IDPs, the pain that Kenyans have gone through and those who have turned IDPs into a gravy train of making money on the pain of others. This is because every time I go home, I am confronted by a group of many destitute people who were chased away from their lands, have never been given a shilling and have nowhere to go, yet we are told that they are integrated. What are they integrated into; by whom and for what? These are the big questions we seek answers to.

I urge Sen. Khaniri not to stop here. He should bring a bipartisan Motion to establish a select committee. We even have people like, not only the distinguished Senator for Nandi County whose people suffered but virtually all of us.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula. Could you just seek a clarification because you have made your point?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I am making a statement to the effect that clarifications we seek may not be forthcoming or satisfy the House. Even if we called Ms. Waiguru, with all the issues surrounding her, she is unlikely to give us proper facts. We want a select committee to dig deep and properly into this matter.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Sang:** Mr. Deputy Speaker, Sir, I agree with the proposal fronted by the Senate Minority Leader. My clarification, nonetheless, is on the individuals who were compensated Kshs400,000 or given land on the basis that they lost or were displaced from some certain land, whether in the Rift Valley or whichever place. Who has the ownership of those parcels of land? This is because we have situations of people

indicating that they owned land in the Rift Valley but were displaced. However, many of them were hawkers. We want to know in whose ownership are the parcels of land that we are told IDPs were displaced from in the Rift Valley?

If somebody was paid Kshs400,000 or bought for land, then, they have to surrender that particular land in the Rift Valley to the Government so that other IDPs can be resettled. This is because some of the IDPs in my community were displaced from certain regions. Why can we not allow them to be resettled in some of those lands within the Rift Valley as we compensate others who feel that they cannot live in the Rift Valley? Could we know if they surrendered the land and if that is the case, to which arm of Government and what does the Government intend to use that land for?

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, the issue of IDPs is a very serious matter particularly in Trans Nzoia County. In 1992, people in my community – especially those living up the mountain – suffered very much when a civil war broke out. Some were killed while others were chased away. I have an example of a man whose three-acre farm was grabbed by a community, whose name I will not say, living up the mountain. The man is now a squatter living on a small piece of land. We also have other IDPs living at market centres. Therefore, it is a very desperate situation in Trans Nzoia.

I am surprised by the report from the office of Ms. Waiguru. Profiling was not done in Trans Nzoia County. As the Senate Minority Leader suggested, we need a special committee which will look into the matter again.

When you fly over the Mau Forest, you will see very new houses being put up. That makes you wonder where people were settled after being removed from the Mau Forest and why they are going back. That is a very serious matter as it affects climate change.

Thank you very much, Mr. Deputy Speaker, Sir.

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, could the Chairperson confirm that after the Kshs15 billion was given in a skewed manner to certain communities, no more money is actually being sought to pay the remaining IDPs?

Secondly, could the Chairperson confirm that the IDPs that were located at Suba-Kuria in Migori County were forcefully dispersed and none of them was paid any money despite this programme having been put into progress?

**Sen. (Dr.) Khalwale:** Thank you, Mr. Deputy Speaker, Sir. The Chair has talked of Government having difficulties in knowing who are the *bona fide* Internally Displaced Persons (IDPs). How can the Government say that? This approach to such a national crisis adds more frustration, pain and more differences amongst communities because of the Government's inability to sort out the problem.

In 2008, at 10.00am in Eldoret, Rev. Liyayi was pulled out of the house and butchered. His wife came to Ichina village, Shivakala Sub-location, Shirumba Location, Ikolomani North, Kakamega South District in Kakamega County and for the last seven years, she has been a burden to us. Personally, I have educated her son from Form One up to Form Four and yet the only assistance the Government gave her was Kshs10, 000. The Statement should inform us how this widow will receive her Kshs400, 000.

The second clarification is; purely out of pride, dignity and self-respect, people from my community could not sit and see their relatives living in polythene papers and because they want to lock our people out of the pie of Kshs15 billion, they have now created a new English phrase called "integrated IDPs". We speak very good English and

we know that it is the creation of your own minds. There is no phrase like integrated IDPs in the dictionary, *hakuna!*

**Sen. Leshore:** On a Point of Order. Is Sen. (Dr.) Khalwale in order to be attacking the Chair? We are not seeking clarification but the Leader of Minority has suggested the right way to go about it. Why can the Senator not stop and we proceed?

**The Deputy Speaker** (Sen. Kembi-Gitura): Can you seek your clarification and finish, please?

**Sen. (Dr.) Khalwale:** The Deputy Speaker, Sir, I have made the first one. Secondly, we have a culture in this country when big people have been arrested, caught red handed; it goes through the courts until the case disappears. Can the Chair tell us the fate of the Deputy County Commissioners and the County Commissioners who were arrested and arraigned in court because of stealing money meant for the IDPs? What has become of all those cases?

Finally, so that we bring our people together, we want the people in Nairobi to understand how other people dealt with this problem. In Kakamega, local businessmen ran out of their shops and houses in Malava and other places to the police stations and stayed there. We have taken them back to their businesses led by their leader *Mzee* Njoroge who has got a highrise building in town and Ken who has six acres of land in the Malava village.

**The Deputy Speaker** (Sen. Kembi-Gitura): What is the clarification?

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, since we know that to reach refugees in Uganda, from Nairobi, you have to go over Luhyas, how come they jumped over the Luhya IDPs in Bungoma, Kakamega, Busia and Trans Nzoia and went to Uganda to keep the refugees in Uganda because they were looking for refugees from a certain community? Can the Chair clarify, please? The Chair, you are annoying us.

**The Deputy Speaker** (Sen. Kembi-Gitura): I want you to seek clarifications. This is not an opportunity to make Statements. We are not supposed to be emotive.

**Sen. Obure:** Mr. Deputy Speaker, Sir, thank you for the opportunity. May I say the handling of the predicament of the IDPs has been very unsatisfactory and very discriminatory? All IDPs suffered a similar fate. They were displaced and some of them lost property and others were very unfortunate to lose their loved ones. All of them suffered humiliation but most importantly, they were displaced. Today, we have been told that some of them were paid Kshs400, 000, others were resettled in land allocated by Government and others had houses built for them. In Kisii and Nyamira, some of them were paid only Kshs10, 000. I just want to know what rationale was being applied and I do not think this is a matter we can take lightly.

I suggest that we go along the way suggested by the Leader of Minority, get a motion and a select Committee to go and dig into this matter and find a solution which would be satisfactory to the majority of these IDPs. I am aware that those in Kisii and Nyamira have been left as paupers, moving around begging, when we know that they were prosperous at some point in their lives.

**Sen. Munyes:** Mr. Deputy Speaker, Sir, while I want to thank the Chair of this Committee for that long answer, it beats logic why one would be paid Kshs10, 000 (US\$100). Very little money has been paid to IDPs and I would not understand why one would be paid such little money but let me go to the Turkana experience. Over 10,000 Turkanas lost their property. We, in Turkana, allocated them land, the Government



initiated construction of houses and for the last seven years, they have not completed half of them. I want to put a very small suggestion. I know this is a cash cow because Kshs15 billion is not little money. This is more than Anglo-Leasing. There are people ripping off this country billion of shillings because of this confusion. We want to follow up this issue, and all of us have agreed that we form a Select Committee to look at this matter.

I want to support what the Senator for Nandi County said. I know some people would want to take advantage of this for sure. We want to step up the amount from Ksh10,000 to some significant amount. Construction of those houses should be completed. For the new IDPs, they should identify where they came from because the country should not lose money. For the new ones, they should show us where they were residing before this whole saga of post election violence came up. I want to end there by supporting that we need a Select Committee to audit what has happened. So much has been paid to Turkana and is going to some few pockets yet there are still IDPs begging, sleeping out in incomplete houses with all the problems of insecurity and famine, just to name a few.

Thank you.

**Sen. Mositet:** Mr. Deputy Speaker, Sir, I do not know the year which we may trace the word “IDPs” to because I believe the Maasais were displaced around 1895. However, what we are talking about is very crucial.

I would like to talk of the Internally Displaced Persons (IDPs) from 1993 and in 1997; definitely quite a number of people lost their property and their loved ones. Then of course, we have the post-election violence which happened in 2008. As I was listening to the Chairperson reading the answers to the question, I was a bit disturbed. I wondered who decided to sit down and classify the IDPs such that some IDPs would be given Kshs10,000, others given land and others given Kshs400,000 and a big ceremony is held.

Mr. Deputy Speaker, Sir, if we want to heal this country, such an issue should not just be taken as something to make some people politically happy. We must look and think about the dignity of those Kenyans. I will go with what Sen. Wetangula and his younger brother, the Senator for Vihiga said, but all in all, we need an audit to know exactly how it was established that other people could be paid Kshs10,000, others Kshs400,000 and others given pieces of land? Who are these people selling land? Who are the brokers? We need an audit; as Sen. Munyes said, the whole thing was a cash cow for some people.

Thank you, Mr. Deputy Speaker, Sir.

**Sen. Ong’era:** Mr. Deputy Speaker, Sir, thank you, for giving me this opportunity. I begin by thanking the Chairperson for reading this Statement. I am totally dissatisfied by what the Cabinet Secretary has outlined in the contents of that letter.

I wish to seek further clarification on the following issues:-

(1) The basis of determining the criteria for classifying some IDPs as total and others integrated and also the basis on which they allocated the Kshs400,000, Kshs10,000, land and others houses. These criteria are skewed, unreasonable and extremely biased.

(2) The statement of the Cabinet Secretary; “forget the past and build the nation”. This statement is callous and negates the spirit of national cohesion, integration, reconciliation and resettling all IDPs.

Sen. (Prof.) Anyang'-Nyong'o did not tell you that he and I greatly suffered particularly in moving the IDPs who were in Naivasha. We moved them quickly because their lives were under threat. Therefore, when we got people who could accommodate them; these are now what is called "integrated IDPs". It is a pity that these IDPs can just be given a paltry Kshs10,000.

As I speak, there are still IDPs in Ekerenyo in Nyamira County and in Nyamache in Kisii County where I come from. Therefore, we cannot just be told to forget the past; our spirit is still wounded, we are still bleeding hence we cannot hear anything of a callous statement that says "forget the past and let us build the nation."

Mr. Deputy Speaker, Sir, I support what the Senate Minority Leader has said. Let us have a Committee of this House formed to interrogate these issues. I also support what Sen. (Prof.) Anyang'-Nyong'o said; let us have a forensic audit done on how this money is being spent and allocated.

**Sen. Okong'o:** Mr. Deputy Speaker, Sir, mine is a brief one. I would like to know from the Chairperson whether a need-assessment analysis was done on the IDPs to determine the disparities on the awards; some got Kshs10,000 while others got Kshs400,000.

The request that we forgive and forge ahead can only be heeded when people have been compensated and the aggressors confess their sins as it was done in South Africa. It is an abuse, for instance, in Nyamira North in Magwagwa area, over 10,000 persons were displaced. To say that they were integrated is shocking and a big shame.

Further, giving someone Kshs10,000 to rebuild their life which they had nurtured for over 30 or 40 years is a shame. It is also an insult to the statements delivered in this House. Kshs10,000 can only buy 10 iron sheets.

I also concur with the sentiments of my party leader and the other Senators who have proposed that we should have a Select Committee which can interrogate this matter further as we look for a way forward.

**The Deputy Speaker** (Sen. Kembi-Gitura): Proceed, Sen. (Prof.) Lesan. Please take one minute if possible.

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, I also wish to agree with most of the sentiments that have been expressed in the House because of the very serious nature of displacement in this country---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Orengo, are you on a point of order? I can see your name on both screens.

**Sen. Orengo:** Mr. Deputy Speaker, Sir, I want to say something.

**The Deputy Speaker** (Sen. Kembi-Gitura): Your name is on both sides of the screen; point of order and the other one. Do you want to contribute?

**Sen. Orengo:** Mr. Deputy Speaker, Sir, I want to come on a point of order but let it be a clarification.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay.

*(Sen. Orengo spoke off record)*

Sen. (Prof.) Lesan, proceed.

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, Sir, the whole issue of IDPs will not be solved as long as there is no criterion for identifying the IDPs or even the situations that

creates IDPs. This problem would not be solved in piecemeal. The issue of IDPs revolves around land in this country. So, the way to go about it and solve this land issue is to go back and address the whole idea of land policy and tenure in this country and probably come back to solve the IDP issue.

Families are now living in a fraction of an acre. We have a new cadre of IDPs; the sons and daughters of these people living in a fraction of an acre; as they come of age they claim they are IDPs because they do not have a place to stay. Therefore, we will have many of them. I agree with the Senate Minority Leader that we look at this problem wholesomely by addressing it as a land issue.

Mr. Deputy Speaker, Sir, I support the formation of the Committee and add that it interrogates this problem much further before it brings it to the House so that we can have options rather than just lament on the issue of the IDPs.

**Sen. Orenge:** Mr. Deputy Speaker, Sir, I have just one little point but it is a very pregnant point; not because of the gender of the Chair but the little point is very pregnant. There is this constant idea that comes from the Jubilee Government that, forget the past and let us get on building the nation. This is a very odd idea because the constitutional basis of this document that we proclaimed on 10<sup>th</sup> August, 2010, was based on remembering the past.

In Article 9 of the Constitution, there are three days national holidays; one of them is that of *Madaraka Day* to be observed on the 1<sup>st</sup> of June. *Madaraka Day* came before the Chair and the Cabinet Secretary (CS) were born. We cannot remember the 1<sup>st</sup> of June, 1963 if we go by this statement of forgetting the past.

Mr. Deputy Speaker, Sir, the preamble to this constitutional document, why we said that: “we the people of Kenya” is based on the injustices of the past for which some people had to struggle and shed blood so that we can have our freedom.

I want to plead with the Chair that when he goes back to the CS, he should tell the CS and the Government that there is no way we will forget the past. Even President Kenyatta himself said that we shall forgive but we shall never forget. If you remember the past, we could probably deal with the teacher’s problems a little better because we keep on forgetting.

Mr. Deputy Speaker, Sir, mine was on the little void that we should never forget the past; otherwise the future will be very bleak.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much everybody; this has taken a long time. I gave it so much time because it is a matter that cuts across, affects all of us and a very important issue. That is why I allowed you so much time to ventilate and give your views on it.

You notice that a lot of new issues have cropped up from what Sen. Khaniri had sought. The clarification that has been sought has brought in a lot of new issues that must be taken into account. The Vice Chairperson of the Committee, in responding to all those issues, should take into account that there are new factors that have come in and help us to get a way forward so that we can be able to see how best to go about this.

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

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Machage, a point of order at this time?

**Sen. (Dr.) Machage:** Mr. Deputy Speaker, Sir, the Leader of Minority made a passionate request to the Chair---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. (Dr.) Machage. I have just said that it is time for the Vice Chairperson of the Committee to give a response. She heard what Sen. Wetangula, and everybody said. I have indicated that I would like her to answer all those issues, give us a way forward or tell us how she propose to go about these issues.

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir,--

*(Sen. Mbura stood in her place)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Senator what is the issue?

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, it is important that I am not pre-empted on what I want to say.

**The Deputy Speaker** (Sen. Kembi-Gitura): Do you have an issue to raise? Talk to me, I cannot hear you.

**Sen. Mbura:** Mr. Deputy Speaker, Sir, I wanted to contribute.

**The Deputy Speaker** (Sen. Kembi-Gitura): Senator, if you are aware that you want to contribute, you should put your name on the screen. I have not seen your name on the screen.

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir, as the Vice Chair of the Committee, I have listened carefully to the issues that have been raised by hon. Senators. I must say that they are grave issues of national importance. I must also say that they cut across the political divide, all of us and different parts of this country. I agree that there are new issues that have arisen from this Statement; some of them concern the whole issue of how the Internally Displaced Persons (IDPs) were identified, the criteria and the classification of who was paid what.

What the Senate Minority Leader has suggested is what the Committee would agree to; that we have a select committee to look into those issues. We will also call the CS to answer some of the issues. The select committee will interrogate further some of the questions and issues that have been raised here. I am sure that Sen. Khaniri will then do it in the appropriate manner in this House.

Therefore, I want to add that I agree with my colleague on the issue of forgetting. It is a matter that we need to look at so that we can deal with it once and for all as a country. This House is in a position to look at it through a select committee of this House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Let me understand this. Where does that leave us?

**Sen. Lesuuda:** Mr. Deputy Speaker, Sir that would be done through the procedures of this House. A Motion will be brought either by a Member of the Committee or Sen. Khaniri to request for a select committee. It could be done through the procedural way of this House.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Khaniri, are you satisfied? This depends very much on you because we do not want to leave it in abeyance.

**Sen. Khaniri:** Mr. Deputy Speaker, Sir, given the weight of this matter and the interest that it has generated, it is clear that we cannot exhaust the issues at hand through a Statement. Therefore, I will take the responsibility of drafting the said Motion expeditiously and we will give notice next week or so.

**The Deputy Speaker** (Sen. Kembi-Gitura): I think that settles the issue.

VIOLATION OF ARTICLE 245(4) BY THE CS, INTERIOR  
AND CO-ORDINATION OF NATIONAL GOVERNMENT

**Sen. Ong'era:** Mr. Deputy Speaker, Sir, thank you for giving me this opportunity. I rise to seek a Statement pursuant to Standing Order No. 45(2)(b). This Statement is directed to the Chairperson of the Committee on National Security and Foreign Relations regarding the letter written by the Cabinet Secretary, Ministry of Interior and Coordination of National Government, Maj. Rtd Hon. Nkaisery directing the Criminal Investigation Department (CID) and the National Cohesion and Integration Commission into areas they should investigate with regard to the speech made by Sen. Muthama on 23<sup>rd</sup> September, 2015 at Uhuru Park.

Is the CS aware that such an order is a violation of Article 245 (4) of the Constitution that states that:-

“The Cabinet Secretary responsible for police service may lawfully give direction to the Inspector-General with respect to any matter of policy in the National Police Service, but no person may give a direction to the Inspector-General with respect to –

- (a) the investigation of any particular offence or offences’
- (b) the enforcement of the law against any particular person or persons; or
- (c) the employment, assignment, promotion, suspension or dismissal of any member of the National Police Service”.

**The Deputy Speaker** (Sen. Kembi-Gitura): Is anybody from that Committee here?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, may I contribute something—

**The Deputy Speaker** (Sen. Kembi-Gitura): On that issue?

**The Senate Minority Leader** (Sen. Wetangula): Thank you Mr. Deputy Speaker, Sir, for allowing me to ride on that request. The distinguished Sen. Orenge is here from that Committee. I am also a Member of that Committee but I have constantly declined to take any responsibility for the work of the Committee. In answering and responding to Sen. Ong'era's question, we want the Chairperson to tell this distinguished House under what law and on what basis did the Cabinet Secretary purport to direct not only the Inspector-General of Police, but also the Chairperson of the National Commission for Integration and Cohesion (NCIC), on the basis of which the Chairman of NCIC and the Inspector-General started running helter-skelter to arrest Sen. Muthama without any regard to his rights and forcing him to record a Statement.

In fact, for the benefit of the House this morning, I led a team that went to NCIC with Sen. Muthama---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, you are seeking to ride on the Statement. Could you please do that?

**The Senate Minority Leader** (Sen. Wetangula): I want the Chairperson to explain, because NCIC told us that they work under nobody's direction and will not take what the Minister said. They also said that they are not intending to record a Statement from Sen. Muthama and withdrew the summons they had given to him. On what basis and under what law is the Cabinet Secretary, who has been a very distinguished Member

of Parliament and we have worked with him--- Why is he violating the Constitution and the law to give directions where he has no authority? As I finish, even in America---

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. Wetangula! I think in fairness, if you want to ride on a Statement, do that but do not bring in extraneous issues.

**The Senate Minority Leader** (Sen. Wetangula) In comparable jurisdictions, I want the Chairman to tell us, in the United States of America (USA) which is the bastion of the free world, Donald Trump threatened to deport President Obama to Kenya but he was never asked to record any statement by anybody. On what basis is Sen. Muthama being haunted on the direction of the Cabinet Secretary to organs that enjoy independence under the law and under the Constitution?

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

**The Deputy Speaker** (Sen. Kembi-Gitura): What is it Sen. Sang?

**Sen. Sang:** Mr. Deputy Speaker, Sir, I rise under Standing Order No.39(2) to request that you reorganize the order of business to allow us to vote on two Bills that we deferred yesterday. I have discussed with a number of Members who are likely to get out of the House in a short while. These Bills have been pending in the House for three sittings. We should vote on them since we have the numbers.

**The Deputy Speaker** (Sen. Kembi-Gitura): I will consider that but we are in the middle of Statements. The request being made by Sen. Sang is important and as you know, I cannot order but only request you not to leave the House before we vote on those two items. Before we do that, we have to finish what we are dealing with at the moment. I request the Members to be in the House so that they can vote on those two Bills. The Division Bell will be rung and Sen. Sang thinks that we have enough Members here.

Sen. Wetangula, you have made your contribution now it is Sen. (Dr.) Khalwale. If it is a rider please make it a rider.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, on Saturday, Sen. Muthama, the former Prime Minister and I, went to the Criminal Investigation Department (CID) headquarters after Sen. Muthama had been summoned to go and record a Statement. The country should be shocked to hear that we found a written statement---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you know me. I try as much as possible to be fair. You want to ride on a Statement sought by Sen. Ong'era? If you want to ride on it please do so and say what else you want the Chairperson to say but I will not allow you to make a statement because that is against the rules.

**Sen. (Dr.) Khalwale:** Please allow me to build my case.

**The Deputy Speaker** (Sen. Kembi-Gitura): You are the one who was telling me that there is no rule that allows people to ride on other people's Statements and I said we will allow it but I will not allow you or anybody else to make a statement. If you want to ride on the issue, do so and the HANSARD will bear you out.

**Sen. (Dr.) Khalwale:** Yes, Mr. Deputy Speaker, Sir. We would like the Chairperson to clarify why when we went to the police station, we found that a charge sheet had already been prepared and the Senator was being asked to have his fingerprints taken when in fact, there was no complainant. Could the Chair confirm whether the complainant was one Anne Waiguru, the Cabinet Secretary or President Uhuru Kenyatta, whom the officers were telling us that Sen. Muthama had offended?

Finally, could the Chairperson clarify whether certain sections of the Constitution that guarantee freedom of thought and expression have been suspended during the short tenure of the Jubilee Government?

**Sen. Orenge:** Mr. Deputy Speaker, Sir, I also want to ride on this request. I would not use it to make a Statement but I want to know why a Cabinet Secretary, in desiring to give directive or instructions to a duly constituted constitutional body, would use the media and not through written instructions. Would the Cabinet Secretary tell this House whether he exercises powers derived from the Constitution or he derives his authority from power which is extraneous from the Constitution. The design of this Constitution was that certain offices were not only protected so that those in high political offices should not be in a position to intimidate public officers to do things that they are not allowed to do under the Constitution.

What has been related by the Senator of Kakamega is relevant in the sense that in the two instances on Saturday and today, it was clear that the public officers were acting on the basis of intimidation and not application of the law. It is important for the Cabinet Secretary to make it clear on what constitutional basis he was giving these directives to constitutional offices, particularly independent constitutional bodies and commissions.

**The Deputy Speaker** (Sen. Kembi-Gitura): Finally, Sen. Madzayo.

**Sen. Madzayo:** Mr. Deputy Speaker, Sir, the Constitution is very clear that when there is any law that is in conflict with the Constitution then the Constitution shall prevail. Would the Chairman tell this House whether that directive or order by the Cabinet Secretary was in contravention of the Constitution as provided?

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, in further clarification, I would like to know---

**The Deputy Speaker** (Sen. Kembi-Gitura): You are actually not seeking a clarification. You want to ride on the Statement that was sought.

**Sen. Mutula Kilonzo Jnr.:** Yes, Mr. Deputy Speaker, Sir. It is only the Director of Public Prosecutions (DPP) who is mandated under Article 157(4) to be the person to direct the Inspector-General. I would like the Chairperson to inform the House whether the Cabinet Secretary had received any consent or delegation from the DPP to issue any direction to the Inspector-General as required under the Constitution.

**The Deputy Speaker** (Sen. Kembi-Gitura): Who is the Chairperson of the Committee or who is going to give us an indication?

**The Senate Minority Leader** (Sen. Wetangula): Mr. Deputy Speaker, Sir, I know the Chair presiding now is a Member of the Committee and so is the distinguished Sen. Orenge and myself. I will inform the Chair that such a weighty issue has been raised on the Floor and probably he could issue the Statement in a week, that is, next Wednesday.

The Clerks-at-the-Table should inform the Chair.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Wetangula, you have no right to direct the Clerks-at-the-Table. Not at least when I am sitting here. You have absolutely no right to direct them. I think you are taking this House for granted and I will not allow you that leeway. You know the rules and you know that even in your capacity as the Leader of Minority, you have no capacity to direct the Clerks-at-the-Table when I am sitting here. It is wrong and should not be allowed. I would direct, as I am bound by law to do, that the HANSARD be furnished upon the Chairperson of the Committee so that

they can deliberate on the issue and give the answer in the timelines that have been given of one week from today.

**The Senate Minority Leader** (Sen. Wetangula): Sorry for usurping your powers.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is not my powers you are usurping; it is the powers of the institution called the Senate. That is why I say that it has nothing to do with me and I think we must continue to respect institutions. It is important.

Sen. Ong'era, are you satisfied?

**Sen. Ong'era:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you, Sen. Ong'era.  
Next Order!

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

**The Deputy Speaker** (Sen. Kembi-Gitura): What is it, Sen. Nabwala?

**Sen. Nabwala:** I would like to seek for a Statement.

**The Deputy Speaker** (Sen. Kembi-Gitura): I have approved it, have I not?

**Sen. Nabwala:** You have approved it.

**The Deputy Speaker** (Sen. Kembi-Gitura): Okay, go on.

THE GOVERNMENT'S PREPAREDNESS IN MITIGATING  
EFFECTS OF THE IMPENDING *EL NINO* RAINS

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to seek a Statement.

I rise pursuant to Standing Order No.45(2)(b) to seek a Statement from the Senate Leader of Majority regarding the Government's preparedness for the impending *El Nino* rains. In the Statement, the Senate Leader of Majority should explain the following:-

1. The administrative policy and legislative measures that the national Government and county governments have taken to mitigate the effects of and create public awareness of the impending *El Nino* rains.

2. Explain whether the national Government and the county governments have put in place early warning systems.

3. Explain the measures that the national Government and county governments have taken to expedite the process of availing resources to prepare for the *El Nino* rains and deal with its effects.

4. Explain the measures that national Government and the county governments have taken to ensure that the impending disaster is turned into opportunities through water harvesting and storage.

**The Deputy Speaker** (Sen. Kembi-Gitura): Where is the Chairperson of the Committee? Which Committee is that?

**Sen. Nabwala:** It is a Statement to the Senate Majority Leader.

**The Deputy Speaker** (Sen. Kembi-Gitura): I do not see the Majority Leader or his office here. Why is it the Majority Leader and not a Committee?

**Sen. Nabwala:** It is a national issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): It is cutting across committees?

**Sen. Nabwala:** Yes.

**The Deputy Speaker** (Sen. Kembi-Gitura): There is nobody from that office here. Is there anybody from the Committee?



I would direct that it be answered in two weeks. Is that okay or do you think the *El Nino* rains would have set in?

I would direct that the HANSARD be furnished upon the Leader of the Majority for an answer to be given in two weeks from today. Is that okay?

**Sen. Nabwala:** Yes, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, the two Bills under Order Nos.8 and 9 are up for Division. The Division Bell will be rung for five minutes for the two Orders.

*(The Division Bell was rung)*

Order, Senators! Sen. Keter, do we have the threshold?

*(Sen. Keter counted the Senators in the Chamber)*

**Sen. Keter:** Mr. Deputy Speaker, Sir, we are less by one.

**The Deputy Speaker** (Sen. Kembi-Gitura): There will be no point of going to a Division in those circumstances. So, unfortunately, I will have to, again, reorganize the Order Paper. There will be no point of drawing the Bar. We will skip Order Nos.8 and 9 and go to Order No.10. It is unfortunate but that is how we will go about it.

## BILLS

### *Second Reading*

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE)  
BILL (SENATE BILL NO.35 OF 2014)

*(Sen. Mutula Kilonzo Jnr. on 22.9.2015)*

*(Resumption of Debate interrupted on 22.9.2015)*

*(Bill deferred)*

### *Second Reading*

THE OFFICE OF THE COUNTY PRINTER BILL  
(SENATE BILL NO.42 OF 2014)

*(Sen. Sang on 22.9.2015)*

*(Resumption of Debate interrupted on 23.9.2015)*

*(Bill deferred)*

**MOTION****EXTENSION OF MANDATE OF SELECT COMMITTEE INQUIRING  
INTO THE AFFAIRS OF KENYA AIRWAYS LTD**

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, AWARE THAT the Senate, on 18th June, 2015, resolved to establish a Select Committee consisting of 11 Senators to conduct an inquiry into the affairs of Kenya Airways Limited and its Subsidiaries and report back to the House within three months of its establishment;

REALIZING THAT the three month period lapsed on 18th September, 2015 but owing to the magnitude of the work involved the Committee was not able to complete its work within the duration;

NOTING THE NEED for more time to carry out a thorough inquiry into this matter;

NOW THEREFORE the Senate resolves to renew the mandate of the Committee for a further period of two months to enable the Committee to complete its work and report to the House and further resolves that the following two Senators be added to the membership of the Select Committee-

1. Sen. Stephen Sang; and
2. Sen. Mutula Kilonzo Jnr.

First, I would like to thank the Members of the Committee; my Vice-Chairperson, Sen. Kagwe from Nyeri, Senior Counsel, Sen. Orenge from Siaya, Sen. Hassan from Mombasa, Sen. Billow from Mandera, Sen. (Prof.) Lesan from Bomet, Sen. (Dr.) Zani, Nominated Senator, Sen. Lesuuda, Nominated Senator, Sen. Mositet from Kajiado, Sen. (Dr.) Khalwale from Kakamega and Sen. Karaba from Kirinyaga.

As the Motion states, we have worked steadfastly for the last three months until our mandate ended. We have held a total of about 24 sittings; working very hard to deliver to the Senate. Unfortunately, certain logistical problems arose, one of them being the fact that Senators are overstretched in several Committees and the second being that the Kenya Airways itself, the subject matter in this, did not find it easy to deliver certain documents to us, particularly, the board minutes and management letters from the auditors. These documents are extremely important for the Committee's work. Kenya Airways insisted to begin with, that we go there and see those minutes in their premises, which is against the procedures of the House. It would have been inconvenient to us.

Secondly, they said that given the rules of the Capital Markets Authority, that they needed special permission from the Capital Markets Authority to do this, but the Capital Markets Authority just last week finally gave this permission with certain conditions attached to it. After discussing in the Committee and in consultation with the Clerk of the Senate, we agreed to accept them and for those minutes to be delivered.

I had to call the Chief Executive Officer (C.E.O) of Kenya Airways this morning asking him to deliver those documents expeditiously without delay. I was promised this morning that the first batch of the documents should arrive in the Senate today. We,

therefore hope that once we have those documents which are extremely voluminous; our Committee on Legal Affairs and Human rights, which comprises lawyers within the Committee; Sen. Hassan, Senior Counsel, Sen. Orengo and Sen. Mutula Kilonzo Jnr, who has been working with us notwithstanding the fact that his name had not been approved by the Senate. With the arrangement of the Speaker and the Clerk, we were allowed to use him and record his participation, which becomes official after the Senate has approved this Motion.

It is in that spirit that we requested also to add the lawyer from Nandi, Sen. Sang. A Committee comprising those lawyers will be able to plough through, with the help of the staff of the Senate, these critical documents and advise the Committee accordingly in the deliberations. We also hope to visit Amsterdam so that we can talk to the management of KLM. We had invited them to come over and meet us but they declined the invitation to come to Nairobi. Therefore, we were left with no option but to go to Amsterdam. If Mohamed cannot come to the mountain, the mountain will therefore proceed to where Mohamed is.

This Motion, will allow us to complete our work effectively from the date of termination as mentioned in this Motion. If indeed we manage to finish earlier there will be no need to exhaust the two months. The Committee is very dedicated and determined to deliver on this endeavor.

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

*[The temporary Speaker (Sen. Mositet) took the Chair]*

I am happy that the whole nation has been paying attention to the work of the Committee. We constantly get input from Kenyans who make suggestions on what needs to be done. We are constantly contacted by many people who would like to appear before the Committee to give evidence. We encourage most of them to write and send documents to us, because practically we cannot listen to everybody, because of the constraints of the Committee workings in the Senate. Almost every member of that Committee belongs to at least two other Committees.

Therefore, I would like to appeal to the House to grant us permission for the extension of time and to add to the Committee these two very dexterous, hardworking and intelligent Senators. They are lawyers of great distinction in their own right and they will contribute to this noble initiative by this Senate, to ensure that Kenya Airways flies as the pride of Africa, but only after correcting all the management ills, financial problems, poor management of staff relations which has demoralized them and unnecessary battles in the court that has bedeviled this company. I am sure we are up to the task and shall deliver on the terms of reference that were clearly stated on the original Motion.

I beg to move and I ask the Senate Deputy Majority leader and my good neighbour, Sen. Keter, to second this Motion.

**Sen. Keter:** Thank you Mr. Temporary Speaker, Sir, and my neighbour Sen. (Prof.) Anyang'-Nyong'o for giving me this opportunity to second this Motion. This is a straightforward Motion, in the sense that I sat in the Committee of Labour and Social Welfare of the National Assembly in the year 2012. I remember very well at that time we

had a problem with Kenya Airways and their staff appeared before our Committee. The only people who never appeared, and the Mover said that they are still having the same problem, is the management of Kenya Airways. The board of Kenya Airways at that time refused to appear before our Committee. This time round I saw the former C.E.O and the current C.E.O appearing before the Committee. I am surprised that they are still trying to hide some information and at the same time crying for a bail out. It will be prudent for the Kenya Airways to come out openly, so that we as a country can find ways of tackling their problems, to ensure that the Kenya Airways remains the pride of Africa.

It will be prudent to grant this Committee even more than two months, because if you go to the 2012 report it indicates that were some companies that were registered in the Cayman Islands. I think it will be prudent for this Committee to go into details about how those financing companies were registered and for what purpose. It is worth knowing because there are about three to four companies that were registered at that time to provide a vehicle for financing. I think it will be prudent for this Committee that as they go to Amsterdam, to also visit other areas, so that they can ascertain why Kenya Airways bought the Embraers from Brazil, but they were rerouted through another country.

I second the Motion seeking the extension for two months and also the inclusion of two young, able and energetic senators. Since they will be able to scrutinize documents well, their inclusion is welcome. They will add value to this Committee.

I beg to second.

**The Temporary Speaker** (Sen. Mositet): Sen. Keter, you seem to know a lot about this. I thought you also wanted your name to be there.

*(Question proposed)*

**The Senate Minority Leader** (Sen. Wetangula): On a point of order, Mr. Temporary Speaker, Sir. I beseech the House that this is just a Motion to extend the tenure of a Committee that is doing a fantastic job. If we engage in debate, there is a real risk and danger of us veering into now debating the possible outcome of what the Committee is doing. Debating the failures or successes of the Kenya Airways and the individuals involved will come in the report that we await at the end of this Select Committee, which they will bring to this House to debate.

Mr. Temporary Speaker, Sir, I beseech the House that we have other businesses as well. Let us go directly to the vote, renew the mandate of the Committee and then go to extra business that we have ahead of us. However, it is entirely up to the Chair if you want to open debate. It is your discretion and power, but we are not really going to debate the possible outcome of what the Committee is doing other than giving them an extension. If we have to agree to extend, what is there to debate? Either we extend or we do not.

**The Temporary Speaker** (Sen. Mositet): At least, other Senators have heard what the Senate Minority Leader has said. We have some requests and I think it is a procedural Motion, just requesting for the adoption of the two Senators and also because of the issue of time.

**Sen. Orenge:** Mr. Temporary Speaker, Sir, mine is a very small duty that has been rightly pointed out by the Senate Minority Leader. This is a procedural Motion but I have

an amendment to the Motion, which is important in the sense that – as mentioned by Sen. (Prof.) Anyang'-Nyong'o – Sen. Mutula Kilonzo Jnr. has been sitting with this Committee from 31<sup>st</sup> July, 2015. It would not be quite complete to pass the Motion as it is. I can say without any doubt – Sen. (Prof.) Lesan is looking at me – that he has been a very important Member of this Committee, although an *ex-officio*, to the extent that his name had not been ratified by the Senate.

Similarly, having looked at the documents involved, the court cases and the volumes of not only Kenyan law but also law regarding those territories where the Senate Majority Deputy Leader was saying agreements were signed or vehicles created, we needed more lawyers to be in the Committee. The lawyers would deal with some of the legal issues that are arising and there are many legal instruments to also look at.

Therefore, the amendment was to add the following words after Sen. Mutula Kilonzo Jnr.: “with effect from 31<sup>st</sup> July, 2015”. That is the amendment that I propose.

However, Mr. Temporary Speaker, Sir, there is just something that I want to say generally. We are becoming a little bit too sensitive when there is an inquiry of this nature. People do not want to be overlooked ---

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. Sen. Orendo has just moved an amendment. We have not yet disposed of with that amendment, and yet he is beginning to discuss. Am I in order to demand that we dispose of the amendment before any other discussions? I think it is what the Standing Orders say.

**The Temporary Speaker** (Sen. Mositot): Sen. (Dr.) Machage, you are the one who is completely out of order.

Sen. Orendo, continue with the amendment.

**Sen. Orendo:** Mr. Temporary Speaker, Sir, His Excellency, Retired President Daniel Arap Moi required a teacher who had a long beard to be shaved. I think it would be good for Dr. Machage to visit a barber.

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. Is it in order for Sen. Orendo to demand that I remove my trademark?

**The Temporary Speaker** (Sen. Mositot): He is completely out of order.

**Sen. Orendo:** Mr. Temporary Speaker, Sir, I was just saying that because he was losing his trademark - being known as somebody who knows the Standing Orders and now that he is losing it, the beard is of no significance.

(Laughter)

As I was saying, sometimes we are overly sensitive. Like in this matter, it is important that when those who are in public office are being overlooked, they should not think that the Senate is witch-hunting. It is just oversight. We are not being policemen. I am grateful to what Sen. Keter said, because part of the work that we are doing is based on the foundation that you laid. If everybody else would have done his bit as required, probably the Anyang'-Nyong'o Committee would not be totally unnecessary.

However, I am saying this because we have a political situation in the country where people are overly sensitive. Anything said in the public, makes people sensitive. You remember there was a white man who called our first President Kenyatta, the leader

to darkness and death? Jomo Kenyatta did not do anything about it. He just went on with the struggle until we got our Independence.

One time, there was a Prime Minister in the United Kingdom called Winston Churchill and a lady described him as ever drunk which may be ground for defamation. But Winston remarked that he might be drunk but the lady is ugly and that when he wakes up the following day he will be sober but the lady will still be ugly. In politics you find a way of responding to issues as they arise and even in public affairs if you have been told to be oversights, you look for a basis to respond in kind. But we are becoming too intolerant. Any statement that is made against a public leader, they run to court, police and they want to obtain court orders. For example Sen. Charles Keter cannot say this or do that.

So, in the spirit of this new Constitution, we want transparency and accountability and that oversight is not a witch-hunt. Exercising the freedom of expression like going in a public rally and saying something like the Senator for Kakamega is saying something about another politician in public, surely if we are going to be politicians so nervous or so weak, even if you are associated with a woman, you feel like you have been abused---. We are running into a situation where the politics of this country will be like having a debating club in a primary school. If you do not have the shock absorbers, it is better to get away from the business of politics.

With those remarks, I beg to move the amendment and ask Sen. (Dr) Khalwale to second.

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr) Khalwale.

**Sen. (Dr) Khalwale:** Thank you Mr. Temporary Speaker, Sir. I rise to Second this amendment and because this is a procedural matter, I will not have much to say apart from only one point, that Kenya Airways (KQ), you want to understand the pride of Africa---

**The Temporary Speaker** (Sen. Mositet): Senator, please do not try to go into KQ affairs, just stick to the Motion, particularly aware that the inquiry is going on.

**Sen. (Dr) Khalwale:** Thank you Mr. Temporary Speaker, Sir. One wants to appreciate the pride of Africa. When you board KQ from Amsterdam, Paris or Heathrow Airport, at that time you are usually home sick. When you see the tail of the beautiful Airbus, you cannot wait to board. Therefore, all of us should do what this Committee is doing; making sure that KQ remains airborne. KQ depends on pilots, it depends on aeronautical engineers, and it depends on a lot of human resource. I want to remind the Jubilee Government that the pilots and engineers of tomorrow are in primary and secondary schools.

Today, the Jubilee government has closed 20,000 primary and 6,000 secondary schools. Shame on you! Where do you think the people who will work for KQ will come from? You Jubilee, open our schools.

I second the amendment that the inclusion of Sen. Mutula Kilonzo Jnr. be with effect from 31<sup>st</sup> July, 2015.

**Sen. Sang:** On a point of Order. Mr. Temporary Speaker, Sir, did you notice that the Senator for Bungoma has passionately accused the Jubilee Administration---

**The senate Minority Leader** (Sen. Wetangula): On a point of Order. Mr. Temporary Speaker, Sir. Did you notice that the young distinguished Senator from Nandi

is over awed by my presence and he is failing to notice who the *bull fighter* Senator is and assigning my county to him?

**Sen. Sang:** Mr. Temporary Speaker, Sir, I am sorry, I meant the Senator for Kakamega who is a neighbour to Bungoma and my neighbour also. Did you notice that as he passionately attacked the Jubilee administration, he focused on Sen. Keter and I as if to suggest that we were the ones responsible for the closure of the schools? If you look at the public gallery, we have students from schools meaning schools are open.

**Sen. Orengo:** On a point of Order. Sen. Sang did not understand why Sen. (Dr.) Khalwale was looking at the two of them. It is because they are the more reasonable components of Jubilee.

*(Laughter)*

Is he in order to take that favourable look to look like Sen. (Dr.) Khalwale was intimidating? He just meant that you are the more---

*(Question of the amendment proposed)*

**Sen. Hassan:** Mr. Temporary Speaker, sir, I did not stand to debate this Motion. I understand and I am alive to the fact that it is a Procedural Motion and it is also with the Committee and we will get a comprehensive report as we progress. Given the fact that they are asking for an extension of time, it will be prudent to include anyone who thinks can add value in terms of general direction. We are not discussing the substantive debate, but for general direction, I want to say that when the Government has high stakes, for example in the Kenya Meat Commission, KQ and Pan Paper, these institutions do not nose dive suddenly.

In business circles, I understand that there are quite a number of Chief Executive Officers (CEOs) that have in the past created a very positive impression when in essence the performance has been negative. I call on the Committee to go deep into the matter, get the facts right and share with us their findings in the earliest time possible.

Thank you.

**Sen. Ong'era:** Thank you Mr. Temporary Speaker, Sir, for giving me this opportunity. I also support the extension sought by the distinguished Senator for Kisumu and the further amendments sought by the distinguished Senator for Siaya.

I hope that when this report is presented in this House, we shall be told the truth about the ghost companies that have been registered in Cayman Islands - the three companies. We want to see the faces behind these companies. I hope that this Committee will do a thorough inquiry so that the truth as to what is ailing our beautiful and lovely airline which was the pride of Africa can be known.

I thank you.

**Sen. Ndiema:** Mr. Temporary Speaker, Sir, I support the Motion of amendment. This is a procedural Motion. If the Committee feels that there is any other Senator they feel that they should include, they should not hesitate to look for them especially those who are experienced in the area of procurement. This is because it appears that most of the organizations fail due to procurement issues. We, therefore, need procurement experts in this Committee.

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, I am a Member of this Committee. I want to congratulate the Chairman of the Committee for the passion that he has shown in first bringing this Motion to the House and conducting the process of investigation of the company. He has done this enthusiastically and encouraged those of us who are Members to fully participate. I, therefore, assure the Members of this House that we will do a very good job on this issue guided by the Chairperson.

**Sen. Sang:** Mr. Temporary Speaker, Sir, I join my colleagues in supporting this Motion, but more fundamentally, to congratulate this particular Committee. When the Senate resolved to establish this Committee, we saw a number of the Members of the National Assembly attempting to say that we were wrong as the Senate to establish it. I thank the Chairperson and the Committee for taking up this matter and ignoring some of the uninformed Members of the “lower House”.

Mr. Temporary Speaker, Sir, if the Senate did not resolve to set up this Committee, what we would have seen is the Members of the National Assembly discussing the bail out without understanding the root challenges that the airline faces.

I therefore thank and congratulate the Chairman and the Committee. I am excited to join this group to ensure that we salvage our national pride; the pride of Africa. We need to ensure that we continue to have a national airline in this country and that we do not end up being a country without an airline. We are discussing about possible direct flights to the United States of America (USA) yet our national carrier would be sinking.

I beg to support.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. (Dr.) Machage?

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. Would I be in order to request that the Chair puts the question for this amendment to be disposed of and thereafter, he puts another question for the Mover to reply so that we save on time?

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

*(Question of the Motion as amended proposed)*

**Sen. Karaba:** Mr. Temporary Speaker, Sir, it is important to note that the Committee which was established following the procedure in the Constitution and it is a procedural Motion, worked very well. Having been a Member, I noted that we were assisted and steered favourably by my friend, the Senator for Kisumu County, (Prof.) Anyang'- Nyong'o. I also noted that we need to have many other probes similar to this one because we have a lot of messes in various commissions and parastatals. We need to come up with more probe Committees so we get to know what is happening in some of the institutions. Therefore, most of the Committee work should be tailored to probe some parastatals. Some of them will fall or collapse without notice of the majority of Kenyans. This should not be the only Committee probing the Kenya Airways, but we should have many other Committees probing other parastatals.

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



*(Question put and agreed to)*

*Resolved accordingly:*

THAT, AWARE THAT the Senate, on 18th June, 2015, resolved to establish a Select Committee consisting of 11 Senators to conduct an inquiry into the affairs of Kenya Airways Limited and its Subsidiaries and report back to the House within three months of its establishment;

REALIZING THAT the three month period lapsed on 18th September, 2015 but owing to the magnitude of the work involved the Committee was not able to complete its work within the duration;

NOTING THE NEED for more time to carry out a thorough inquiry into this matter;

NOW THEREFORE the Senate resolves to renew the mandate of the Committee for a further period of two months to enable the Committee to complete its work and report to the House and further resolves that the following two Senators be added to the membership of the Select Committee-

1. Sen. Stephen Sang; and
2. Sen. Mutula Kilonzo Jnr; with effect from 31<sup>st</sup> July, 2015

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, Order Nos.11, 12 and 13 require us to go into the Committee of the Whole. However, we do not have the prerequisite threshold to vote. Therefore, I defer them.

### **COMMITTEE OF THE WHOLE**

THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY  
BILL No.1 OF 2014)

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)  
BILL (SENATE BILL No.20 OF 2014)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL  
(SENATE BILL No.32 OF 2014)

*(Committee of the Whole deferred)*

Next Order!

### **POINT OF ORDER**

FAILURE TO ACKNOWLEDGE PRESENCE OF  
STUDENTS IN THE GALLERY

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. I notice that we have some guests or students seated in the Public Gallery which is opposite me. Would it be in order for me to ask you to introduce them to us?

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Anyang'-Nyong'o, I am not aware of that because I have not even seen them.

*(The Temporary Speaker (Sen. Mositet)  
consulted with the Clerks-at-the-Table)*

I am told that they are working on that. I have to get the name of the school before I make a formal communication to the Senate. However, I, as the Chair, acknowledge the presence of the students seated in the Public Gallery. Since the Serjeant-at-Arms has not even brought details of the school, I cannot mention its name.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Temporary Speaker, Sir. We are setting a bad precedent because by the time the students were allowed to enter the Public Gallery, there must be somebody who was notified about them. You are setting a bad precedent by saying that you acknowledge their presence because it has been brought to your attention by one of us. There is a specific Senator who represents them.

Mr. Temporary Speaker, Sir, we met the students at about 1.00 p.m. For their own pride, and the pride of the Senate, we must recognise them specifically.

**The Temporary Speaker** (Sen. Mositet): Sen. Mutula Kilonzo Jnr., I cannot see the students you are talking about from where I am seated. I seriously agree with you that the moment they came in, the Serjeant-at-Arms ought to have indicated that to the Chair with all the details. I order the Serjeant-at-Arms to do so. I acknowledged them because I thought they might be in a hurry to leave. I agree with you fully that we need to know the name of the school, the county they come from and, maybe, their Senator.

**Sen. Sang:** On a point of order, Mr. Temporary Speaker, Sir. Whereas I appreciate what you have indicated, you will note that we had a similar problem yesterday. The Serjeant-at-Arms seemed not to have done the right thing by taking one delegation from our counties to the Speakers Gallery while the other one to the Public Gallery. The same issue appears to be recurring; that they did not take time to inform you about the students' visit. Would I be in order to request that you direct that the Serjeant-at-Arms and the orderlies within the Senate take their job more seriously to ensure that this House is not embarrassed the way we are being embarrassed right now?

These are young leaders in this country. We need to give them equal treatment that we have given to other delegations that have visited this Senate. You need to be firm and direct that the orderlies in this House do their job with the effectiveness that is required.

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, are you on the same point of order?

**Sen. (Dr.) Khalwale:** Yes, Mr. Temporary Speaker, Sir. I request most respectfully, that you withhold the introduction because that does not amount to an introduction. It can only be an introduction after you have said who it is that you are introducing.

Mr. Temporary Speaker, Sir, there are two aspects about that pronouncement from the Chair. Indeed, the first one is that it goes to the record of this House that the school was here. This is a momentous occasion for these children who are present in the Public Gallery. When they come back here as Senators, 20 years from now, the HANSARD will show that such and such primary school was here.

Secondly, the children might be given a question to write a composition about their trip to Nairobi or Parliament. They ought to write in exactly the same mirror image as the other children do when it comes to a visit to this House.

Finally, Mr. Temporary Speaker, Sir, your pronouncement is an accounting document. The accounting officer who spent money on these children could want a proof that they came to Nairobi. The HANSARD record will show that they visited Parliament. Therefore, any money spent by the school or even the parents who paid for the trip, will be properly accounted for.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, I actually want to help the House. Yesterday, I delivered a letter to the Serjeant-at-Arms from the Principal of Barkorua Girls Secondary School which is in my county. I informed them that the girls would be visiting the Senate today. Just before I came in here, I established with the orderlies that the moment they come, they should inform me. However, they did not inform me, but I can see that we have the guests over there.

I just want it to be officially recognised that we have girls all the way from Kisumu who came specifically to study about the work of the Senate. The letter was very specific about that. They want to study about the Senate and, probably, meet some Senators. As Sen. (Dr.) Khalwale has said, maybe, they will have an assignment to write something about the Senate. Therefore, the decorum and etiquette with which we receive them is extremely important. However, I congratulate the school for bringing the students here. I hope that they will be properly recognised by the Senate in due course.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Orenge:** On a point of order. Mr. Temporary Speaker, Sir. The Serjeant-At-Arms may not be able to give you sufficient information about the school and why they are here. If you get that information, it will be half the information. Now that the Senator from the County is here, could he be allowed to introduce the students to the Senate and the Chair acknowledge them. It is not good enough to just say the Speaker acknowledges the presence of students from Kisumu County. There must be a full accreditation and introduction. At this juncture, it is only the Senator for Kisumu County who can do that effectively because I can see the details are not yet here.

Would I be in order to ask the Chair to ask the Senator for Kisumu to give us a full introduction of the school and the group that is here and then the Speaker will acknowledge and welcome them?

**The Temporary Speaker** (Sen. Mositet): Before I give Sen. (Dr.) Machage a chance to raise a point of order, let me say the Office of the Serjeant-At-Arms needs to be serious with their work. I order them just as other Members have raised concerns, anytime we have visitors they need to be taken seriously. The Chair needs always to have the details so that we can acknowledge them in the best way of this House.

**Sen. (Dr.) Machage:** On a point of order, Mr. Temporary Speaker, Sir. Did you notice the breach of security of this House by the security team in the names of Serjeant-At-Arms for allowing visitors whose identity they do not know? I would not really be in support of the statement from Sen. Orenge on the same although it is just civil that Sen. (Prof.) Anyang'-Nyong'o was trying to save the situation, but the fact that a breach of the security was actually committed should be acknowledged and proper reprimanding done.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, as the Chairman of the Committee on Education, I am alarmed when the position of the Speaker or the Chairman, for that

matter, chooses not to recognize students when they come to the Senate. When I am here I see students come in and within five minutes, they go out and others come in. They leave like they are appearing here technically.

We need to recognise they are here to learn more history and civics of this country. If they are asked about Senate or Parliament, proceedings, debates, and motions, among others, they will be in a position to answer accordingly. When they go back, they will write a preamble that they were welcomed by the Speaker and the Senators were happy to see them and they were appreciated. It is also important for the relevant Senator to be informed on time.

It is very important to notice that, of course, we say teachers are on strike, there are some who are concerned about students' plight and they are here because of what they are called for. It is a clear demonstration that there are some teachers who are still with the spirit of making Kenya to be what it should be in spite of the problems.

I support.

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, Sir, it is very unfortunate that this situation has risen and embarrassed the House. I have seen in many reputable institutions that behind there, is a visitors book which I think can keep a very good record since this is a House of records. The leaders of this delegation can come to either side, particularly in the Public Gallery, register their names in the book and save the Senate the problem of not recognising who visits the House. It might be prudent to make available some visitors book where records can be done at all times without interrupting the business of the House.

**Sen. G.G Kariuki:** Mr. Temporary Speaker, Sir, I sympathise with the situation we are in today because I cannot understand the reason we are making this matter to be bigger than what we might think. The reason is that this House is guided by the rules and procedures. I expect our Standing Orders to explain clearly what is supposed to be done when we have visitors in the Speaker's Gallery or the Public Gallery. We all know very well that this is a public House. We are elected to be here on their behalf. Therefore, we need to create a situation where they are comfortable when they come. Imagine a person coming all the way from Kisumu County and when he or she is here, they just appear as if they are in a market place.

My suggestion is whether we can really have enough time to look at the Standing Orders. If they are not clear in terms of this matter, let us stop passing the blame. We are talking about the Serjeant-At-Arms and others and yet we do not know who is responsible to inform the Chair. It is the Speaker's job to tell us what the Standing Orders provide as far as this matter is concerned and that will have solved our problem. But if you let us open a big debate again, personally I do not understand why we are talking. We should follow the Standing Orders of this House, if any.

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF PUPILS FROM  
ROCKFIELDS PRIMARY SCHOOL

**The Temporary Speaker** (Sen. Mositet): This is the time I am receiving the Communication from the Clerk's office and fortunately or unfortunately, the students are

not from Kisumu. I do not know how you identified them Sen. (Prof.) Anyang-Nyong'o from there.

Hon. Senators, I wish to recognise the presence of Class Eight pupils from Rockfields School from Nairobi City County seated in the Public Gallery who are visiting the Senate today. As you all know, the tradition of receiving and welcoming visitors to Parliament is a long time tradition and we shall endeavour to continue upholding it.

On behalf of the Senate and on my own behalf, I extend a warm welcome to the pupils and teachers of Rockfields School.

*(Applause)*

**Sen. (Prof.) Anyang-Nyong'o:** Mr. Temporary Speaker, Sir, my apology is to the Senate because yesterday I delivered a letter of the students from Kisumu County and I think the uniforms could deceive because they are very similar and the Serjeant-At-Arms advised me that as soon as they come in, they will let me know. This is what is called tremendous coincidence; that as I was expecting the students from my county, good Samaritans from another school arrived. We welcome them to the Senate. However, I hope that the students from my county are not too late to come to the Senate today as they were expected to come.

Mr. Temporary Speaker, Sir, I offer my apologies.

**The Temporary Speaker** (Sen. Mositet): Before Sen. Orengo speaks, I would like to clarify that the Chair had already ruled that the Serjeant-at-Arms need to be very serious with their work.

Sen. (Dr.) Machage had raised a very serious issue that the moment people go into the Public Gallery and they are not noticed or acknowledged, that means they are strangers. Then security wise, we could say those are strangers who may do anything in this House. That is very serious. I had already ruled that the Serjeant-at-Arms have to be very serious.

**Sen. Orengo:** Mr. Temporary Speaker, Sir, I am saying this because from the Chair respectfully, you are adding more confusion to a very confused situation. That is why I agree with Sen. G.G. Kariuki that the Public Gallery is always open to the public. That is the fundamental principle. The introductions that the Speakers normally make are when you are on the Speaker's Gallery on invitation. When you are acknowledging the presence of guests in the Chamber, they see you and you see them. However, if there is a group that is sitting in the Public Gallery that wants to be or should be introduced, then you should be notified well in advance.

There is an important principle that Sen. G.G. Kariuki is making; that the Public Gallery is always open to the public. Indeed, any Kenyan who has a national identification card to identify himself or herself and prove that he or she is not a security risk, need not be introduced and can sit in the Public Gallery anytime the Senate is in session.

Mr. Temporary Speaker, Sir, I was getting a bit worried because one time I went to a meeting in Nigeria where there were so many traditional rulers, Senators and former Presidents. When a Prime Minister was making a speech and every time somebody arrived, he had to stop the speech. He would say:-

“Excuse me, there arrives the *Igwe* from Kano State with his entourage and they must be acknowledged.”

We were told that if he did not do so, there would be a big problem.

Mr. Temporary Speaker, Sir, literally, it is not possible for the Speaker to introduce everybody who goes to the Public Gallery. However, if anybody wants visitors seated in the Public Gallery to be introduced, he should go out of his way to tell the Serjeant-at-Arms in very specific terms that so and so or a group of people are not just coming to the Public Gallery, but you would like them to be acknowledged. That is the precedent that has been there in Parliament over the ages and even now.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. Karaba?

**Sen. Karaba:** On a point of order, Mr. Temporary Speaker, Sir. There is always someone called “officer in charge of education” matters in Parliament. He is the one who should be charged with the responsibility of making sure that if students are coming to sit in the Public Gallery, the information should be relayed to the Serjeant-at-Arms, so that you are informed. Otherwise, any other member of the public may come and go unnoticed.

For the purposes of students, it is that officer in charge of education matters who takes them round. This is part of learning; it is not just a matter of coming to sit. They should know the name of the Speaker and where he sits in this House. What is the mace? So that when they come here they see exactly what they have been taught by the officer in charge of education matters. So, it is the officer in charge of education matters who should tell us which school is in the Public Gallery to facilitate recognition.

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, we are through with that one. There is a procedure to be followed by visitors to access Public Gallery. For those who want to be recognised, they can always relay their names and where they come from. If they are institutions, they say so, through the Serjeant-at-Arms.

Next order!

## BILL

### *Second Reading*

#### THE SENIOR CITIZENS CARE AND PROTECTION BILL (SENATE BILL NO. 43 OF 2014)

*(Sen. (Prof.) Lesan on 29.9.2015)*

*(Resumption of Debate interrupted on 29.9.2015)*

**The Temporary Speaker** (Sen. Mositet): Hon. Senators are supposed to contribute. I can see one request.

Proceed, Sen. (Dr.) Machage.

**Sen. (Dr.) Machage:** Bw. Spika wa Muda, nashukuru kwa kunipa nafasi hii ili nitoe mawazo yangu kuhusu Mswada uliopendekezwa kwetu na Sen. (Prof.) Lesan. Mawazo yake yaliangazia wale ambao wamepewa nafasi na baraka za Mwenyezi Mungu

kuishi maisha marefu, miaka mingi na kuhitimu ule umri ambao wanaweza kuitwa wakongwe. Ni kweli kwamba kila jamii ina wakongwe. Kila mtu anayezaliwa lazima ajue kwamba, kwa baraka za Mungu, atafika umri huo. Ni kweli kwamba kuna jamii zingine ambazo zina uwezo, mila na desturi ambayo kwa miaka mingi imetekelezwa kuwatunza hawa. Pia ni kweli kwamba kuna jamii fulani ambazo hazina uwezo huo wa kuwatunza wazee wao.

Mawazo ya Sen. (Prof.) Lesan yanaambatana na Kifungu cha 57 ya Katiba ya 2010 iliyopitishwa na Wakenya wote nchini. Kifungu hiki kinasema wazee ni lazima watunzwe. Tuwape uwezo wa kuishi, kwa mfano, chakula, nyumba na kadhalika. Hizi ni haki za kimsingi. Na ndiposa amewasilisha Mswada huu ili kutunga sheria ya kuweza kuangaza mawazo na nguvu za Serikali na kupata nafasi ya kupendekeza kutumika kwa pesa za Serikali kwa ajili ya jambo hili la maana la kuwatunza wazee wa jamii zetu. Kwa mawazo alifikiria kwamba uzee wa ukongwe utambulike

Mzee ni kuanzia umri wa miaka 65. Ingawa kwa Umoja wa Mataifa, utambulisho huo unaanzia umri wa miaka 60. Sisi hapa kwetu watu hustaafu wakiwa na umri wa miaka 60. Mimi ninafikiria kwamba labda angependekeza umri huu upunguzwe hadi miaka 60 ili uwe wakati wa kutambua uzee.

Lakini hata hivyo lazima sheria ziwe ngumu ili kuondoa wale wakora ambao wangetaka kutumia huduma hii bila sababu kamili. Kuondoa ufidhuli, uvivu na kutowajibika kwa jamii fulani ambao hawataki kuwatunza wazee wao. Si kwamba kila mtu aliye na umri huo lazima apendekezwe na kupelekwa kwa nyumba ya wazee au ya huruma. Ibainike na kutambulika kwamba mila na desturi ya Mwafrika hairuhusu hivyo. Kwa hivyo wale watakaopelekwa kwa nyumba hili ni wale ambao wamechunguzwa na kudhibitishwa kabisa kwamba ni watu ambao hawajiwezi kabisa ili wapewe huduma kama hizi. Isiwe kama vile Sen. (Dr.) Khalwale alivyosema kwamba haiwezekani kwamba sasa mtu akiwa mzee atupwe kwa hili jumba na wakati huu ndio unataka kucheza na wajukuu, vitukuu na ukibahatika, vilembwe. Wakati huu ni wakati wa kufurahia maisha yako na jamii yako.

Lakini Mungu akikujalia kuwa na uwezo kamili wa kuweza kuishi vyema, basi ni wajibu wa Serikali kukutunza wewe kwa sababu kwa miaka yote uliyoishi, ulilipa kodi. Labda hukujaliwa mtoto au mali na umejipata ukiwa na umri huu wa kutojiweza.

Mswada huu una madaraja kadhaa. Ameerodhesha daraja nane. Kwanza alitaka kutambua uzee ni nini. Anataja juu ya haki ambazo zinahitaji kuangaliwa na kuangazwa kulingana na Kipengele 57 cha Katiba; ni vitu gani ambavyo vitawajibika kwa Serikali kuingiza; watu wataratibishwa namna gani, orodha ya hao wazee itatengenezwa namna gani; pia kuunda jumba la huruma linahitaji nini? Lazima kuwe na mahitaji kwa wale wanataka kuunda jumba kama hili. Lazima kuwe na sheria ya kulivunja jumba hili. Lazima kuwe na kamati kuu ambayo itaangaza kwa kutoa sheria, haki na ruhusa kwa kikundi fulani au mtu fulani kuunda jumba kama hili.

Sikudhani kwamba mawazo ya Sen. (Prof.) Lesan alikuwa anataka sisi tuyapoteze na kuyatupa mawazo, mila na desturi ya Mwafrika, kwamba wazee wote wanaofika umri huo watupwe kwenda kuishi kwa jumba la wazee. Kama mawazo yake ni hayo, basi ni duni. Lakini mimi sifikirii hivyo; yeye amefikiria na utu alionao, jinsi wazee ambao wamefikisha umri huo na hawana uwezo wataishi na kutunzwa.

Katika jamii fulani kama vile jamii yangu ya Kuria, ni aibu kumwacha mzee mkongwe kwenda kuishi kwa jumba la huruma. Mila zipo; kama mzee hana watoto, basi

ukoo unawajibika kumtunza. Tujuavyo ni kwamba tunavyostaarabika, na vile mali zinaendelea kupunguka; wakati huo wakuria walikuwa na ng'ombe wengi lakini wakati huu hakuna maeneo ya kulisha, mali imepungua na ubinafsi umeingia kwa jamii.

Lazima tukubali kwamba hili linatendeka. Wengine wameamua kuishi Nairobi na miji mikuu na mila na desturi zimepotea. Wengine hawajui mila zao. Lazima tukumbuke ya kwamba huo ndio ukweli. Si kila jamii nchini inatunza mila na desturi vile ilivyokuwa wakati wa zamani.

Hivyo basi, tunawajibika kama taifa kuwatunza hawa. Ni lazima tuje na sheria ya kutengeneza mahali pazuri pa kuwatunza. Lakini ingawa Mswada huu wasema hivyo, hakusema wazee watapimwa vipi ili kudhibitisha umri wao, kama kuna kikundi ambacho kitajitokeza au kama tunavyoita kwa kizungu "*social services*", kuchunguza mazingira ya wale wazee ambao wamekuja kituoni kutunzwa au kikundi ambacho kitafanya mahesabu kuona kwamba wazee hawana uwezo, kwa sababu kuna wengine wazembe ambao watataka kutunza mali zao lakini waishi kwa mali ya umma.

Lazima tuwe na kipengele ambacho kitaweza kutoa kile kikundi ambacho kitaweza kuwachunguza ndani na nje wazee ambao wanataka kutunzika kwa mfuko wa umma. Hata hivyo, lazima jamii yao ichunguzwe. Ni kwa nini wanatekeleza wakongwe wao na kwa nini jamii haitaki kutunza wazee wa jamii zao.

Hili ni jambo kubwa, si kutoka tu na Mswada kama huu. Lazima kuweko na vipengele vya kufungia ukora. Ifikapo mwaka 2015, kama alivyopendekeza Sen. (Prof.) Lesan, kama wewe ni ajuza uanze kufunga virago kwenda katika jumba la huruma. Je, unastahili? Lazima hili swali lijibiwe. Lazima kuwe pia na kipengele cha kuhakikisha kwamba watu hawatafanya biashara kuwatumia wakongwe. Wengine watajitokeza kwa kusema kuna ruhusa na sheria ya kujenga majumba ya huruma na biashara itaanza. Haya mambo yataangaliwa namna gani?

Tutajuaje umri wa mtu ambaye ni mzee? Kwa hivyo, gharama ni nyingi. Si chakula tu au nyumba. Kuna magonjwa ya kutibiwa na kadhalika. Je, Serikali ina huo uwezo wakati huu? Kama hata wameshindwa kuangaza mawazo yao kuwalipa walimu Ksh1.3 bilioni kwa mwezi kuongeza kwa ile gharama wanayotumia kuwalipa walimu, tayari kuna uzito. Sasa tumeleta Mswada wa kuongeza gharama zaidi kwa Serikali. Huo uwezo upo? Haya ndiyo maswala ambayo lazima tujiulize kabla ya kupitisha huu Mswada.

Ninafikiria hili ni jambo la hekima na baraka kwa vizazi ambavyo bado vina uwezo kuangaza mawazo na nguvu zao na kufanya mipango kamili ili kuwatunza wazee ambao wamefika umri huo wa ukongwe.

Sen. (Prof.) Lesan, mimi nakuunga mkono.

**The Senate Minority Leader** (Sen. Wetangula): Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute to this Bill. Yesterday, I told the distinguished Senator for Bomet County that when I speak on this Bill, I will oppose it. I have come to give effect to that promise.

Mr. Temporary Speaker, Sir, the Senator purports to extract the provision of Article 57 of the Constitution as the basis of bringing this Bill. Article 57 of the Constitution is very clear. It states that:-

“The State shall take measures to ensure the rights of older persons-

- (a) to fully participate in the affairs of society;
- (b) to pursue their personal development;



- (c) to live in dignity and respect and be free from abuse and,
- (d) to receive reasonable care and assistance from their family and the State.

That means that older people with capacity should not be locked out of public appointments, other facilities and opportunities simply because they are older persons.

To pursue their personal development, those who can be contractors and access Government contracts should not be discriminated.

To live in dignity and respect and be free from abuse, it is a constitutional provision available to every citizen of this country. We, Catholics, recognize life from conception to death – a child must live in dignity and free from abuse and receive reasonable care and assistance from their family and the State. We have always done this. The State is supposed to make sure that there is provision of security for all citizens of the country, including senior citizens. It must make sure that there is adequate medicare available to every citizen, including senior citizens. It is the responsibility of the State to make sure there are passable roads and an enabling environment to flourish if someone is a businessman and so on and so forth.

The way this Bill is framed, the distinguished Senator for Kirinyaga, who is about 70 years---

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

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. Karaba?

**Sen. Karaba:** Mr. Temporary Speaker, Sir, the Senator for Bungoma is insinuating improper motive on my position. Is he in order to imagine that I can go by the numerical age that he is trying to suggest? I could be younger.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, I am sorry. I simply said; “who may be,” because every time, he recites his life achievements and schools where he has been a head teacher, he can only be closing to 70 years. However, I stand guided. It means that if this Bill is effected, automatically Sen. Karaba qualifies to go to a borstal home and be looked after by the State and the county.

*(Laughter)*

This Bill goes on to add stress to counties. There are so many facilities and issues of development that counties with a minimum envelope available to them, have to do to better the lives of people. We are Africans. Once you become a grandfather or reach the age that the distinguished Senator is calling “senior citizen” - he is putting it at 65, which is the retirement age, and I believe that is where he picked it, people at the age are very active. If they are farmers, they are busy driving their tractors and doing all manner of things.

In African families, when we were growing up as little children, our parents would send us to go to sleep in the houses of our grandparents. Before we slept, we would be told stories, given wisdom, told how life was and how society has shifted from where it was to where it is. Children would pick wisdom from those older people.

It is very dangerous to try and create a situation where we make advanced age look like it is a barrier or stigma. That when you get to 65 years, your family can disown you, take you to a borstal home to stay there and look miserable. This is a home where

you live with people whom you have never met in your life. At 65 years, you are unlikely to make good new friends and you will simply be living with acquaintances.

If you go to a village in Bomet County where the distinguished Senator comes from, there are people that he went to Standard One with, did Kenya Certificate of Primary Education (KCPE) with, got circumcised with, went to Form Four with and came to witness his marriage and he witnessed theirs. At every stage, you create an impregnable bond in life, to the extent that when you have a function in your home as an elder of the Maasai, the first people to invite are those that you have those distinctions with in life at every stage. "*Niitie wale niliyotahiriwa nao.*" They come, you sit and talk different things. You call those who escorted you to get married and you talk different things. You are unlikely to fish them from these borstal institutions to help you do those things.

We are all African, Sen. (Prof.) Lesan included. In Africa, we take pride in looking after our parents. Even those who are deprived and are poor in society have a sense of pride in looking after their aging parents. You invite your father or mother to come and stay with you. Even if they do not stay with you in the rural areas where 80 per cent of Kenyans live, we live in very closed communities. Even if your father is widowed, you will find that his son invites a *mzee* to his house every evening to have dinner with the family in order to feel appreciated, loved and part of the family and society. After that, he walks back to his house to go and sleep.

However, if we want to ostracize, as it were, our aging population and dot every county and village with homes to put old people, then we are losing direction as a society. We have gotten it all wrong. There are exceptional cases like orphans. I am sure in one or two places where we come from, you will find a school dedicated to orphans, but nobody says every orphan must be taken to that school. I can have orphaned children of my father, brother or sister, whom I adopt, live with and bring them up as part of my family. That is how Africa has grown and lived.

Clause 13 of the Bill says:

"Prohibition of abuse of senior citizens."

Abusing anybody is a crime. So, you do not even need to put it in any law now, that abusing senior citizens physically is a crime. Even if you abuse or molest your own child, wife or neighbour however old or young, it is a crime. So, it does not add value to our penal system to say that you prohibit abuse of senior citizens. In fact, we must and we know that we have to uphold the right to dignity, and live in good conditions as enshrined in the Constitution.

I urge the distinguished Senator to reconsider this Bill because when it comes to voting, we will vote it down. We cannot start doing things that reduce and not add value to our society. Let me give you an example. There are old people who are now aging out and they went to the World War in Burma, India, South Africa and Tanganyika as it was then was called. They carry so much wisdom.

I was listening to the British Broadcasting Corporation (BBC) and an old man in Zambia narrated how they were taken to World War II. The Japanese had a very distinguished record of cruelty at that time and everybody was scared of them. So, this *mzee* said: "When we reached there, as Africans, two of our colleagues were killed by the Japanese in the first week. After another week, three we killed. So, we thought of how to scare these Japanese from killing us, because they were only attacking black people; I

believe perhaps out of racial bias.” He said: “We decided that we show these people that we are black because we are different. We decided to run and catch one Japanese soldier, pulled out our bayonets and started eating him alive. You would just slice a piece of meat from his body and eat as others were watching.” So, the Japanese, not only learnt to respect the African soldier in the war, but to also fear him. Whenever they saw an African soldier coming, they took off.

How would anybody get that story of heroic acts by our people, if you put them in a borstal institution and lock them up there because they are old? You cannot do that!. You do not expect people who went to war as potters, were shown how to hold a rifle and shoot, to come back and write books. It is what we call oral literature that is passed on by sages; by word of mouth. Eventually, you will find somebody who can sit and document for us to read.

I am sure that even when you read those mercurial stories in the books of Prof. Ngugi wa Thiong’o and Chinua Achebe’s books, some of them are stories told from age to age until they reach a person who is well educated with the capacity to put it in writing. I want us to benefit and not destroy our “Africanness” which is caring, loving and communal - and to hold on to the people that we have lived with and still continue to live with. If you are truly African and come from a caring community, when you go home, you will see your old aunty, about 80 years, holding a stick and slowly striding into your home. She will come there and say, “Son of my brother, I have just come to see, greet and feel you.” She will not even ask you for anything. However, if she is in a borstal home, where will she find time to come and see you?

Mr. Temporary Speaker, Sir, whenever we go to funerals where we have lost senior citizens, we say that we are not mourning, but celebrating the life we lived with those great people. Everybody stands up and recites how they benefitted from the wisdom of the old persons. Sen. (Prof.) Lesan, how would you imagine your three year old grandson going to look for you in a borstal home? He would need to pass through a gate where there are watchmen and then fill out forms. By the time they realize that they had a grandfather, they are 18 years old. There is no bond, affinity or even the feeling that somebody like a grandfather exists in life.

It is ingenious to bring a Bill and I salute you for that Senator, you must have put in a lot of work. However, sometimes you can put a lot of work into nothing when you bring a Bill that is not going to help. We have Mji wa Huruma in Kasarani where our distinguished---

**Sen. Lesuuda:** On a point of order, Mr. Temporary Speaker, Sir. Is the distinguished Senator for Bungoma County in order to insinuate that Sen. (Prof.) Lesan put in a lot of nothing just because he does not agree with the content of the Bill? I do not think that it is in order.

**The Senate Minority Leader** (Sen. Wetangula): Mr. Temporary Speaker, Sir, the distinguished fair lady did not understand me. I did not say that he put nothing in. I said that sometimes, you can put a lot of work into nothing, meaning that you can work very hard, but the end result becomes zero; a product that you cannot market. That is what I meant. In fact, I salute him. The Bill is well drafted only that it has ideas that are unattainable.

The Constitution places a premium of responsibility on the State. The State is not there to disrupt the tranquility of families, which is what this Bill is trying to do. I have

also gone through the Bill. I wonder how it will be decided who a senior citizen is that deserves to go to those homes. Yesterday, we saw on the news the sharing of the estate of the late Mbiu Koinange. We all know that he was in the first Cabinet, but I have not read anywhere where he was distinguished for being more hardworking than ordinary people or that he was a serious businessman. However, you saw the estate that he had.

Any reasonable Kenyan can conclude that his estate is a product of theft. There is no way a person who was a Minister for about 10 years can amass wealth to that magnitude, especially at Independence when the challenge of building a nation was so high. There are many people like him, but the point that I am making is that you will find an obscenely rich person because of meanness striding into a borstal home to benefit from free things when he has billions of shillings.

Mr. Temporary Speaker, Sir, I remember a friend of mine whom we served with in the Seventh Parliament and an immensely wealthy man. One time he invited me for lunch and so we agreed to meet at the Serena Hotel. At that time, I was sitting on the Chair like you do because I was a Member of the Speaker's Panel. We happened to sit until 1.00 p.m. instead of 12.30 p.m. The tycoon went to Serena Hotel, sat there, but he could not buy himself even a bottle of water. He was a billionaire and I was a young lawyer with nothing. He waited until I went there and asked him: "Mzee, why did you not have lunch?" He answered: "But you are the one buying lunch!" Such a man who is so mean to the extent

of self-denial will want to go to the homes to get free things. Therefore, we require clear criteria on that.

With the kind of corruption that we have in Kenya, you will find that it is people with capacity and ability who will end up in those homes and the poor will be left out. We have asked the Government to show us how money for Social Safety Net Programmes was used. I can see the distinguished Senator nodding. When you go to the counties, you will find district commissioners, county commissioners and governors have put their relatives on the list of people who cannot afford a life. They get the money and deny the poorest of the poor access to the offices, entry into the data and getting the money. That level of corruption is likely to crop into this programme. I would not be surprised to see some rich fellows dropping their parents in the morning to have breakfast, lunch and dinner and then picking them to go home. We do not want to create a society with a syndrome where people live like that.

Mr. Temporary Speaker, Sir, I was talking about *Mji wa Huruma*. When the late distinguished Cardinal Otunga – whose beatification is being awaited and I believe he will be the first Kenyan born saint in due course – retired, he went to live in *Mji wa Huruma* in Kasarani. We used to visit him there. One time, I asked him: "Mzee, why did you come to live here?" He said that it was by choice because he came from a very large family. Some of his brothers are very well off. In fact, there is a 50 acre parcel of land in my constituency then that his father left for him. However, he bequeathed it to the church. He told me: "My son, I came to live here by choice. I led a life of serving God and I have come to live here with these elderly people because we want to share a communion of service to God." Most of them were retired priests and so on. You can understand that if he decided to live differently.

There are very many bishops who have retired into wealth, busy driving big cars and with beautiful homes. Some have even ended up in Parliament. You have seen

bishops who rent television stations every morning. As you enter the church, they will tell you; “*Bahasha iko mlangoni.*” This is a matter of choice.

Mr. Temporary Speaker, Sir, we want such homes to be rare. They should be set up for a very clear purpose, where not just anybody above 65 years is perceived to be a senior citizen. In fact, we must redefine what a senior citizen is. I do not believe 65 year olds are senior citizens. There are some 65 year olds whose thinking is like that of 18 year olds. We must also look at the distinction of what you have done in life, what you have produced and what you can do. You do not just lay about drinking, marking time and doing all sort of things until you reach 65, then you go to a home for the old people to eat, sleep and live there. What society shall we be building?

When you go to Japan, you will find 100 year old people walking to work. In China, a country with the largest percentage of old people on earth, people work up to the age of 98 or 100 years. At the age of 100 years, somebody still lives on his own, goes to work, comes home, cooks his food and eats it. If we say, at 65 years of age, people have to go to homes to be fed like in hotels, we will be destroying our country and the prospects for the future.

We want to be a newly industrialized country by 2030, a vision that was properly designed by the former President, *Mzee* Mwai Kibaki, which the Jubilee Government has abandoned. I have not heard the Jubilee Government – and my colleagues across the Floor can tell us, on any single occasion, mention Vision 2030 which was a fantastic vision for this country. They have isolated a few programmes from Vision 2030 for purposes of cutting deals and taking bribes, for example, the Standard Gauge Railway (SGR) which they are rushing to. They have forgotten that it was meant to serve a purpose. It was meant to be part of a larger complex economy that is to grow and make Kenyans’ life expectancy rise.

In some counties in this country, the life expectancy is as low as 43 years from the data that we have. Therefore, from Sen. (Prof.) Lesan’s prescription of senior citizens, some counties will even be left out because where life expectancy is 43 years, you can imagine that even if you build those homes and say they will come in at 65 years, there will be hardly anybody to live there.

Mr. Temporary Speaker, Sir, we want to build a country of people who work. There used to be a *Mzee* called Mr. Njuguna who used to sell meat to big meat eaters near Safaricom House. He died recently at over 70 years of age. But he was there, weighing, slicing and roasting meat. He was popular to many people. I notice that even Safaricom had to improve his structure. A man like that is one to emulate. There are so many hard working people, but when we create a situation where we will start rewarding idlers and lazy people, then we will not be doing the right thing.

I want the counties and the national Government to partner in strengthening safety net programmes with a very clear criterion. If my grandfather requires help and Sen. Lesuuda has the capacity to help him. Let us evaluate clearly and see to the welfare of the poorest of the poor, but you do not help them by stripping them of their association and dignity by putting them in what looks like – those homes are actually prisons. Those who drink cannot find alcohol there, those who smoke may not do so there and those who want to walk around markets and sit with people cannot do so. When you go to a boarding school, you do not have the right to wake up every morning and go to the

market to count whatever you want to, you have to abide by the rules. People must be free, live, associate with and speak to those they want to speak to.

Mr. Temporary Speaker, Sir, I want to leave the opportunity for somebody else to contribute. I urge Sen. (Prof.) Lesan, if he is truly African, to reflect and see how African societies, including his County of Bomet, treat their elderly citizens; you do not tie their hands and take them to institutions, you make it easy for them to live and be appreciated. For the growing young people to know that, Sen. Karaba, for example, has lived to this age because he did not do the following---. They can only hear that from him. That if he lived recklessly, he, probably, would never have reached the age he reached and he is the one who passed that information, knowledge and experience to the children that he lives with. He will not do that from a borstal home.

Mr. Temporary Speaker, Sir, with those remarks, I beg to oppose this Bill.

**Sen. Ong'era:** Mr. Temporary Speaker, Sir, thank you for giving me this opportunity so that I may contribute to this Bill. Let me begin by congratulating Sen. (Prof.) Lesan for bringing up this Bill which attempts to provide for home based care for senior citizens.

Article 9 of this Bill provides for family and community care of senior residents and citizens of this country. What Sen. (Prof.) Lesan meant was the establishment of a welfare fund or scheme for senior citizens of Kenya. However, this has not come up clearly under the Bill and it is something that the distinguished Senator should look at.

Mr. Temporary Speaker, Sir, we know that our African society, particularly in Kenya, has not reached a point where we can have a mass evacuation of our elderly citizens. Perhaps, this needs to come out clearly. In the Bill, I have not seen a clear distinction of how senior citizens will be kept in these homes.

In Section 28, the distinguished Senator has elaborated clearly how the care for senior citizens will be done in the homes and their facilitation in terms of quality care for the citizens. This would be a very good thing, had he established within the Act how the welfare state could be provided and whether there will be funding for such activities.

Mr. Temporary Speaker, Sir, I have challenges in certain sections that have been raised by the distinguished Senator and which are here for debate. These are Sections 6, 10, 12, 16 and 17, which I oppose.

In Section 6 of this Bill, there is no way we can start involving the national Government in this particular exercise, especially for the provision of care for the senior citizens, when we are devolving services and bringing them closer to the people. It would have been better if Section 6 dealt with the county governments because they are closer to the people and senior citizens and could know the problems facing them.

Section 2 attempts to establish an Authority. This means that we will go back to nationalizing systems of governance when we have devolved these systems. Therefore, I do not support the establishment of an Authority. This matter could have been left to the county governments to manage within their departments and take care of home based care for senior citizens.

Section 10 which I am also opposed to says that:-

“Each county government shall establish and implement community based programmes for the care and protection of senior citizens residing within their counties.”

This would be a very expensive exercise for the counties to carry. We know that they do not even have enough funds for services that they have been allocated, for

example, early childhood care and roads construction, which could have been left within the management of the national government. If this Government cannot pay the salaries of teachers, how would they manage to establish home based care for senior citizens because there will be over a million of such houses which will be provided for senior citizens?

Section 12 of the Bill goes on to say that the executive committee members shall be delivering home based care. This is an onerous task that we are giving the county governments which are already burdened with more programmes. This would rather be left to the management in an African home set up where we have managed to take care of our elderly and we will continue to do so with a lot of dignity and care.

I am opposed to Section 16 which provides that a county government may establish and maintain residential home for senior citizens. This is the same issue of funding because it will be a very expensive exercise for county governments to undertake.

As I said, if the national Government cannot pay teachers where will they get money for the establishment of these homes?

Section 17 which I'm again opposed to, say:-

“That a person who intends to establish a home for senior citizens shall make an application for registration to the executive Committee in the prescribed form.”

With due respect to the distinguished Senator, if he could look at the law under the Children's Act which provides a guideline on how those homes should be established, I would request that we harmonize this law to avoid conflict of laws.

The intention by the distinguished Senator in presenting this Bill is very good. I would urge him to look at some of these clauses, redefine them, so that they can give us a Bill that can be supported and we have a bi-partisan approach in supporting our senior citizens.

Some of the things I would have been pleased to see, included in this Bill would have been; how do we continue paying our senior citizens because there is a fund that the government has established? I would have been happy to see a clear legislation that clearly states the amount the senior citizens would be receiving, establishment of a fund that can manage them without removing them from the love and care of their home-based area.

We know that a number of our senior citizens are not receiving this money established by the State, especially in the western part of this country. Many of them have never been paid for a very long time. If they are paid, it is very skewed, say, in a very small area where the area chief decides to pay those close to him or her. This fund needs to be looked at, so that all our senior citizens are properly put into the necessary data clearly, with their names so that they can benefit from the fund. We do not want to see a skewed way in which the fund operates.

I support.

**Sen. Lesuuda:** Mr. Temporary Speaker, Sir, I would also like to contribute to this important Bill. Just like my colleagues, I also have some reservations to this Bill. I presume the intent from the able distinguished Senator, Sen. Lesan, is definitely well-thought and has good motive. However, the content of the Bill leaves a lot to be desired, especially in the context of how we, as Kenyans, or Africans, have continued to live, especially with our family members and how we take care of our parents.

When I look at the definition of senior citizens at 65 years, which my father is just about to reach, I think of him being detached from us and put in a home. At whatever state that he would be, I would tend to rethink about it. It has nothing to do with affluence, whether you can take care of your family member or not, but it is about the attachment that we, as Africans, have for our relatives whichever state they are in. It is something that we pride ourselves in.

When we look at the culture of the Western nations, they have provisions of having homes, where at a very early age, a child goes away and has no link with the parents. It is nothing to be desired. It is nothing we, as a country, or a people who value togetherness and being with our families, would want to adopt.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Mositet): Order! Sen. Lesuuda, you will have an extra 12 minutes when this Bill comes back for debate.

Hon. senators, it is now time for interruption of the business of the Senate. The Senate, therefore, stands adjourned until tomorrow, Thursday, 1<sup>st</sup> October, 2015, at 2:30 p.m.

The Senate rose at 6.30 p.m.