

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 5th November, 2013

*The Senate met at the Kenyatta International
Conference Centre at 2.30 p.m.*

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

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

The Speaker (Hon. Ethuro): Hon. Senators, we have the requisite quorum, we may commence our business.

PETITIONS

TAX REFUNDS TO TATA CHEMICALS BY KRA

Sen. Mositet: Mr. Speaker, Sir, this is a petition made on behalf of Eng. Jackson Muchira Mbui. On behalf of the petitioner who is the managing director of Tata Chemicals, Magadi Limited, I wish to present the following petition to the Senate.

The Undersigned being the managing director of Tata Chemicals, Magadi Limited, draws the attention of the Senate to the following:

THAT Tata Chemicals, Magadi Limited, East Africa, is the largest soda ash manufacturer and one of Kenya's leading exporters and the company is an important part of the socio-economic fabric of Kajiado County where the soda ash facility is based. The company was established in 1911 and is situated 120 kilometres south-west of Nairobi City. It is a major contributor to the economy of Kenya and part of the Tata Group, a global brand respected for its ethical business standards, focused on community and environmental sustainability. The company is an equal opportunity employer with over 1000 employees and has established numerous successful initiatives focusing on education, health, water, employment and infrastructure for the benefit of the local community. In the last financial year, the company spent Kshs280 million, which is equivalent to about 4.5 per cent of its annual revenue, on community support activities.

The company remits Value Added Tax (VAT) to the Kenya Revenue Authority (KRA) as required by law but the Authority has failed to refund over Kshs1,440,530,729, being the amount due in tax rebate, thereby creating a serious cash flow crisis in the

company which is impacting negatively on its operations. Although the KRA has disputed part of the amount, there is an undisputed figure of Kshs742,815,181 which is long overdue for refund. Tata Chemicals has held several meetings with KRA to resolve the matter and also the KRA has visited the company and carried out an audit where it agrees that it owes Tata Chemicals an undisputed refund but has made no effort to make payments.

The matter is in respect of which this petition is made is not pending before any court of law or constitutional legal body. Therefore, your humble petitioner prays that the Senate of the Republic of Kenya, calls upon the KRA to refund Tata Chemicals the undisputed figure of Kshs742,815,181 to enable the company stabilize its operations and continue with its corporate-social responsibility activities which remain crucial to the local community.

Mr. Speaker, Sir, the second prayer calls upon the KRA to confirm audit findings on the disputed amounts with a view to resolving the refund claim as appropriate.

REPAIR OF MAGADI ROAD

Mr. Speaker, Sir, that was the first petition, the second one is a petition made on behalf of Eng. Jackson Muchira Mbui. On behalf of the petitioner who is the managing director of Tata Chemicals, I wish to present the following petition to the Senate.

The undersigned being the managing director of Tata Chemicals, Magadi Limited, draws the attention of the Senate to the following:

THAT, Tata Chemicals Magadi Limited, East Africa, is the largest soda ash manufacturer and one of Kenya's leading exporters. The company is an important part of the socio-economic fabric of Kajiado County where the soda ash facility is based. The company is an equal opportunity employer with over 1000 employees and has established numerous successful initiatives focusing on education, health, water, employment and infrastructure for the benefit of the local community. The company owns and runs a 146 kilometre railway line stretching from Magadi to Konza. It also constructed Magadi Road which it handed over to the Government of Kenya.

Following the last long rains, Magadi Road was extensively damaged and a number of bridges destroyed. The Government appointed a contractor to repair the road and bridges but the contractor has not completed the work owing to non-payment of his dues. Tata Chemicals has held several meetings with the Kenya National Highways Authority (KeNHA) and the contractor but the road and bridges continue to deteriorate and the work is far from complete. The onset of the expected short rains will make the road inaccessible disrupting the business of the company and movement of communities in Magadi who depend on the road for movement from one point to another. The road is nearly unmotorable owing to many huge potholes that stretch between Kiserian and Magadi.

The matter in respect of which the petition is made is not pending before any court of law or constitutional legal body. Therefore, your humble petitioner prays that the Senate:-

(i) Urges the Government to settle the contractor's dues in order to enable him complete the repair works;

(ii) Urges the Government to allocate adequate funds for maintenance of the road.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): If you look at your Standing Orders, you are allowed to comment and maybe that is what you may wish to do.

Sen. (Dr.) Machage: Mr. Speaker, Sir, as I support the two petitions brought to the House by the Senator for Kajiado, I would like to comment that this is just a replica of very many situations throughout the country, that is, negligence of maintenance of roads and non-refund of taxes so accumulated and taken from companies to the relevant people. It is a shame that a system that is supposed to be very well audited with all the brains in the country, fails to encourage citizens of this country and indeed investors to even pay more taxes to this country. An outstanding amount to the tune of nearly Kshs180 million due to Tata Chemicals is an abhorring amount which is enough to bring down a company that is known to have been in this country for the last 50 years and above.

It is my prayer that this Senate not only ensures that this is done by the relevant authorities but really condemns this kind of situation which includes contractors being given a duty to repair a road and they dilly-dally around until the rains come again. The company is very much in order to complain that they are likely not to have a road to Magadi when the short rains start.

I support.

The Speaker (Hon. Ethuro): The Standing Committee on Finance, Commerce and Economic Affairs and the Committee on Energy, Roads and Transportation, if you look at Standing Order 224(2) which says that whenever petitions are committed to a Standing Committee, the Committee shall in no more than sixty calendar days from the time of receiving the prayer respond to the petitioner by way of a report. So, take note.

Sen. Karaba: Mr. Speaker, Sir, three weeks ago I sought a Statement from the Chairperson of the Committee on National Security and Foreign Relations concerning the escalating crime wave in Kirinyaga County culminating in the kidnapping of 11 people, living three others dead. Since that time, we have not heard any Statement from the Chairman.

The Speaker (Hon. Ethuro): Order, Sen. Karaba. Are you seeking a Statement?

Sen. Karaba: I am trying to find out what happened to the Statement I sought.

The Speaker (Hon. Ethuro): Order! We are on Order No.4, Sen. Karaba.

Sen. Karaba: Sorry, I am ahead of time.

The Speaker (Hon. Ethuro): Next Order!

NOTICES OF MOTIONS

APPROVAL OF SENATORS TO MEMBERSHIP OF SENATE COMMITTEES

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

THAT, pursuant to Standing Order Nos.173, 177(3) and 178, the Senate approves the following Senators nominated by the Rules and Business Committee to be members of the respective Committees as indicated below:-

(i) The Rules and Business Committee - Sen. Abdirahman Ali to replace Sen. Moses Wetangula.

(ii) The Standing Committee on Finance, Commerce and Economic Affairs – Sen. Mutula Kilonzo Jnr. to replace Sen. Harold Kimunge Kipchumba and Sen. (Dr.) Khalwale to replace Sen. Wetangula.

(iii) The Standing Committee on National Security and Foreign Relations – Sen. Kennedy Mong’are Okong’o to replace Sen. Wetangula.

(iv) The Joint Committee on National Cohesion and Equal Opportunities – Sen. Godliver Nanjira Omondi, to replace Sen. Harold Kimunge Kipchumba.

(v) The Joint Committee on Parliamentary Broadcasting and Library - Sen. Godliver Nanjira Omondi to replace Sen. Kanainza Daisy Nyongesa.

(vi) The Standing Committee on Health, Labour and Social Welfare – Sen. Paul Njoroge Ben to replace Sen. Linet Kemunto Nyakeriga.

(vii) The Sessional Committee on Implementation – Sen. Paul Njoroge Ben to replace Sen. Linet Kemunto Nyakeriga.

ISSUANCE OF FIREARM LICENSES TO KENYANS ABOVE THE AGE OF 30

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

THAT, aware that many Kenyans in their prime years have lost their lives at the hands of criminals and terrorists; concerned that majority of those killed are either employers or employees who form Kenya’s labour force and therefore contribute immensely to the economy of the country; further concerned that many children are orphaned and, in many instances, property lost as a result of the criminal acts; noting that this problem has caused numerous investors to relocate elsewhere in the continent since they are unable to protect themselves and their property; the Senate urges the national Government to issue licenses to possess firearms to Kenyans above the age of 30 years who apply to be issued with firearms and that this be done after thorough vetting to ensure those licensed can handle the firearms they are issued with responsibly.

DEVELOPMENT OF WASTE MANAGEMENT REGULATIONS AND FACILITIES

THAT, aware that cities, towns and urban areas in Kenya are increasingly getting overpopulated leading to overstretching of services and amenities; concerned that improper management of waste has become a major cause of pollution of neighborhoods, water sources and other natural resources leading to rise of environment-related diseases which cause many deaths; further concerned that in most urban areas, waste is dumped in an uncontrolled manner posing a great challenge to the wellbeing of urban dwellers, particularly those living near dumpsites; acknowledging that the problem continues to rise despite the efforts made to mitigate the problem through various statutory bodies, private entities and communities; the Senate calls upon the national Government to take immediate steps to develop effective waste management regulations and put in place proper disposal facilities, including for harmful waste and that this be done in consultation with all key stakeholders.

STATEMENTS

The Speaker (Hon. Ethuro): Let us have requests for Statements first, starting with Sen. Obure.

CIRCUMSTANCES SURROUNDING THE
DEATH OF HENRY NYABUTO OMWANGE

Sen. Obure: Mr. Speaker, Sir, the request I am making is in respect of Henry Nyabuto Omwange, a civil servant attached to the Forest Department at Ogembo District Headquarters in Kisii County, whose body was found lying next to a stone on River Gucha. We are asking the Cabinet Secretary for Interior and Coordination of National Government through the Chairman of the Committee on National Security and Foreign Relations to explain the circumstances under which Henry Nyabuto Omwange lost his life and specifically to address the following:-

(i) whether he is aware that on the evening of 20th August, 2013 at around 7.00 p.m. the late officer while at his home received a telephone call from someone asking him to go back to Ogembo Town for a short meeting to which he obliged.

(ii) Whether he is aware that about 9.00 p.m. that evening the late Omwange contacted his family through the telephone informing them of his predicament and warning them that he was being held by people and he might not come back home alive.

(iii) Whether the Cabinet Secretary is further aware that the distressed family immediately reported the matter to the nearby Ogembo Police Station seeking assistance to rescue the Late Omwange. We want to know in particular, what action the police took and what results the investigations on this matter have yielded.

(v) Whether the Cabinet Secretary could confirm if there have been other previous cases in which officers working at the Forest Department Office in Ogembo town have lost their lives. What measures the Government has put in place to contain increasing incidents of security violations in the area.

The Speaker (Hon. Ethuro): Committee Chairman!

Sen. Haji: Mr. Speaker, Sir, with your permission, let us bring the response in a week's time.

The Speaker (Hon. Ethuro): Next Tuesday?

Sen. Haji: Yes.

RAMPANT KIDNAPPINGS IN KIRINYAGA COUNTY

Sen. Karaba: Mr. Speaker, Sir, I am sorry for the mix up that I caused.

I am also standing here to wonder because I sought a Statement from the Chairman of the Committee on National Security and Foreign Relations three weeks ago regarding the state of kidnappings in Kirinyaga District. At that time, 11 people had been kidnapped and three others found dead.

The Speaker (Hon. Ethuro): Order, Sen. Karaba. Just put your request that you had sought a Statement.

Sen. Karaba: My worry is that more people have been kidnapped and maybe if I would have been given an answer at that time, the measures included would have been used to arrest the situation. I am still worried because the Statement has not come and the kidnappings are still going on.

The Speaker (Hon. Ethuro): When was it due?

Sen. Karaba: It was due three weeks ago.

Sen. Haji: Mr. Speaker, Sir, I do not have the Statement here but hopefully, we shall pursue the matter and issue a Statement soon.

The Speaker (Hon. Ethuro): Chairman, the Statement was due on 31st October, 2013 and today is 5th November, 2013.

Sen. Haji: Mr. Speaker, Sir, on Tuesday we summoned the Minister and we had very fruitful discussions and the Ministry should give us a Statement soon in view of the fact that the office is overwhelmed with requests for Statements both from here and from the National Assembly. I think it would be fair to give them more time so that they can respond adequately. Even now, I have four Statements to issue.

Sen. Karaba: Mr. Speaker, Sir, I am not sure but it is alright.

The Speaker (Hon. Ethuro): So, one week from today.

Sen. Khaniri: Mr. Speaker, Sir, I have two Statements to issue from the Committee on Agriculture, Land and Natural Resources.

MANAGEMENT OF 99 YEAR-OLD LEASES
BY THE GOVERNMENT

The first Statement was sought by my senior, Sen. Murungi. This is in regard to the status of the 99 year leases. In the Statement, the Senator requested us to give a list showing owners, nationalities and properties whose 99 year leases have expired since the Constitution came into force in August, 2010.

I want to respond that all the 99 year leases that were issued prior to 1911 were set to expire in 2010. The retrieval of information showing the owners, nationalities and the property whose leases have expired is time consuming due to the analog nature of the records and the fact that some of the information is with other institutions such as Sheria House. However, the list is being compiled and the preliminary report is attached in annex 1 that I am going to table. For the comprehensive list, we need some two or three months to complete.

(Sen. Khaniri laid the document on the Table)

Secondly, he wanted to know how many expired leases have been renewed. Leases are renewed upon application from the registered owner and on the basis of recommendations from the relevant authorities such as county governments and the Ministry of Agriculture in case of agricultural leases or the Ministry of Mines in case of mining leases. According to our records, the expired leases that have been renewed are as shown in annex 2 that I am going to table, and I beg to do so.

(Sen. Khaniri laid the document on the Table)

Thirdly, Sen. Murungi wanted to know the criteria used by the Government to extend the 99 year leases after they have expired. Lessees should apply for extension of lease before the expiration of the term. This forestalls a situation where the land reverts back to the Government and where any other Kenyan can be considered for allocation of the land. However, this notwithstanding, the Government policy is to extend leases to the persons owning the land on application of the same subject to:

- (a) Proof that the land is registered to the applicant.
- (b) Proof that the land is developed for the purpose that it was allocated for or is sustainably used. It is important to note that lack of development is a strong reason to reject extension of lease.
- (c) Proof that the property has recently been redeveloped or renovated or is in good condition that necessitates continued use of the lease.
- (d) The capacity of the lessee to redevelop the property in line with the zoning of the locality the land is situated.
- (e) Proof that the lessee has been paying rents and rates and observing other conditions as stated in the grant or the lease document as part of the contract between the lessee and the Government.
- (f) Proof that the developments are not encroaching on any public purpose land.
- (g) The lessee's willingness to comply with the planning requirement that will call for surrender of part of the land for road widening and other development.
- (h) No known expressed desires by the Government to acquire the same land for public purpose.

Fourthly, the Senator wanted to know the procedure for the application for renewal of an expired lease.

An application is done in writing by the lessee or the authorised agent to the National Land Commission or through the county government. Secondly, the circulation of the document is done to various relevant authorities such as the Department of Physical Planning and Survey, for advice.

Lastly, on favourable recommendation by county government and other government agencies, approval is granted by the National Land Commission. The approval is on behalf of the national Government or the county government, respectively.

Expired leases are renewed by way of relocation. This means that the National Land Commission comes up with other procedures as per the requirement of the new land laws.

The Senator, further, asked about the role of the Cabinet Secretary and her staff in the renewal and denial of such a lease. Lease renewals are an aspect of land administration which is a function of the National Land Commission on behalf of the national and county governments. All the staff who previously undertook administrative activities in terms of allocations and lease management have been deployed to the National Land Commission. The Cabinet Secretary's role is to provide policy guidelines to the National Land Commission on the renewal of leases.

Mr. Speaker, Sir, Sen. Murungi further sought to know the role of the National Land Commission in the renewal of such leases. The National Land Commission's role is to process applications for the renewal of leases in compliance with guidelines set by the Cabinet Secretary. The Senator also asked what mechanisms have been put in place to ensure that rights of lessees under Article 40 of the Constitution are protected and that

there is just and prompt compensation for all legitimate interests and development in expired leases.

Under the normal circumstances, lessees should wait until a lease has expired. Once it has expired, the land reverts back to the respective government, whether county or national. Any appeal after expiry is for reallocation alongside other applicants.

The Government is also alive to the fact that leases expire while development on the land is still being claimed by the developer. Development is a consideration that informs extension or reallocation. The new land laws have put in place mechanisms of allocating/leasing Government land. The mechanisms call for transparency and public involvement. This means that any allocation of land, with an expired lease, to a new person calls for public notification including neighbours and any person who may have interest on the said land. Land whose term has expired can only be allocated afresh using the new procedures hence; there is no room for any officer to deprive the previous owner the right to land.

Lastly, he asked what mechanisms have been put in place to ensure that hardworking legitimate Kenyans whose leases have expired are not arbitrarily deprived of their livelihoods by unethical and unscrupulous Government land offices. Once the Government has leased land or property for a certain period to a private individual, that land is private property and the rights, therefore, are protected. Unless a lessee has not fulfilled the conditions given as stipulated in the allocation such as stipulated development and payments of rents and rates, the rights can only be acquired back through compulsory acquisition or through a negotiated exchange with full and adequate compensation. However, the contract between the Government and the lessee is for the stated period not exceeding 99 years. Extension, therefore, is subject to the Government policy in place.

One of the policies used is that the previous lessee must be given preference. The other Government policy is to create awareness on the requirement for the extension of leases so that the lessees are aware of when and how to apply for extension.

Sen. Murungi: On a point of order, Mr. Speaker, Sir. I want to thank the senior Senator, Sen. Khaniri, for the comprehensive statement. You will note that we have been demanding this statement since the new session of the Senate began. I am happy that, finally, he has come, not with the full statement, but with an interim statement. We do not want to add to the woes of the Cabinet Secretary, Charity Ngilu. However, we have to note, from this statement, the very poor state of records at the Ministry of Lands. The Senator has requested for more time to come up with a more comprehensive statement regarding the list of expired leases.

Would I be in order to request that three to four weeks from now, he comes back to the House with a comprehensive statement? That is number one. Number two, what he has read here appears to be a fictitious statement because what is happening on the ground is completely different. All those policy guidelines he has talked about are not being followed. There is no implementation of the policy especially regarding new leases and in renewal of old leases. Could we request the Senator, as he brings the other statement, to consider the possibility of requesting the existing owners of the leases to be given a notice to show why their leases should not be renewed? Many property owners who spend their lives developing storeyed buildings are getting surprises every day when

they are told that the buildings now belong to somebody else. They are just given notices by Government officials.

Lastly, is it the Cabinet Secretary or the Ministry of Lands Officials who should be renewing the leases? The Constitution came into force in 2010. However, even after it came into force, the Cabinet Secretary and land officials have continued to renew these leases without any reference to the National Land Commission. Could the Senator clarify whether it is the Cabinet Secretary or the National Land Commission that should be renewing the leases?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. As the Chairman of the Committee on Agriculture, Land and Natural Resources prepares to give us a comprehensive report, could he also reassure us that the so-called Director-General of Lands, a position that is non-existent under the new Constitution, erroneously created by the Cabinet Secretary of that Ministry, has not signed any new leases or title deeds and if he has done so, that the signatures stand revoked?

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I thank Sen. Murungi for bringing up this matter. This is a very sensitive matter. A lot of Kenyans are, without knowing, losing their properties. Since he has adequately raised the questions, I would like the Senator, as he comes to respond, to add this angle. The new Constitution denies foreigners the right to own freehold land. If a foreigner wants to buy freehold land, at what point is the land changed to become leasehold in the sale agreement? Is it the owner who converts the land before the sale to leasehold or it is at the point of payment of stamp duty that the title is changed into the name of the foreigner and reverts to leasehold? This is something that is causing confusion in many land dealings.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I thank the Chair for attempting to answer the question. However, I would like to ask for clarification from the Committee of this House as to the meaning of Article 67(2)(c). Has the Committee considered the meaning of this article which provides that the National Land Commission shall advise the National Government on a comprehensive programme for the registration of title in land throughout Kenya? I am asking this because debate has been going on round the country on whether it is the Cabinet Secretary or the National Land Commission who does the registration.

The Constitution, for the time being, completely excludes the National Land Commission from registration because it has been given the responsibility under that section to advise the National Government on how to carry out registration. If that interpretation is correct, then is there need for an amendment to an Act of Parliament to provide a framework within which Government officials including the Ministry can do the registration and the National Land Commission provide advice as provided for in the Constitution? I will be happy to see that happen because it will clear the debate we are seeing between the Cabinet Secretary and the National Land Commission particularly when it comes to registration. This is because the Constitution excludes registration from the National Land Commission.

Sen. Kagwe: Thank you, Mr. Speaker, Sir. I was saying that business usually thrives best in a very predictable environment. When you find the kind of constructions that are going on in this town, they are all being built on properties that have got questionable lease situations. My concern and bigger question and we are hoping the Chairman can be able to respond to, is whether there is any consideration whatsoever that

is given to the development within a property in deciding whether to renew or not to renew the lease. In other words, the Hilton Hotel has been sitting here for quite a number of years and probably the lease where the Hilton Hotel sits is about to expire or otherwise. The question is: Is there any circumstance that will be envisioned where the Hilton Hotel is supposed to be brought down because the lease has not been renewed and the property has been transferred to somebody else under miscellaneous circumstances, so to speak?

Sen. Khaniri: Mr. Speaker, Sir, you will agree with me that that is really a handful but I will attempt to answer. Sen. Murungi, my senior, wants us to expedite the process of bringing the comprehensive list and he has specifically said that he wants it in three weeks' time. If you may remember very well the history of this Statement, we had requested for three months two weeks ago, but you ordered us to come with this initial Statement. Therefore, for us to come up with a comprehensive Statement, we still insist that we will need three months and not three weeks as requested. As to what the role of the National Lands Commission is, *vis-à-vis* the role of the Cabinet Secretary and who is supposed to sign the title deeds, this was very clear in the answer that I gave and I said clearly that the Cabinet Secretary's role is to provide policy guidelines to the National Lands Commission on renewal of leases in compliance with the guidelines set by the Cabinet Secretary. I think that also answers the issue that was raised by Sen. Murkomen.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. The Chairman has made such a weighty statement which in my opinion contradicts the Constitution. Could he, as he makes that decision, be referring to a particular provision of the Constitution or an Act of Parliament because he cannot just assert it from his own mind?

Sen. Khaniri: Mr. Speaker, Sir, you are fully aware that the answers are provided by the Cabinet Secretary and I am not a member of the Executive. But I want to state that most of the issues that have been raised by the Senators, I think we will put them into consideration so that when we come up with a comprehensive answer to this particular request by Sen. Murungi, we should be able to address most of these issues that have been raised by Sen. (Dr.) Kuti and Sen. Kagwe. Therefore, I want to request that we table this Statement, let Members go through it and if there are any subsequent questions that they want clarified, we will take note of them and once we meet the Cabinet Secretary and the Chairman of the National Land Commission, we will be able to come up with comprehensive answers in the next three months.

(Sen. Khaniri laid the document on the Table)

The Speaker (Hon. Ethuro): Sen. Khaniri, I thought you had stated that when you initially wanted to respond, it was in three month's time. Now that some time has elapsed, do you still need the three months?

Sen. Khaniri: Mr. Speaker, Sir, if you may remember, it is just last week but one that we requested for three months and you ordered us to come with an answer last week which we were unable. So, three months minus two weeks is two-and-a-half months to be very precise.

The Speaker (Hon. Ethuro): Sen. Haji!

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I am aware that the Statement that Sen. Haji is going to issue is a Statement that I requested for. So, before I

get into the other side of asking questions, could you allow me to remain on this side, finish with mine and then he can proceed?

The Speaker (Hon. Ethuro): That is a good point. Sen. Haji you may take your leave. Let Sen. Khaniri enjoy the privilege of being asked questions before you make your Statement.

ILLEGAL LOGGING IN MAKUENI COUNTY

Sen. Khaniri: Mr. Speaker, Sir, on 23rd October, 2013, Sen. Mutula Kilonzo Jnr. requested for a Statement from my Committee. In the Statement, he wanted to know the names of persons logging at the said forests, the number of trees so far cut down, whether there is any policy by the national Government on logging and selling trees to individuals for commercial purposes and lastly, whether any Environmental Impact Assessment (EIA) had been done by the National Environment Management Authority (NEMA) before the said exercise was approved.

I wish to confirm that Kivale Forest is located in Mbooni Constituency. The predominant species of trees in this forest is *pinus patula* which is approximately 39 years. The names of the persons logging in these forests are as indicated below:-

1. Jackson Matolo Ngeta of Fraka General Merchants.
2. Walter Orina of Kenvoke Building Materials Company.
3. M.K. Musomba of Kivicon Engineering Construction Limited.
4. Stephen Kimondi Kiema of Sabati Development Company.
5. Agnes Kamene of Agenesis Investments.
6. Laban Mutwiwa of Creative Development Initiatives.
7. Mori Ochoki of Morris Ochoki Sawmill.
8. Jeremiah Kinyili of Natural Resources Investment.

Nzaui Forest is located in Makueni Constituency. It is also predominated by *pinus patella* species of trees which has an approximate of 52 years. The names of persons logging in these forests are as indicated below:-

1. Walter Orina of Kenya Building Materials Limited.
2. Jeremiah Kinyili of Natural Resources Investment.
3. Gichie John Charles Karanja of J.K Timber Sawmill.
4. Jackson Matolo Ngeta of Fraka General Merchants.
5. Shamsudin Abdi of TDA Investments.

Eiwani forest is located in Kaiti Constituency. The predominant tree species is eucalyptus. The trees are being used to create a wayleave for electricity transmission. The only person involved in logging in this forest is Mr. Morris Ochoki of Morris Ochoki Sawmill.

Mr. Speaker, Sir, the number of trees that have been cut so far is as tabulated below. I will table the list and I have given a copy to the questioner. When it was realized that the wood production from Kenya's indigenous forests could not sustain the demand of industrial wood, the then colonial Government introduced a policy that encouraged the establishment of industrial/exotic tree plantation in 1907. The policy has been improved, especially with the enactment of the Forest Act of 2005 to enable the plantations be sustainably managed for a specific purpose; being harvested and utilized to supply the Kenyan society with wood based products as and when they mature. Under the policy,

the harvesting is done by prequalified firms or individuals in each county who are selected through a competitive tendering process of bidding. A list of prequalified firms in Makueni is hereby attached and I will table it at the end of the reply.

Lastly, there is no environmental impact assessment report that has been submitted to the National Environment Management Authority nor is there any environmental impact assessment licence or authorization issued by the authority for logging in the above mentioned forest. I also wish to reiterate that the Ministry of Environment, Water and Natural Resources has since issued a stop order to the loggers through the National Environmental Management Authority (NEMA).

Thank you.

(Sen. Khaniri laid the documents on the Table)

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, first, I would like to thank the Standing Committee on Agriculture, Land and Natural Resources because they provided to me this Statement in advance so that I was able to interrogate it. It concerns me that the last paragraph of the statement, the Cabinet Secretary in charge of environment admits that there is logging going on in three forests in Makueni without the National Environment Authority's authorization. In the Statement, the Minister does not state whether this is legal or illegal and why they have not taken any action. Secondly, I bothered to check with the forest officers last week and the order referred to in the last paragraph has not reached Eiwani Forest, Kaiti Forest and Kivale Forest. They have not received these orders to the extent that the logging is still going on.

Would I be in order to propose that the Committee goes back to the Cabinet Secretary and provides this House with the order that they have issued to the various organizations including NEMA to stop the logging of these forests? More importantly for them to confirm whether or not it is a policy of the National Forest Service to allow the logging of forests without proper authorizations from NEMA. Thirdly, from the Statement, it appears that somebody from the National Forest Service has decided that they have to log forests in Makueni for purposes of wood which appears to be insufficient to the country.

Mr. Speaker, Sir, in my question, I had requested the Committee to seek for an answer as to whether there is a policy by the national Government on logging and selling of trees. They have not answered that question. It, therefore, becomes important for that answer to be brought to this House. I am sure you are aware that there is a report before the Senate and it appeared in the press last week showing the status of forests in the country. Without an answer as to whether it is a national policy on logging of forests, how do we know on what basis the National Forest Service allowed the logging of forests in Makueni which appears to be number 20 in terms of forest cover and left out other counties which have more trees to be logged for the purpose of wood?

So, I am requesting that you allow or give directions that this Statement be done comprehensively, so that the questions that I have set are answered and we can know whether or not the logging in Kivale Forest, Eiwani Forest and Nzau Forest in Makueni Constituency was not deliberate or not done for purposes of commercial entity and, therefore, they are hiding under the policy of wood for the country, yet it is for personal gain.

Thank you, Mr. Speaker, Sir.

Sen. Murkomen: Mr. Speaker, Sir, I will also just congratulate my colleague and learned friend, Mutula Kilonzo Jnr., for taking the step to ask that question.

Mr. Speaker, Sir, I have a supplementary question. As we know, Elgeyo-Marakwet was ranked recently by a report to be the second best county in terms of forest cover. The other day, the Governor of Elgeyo-Marakwet banned logging or harvesting of trees. I want to know from the Chair now or after further interrogation, who has the powers to determine allocation of harvesting or grown trees, maybe, planted by the Kenya Forestry Service (KFS). Does the governor have that power? If he has that power, what is the policy framework? I think that it is important that we know the interface between the national and county governments in that matter, because if the same powers are with the Governor of Makueni, then he did not need to wait for an answer from the Cabinet Secretary. He would have exercised the same powers that the Governor of Elgeyo-Marakwet exercised and just ban the logging without going through the Cabinet Secretary. So, that policy framework needs to be clarified in terms of who has the responsibility and powers.

The Speaker (Hon. Ethuro): Yes, Chairman!

Sen. Khaniri: Mr. Speaker, Sir, to answer Sen. Murkomen's question, outrightly, we all know that under the Schedule of Distribution of Responsibilities, forests fall under the national Government. Therefore, I want to believe that it is the national Government. But I think that it is up to this House to decide whether we want to transfer these powers to the county governments. This is because we all know that we are pushing for the county governments to benefit from the resources that fall within their jurisdiction. Therefore, it is important that this House considers making an amendment, so that this responsibility is passed over to the county government.

Mr. Speaker, Sir, coming back to Sen. Mutula Kilonzo Jnr., I agree with him that the logging that has been going on in these particular three forests is illegal. This is because no environmental impact assessment has been done and, therefore, this cannot be legal. That is why the Cabinet Secretary has written to stop the logging forthwith. But he informs me that even after the letter was sent, the logging is still going on. I think that we will summon her, so that she can issue an order for this to be stopped. We will invite her to our Committee and I will also have the pleasure to invite the hon. Senator, so that he can join us as we grill her through these issues.

Mr. Speaker, Sir, I want to confirm that the Government has a policy. I gave some experts from the policy paperwork that we have, but I can as well table the comprehensive policy on forests.

Thank you, Mr. Speaker, Sir.

Sen. Kajwang: Mr. Speaker, Sir, I want to take it from where the Chairman has left, because he says that he is going to consult some of his policy specialists on this matter. Let me just ask him to go and check this, while he talks to his policy framers.

Mr. Speaker, Sir, I thought that most of the forests were planted on trust land. In fact, some of them are on hills and very difficult areas that were trust lands. According to the new Constitution, trust land is entrusted in the hands of the counties. So, let us get it clear whether all forests – whether planted by the KFS or communal effort – on trust lands belong to the counties, so that we know who is supposed to police them, instead of having to look for directors of KFS and so on to solve this issue.

Sen. Khaniri: Mr. Speaker, Sir, I fully concur. As I said in my response to Sen. Murkomen, under the Schedule that distributes responsibilities between the national Government and the county governments, forests clearly fall under the national Government. Sen. Kajwang has brought in a contradiction and I think that these are some of the grey areas that we must look at as we make laws in this Senate.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. If my memory serves me right, although forests are a function of the national Government, if you read the Fourth Schedule, Part II, it says that the implementation, management and protection of forests is a function of the counties. So, I think that it is not in order for the Chairperson of the Committee to mislead the House.

Sen. Khaniri: Mr. Speaker, Sir, I agree with him. As I said, these are some of the grey areas that I think, as a Senate, our job being to protect the county governments and ensure that county governments have enough resources to run, it is important that we come up with clear laws to ensure that this function of forests is squarely put under the county governments and Governors. So, I agree.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I have got just a small further clarification to seek from the Chairman. Beyond harvesting of the forests, what is the national Government doing to help county governments to benefit from carbon trading that is now the in-thing?

Sen. Khaniri: Mr. Speaker, Sir, I do not have the answer to that question, but given time, I should be able to get this answer for the hon. Senator.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. The Chairman is asking for time to respond to my question. Could he indicate how much time he wants? If you give him that time, let him come and also tell us how the benefits of carbon trading will also accrue to the local communities, especially Kakamega and Nandi, where we have got the only remaining tropical forest.

The Speaker (Hon. Ethuro): Sen. Khalwale, I thought that you might also wish him to come back and explain whether we harvest the forests or the trees in the forests.

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

The Speaker (Hon. Ethuro): We do not need more information now. Let us give him more time. Since I want to believe that you are the Chair of the same Committee and he is your Vice Chair, when he is coming back after one week, you can bring that information then.

What it is, hon. Mutula Kilonzo Jnr? We really need to conclude this.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Speaker, Sir. This is on a different issue. The Statement that Sen. Khaniri read had a second portion which is on a question that I had asked. I believe that he has skipped it. Maybe you could give directions on the Statement, because he has already tabled it.

The Speaker (Hon. Ethuro): What is the issue that he has not responded to?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, the answer has not been read and it is in the Statement that I have. He has skipped it.

The Speaker (Hon. Ethuro): You do not need to read everything if it is not materially significant.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, it is on a question that I had requested for. The Statement has got two responses. The second portion is a response to a statement that I had requested for. It is separate.

ALLOTMENT OF MASONGALENI
SETTLEMENT SCHEME

Sen. Khaniri: Mr. Speaker, Sir, the second Statement is on Masongaleni Settlement Scheme. We are still---

The Speaker (Hon. Ethuro): Are you talking of another Statement, different from the first one?

Sen. Khaniri: Yes, Mr. Speaker, Sir. It is a statement on the settlement scheme and we are not very ready with it. We still need some more time.

The Speaker (Hon. Ethuro): Sen. Mutula Kilonzo Jnr., they are not ready with that Statement. Do you want to give them time?

Sen. Mutula Kilonzo Jnr.: How much time and they have not told us they are not ready?

Sen. Khaniri: Mr. Speaker, Sir, we received the initial Statement from the Ministry and are still looking at it as a Committee. We cannot issue this particular Statement before the Committee goes through the response that came from the Ministry. I will ask for about two weeks.

The Speaker (Hon. Ethuro): When was it due?

(Sen. Kivuti stood up in his place)

Order, Sen. Kivuti! If you delegated a job to your able deputy, you cannot take it away from this Floor.

Sen. Kivuti: Mr. Speaker, Sir, the problem is that Sen. Mutula Kilonzo Jnr. has confused the issues. This other question came before and was ready last week. It is only that the second question which he asked---

The Speaker (Hon. Ethuro): Order! Order, Chairman! My issue is procedural. You are not the one responding to the Statements. In your own wisdom, unless it has disappeared again, you decided that for this afternoon, it is going to be your deputy. It is neater to keep it that way.

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

The Speaker (Hon. Ethuro): But I want to commend the Committee for delivering a copy of the Statement in advance to the Senator. That is the practice that I would like to encourage. We are not ambushing each other, but communicating from the same position of knowledge. I think that, that can only enrich the debate and issues at hand.

Sen. Haji: On a point of order, Mr. Speaker, Sir. I think that the Clerks of the Committees should be giving extra copies to the Members, because it is not the Committee which prepares the Statements.

The Speaker (Hon. Ethuro): Sen. Haji, those are details. It is you to avail copies to your clerk for onward transmission to the Senator who sought the Statement. You have to authorize it, because it is you who is going to issue the Statement in the House. We receive it on your behalf, but in terms of distribution, it is still you to authorize.

(Sen. Haji consulted loudly)

Sen. Haji, you will desist from arguing with the Chair.

POLLUTION OF ATHI, GALANA AND SABAKI RIVERS

Sen. (Dr.) Kuti: Thank you, Mr. Speaker, Sir. I am responding to Sen. Wamatangi's Statement on the pollution of Athi, Galana and Sabaki Rivers.

The Fourteen Falls pollution incident was reported to the Kiambu County Director of Environment on 24th of September, 2013. The Authority, together with the Water Resources Management Authority (WARMA) carried out an inspection on 26th September, 2013, to find out the source of the pollution. The team visited Dandora Sewerage Water Works at Ruai, where it was noted there was very little effluent and some of the maturation points were drying up, which is an indicator that there was a leakage of the sewerage. On questioning the sewerage work attendants, they disclosed that the main trunk sewer that delivers sewage from Nairobi Central Business District (CBD), western and northern regions of Nairobi broke down in April, 2013, at Njiru and had not been attended to.

(Loud consultations)

Mr. Speaker, Sir, I want the hon. Senators to really pay attention to this, as it is a very serious issue, because almost all the sewage from Nairobi, Lavington, western regions, the CBD, Parklands and Eastlands all converge at the trunk around Dandora, and that is the one that broke down spilling raw sewerage into the following rivers: Nairobi River, Athi River, Galana River and the Sabaki River; and it has been doing that from April, 2013. It is only in September this year; about five months later, that this team visited and discovered it. They further stated that the volume received at the plant had gone down and it was established that all the sewage from the pipeline was, indeed, getting into Nairobi River because part of the sewer had been swept away by the floods. The team later went to Fourteen Falls and the inspection report was brought to the top management of the National Environment Management Authority (NEMA), who quickly visited the site on 6th October, 2013.

The team consisted of the Director-General of NEMA, Kiambu County Secretary of Environment and Sanitation, officers from Athi Water Services Board and Nairobi Water and Sewerage Company. While at the site, Athi Water Services Board and Nairobi Water and Sewerage Company informed the team that they were aware of the collapse of the sewer trunk line two days after the collapse in April. They promised to do everything to fix the collapsed trunk line within the shortest time possible since they had got some of the funds from the World Bank (WB). However, since the Authority learned of this, the repairs have started and it may take two-and-a-half months to repair that spillage.

So, Mr. Speaker, Sir, there are obvious questions about what particular steps have been taken; and as I have said, the visits were done and NEMA did a press conference to warn Kenyans living along rivers Nairobi, Galana and Sabaki not to use the water for domestic purposes. The questioner also asked how the alert will be enforced, and it has been enforced by the Directors of Environment and Public Health Officers of Kiambu, Nairobi, Machakos, Kitui, Makueni, Taita Taveta and Kilifi through awareness on the impacts associated with contaminated water.

Lastly, he also wanted to know, because there are several public facilities –and I would like to cite Fourteen Falls – where young school kids go for sightseeing, where food is cooked and farmers are using the water to grow crops. He wanted to know how the alert is being enforced to ensure that Kenyans do not become victims. Apart from the closure notice issued by Kiambu County Government, the County Director of Kiambu is continuing to educate members of public to stop using the water. What is the nature of the pollutants? It is raw domestic sewage from a broken sewer trunk.

What rivers are affected? I have already said that it is Rivers Nairobi, Athi, Galana and Sabaki. What are the likely impacts? The likely impacts are the water borne diseases like typhoid and cholera and, luckily, cholera has not yet been reported. However, so far, we have not received any complaint associated with such contamination. Who is responsible? The responsible companies are Athi Water Services and Nairobi Water and Sewerage Company. What is the solution? The solution is to reduce the time of two-and-a-half months, because for one company which has been assigned, it will take two-and-a-half months to repair that spillage. But the recommendation here is that there should be more contractors on site so that the time taken will be reduced in order to stop that spillage.

Also, we should explore diversions, which is also not very good because when it rains, those diversions will still be swept back to the rivers. During the alert period, the water services board and relevant water service companies should explore alternative sources of domestic water for people living along the contaminated rivers. The recommendation is that this issue should be treated as a disaster and all efforts should be made to ensure that the sewer trunk line is repaired in the shortest time possible.

Mr. Speaker, Sir, this is the Statement we received. I know it is a very grave situation and I would like to bring it to the attention of the House.

Thank you, Mr. Speaker, Sir.

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

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. The Statement, as issued by the Chairperson of the Committee on Health, Labour and Social Welfare, is not satisfactory at all as far as the problem at hand is concerned.

Mr. Speaker, Sir, just this weekend, I paid a visit to the same places and the situation is just as it was at that particular time when the spillage was first reported. Even with the notices which have been issued, there is absolutely no enforcement and innocent, young school children and mothers still continue to use that water.

Mr. Speaker, Sir, I put in extra effort and went downstream towards Tala and Kangundo just to see what is happening; and to my surprise, this water is actually even being used in some places for domestic use. At the source where the broken sewer is – which is a major sewer – it is still spilling raw sewage into the river as was the case at the time we brought up this complaint. I urge that this House should compel the Chairperson to ensure that urgent action is taken because as you may have heard, he said that there is still no complaint about people having contracted diseases; but the diseases could already have been contracted but those affected have not started complaining. Maybe some people could have even died; how do we know? Therefore, I urge this House to take this matter seriously because it is a matter of life and death, if I would say so, for the people for this country, especially so for all the counties that are using that water downstream.

That answer is not satisfactory, Mr. Speaker, Sir.

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

Sen. Musila: Mr. Speaker, Sir, I, first, want to thank Sen. Wamatangi for bringing this very grave matter of spilling of the sewage into rivers and contaminating the sources of water where most of our people take water from.

Mr. Speaker, Sir, you have heard the Chairperson say that they are waiting for money from the World Bank.

(Laughter)

Mr. Speaker, Sir, where are we heading to? Our people are drinking contaminated water and the Government says it is waiting for money from the World Bank. Perhaps that is why, as of now, despite the assurance by the Chairperson that something is being done, nothing is being done – and I can confirm that. Could the Chairperson use all his power, along with his Committee, to make sure that this sewerage line is repaired immediately because it is a matter of life and death?

Thank you, Mr. Speaker, Sir.

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the Senate is lucky that the Chairperson of this Committee is a doctor of medicine; and he knows very well that the commonest cause of death amongst children under five years is diarrheal illnesses. He is also aware that today, as we speak, there are children and adults dying because of typhoid as a result of this sewer spillage.

Mr. Speaker, Sir, so as to demonstrate the seriousness of this issue, could the Chairperson tell us whether, in the meantime, he is going to ask the Government to commit itself to using part of the disaster fund to ensure that water bowsers are taken there to provide water as they wait for money from the World Bank to repair the leakage?

The Speaker (Hon. Ethuro): Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I thank you for giving me the opportunity to also raise queries on this answer. I think we are treating this issue casually. Sen. Wamatangi, as he mentioned, had to go over the weekend to see for himself that the spillage is still ongoing and over ten counties are affected, because it spills over to the Tana River.

Mr. Speaker, Sir, we consume fish even in the Senate Lounge; and some of it is red snapper coming from the Indian Ocean – and it will become a sniper now!

(Laughter)

Mr. Speaker, Sir, the Chairperson is treating this issue so casually, yet we also consume meat and milk, and these animals consume water along these rivers. He needs to erase the terminology he is using here – that we have to go and borrow money to repair sickness. We can even stop people's salaries for a week in order to repair the sewer line. Let him come up with a substantial answer and we hear tomorrow that the contractors are on site. But now, there is no single contractor on site and yet he is saying they want to get more.

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

Sen. Kajwang: Mr. Speaker, Sir, a disaster of this nature is the kind situation where you use your army which has the equipment, the capacity and the engineers to fix some of these things quickly. It is like a bridge being swept away and you call the army to construct a temporary one where people can pass as you think of getting money from the World Bank.

(Laughter)

So, can we fix this thing before we talk of these big things from the WB? We are just fixing a spillage---

Hon. Senators: Yes!

Sen. Kajwang: Please, do not shame this country with this World Bank business!

(Laughter)

The Speaker (Hon. Ethuro): Yes, Chairperson?

Sen. (Dr.) Kuti: Mr. Speaker, Sir, I am happy that this issue is generating a lot of interest, because when I started answering, most of the Members were engaging in a bit of discussion amongst themselves.

Mr. Speaker, Sir, I want to clarify the fact that the contractor is on site; the money is already available and it is not being sought. The only suggestion and recommendation we were giving – and we gave this earlier and I even saw Governor Kidero over this matter because it is as grave as that. So, we met and I actually pulled him out of his own function to explain to him that there is this grave matter that he needs to address, because the source of the leakage is here in Dandora, which is under his jurisdiction. He assured me that the contractors are already on site and this process of stopping the leakage is ongoing. It is only that the trunk is the main trunk after the convergence of all the trunks from Nairobi; so, it may take a bit of time, but the process is already ongoing and we have been assured that it will be done as quickly as possible.

Mr. Speaker, Sir, regarding the issue of cholera breakout, I am sure that my senior, Sen. (Dr.) Khalwale, knows that it is a disease that when it breaks out, it cannot be hidden. I am sure that the diarrheal diseases will be very common and all the medical officers along the line have been alerted and already, preventive measures have been put in place. But I am sure, definitely, that this is a grave situation; even a cholera outbreak can happen anytime although it has not happened yet. I really would like to agree with the concerns of the Members, but I am also sure that a lot of effort is being made to stop it as soon as possible.

Thank you, Mr. Speaker, Sir.

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

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. I will really seek your indulgence on this issue, because the last time this matter came to the Floor of the House, you gave directives that this Committee should visit the site and see for themselves what is happening on the ground, but that did not happen. In the absence of that happening, that is why my good friend, the Chairperson of this Committee, can read a Statement he has been given while the situation on the ground is different; because I have been there. What is being read is not what is on the ground.

The Speaker (Hon. Ethuro): Order, Sen. Wamatangi! I have heard you.

Sen. Murkomen: Mr. Speaker, Sir, previously, we have been told that the people downstream were warned via newspaper advertisements. How many people in Tana River read newspapers? What better mechanisms have been put in place to ensure that there are officers operating along the river, if need be, to ensure that no animal, human being or fish becomes a carrier of a disease to the rest of us who are in the country?

Sen. G.G. Kariuki: Mr. Speaker, Sir, we have been given an assurance by the Committee Chair that the contractors, according to what he was told by the Nairobi Governor, would be on site by now. Could he assure this House that within one or two days, he will confirm that the contractors are there?

The Speaker (Hon. Ethuro): Sen. Kuti, your senior, Sen. (Dr.) Khalwale, invoked your professional leaning in terms of being a professional doctor. You have explained that cholera outbreaks should be obvious. You have also confirmed that it is still a threat. Given the many issues that Senators have raised, the Committee should be going to the ground and should not only rely on what the Governor tells them or other sources. Considering that this is a matter of immense public interest, we should not be waiting for disasters or epidemics to happen. However, we should try to prevent them.

I appreciate that the Senator for Kiambu has taken the trouble to find out issues regarding the Motion at great personal expense while this House can facilitate a Committee to visit. I, therefore, order that the Committee visits and gives us a good report on Tuesday. You need to undertake a fact finding mission. This is a case that requires a fact finding mission. If you can bring the response by Thursday, that will be good.

Sen (Dr.) Kuti: Mr. Speaker, Sir, I will bring it on Thursday this week.

The Speaker (Hon. Ethuro): Excellent, well done.

MILITIA ATTACK ON GOVERNMENT OFFICES IN MANDERA TOWN

Sen. Haji: Thank you, Mr. Speaker, Speaker, Sir. On 26th September, 2013, Sen. Billow Kerrow requested for a statement regarding the attack at the District Officer's (DOs) Headquarters in Mandera Town by a heavily armed militia where one administration police officer was killed and four others were injured.

The hon. Senator wanted to be informed on, one; the action that the Government has taken with regard to the incident and in particular whether there are any suspects that have been arrested with regard to the incident and other previous incidences.

Two, he wanted to know whether the incident has any linkage to the Westgate Mall tragedy and, three, what action or strategy the Government has put in place to deal with the deteriorating security situation in Mandera and the reason for that. I would like to state as follows.

On 27th September, 2013, at about 3.00 am, suspected *Al Shabaab* militia attacked the Administration Police camp situated in the precincts of the County Assistant Commissioner's Office compound in Garissa Town. A fierce gunfire exchange ensued between the attackers and the police officers. Unfortunately, two police officers were killed while two others were injured. A three office block was extensively destroyed while 12 vehicles, three of them Government owned were also damaged. No suspects

have been arrested in connection with this particular incident and even the previous incidences.

This has been occasioned by the community members' unwillingness to volunteer information to the security agents and the fact that these militias usually cross back into Somalia immediately after the attack. Though the Westgate Mall and the Commissioner's Office attack happened in different places and times, both incidences are suspected to be perpetuated by the *Al Shabaab* militia.

Following the incident, the Government has applied the following methods to address insecurity in the area. One, more police officers have been deployed in order to upscale beats and patrols. Two, several security meetings have been conducted to sensitize people on the need to be vigilant and to cooperate with security officers in fighting crime through volunteering information. Three, intelligence information gathering has been intensified. Four, the Government has deployed officers drawn from the General Service Unit (GSU) and the Rapid Border Patrol Unit along the border in order to deter foreign militia from crossing over the border.

To address the insecurity in Mandera County and the country at large, the Government has, one; established a taskforce to operationalise the *Nyumba Kumi* and Community Policing Strategy which are aimed at enhancing security. Two, the Government has recruited 7,000 security officers who are currently undergoing training in various colleges.

Sen. Billow: Mr. Speaker, Sir, I thank the Chairperson of the Committee for the response. However, from the time I asked that question, there have been two attacks using grenade explosives within the town. You will appreciate that that attack was at the Assistant Commissioner's Office. This is the heart of security in Mandera Town.

I want the Chair to clarify whether the Government can consider, in view of the security crisis and the inadequate security forces that are there, to double the police reservists in Mandera Town and at the same time employ sufficient locals in intelligence gathering? There are many youths who are unemployed. These youth can be used in gathering intelligence both inside and across the border where Kenya has a working relationship with the Government of Somalia.

Sen. Haji: Thank you, Mr. Speaker, Sir. What hon. Billow has said, that there have been two other attacks, is quite unfortunate. However, with the increase in the number of police officers and the 7,000 police officers who are undergoing training, once the training is over, there will be nothing to stop us from posting them there.

With regard to the issue of homeguards, I know that many of these have been trained, not only in Mandera but also in Wajir and Garissa. However, up to now, they have not been armed. I will pursue this matter with the Minister and see how it can be fast-tracked.

Sen. Kagwe: Thank you, Mr. Speaker, Sir. The issues of insecurity along the borders and elsewhere have become very serious. We keep on talking everyday but when you go to the ground to see if any action has been taken, you will find that there is very little to show.

I am requesting my colleague and friend, Sen. Haji, to discuss with the Cabinet Secretary the possibility of using retired army, police and other armed personnel especially the ones who were honourably discharged. Those people are retired but not necessarily tired. Therefore, it is possible for us to make good use of them in an organised

and planned manner. We are talking about desperate situations which call for desperate measures. These are some of the measures that we can very seriously consider and urgently employ.

Sen. Karaba: Mr. Speaker, Sir, what my friend, the Senator from Mandera is trying to attribute here is equal to what I felt when I listened to the statement by the Chairman. It is my view, that something is wrong at the Ministry or maybe there is a loose link between what is happening on the ground as opposed to the reality. There are many escalating cases of insecurity. We have been seeing many things happening.

What is happening with your officers on the ground? You cannot talk as the Cabinet Secretary or the Permanent Secretary but there is something seriously happening. Every time that you listen to the radio, you hear that someone has been kidnapped. When you go to report, you hear that no one has been arrested. Is it that we cannot afford to deal with this? Why can we not invite the Mossad from Israel or the Americans Central Intelligence Agency (CIA) or the Scotland Yard?

I was told that there was a time when we used to be very tough when my friend, Sen. Musila was a Provincial Commissioner and when he was a District Commissioner in Kirinyaga. Those things never used to happen. Why are they happening now?

Sen. Kembi-Gitura: Thank you, Mr. Speaker, Sir. I want to reiterate what Sen. Kagwe and Sen. Karaba have said. I can understand where Sen. Karaba is coming from. Sen. Karaba's Kirinyaga County borders Murang'a County. Before Kirinyaga County started suffering the spates of kidnapping, we had a lot of deaths in Murang'a. To date, from the beginning of the year, we have had 18 kidnappings. All of them involve innocent rural folks. The kidnapers are demanding over Kshs1 million. No one who lives in a village in Murang'a has that kind of money. They are demanding tens of millions of shillings every other time. As you have heard, there have been 18 kidnappings. We raised the issue with the County Commissioner and the county security personnel but it is still going on. They kidnap somebody in Kirinyaga and dump them in Murang'a. This does not just give Murang'a a bad name, but it shows the decadence and that something is seriously wrong.

The last time I remember this happening was the days that *Mungiki* was terrorizing people in Kiharu which I then represented and generally Murang'a. This created fear and despondence in the countryside. I am very saddened that once again men and women have to be home by 6.00 p.m., they have to close their businesses at daylight because they are scared that if they continue doing their business, they could be kidnapped and many other things could happen. Like Sen. Karaba has said, recently a very prominent school proprietor was kidnapped and three days later he was found murdered in Mwea; in the rice plantations. It creates fear and discourages investors whether local or otherwise. This is economic sabotage. I do not know what other name we could give it because it is making it very difficult for people to do business.

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura!

Mr. Kembi-Gitura: Mr. Speaker, Sir, I am sure you can understand the frustration that we are facing because we have been talking to the security people all the time but when we get a Statement like the one Sen. Haji has given, it does not assuage us.

The Speaker (Hon. Ethuro): I do agree, Sen. Kembi-Gitura, but I also do understand there are procedures.

Sen. Kembi-Gitura: Mr. Speaker, Sir, I am sorry, but I just wanted to say that I hope with your permission, Sen. Haji and the Committee he chairs in which I am fortunately a Member, we are going to find solutions.

(Laughter)

Mr. Speaker, Sir, you see even Senators are amused, but sitting in a Committee is not the same as we used to sit in Committee in the Ninth and Tenth Parliament because then, we sat in Committees and asked the Minister concerned or the relevant arm to come and explain to the Committee or on the Floor of the House. Now Sen. Haji, who is my Chairman can only read what has been given to him and everything else he answers is from his personal knowledge because he is an extremely experienced man but that is not what we want.

We want the Government to give us commitment that the kidnappings in Murang'a will come to a close and people will go about their business as they used to. So, I am just expressing frustration and as I stated last week, may be a day will come when the system will change again and we can get answers that we can properly interrogate and ask why these things are happening at this time and age in the development of our country.

Thank you.

The Speaker (Hon. Ethuro): Another experienced Senator to provide some recollection.

Sen. G.G. Kariuki: Mr. Speaker, Sir, this matter is very serious. I think the Chairman of our Committee is very much aware that all the reports that we get from the officers cannot be legitimately questioned because we do not know beyond there. What I am trying to drive at is whether the Chairman is convinced that what he is telling us today is not what he used to tell Members of Parliament some years ago, for example, that they are going to mobilize their forces, recruit more people and do a, b, c, d. Could he assure the House that something really is going to be done over this matter because it is getting out of hand?

Under our Constitution, today we are not going to ask a Cabinet Secretary to give a Statement on the Floor of the House, but if a person responsible for national security comes here and gives an answer, we need to be extremely careful because it is a very serious matter. Therefore, I urge the Chairman to tell us whether if they recruit 20,000 police officers in Mandera or Murang'a, they are going to change or they are the same people that we know. They are now being accused of being involved in crimes. What facts do we have?

The Speaker (Hon. Ethuro): When we have two Members of the same Committee feeling more frustrated than the Chairman, I will ask the Chairman to sympathize with them. I think the sympathies of the Speaker can only go to the Chairman. I will direct as follows: First, I want to agree with what the other Members have suggested and particularly Sen. Kagwe. These are proposals and this is a big issue, so as Sen. Karaba expressed, there are kidnappings in Kirinyaga and Murang'a as Sen. Kembi-Gitura expressed. Instead of allowing the Chairman of the Committee to come and basically give his views which I think will not help this House, because our business is not to engage in futile talk, the Chairman and the rest of the Committee Members who

should not feel as frustrated as they are because they are the Committee, all the issues they have canvassed, they should summon the Cabinet Secretary and canvass those issues with him and then come and report back to the House. I think, in my view, that might be a more productive and informed process rather than allowing your own Chairman to come and give his own opinion.

Sen. Haji: Mr. Speaker, Sir, I summoned the Cabinet Secretary on Tuesday and we agreed as a Committee – I do not want to accuse anybody – but both Members did not turn up to enable us to interrogate him. He was there and we did our best to interrogate him and he assured us that he would try his best to put this matter to rest. Anyway, the question of insecurity in this country is a social problem. It is a very serious problem. It is not only for one or two areas of this country but the whole country. It goes beyond the Chairman to try and resolve this issue and the Senators should understand that. The Committee will continue trying its best.

As the Deputy Speaker said, we know in the former Central Province, there was *Mungiki* which used to tax people but lately that has disappeared. They are now using other means to extort money from people. So, it is up to the people to help the Government and the police to get information that will help the security forces to get hold of these people. This is not a problem of one or two people. It is a problem that requires people coming together and giving their best so that we can deal with the problem as it was dealt with during the *Mungiki* time.

Mr. Speaker, Sir, with regard to the question raised by Sen. Kagwe about the recruitment of retired people, I would like to tell him that retired people like me should go to politics. They cannot be employed because there are so many young people in this country who need to be employed and priority will be given to them.

The Speaker (Hon. Ethuro): Mr. Chairman, while we appreciate your views, I still insist that the Committee has the capacity and the powers to interrogate this particular issue of insecurity. In fact, you are agreeing with the Members that it is not just an isolated case but a national matter. Really, all these suggestions that have been given, in my view, might help and it is only the Minister who can consider them and not the Chairman. So we are only helping you because even if the Members were absent, you were still there to interrogate and apparently you have not stopped the problem.

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

The Speaker (Hon. Ethuro): Sen. Kagwe, you are completely out of order. I also want to confirm to the Chairman that the fact that for the *Mungiki* menace to be, at least contained, it took deliberate interventions by personnel in Government to be decisive and to have a resolve. So, to me, that should really be a source of inspiration that you need to tell the current Cabinet Secretary to have the same resolve and determination.

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

The Speaker (Hon. Ethuro): Who are you informing?

Sen. Kagwe: Mr. Speaker, Sir, my brother, Sen. Haji is really trying because under the circumstances, I do not see what else he could do. However, I wanted to clarify that when we speak about retired personnel, we are not talking about whether to use them or the young people. We should instead do both. But because these people were trained and they are at home, it is a waste of skills for them to sit at home while they were trained on how to use arms and we could deploy them at an instant rather than wait and train a young person to take over. My proposal was not that we leave the young people and go

for the older ones, but we try to utilize them. In fact, we could even utilize those old ones to train the young ones as a way of engagement.

The Speaker (Hon. Ethuro): Also more importantly, why does the Chairman think that politics is the only avenue for retirees when the Constitution also provides for the nomination of young people to Parliament?

Sen. Haji: Mr. Speaker, Sir, according to the code of regulations, retired people should not be employed when there are young able people who can be employed. Could I issue the other Statement?

The Speaker (Hon. Ethuro): Please, proceed.

Sen. Haji: Mr. Speaker, Sir, what I normally do in my Committee is to serve the whole HANSARD to the Cabinet Secretary so that he can go through and be able to react accordingly. So, the question of employing retired people from Nyeri to be deployed to Garissa, I think it is up to him to look into it.

INSECURITY AT MALALANI IN KITUI COUNTY

On 8th October, 2013, a Statement on Insecurity at Malalani in Kitui Constituency was issued in this House. However, it was directed that a more comprehensive report on the measures that had been put in place to enhance security in Kitui County be availed. I, therefore, take this opportunity to inform the House of the measures that have been instituted to enhance security in the county.

1. Routine patrols have been intensified, especially in the hot spot areas and the watering points.

2. The OCPD, Mutitu and the entire police station have been provided with serviceable vehicles, registrations numbers GK B110 G and GK A736, respectively. Besides enough fuel to patrol the area extensively, daily foot patrols have also been intensified. The OCPDs have also been provided with adequate funds for security operations within their areas.

3. A platoon of Anti-Stock Theft Unit (ASTU) has been deployed at Malalani area with a serviceable vehicle, GKA733Q.

4. Administration Police (AP) posts have been opened at Ililuni, Makuka, Enzui and Katumbi areas. An AP camp is also in the process of being established at Engamba area.

5. An operation which is meant to flush out aliens, illegal immigrants, bandits and poachers and seize illegal weapons is ongoing.

6. Clearing of access roads, especially in Mutitu, to ease accessibility is ongoing too.

Mr. Speaker, Sir, the following achievements have been recorded in the last one month alone:-

(a) A total of 187 aliens have been arrested, where 141 have been repatriated to Somalia, while the rest are awaiting the outcome of the case which is pending before court.

(b) On 1st October, 2013, 30 out of 37 goats that had been stolen at Kyamututa Village within Tseikuru Division were recovered at Boka Wells in Tana River and handed back to the respective owners.

(c) On 4th October, 2013, six pieces of ivory were recovered within Ikutha Division. Two suspects were arrested and arraigned in court.

(d) On 13th October, 2013, eight people who were illegally grazing their livestock, that is, 390 camels, 500 goats, 50 cows and 10 donkeys in Kora National Park were arrested and arraigned before court.

Mr. Speaker, Sir, lastly, plans are underway to conduct a comprehensive disarmament in both Kitui and Tana River counties.

Thank you, Mr. Speaker, Sir.

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

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

Sen. Musila: Mr. Deputy Speaker, Sir, let me take this opportunity to thank Sen. Haji for the Statement that he has made. Indeed, I am as frustrated or, perhaps, more frustrated than you in terms of insecurity in Kitui County.

Mr. Deputy Speaker, Sir, first, Sen. Haji has missed two of the most important questions that I asked, which were: “How many people have been killed along the Tana-Kitui border during the last two years and what action has the Government taken?” These questions were to be answered today, but they have not. You have heard Sen. Haji say 187 aliens have been arrested and a number of them repatriated to Somalia. We do not border Somalia. We are talking about a place which is two hours away from here. Sen. Haji knows this very well, that insecurity has taken root in this country and unless the Government takes steps, not only in Kitui, Tana, Central Kenya and Samburu, but everywhere, the situation will be out of control. I am asking that Sen. Haji goes back to bring us very important information regarding how many people have been killed. This is because during those two years so many people have been killed and not a single person has been arrested or taken to court.

Mr. Deputy Speaker, Sir, in the meantime, now that the Government is unable or unwilling to provide our people with security, could it consider allowing us to get homeguards, like it is happening in other countries, so that we can protect ourselves? We can only do so, if our homeguards are armed, because the people who come towards that direction have arms that are used to kill our innocent people like chicken.

Mr. Deputy Speaker, Sir, I beg the indulgence of this House that this question, again, be referred back, so that we can know how many people have been killed in those two years and what action has been taken. In the meantime, the Government should consider the issue of homeguards because we are all desperate.

Sen. Karaba: Mr. Deputy Speaker, Sir, we are discussing serious issues. I would like to inform the Chairman that during the Westgate attack, Haji Jnr., who was not even supposed to be on patrol, was seen to be very actively involved in saving people. He did a lot of good work and we are happy about it. Could he think of introducing some secret security agents who can step in, in case of such emergencies?

Sen. Haji: Mr. Deputy Speaker, Sir, regarding the question raised by Sen. Musila, requiring to know the number of people who have been killed in two years and the action that was taken, I would like to be given, at least, two weeks. I would like him

to be patient in spite of waiting for this long enough. I will make sure that in the next two weeks, I will try my best so that we get an answer.

Mr. Deputy Speaker, Sir, regarding homeguards---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, I am sure that Sen. Musila will accept the two weeks that you have requested for because he wants to know how many people were killed. But there is an issue that he has raised, which is quite interesting; that 187 people were arraigned and some repatriated back to Somalia. Since he says that he does not border Somalia, do you have an explanation of how these people had managed to travel so far inland, so that they could then be repatriated? Had they come all the way from Somalia, so that they were repatriated back to Somalia?

Sen. Haji: Mr. Deputy Speaker, Sir, I was coming to that.

Regarding the homeguards, as I answered Sen. Billow, I am aware that for the last one year, some homeguards were trained in some parts of northern Kenya. But up to now, they have not been armed. In spite of that, I will send a copy of the HANSARD to the Cabinet Secretary to find out the reaction of the Government as to why they have not been armed.

(Sen. Karaba consulted loudly)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Karaba! How will you know whether your question has been answered if you are not concentrating?

Sen. Haji: Mr. Deputy Speaker, Sir, regarding the question raised by Sen. Karaba, I will also communicate. From my own experience, when I was a District Commissioner in Kiambu, there was a wave of crime in Tigoni. My Provincial Commissioner was none other than Sen. Musila. I met all the residents of Tigoni and discussed the security issue with them. We agreed with them that some of them were to provide a vehicle for a week. Up to date, I think that insecurity has been curbed in that area.

Mr. Deputy Speaker, Sir, similarly, I will pass this question of agents to be considered under the public policy, so that some people can be identified to give assistance to the police.

Mr. Deputy Speaker, Sir, regarding the 187 people who were arrested, it is puzzling how such a number of people from Somalia found their way to Kitui County. Nonetheless, it is also gratifying to know that they were not able to reach Nairobi and that they have been taken back to Somalia. I am sure that the Inspector-General and the officers who man roadblocks are listening to our debate here. I will also pursue this with them and tell them that these kinds of things cannot be accepted by Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, my understanding is that your Statement is not finalized. You will give a further Statement in two weeks time which will incorporate the several issues that have been raised by the hon. Senators and not just those that Sen. Musila raised on this very important issue of insecurity.

Do you have another Statement?

Sen. Haji: Yes, Mr. Deputy Speaker, Sir.

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

GOVERNMENT EFFORTS TO ENHANCE SECURITY
FOLLOWING THE 2012 BARAGOI MASSACRE

Sen. Haji: Mr. Deputy Speaker, Sir, I have a Ministerial Statement on the efforts that the Government has taken to enhance security following the 2012 Baragoi massacre.

Mr. Deputy Speaker, Sir, Sen. Naisula Lesuuda requested for a Statement on the Government's efforts to enhance security following the 2012 Baragoi massacre. The hon. Senator wanted clarification on:-

1. The steps that the Government has taken to recover the stolen Government firearms currently in the hands of civilians.

2. The efforts that the Government has put in place to ensure that peace and security is restored in the area and to avert such unfortunate incidents in future.

3. Compensation that has been given to the fallen soldiers and the Kenya Police Reservists (KPRs) who died in the line of duty.

4. How many families have been displaced since the massacre?

5. How many more incidents have taken place; how many lives and livestock have been lost and how many livestock have been recovered since the massacre.

Mr. Deputy Speaker, Sir, I wish to state as follows: Tension between the Turkanas and Samburu communities within Samburu North District has been on the increase due to persistent cattle rustling and counter rustling activities between the two communities. Banditry activities and highway robbery incidents are also on the increase within the area. This has led to the locals acquiring illicit firearms on the pretence of protecting themselves and their livestock from the raiders. The crimes referred to are believed to be perpetuated by criminals whose operational bases may be traced within Merti, Nachola, Lomirok and Suguta Valley. Consequently, the Government gave amnesty to all persons who are illegally holding firearms to surrender them, but unfortunately, the amnesty was ignored.

Mr. Deputy Speaker, Sir, in this regard, therefore, the Government intends to conduct a major operation to recover all illicit firearms from the community members involved and reduce the influx of small arms and light weapons which are the major weapons used by the criminals, against peace loving citizens. The intention of the operation is to recover stolen Government firearms, illicit firearms and livestock, arrest and prosecute suspected cattle rustlers and illegal firearm holders, restore peace and tranquility amongst the warring communities.

Further, the Government has been holding peace meetings in the area, besides sensitizing the community members on the importance of peaceful coexistence. Patrols have also been enhanced in the area, in order to avert further incidents. The Government has also reactivated district peace committees in Turkana and Samburu counties.

Mr. Deputy Speaker, Sir, the police officers who were killed in the line of duty and had already been confirmed in service are entitled to death gratuity. All the involved officers are further entitled to compensation by the National Hospital Insurance Fund (NHIF) and under the Injury Benefits Act, 2007. The Government procedure on compensation of police officers who died in line of duty is, therefore, being undertaken to ensure that those fallen police officers are compensated. There were no families that were displaced during the incident. However, some families migrated from their homesteads, but they later returned.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Haji. Sen. Lesuuda?

Sen. Lesuuda: Thank you, Mr. Deputy Speaker, Sir. I want to thank the Chairperson for giving us this Statement which we have waited for, for a very long time. I also want to thank him for letting me go through the Statement before he read it although I thought I would, probably, get a copy of it from the Clerk.

Mr. Deputy Speaker, Sir, having said that, this is an issue which has been raised here; sometimes, just as other Senators mentioned, asking supplementary questions when you did not get the right answer in the first place can be difficult. You really do not see the reason why you need to go on to ask various questions. I requested for this Statement a month ago. Since then, the insecurity levels in Samburu County have escalated to a point where it is very frustrating and sad. Several incidents have taken place. What we saw on television the other day in Maralal Town is very sad. Cattle stolen from Maralal Town and its environs are sold here in Nairobi. What happened last week in Suyian is related to a cattle rustling incident in Samburu North.

Mr. Deputy Speaker, Sir, the Chairperson says they have initiated peace efforts to prevail upon communities to live in peace and tranquility. However, I can say here nothing is happening at the grassroots level. As I speak now, Turkana and Samburu communities do not see eye to eye---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Lesuuda, you know you are supposed to seek a clarification and not to make a counter statement.

Sen. Lesuuda: Mr. Deputy Speaker, Sir, that is the clarification I am seeking. Where are these peace meetings taking place? Who is talking to the other? Is the Cabinet Secretary aware that there is no operation that is going on as alleged in this Statement by the Chairperson? To the contrary, incidents of insecurity have increased in Maralal. Could it be a deliberate move to start operations to deal with insecurity incidents so that we forget what happened in Baragoi?

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. When this Statement was sought, the most serious matter, in my view, was the firearms that were taken from the slain soldiers and which continue to be in the hands of cattle rustlers. Government property – even if it is a button; and Sen. G.G. Kariuki will confirm this – is Government property. We have a situation where policemen were slain, very powerful weapons were taken away and the Government sits pretty, allowing those guns to roam around, killing more and more citizens.

Mr. Deputy Speaker, Sir, today we are very sad. We have been talking about insecurity and more insecurity. How does the Government expect there to be security when even Government property such as firearms are in the hands of people who are killing others and the Government is doing nothing to recover those firearms?

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, while thanking the Chairperson for attempting to come and respond to that Question, it looks like we are not taking the safety or the lives of the people of Kenya and their property seriously. Just imagine Government officers are murdered and no attempt is made to retrieve even one single bullet from the people who carried out this heinous crime. The department in

charge of the interior security of the people of Kenya is completely unable to arrest the situation. The only one honorable thing these officers must do is to resign. They must go. These are the officers who are in charge in this department to keep peace and order, who must be the CS and the people below him.

As the Senator sought answers from the Chairperson, he said that nobody in Turkana and Samburu counties are on talking terms. You see an enemy on the spot and war begins. Now, that forces other people to go and arm themselves. So, I think the Chairperson needs to sit down seriously and tell us how this can be addressed. He went further to say in his answers that the amnesty was ignored. What steps did the Government take when the amnesty was ignored by simple citizens?

Mr. Deputy Speaker, Sir, I am still waiting for an answer he is supposed to give me, why Kenyans in my county were killed the other day by a few bandits from Turkana, and nothing has happened. It looks like the weapons we are saying should be returned are now being used to kill people indiscriminately. Let him come and explain properly what needs to be done; if they are unable to just tell the Senate that the department is completely unable, then Parliament can prescribe further medicine for them.

(Sen. Karaba stood up in his place)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, you have not spoken on this one, have you?

Sen. Karaba: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Proceed.

Sen. Karaba: Mr. Deputy Speaker, Sir, it is very saddening to keep on talking about peace in this country. Going by what we have heard here, we have all the old administrators here – Sen. Musila was a Provincial Commissioner (PC); Sen. G.G. Kariuki and Sen. Haji were Ministers and they are in the Senate. What they should be telling us is what they used to do when they were there and what the missing link is now so that we can patch up.

Secondly, Mr. Deputy Speaker, Sir, we have very old vehicles in the counties. Yesterday I was interested to see a television programme about devolution in the counties, where there was a Land Rover which has no reverse gear. It could only engage forward gear, but it could not reverse. The kind of vehicles that we were shown are in very bad shape. So, I am asking the Senator in charge of this Committee to give us an account of how many new vehicles are bought every other year for those counties, particularly for Samburu, where the terrain is so bad. Now, imagine that there is only one or two Land Rovers; how are they supposed to traverse the whole of Samburu County which is bigger than Central Province, in pursuit of cattle rustlers? I mean, it is impossible. So, let us be told; what exactly is the level of preparedness of the Government when it comes to fighting crime? What type of vehicle do they have? I am told that there is only one Land Rover in Kirinyaga County. At one time, it was chasing some people, but it did not have enough fuel---

The Deputy Speaker (Sen. Kembi-Gitura): I am sure that in your case, the Land Rover had a reverse gear.

Sen. Karaba: Yours is worse, because it has no reverse gear!

(Laughter)

So, these are the problems we are having.

Thank you, Mr. Deputy Speaker, Sir.

Sen. G.G. Kariuki: Mr. Deputy Speaker, Sir, with the permission of the House, the information that the honorable lady was trying to find out; on whether she should have been given the Statement before it is read here, that is the normal practice. Before a Statement is read by the Chairperson, a copy of that Statement needs to have been given to the Questioner so that they are able to follow what the answer is being driven to.

Having said that, I think we can sit here the whole day asking the same questions; remember we started with a similar question almost two hours ago and we are still talking about it. That is why I am proposing a Motion, which will be coming soon. But by now, hon. Haji is very much aware – like I am – that there is no way people will surrender their guns if their areas are insecure. No people in Samburu, Turkana or any other people can do that unless they are assured of their security.

Again, what is the logic of asking about the officers who were slain all the time and yet all the guns have not been recovered? If the illegal guns have not been secured by the Government, how do you expect these other ones to be secured? There is something terribly wrong with our security system. Look at Samburu; go further down to Isiolo, come to Laikipia; everybody is crying about insecurity. It is a problem for the honorable lady to go through Laikipia to Samburu. Laikipia is my county, but there are areas I cannot visit because I know there are people there to deal with anybody. They do not select a particular person, they just see a vehicle and they deal with it.

So, there is need for ourselves, as Committee Members under the leadership of hon. Haji, to think beyond what we are being told. The lives of our people in this country are left in our hands, not in the hands of security officers. Security officers are employed by this House, the National Assembly and also by the Presidency to do the job as directed by those institutions. But my biggest question is this; where are we going to get people to change and do the job they are required to do? There is something beyond what we can see. I think hon. Haji is trying to do his best---

(Sen. Haji consulted other Senators)

Mr. Deputy Speaker, Sir, I hope Sen. Haji is listening.

Sen. Haji: I am listening; I have two ears!

Sen. G.G. Kariuki: Okay, you have two ears, I agree; one is listening there and one is listening to this side!

(Laughter)

So, Mr. Deputy Speaker, Sir, I think there is need for the Chairperson to try, once again, to speak to the right people and let us know where we are going from here.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. G.G. Kariuki.

Sen. Bule, I can see you have given up your efforts.

Yes, Sen. Haji?

Sen. Haji: Thank you very much, Mr. Deputy Speaker, Sir. The question raised by Sen. Lesuuda, as to who is speaking to whom, I think it is a very valid question. I am going to ask the Ministry to give us the answer as to which community is talking to which community. As to what the honorable Senator said; that people cannot see eye to eye, maybe I will try to address that issue in my next Statement.

Mr. Deputy Speaker, Sir, regarding the question raised by Sen. Musila about the firearms of the slain police officers which are being held illegally by people; although the CS says here that despite the fact that he has given an amnesty and the people have not adhered to surrendering those arms, he is going to undertake an operation. Hopefully, we have to wait to see the result of this operation. But I do agree that it has taken too long – from 2012 to date – for such an operation to be undertaken. The necessary action will be undertaken. Once again, I will pass over copies of the HANSARD so that the Cabinet Secretary can take up the matter. I will follow up that with a letter.

The issue raised by Sen. (Prof.) Lonyangapuo is also very valid along the same lines. These people could be using the same illegal arms that they get from the murdered police officers. Please, let us give time for the operation that the Cabinet Secretary will undertake and see what the results will be.

With regard to Sen. Karaba's question on the missing link and what used to happen in the old days as opposed to today, I believe that can be answered by Sen. G.G. Kariuki very well because he was a Minister in charge of national security before me. The fact remains that Kenyans are using all manner of technology. There are many people who are unemployed. They are using twitter and other sites to imitate what is happening in other countries. It is not enough for us to sit and look at things happening. We should come up with suggestions on how we can help the Government to deal with insecurity.

With regard to the question raised by Sen. G.G. Kariuki, who is a Member of the Committee, nothing is stopping us from sitting together to discuss and look into the issues. If possible, I will write a letter that will bring this matter to the notice of the Cabinet Secretary.

The question of vehicles is not very clear. The hon. Senator should ask a question and we will address it.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. I would like to request you to implore upon the Chairperson to call a few of us who have been hit hard by cattle rustling to participate in his meetings with the Cabinet Secretary and his team. We need to put all the details forward.

The Deputy Speaker (Sen. Kembi-Gitura) Sen. (Prof.) Lonyangapuo, you are aware that committees are open to all Senators. You may not vote, but you can attend the sittings. You have a schedule of all meetings of all the committees for the whole week with you. If you know that a relevant Cabinet Secretary, Principal Secretary, a senior security officer or any personnel is appearing before the Committee, you should refer to the notice of the committees that you have so as to attend.

The Standing Orders provide that you can attend any committee meetings as a Senator. You may not vote if you are not a Member of that committee, but you can attend and interrogate as if you are a full Member. I am right and that is what the law provides.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, you are right, but I wanted you to assist us to make this point which has become a menace. The Cabinet Secretary should be called as soon as possible and we should also be alerted.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senator, if I had my own way of dealing with this issue, we would have dealt with it as a Committee of the Whole. This is not just about Suguta Valley, Baragoi or Murang'a County. To me, it appears that every part of this country is having issues. Probably, one of these days, we will have a Committee of the Whole to deal with the matter. You will recall that we have previously adjourned the House to discuss insecurity in certain parts of the country. That is the time we can interrogate him. I know that he cannot come here. That is when we can interrogate Cabinet Secretaries, not in a Kamukunji, but in a Committee of the Whole. This is a matter of concern and we want to know what is happening. I belong to that Committee and I know that our Chairperson is making the best efforts to deal with the issues.

He has given four statements. However, Members are still asking questions regarding the statements. I know that he knows that he has to go back and clarify certain issues. So, we will need to explore the Committee of the Whole where we can summon a Cabinet Secretary to answer issues.

Sen. (Prof.) Lonyangapuo, in the context of what you have just said, I do not know your views about that.

(Several hon. Senators stood up in their feet)

Sen. G.G. Kariuki: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for Senators to be standing when the Speaker is on his feet?

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much. I have noted that.

Sen. Haji, do you have a point of order on that issue?

Sen. Haji: On a point of order, Mr. Deputy Speaker, Sir. We were standing out of respect when you were talking.

The Deputy Speaker (Sen. Kembi-Gitura): I appreciate.

Sen. Haji: Mr. Deputy Speaker, Sir, anyway, I concur with you. I will organize a meeting and invite the Cabinet Secretary so that he meets us during a Committee of the Whole to discuss the security situation in the country. The 47 of us have a county.

Sen. Lesuuda: Thank you, Mr. Deputy Speaker, Sir. I also want to concur with what you have said because this is an issue that affects all counties. If we are not careful, insecurity will bring down our counties and we are supposed to protect them. I want to acknowledge the answer that has been given; that we should be patient. However, it is sad that as we continue to be patient, lives continue to be lost. So, let us have less talk, but more action so as to secure the lives of Kenyans.

The Deputy Speaker (Sen. Kembi-Gitura): I got the impression that Sen. Haji was going to give a further statement on the issue of Baragoi. I know that there are areas which he is not quite satisfied with and which he wants to clarify with the Cabinet Secretary.

You will notice that it is after 5.00 p.m. and we have just been dealing with statements. We may need to have a cut off point for statements on any day so that we

carry out other business of the day. I believe that this is an issue that the House Rules and Business Committee needs to take into consideration. That is the end of Statements Time.
Next order!

BILL

First Reading

THE WILDLIFE CONSERVATION MANAGEMENT (AMENDMENT) BILL, 2013

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

MOTIONS

ADOPTION OF REPORT ON VISITS TO LAIKIPIA, NYERI, KIRINYAGA, KISII, NYAMIRA, KISUMU, KAKAMEGA AND VIHIGA COUNTIES

THAT, the Senate adopts the Report of the Standing Committee on Education, Information and Technology on the visits to Kisii, Nyamira, Kisumu, Kakamega and Vihiga counties laid on the Table of the House on Thursday, 17th October, 2013.

(Sen. Gwendu on 30.10.2013)

(Resumption of Debate interrupted on 30.10.2013)

The Deputy Speaker (Sen. Kembi-Gitura): This is a continuation of the debate on the Motion, which was interrupted on 30th October. Sen. Elachi was on the Floor. She had 17 minutes, but I cannot see her here. We will not keep that time for her, but the debate will continue.

Sen. Karaba: Thank you, Mr. Deputy Speaker, Sir. This is a Motion regarding a Report by the Committee on Education and Information and Technology, on their visits to Vihiga, Kakamega, Kisumu, Kisii and Nyamira counties.

I am a Member of this Committee. The Committee is doing very well. It has been going round the country trying to collect views on education and sensitizing the emotions of Kenyans with regard to the devolved function of education. We noted, in our trips, to the amazement of the Committee, that the devolved functions of the Early Childhood Education (ECD) are still lacking in most counties. This was exemplified in the four counties. There is very little preparedness regarding what should be done to preprimary children. We noted that as early as 6.00 a.m., you will find two year old children accompanying their sisters and brothers who are in primary schools so as to attend the kindergarten. When they get there, they stay on their own without any teacher.

Most of the time, these children do not take breakfast at home. When they get to the primary school, they have to wait for their teachers to come at about 8.00 a.m.

because that is when classes begin. The young children are left to struggle with stress. As a result, they lose interest in education and become unfriendly to the environment. They also lose track of education. The early age is what encourages or discourages children from attending school. By the time they get to class one or two, they have no interest with regard to learning.

We also noted that not many public schools are ready to have pre-primary children classrooms on their compound. Even where there are classrooms for pre-primary children, they are not well done. Some of them have no windows and furniture. Children sit on the floor, apart from one school in Kisii County. The school administration does not bother about what is happening in the lower classrooms. The head of a school considers himself to be in charge of class one up to class eight.

We also noted that class seven and eight pupils are given better facilities. They use better classrooms as opposed to the ones used by kindergarten children. So, this is what we noted. It is also regrettable to note that these children have no toilet facilities. They go to the same facilities where class one to eight children go to. Small as they are, you can imagine the kind of problems that they are facing. So, in some areas, they even prefer not to go to pit latrines. They go to the open thickets in the neighborhood of these schools. This is the kind of scenario which we saw in those schools.

So, the Committee on Education, Science and Technology has been very concerned. They would like to probe further so that the pre-primary children are not just left to wander around the school. They are the pupils who should be considered even before thinking about those ones in Class Eight. Instead, not many parents bother with them. For the first time, we are having this department devolved to the county level. I know very soon, the county governments are going to take it up with the assistance of the Government. This will be the beginning. We are hoping that in future, the Government should see to it that the best class projects are taken to the kindergartens and not to Standard Seven and Eight in the public primary schools.

Mr. Deputy Speaker, Sir, we also need to prepare for the pre-primary pupils to take off in what we call the laptop project. It is envisaged that it will be started next year. If they are not prepared, what will happen when they get to Class One? So, the introduction of the laptop project should start at this level so that by the time they get to Class One next year, they will have known what laptops are. So, there is a lot of neglect, particularly at the pre-primary level. We are hoping that the Committee will look into that.

This Committee will make sure in four year's time, we shall have visited most of the schools in Kenya to evaluate and appraise the problems being faced by our people. Without considering the environment in which these young boys and girls are going to live in, then it means that the children will be discouraged to get to those schools and they will hate learning. This is the problem we have. If these boys and girls are given attention, for example, tea at 10.00 a.m., and have a good field where they can play, they will grow to love school. But if they are left to fate until they grow up, and then they join Class One and are given laptops, then we will have wasted young human beings.

The purpose of this Report is to expose those problems so that the devolved function can be taken care of by the counties. It is encouraging to note that most of them understand these problems. The Committee, besides visiting the five counties in western Kenya, it has also moved to the coast region and visited Lamu, Tana River, Kilifi,

Mombasa and Kwale. On Friday this week, the same Committee will visit Kiambu, Murang'a, Isiolo, Meru and Embu. So, this tells you that the Committee on Education, Science and Technology is out to bring education closer to the people. They also try to motivate the young scholars so that they can love education.

That is all about devolution. Without having devolution take its root and the committees to undertake the serious work they are supposed to take, particularly trying to get closer to the young learners, then we are at a loss when we talk about education. So, if we want to succeed in the education sector, we need to invest more in the education of our young children. That is the only way we can take off in education. You will realize that those counties which have taken care of pre-primary education will have an easy take off in Class One.

I support.

Sen. (Dr.) Zani: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this Report. Let me, first start by commending this Committee for the way it has been very active. This is their phase two of county visits. They have given a comprehensive Report of exactly what they have done in the county visits, including having a variation about where they have visited. For example, they have visited the Governors' offices. They even managed to go to Ayo Primary School when they had their price giving day where they actually saw how the children were learning. This is very innovative and exciting. Generally, the enthusiasm and even the photos attached to that Report captured the mood of the Committee Members and gave us an insight of what exactly they were doing.

I just want to make brief comments on the problems that they generally face in most of the areas. These are problems that are faced across the various counties. I would like to highlight some specific cases, some of the insights that they have brought out in the report and also to make suggestions. The suggestions I will make would be starting with the objectives of the Committee as set out. The objectives are more or less stated in the same way as the first Report was done. It would have been nice, as the Committee goes to specific counties, because they are different, if they could bring out specific problems in those particular counties, especially dealing with early childhood education so that right from the beginning, we have an insight of specific problems in specific counties and exactly what their expectations are.

Mr. Deputy Speaker, Sir, in their first Report, there was the issue of staff shortage, especially for early childhood and development education. There seems to be either lack of interest or lack of processing of personnel over time to ensure that they are trained and put in the right places. I cannot fathom why such a shortage would be there in the first place considering that there are facilities for training at different levels, including the Montessori schools which do a lot of training. So, we have a problem of distribution of personnel for early childhood education and development.

These teachers seem to be going to specific areas. I am afraid the trained ECD teachers are going to the private sector. It seems that they are the ones who are having the biggest advantage in terms of recruitment. We know how critical it is to have early childhood education and development at lower levels so that the child is motivated and gets interested in learning. So, it is a big disadvantage, especially for the public schools that we have not been able to amass the potential of personnel. It is not really about the

training; rather it is selective for them to go to the private sector rather than the public sector.

Apart from staff shortages mentioned in the Report, it would have been nice to find out what the comparative figures are across the various counties because I think it is general. If we are talking about policy and the implementation of that policy, it would be important to know exactly how many teachers we are short of and in which subjects so that we can rectify the situation in terms of planning. I think it may also be difficult to come up with those details because there has not been a clear policy put in place in terms of ECD. I think we need to emphasize that education for our young children is very critical and without that, it becomes impossible to move to the next level. The determination of performance at primary schools is through ECD and, later on, the transition to secondary schools.

Mr. Deputy Speaker, Sir, there is also the issue of lack of infrastructure for polytechnics. Some of the polytechnics that were visited lacked basic infrastructure, they were not well planned and lacked tools. There was also the idea of referring to them as village polytechnics which is not attractive to the youth. So, we should think of an innovative way of transforming these middle level colleges. More than ever before, Training and Vocational Centres (TIVET) are very important for this country. As we know, not everybody follows the formal route of education. Therefore, we should have TIVET centres and upgrade our polytechnics. We should also begin to change the mindset of Kenyans; that not everybody should end up at the university level. There are also blue collar jobs. In fact, in the developed world, it is the blue collar jobs that are in demand. They are also the ones that pay well. We might also begin to see such changes in this country if we are able to train and make this work lucrative for various people.

I was touched and disappointed with the level of infrastructure that has been put in place regarding the physically challenged students in the various schools. This came out of the Report. They have been left out and this means that issues of mobility have been ignored. We also do not know what sort of physical challenges these are. Sometimes they are physical challenges and also mental challenges and yet we use the usual formal curriculum to train people. We do not know the amount of mainstreaming that has been done. For example, in some schools, the physically challenged are allowed to be as normal as possible because they interact with others. I think that really leaves a big gap in terms of the knowledge and information that can be given to the physically challenged.

Mr. Deputy Speaker, Sir, at Sigalagala Technical School, the Committee was impressed with what they saw and it was, probably, the model school for that county. I think what needs to be brought out is what made it a model school so that again that can become a template for moving forward and improving their education levels. How has one county managed to succeed and others have not managed to succeed? Is it a question of resources, leadership or importance that has been given to education in that particular county?

Then there is the issue of standardization of the ECD curriculum. I think right now as it stands and as the Report stipulated, everybody is doing their own thing. There is no policy and there is no standardization which I think is very dangerous remembering that these children will leave and come through the primary schools and expect to go through the trajectory of going to secondary schools and universities. So, it is important to have that sort of control. So, in terms of moving forward, the issue, especially of

having a standardized ECD curriculum is very important for quality control and making sure that standard setting is done at a high pitch. Therefore, there is need for a follow up for all the others.

Mr. Deputy Speaker, Sir, with regard to school feeding programmes, again, they are being applied sporadically. One school is doing it better than the other and yet this has to be Government policy. For example, among the poorest of the poor, sometimes it is the school feeding programmes that actually get the children to go to school. In the long run, in terms of development, it really contributes to ensuring mainstreaming from the various social classes so that you do not leave the very poor out who end up getting disinterested.

In Nyamira County, for example, it was very encouraging to find out that girl-child dropout rates had actually reduced. Therefore, there was improvement in terms of the girl-child education. That was a very good observation and important area for counties to encourage, so that we have gender balance. For example, in the national examinations, Nyamira County records a low mean. But, again, we need to know what that low mean is and what could be the reasons for that specific scenario.

Mr. Deputy Speaker, Sir, the same sort of issues came up from the various counties. For example, in Kisii County, out of 763 public schools and 45 village polytechnics, they have said that these are the ones that are there. But how does that compare to other counties? Are they doing better than Kwale County, for example? So, just in a snapshot, we could have a comparative analysis. What does it mean *vis-à-vis* other counties? Are they doing well or badly? That would be very important, so that we have an evaluative framework across counties. This is because, at the end of the day, that evaluative framework becomes handy in being able to really see where the discrepancies are.

The same thing applies to Kakamega County, for example, where ECD centres are recorded as 1,068 and 2,200 in terms of teachers. We still need to have a rating, so that we can actually say that, at end of the day, as a Committee, if we were to put in more effort in one county and the other county. What would be the key issues to consider across one county and the other county? It is a very exciting and informative Report. I commend that Committee for the work that they have done. I think that they have put the whole idea of devolution and education on the map.

Mr. Deputy Speaker, Sir, I support the adoption of this particular Report.

The Deputy Speaker (Sen. Kembi-Gitura): Well, it appears that the Mover may now have to be called upon to reply.

Sen. Gwendo: Mr. Deputy Speaker, Sir, I would like to appreciate all the Senators who have contributed to this Motion. I would also like to appreciate the Members of the Committee for the good work that they are doing.

Mr. Deputy Speaker, Sir, to the Senate at large, we would like you to support education. This is because Nelson Mandela once said that education is the most powerful weapon that you can use to change the world. For us, the Members of the Committee on Education, Information and Technology, to change the world or this country, we need the Senate to support us.

Mr. Deputy Speaker, Sir, I will point out a few issues raised by the Senators and how the Committee will adopt them and work together with the Senate to also adopt them in various counties. I will start with the disability care. One Senator pointed out that we

should use the word, disability-friendly, which I think is correct. This is because if we keep on saying “the disabled or physically challenged” it sort-of discourages both the young and old from participating in anything in the community. So, if we established our schools in a disability friendly manner, then these children will feel welcome to go to school. So, that will be adopted by the Committee.

Mr. Deputy Speaker, Sir, another Senator pointed out that education is a responsibility of the community. I know that in Siaya County, for example, we have organizations like Plan International that are running community-led ECD centres. The programme helps to sensitize the community on the importance of ECD. This is because we know very well that if we give a child the best foundation in Siaya County, for example, that same child will be able to compete with a child in Cavina one day when they meet, because the examination is the same.

Mr. Deputy Speaker, Sir, with regard to Information and Communication Technology (ICT), as much as education is the most important weapon, we also need to be digital. We also need ICT to help us in research and moving forward in our schools and chambers. For example, I can tell you that the Kisii County Chambers is better than what we sit in here. It is automated and they are almost at a level that all counties need to be in. I believe that if we move towards connecting our counties, then we will not need to summon the Cabinet Secretaries (CSs), for example. You can have a conference call with the CS and he will be able to respond to your questions more easily.

Mr. Deputy Speaker, Sir, the other issue is the school feeding programme. On this one, I think that the Senate will need to work with the Committee on Education, Information and Technology, because feeding is very important. We know that we cannot work in this Senate without food. What about that three year old child who leaves the house early in the morning to go to school? We need to find a way of establishing feeding programmes in all our counties, to encourage these children to go to school. Of course, each and every child will go to school knowing that they have left their mother’s house and blanket, but they will go and learn and eat.

We picked out some alternatives or methods that could be used. I mentioned the one in Kisumu County, where the Governor was encouraging schools to have land where they can plant maize and vegetables, and then the school will be able to feed their children without any problem. Alternatively, the schools can ask parents to bring a tin of maize or *unga* and then the school can cook a collective meal for all the pupils. In this way, we will not have problems in attendance. We will also develop these children’s foundation.

Mr. Deputy Speaker, Sir, we noticed that in Kisii and Nyamira counties, there was a problem of low performance in KCPE and KCSE. It is our responsibility, as leaders and community, to motivate these children. Feeding is good motivation. Secondly, we should find a way of rewarding these students when they do well. We should find out why they are failing and many are not registering. The other day, I discovered that there are headmasters who stop children from registering, because of either being weak or they got into problems when other pupils were revising. These are things that we, as a Committee, need to look into.

Mr. Deputy Speaker, Sir, with regard to village polytechnics, for example, if you went to Kibos Primary, then Kibos Secondary and finally to Kibos Polytechnic, we tend to feel that this is associated with inferior quality of education. We want to encourage the

Senators and leaders to rebrand the polytechnics, so that students are attracted to them because they have a way of boosting our economy.

The Deputy Speaker (Sen. Kembi-Gitura): Senator, I do not wish to stop you because you are doing a good job, but remember that you are replying. I do not want you to reopen the debate. You are replying to the several issues that have been raised and do not have a long time to do so.

Sen. Gwendu: It is noted, Mr. Deputy Speaker, Sir.

I was just highlighting a few issues that were raised by the Senators. Up to that point, I am done.

Mr. Deputy Speaker, Sir, I beg to move.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senator!

Do you wish to continue?

Sen. Gwendu: Mr. Deputy Speaker, Sir, I want to request that you defer the voting, under Standing Order No.51 (3), because it is a Motion that affects counties.

The Deputy Speaker (Sen. Kembi-Gitura): Technically, you cannot read Standing Order No.51 (3) in isolation to Standing Order No.69. This is because when the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether or not the matter affects counties. That is the sole mandate of the Speaker. You cannot rule or purport to rule that it affects counties. So, the Speaker will have to rule on that. Standing Order No.69 (1) and (2) reads:-

“When the Senate is to vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties.

(2) The Speaker’s ruling under paragraph (1) shall be made after conclusion of debate on the matter but before the question is put.”

I need to rule on whether or not this affects counties. Then, before I put the Question, if I say that it affects counties, that is when a Senator can then make an application, under Standing Order No.51 (3), which you have referred to. But we cannot conclude debate and then proceed to invoke Standing Order No.51 (3).

Hon. Senators, under Standing Order No.69 (3), it is my ruling that the Motion that we have just gone through, and has been replied to, affects counties. Before I put the Question, Sen. Gwendu, you may now put it what you wanted.

Sen. Gwendu: Mr. Deputy Speaker, Sir, I would like to kindly request your indulgence in deferring the voting on this Motion, under Standing Order No.51 (3).

The Deputy Speaker (Sen. Kembi-Gitura): Why do you want me to invoke Standing Order No.51 (3)?

Sen. Gwendu: Mr. Deputy Speaker, Sir, it is because of the number of the Senators that we have in the House.

The Deputy Speaker (Sen. Kembi-Gitura): I think that, that is the correct position. It is a Motion that affects counties and we do not meet the threshold. So, it would be futile to vote. That is the reason you are asking that I invoke the provisions of Standing Order No.51 (3). Is it not?

Sen. Gwendu: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): That reason has to be given for the record. We are not just deferring the putting of the Question and, therefore, the voting for the sake of it, but it is because we do not have the threshold of the Members to vote on the issue.

Yes, Sen. G.G Kariuki!

Sen. G.G Kariuki: On a point of order, Mr. Deputy Speaker, Sir. I was hear listening but, did not hear the honourable lady moving the Motion. She finished and then jumped into requesting for deferment. Is that in order?

The Deputy Speaker (Sen. Kembi-Gitura): Did you not say “I beg to move?”

Sen. Gwendo: I did, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Are you sure? May I suggest that you just come here and move the Motion, so that the HANSARD captures it right? I would not want you to lose your Motion on a technicality.

Sen. Gwendo: Mr. Deputy Speaker, Sir, I beg to move.

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

Having moved the Motion, and since you had already indicated that you wanted to invoke Standing Order No.51 (3), it is so directed.

Hon. Senators, that brings us to a close of that Motion. The putting of the Question is deferred under Standing Order No.51 (3) to tomorrow Wednesday 6th November, 2013, after 2.30 p.m.

Next Order.

(Putting of the Question to the Motion deferred)

MEASURES TO ASSIST COUNTY GOVERNMENTS
DEVELOP CAPACITY IN PRE-PRIMARY EDUCATION

Sen. Karaba: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, noting that Article 6 (2) of the Constitution recognizes that the National and County governments are distinct and inter-dependent; aware that devolution is an important principle in the new structure of governance; recognizing the fundamental role of education world-wide in fostering economic and social transformation prompting governments to create specialized agencies to, among other functions, regulate the training, registration, recruitment and deployment of teachers; aware that the function of pre-primary education is vested in the County Governments pursuant to the Fourth schedule to the Constitution; noting with concern that one of the main obstacles to the efficient and effective operation of County Governments is inadequacy of appropriate capacity; cognizant that Section 15 (2) of the Sixth schedule to the Constitution requires the national government to assist County Governments in building capacity to govern effectively and provide services for which they are responsible; the Senate calls on the National Government to take measures to assist County Governments to develop capacity in the training, recruitment and deployment of teachers for pre-primary education.

Mr. Deputy Speaker, Sir, this is an issue that is very important to our country. This is a Motion which is seeking to address the plight of pre-primary education in the country with regard to teachers. The foregoing Motion, which was about a report of the Committee on Education, Information and Technology as captured from Vihiga,

Kakamega, Kisii, Kisumu and Nyamira counties, indicated that the kind of education which children in pre-primary schools are exposed to is wanting. The Committee raised issues with the Senate that pre-primary education should not be left to the fate of uncertainty; we should not imagine that pre-primary education is not a development in itself as far as education is concerned.

Mr. Deputy Speaker, Sir, if we missed pre-primary education in our education system, we have missed education in our country in totality. What I meant to say in this Motion is that there has been haphazard development of structures or infrastructure at pre-primary level. You will find that pre-primary or Early Childhood Development (ECD) classes have been neglected; you will find that even the way teachers are recruited, it is like they are picked from anywhere and they might not even be trained. We noted that some of these teachers are even volunteers. They are not on a payroll nor are they paid by anybody. They have nobody to turn to in case of emergencies.

Therefore, the pre-primary sector of education is totally neglected. It is regrettable that even the teachers who are there, their training background cannot be ascertained. We do not know how they are trained, we do not even know how much they earn. Every county has its own salary structure. Some of them have no salaries at all and some of these people cannot be disciplined in case of negligence. This is the state of affairs that we continue witnessing in the lower levels of our education.

Mr. Deputy Speaker, Sir, as we talk about education, it is at this level that we are supposed to build a firm foundation for our education. If education is not sound from this foundation level, we will regret later on when the children get to other higher levels of Standard Four, Five or Six. When they get to Standard Eight, you realize that their behaviour will be just like pupils who have not gone to school. They will be indisciplined, their manners wanting and have no respect towards the elders, and so forth. This is because there has not been proper training. It is in these formative years or stages that the actual training of a child begins. The developmental stage of the cognitive and psychomotor domains; these are the psychological aspects of the developmental mind of the young children, is supposed to be developed.

If these skills are not developed; that is, the skills of speaking, reasoning and so on, we would have lost a whole generation. Later on, we will regret about the spate of strikes in several schools. You will find a high number of students dropping out of school or that the school dropout rate being very high. Sometimes we complain about the low transition rate of pre-primary to Class One or from Standard Eight to Form One. That is the problem, without knowing that these problems stem from the grassroots or the pre-primary level. It is, therefore, important to note that the basic requirement of education starts before a pupil joins Standard One. We need to develop these skills right through Standard Two, Three and Four.

Mr. Deputy Speaker, Sir, we also noted that our parents have almost neglected their responsibilities. They have stopped babysitting their children at the age of two or three years. All they do now is take them to nursery schools and kindergartens, where they are left at the mercy of employees or 'teachers.' These are not teachers; these are people who have been collected sometimes even from the streets to go and teach children in these nursery schools. The modeling which will be given by these untrained and 'uncultured' teachers will be wanting. This is a teacher who has no hope of being paid

his or her salary at the end of the month. This will make this teacher not impart any knowledge or information to these young girls and boys.

It is at this early stage that you need to train these young boys and girls on how to use the toilet. It is at this early stage that we also train these young boys and girls on good eating habits. It is at this stage when we even teach them how to blow their noses, how to write and even sit properly. But if they are not properly instructed, they then go to the society. The society will be seen as if it is rotten. This is, therefore, what the Motion is calling for.

Mr. Deputy Speaker, Sir, the Motion is calling for action to be taken by the national Government to make sure that proper attention is given to the pre-primary section of schools so that those who run those schools at the pre-primary levels have sound information and knowledge. They are psychologically set and prepared to outsmart young children so that as they grow, they grow as future smart boys and girls.

Mr. Deputy Speaker, Sir, we took pictures of some classrooms that we spotted in the countryside. We found a classroom in a public pre-primary or nursery school which had no desk, chair, blackboard and the teacher sits on the floor. I will not mention where we saw that, but it was somewhere in the coast region. All of them sit on the floor. That is enough for them. They inhale dust and when the cold weather sets in, it is up to them to feel the cold because the classrooms have no windows, the classrooms are neglected. The floors are not plastered. They have nothing.

This is what we this Motion seeks to solve. If the national Government can pay more attention to this level of education called the ECD or the pre-primary sector, we will establish a good foundation for our children. From there, we will tailor-make children as they join to Class One and Two. They will be smart. They will be seen to know what they are doing when they get to primary school.

Mr. Deputy Speaker, Sir, it is so sad that if you went to some of the places that we have been to, those of us with soft hearts, will just cry to see the misery that some of these children are subjected to. They are subjected to misery to the extent that they wake up very early in the morning. They have nobody to accompany them considering all the insecurity in our counties. They get to school at 6.00 a.m. or even 7.00 a.m. They would not have taken breakfast by the time they go to school. They will not even take the 10.00 a.m. tea nor will they take lunch. How do we expect these children to love education? There is no way that will happen. These children will hate education. They will run away from schools and they will not even think about education any more. We need to create classrooms which are friendly so that our children can like them.

The other thing we noted is that we should employ well trained teachers from recognized colleges, not from the mushrooming ECD colleges which are all over. We also need to regulate those ECD colleges so that we have the set standards of who should train these children. We should set out how much money these people should get as salaries. We must come up with their salary structure. What is their scheme of service? We need to think about these people as employees of our famous Government. They should not feel like they are like waste papers. These are very useful people. It is my sincere belief that even if this is a devolved function, as it has always been anyway, the Government must really assist them.

The Government has left a lot to the county governments. As a result, you will find that there are some counties which have no such kindergartens or pre-primary rules;

somebody just walks to school at the age of 12 years and he is taken to class one. That person will never get to Standard Eight because he has already developed some problems in his head. He will eventually drop out of school.

Mr. Deputy Speaker, Sir, let there be a concerted effort from the Government to the county governments to make sure that every county government has its own well done, self regulated classrooms and teachers. Teachers who are trained to handle these young children should handle them well so that when these children go home, they also appreciate that they have been treated well.

I happened to be the Chairperson of the Committee on Education in the Ninth Parliament. We went to Japan and we saw that kindergarten children were being given better treatment than children in other classes. They sit on very nice furniture. They also have very good toys. They are also given the laptops we are saying are not important in this country. How can we say that it is not possible to give children laptops when we have never seen them? We are just like children who have not been to good primary schools. The moment we develop good primary schools, we will develop children who love learning and children who will develop to be good citizens.

It is important to note that county governments may have different feelings. They may want to employ teachers and that is good. They can do it because they have been doing it. However, if the Government does not step in to bring a regulation or a Bill with regard to the devolved systems, we will have counties that are lagging behind in terms of devolution of the education system which starts from the preprimary education. It is here where every child learns everything.

This is the stage where writing starts. It is the stage where learning of other languages begins. These things should not be taken as a development issue where they are started in class three or four. I realised that in some schools, a class eight boy may not know how to spell some English words. However, in the urban centres, you will find pre-primary children who know how to participate in public speaking.

Those differences will continue to emerge until you hear some people saying that the national cake is not being shared equally. This is being caused by inequalities which are equal to corruption. This is all being caused by corruption in the society. If we start corrupting education, right from the lowest level, we will have corrupted the society and it will be very difficult to correct it.

The Motion seeks the support of the national Government. The national Government should assist county governments so that we all begin from the same slate. That way, we will encourage children living in areas which are said to be remote to be at the same level with others. It is through this system, the fibre optic system that we will connect to schools which are very far from Nairobi to benefit children in rural areas. These are children in Turkana, Pokot and in Tana River so that they learn the same way children in Nairobi, Kisumu and Nakuru are learning. This is because they will all be connected. We should support the project of the laptops.

I beg to move and ask Sen. John to second.

The Deputy Speaker (Sen. Kembi-Gitura): The Standing Orders require and demand that you refer to a fellow Senator as Senator so and so.

Sen. Karaba: Mr. Deputy Speaker, Sir, I call upon Sen. (Prof.) Lonyangapuo to second.

Sen. (Prof.) Lonyangapuo: Mr. Deputy Speaker, Sir, as I stand here to second, I excuse my colleague because my name is very long and he could easily bite his tongue. He was having difficulty in pronouncing it.

(Laughter)

The Motion that has been tabled here talks about the national Government doing what it should do because we have moved to devolution. Our country is now run under 47 counties. For that purpose, the Ministry responsible for the standardization of education, research and development at any time should see to it that at any time, education is anchored properly.

There is no system of education that has been neglected like the pre-primary education. I have said that because 50 years after Independence, we do not have serious training for teachers at all that has formalized the teaching of nursery school teachers. We know colleges where the primary and secondary school teachers go. However, the foundation stage which is the pre-primary education has been misunderstood. It has been left at the mercy of churches in the rural areas and people who know nothing about children. Children are deposited in classrooms as they wait to join class one.

The development of our nation has been spear-headed by people who had a firm foundation in their education. I can compare the way we have treated pre-primary education to the way farming is done here. Every year a new season begins; there is no farmer who goes to broadcast maize in the bush because he would harvest nothing. I also do not know of a farmer who goes to plough without proper preparations, having the right fertilizers and without testing the nutrients in the soil or thinking of how he will irrigate his farm. Farmers who come from the maize producing areas do early preparations. They test their soils and look for all the nutrients required and inputs. That way, they do not go wrong. You will harvest maize. That is why we talk about Trans Nzoia being the national basket.

Similarly, in our education sector, the pre-primary education needs to be conducted the same way. When a child leaves his mother or father to go to pre-primary school at any time, it should be better than home. We also say that the primary schools should also be better than high schools and so on and so forth. This is now where we can inbuilt people who are committed to the development of their nation. If you look at some of the places they go to school in the morning, they have some of the most undeveloped infrastructure for schools. You cannot expect anything good to come out of them. These pupils just struggle to move to class one and survive up to secondary school. If we can put it right the way other countries have done by putting a lot of money and time in making sure that the foundation for the children is put right, we will be able to develop.

We have now finished six years since the inception of the Vision 2030 which states that by that time, we should be a middle income generating country where we should be able to have added value in most of our products. How do we do it if we do not build the human resource properly? The foundation of all human resource is the pre-primary education.

Mr. Deputy Speaker, Sir, this Motion urges the national Government to take measures to assist the county governments to develop capacity in training. In other words, we are saying that there is no harm coming up with a syllabus which is standard

for the whole nation in all the ECD schools, so that what is taught in Kisii County is the same as what is taught in West Pokot County and any other county, for that matter. I know that we have vernacular taught in our schools, but there should be special time for vernacular to be taught. This is the time we should anchor Kiswahili and English which are our national languages. It should also become like law so that the county Government has no choice, but implement.

We should also be able to tell how much salary is set aside for every pre-primary education teacher. Right now, some are being paid Kshs1,000 per month depending on where you are, while others are being paid Kshs500 per month while others have never been paid. They are just waiting for a well wisher to come to their aid. Some of us during our campaigns were asked to pay for the ECD teachers who had never been paid. So, they just use the goodwill from the people. We need to standardize these salaries. We also need to have standard classrooms.

I know most of us here take their children to nursery schools that are private yet the majority of the people that we are representing in this House cannot afford to do that. If you compare the performance of children who have gone through nursery schools with those who have not gone through them, they are very different. In fact, they are two different people altogether. Sometimes they come at par in secondary school, but if we can begin right, we shall be able to achieve our vision and goals that we have set aside.

Mr. Deputy Speaker, Sir, through the national Government, we can also state what type of personnel should be on the ground. We should have the county TSC unit functioning and all the departments must be there in every county. The County Director of Education must have all the departments that are found here in Nairobi in the county so that when we are talking about standards and recruitment, we have the people with that capacity. We should also state who must be a County Education Officer. Some Governors have put their friends in those positions without the right skills. We should be able to state what skills they are supposed to have so that we standardize the whole education system right from Nairobi.

The Ministry of Education head office should be able to have their Curriculum Vitae for the sake of making sure that quality education is taken to our people. We cannot leave this to the mercy of anybody who has been elected a leader in the county. The national Government should decree this. Unfortunately, when we called the Cabinet Secretary and the Principal Secretary in the Ministry, they told us that there is no formal document that has ever been written to manage pre-primary education. It has just been trial and error. So, if we can insist through the Senate as it is stated here, that this policy is generated, even coming up with a legislation that will govern, we can put a rubber stamp on how our education system is managed at the lower level.

With those remarks, I second.

(Question proposed)

Sen. (Dr.) Zani: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to support this Motion. I think this Motion really portrays a serious sad state of our educational system. We know that in any economy, education is the basis for development of that country. You cannot get it right from top to bottom. This is one thing Kenyans have not yet as a sector agreed upon in terms of the way forward and what to

do. You must get it right from the bottom and then you plan well. Fifty years after Independence, it is not that the whole realm of education is something new for us. I just cannot fathom why ECD and education has been a sector that has been ignored for so long while realizing the implications that it has that have been well brought out by Sen. Karaba in terms of the development of the child right from the word “go”.

Starting with the issue of who becomes a teacher and how they become a teacher: Do we vet teachers, especially those who will be so instrumental in shaping up the minds of the young Kenyans? I think that nobody has bothered to do this. In Kenya you just apply for any job, yet this sector is so key and crucial that people, first of all, have to make a decision of where to go to. Unfortunately, most of the time the status of those who end up teaching, it is hierarchical right from university teaching to pre-primary education, seems to change across the hierarchy.

As time goes on, you will find that those people who really end up in the teaching profession, especially at the early levels, are those who did not have an interest at all. They ended up teaching because they chose to do law and they did not qualify for that, but there was an option called teaching. They went into it as unprepared and unmotivated as anybody. But there are those few who are really interested. I think that it is very important to have a system of vetting, first and foremost, to ensure that those who are coming for training have a sense of realization that this is what they have been called to do or want to do. This is because the work that they do is very critical. Parents leave their children as young as two and a half years old with the teacher to begin to be taught. We do not know the calibre of the people who are teaching them or whether they are well trained or interested in their teaching. We do not know whether they pull their noses and ears when they are not listening or finding ways of motivating them. As Sen. Karaba said when he was moving this Motion, this will determine whether their trajectory educationally will really take them to the height of where it should go to. Otherwise, that motivation might be killed and we will have ourselves and our systems to blame.

Mr. Deputy Speaker, Sir, I think that it is really unfortunate that even when it comes to making the right choices, in terms of training, especially teachers for pre-primary education, we have failed by not really putting in place structures and systems to ensure that we get the best of the best who really want to do it. It is amazing that in other countries where that sort of emphasis has been put, primary and pre-primary education is actually where the focus is. Apart from teachers putting in their best, parents ensure that the cultural capital of the family is actually done. You will find parents and teachers reading story books and trying to make sure that the child gets on the right track from the word go. This is because that cultural capital is so key that it can actually be maintained in the system, so that the child can actually grow knowing what is expected of them and feeling that they have the adequate guide for them to be able to do that.

Mr. Deputy Speaker, Sir, pre-primary or ECD is not an easy business at all, like any other training. It is an expensive venture, if you think of the sort of material that has to go into it. So, it has to be well thought out. From the word go, you have to think about what training materials we are going to use and how we will get those training materials and determine who does the supervision of teaching schemes, for example, for pre-primary teachers. When secondary school teachers are being trained, for example, they have what they call the teaching practice session where they are actually evaluated on the basis of what they are doing before they are sent out to actually do the job. I suspect that

this is not being done for pre-primary education. Therefore, you will find people looking for their own innovative ways of getting their work done. In fact, this has become a lucrative business. If you have a house somewhere in the neighbourhood and can collect all the children there, you could easily start a school. Nobody is going to stop and ask you what it is that you are doing.

Therefore, we begin to push children not only just to expand their horizon in terms of their mindset, but to push them into getting grades “A” and “B”, and kill their motivation for learning so early on in the day. These become money driven ventures, that once we do well and our children are able to get grades “As”, we will have other parents coming into the school and, therefore, become very rich. It is really a sad state of affairs. How is that done? How is that synthesized? The learning theory has been expounded by various scholars, especially by Bandura, who posited that the key nexus of learning really comes from imitation; you imitate those who you see as your role models. That is why you will hear parents telling you that wherever the children have been taught, when they come home, they tell them the correct thing. Therefore, woe unto you if the teacher made a mistake even in pronunciation, because the child will always say that the teacher is right.

That is how we role model and that is how we look up to teachers to such a great extent. So, you can imagine if those who are in place to actually help these young minds to grow are not really prepared for it, then we have big problems. We have had serious problems of indiscipline, including defilement by the same teachers in those specific schools. I think it is a high time in this country that we have real policies as far as pre-primary education is concerned with regard to preparing teachers and the sort of institutions needed.

Unfortunately, I think up to now, ECD education is not really regulated. The age for joining class one is six years old and I think you can easily start off with primary education and move on with secondary education. So, it seems to be neither here nor there. For those who find the importance of taking their children for pre-primary education, they do so, but those who do not can easily just get them to go through.

There are no clear policies, so to speak, on remuneration and what should be done about it. For example, some institutions have advocated for teaching using mother tongue, and others have not. So, it seems to be a sector that has a lot of confusion, and it develops in whichever way according to the direction it takes. The whole issue of educational inequalities really being hinged into social inequalities begins here. So, you will find that those parents who can afford to take their children to the best pre-primary institutions end up with children who get motivated from the word go. These might not necessarily be grade A students in the long run. However, because of the nurturing that happened at the critical ages, then these pupils really transform themselves into people who can make a difference.

Mr. Deputy Speaker, Sir, the Motion calls for the national Government to take measures to assist County Governments to develop capacity in the training, recruitment and deployment of teachers for pre-primary education. This is very critical and needs to be done. Various key issues need to be asked even before we go there. For example, who, right now, is co-ordinating this deployment? Is there such a body that is already doing this? Who is co-ordinating their recruitment? I am alluding that there is, probably, no such centralized organization. Who is in charge of this process? Who is in charge of

ensuring that the deployment, training and the recruitment of teachers is really done, because this has various implications? If county governments are to be assisted by the national Government to achieve this goal, certain key considerations have to be put into place. First of all, the commitment needs to be there. Secondly, the financial implications and the dedication to actually put those funds away for the specific training, especially at the county level needs to be there. With the devolution of the education function, the Senate Committee on Education, Information and Technology is really emphasizing the importance of ECD and education, which is very critical.

Mr. Deputy Speaker, Sir, a lot also has to be invested in teaching materials that have to be thought out well in terms of what will be taught for all ages, schools and be streamlined. We need to plan and come up with data. We must know who the teachers are, where they are and where they are to be deployed to; this is really very critical. We should have a way to look at the syllabus. We prepare syllabuses that can be used over and over again and which will make a difference. Sen. (Prof.) Lonyangapuo already alluded to the fact that we already have Vision 2030, but we have to build the economic, social and the political pillars. I think for as long as we continue to underrate the importance of ECD training and education, we will get it all wrong.

Mr. Deputy Speaker, Sir, I stand to support this Motion. I stand to encourage the national Government to take these measures. I wish we, as a Senate, had a way of ensuring that they do it and that they comply. They can actually go back and have an analysis of the situation---

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senator! Your time is up.

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Order, hon. Senators! It is now 6.30 p.m. The House stands adjourned until tomorrow, Wednesday 6th, November, 2013, at 9.00 a.m. in the morning.

The Senate rose at 6.30 p.m.