

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 24th June, 2014

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

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

PRAYERS

MESSAGES FROM THE NATIONAL ASSEMBLY

REJECTION OF SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2014)

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

I wish to report to the Senate that pursuant to Standing Order No.40 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the rejection by the Assembly of the Division of Revenue Bill (National Assembly Bill No.13 of 2014). The Message reads as follows:-

Pursuant to the provisions of Standing Orders Nos.41 and 149 of the National Assembly, I hereby convey the following Message from the National Assembly:

Whereas the Division of Revenue Bill (National Assembly Bill No.13 of 2014) which was published in the Kenya Gazette Supplement No.13 of 26th March, 2014 as a Bill originating in the National Assembly and passed by the National Assembly on 23rd April, 2014 and passed by the Senate with amendments on 15th May, 2014;

Whereas the Senate forwarded its amendments to the Division of Revenue Bill (National Assembly Bill No.13 of 2014) on 3rd June, 2014 for the concurrence of the National Assembly;

Whereas the National Assembly on 18th June, 2014 rejected the amendments to the said Bill;

Now, thereof, in accordance with Article 112(1)(a) of the Constitution and Standing Order No.149 of the National Assembly, I hereby convey the said decision of the National Assembly, the consequence of which the Bill stands referred to a mediation committee.

Hon. Senators, Article 112(1)(b) of the Constitution provides that:

“(1) If one House passes an ordinary Bill concerning counties, and the second House—

b) passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.”

Further, Article 112(2)(b) of the Constitution provides that:-

“If, after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House—

b) rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.”

For the benefit of Senators, Article 113(1) of the Constitution provides as follows:-

“If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of Members of each House to attempt to develop a version of the Bill that both Houses will pass.

(2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.

(4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.”

APPOINTMENT OF MEMBERS TO MEDIATION
COMMITTEE ON THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 13 OF 2014)

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Article 112(2)(b) and Article 113 of the Constitution.

In this regard, I have received a Communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the mediation committee that will attempt to develop a version of the Bill that both Houses will pass. These are:-

1. Hon. Mutava Musyimi, MP;
2. Hon. Mary Emase, MP; and,
3. Hon. John Mbadi, MP.

COMMUNICATION FROM THE CHAIR

APPOINTMENT OF SENATORS TO MEDIATION
COMMITTEE ON THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 13 OF 2014)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I wish to inform you that I have appointed the following Senators to represent the Senate in the mediation Committee:-

1. Sen. Billow Kerrow
2. Sen. Beatrice Elachi
3. Sen. (Dr.) Khalwale

I urge Members of the Committee to move with speed and start working and report to the House within the stipulated time.

Thank you.

NOTICE OF MOTION

ESTABLISHMENT OF NATIONAL AIDS CONTROL COUNCIL OFFICES IN ALL COUNTIES

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

THAT, cognizant that the core mandate of the National AIDS Control Council (NACC) is to develop strategies, policies and guidelines relevant to the prevention and control of HIV and AIDS in Kenya; noting that the operational structure of NACC has not been aligned to the Constitution of Kenya, 2010; acknowledging the objects of devolution as set out under Article 174 of the Constitution; recognizing that under the Fourth Schedule to the Constitution the health function has been devolved, except for the health policy and referral hospitals; concerned that an estimated 1.2 million Kenyans are infected with HIV/AIDS with approximately 100,000 persons being infected annually; recognizing the need to achieve an “AIDS free society” by stepping up the fight against the pandemic at the county level, the Senate urges the national Government to set up National AIDS control Council (NACC) county offices in all the county headquarters with the national headquarters providing overall coordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the county level.

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

STATEMENTS

STATUS OF THE ECONOMIC STIMULUS PROGRAMME

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I note there is a Statement to be given by the Standing Committee on Finance, Commerce and Budget on

the Status of the Economic Stimulus Programme. What is the position of that Statement? Is there any Member from that Committee? It seems the Members are not here. The Statement will be rescheduled to a day to be given on the Order Paper.

(Statement deferred)

Sen. (Eng.) Muriuki, was the Statement that was supposed to be issued yours?

NON-ACCREDITATION OF THE TECHNICAL
UNIVERSITY OF MOMBASA BY THE
ENGINEERS BOARD OF KENYA

Sen. (Eng.) Muriuki: No, Mr. Deputy Speaker, Sir. I requested a Statement from the Committee on Education with regard to the predicament of the engineering students who are at the Technical University, Mombasa. Due to the urgency of the matter, the Statement was supposed to be presented today. However, I have not seen the Chairperson of the Committee or any other Member taking up the issue.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, can you come to the front and respond to that issue? If you are not ready, we can move on to the next Order.

Sen. Karaba: Mr. Deputy Speaker, Sir, I will be able to do it later.

The Deputy Speaker (Sen. Kembi-Gitura): Later today or when?

Sen. Karaba: On Thursday, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, that Statement was supposed to be issued today. That is what Sen. (Eng.) Muriuki has said. What is the problem?

Sen. Karaba: I have just arrived.

The Deputy Speaker (Sen. Kembi-Gitura): Could you, please, use the microphone, I cannot hear you.

Sen. Karaba: Mr. Deputy Speaker, Sir, I have just heard about the Statement. I am sure by Thursday, I will be able to release the answer.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Eng.) Muriuki, is that okay with you?

Sen. (Eng.) Muriuki: Mr. Deputy Speaker, Sir, unfortunately, I am not finding myself with a choice. But allow me to explain the urgency of the matter. I will just take one minute. There is a batch of engineering students who are supposed to graduate from the Technical University of Mombasa. The university is not recognized by the Engineers Board of Kenya (EBK). Therefore, if they graduate this week, they will be permanently ineligible for registration as professionals. This is why we need the Government to tell the Senate, or for that matter the nation, what is being done to address their predicament.

The Chairperson of the Education Committee must put more effort to get a statement so that the Government can intervene before these poor students lose their professional life.

The Deputy Speaker (Sen. Kembi-Gitura): Do you have a form of a deadline when this must happen?

Sen. (Eng.) Muriuki: Mr. Speaker, Sir, the graduation is supposed to happen this Friday. The Government is in a position to either hold the graduation for this particular batch of students or somehow determine which way they go. They have already spent five years studying. However, their degrees will be rendered useless unless the Government intervenes.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, in your absence, your Vice Chairperson had undertaken to issue that Statement today. That is what my record shows. You have heard the urgency of the matter. Is there anything you can do better than Thursday?

Sen. Karaba: Mr. Deputy Speaker, Sir, I can only do it on Thursday.

The Deputy Speaker (Sen. Kembi-Gitura): No, I am directing that you do it tomorrow. Do what you have to do. If it means summoning the relevant officers, let us have a Statement by tomorrow at 2.30 p.m.

Sen. Karaba: Okay, Mr. Deputy Speaker, Sir. I go by the order.

The Deputy Speaker (Sen. Kembi-Gitura): Are there any other Statements?
Next Order!

BILL

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) (No.2) BILL, 2014

(Sen. Wangari on 15.4.2014)

(Resumption of Debate interrupted on 19.4.2014)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, this Bill is coming for Division and I do not seem to see the owner of the Bill, Sen. Martha Wangari.

Sen. Keter, do you have anything you can say about this?

Sen. Keter: Mr. Deputy Speaker, Sir, why do we not do the voting later on, whether the Mover of the Bill is there or---

The Deputy Speaker (Sen. Kembi-Gitura): The question is: She is the owner of the Bill, why is she not here? Do you have any indication?

Sen. Keter: Mr. Deputy Speaker, Sir, I thought when the Bill is here we own it as a House.

The Deputy Speaker (Sen. Kembi-Gitura): We do own it.

Sen. Keter: Therefore, Mr. Deputy Speaker, Sir, whether the Mover is there or not and so long as it has gone through the processes, we, as a House, are mandated to do the necessary.

The Deputy Speaker (Sen. Kembi-Gitura): I agree with you, Sen. Keter. But do you have any indication why she is not here?

Sen. Keter: Mr. Deputy Speaker, Sir, I am not aware of where she is. Give me

some few minutes to find out and then I will report to back.

The Deputy Speaker (Sen. Kembi-Gitura): The only problem is that we have other business of the House.

Sen. Keter: Mr. Deputy Speaker, Sir, I am being told she is out of the country.

The Deputy Speaker (Sen. Kembi-Gitura): Can you approach the Chair?

*(The Deputy Speaker (Sen. Kembi-Gitura)
consulted Sen. Keter)*

Sen. Keter: Mr. Deputy Speaker, Sir, I was saying, because we do not know where Sen. Martha Wangari is, I want to use Standing Order No.54(3) which---

(Loud consultations)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! Sen. Wako, could you, please, take your seat?

Proceed, Sen. Keter.

Sen. Keter: Mr. Deputy Speaker, Sir, I want to invoke Standing Order No.54(3) to request that we defer the Bill until tomorrow, so that we can do consultations and make a decision as a House.

The Deputy Speaker (Sen. Kembi-Gitura): The only reason I will allow your intervention is because, of course, we have gone through the Bill. We also do not know what has happened to Sen. Wangari.

(Sen. Hassan consulted in high tones)

Hon. Senator, when you have finished your theatrics, we can proceed. Sen. Omar, can we proceed? Let us have some order.

Hon. Senators, we shall have this Division tomorrow after 2.30 p.m.

(Voting on Bill deferred)

Next Order!

NOTICE OF MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

RISING INCIDENTS OF INSECURITY IN WAJIR AND LAMU COUNTIES

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

Before we embark on the next Order, if at all, I had notified the office of the Speaker my intention to move a Motion of Adjournment over a matter of grave national

importance. This is the recent massacre of innocent Kenyans in Wajir and last night's massacre of more Kenyans in Witu, Lamu County. This is so that we can debate the matter. As defenders and protectors of counties, we have a national duty to pursue this matter.

I beg to give notice.

(Several hon. Senators stood up in their places)

Mr. Deputy Speaker, Sir, I have the requisite numbers, you can see them standing.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators! We have the numbers that are required under Standing Order No.33. I had received the notice. I have approved the Motion of Adjournment from Sen. Wetangula.

From where I am standing, I wish to say that I received two Motions on the same issue. You know how they say: "Great minds think alike." One was from the Senate Minority Leader and the other from the Senate Majority Leader. It was agreed on by the Rules and Business Committee that Sen. Wetangula will move the Motion of Adjournment. When the time comes we shall proceed accordingly. It is important for me to let Members know that, so that when you see me giving equal time to both the Senate Majority Leader and the Senate Minority Leader, it will not be against the rules of the Standing Orders of the House.

Sen. Wako, how long will you take in moving the Bill?

Sen. Wako: Mr. Deputy Speaker, Sir, I will not take very long.

The Deputy Speaker (Sen. Kembi-Gitura): Roughly, how long? Just give us an indication.

Sen. Wako: Maybe 20 minutes.

The Deputy Speaker (Sen. Kembi-Gitura): I direct that the Motion of Adjournment will commence at 3.30 p.m.

(Applause)

Let us move on to the next Order.

Sen. Wako.

BILL

Second Reading

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)

BILL (SENATE BILL NO.6 OF 2014)

Sen. Wako: Mr. Deputy Speaker, Sir, it is now my pleasure to move that the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No.6 of 2014) be read a second time.

This Bill touches on about seven Bills that were enacted by the Tenth Parliament towards the very end. The purpose of this Bill is not so much to go into the merits of those Bills which are being considered by the various committees. The purpose of this Bill is to ensure that the Bills that were enacted by the Tenth Parliament, towards the very end of their term, are consistent with the Constitution.

Mr. Deputy Speaker, Sir, the common feature of all these Bills is that the matters that were being legislated by the Tenth Parliament were matters which under the Constitution fell within the Fourth Schedule, Part Two of functions to be performed by the county governments. In all these Bills, the roles of the county governments as stipulated in the Constitution, were not taken into account. The Bills were being passed as if they were Bills enacted under the old Constitution and not under the new Constitution when we did not have a devolved government. That is why I said, it will take me a short time to move this Bill.

Mr. Deputy Speaker, Sir, this points to a very important issue; that if the Tenth Parliament can pass a Bill in total disregard of the provisions of the new Constitution in respect of functions to be performed by the county governments, then all the more why this Senate should insist that the procedures that are set out in the Constitution must be followed as regards to legislation. In a sense one can excuse the Tenth Parliament for having done that because it was really at the tail end of that House. As at that time, there was no Senate. One can excuse them for having passed Bills that did not strictly comply with the Constitution. But it shows that it is extremely important that the Senate, which is now in place and is supposed to legislate on all matters that touch on counties, that the Speakers of the Senate and National Assembly ensure that the procedures of handling these legislations are done in a very seamless manner as set out in the judgment that was given by the Supreme Court of this country when we challenged the issue of the Division of Revenue Bill.

One of my delights is that, at least, this year, when dealing with the Division of Revenue Bill, the procedures were followed in accordance with the Constitution. I hope that will be followed in many other Bills. I am expressing this because when you read the functions of the national Government and those of the county governments, there is no area where the county governments cannot have some say, maybe apart from foreign policy. However, in other respects, you will find that the national Government is making policies and the county governments are the ones on the ground ensuring that those policies are implemented. Consequently, nearly all the Bills touch on counties. I hope that, that section in our Constitution where the Speakers must consider all Bills and certify whether or not they are Bills touching on counties, shall automatically be followed.

Mr. Deputy Speaker, it also follows that before the President assents to any Bill, he has to get certification from both Speakers that the legislation or this particular Bill has passed through the constitutional provisions regarding it. Of course, if it is a Bill touching on the counties, that the two Speakers must agree. If it is a Bill that does not touch on the counties, that it went through the National Assembly; if the Speakers agree that it is a Bill that touches on the devolved governments, that then it has also gone through the Senate.

Mr. Deputy Speaker, although there has been a great improvement in handling of the Bills, I got the impression that there are some Bills which the President has assented to and which really should have come to this House for debate and enactment, including the National Police Service Act . So, that is the whole purpose of this Statute Law (Miscellaneous Amendments) Bill.

Mr. Deputy Speaker, I want to say this for the benefit of the other Committees, particularly the Chairpersons and so on. The Statute Law (Miscellaneous Amendments) Bill is supposed to touch on all those amendments to the various Bills which do not justify a separate legislation on their own. We normally publish the Statute Law (Miscellaneous Amendments) Bill either once or twice a year and, therefore, I would like to appeal to the Chairpersons of the various Committees that if there are some amendments which are of a minor nature and which may not necessarily justify a whole Bill, they should forward it to the Committee on Legal Affairs and Human Rights. We shall then compile all those amendments and bring one composite Bill called the Statute Law (Miscellaneous Amendments) Bill.

For example, the Bill which we are going to vote on now, which is just a one clause Bill - the County Governments (Amendment) Bill, 2014. That is the type of Bill that should have come to the Committee on Legal Affairs and Human Rights so that it is part of the Statute Law (Miscellaneous Amendments) Bill. You do not need, as the Senate Minority Leader said, a whole Bill just to make amendments to one clause. So, please, see any Member of the Committee or any Senator, if you feel that you want to bring some amendments to some Bill. Bring it to us; if it is justified, we shall include it in the Statute Law (Miscellaneous Amendments) Bill. They have already begun compiling such amendments. We hope that before the end of this year, another Statute Law (Miscellaneous Amendments) Bill will be crafted.

Mr. Deputy Speaker, with those introductory remarks, let me now go through the amendments that we are talking about. If you look at page 87 of the Bill, the first Act that we are considering under this Statute Law (Miscellaneous Amendments) Bill, is the Cancer Prevention and Control Act (No. 15 of 2012) which was enacted. If you read the Act the way it appears now, particularly Clause 5, which deals with the functions of the institute established under that very Act; you will notice on page 100, we have set out the provisions of the Bill as they exist now under the Act so that we can now compare what we are now amending. Of course, we all know, cancer is a very terrible disease which takes the lives of very many people. Our own Senator, Sen. (Prof.) Anyang'Nyong'o, has set up some institute which deals with these issues as a Non Governmental Organization (NGO). We have had our own Senators, including Sen. Beth Mugo, going to America for treatment of cancer. So, it is a disease that concerns the nation as a whole.

Mr. Deputy Speaker, if you look at the functions of that institute as set out now, it says:

“advise the Cabinet Secretary on matters relating to the treatment and care of persons with cancer and to advise on the relative priorities to be given to the implementation of specific measures;”

The whole Section 5 is about advising the national Government, whereas we know that according to the Fourth Schedule to our Constitution, you will find in Paragraph 2 that the functions of the county governments are:-

County health services, including, in particular—

- (a) county health facilities and pharmacies;
- (b) ambulance services;
- (c) promotion of primary health care;
- (d) licensing and control of undertakings that sell food to the public;
- (e) veterinary services (excluding regulation of the profession);
- (f) cemeteries, funeral parlours and crematoria; and
- (g) refuse removal, refuse dumps and solid waste disposal.

Mr. Deputy Speaker, Sir, you will find that actually most of the functions, I would say, apart from Part 1 Paragraph 23, which gives the national health referral services to the national Government, when it comes to health issues, are at the county level. I believe that, that is one of the issues that the Mediation Committee is now going to go into as we have read out this morning. So, the bottom line is that this is a health issue and the entire Act, as we have it today, does not take into account that the county governments are mandated under our Constitution to deal with those health issues; hence the amendments.

Mr. Deputy Speaker, Sir, it is said here very clearly on page 87, that the whole of Section 5 of the current Act has been deleted. We have substituted it with the one which I am now going to read as an amendment. I will just read two of them to show. It reads that:-

“The functions of the institute shall be to:

(a) Liaise with the national and county governments and other relevant bodies and institutions on all matters relating to the care and treatment of persons with cancer.

We have now said that it is a function of both in terms of policy and so on. So, this institute that has been set up under that act will have to deal with both national and county governments.

It continues to state that:-

(b) The institute is there to advise the county governments on matters relating to the treatment and care of persons with cancer and on relative priorities to be given to the implementation of specific measures.

(c) To encourage the establishment of hospitals, vocational treatment and care centres and other institutions for the welfare and treatment of persons with cancer in all counties of the Republic and;

(g) Collaborate with international institutions for the purpose of collecting---”

So, with our amendments, at least the role of the county governments on issues relating to cancer treatment and care has now been recognized.

Mr. Deputy Speaker, Sir, the institute as currently established is administered by a board of trustees. Under the current law as it is now, which is set out on page 101 of the Bill, you will find that the board consists of the Chairperson; the Principal Secretary for the time being responsible for matters relating to health or his designated alternate not being below the level of Deputy Secretary; the Principal Secretary for the time being responsible for matters relating to finance or his designated alternate not being below the

level of Deputy Secretary; one person nominated by the registered cancer associations in such manner as may be prescribed; the Secretary of the National Council for Science and Technology or his designated alternate not being below the level of Deputy Secretary; one person nominated by the Media Owners Association (MOA) in such manner as may be prescribed; one prominent philanthropist or industrialist of good standing; one person nominated by the universities teaching medicine in such manner as may be prescribed; one person nominated by institutions conducting medical research in such manner as may be prescribed; the Attorney-General or his representative who shall be an ex-officio member. I almost brought an amendment to say that the former Attorney-General should also be a member, but we shall leave it as the current Attorney-General and so on.

In other words, the role of the county governments in the board of trustees which is supposed to administer the affairs and activities of the institute is nowhere at all. It is just the three Permanent Secretaries at the national level and then the various institutions which have some concern with issues of cancer.

Mr. Deputy Speaker, we are proposing that we add a clause which says that there will be three persons nominated by the Council of Governors (CoGs) to represent county governments. At least if you have Permanent Secretaries from the national Government and, at least, three persons nominated by the CoGs to be in the board of trustees of the institute. That is as far as this Act is concerned.

Mr. Deputy Speaker, we will now go to the National Transport and Safety Authority Act, No.33. Again, the same thing is repeated here. Under the Constitution, the county governments have some say on issues relating to transport. Under Part 2, Paragraph 5 of the Constitution, you will find that the functions, powers and the mandate of county governments are:-

“County transport, including—

- (a) county roads;
- (b) street lighting;
- (c) traffic and parking;
- (d) public road transport; and
- (e) ferries and harbours, excluding the regulation of international and

national shipping and matters related thereto.”

Mr. Deputy Speaker, Sir, when this Act was passed, again, it ignored completely that the county governments have functions and powers relating to issues of transport. The section as it now exists is on page 103; it reads as follow:-

“The functions of the Authority shall be to—

(a) advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety;”

Mr. Deputy Speaker, Sir, actually the whole thing is about the Cabinet. They deal with the secretary who deals with transport and so on. There is nothing to deal with the county governments. So, we are proposing to insert the following words as shown on page 89. It reads:-

“that all these functions are subject to the distribution of functions between the national Government and the county governments under the Fourth Schedule to the Constitution.”

Mr. Deputy Speaker, Sir, we should add those words there, so that when you are interpreting this particular Act, you have to interpret it in a manner which is consistent with the division of functions and powers relating to transport between the national Government and the county governments. Whereas as currently constituted, theirs is to advise and make recommendations to the Cabinet. With this amendment, we are now providing that the board will advise and make recommendations to the county governments on all matters relating to county transport under Paragraph 5 of Part 2 of the Fourth Schedule of the Constitution. So, we are now making sure that the county governments are taken into account on matters relating to transport.

Mr. Deputy Speaker, Sir, just like in the other Bill, let us see how the board is constituted. Whereas the current board now does not have any representation from the county governments, we are now saying that there should be a new paragraph which will state that there will be three persons on the board appointed by the CoGs. We thought that the board may be too big, we then reduced, in another part, to two persons from the national Government. Also because transport is a very complicated area, we have just added a new Clause 53(a) for the avoidance of doubt to state that “No provision in this Act shall prevent the county governments from undertaking their functions as provided for under the Fourth Schedule to the Constitution.” This is just for the avoidance of doubt.

Mr. Deputy Speaker, Sir, I can see my time is running out, but allow me to now quickly go to the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA) Act. We were debating the Alcohol Control Act and some people said that, actually, we have just passed an amendment to the Alcohol Control Act. These amendments brought that Act into conformity with the provisions of the Constitution. Under the Alcohol Control Act, the role of the county governments is now recognized. The same thing now applies to NACADA. When the NACADA Act was passed, the role of the county governments was ignored completely because it may have been passed a bit earlier. So, we are now saying that all the functions of NACADA will be subject to the distribution of functions between the national Government and the county governments under the Fourth Schedule to the Constitution. We are also mentioning that NACADA will also advise the CoGs. We are also saying that their reports will also go to the CoGs and also to both Houses of Parliament, including now the Senate, because before this, we really did not have a role. Since it touches on county governments, their reports should also come to the Senate.

Mr. Deputy Speaker, Sir, because of time, I am now rushing. But the spirit is really the same. We are also including on the board the Principal Secretary for the time being responsible for Devolution, who was not there at that time.

Mr. Deputy Speaker, Sir, we are also saying that three persons nominated by the council of county governors all of whom shall be holders of, at least, a degree from a university recognized in Kenya and one person shall be a woman. All these shall be nominated by the CoGs. So, we have taken care of that. We should even have said the other gender, but we shall correct it at the Committee Stage. The spirit is there to take into account that.

Mr. Deputy Speaker, Sir, I want now to move on to the Sports Act. According to the Constitution, you will find that the county governments are rarely concerned with issues relating to sports and so on. If you go to paragraph 4(h), you will find that the cultural and sports activities, including their facilities, are matters for the county governments. This was not taken into account under the old Act. In Kenya, sports are very important. In fact, Kenya sells itself abroad because of sports. I can say that whereas Elgeyo-Marakwet may provide runners internationally, Busia County is also very good, in soccer. I want to inform this House that when it comes to soccer, we have MacDonald Mariga from Busia playing for Inter-Milan. We also have Victor Wanyama from Busia paying for Southampton and Ben Wandera from Busia playing for Manchester City. We have an international coach called Wilberforce Mulamba coaching in Germany from Busia, although he is not very well known. All these gallant sons are from Busia County.

The Senate Majority Leader (Sen. (Prof.) Kindiki): I know him.

Sen. Wako: I am glad that the Majority Leader knows him. Sometimes I tend to get the feeling that coaches are not as known as the players. Wilberforce Mulamba comes from Busia and he is coaching in Germany. You can see how Germans are doing in the World Cup now.

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

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, do you want to be informed?

Sen. Wako: The only boxer from Africa to win a gold medal in Olympics, Mr. Robert Wangila Napunyi came from Busia. So, in other words talent starts at the county level.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, do you wish to be informed?

Sen. Wako: Mr. Deputy Speaker, Sir, I am looking at the time. I will give you later. I can say that Nyandika Mayoro came from Kisii. This was the first African to be number seven in the Olympics during the colonial times in 1950s. That was a wonder.

I will now take the point of information. Thank you.

The Deputy Speaker (Sen. Kembi-Gitura): You can come to the Dispatch Box.

Sen. (Dr.) Machage: May I inform Sen. Wako that---

(Sen. Wako remained upstanding)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, I am sure you are aware that two Members cannot be standing at the same time.

Sen. (Dr.) Machage: May I inform Sen. Wako that we also have a Mr. Marwa, a referee from Kuria in Brazil.

Sen. Wako: Mr. Deputy Speaker, Sir, actually I was coming to that. It should have been better if it came from me. The fact of the matter is that our Constitution has properly placed a very important role to the county governments in developing sports. Sports can only be developed when people are still young. That is the time when we can really develop their talents. So, more resources must be given to the county governments to ensure that we tap the immense resources that are there amongst our young people for

them to perform very well. I can see that in the areas like swimming at the coast, I do not see why coast region cannot provide proper training to the young so that they can win medals in the Olympics. We always win medals in the field events, but we can also win in other areas. I do not see why Busia cannot provide wrestlers from Budalangi. Up to today, we have a wrestling competition every Christmas. So, we can provide wrestlers from Budalangi. There are so many things that can happen.

Therefore, the amendments that we are carrying out to the Sports Act---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wako, just for your information so that you do not feel constrained, I said that the Motion of Adjournment will commence at 3.30 p.m. I did not say that you must finish moving the Bill by 3.30 p.m. I wanted you to start moving the Bill and you have one hour, remember that, you have now taken about 35 minutes and I do not want you to feel rushed. So, it is up to you, if you want to finish it, but you have a lot of time.

Sen. Wako: Mr. Deputy Speaker, I have already felt rushed, but thank you very much for that information. I felt so rushed that I have gone through a number of them so quickly. However, there will be somebody else who can move, I think it is my Vice-Chairman.

The Deputy Speaker (Sen. Kembi-Gitura): Did you get me correct? I said you do not have to finish by 3.30 p.m. Your time would be saved if you feel that you must finish. When you move a Motion you have one hour. I just said that the Motion of Adjournment will commence at 3.30 p.m.

Sen. Wako: Mr. Deputy Speaker, Sir, thank you very much for that information. I will continue now and take longer. I was trying to rush through the other amendments, but now that I know what my rights are, the remaining ones *nitaenda pole pole kidogo. Asante sana.*

Mr. Deputy Speaker, Sir, when it comes to sports, we really would want to take this opportunity to ensure that the county governments play their role. They will play their role because I know under the Sports Act, there are some stadia called "national" like Kasarani, Nyayo and so on. However, we would want to encourage the national Government to allocate more money to the county governments so that the natural talent that is there in our youths is properly utilized.

Mr. Deputy Speaker, Sir, when we talk about shortage of employment in this country, we also talk about Uwezo Funds and other funds to encourage our youths to be entrepreneurs and so on. I believe the same amount of energy that we are spending on encouraging entrepreneurs, should also be spend on encouraging our youths. When I was in school long time ago, athletics and other games were not really valued. In fact, you tended to think that those who were very good in sports were those who were not very good in the classroom. So, they were looked down upon. At our time when we were in school we only knew soccer, hockey and volleyball. We did not have these varied games like swimming, tennis and so on.

We were also given the impression that good employment where you can get money is white collar jobs. We have now realized that there is a goldmine in this thing called sports. If you can excel yourself in any aspect of sports - like the people I mentioned who play in Europe are millionaires. They are earning more than you and I.

Some of them their budgets may be compared to a department at the county level. They ride in jets and are really great people.

The Deputy Speaker (Sen. Kembu-Gitura): Sen. Wako, your time is up for now. You have 25 minutes more and you will continue tomorrow after 2.30 p.m. We shall now proceed to the Motion of Adjournment.

Sen. Wetangula, you have ten minutes and every other Member contributing shall have five minutes, except the Leader of Majority who has ten minutes should he choose to contribute. You may proceed now.

MOTION OF ADJOURNMENT UNDER STANDING ORDER NO. 33

RISING INCIDENTS OF INSECURITY IN WAJIR AND LAMU COUNTIES

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, listening to Sen. Wako, one would think if he was reincarnated, he would be a footballer or an athlete other than a lawyer.

Mr. Deputy Speaker, Sir, thank you for allowing me to move this Motion of Adjournment with a very heavy heart. Once again, we have witnessed a senseless murder of Kenyans in huge numbers. I am talking about what happened in Wajir over the weekend where we get from press reports that 20 innocent lives were lost in a senseless and avoidable attack between two clans. As I speak, news coming in is that another large number of Kenyans have lost lives in Lamu, in Witu. Reports filtering in indicated five then it moved to ten. Some of our supporters on the ground are saying the numbers could be higher.

Mr. Deputy Speaker, Sir, we also witnessed Baringo where we saw wanton destruction of property leading to loss of lives when one community turned against another community. This is going on and on and on. We are not counting the nameless and unidentified victims of violence in our poor neighbourhoods, in our slums and all over the country. In a nutshell, the security situation in the country has reached unacceptable levels.

Last week we adjourned this House to talk about the massacre in Lamu, Mpeketoni. Each and every Member expressed disgust, outrage and dissatisfaction in the manner in which our security agencies are going about their work. Whether we are talking of intelligence gathering, intelligence sharing, intelligence dissemination or acting on that intelligence to forestall these ugly incidents.

Mr. Deputy Speaker, Sir, it makes little sense for the Government of the day to come up and continue giving warnings that “this is intolerable, this will not be accepted, we are going to leave no stone unturned to catch up with the perpetrators”. However, people are dying, people are losing property and people are being displaced. When you look around the country, whether you are talking about Bungoma, Nyando and everywhere, lives are being lost. Yet we have a government that levies taxes from citizens and has a duty to protect them. We do not want to engage in endless blame

games. What we, as a Senate, and as the representatives of the people of Kenya, want to do is to see a government that is protecting lives and properties of Kenyans.

A case in point is the Wajir massacre. This is not something that one can say came unawares. The ethnic or the clan feuds between various clans in that region is something that is historical. Everybody knows about it, everybody feels it, everybody is capable of understanding it and everybody is capable of stopping it. Why do we let such things happen? Why are the organs of the Government not living to the expectations of Kenyans? With devolution, we have said repeatedly that security operations must be harmonized between county governments and the national Government.

Mr. Deputy Speaker, Sir, in many counties, we still have parallel structures operating in different directions. You can only reflect on what you saw or heard from the Inspector-General ordering the Governors of Wajir and Garissa to be grilled by the police and to record statements when, in fact, these are elected leaders who should be in charge of security of their areas. Are they going to be grilled because people have died? Is it because they were involved in the deaths? Or is it because of dereliction of duty and which duty? For dereliction of duty to hold, there has to be a duty, in the first place backed, by law. We are also saying and it is painful to say this, that we want the Government in its response to calamities of this nature to be even to all communities, to all parts of the country and everywhere.

Last year or the year before, we had terrible killings in Tana River. The Government sat in Nairobi and continued issuing statements upon statements upon statements, but we saw no action. You have seen in Wajir, no action. Today, I had a press conference where I castigated the Government for its action in Lamu, but that is not good enough because the deaths in Lamu are as important as the deaths in Tana River, in Wajir, in Mombasa, in Nyando, in Bungoma and everywhere. We want to see the Government being responsive to the plight of Kenyans in an equal and even manner.

When the Mpeketoni massacre happened, the Jubilee Government nearly declared a state of emergency. We have no difficulty with that. It is a response that we expect any responsible government to do. The whole Government flew to Lamu. The ole Lenkus of this world and everybody was knocking each other in irrelevant press conferences, reading rehearsed statements that made no sense and so on and so forth. Look at what has happened in Wajir, Nobody is talking about it. We have been expecting the President to address the nation in the same vein, with the same pain, with the same passion, with the same anger that we saw him address the nation after Mpeketoni---

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

The Senate Minority Leader (Sen. Wetangula): Please do.

Sen. Hassan: Mr. Deputy Speaker, Sir, I just want to inform Sen. Wetangula that when I was coming here, I saw a convoy of Wajir and Mandera leaders going to State House for a photo opportunity and, probably, to talk about the issues.

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

Sen. Kagwe: On a point of Order, Mr. Deputy Speaker, Sir. With all due respect to the Senator, is he in order to imply that at a time when we know what has happened to Wajir that the Senators and leaders from that area are in State House for a photo opportunity? At the very least that is unacceptable.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, *De situ*, as we call it in law, is in Wajir and not in State House.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wetangula, you are the one who has been informed. I do not know whether it helped you at all, but let me say this pursuant to what Sen. Mutahi Kagwe has said. This is directed at Sen. Hassan. The trouble one has sitting here, where I am sitting, is that a lot of times you do not know what a Member wants to say, whether it is on a point of order or a point of information. We only know after the fact. When I allowed this Motion of Adjournment, it was because it is a matter of national importance and a very serious issue. So, I do not know whether it is indeed a moment to take this Motion lightly. Sen. Wetangula is moving his Motion, and I am sure he is taking it very seriously. I think at this time when people are mourning, it is not the right time to give information which may not be very helpful as a matter of national importance. I think it is important for me to state that.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, the point I was emphasizing was – I believe the House got me – that we want even and equal response to calamities. You have heard Cabinet Secretary, Waiguru, saying that she is going to rebuild the homes of the people in Mpeketoni and that she is sending money there. We were shown the people of Baringo in total destitution, but she has said nothing about Baringo. She has said nothing about Bungoma, Nyando and everywhere else. We are saying that whatever is done to one community must be done to other communities and every individual in Kenya because these are public funds from taxes that *wananchi* pay. The distinguished Senator for Tana River can tell you that – I go to Tana River from time to time for my politics – the people who were killed and displaced in Tana River still remain destitute to today and nobody talks about them. We have forgotten about them.

Mr. Deputy Speaker, Sir, finally, as we cried here last week about the inadequacy of performance of our security organs, everybody here said that our Inspector-General, the Director of National Intelligence Security (NIS), and the Director of the Criminal Investigation Department (CID), are sleeping on the job. What do we see? The President has given even more powers and responsibilities to an already inept Inspector-General. He cannot handle the police force whereas he is now being given the National Youth Service (NYS), the Administration Police (AP) and other formations. They have been loaded on a man who cannot carry the small load that he is carrying today.

This is not how to run our security systems and this is why we are having these endless massacres of Kenyans and we come out to carry postmortems and make statements that touch people's hearts and do nothing to give them security and life goes on. We are in the comfort zones of Nairobi protected by the security agencies but people out there do not know when they wake up, whether they will go to sleep. They do not know when they go to sleep, whether they will wake up.

I want to urge this House that it is time now even for this Senate, as a institution that protects counties, to probably have a retreat with our governors and call in these security agencies and see how we can pull the synergies available together to protect Kenyans and stop this ongoing that are causing endless losses of lives in our country and that is making us look like a laughing stock in the region. I urge that your office helps

this Senate. We can even sacrifice our sittings for a day or two and sit down with the Governors who have been given the responsibility at the grassroots level, call in the Inspector-General, the NIS and all those involved and ask ourselves where we have failed, what we have done wrong, what we have omitted to do and what we must do to protect Kenyans.

I beg to move.

The Deputy Speaker (Sen. Kembi-Gitura): The Floor is open and like I said, any Senator wishing to contribute has five minutes.

Sen. (Prof) Lonyangapuo: Thank you, Mr. Deputy Speaker, Sir, for this opportunity. I want to laud my colleague, Sen. Wetangula, for moving this Motion of adjournment because of the problems that are in our country, Kenya today.

I rise to say that this is not a political matter where people may think that it is affecting the people from the Opposition or the Government side. This is an issue that all of us, as Kenyans, must come together, because we have never seen this happening before and so it calls upon all of us to be extra vigilant. The kind of killings that are taking place calls upon all of us to look at it seriously because this is not for the benefit of anybody and the Government is not enjoying seeing the people suffering. I also come from a region which is sometimes affected by cattle rustling. The moment we dwell on lamentations and blame game, it will never sort us out.

Personally, I wish to say that we should sit down with the security team led by the Inspector-General, the Cabinet Secretary and the other senior officers to tell us what really is happening so that we can also be able to give our input. We should not give conditions and start saying that so and so must go. We are not going to run away from the current problems because right now Kenya has entered a phase where we must just start to look at our security apparatus and put security measures in place.

Mr. Deputy Speaker, Sir, I brought a Motion here about enhancing roles of *Wazee wa Mtaa*. These are elders who are depended on by some communities more than some of the security organs that we have on the ground. The Kenya Police Reservists (KPR) are also depended on more in some areas. As we find a solution, we need to zoom down and see how we; the communities in Kenya, can sit together and suggest what security measures we can put in place in our communities. Personally, in the North Rift and the pastoralist areas, we want to depend on elders as well as the KPRs and so we have no choice. We cannot say that some of the measures that we are putting in place are not assisting elsewhere. We must be able to look at it across the board. We talked about the *Nyumba Kumi* Initiative and so far, we have not received any information on how it is working.

I visited some of our offices in some remote areas where some of these problems occur and whereas we blame them here, they do not have fuel for their vehicles, besides some vehicles having broken down. How can we assist them? I am told that this time round we have given them more money and I am hoping that with the money that has been given, security measures can be enhanced. As we face these challenges, we need to think afresh how our children in the nursery and primary schools can be conscious of the security around them. This is not the Kenya that we knew a few years ago. I am told that in some countries, young children are taught how to protect themselves. We have no

negotiations to make and we should not accept to lose any more. We must train our children to be conscious and know who is harmful to who. Some of the programmes that are shown on our television stations should be assessed appropriately.

Mr. Deputy Speaker, Sir, we talk about the shortage of manpower in our defence forces and the security organs. We have many students that are finishing high school and so many of them graduating from universities. There is no harm coming up with a law which states that before a student graduates, they have to serve their people. Some countries are already doing it, for example, America and Israel. We cannot run away from this problem that has come to us. We have to stand up and utilize the mechanism of the NYS, for example, and train our youth that are graduating from universities to defend our country. We do not have another nation outside Kenya or spare Kenyans and we have to defend ourselves. As communities, before we realized that we were a nation, we used to defend ourselves. Who are we not to do the same right now? I agree that when a problem erupts, sometimes we need to treat communities equally. I do not think the issue of Mpeketoni can bring us to a position where we blame the Government. This was just a shock because it erupted. I want to urge the Opposition side and the Government side to work together.

I support.

Sen. (Dr.) Machage: Asante sana, Bw. Naibu Spika. Niruhusu niseme yangu machache juu ya janga hili la kukosa usalama nchini. Tunapongea jambo hili, tujue kwamba kwa kawaida, matibabu ya ugonjwa sio lazima kugonga pale uchungu ama maumivu yalipo; eti ukiumwa na kichwa, unaenda kukata kichwa kwa sababu uchungu uko kwa kichwa. Labda shida ni nyingine. Labda una viini au damu inakimbia sana. Kwa hivyo, ni lazima utafute ni sababu gani kichwa kinauma wala sio kukimbilia kukata kichwa. Hivyo ndivyo wenzetu labda wanafikiria juu ya jambo hili la usalama; kwamba labda kwa sababu kuna vita au watu wameuwawa sehemu fulani, inafaa Mkuu wa Polisi akimbie huko.

Ni kwa nini watu wamekosa uzalendo? Ni kwa nini kuna kulalamika hata ikaja ikatokea vifo vya wananchi wa Kenya? Haya ndio mambo ambayo yanastahili kufikiriwa na tuyaongee kinaga ubaga kwa sababu si vizuri kuficha. Umaskini ndicho chanzo kikubwa cha wizi wa mifugo hapa na pale; kutokupata haki inayotosha, inayoonekana kwamba inalingana kwa binadamu wa nchi hii wote. Kuna umuhimu wa kupeleka rasilimali iliyo sawa vijijini nchini kote.

Kukosa mawasiliano mazuri pia ni changamoto kubwa kwa sababu sehemu zingine hakuna barabara na viwanja vya ndege. Kwa hivyo wezi wanapata nafasi ya kufanya yale wanaoyofanya wakijua kwamba Serikali haitawafikia haraka. Kuna changamoto ya siasa. Wengine hawakukubali kwamba labda uchaguzi ulitendwa kwa haki. Wamekosa vile watakavyosema, na kwa hivyo wanaona ni lazima wachukue silaha na kuanza kupigana, na kadhalika. Kwa hivyo, ni lazima tuangaze mawazo yetu kwa fikra ambazo zina maana kwa mambo ya usalama nchini.

Lakini hata hivyo, ni kufundisha wananchi kwamba wao wenyewe; watu 42 milioni, wana jukumu; kila mtu kibinafsi kuchukua usalama wa nchi yao kama jambo la uzalendo. Kwa sasa hivi, maofisa wa Serikali na polisi ambao tuko nao hawawezi kuhudumia kila mtu kwa sababu ni mmoja kwa watu 4,000. Haiwezekani kila mtu kuwa

na nyapara wa kumlinda kila siku kwamba apate usalama. Ni jukumu la kila mwananchi nchini kujua kwamba uzalendo sio kuongea tu lakini ni kutekeleza na kuonekana kwamba ametekeleza uzalendo ule na akatunza sifa na maisha ya mwenzake. Iwapo mwenzako ameingiliwa na majambazi ilhali wewe umenyamaza husemi chochote na upo karibu, unangoja askari atoke Nairobi kilomita 300 aje akufikie wewe na akuokoe? Haifai!

Kwa hivyo, ninafikiri tunahitaji mafunzo kwa wananchi wa nchi hii kuanzia daraja la mashinani, elimu ya msingi, kidatoni, mpaka hata chuo kikuu. Wanahitaji mafunzo ya uzalendo; kwamba kila mtu ni askari ambaye ana wajibu wa kuitunza nchi yake, kugharamia utunzaji wa nchi yake na kuleta usalama nchini. Na hilo lisipotekelwa hivyo--

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

Sen. (Dr.) Machage: Add me one more minute!

The Deputy Speaker (Sen. Kembi-Gitura): You are only allocated five minutes. Sen. Bule, come to the front.

Sen. Bule: Asante, Bw. Naibu Spika, kwa kunipa fursa hii ili nizungumzie jambo hili muhumi katika Kenya hii siku hii ya leo. Mimi binafsi ninavyofikiria ni kwamba viongozi na wananchi wa kawaida nchini Kenya wamekosa uzalendo. Kukosa uzalendo husababisha mtu afanye jambo lisilofaa ndani ya nchi yake. Mkenya akimuua au kumuathiri Mkenya mwingine, huyo si mzalendo. Tumesikia kwamba kule Wajiri wananchi wanauana, kule Mpeketoni wananchi wanauliwa, viongozi wanauliwa Mombasa na watu kuuwana ovyo ovyo, lakini hatujaona hatua madhubuti ambayo imechukuliwa hadi sasa. Haya yote ni kwa sababu ya watu fulani kulala kazini. Maseneta, Wabunge, Mawaziri na polisi wote wamelalia kazi zao.

Hii ni kwa sababu katika hii Seneti na katika Bunge la Kitaifa, kuna kamati ambazo zinashughulikia mambo ya amani na usalama wa Wakenya. Wakenya wamekuwa wakikosana hapa na pale miaka nenda, miaka rudi, na kamati hizo zimebuniwa kuangalia maslahi ya Wakenya wanaozozana hapa na pale. Katika kamati hizo, hakuna hata siku moja - mimi nikiwa katika kamati ya Seneti ambayo inalipwa kutokana na ushuru wa Wakenya - ya kuenda kuwajulia Wakenya ni nini inasababisha tatizo hili ilhali kila mara tunaenda kumtembelea Rais katika Ikulu na kumwambia kwamba tunafanya kazi. Huo ni ulaghai na kudanganya Wakenya. Nikiumwa na kichwa, mwili wote unadhurika. Mtu akikosa akili hawezi kuwa na fahamu. Kichwa cha taifa la Kenya kina ugonjwa. Sisi viongozi ndio watu wa kulaumiwa. Sisi ndio tumekosa---

Sen. (Dr.) Machage: Jambo la nidhamu, Bw. Naibu Spika. Mwenzangu amesema kuwa kichwa cha nchi hii kinauma na kimekosa nidhamu au kina ugonjwa. Ningependa atueleze anamaanisha nani.

Sen. Bule: Asante, Bw. Naibu Spika. Nitakueleza kinagaubaga---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Bule! Take your seat; there is another point of order!

(Sen. Bule resumed his seat)

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. Did you see the manner in which the Senator is moving from that side to this side without bowing? But that aside, I think that the Senator was in his very best moment, and I wished that he was not interrupted by Sen. Machage. I want to add that he has actually nothing to substantiate about metaphoric use.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator! The point of order was not directed at you.

Sen. Bule: Asante, Bw. Naibu Spika. Hayo yote ni matatizo ya hapa na pale. Wengine wamekosa kazi ya kufanya. Ikiwa mimi nimelalia kazi yangu na sikuweza kufika Mpeketoni na Wajir---

The Deputy Speaker (Sen. Kembi-Gitura): Order! Sen. Machage raised a point of order. Can you try and explain what you meant?

Sen. Bule: Bw. Naibu Spika, nikisema “vichwa” ninamaanisha kuwa katika Kenya hii kuna kiongozi ambaye ametoka Tana River na anawakilisha watu wa Tana River. Kuna yule anayetoka Wajir na anawakilisha watu wa Wajir. Kwa nini tusizungumze hata siku moja kuhusu mbinu za kusuluhisha tatizo hili? Kwa hivyo, tusilaumu yeyote yule kwa sababu sisi tulioko uongozini hapa tumelala kazini. Mimi nikiwa mmoja wa wanachama wa Kamati ya Uwiyano na Nafasi Sawa ambayo inafaa kuhakikisha kwamba Wakenya hawadhulumiwi, ninajua kwamba hatujachukua hatua ya kufika kule. Kwa nini tunaruhusu Wakenya wauane?

Bw. Naibu Spika, kwa hivyo, Wakenya kuanzia kwa polisi na hata sisi viongozi tumekosa uzalendo. Polisi wengi wako vyuoni wakisomea shahada za *Degree* ili waongezwe mishahara. Tunafaa kuwaajiri kazi polisi ambao hawajasoma sana ili wapambane na uhalifu. Masomo mengi ndio yamefanya tuwe na shida Kenya. Tunafaa kuajiri polisi spesheli katika kila kaunti ili wadumishe usalama katika kaunti zao.

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

Sen. Bule: Bw. Naibu Spika, naunga mkono Hoja hii.

Sen. Ongoro: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion, with a lot of humility and sadness in my heart. This is because we are talking about human beings, Kenyans and God’s creation. We are not talking about an ethnic group or a people coming from one region or the other. Human beings have been killed and Kenyans are losing their lives.

Mr. Deputy Speaker, Sir, insecurity is insecurity and death is death. There is no death that is sadder or more painful than the other. I am talking as a mother. When you lose a life or a child, the death of one child is as painful as the death of the other child. So, I am supporting as a Senator, legislator, Member of this House and Kenyan; that it is time that we stopped grandstanding and enslaving ourselves in political cages and ethnic enclaves. It is time that we came together to reason together. It is time we stopped being reactionary and started finding the root causes of these killings.

What is really sad is that we have line Ministries and relevant departments, and every year, we give them huge budgetary allocations. It is really sad that over the years, they have never been able to use this money, within our boundaries, to investigate and bring somebody to book. Kenyans are being killed within our own boundaries and despite all the data and intelligence reports that we have collected over the years, nobody has

been arrested. We have not been told: “These are the people who were involved in the Mpeketoni killings, these were their financiers, this was the mandate that they were given and these are the spanner boys and big boys behind these killings.” I find this incredible. All we do, as leaders, is political blame-game.

Mr. Deputy Speaker, Sir, the buck must stop with somebody. We cannot keep blaming each other and passing the buck all the time when we have specific mandates in this country. Can we not, at least, for once have just one person arrested, so that we are told: “When the Pokots are killing Turkanas and the Turkanas are retaliating, at least, for the last 20 years, we have been able to come up with one little solution to this problem?” We know that it happened last year, it is happening this year and probably it will also happen next year. Where is all this money going to? Do we want to say that with all the state machinery, departments of security and armed forces that we have in this country – hundreds and thousands of military men and women – none of them has been able to come up with a lasting solution?

Mr. Deputy Speaker, Sir, when we say that it is time that the leaders of this nation come together to reason, then you find another leader stating clearly that they should not. What does it cost when two leaders, all Senators or Members of Parliament come together to reason, in order to get a lasting solution? It is very sad because if we did not mean well for this country, for example, as the Opposition, we should be celebrating when things are going wrong. But all we are saying is that we are not interested in a celebration that is costing lives. As opposed to getting points that we will present before the same electorate, to tell them that these people did not do this and that, we are saying: Let us come together and put the problems of this nation on the table, interrogate them, reason together and come up with lasting solutions.

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

Sen. Ongoro: Mr. Deputy Speaker, Sir, I beg to support.

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir, for allowing me to contribute to this Motion. From the outset, I support the Motion.

Mr. Deputy Speaker, Sir, it is really sad that whenever we talk about the status of our country, the major thing that features is insecurity. Today, my colleagues are debating soberly as opposed to the other day when quite a number of them were emotional.

Sen. Ongoro: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Senator in order to mislead this House that all we do when we give very weighty political statements, is become emotional without reason? We only give facts and those are the facts that are leading to these issues.

Sen. Murkomen: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Ongoro in order to mislead the House by raising issues that were not raised by Sen. Mositet? Sen. Ongoro was not here when we were debating the other Motion on security, which was a little bit more heated. But today, I agree with Sen. Mositet that we are more sober and collected.

Sen. Ongoro: On a point of order, Mr. Deputy Speaker, Sir. When I rose on a point of order, I was making reference to what the Senator referred to as being spoken in political rallies, to which I always listen to. So, is the Senator in order to further---

The Deputy Speaker (Sen. Kembi-Gitura): Which Senator?

Sen. Ongoro: Sen. Murkomen. Is Sen. Murkomen in order to further mislead this House that I was misleading the House, when in fact, I am referring to facts?

Sen. Mositet: Mr. Deputy Speaker, Sir, I think that the hon. Senator did not really get me correct. This is because I did not refer to what has been said in rallies. In fact, I was just referring to what happened in this House a week ago, when each and every Senator was trying to catch the Speaker's eye to speak about the same things which are happening in this country. I know that everyone of us feels that things are not going the right way, but on that day – and Sen. Murkomen will bear me witness – people were really emotional, to an extent that some were calling for the resignation and sacking of others. But today I think that we have known that this issue is beyond just sacking of one person or sacrificing two people.

Mr. Deputy Speaker, Sir, as leaders of this country, as Sen. Bule said, we really need to stop thinking just about ourselves, and think about this nation. It has come a time when we need not to think about which political parties we come from. We need to think about this country. When we come to this House, we are supposed to have sober debates which will lead to some solutions to the problems that we have.

Mr. Deputy Speaker, Sir, when I was young, I remember very well that the National Intelligence Service (NIS) was working very well. At that time, it was referred to as the Special Branch. For example, you would be told that a waiter in a bar was actually an Inspector of Police, after she had arrested a wanted person. Sometimes you would even hear that a herdsman had arrested a poacher, simply because he had been identified properly. In the so-called NIS, quite a number of the officers now are graduates. But do we really require graduates to perform NIS work?

Mr. Deputy Speaker, Sir---

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Deputy Speaker, Sir. Do you hear the Senator say “in the so-called NIS?” Could he further explain what he means by “the so-called NIS?” I think that the words are derogatory.

Sen. Mositet: Mr. Deputy Speaker, Sir, it is NSIS, but I believe that quite a number of us are wondering whether they deserve that name.

The Deputy Speaker (Sen. Kembi-Gitura): Do we still have NSIS?

Sen. Mositet: Mr. Deputy Speaker, Sir, it is NIS.

Mr. Deputy Speaker, Sir, how did we recruit the NIS personnel? Are they from all regions of this country or one region? That could also be the problem and we must really look into it. Again, the NIS cannot just say that they gave out information and were expecting something to happen. In this age of Information Technology (IT), they should say that they are expecting this and that to happen. They should not just give blank information without precision.

Mr. Deputy Speaker, Sir, we are talking about the CCTV cameras and so on. We have CCTV cameras even here in Nairobi, but we have never been told how many criminals have been caught through the help of these CCTV cameras, yet we want to invest even more money in installing them. So, the time has come when we need really to look at the line Ministry properly and see whether the security personnel are advancing their technology and research into how we can apprehend criminals. We should also find

out whether some unscrupulous business people are out to make money from the security system.

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

Sen. Nabwala: Mr. Deputy Speaker, Sir, I rise to support this Motion.

Mr. Deputy Speaker, Sir, I think that our country is in a very big crisis, in that everyday we hear of people dying. One wonders what the Government is doing about this, because it has the responsibility to protect the citizens. As leaders on this side, we are saying that things out there are bad and our friends on the other side are saying that we are politicizing the matter. We do not write stories in the media, but you will find reports everyday about insecurity. This should concern us, as leaders, because at the end of the five years – in 2017 – we will be judged by the wananchi on how we have performed. What will you tell people in 2017 when you are asking for votes? Will you go to a home where someone has died and ask for votes? Even as the Jubilee Government, you will be asked: “What did you do when our people were dying?”

I remember my uncle lost elections during the Moi era because many people died in Kimilili and he said nothing. Why? Because he was a friend of the “big man”. When elections came, people voted him out. They said: “Enough is enough.” Then there was insecurity in Bungoma County. People died and I said: “Where is our God?” I thought the issue of insecurity was only about Bungoma County, but we have seen this is spreading all over in the counties. Today, it may be my county, the next day, it is yours. You are seen on television trying to protect the Government and in your backyard, people are dying. What will you tell your people?

As leaders, we need to be responsible. We need to condemn these killings because they are not about one person. These incidents are affecting our mothers and brothers. The tourism sector is going down; people are losing jobs because hotels at the coast are closing down. What will we, as leaders, tell our people? I am embarrassed. I do not know what to say because this issue has affected people in Trans Nzoia County.

I remember people were being murdered and we did not know what to do. The other day, I was so shocked. I was confronted by people from Chepchoina Settlement Scheme who were allocated land in 1998 by former President Moi. These people are being moved; you remove a Marakwet, you replace with another Marakwet. You are making communities to fight. We were told by another Senator from the Jubilee Coalition how 11 people were burnt to death in their houses. People have been maimed as a result of the Chepchoina Settlement Scheme Phase II issue because of trying to shortchange people. Somebody has been given land, he is a squatter and another squatter is brought. I do not know who is a better squatter. You find District Officers as squatters. We should correct these imbalances or historical injustices that are the cause of some of these problems.

Mr. Deputy Speaker, Sir, does the National Intelligence Service (NIS) lack capacity? If somebody is not performing, even if he or she is my friend, and people are dying, I will tell that person to step aside. Let us put the lives of our citizens first. We should not try and blame the Coalition for Reforms and Democracy (CORD) because this party has been very vocal on this issue. These killings have been going on and we are saying: “No, it is wrong.” We need to protect our people. We should not politicize these

issues. Do not make us write statements because we are speaking about insecurity in rallies. I am sorry about this. I am a leader and we are here to protect our people. We should unite and live in peace. That way, there will be cohesion. If the Jubilee Government performs, we shall give them the votes. But if they do not perform, then I am sorry we do not know where they are taking this country. In 2017, there will be a big challenge for them.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Leshore: Mr. Deputy Speaker, Sir, this Motion is pertinent to me and my people in Samburu County. As we speak about insecurity in Kenya, some of us who have worked under those agencies have a lot to talk about. Insecurity did not just start the other day when the Ole Lenku or the Kimaiyos are there. This issue has been affecting us for many years. I would like to urge all the leaders whether they are in CORD, Jubilee or any other party to stand up for Kenya. Kenya at this moment is at cross roads because of insecurity. We have road carnage, cattle rustling, terrorism, poaching and many other insecurity issues affecting us. We must stand up. Let us not point fingers at each other. Let us emulate those leaders who talk about Kenya as a nation; Kenya as one people, not divided.

Last weekend, the Senator for Marsabit County who belongs to CORD and myself had a peace meeting between the Borana, Rendille and Samburu. That is the type of leadership that we would like to see. Let Raila, President Uhuru and Kalonzo sit together and talk.

(Applause)

We do not want to see another *Saba Saba*. Those of you who were there during the *Saba Saba* of 1990 know what I am talking about. I was there and we would not like to see another *Saba Saba* coming up. We have achieved all we wanted. Section 2A *tuliitupilia mbali*.

The people who were killed in Mpeketoni were not just from one tribe. When I saw their names, they were the Giriama and the Kambas. Those were Kenyans, they were not from one tribe. Kenyans were killed and we want to know who killed them. We want to be told the people who planned the attacks. The NIS and the police must play their role. We do not want the NIS to give us wrong intelligence. We have allocated a lot of money to the two institutions. We need them to come out and tell us the “A”, “B” “C” and “D” of what happened. We want to know: Who were the perpetrators? Whose vehicles were used? Where were the intelligence officers stationed there? Where were the *Nyumba Kumi* initiative elders?

Mr. Deputy Speaker, Sir, on poaching, we are trying to blame the Chinese. The Chinese do not have guns and do not know our areas. But some people are using our local boys to kill our animals. Everybody must come out and assist our President so that we curb insecurity in Kenya; whether you from the CORD or Jubilee coalitions. Please, brothers, just assist us. Let us stand as one country.

Mr. Deputy Speaker, Sir, on the issue of terrorism, we have about 1,000 kilometres of border between Kenya and Somalia. I have been asking myself: The KDF

have provided peace in Jubaland. What are these other battalions doing in Kenya? Why are they still moving around? They should move to North Eastern and Coast provinces and provide peace there. Before those terrorists come to Nairobi, we want them to be caught at the border points.

Hon. Senators: Yes! Correct!

Sen. Leshore: From there to Nairobi is about 700 or 800 kilometres. Why are police roadblocks there? Where are the people of the *Nyumba Kumi*? I cry and pray that we should stop taking the Orenegos to record statements for no reason.

(Applause)

Let the Jubilee and CORD coalitions stand up as parliamentarians and as leaders of Kenya. Please, I am begging you, let us stand as one people because Kenya is at crossroads of insecurity, poaching and many other ills affecting us.

Mr. Deputy Speaker, Sir, with those few words, I thank the Mover of this Motion.

Sen. Hargura: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity to contribute to this important Motion. We, as the Senate, are here to defend the counties and ensure that they take off. But what we are discussing is what is required before anything can take off. Without security, we will have no country, counties and there will be no development.

Those of us who come from those areas which at times become insecure know that when the security of a human being is threatened, he or she forgets everything and ends up protecting himself or herself. Maybe that is where Kenyans are right now. We cannot have any development. This is the most important thing that, we, as leaders, must address before we can talk of developing our country or protecting the counties.

Mr. Deputy Speaker, Sir, currently, we are talking of cases of insecurity throughout the country. Now, anybody with any idea of trying to achieve some ulterior motives will look at what is going on around and if somewhere, somebody has created insecurity – maybe he has killed people and no action has been taken – it emboldens the others. That is how it used to be in Marsabit, Mandera and it is now even at the Coast. We are even surprised that the other day when this incident occurred in Mpeketoni, the Government came out very strongly; we thought that the issue will be sorted out. But even up to today, we still get messages that there are more killings. So, it is as if the criminals in this country or those who are out to derail development have realized that our security system is not working. That is where we need to fix.

First of all, Mr. Deputy Speaker, Sir, I think whoever is in our intelligence system has to wake up and realize that other than being an intelligence officer; he or she is also a Kenyan. They owe all of us that responsibility of making this country secure by getting the right intelligence information at the right time and passing it on to the right people who can act on it. That seems to be lacking. We are being told that information has been passed on and nobody has acted on it. Even though we have the security forces, they need to take their work seriously. So long as we have the problem of insecurity, however much the people in charge of security talk and tell us that it is not them who are responsible, we will still hold them accountable because that is what they are being paid for.

First of all, they are Kenyans; and they are Kenyans who have agreed to take up the role of safeguarding the security of the rest of the Kenyans. So, if they cannot perform that responsibility, the most honorable thing is to hand it over and say: "I cannot do it." But if you always stand there, defending yourselves and Kenyans are dying in large numbers, I am sure you are not doing any service to yourself and to your country.

Mr. Deputy Speaker, Sir, the other one is on us, leaders. Wherever these things occur, there are leaders. From what I know, if we are not involved; if we are talking to our people correctly, then these things will not be happening because those who elected us listen to us. If we are not telling them that it is not right for you to kill your neighbour, then they will do it and they will continue doing it. So, we have the greatest responsibility as leaders.

As my fellow colleagues have said, it is high time we started talking to ourselves. Let us address issues. If you know where the problem is, then you do not have to shout about it; you just have to sit down and tell each other and then whoever is responsible has to take action. Otherwise, we will be blaming each other while Kenyans are losing their lives for very flimsy reasons. In some areas, we are told that they are fighting over county boundaries. These are large counties where the population is even one person per square kilometer; and you are told that people are killing each other over boundaries. That shows how flimsy we are because we are killing each other based on very flimsy grounds. So, that has to stop.

Mr. Deputy Speaker, Sir, I think that even our security forces are contributing to this problem. Like in the case of Baringo, we were told that there is an Administration Police (AP) camp next to where people were fighting for seven hours and nobody came out to stop that fighting. So, even our security forces are failing us and they also need to take responsibility for their actions. They need to realize that, first of all, they are Kenyans before they are security officers. Secondly, they accepted to do that job; therefore, somebody has to take responsibility. Otherwise, what we will witness is that while we are addressing what is going on, others who had their own flimsy reasons of having issues with their neighbours will get emboldened and we will see more bloodshed.

This will happen unless drastic action is taken and unless leaders take responsibility to talk to their people. I still believe that leaders have a lot in this. Unless they talk to their people, then we should expect to see more bloodshed. We will see areas which initially had been quiet, erupting because you would not miss, within all the communities, somebody who has had issues with his neighbour or with the neighbouring community, but who was not bringing it out because he thought that the Government system was effective. He thought that if he tried to bring it out, maybe action will be taken against him. But if you see that nothing is being done to the others, then we are heading for more problems.

Mr. Deputy Speaker, Sir, I beg to support this Motion and urge the Government to take responsibility and ensure that peace is restored.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mutahi Kagwe.

Sen. Kagwe: Thank you very much, Mr. Deputy Speaker, Sir. From the outset, I rise to support the Motion. Indeed, it is a sad moment in our nation when we can stop the business of development and progress to discuss the business of people who are killing

each other in our country. No nation is going to develop when its people are dying. Indeed, even local and international investors cannot come to a nation that is at war with itself and also at war with international terrorism.

Mr. Deputy Speaker, Sir, I believe what Sen. Ongoro said earlier regarding the 30 years that we have had – or more than 30 years – of people who have continuously attacked each other and we have not captured these people. I think that is a very important point to think about – and I thank Sen. Ongoro for bringing it up. It is true that we spend substantial amounts of money in our nation paying individuals who are supposed to secure us. As much as I support those who do so and those who are carrying out that responsibility, I think a time has come when they must count themselves responsible and say “this is exactly what we have done; these are the people we have arrested; and these are the people who have been jailed as a result of insecurity.” I am calling on the Government to be as vicious and as ruthless as is necessary in dealing with this matter.

Mr. Deputy Speaker, Sir, every time we hear something like this has come up, a policeman goes on the attack and is killed in the process, we never hear anything about the human rights of the policeman; we only hear of the human rights of those who are killing. The most important human right is the right of those who are killed innocently. Those are the people we should be concerned about; those are the people we should be worried about. As far as those who are killers are concerned, we must seriously address them with the viciousness that they have addressed unto innocent Kenyans; we must address them and deal with them as ruthlessly as they have dealt with the rest of the Kenyans.

Mr. Deputy Speaker, Sir, in terms of leadership, there indeed comes a time when we have to ask ourselves which leadership is for the nation and which leadership is against the nation. If one can stand here and defend individuals who are killing Kenyans and threatening to kill Kenyans, then that person is not for Kenyans; that person is against Kenyans. So, I agree that this is a time for the leadership to come together; this is the time to think about whether what we are saying brings us together or divides us. This is not a politically partisan issue; this is an issue that must bring all Kenyans of all walks of life together. But what we say and where we say it; and the manner in which we say it can affect our people. In fact, sometimes when leaders speak, I believe that they speak from a position of innocence. But there are those who will take advantage of statements that leaders have made and make it look as if they are the ones who are responding to those statements. So, we must move forward in a measured manner; realizing and appreciating that not everyone who is listening to us is going to carry it with the goodwill that we posit as far as our electors are concerned.

Mr. Deputy Speaker, Sir, I agree with Sen. Wetangula that Governors and Senators should come together. Indeed, those are the forums where I believe dialogue can take place. Those are the people who were elected by the people. These are the forums where we can sit and discuss. These are forums in which we can ask questions, dialogue and interrogate each other. These are the forums in which we can call the National Intelligence Service, the police commissioners and so on. These are the situations in

which dialogue can actually take place. Therefore, I support what Sen. Wetangula proposed and say that it should be done as quickly as possible.

With those few remarks, I beg to support.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Orengo!

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

The Deputy Speaker (Sen. Kembi-Gitura): Who has a point of order?

Sen. Murkomen, I wonder about what your point of order is about because nobody has said anything.

Sen. Murkomen: Mr. Deputy Speaker, Sir, with all honesty, I have been standing all through, before even Sen. Orengo came to the House, but I was pleading with your eyes to see me.

The Deputy Speaker (Sen. Kembi-Gitura): I did not get the last part, Sen. Murkomen.

Sen. Murkomen: I was pleading with you that your eyes may have favour with me.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murkomen, let me say this again; I keep a list. I do not think it is right for you to tell me when Sen. Orengo came to the House because I keep a list. Even when I see you, I will see as if you are sitting on the other side. I think you need to realize that because your name is on the list and when time comes, I will still call you. I do not think it is right. It is wrong for a Senator to tell the Speaker when they should be called. I think it is absolutely wrong, out of order and a sign of disrespect to the Chair. I am not asking for an apology but stating a fact. I think it is wrong, I am saying this for the sake of the House, for any Member to tell the Speaker that they should be seen.

Sen. Orengo: Mr. Deputy Speaker, Sir, thank you very much for giving me an opportunity to contribute to this Motion. First of all, I want to appreciate the by-partisan manner in which this debate is being held because unless we do that, we are not going to resolve the more important problems that confront the nation today. If you look at Article 238 of the Constitution, it requires of the national security organs of the state to protect the territorial integrity of Kenya against external and internal threats, and also protect the people. On that account alone, it must be admitted that there is some degree of failure because constantly, we are hearing these tragic events of lives and property being lost and destroyed. There are also invasions into our territory.

Mr. Deputy Speaker, Sir, one of the principal objectives of our security organs is to protect the people and not just to protect the state so that when the NIS is saying that they had advance information like in the case of Mpeketoni and also in the case of Westgate attack, and gave it to security organs or other people in the Government but they did give the people that information - I think that is total failure. It is important that if they indeed had information that there are going to be attacks in Mpeketoni, just like the Americans are doing to their citizens whether they are in Kenya or in the United States of America (USA), they would normally warn them that there is an imminent danger to their lives so that they can avoid certain areas. Constantly, every time NIS is speaking, they say they gave information but nobody put any regard to it.

Mr. Deputy Speaker, Sir, the NIS must begin to look into better ways of passing this kind of information in an accountable fashion so that at the end of the day, we will know whether that information was given in real time.

Another point is that there is this thing called rush to judgement. Historically, if you look at some challenges we have faced regarding people's lives and property, information comes from the Government and it is constantly misleading. I am not accusing the current government but it has been there before. For example, when J. M. Kariuki was murdered, official information came that he was in Zambia at a particular hotel and details were given when he left the country for Zambia. It turned out to be absolute rubbish. When Dr. Ouko was murdered, information was that he was in Gambia and was given a little holiday when he came back and yet the guy had long been slain at Got Alila.

If you follow these examples one by one, even involving communities, you will find that there is a rush to judgement. Even what we have done now, there is a rush to judgement. As regards Mpeketoni, it has been said that it is political leaders but not even one has been charged with any offence. What I wonder is that with the kind of operation in Mpeketoni, our own people were killed, police officers were killed and not one attacker is either arrested or killed. This happened in Westgate and Mpeketoni. The reasonable conclusion is that our security organs are not doing the work as they should and the Government is also rushing to judgement.

Mr. Deputy Speaker, Sir, let me say this without fear of contradiction, if somebody has committed an offence, it does not matter whether he is CORD or Jubilee; so long as that person has committed a crime against the people of Kenya, he should not escape the hand of justice. It must be dealt with accordingly. For the Government to use the process of accusing people of things which do not amount to offences at the end of the day, you are bringing insecurity on top of insecurity.

Mr. Deputy Speaker, Sir, my friend Sen. Muthama, and I want to say this publicly because I was shown what Sen. Muthama said in Kiswahili "*tulikuwa tunasema mbeleni Kenya ni kubwa lakini sasa tunasema sisi ni wakubwa kuliko Kenya*". He is now required to go and make a statement before the police because it is an offence or hate speech. That cannot be hate speech, it is completely laughable. What I plead with is having dialogue. We must not have *Saba Saba*. Dialogue is so essential. The other day the Pope presided over prayers between the President of Israel and the President of Palestine. Mandela was able to sit with---

The Deputy Speaker (Sen. Kembi-Gitura): Your time is up.

Sen. Orengo: With those few remarks, I beg to support.

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

Sen. Elachi: Mr. Deputy Speaker, Sir, for the last 50 years, we have talked about insecurity, the police, its leadership and so on but in the last 30 years, we realize that things have really changed. It is time that, as leaders, we need to look at the country and relook at the force itself. As much as we talk about the top leadership and saying that they are not doing their work, we also need to ask whether the reforms are transforming the force or are we retrogressing in the same. You will find that there is a lot of competition within and the police officers are demoralized due to the poor welfare.

As Sen. Bule said, we need to ask ourselves, when we say that a police officer will be recruited into the police force with a D plus and then you have an NIS officer who has a degree and is supposed to give instructions to a police officer whereas the disparities in their salaries is big, it may not work. We must go back to the drawing board and ask ourselves whether we have done justice to the young men who are joining that force. Do we really think that they will be able to take care of *wananchi* when we know that five households share one house? They are always afraid when they are in the field that their wives could be raped. They are facing all these challenges.

Therefore, it is time, as leaders, we started looking at what is ailing the force and why the police values are no longer there. What went wrong with patriotism? What really went wrong when we talk of nationhood? Do we still have someone who wakes up in the morning and joins the police force not because of the salary but because they want to give a service? It should be a calling. That is one thing that, as leaders, we need to question. We have now given the security agencies Kshs156 billion and if we are not careful, we will just be playing around and we will have the same challenges facing us.

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

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

Madam Temporary Speaker, there is the issue of boundary disputes in Wajir, and I am asking myself whether in the 21st Century, we should still be seeing two clans killing each other because of a boundary dispute. Some of the leaders have been in Parliament for 20 years and they know the challenges they are facing. Is it not time we went back and re-looked at the boundaries and settled down once and for all? It is time we solved the problems in Wajir and Mandera. We should put all the fighting to a stop. We thought that with the advent of county governments, they will embrace each other and pursue development, but it seems this problem is not coming to an end.

If the issue is really a boundary dispute, I think it is time the Government came in and sorted it out once and for all. It is very unfortunate that we can kill each other because of a boundary dispute. This is really unfair. I would wish the Senate Departmental committee in charge of security went to Mandera and looked at the boundary that we are talking about. You might be very surprised that it may not be enough land to even bury an individual on.

I remember the Chief Justice saying – he said it in such a simple manner that we took it as a joke – that we should use different ways to manage conflicts. What he really meant was that within our own cultures, we have beliefs that are even more powerful than the gun. It is time we respected our various cultural ways of doing things because it helps.

I support.

Sen. Hassan: Thank you, Madam Temporary Speaker. Since what I wanted to say has been said, I will talk generally. First and foremost, I want us not to beat ourselves too hard on the fact that we do not agree on some of the fundamental issues. I think our coalitions represent two separate visions and ideas on how to manage the national security crisis. Whether we like it or not, the challenge of national security has evolved so

much whereas we have refused to evolve with the times. They say that if you fail to keep up with the times, you perish.

Over the last 20 to 30 years, we have had similar capacities and similar challenges of managing national security; the Moi regime, the “*Nusu Mkate*” Government and this particular Government. The resources have not been fundamentally different, but why is it that there has been more insecurity in the last couple of years with the same resources than we have witnessed before? This is because people have refused to change with the times. Times have changed and so must we. The truth is that the new Constitution lays down an elaborate mechanism on how to manage national security. It has shifted the paradigm of security to a more democratic police and a democratic national security arrangement.

If we insist on ethnicizing and politicizing our security agencies; then we will get this catastrophe because decisions are made that are emotional. When you look at a situation, rather than looking at it as a Kenyan issue, you say that we have been targeted as a community. This raises and escalates the fears and concerns and polarizes the country even deeper. This is why when Kenyans talk about de-ethnicization and de-politicization; they want to have an objective arbiter in terms of how we manage our organs of national security.

Madam Temporary Speaker, paradigms of security management have changed drastically. We continue to use rightwing strategies. We might think we have no belief systems but we are rightwing in our approach to security. Right now, various Senators have spoken here undermining the role of education whereas security is no-longer a brutal act; it is a science. People go to school to learn it, people graduate to simply manage national security both from a pro-active and a re-active sense. There is research that goes into security. Do you think those hardware and software in national security manufacture themselves? There are people who apply their genius towards these kinds of issues.

So, you cannot come here and undermine the role of education or undermine the role of human rights. Countries that have had a better human rights record have had a better security arrangement system. When you come and talk about brutal force, there is the Constitution which limits that brutal force. Therefore, let us not argue as though times have not changed. That is the problem that we have; we have an archaic security arrangement and security leadership. They have refused to conform to the signs of the times and realize that this country has shifted and that these things have been managed in other countries successfully.

You cannot apply a George W. Bush strategy of 20 years ago and expect to win. You do not alienate an entire group of people through profiling. You integrate them in organs of national security so that they can make an impact in terms of helping you in pro-active security. You are laid back, you do not learn, you are not critical, there is no debate, there is no discourse and then you expect somebody from Form IV as one of our colleagues said here to manage your national security; you will perish. People are getting more sophisticated.

I heard some of you analyzing what *Al Shabaab* did, and maybe *Al Shabaab* evolves. You have refused to evolve by saying that since they did this in Westgate Mall,

they will do the same in Mpeketoni. You should constantly adapt to the challenges that are presented on a day to day basis. We are not static as a nation. We are not in our barbarian past. We should address our current future and to address it, we need to take a lot more time. Some of us took time studying how national security is managed and we brought some of these ideas, values and ethos into the Constitution, but unfortunately, the management is so inept and that is why we wanted a civilian.

The position of the Inspector-General is simply a management position; it is not an operational commander, but you continue to apply paradigms that have been wasted out through the passage of time and expect to deal with the challenges of security 50 years after Kenya's Independence. I think it is high time that we matched the challenges through learning, discourse and dialogue which the former Prime Minister is calling for.

Sen. Murkomen: Thank you, Madam Temporary Speaker. The situation in the country is very sad. Even after we had a very fierce debate here last week and gave our suggestions, as late as today, we have heard that there are people who have been killed in Mpeketoni, Wajir and Mandera.

Madam Temporary Speaker, as I said last week, and stand by it, our country needs to have a modernized security system. We need to apply what I would call "the digital" approaches to security management. I still want to insist also that it is not possible for all policemen to guard every house. It is actually a definition of our primitive energy, as a people, that a neighbour can get a *panga* or gun and shoot his own neighbour. These are people who know each other, like what happened in Baringo, Wajir and Mandera. It is a shame.

We can always call the Government to come and protect us, but we also have a responsibility not to kill our neighbour. The stories that we hear from Wajir and Mandera are a demonstration that as much as we blame another person, there is a responsibility that we must bear. I can excuse situations of *Al Shabaab* or cases where people have been ambushed, but where neighbours, like in Baringo, are fighting and killing one another over very emaciated cattle--- Even when you take these animals to the market, you will not make a lot of money. Unfortunately, we reduce these useless cattle to equal human life and kill women and children. I think that there is some sense that needs to be driven into the heads of people about the value of life. The Bible says very clearly: -

"What will it benefit a man if he were to own all those cattle, tracts of land and the world and lose his soul in eternity?"

Madam Temporary Speaker, Sir, as a country, we have lost our soul and values. In any case, maybe we do not have those values, because security goes with the values that we have. There is value for life and other people, and we have reduced this to historical injustices. You cannot continue blaming historical injustices when it comes to value of life. I am encouraged by the manner in which we speak in this House. If this is how we were addressing rallies and people out there in churches and soberly debating issues like this, there would be no cases of incitement, hate speech and so on.

It is important that also, as leaders, we take that responsibility. This is because, again, as I said to my constituents over the weekend, the Bible is clear. Paul wrote and said that everything is permissible. You can say anything, but not everything can edify or bring wisdom. Therefore, it is important also as leaders that we promote--- Everytime the

responsibility has always been put squarely before leaders, whether it is a Senator, Member of the National Assembly, Governor or Member of the County Assembly (MCA), that we are using poor people out there to accumulate power and wealth. We do not tell them openly that as much as we fiercely debate in this House, Sen. Omar and I, perhaps, will go and take tea together after we leave here. We create that impression that leaders are not even able to dialogue.

Sen. Hassan: On a point of order, Madame Temporary Speaker. Sen. Murkomen mentioned my name immediately after the assertion that some of us accumulate wealth and power. In case he does that, I actually do not. So, the record of the Senate should be quite clear in that context.

Sen. Murkomen: Madam Temporary Speaker, I thought that Sen. Omar Hassan was rising to confirm that we usually take tea together.

Madam Temporary Speaker, the impression that we sometimes create to the public is that these leaders who are supposedly inciting each other do not even meet or shake hands, yet the truth is that we debate here and say what we say passionately. But at the end of the day, we are friends. At the end of the day, I still look up to Sen. Orengo as my mentor. At the end of the day, Sen. Wetangula is still my senior. It is important that leaders translate that which happens in this House to what they say also in the field there, so that we can preach unity.

Madam Temporary Speaker, I have heard my colleagues say in rallies that two communities are in power. Which communities are in power? There is nowhere in the Constitution that says that communities are leading the country. President Kenyatta is the President in his individual capacity and not on behalf of Kikuyus. The same applies to Raila Odinga. He is the opposition leader in his own capacity. Therefore, individuals are in power and not communities.

The Temporary Speaker (Sen. Ongoro): Your time is up!

Sen. Murkomen: Madam Temporary Speaker, I beg to support.

Sen. Kajwang: Madam Temporary Speaker, since I have realized that there is very little time, I want to go one by one.

Madam Temporary Speaker, cattle rustling will be solved only by education. People must go to school to know that there is life after cattle. Take them to boarding schools and force them to go to class. The few who managed to go to mission schools and boarding schools have become Ministers in this country, otherwise, they would have been cattle rustlers. Now that we have county governments, let us establish boarding schools and force every young person to go to school, at least up to Form Four. At least, they will know that there is life after cows. Unless we do that, we will always kill each other, running after cattle. In fact, it happens even in Nyanza and some places near the border of Tanzania, where my friend, the Temporary Speaker, comes from.

Madam Temporary Speaker, the other thing that causes trouble in this country is marginalization. If you feel that you are marginalized on land, employment or opportunity, you will kill your neighbour. It is simple. If everytime you go to a place to seek for help and you are told that since you are from this or that community, you cannot be promoted or you are sacked, then you will say: "If I cannot be helped by my own Government, I am going to look for a way of helping myself." That is the truth. We are

making some people look or feel hopeless. That is what caused the war in Rwanda. They felt hopeless and said: "If I have nothing to lose, then I would rather die fighting." Please, do not take the country there, because it is almost there.

Madam Temporary Speaker, the third thing is ethnicization of this country. It is sad that we still talk of tribes. We, politicians, know it best. We talk of tribes and when we go to our constituencies, we talk of clans. When we go to the wards, we talk of families. If we go to the families, we talk of the households. The problem is that human beings divide themselves from races and then come to nations, tribes, clans, villages and then even discriminate against each other in the same family. Ethnicization of politics is a dangerous thing. In fact, I was getting calls from Nakuru, Naivasha and Nyanyuki that Luos must leave those places. The Luos were asking: "What have we done?" Because people have died in Mpeketoni, Luos must leave Naivasha! Look at that rubbish in a civilized country.

Madam Temporary Speaker, the last thing that must solve this problem is the structure of our security. We have said that security must go up to the village, but the national Government does not want to work with elected people. Regarding what happened in Lamu, I have not heard anybody asking: "Where was the Governor when this happened, yet the Governor is elected to take care of his people, both politically and economically?" We just ignore it. Then you ask ole Lenku who was sleeping in Nairobi to go and take charge. I am sure that the Governor would have done something by the time that ole Lenku reached there. He would tell him: "I have tried this and that and failed here. Please, now take over."

Until we know that security is about taking care of individuals at the village level and the villagers know to take care of themselves better than anybody else, we are losing it. We are not going anywhere. We are not going to talk about unity in our country by one side of the mouth and say that you cannot talk by the other side of the same mouth. If we need unity, we need to talk. If Israel is talking to Palestinians and they are killing each other, and the Pope who comes from another religion, is praying for them and they close their eyes, what is wrong with people here in Kenya sitting down and talking? We were talking the other day too big. This country belongs to all of us and we must start talking. We must start persuading; we must start sending the best signal to our country; that this country is one. Imagine this; that people are going to fight in--- No; not here.

(Laughter)

People are going to fight in estates and buses---

The Temporary Speaker (Sen. Ongoro): Sen. Kajwang, your time is up!

Sen. Kajwang: Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. Lesuuda.

Sen. Lesuuda: Thank you very much, Madam Temporary Speaker. I will also try to be brief because my colleagues have spoken to many of the issues. I would like to say, from the outset, that I support this Motion. I think it is an important Motion, but we speak to it with a heavy heart. I think this is the second time in two weeks that we are actually adjourning business of this House to discuss the same matter on issues to do with

security. It is also a matter that I think we discussed for the first time we came to the Senate when we had issues in Samburu and Bungoma; and we are still discussing the same issues. I think it will be laughable if we took partisan positions on this matter. It will be unbelievable if that is the position we would have taken when we were discussing this matter, because there are people who are mourning; there are Kenyans who are looking up to us to show leadership and to show the way on solving this matter once and for all.

Madam Temporary Speaker, touching on some of the issues that have been discussed, one of them being the summons and the predictability of how we handle these matters every time they happen, they are on the front page, then officers enter a chopper from Wilson Airport, fly there, talk to the people, sleep in the nearby town, come back to Nairobi; and then summons are issued; then the people so summoned go to the Criminal Investigation Department (CID) and record statements. Even a small child can actually tell you over the years how we handle this matter, and nothing has changed. Can those who are in charge surprise us one day? You should just surprise us, Kenyans. As we are waiting for that cycle, just decide to do something different; actually prosecute!

Let us see the people you keep referring to, saying “it is his people” or “it is politicians;” these politicians have names. These politicians have been given the responsibility to lead and protect their people. If you know who they are, prosecute them. Let them be seen in the dock; but stop telling us: “We are sending a very stern warning.” I am so used to those headlines now and I am sure Kenyans are tired. I think it is even a mockery to those who are mourning that we keep issuing warnings. All I am asking is that, just do it; and probably the next time you call a press conference, call it when you have done it, not when you are saying: “I will do it; we will arrest; we will prosecute.” Call us and say “we have done it and these people are behind it.” The reason I am saying this is because most of the time after you check these leaders and you summon them to go and record those statements, they become heroes in their own backyards. They go and tell their people “you saw, I was even taken; I signed; now I am a hero.” That impunity has to end.

Madam Temporary Speaker, I think it is also important to say that we have to find homegrown solutions for our areas and counties. Probably it is not too bad an idea to think of how we can involve the local leadership at the counties on how they can manage security. We need to invest in dialogue even at the local level in the peace processes for the long haul. People who have been fighting - like in Wajir - that did not start today; then you want to send a few people there to go, mediate and, in two weeks, come back to Nairobi and say that everything is fine. It is not possible. For people who have fought for the last 50 years, you have to be ready to invest long term in the peace processes. The communities have to sit down - whether it will take three or four years - but all these processes have to be ongoing in order for these communities to know that it is not right to kill each other over imaginary boundaries. Actually, if you asked them where an imaginary boundary is, they do not even know that this is the boundary; it is just imaginary. Sometimes we even tell those communities “Okay, fine; the boundary has been extended; it is going further. There is the boundary.” But, tomorrow, they will still

be killing each other. So, I think we have to be committed to also support the peace processes in our country.

Finally, Madam Temporary Speaker, the nature of attacks that are happening look like they are planned. How can 60 people just wake up from their houses – you and I wake up from our houses – we enter a van, go kill and then just walk out? They are planned! So, if they are planning, how do you not know where they are meeting? How do you not know where they are getting these arms from? If they are planning to attack, you also have to be accountable and---

Thank you, Madam Temporary Speaker. I beg to support.

The Temporary Speaker (Sen. Ongoro): Sen. Musila.

Sen. Musila: Thank you, Madam Temporary Speaker. I stand to thank my colleague, Sen. Wetangula, for moving this Motion. I have been sitting behind there, wondering what to say, because it is only last week that we moved a Motion of Adjournment after a very serious incident in Mpeketoni. The Cabinet Secretary (CS) went to take charge; then there was an attack where 15 more people died; after that, it was Baringo and now it is Wajir and Mandera.

Madam Temporary Speaker, I think that, as a nation, we are now at crossroads. I think we better now sober up and talk to one another in order to find the solution. I say this because when you see some of the issues that arise – cattle rustling, boundaries, watering points or domestic violence – all these issues are very sad because we are giving our external enemies an opportunity to show our weakness and even hit us more.

Madam Temporary Speaker, impunity has been said here as one of the issues. Why, 51 years after Independence, are people still practicing cattle rustling? Why? It is because of impunity, because if you steal cattle and come with it, nothing will happen. That gives incentives to others to do it tomorrow. Attempts have been made by the Government to arrest the situation, but it has never worked because when people are arrested, someone comes up to say “do not touch him; this is our community” and then it goes off. We are now reaping from our inaction in handling security matters. So, may we, please, as a nation, handle this and stop this blame game? Whenever it happens, it is politicians who are targeted; it is said: “Governors, go and write statements;” or “politicians, go and write statements” because of hate speech. This scape-goating will not take us anywhere. We have to be serious.

Years ago, Madam Temporary Speaker, in Samburu County, policemen were killed. Those arms which were taken from the policemen are still there. Is the Government not capable of taking those guns back? How come our neighbouring state of Uganda does not have these things anymore? They do not have because they have taken decisive action to arrest their situation. How come the community that lives in Uganda and which is related to the community which lives on this side has stopped or, at least, ceased cattle rustling? The Government must resolve to be firm, arrest the situation and stop these archaic practices which have been going on for ages.

Madam Temporary Speaker, I hope that after Mandera and Wajir incidents, we are not going to hear of others. The international community is watching. Today, we have over 2,000 visitors here, holed up in Gigiri, scared stiff. How do you expect visitors to come to our country when we are killing each other? Even the children in the villages do

not feel safe because they are hearing these things happening. So, I am appealing to you to talk to one another.

Madam Temporary Speaker, what happened after the Westgate incident? The President was joined by the former Prime Minister and all Kenyans were united. Why can we not do the same? Why is it that we want to look at the President as doing it alone and others also doing it alone? We must unite if we want our country to progress. I am saying this with a lot of pain. It pains me every morning and I am sure it pains all of us. What about the value of our speech in this House? Does it matter if, after whatever we say, nothing happens? Tomorrow, we may hear another story. Let us hope that the Government this time round will listen. Let the Government act. Let the police do their job; let those who have been given the responsibility to give us security do so because without that, as a nation, we are doomed.

I beg to support.

Sen. G.G. Kariuki: Madam Temporary Speaker, just like my honorable colleagues on the other side, I was thinking whether I should contribute to this Motion or not having talked about security for the whole of last week. In fact, every other day, we talk about security. The big question is: Does whatever we talk here have any bearing on what is happening? I get very disturbed. I appreciate the attitude this afternoon from the Senators that they appear to be thinking very critically about this nation. I think this should continue. The time for making statements just to be heard should now stop; the time for addressing the galleries and the public through the Senate about security needs to stop now because this matter is so serious.

Madam Temporary Speaker, I listened to you when you were contributing and I was getting even more concerned to hear what you were saying but let us ask ourselves why we are in this situation. Is it that we just blame the Government and people who are in charge of the security organs? What is our contribution? Is it only the concern or do we have a pertinent idea that we want to sell to the Government or to the people concerned with this matter or do we just spend time speaking and that is all? Because of time, I was suggesting that we stop saying that this is non-partisan and so on but get to work. We should get the Members of the Opposition and Members of the other side to sit together as a Committee and form a research team which will give something to this nation so that we appear to the public to be interested in getting a solution to this matter.

Just talking alone will not change anything. Just like we pass here Motions where we urge the Government, even today, we are just urging the Government. I am asking myself when are we going to tell the Government to do what we want to be done and it be done. I am not saying this from a point of ignorance. I have been in the Government and I know how the Government works. The Government can only work if you have a specific issue that you can put down and press on it. The Government would not accept to be seen by the people of Kenya that they do not want to do (a), (b) and (c). The Government is headed by politicians and we are also politicians here.

Therefore we have to consider whether we are doing the right thing. Are we working together with the other House? There are two Committees; the National Security and Foreign Affairs Committee in the Senate and we have another one in the National Assembly. Have they ever attempted to sit down and discuss one issue? Even when they

decide to go overseas, they just go individually. What are we portraying to where we go? Time has come when we must sit down with the National Assembly and all the Committees when there is an issue like this one, to discuss what is happening.

Madam Temporary Speaker, we talk about investment and many other things. How can you invest in Laikipia if everyday there is war, everyday, children are crying because their father has been killed? Let us not forget that any country which relies on tourism must volunteer to be open and protect the society. Otherwise, nobody would want to come and die in Kenya.

Thank you, Madam Temporary Speaker.

Sen. Wako: Thank you, Madam Temporary Speaker, for giving me this opportunity to speak to yet another Motion of Adjournment within a short span of two weeks and on the same subject. This shows that when we last had the Motion of Adjournment, in spite of the many promises that were given, both inside and outside the House, in spite of the Government's assurance that they have now put the situation under control--- In fact, I remember the Cabinet Secretary and the Inspector-General went to Mpeketoni after the last incident but it has continued. Unfortunately, it has not only continued in that area but in other areas. As you reminded us, this has been going on for quite some time, which means we are failing somewhere. Therefore, unless we address those root causes, we may not be getting anywhere.

Madam Temporary Speaker, because of time, I want to say that as leaders, let us not jump to conclusions so quickly as to who has caused it, who is responsible, who has planned it and so on. We have a tendency of jumping to conclusions and we have a tendency of saying "it is politics or it is political" without any evidence. I am saying "without any evidence" because if they had evidence, by now people would be behind bars and facing charges in court. So, let us stop doing that and let the criminal justice system which involves investigations and hearing of the cases in court be insulated from politics and let them do their work. Let us not prejudice their work by saying who is responsible. Let them do their work

Secondly, let us also not engage in sideshows when this is going on. We appear to be focused more on side shows by arresting people for hate speech and asking them to go and record statements whereas we know what they said in those public places. They were on the road. We know word by word what they said. *Prima facie*, most of them on the face of it, does not amount to hate speech. The way we understand it in law, when you state the facts, that cannot be terrorism or hate speech. If you have to say that that is hate speech, then actually you are violating the Constitution which must be interpreted in a manner which promotes democracy and good governance. Even that Section 33 of the Constitution must be interpreted in a manner that promotes democracy and good governance and so let us not engage in these side shows. It pains me that we are engaging in side shows, without tackling the key issues.

Madam Temporary Deputy Speaker, Sir, what are some of these fundamental problems that we must address? Maybe in those areas where there have been ethnic clashes every now and again, there could be a problem of water points, boundaries and historical injustices. Are we addressing those problems or we are addressing the whole thing from a law enforcement point of view? The law enforcement point of view is one

side which must be addressed very effectively. But unless it is coupled with addressing the root causes of some of the problems that we are having, then we shall be getting nowhere. For example, even the security forces that we have, unless they are formed in accordance with our Constitution.

Our Constitution, in Section 238(2)(d) demands that the recruitment by the national security organs shall reflect the diversity of the Kenyan people in equitable proportions. Section 246(4), on the composition of the National Police Service (NPS), states that the NPS shall reflect the regional and ethnic diversity of the people of Kenya. Are our law enforcement security agencies reflecting the face of the people of Kenya? Are we, as a people, addressing the issue of ethnicity and tribalism in the composition of the entire public service? Are we showing by example that we are now determined to do away with the issue of ethnicity and, therefore, sending a clear message to the people of Kenya that ethnicity is no more or are we providing a bad example to Kenyans that ethnicity still thrives?

That is one of the causes of the problems that we have today and it must be addressed. The issue of security cannot just be tackled from top to bottom. It can also be addressed from the bottom. I agree with what Sen. G.G. Kariuki stated that Motions of Adjournment are there, but let us now have a way forward.

With those few remarks, I support.

Sen. Chelule: Asante sana, Bi. Spika wa Muda kwa kunipatia nafasi ili nichangia Hoja hii. Nilikuwa na huzuni sana nilipotazama katika magazeti jinsi vijana walivyochomwa na kuuawa. Tunapongea, ningependa kuomba wenzangu viongozi wa Kenya tuongee tukiwa na nia moja ili tupate suluhisho la mambo ambayo yanaleta shida katika nchi yetu.

Bi. Spika wa Muda, ninaunga mkono wale viongozi wanaosema kwamba inafaa wakutane kwa mazungumzo. Inafaa wazuru maeneo ambayo yana shida. Ni lazima uchunguzi ufanywe ili kutambua ni nini inaleta mizozo katika jamii mbalimbali. Kama viongozi wa taifa hili tunakaa Nairobi kwa muda mrefu sana bila kurudi nyumbani na kuchunguza shida za watu wetu. Ni aibu kuwa kiongozi katika taifa ambalo watu wanauawa kama kuku. Nilipotazama nilihuzunika. Ni jukumu letu kama viongozi, kando na majukumu yetu ya kutengeneza sheria na kutetea haki za kaunti, kuhakikisha kwamba kuna usalama kwa sababu hatuwezi kutekeleza hayo majukumu bila amani.

Bi. Spika wa Muda, amani ni ya maana sana. Ni jukumu letu kama viongozi katika nchi yetu ya Kenya kuona kwamba kuna amani bila kujali chama au jamii. Hilo jukumu letu sisi pamoja na viongozi wa makanisa na wale wengine walioko mashinani ambao ni lazima tuwahushishe katika kuleta usalama nchini.

Ndani ya Seneti hii na Bunge la Kitaifa, kuna kamati zinazohusika na mambo ya usalama. Inafaa tuwe na mkutano ili tupange jinsi tunavyoweza kutembelea wananchi wetu ili tujue shida zao. Hatuwezi kuketi katika Seneti na kusema kwamba tunawakilisha wananchi wa Kenya ikiwa hatuwezi kujua shida zao. Huwezi kusema kwamba wewe ni kiongozi ikiwa huwezi kujua shida za watu ambao unawakilisha. Usalama ni jukumu letu. Tusiwe watu wa kulaumiana kwa sababu ni jukumu letu kama Maseneta kutembelea zile sehemu ambazo zimeathirika ili tufanye uchunguzi.

Inafaa tukae pamoja na viongozi wa dini na Wabunge wa kaunti ili tuchunguze chanzo cha shida zetu katika hii nchi. Mungu hawezi kufurahia jinsi wananchi wanavyouawa kama kuku. Hata ninaaibika kuwa kiongozi katika nchi ambayo watu wanauawa bila kujulikana sababu ni nini. Tunapongea leo hapa Nairobi, ni nani amechukua hatua ya kujua chanzo cha kutokuwa na usalama kule mashinani ?

Ninaunga mkono.

Sen. Kittony: Thank you, Madam Speaker. I spoke on a similar Motion last week. I would like to thank the Mover of this Motion for Adjournment for he cares about this nation. Last week, I said that I am very sad as a mother of this nation because we are giving birth to people who are killing themselves. The mothers feel very pained. The world is watching us and Kenyans are watching us. I have a lot of faith in this House. We have never quarreled in the Senate. If we are really true patriots, we should prove to Kenyans that we are one and speak one language in order to heal this country. We cannot afford to continue seeing what we are seeing and what we are hearing. The situation is becoming unmanageable and unbearable.

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

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

Mr. Temporary Speaker, Sir, unless we are pretenders, if we are really Kenyan leaders, where most of you are elected by your people, we should serve the people of this country truthfully without lying to ourselves because it boils down to us, as leaders. We are denying this country very many good things. Our economy is not very good and we have scared international tourists from coming to Kenya. I was in Swahili Beach in Mombasa. There were only five patrons, yet we know that this country is the hub for tourism. It is time we really asked ourselves where we went wrong. Let us be true and speak as brothers and sisters. I think that we have a hidden agenda. Why should we be adjourning business to talk about insecurity, yet we go out there and incite people? It is time we came out in our true colours. I feel very sad that this country is going this way after 50 years of Independence. We need to take stock of what has gone wrong and repent sincerely to God because life is sacred, so that this country can be healed.

Mr. Temporary Speaker, Sir, with those remarks, I beg to support.

Sen. Kisasa: Asante, Bw. Spika wa Muda, kwa kunipa nafasi hii. Mambo yalioitokea Mpeketoni ni ya kuhuzunisha sana. Wanaume na vijana wetu ambao tulikuwa tunawatarajia kutupatia vizazi vijavyo waliuawa bila sababu yoyote.

Bw. Spika wa Muda kama Wakenya tunafaa kujua kuwa tuna shida. Kama hujui tatizo huwezi kujua vile utalitatusa. Je, shida ipo na kama ipo ni nini? Je, usalama ni polisi ama Bw. ole Lenku? Usalama ni jukumu letu sote. Tusiangalie mtu mmoja peke yake wala tusitarajie malaika aje atuhakikishie usalama wetu. Ni lazima sote tuangalie mambo ya usalama. Kama wenzangu walisema, ni lazima usalama uanzie kule chini mashinani. Tukitarajia usalama utoke katika ofisi ya juu kabisa, basi hatutaupata.

Bw. Spika wa Muda, tumeigawanya Kenya kwa misingi ya kisiasa na kikabila. Hiyo haitatusaidia kama wanasiasa. Labda tunafanya hivyo ili labda tujipatie sifa. Lakini

akifa Mkenya mmoja ni lazima kila Mkenya ajue kuwa ni mtu wake na jamii yake. Hakuna kifo kizuri kwa mtu yeyote.

Bw. Spika wa Muda, pia tusiwalaumu magaidi wa *Al Shabaab*. Tunalaumu *Al Shabaab* kwa kila kitu lakini kuna wale ambao wamejificha kwa kusingizia *Al Shabaab*. Ni lazima tuchunguze na kubaini kama kweli *Al Shabaab* wanahusika.

Bw. Spika wa Muda, pia ningependa kuzungumza kuhusu vyombo vya habari. Kulikuwa na mambo ambayo yaliongelewa hapo---

The Senate Minority Leader (Sen. Wetangula): Jambo la nidhamu, Bw. Spika wa Muda. Je, ni halali kwa Sen. Mvita kusema kwamba hatufai kuwalaumu *Al Shabaab* ilhali wao wenyewe walisema kuwa walivamia mji wa Mpeketoni? Kama wanaushahidi tofauti waulete hapa?. *We want an open society*. Kila mtu awajibike na yale mambo anayosema. Merekani, Uingereza, Ufaransa wamesema *Al Shabaab* ndio waliohusika. Hata *Al Shabaab* wenyewe wamesema kuwa ni wao ndio walitekeleza uvamizi huo. Je, ni nidhamu kweli kwa mhe. Seneta kusimama hapa na kukanusha bila kuleta ushahidi ulio tofauti na yale ambayo tumeambiwa?

Sen. Kisasa: Bw. Spika wa Muda, nilikuwa nasema kuwa hatufai kuwalaumu magaidi wa *Al Shabaab* kwa maovu yote. Ni lazima tuwe macho zaidi ili tusiwalaumu tu bila kuchunguza zaidi.

Bw. Spika wa Muda, wanahabari wengine pia waliripoti kuwa watu walikuwa wanaulizwa majina na kutakiwa kukariri aya fulani ya Quran au kuulizwa swali kwa Kisomali. Pia vyombo vya habari vinafaa kutueleza mambo vizuri,. Hii ni kwa sababu wao wakitupatia mambo ya ukweli, basi uchunguzi utakuwa rahisi kwetu.

Bw. Spika wa Muda, hatuna Kenya nyingine ambayo tutaikimbilia. Kenya ni yetu na ni lazima tuitunze sisi sote. Hakuna nchi nyingine ambayo itatuchukua sisi sote ikiwa nchi yetu itachomeka. Ni lazima tuungane sisi sote kama Wakenya na kutatua shida zetu. Nchi yetu imejaa taharuki na kila mtu ana uoga. Ukiangalia picha za wale vijana ambayo waliuawa ni za kuhuzunisha sana. Si jambo la kufurahisha. Natumai kwamba Mwenyezi Mungu yuko macho. Kile unachofanya leo ujue kuwa utajibu kesho.

Asante, Bw. Spika wa Muda.

Sen. Wamatangi: Thank you, Mr. Temporary Speaker, Sir. I would have loved to make my contribution when my colleague, Sen. Hargura was here. It is unfortunate that he has left.

Mr. Temporary Speaker, Sir, about two weeks ago, I had the privilege of visiting Marsabit County with Sen. Hargura. We were treated to a cultural event that had more than 14 different ethnic communities. Every time a representative from all those ethnic communities got an opportunity to stand and speak on behalf of their community, the only word they spoke about was security. Each of them had a specific complaint about how insecure they feel in their communities, based on assaults and attacks from inter-ethnic communities. But what was curious was that each of those speakers would mention a name of a leader. We crossed over and visited Turkana County.

We did a number of visits with the same team of Senators and other leaders. I remember in one of the meetings, we were treated to beautiful songs by school children. But in one of the songs, the young school children came in front of us, as leaders. They knelt down. I have their song recorded here on my *iPad*. In the song, they sang, as they

knelt down, they were asking Senators, Governors and Members of Parliament (MPs) “Tell us, why we are dying?” In the wee hours of the same night as we spent our last night in Turkana, we got reports of the attacks in Mpeketoni. Immediately after that then came reports of Baringo. I am sure that most of us, as leaders, heard. Even as they were discussing Baringo, you could still hear some names of us, leaders, being mentioned.

Mr. Temporary Speaker, Sir, what I want to say, as a fellow elected leader in this country, is this: If somebody was listening keenly to the discussions and presentations that we have all had this afternoon, then somebody who does not have the privilege and authority that we have would get twice as desperate, because in all our discussions, we have hardly offered any solutions. We have not offered a way forward. In my humble view, we, as leaders, must take the responsibility that we have been given and ensure that we do what we should do to stop the death of Kenyans because we have a major role to play in this issue.

I want to say this clearly and say why; I will not try to be scientific about the human social aspect, but every human being and every community relies on leaders. Not unless we are forgetting the amount of trust and the responsibility of leadership that the people who elected us have bestowed upon us. When I, as the Senator for Kiambu County, says a word or shows a general direction, either by inference or by statement, it is most likely that most of my people will follow what I have said. If I show direction, then that direction will be deemed to be the way the community goes. That is how social life works.

Mr. Temporary Speaker, Sir, if we, as leaders, were to look at the problem of insecurity in this country, the one common denominator in all the cases of insecurity is that people are fighting because of scarcity of resources or water. Even if they are fighting for boundaries or involving themselves in cattle rustling or fighting for land and other reasons, the common denominator is leadership. We, as leaders, must take our role and show direction.

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

Sen. Omondi: Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute towards this Motion. For sure, it is a Motion that we contribute to with a heavy heart because it concerns innocent Kenyans losing their lives. We remain behind asking so many questions as to what might be the problem. What is really happening in this country? As a leader, I ask myself so many questions. What have we done for us to lose the lives of innocent Kenyans?

Mr. Temporary Speaker, Sir, it is high time that Kenyans should be given time to speak their minds. It is only when people are given the opportunity to address what is in their minds and to say what they feel that we are going to have peace in this country. It is only when people are given the opportunity to express their feelings and the problems that are affecting them that we will have peace in this country. I have once contributed to this in my district and it worked, when I was the Treasurer of the Peace Committee. When people had confidence in me, they could tell me what could be happening. They believed that once I get the message, I could tell the DC or the Peace Committee. The problem would be solved amicably. I saw it working. I may suggest that we need to have

such dialogue forums where Kenyans can talk. From those forums, we can pick issues that can help us move ahead.

Mr. Temporary Speaker, Sir, when we were looking for votes, we were promising young Kenyans jobs, jobs and more jobs. But now instead of creating more job opportunities, we are reducing them. These jobs are reducing because hotels are closing down simply because foreigners cannot invest in this country. Our hotels are closing down because the tourism sector is unstable. We cannot get tourists coming to Kenya because of insecurity. If we cannot afford to have tourists in this country and we are closing down our premises and hotels; what is next? There is a crisis because of lack of job opportunities. Many Kenyans are coming back home, and as they come back home, guess what is next? They do not have an income. What will happen next? Even you, as a parent, your life will be in danger because your son is back home, he is lacking employment and yet he has a family. If somebody can plan anything against you, as an individual, at the expense of somebody earning a living, those are some of the things that we should be asking ourselves.

Mr. Temporary Speaker, Sir, the issue of insecurity should begin with every Kenyan. Every voice should be listened to; we should not threaten others that “if you speak, you will face it.” By doing so, we are closing out information that can help rescue this country. As people are dying, there is a mark that is remaining in the hearts of the people that are losing their loved ones and they will never forget it for the rest of their lives. They will keep on remembering what happened. This is going to be the root cause of lack of peace.

Mr. Temporary Speaker, Sir, as I conclude, I want to say that---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Order!

Sen. Omondi: Mr. Temporary Speaker, Sir, I beg to support.

Thank you.

The Temporary Speaker (Sen. (Dr.) Machage): Very good.

Sen. (Prof.) Kindiki.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you, Mr. Temporary Speaker, Sir. From the outset, I want to thank the Senate Minority Leader, Sen. Wetangula, for moving this Motion. I also want to thank those who spoke before me. I was not in for much of the afternoon, but I followed part of the proceedings. Therefore, I am grateful at the sobriety in which this House has discussed this grave matter; that once more, in less than a week, we are gathered here again to mourn Kenyans who have lost their lives. We mourn the lives of people which have been cut short because of the work of criminals and evil people who have no faith in our great country. These people who think they can destroy life and get away with it.

At a time like this one, Kenyans would want to feel a bit low. It is only legitimate to even ask the fundamental question, including why we are not able as a country to get our security right. Those who have travelled will tell you that there is something that we need to re-organize about our consciousness as a nation about security. There are countries like Ethiopia, Rwanda and other nations which are even poorer than Kenya, but the citizens are quite conscious about their environment. That is why you rarely hear of terrorist attacks in Addis Ababa or Kigali. In those countries, every citizen has taken the

issue of security as a civic duty. They do it, not because they are happy with the Government or their leaders, but because that is the right thing to do to defend their countries from attacks.

Mr. Temporary Speaker, Sir, other than ordinary citizens taking responsibility, we will not tire repeating that those who have been charged with the responsibility to manage our security must up their game. That is a fair thing to keep on saying. Why? Because they have a duty to do and that duty has terms of reference. If you are not meeting the terms of reference then we must ask questions and demand answers from those who are responsible.

As lawmakers, our entry point is in the legal framework. That is why I want to take this opportunity, first and foremost, to thank His Excellency the President because just within this week, he was able to re-organize part of the security apparatus that has been working at cross-purposes, especially in terms of availability of equipment and personnel by placing the Kenya Forest Service (KFS) and the Kenya Wildlife Service (KWS) under the command of the Inspector General. I think we have started the journey towards a safer Kenya where the security agencies are working in unison and not at cross-purposes.

Mr. Temporary Speaker, Sir, I hope that as lawmakers at the right time, we will supplement this effort by providing a legal framework that compels all who serve in the disciplined forces in matters of internal security to work together in harmony and without competition or confrontation. I have argued before and I want to repeat this afternoon again, time has come for us to ask whether we need to review the circumstances, conditions and parameters under which some of the security managers serve in their positions. It would not be a difficult thing to start asking for performance contracts so that if we give you a job as a commissioner of police then we expect certain key deliverables. If they do not happen, then we do not have to use the security of tenure as a basis of avoiding responsibility.

Mr. Temporary Speaker, Sir, something else that has come up, especially with regard to the latest attacks in Wajir, I am told that the Inspector General of police has issued a blanket order that every elected person in the County of Wajir and the County of Mandera must go and record a statement. This scape-goating, that every time there is a crime, it is a politician who is involved, must be confronted. It has been done before. I remember last year there was such an order again where all Members of the National Assembly and Senators from that region were required to go and record a statement. That is violation of people's rights. If I have committed a crime and the investigations by police show or there are reasons to believe that I participated in the commission of a crime, I should be summoned as an individual leader based on reasonable grounds. It should not be a case where politicians are held responsible because people have died.

With those few remarks, I support.

The Temporary Speaker (Sen. (Dr.) Machage): Very well! This Speaker also finds it in bad taste for a blanket order to be given by the boss of the police force on politicians. This House has condemned that and I hope he was listening. We had adjourned this House under Standing Order No.33 to discuss this very important Motion. I see no other contributor interested. It is now 6.06 p.m.

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, there being no other business, this House stands adjourned until tomorrow, Wednesday 25th June, 2014 at 2.30 p.m.

The Senate rose at 6.06 p.m.