

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 5<sup>th</sup> July, 2018

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. ALBERT GIRLS ULANDA  
SCHOOL, MIGORI COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from St. Albert Girls Ulanda School in Migori County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, in the absence of the Senator for Migori County, the Senate Majority and Minority Leaders, allow me to hold brief for all of them---

**Sen. Dullo:** The Deputy Majority Leader is here!

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the Deputy Majority Leader has just walked in. However, you had already given me the opportunity to welcome St. Albert Girls Ulanda High School.

I welcome you to the Senate and hope that you are going to learn lessons on leadership. Take the good things that we do and if you see any bad things, trust me that we do not normally operate that way.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Next order

**MESSAGE FROM THE NATIONAL ASSEMBLY****APPROVAL OF THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO. 48 OF 2017)**

**The Speaker** (Hon. Lusaka): Hon. Senators, I wish to report to the Senate that pursuant to Standing Orders 41(3) and (4), I have received the following message from the Speaker of the National Assembly regarding the approval, by the National Assembly, of the Petroleum Bill (National Assembly Bills No. 48 of 2017).

“PURSUANT to the provisions of Standing Orders 41(1) and 142 of the National Assembly, I hereby convey the following Message from the National Assembly –

WHEREAS the Petroleum Bill (National Assembly Bills No. 48 of 2017) was published vide Kenya Gazette Supplement No.186 of 6<sup>th</sup> December, 2017, as a Bill concerning county governments proposing to, *inter alia*, provide a framework for the contracting, exploration, development and production of petroleum; cessation of upstream petroleum operations; to give effect to relevant articles of the Constitution in so far as they apply to upstream petroleum operations; and regulation of midstream and downstream petroleum;

AND WHEREAS the National Assembly considered and passed the said Bill on Tuesday, 12<sup>th</sup> June, 2018, with amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly, I hereby refer the said Bill to the Senate for consideration.”

Hon. Senators, pursuant to Standing Order 151, which requires that a Bill originating in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order 133, I direct that the Bill be listed for First Reading on Tuesday, 10<sup>th</sup> July, 2018.

I thank you.

**PAPER LAID**

**Sen. Lelegwe:** Mr. Speaker, Sir, I beg to lay the following Report on the Table of the Senate today, Thursday 5<sup>th</sup> July, 2018–

**REPORT ON THE IRRIGATION BILL, 2017**

Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Irrigation Bill (National Assembly Bills No. 46 of 2017).

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

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**The Speaker** (Hon. Lusaka): Next Order!

## STATEMENTS

### FREQUENT FIRE DISASTERS IN NAIROBI CITY COUNTY

**Sen. Seneta:** Mr. Speaker, Sir, thank you for giving me the chance to issue this Statement. I rise pursuant to Standing Order 46(2)(a) to issue a Statement on the frequent fire disasters in Gikomba Market and other parts of Nairobi City County.

Mr. Speaker, Sir, I take this opportunity to condole with the families that lost their loved ones in the most recent Gikomba fire. I also wish a quick recovery to those that are recuperating, both in hospitals and at home. I stand in solidarity with each and every person who was affected in any way, including those who lost their property in the Gikomba fire and other fires that broke out elsewhere.

Mr. Speaker, Sir, as you are aware, Gikomba Market is located at the heart of the capital city of Kenya. It is also one of the largest and most famous markets in the city. The market is mainly known for its trade in second hand clothes and timber, among other precious things.

Mr. Speaker, Sir, on 28<sup>th</sup> June 2018, a fire broke out in the market, killing 15 people and leaving more than 60 people nursing injuries. The fire also destroyed property worth millions of shillings. A day later, another fire razed Korogocho Market in Nairobi, causing loss of property. You may recall that earlier in the year on 27<sup>th</sup> January 2018, a fire broke out at Kijiji in Langata Constituency, killing five people, destroying property and leaving thousands homeless.

Mr. Speaker, Sir, these fire incidents raise more questions than answers. Fire disaster management in the county and in the country appears to me to be more *ad hoc* and reactive, rather than preventive and deliberate. The County Government of Nairobi is expected to play a leading role in the fire disaster prevention and management activities within the county. However, the manner in which it has handled these disasters has exhibited the existence of major institutional and policy gaps as well as capacity deficiencies. In most cases, response to these fire incidents is slow and poorly coordinated.

Mr. Speaker, Sir, Gikomba Market has experienced fire outbreaks every year since 2015. Apart from the many fire incidents in Gikomba Market, Korogocho and Kijiji, which have caused massive loss of property and lives, there have been many other incidents in the recent past. In 2004, there was a fire incident at City Hall itself in the Mayor's precincts. In January, 2009, there was a fire outbreak at Woolworths Building, which housed Nakumatt Supermarket in down town Nairobi, which claimed 30 lives. In April, 2012, a fire broke out at Kimathi House in Nairobi, consuming the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> floors of the building. In 2011 came the Sinai fire tragedy, where more than 100 people lost their lives.

Mr. Speaker, Sir, these statistics are startling, to say the least. Last year, His Excellency the President ordered investigations after two fire incidents rocked Gikomba Market in a span of nine months. Up to date, the findings of the report, if there was any, have not been made public and no remedial action has been taken to prevent such outbreaks.

Mr. Speaker, Sir, Kenya is losing many lives to fire; people are being maimed, livelihoods are being destroyed and properties worth millions of shillings are being destroyed by fire. Until when shall this go on? Can someone be brought to book for neglecting their role of ensuring that these fires are prevented? Where are the Government agencies that are mandated to ensure that buildings are safe for habitation? Where are agencies that are charged with ensuring that there are no illegal electricity connections? Where are the persons who have, in the past, been charged with investigating the fires and providing solutions to fire outbreaks in Nairobi City and other parts of the country?

Mr. Speaker, Sir, I urge the national Government to:-

(1) Investigate the cause of these frequent fire outbreaks to remove the perception of foul play by arsonists.

(2) On the same note, I urge the Nairobi City County Government to put in place the necessary measures to ensure that fire emergencies are attended to promptly to avoid casualties and cut down on losses. Action must be taken to avert further losses of lives and properties of Kenyans.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I wish to commend Sen. Seneta for this important Statement.

As she asked: For how long will we wait for this country to deal with issues of disaster? I believe most of these disasters are man-made, especially the one for Gikomba. Two days ago, if I am not wrong, the Senator for Nairobi County said there are some people holding the title deed to that particular piece of land who actually burnt down the place. He even threatened that those are just papers and their title deed will be cancelled. I am sure by now we have lost so many lives in Gikomba. Somebody somewhere, should have been held responsible.

I remember in my county a similar thing happened to a market. Up to date, those poor farmers and traders who were operating in the market have not been compensated and they do not have a market. No investigations have been carried out. I think we are losing direction. It is really important for us to get our act together. In cases where loss of lives is involved, we need to take serious action. These are poor people and Government agencies are actually standing at that site where people were killed saying that nobody should build here. Clearly, it means somebody is behind it.

Mr. Speaker, Sir, we still have a long way to go to deal with the issue of disasters. The same thing happened to Solai where now, almost two months down the line, the people behind the Solai Dam tragedy were being arrested yesterday. Where were they? Where were all these Government agencies all these months after the incident happened? Can we spend money to put proper structures in place to deal with these disasters because we cannot afford to lose more lives in our country?

I thank Sen. Seneta for this Statement. I hope a particular committee of the House will be established to investigate the Gikomba fire disaster.

**Sen. Mutula Kilonzo Jr.:** Mr. Speaker, Sir, I rise to support my colleagues in this Statement. I will be a little bit more candid. The fire in Gikomba was deliberate. It was done by arsonists who have the protection of the Nairobi County Government and the police. That is the reason why the police, instead of arresting criminals, they are in Gikomba preventing people from reconstructing their shops under the pretexts that those shops were under a powerline. If that was a good reason, the powerline would have been moved and these people be allowed to reconstruct their businesses.

What is more tragic is that Kenyan lives have become like statistics; Solai – 47; Gikomba – 15; yesterday in Makueni 10 people were burnt alive and so on. It has become statistics. As Sen. Sakaja said, if these were 15 affluent Kenyans, everything would come to a standstill. The flag would be lowered to half-mast. We would all be mourning and sending condolence messages through print and electronic media. Nobody has sent a condolence message from any institution to the Solai people and yet they were 47 ordinary, poor people. Nobody has also sent a condolence message to the people of Gikomba.

If there was one instance I was proud to be a Kenyan was when the Director of Public Prosecution (DPP) ordered for the arrest of the owners of Solai Dam. As I was walking to the Senate, those people are now in the dock in Naivasha Court. Before we started our investigations, these people looked like small gods. Now they are in the same dock with robbers of chickens, with the person who was slaughtering cats and other criminals. They are in the same dock to show that nobody in Kenya is above the law.

Mr. Speaker, Sir, we must take action against these people. Nairobi County Government must explain to Kenyans the reasons why the fire brigade which is easily five kilometres away from Gikomba was unavailable on that date. Should we continue losing lives in Gikomba market where Nairobi City County is possibly collecting the most revenue in terms of a market in the City of Nairobi?

It looks like a joke that everybody has disappeared and nobody wants to take responsibility for this disaster. We are busy making lofty statements. Why are we asking for an investigation? Why is the DPP not swinging into action? These are just other people; they will not do anything.

When we say 15 lives have been lost, maybe we should say Wanjiku, Mutua and so on. We should start having humanity to figures. I have insisted in the case of Solai tragedy, we want those names because we want to deal with a person; a Wanjiku, a Mutua and so on. The people who died in Gikomba are not just 15; these are fathers, mothers and children. There was an instance of a father who sat in this house with his children for three hours choking in smoke. Finally after saving his children, he fainted. Imagine the effect of smoke on his children and himself. Maybe instead of this statement, the committee in charge should have gone to Gikomba. Let us take some action. Let Kenyans feel our presence as leaders of this country.

**Sen. Gona:** Asante, Bw. Spika, kwa kunipa nafasi hii ili nichangie katika Hoja hii.

Ningetaka kusikitika na wenzangu na kumpongenze sana Sen. Seneta kwa kuleta Hoja hii.

Wengi ambao wako katika Soko la Gikomba si matajiri. Ni wanabiashara ndogo ndogo au watu wa tabaka ya chini kabisa. Moto unapotokea, mbali na kupoteza maisha ya mtu, hata yule aliyebaki hai ni sawa na yule aliyekufa. Hii ni kwa sababu anabaki hai lakini hajui kwa nini yuko hai. Kama ni mkopo alichukua kutoka kwa benki analipa polepole kutoka kwa mapato yake ya biashara yake ndogo.

Moto unapotokea, yeye hupoteza Maisha, watoto wake, ndugu zake, marafiki na jamii yake. Na yeye mwenyewe anabaki akiwa na shida nyingi. Ni kama mtu aliyehai lakini ni mfu. Hana pesa ya kulipa mkopo wake. Umaskini unaendelea kuongezeka. Haya yote yanafanywa na wale wenye pesa. Kwa nini moto huu ulitokea Gikomba na si mahali pengine?

Ninaashiria lawama zangu kwa usalama. Kuna mahali ambapo maofisa wa usalama wa hii nchi wanazembea. Maofisa hawa hawafanyi kazi yao inavyopaswa. Mara nyingi lawama zangu huziashiria vitengo vya usalama, hasa katika sehemu za Mombasa ambapo ninatoka mimi. Kuna moto unaowaka na kuuwa watu. Kuna moto mwingine ambao huwaka mioyoni. Kwa mfano, dawa za kulevya zimeingia nchini kwa sababu ya ukosefu wa usalama.

Ninaomba Kamati ya Bunge inayohusika na maswala haya ichunguze kwa makini upande wa usalama na nini kinachosabisha moto uwake kila wakati katika Soko la Gikomba.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to add my thoughts to this Statement.

First of all, I just want to condole, on behalf of persons with disabilities in this nation. I want to condole the families of those who died in the Gikomba fire tragedy. It is really painful. This issue is very serious. It is not an issue that is just starting today. There was a time when there were frequent occurrences of fires in that market. Therefore, there is need for this disaster to be brought to an end.

We have different disasters in this country. There are some that are natural and some that are man-made. I think this one for Gikomba Market may not have been a natural disaster, but a man-made disaster.

When such a disaster befalls people running businesses there, they are heartbroken and crushed because it is very difficult to get employment. These are people who have decided to be self-employed in order to be productive members of this country. It is a sad affair that they have decided to be productive members of this country but anytime they go ten miles ahead they are taken back 10,000 miles behind.

Mr. Speaker, Sir there is need for intervention and mitigation for this issue to come to an end. Consequently, there is need for mitigation and a Committee to be formed to analyze and find out the reason for these fires. What are the causes of these fires? What are the vulnerable risks associated with these fires and how can people be insured so that they do not lose their property and yet they are not compensated? I can imagine the people who have been running businesses in Gikomba right now are heartbroken and do not know how to pick up their pieces. If the property was insured, they would pick up their pieces. I know they are hurting.

I believe that the Senate can do something to ensure that in the event of a disaster like this, there is disaster preparedness. When the County Government of Nairobi is prepared for such eventualities, they can know how to manage the disaster. As we are speaking right now, they are psychologically disturbed and even their family members are disturbed. They do not know how to start their lives and pick their pieces. I want to suggest that there is need for management of disaster in this country. There was also a time there was fire in Korogocho, the *kijiji* in Langata and these are *vijijis*.

These people are really suffering and yet they are trying to make ends meet to make a living like anybody else. If they start a business and it is disrupted within no time, you can imagine what they are going through. I want to suggest that the Government moves with speed to ensure that there are fire extinguishers right at the heart of Gikomba market. If there are fire extinguishers at the heart of Gikomba market there would have been business people who would have salvaged their property. These are people who really sweat to get property or even start businesses. Therefore, it is something the Senate needs to do to ensure that the right procedure is followed so that these people move on with their lives.

Mr. Speaker, Sir, life is not normal for the people who have been affected in the Gikomba tragedy since, there are people who have lost breadwinners and they do not know how they will move on with life. When you lose a breadwinner, it means that if, for instance, you are going to college, this ends because you have no one to pay for your fees. There are some people who are providing for their families and you find that there is no food on the table. What are we saying as leaders? There is need for intervention so that we see how to help these people and relieve them because they are not having it easy.

As leaders we need to see how we can help Kenyans move on with their lives. This should not have been a statement but a Motion. It should be elevated to the next level so that it is a Motion, then a Bill. Subsequently, we can see what laws we can put into place to ensure that there is disaster preparedness in this country.

**The Speaker** (Hon. Lusaka): Hon. Senators, I see a lot of interest so I will limit the debate to three minutes. Sen. M. Kajwang’.

**Sen. M. Kajwang’**: Mr. Speaker, Sir, I beg to contribute to this particular statement. Firstly, my condolences to those who lost loved ones. We are told close to 15 lives were lost and that is what Sen. Mutula Kilonzo Jnr. is disputing. They are not lives they Kenyans; Otienos, Kamaus and Cheruiyots. So, my condolences to them.

Secondly, we owe it to the people trading in Gikomba to confirm the person who owns the land. I challenge the Committee on Lands, Environment and Natural Resources and the Committee on Tourism Trade and Industrialization. If the two Committees cannot deal with this, then the County Public Accounts Committee will have to call the Governor of Nairobi to confirm in whose name the land is situated.

Thirdly, we have got something we call a Micro and Small Enterprises Authority in this Republic. They are supposed to look at the interests of small scale traders. We need to bring them to this House to understand what they are doing. More fundamentally, when we collect revenue from Gikomba, I believe it is one of the main revenue sources of Nairobi County; it needs to be spent at source.

With those few remarks, I beg to support.

**The Speaker** (Hon. Lusaka): Yes, Sen. Mwaura.

**Sen. Mwaura:** Bw. Spika, asante sana. Ningependa kuunga hoja hii hususan kwa sababu tumeona watu wengi sana wakiuawa kiholela holela kwa mambo ambayo yamewadhuru yanayoweza kuzuiwa.

Bw. Spika, imekuwa ni kana kwamba kila wakati tunaposikia wale wameuawa nitakwimu tu ambazo watu wanazisikia kuhusu mambo yanavyotendeka kwenye nchi hii ya Kenya. Hili ni jambo la kushangaza sana. Itakuwaje kwamba watu wametelekeza kazi yao, hivi kwamba umeme unaharibu mali, unaua watu, unaharibu biashara na watu wanakaa kana kwamba hatujui kiini cha mwanzo na hakuna mtu ambaye anachukuliwa hatua.

Bw. Spika, juzi nimekuwa Malindi nikampata mwekezaji mmoja ambaye hoteli yake ilichomwa. Huyu ni mtu ambaye anasaidia wakenya kupata riziki ya kila siku. Tukiangazia utendakazi wa Kaunti hii yetu ya Nairobi, kuna mambo ambayo hayaridhishi hata kidogo, kwa sababu utakuta kwamba zima moto hazipo na wafanyikazi husika hawapo, ilhali pesa za Serikali zinatumiwa. Kila makadirio ya Serikali yanaonyesha kwamba lazima kuwe na mtu ambaye ni husika. Ninamuunga Mhe. Seneta kwamba lazima tuchukue hatua na hili Bunge lisikuwe tu ni Bunge la malumbano na gumzo lakini liweza kutoa kauli ambayo inaweza kuleta maaendeleo na mabadiliko ya maisha ya wakenya tunao watetea.

**The Speaker** (Hon. Lusaka): Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Mr. Speaker, Sir thank you for giving me the chance to also contribute to this very important statement. I would like to congratulate Sen. Seneta for bringing it up. This is really important in the sense that lives were lost and I would like to console with those who lost lives and their families.

As other senators have said, these are not just numbers but breathing human beings that have lost their lives and loved ones are left behind worrying about them, also missing the bread that would have been earned. It is a catastrophe that things like these happen in Kenya.

As hon. Members have said, some of these things are avoidable in the sense that it could be as a result of the way we build using flimsy materials and buildings that are close to each other. When a fire starts, the materials are burnt away very fast. I know that fires can also be started by arsonists who want to get back at the people who defeated them in politics. They should be arrested and put in jail.

The most important thing is preparedness. However, when a particular fire starts, there must be fire engines and water installations that have water to put out the fire. However, in most cases when fires start, people use soil and pour water to try and stop it and it is not very effective. We need the right equipment in place to avoid catastrophes like this next time.

Thank you, Mr. Speaker, Sir.

**Sen. Wamatangi:** Thank you, Mr. Speaker, Sir. As I congratulate the Senator who requested for this Statement, I want to lament the casualness with which deaths of Kenyans is taken, especially under circumstances of arson like this one. As my colleagues have said, it is not the first time. It has become like a formula for trade. For example, when somebody wants to renovate their property and they do not want to evict

Kenyans who are trading there, the solution is to burn the buildings and the people who are inside become collateral damage for financial gain.

Mr. Speaker, Sir, the death of 15 Kenyans in Gikomba Market cannot be a matter to be taken with such casualness. We must take issue with the investigative authorities. We have to say it loudly and demand that the results of investigation are made public all the time. For us to bring the culprits to book, such reports must not only be made public, but be subject of debate and discussion. That is why I propose that this Statement be referred to a Committee of this House that is relevant to such issues.

That Committee may investigate, call witnesses and come up with a report that will guide this House. Those that are mandated by law must carry out investigations, including legal and punitive actions to deter those that have similar intentions. It can be done within a framework of law. I request that this matter be referred to a Committee, so that it is dealt with and dispensed off in the right manner.

Thank you, Mr. Speaker, Sir.

**Sen. Faki:** Asante Bw. Spika kwa kunipa fursa hii kuchangia Taarifa ilioletwa na Sen. Mary Seneta.

Kwanza, natuma rambirambi zangu kwa watu wa Nairobi, familia na wapendwa wa marehemu waliokufa kutokana na moto uliotokea wiki iliyopita. Huu sio mkasa wa kwanza wa moto katika eneo la Gikomba. Mikasa nyingi imepita lakini Serikali imelalia maskio na haki za Wakenya zinazidi kupotezwa kwa sababu ya moto.

Ningependa pia kuchukuwa fursa hii kumueleza Sen. Mwaura kwamba kuna tofauti kati ya moto na umeme. Unapozungumzia moto anamaanisha ule unaochoma na kuunguza ilhali umeme unatumika kwa mambo mazuri. Kwa hivyo, moto na majanga kama haya yanayotokea hayapaswi kuchukuliwa hivi hivi. Mkasa wa moto kule Sinai haukushughulikiwa vipasavyo. Vile vile mkasa wa moto kule Gikomba uliotokea mwaka jana wakati wa kampeni pia haukushughulikiwa vilivyoo.

Kama itawezekena ile Kamati inayoshughulikia mkasa wa Solai inafaa kuongezewe majukumu ili tuhakikishe kwamba tumepata suluhisho kwa mambo kama haya. Moto ukitokea, wakenya wanakufa. Vile vile mafuriko yakitokea wakenya wanakufa. Kwa hivyo, haya ni mambo ambayo lazima tuyaangalie ili tupate suluhisho la kudumu kwa mikasa kama hii.

Asante sana, Bw. Spika.

**Sen. Mwaura:** Bw. Spika, jambo la nidhamu.

**The Speaker** (Hon. Lusaka): What is your point of order, Sen. Mwaura?

**Sen. Mwaura:** Bw. Spika, namrai ndungu yangu aliyezungumza vizuri sana. Lakini ni kana kwamba haelewi umahiri wa lugha. Sizungumzi bure bilashi. Nimesema kwamba umeme unaweza kusababisha moto. Elewa ndugu yangu.

**The Speaker** (Hon. Lusaka): Sen. Cherargei.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. I thank Sen. Mary Seneta for this Statement. I agree with my colleagues that this is a serious matter that should go beyond an ordinary Statement. I hope that it will be referred to the relevant Committee.

Since this tragedy happened, I have seen the Senator for Nairobi County, Sen. Sakaja, doing a lot. As a country, we need to move from the era of providing an avenue or field for humanitarian aid. When disasters like the ones that happened in Gikomba

Market happen, we go there to donate food stuff, say a lot, but we do not have proper enforcement and follow up.

In line with the Solai Dam tragedy, the Director of Public Prosecutions (DPP), Mr. Nurdin Haji, has done well. One of the owners of the dam has been arrested and is a suspect under investigation. If there is anybody who participated in any form of negligence, be it the officers of the inspectorate or anyone in position, who did not do what they were supposed to do and we ended up with casualties, they should be taken to court and charged, so that it serves as a warning to any person who has such intention in future.

Mr. Speaker, Sir, we need to find a long-lasting solution, so that in future we do not just take blankets, sodas and temporary structures to the victims. The County Government of Nairobi must take its rightful position and ensure that even as traders try to normalize their businesses, they are given an opportunity. Some of us have visited the area before privately and it is very congested. When disasters happen it is easy to have casualties.

As we condole with the families that have lost their loved ones, we hope that something will be done. I hope that we will refer this matter to the Committee for a proper report and enforcement.

Thank you.

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. I thank the Senator who has brought this Statement on our behalf. I also thank those who have commented positively about what needs to be done and for the condolence messages.

This was a sad incident. We have had fires in Gikomba Market, but this is the first time we lost lives. I thank Sen. Omanga and the local Member of Parliament (MP) for accompanying me to the site immediately the incident happened. We saw the extent of the damage. I have been to the site with different agencies of Government thrice and we also went to the hospitals. I am glad to note and happy to say that for the first time, Kenyatta National Hospital (KNH) did a good job with the survivors of this fire. They were treated well and we have taken care of the hospital bills.

*(The Amber timer was switched off)*

Mr. Speaker, Sir, I ask for a few more minutes as the Senator affected. When we went to the site, as Nairobi leaders, we said that we are embarrassed because we keep going back to Gikomba Market and other different markets in this city after every fire. We look dishonest to the people because we give high sounding declarations and nothing is done. We said that we would not want to see ourselves doing that again.

Immediately it happened, we had a meeting with the Cabinet Secretary of the Ministry of Interior and Coordination of National Government, Dr. Matiangi; the Inspector-General (IG) of Police, the Head of the Directorate of Criminal Investigation (DCI), the Regional Commissioner and all agencies that are involved. We told him to make a public commitment of serious investigations. We said that it cannot be that this fire could have been caused by arson and the culprits just go scot free. The IG actually

told us that he is reviving all the other files of fires that have affected Nairobi over the past few months, and that this effort is ongoing.

Mr. Speaker Sir, on the issue of livelihoods, we have gone to the ground with the Water Resources Management Authority (WARMA) to address the issue of the riparian area of Nairobi River. I am glad to announce to the country and to Senators here that we are ensuring that the traders are able to bounce back. The area that was affected was mainly Mutinda Traders, the furniture dealers and also their residential houses. It is very sad that in one of the houses where most people died, because of the landlord's fear, the watchman shut the door and locked everyone inside the building. It was a very sad situation.

Mr. Speaker Sir, as I move to finish, many of the causes of these fires are, number one, land speculation. There are people who have been holding title deeds in Nairobi for public land. Because Gikomba is public land, we have directed that all people who are holding title deeds for land in Gikomba – the 12 acres – should know that what they are holding is fake. We have agreed with the County Government of Nairobi, the Cabinet Secretary of the Ministry of Lands, Housing and Urban Development and the Principal Secretary that all those other allotment letters and titles shall be revoked. Therefore, nobody should try to push away people because of trying to speculate on the land.

Secondly, Mr. Speaker Sir, on the illegal power connections, I would like to report that we have already started discussions with Kenya Power to bring proper and clean energy for the poor people in the slums in Nairobi City County. They need energy and if they cannot afford it, the kind of connections they are putting up are causing a lot of fires in the slums. In addition to that, there are other different causes of fire incidents and we are working on it.

Mr. Speaker Sir, I will be very glad if this matter is brought back to my Committee on National Security, Defence and Foreign Affairs for us to move deeper into the issue. However, I want to assure the people of Nairobi County and the residents of Gikomba Market that we will not rest until we get to the bottom of this matter. We are also going to help those traders who were affected bounce back in terms of their livelihoods.

Thank you, Mr. Speaker Sir.

**The Speaker** (Hon. Lusaka): Hon. Senators, we need to make progress. In light of the requests made by several Senators and considering the gravity of the matter, I hereby refer the matter to the Committee on National Security, Defence and Foreign Affairs for consideration. The Committee should report back to the Senate in 30 days.

Next Statement.

Before Sen. Seneta comes with the next Statement, I have a brief communication to make.

*(Interruption of Debate on Statements)*

**COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM SHUKU BOYS  
SECONDARY, MERU COUNTY

I would like to acknowledge the presence, in the public gallery this afternoon, of visiting students and teachers from Shuku Boys Secondary School, Meru County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On my behalf and that of the Senate, I wish them a fruitful visit.

I thank you.

*(Applause)*

Next Order. Proceed, Sen. Seneta.

*(Resumption of Debate on Statements)*

**STATEMENTS**NOTICE TO DEMOLISH HOUSES ALLEGEDLY BUILT ON  
RIPARIAN AREAS IN GREEN PARK ESTATE

**Sen. Seneta:** Mr. Speaker, Sir, pursuant to Standing Order 46(2)(a), I rise to make a Statement on an issue of general concern, regarding the notice to demolish houses allegedly built on riparian areas in Green Park Estate, Machakos County.

Mr. Speaker, Sir, Green Park Estate, a residential development by Superiors Homes, sits near the banks of River Athi in Machakos County. As you may recall, during the most recent rainy season, River Athi broke its banks and, as a result, houses in the neighbouring Green Park Estate were marooned by water. Following this calamity, houses and property of residents were damaged, leaving the residents counting losses.

Mr. Speaker, Sir, as if the flooding in the Estate and the loss of property was not enough tragedy, on 31<sup>st</sup> May, 2018, WARMA came calling on some of the residents of the Estate with the a 21 day notice to vacate the homes on the ground that the homes were built on riparian land. WARMA went ahead to earmark the houses for demolition. The estate developer, Superior Homes, went to court, arguing that the same authority and other government agencies had, in 2013, confirmed that the houses were outside the boundaries of minimum and maximum distance allowance in respect of the riparian land.

Mr. Speaker, Sir, this confusion, whether intentional or otherwise, leaves a lot to be desired. The government agencies that cleared the developer to construct the houses several years ago are the same agencies that are now claiming that the houses are built on riparian land. Further, we note that there are very many developments in the country, especially in Kajiado, Nairobi and Machakos counties that sit on riparian areas, yet WARMA has not taken any action against the developers. This leaves me begging the question why Green Park Estate is the only target for demolition of houses.

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Mr. Speaker, Sir, this state of affairs in our country, where government agencies issue approvals to developers and later back track on the same, is not only an unfair practice, but an economic crime. The inconsistency has left many Kenyans confused on where to acquire and invest in land and property; and whether, indeed, the approvals obtained during the verification and approval process will stand the test of time.

Mr. Speaker, Sir, you may recall that on 21<sup>st</sup> February, 2018, I requested a statement from the Chairperson of the Standing Committee on Lands, Environment and Natural Resources regarding the use and management of riparian areas in Kenya. In my statement, I sought to bring to the attention of the Chairperson and Members of the Committee that over the years, riparian land in Kenya has been put under pressure due to residential developments, cottages, farm buildings, golf courses, commercial buildings, roads, sand and gravel harvesting, agricultural and industrial related activities.

I sought to know what measures the Government would take to ensure harmonization of laws relating to riparian zone protection, which are contained in several pieces of legislation, thereby presenting a problem of the overlapping mandates and lack of coordination in their enforcement.

Mr. Speaker, Sir, the Chairperson issued a response to the Statement and upon further comments and questions by Senators, you directed the Chairperson to provide further information by way of response to the issues that had been raised. My worry is that since you suspended the requests and processing of Statements under Standing Order 45(2)(b), the matter has not been pursued further by the Committee. As I had mentioned earlier, we are beginning to have the causalities as a result of the confusion in the enforcement of laws on riparian land, which include forgery, land grabbing and corruption.

Therefore, Mr. Speaker, Sir, I call upon the Senate to take note of this matter. I further call upon the Committee on Lands, Environment and Natural Resources to carry out investigations on the matter of use of riparian lands with a view to ensuring harmonization and uniform application of the law. This is because there are many developments on riparian lands, especially in Nairobi, Machakos and Kajiado counties. Some of these developments have approvals from the relevant government agencies while others do not. The tragedy, however, is that the right arm does not seem to know what the left arm is doing. Even those that have obtained approvals for development find themselves on the wrong side, depending on which government agency is dealing with the matter.

I thank you.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for---

**The Speaker** (Hon. Lusaka): Use three minutes, *Daktari*.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Statement. First of all, I would like to thank Sen. Seneta for bringing to the House such an important issue.

This issue needs to be investigated further because agencies dealing with disasters in this country are giving us conflicting information. This has not only led to loss of resources in Green Park Estate, but also caused residents psychological and social torture. They lost property as a result of floods. Even before they have come to terms with what

happened, their properties are being demolished. This is causing more pain and suffering to them.

Mr. Speaker, Sir, there is negligence on the part of these agencies, particularly the National Land Commission (NLC) and the Water Resource Management Authority (WARMA) that approved construction of that estate. According to them, this area did not fall under riparian. It is sad they caused pain and suffering to many Kenyans because of their negligence and corruption.

Corruption is a monster in our country that affects many of our sectors. In this case, money must have changed hands for people to be allowed to construct on a riparian land. Of late, we have had many cases of corruption. We have had the sugar scandal, land being grabbed and so on.

Let us take this issue very seriously because it is affecting our people. I urge the concerned Committee to go the extra mile and deal with it conclusively.

I support.

**Sen. (Prof.) Ekal:** Thank you, Mr. Speaker, Sir, for giving me a chance to comment on this issue. I want to thank Sen. Seneta for bringing it up.

*(Sen. (Prof.) Ekal spoke off record)*

It is sad our country has gone to this level. Riparian land should not be developed. It is land that nature uses to filter our waterways and keep it clean. However, it is sad people who are supposed to take care of it, are the same ones who are corruptly allowing development on it. People are investing their money on it and putting up buildings, houses and shops because they have been given approval by the relevant authorities. A few months later, the same agencies drive tractors to demolish those buildings. How heart-breaking it is because they believed everything was in order!

These are some of the things we need to take seriously. Something must be done to stop this. Somebody has been given the responsibility to make sure that grabbing of and building on riparian land stops forthwith. Riparian lands are important. They are not only important for those who build or grab it, but for all of us. It is a social resource for all of us. Nature has given it to us to keep our waterways clean.

I am calling upon the Committee responsible for this issue to put its mind on this matter and establish what happened. We want them to come up with a lasting solution to stop this kind of thing happening again.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I am a Member of the Senate Committee on Land, Environment and Natural Resources. I can remember we had this issue before us. It is serious because when these plans are approved, I am sure the relevant authorities are aware. Even if they are not aware, if it is WARMA, it has officers within that county and sub county level. Therefore, it is a matter of officers not taking their work seriously.

We have been seeing the affected Kenyans complaining very much on television stations. We need to go to the ground and investigate to know what happened.

Mr. Speaker, Sir, I support the Statement by Sen. Seneta and we need to take it up as a Committee.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute and to also thank Sen. Seneta for bringing this Statement.

This issue is heart-breaking. On one of the television stations, there was a man who had retired and he used all his savings to buy that property. When the property was earmarked for demolition, he had a heart attack. When we saw him there, he was frail.

It is a pity that one Government institution went to demolish a house and another one allowed it to be constructed, in the first place. I ask myself where the accountability to Kenyan citizens is, regarding such issues. For how long will Kenyans be languishing in poverty because of poor decisions, or corrupt construction companies colluding with corrupt Government officials and making Kenyans lose all their savings?

Mr. Speaker, Sir, I also think that this Statement should be committed to a Committee because Kenyans deserve better than what they are being given. That man really touched my heart. I felt as if he was so much powerless in terms how that issue had impacted him. He had already retired. He is an old and sick man. Where are we expecting him to go after demolition? That is all his savings that he used to put up that house, yet the same said property is earmarked for demolition.

Somebody needs to be accountable, whether it is the contractor plus the person who allowed him to construct. I think that man and similar other Kenyans who are about to lose their property, need to be compensated even if the people who contributed to that are individually responsible for that crime.

**The Speaker** (Hon. Lusaka): Let us have Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. This issue has two fronts. On one, the middle level Kenyans are being exploited by people who we call real estate developers, but they are just grabbers.

Sen. Sakaja, in your City of Nairobi, people are buying homes on top of a river along Argwings Kodhek, Kileleshwa and Kirichwa Kubwa. WARMA has now woken up all of a sudden because they realised they are going to be charged in court for negligence and they are putting marks all over Kileleshwa and other places. The building near Mbagathi roundabout is owned by a Member of Parliament; one of our colleagues. It is on top of a river.

It is unfortunate that when one buys a home and documents are available to show that all inquiries have been made and due diligence has been done----. The situation at Green Park Estate was very sad. If you had troubled to travel there during the time these flood waters were raging, there was concern that people were going to be swept away from their homes by that river.

Mr. Speaker, Sir, I also urge Kenyans to exercise due diligence because people can see that they are buying houses next to rivers. At the same time, WARMA should not allow Kenyans to buy homes and later on demolish them without due process. The people of Green Park Estate must be given due process. Superior Homes is guilty of this crime. If these homes will be demolished, Superior Homes must pay the owners.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Adan Dullo.

**Sen. Dullo:** Thank you, Mr. Speaker, Sir. I wish to support Sen. Seneta for this Statement. The problem we have in Nairobi is more or less the same with the problem that most of the counties have. As my colleagues have said, the big fish will not be held

accountable whenever such things happen. The pure innocent people who have built the small houses within those estates or have taken loans to buy those houses are the ones victimized.

Where are the Government officers when such constructions are coming up? Let me give an example of my county. Every time we have rains, the whole county is flooded especially the headquarters, simply because people have built on the drainage system and road sides. Where are the Government officers? It is important for us to crack the whip when such things happen. It is unfortunate for our people. A relevant committee of the House should be allocated this particular Statement so that we can come up with policies to make sure that people are held accountable. The officers who are responsible must do what they are required to do.

In terms of construction, the planning work has to be approved by the county Government. I do not see why they wait until the last minute to demolish people's houses. They are not even compensating the owners. I thank you, Sen. Mary Seneta. This particular issue is happening in most of the counties in this country and we have to stop it.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Sakaja.

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. Very quickly, I thank Sen. Mary Seneta for bringing this. One of the most affected counties yet again is Nairobi County. Laxity in public service has caused untold damage in this country. It has caused damage financially, economically and also the loss of lives. Many accidents have happened because of laxity of institutions such as the Water Resources Management Authority (WARMA), the National Environment Management Authority (NEMA), and the National Construction Authority (NCA). Many examples come to mind, one of them being the Solai tragedy.

While WARMA is busy trying to evict people in Green Park Estate, they had not issued a license for a dam of a capacity of more than 190 million cubic meters. They major on the minor and minor on the major responsibility on the mandate that they have.

We need to strike a balance. We must save our riparian reserves in this country. Wrongs have been done in the past and we must correct them. However, it must come with some level of equity and fairness. It cannot be that you start destroying the livelihoods and properties of middle class and poor Kenyans. I have people who work along Nairobi River from Grogon, down Kirinyaga Road all the way to the area that was burnt in Gikomba. They are even suspecting that it is the Government that burnt it so that they can be evicted. It goes all the way down to Mathare River. They are being evicted before the rich people and Members of Parliament who own malls that are sitting on rivers. You can even call them reserves.

Before you touch the people in Grogon and Mathare, go deal with Nakumatt Ukay, T-Mall and even the building across it so that people can understand that this is not being applied selectively. The balance must be that we need to correct those wrongs. Those who, because of acts of omission in the past, have allowed this to happen, must face the law. They must pay for their negligence. If there are people who made money from such illegalities, they must refund it.

However, even as that is done, what is good for the goose must be good for the gander. Instead of starting with Kenyans who are helpless and who have sunk their entire life savings in such developments, let it be across the board so that we can save our riparian lands for the sake of our environment.

**The Speaker** (Hon. Lusaka): Proceed, Sen. James Orengo.

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I thank the Senator for bringing this important matter. You realize in our Constitution there are provisions to do with land use and land use planning. Those provisions were put there out of the realization that land was being acquired and used anyhow and this should be a wakeup call to the citizenry: That land use and land use planning would be part of our development component.

In Nairobi during the colonial days, there used to be a master plan. In 1948, this city had a master plan. Had we followed that master-plan, this city would be a much better place. For example, there were areas that were not supposed to have high-rise buildings. It is by sheer anarchy and impunity that this city has come to be what it is. However, I agree with those people who were talking about having an even-handed approach. This is because the problem has been with grabbers in the land ministry.

For example, you see a grown up man and somebody who understands the law. He buys land right on top of Nairobi River and builds a major high-rise building, expecting that nothing will happen. Only when he is told to bring that building down, is when they realize that something wrong happened somewhere.

Once there are laws in place, the responsible officers should not wait until there is a development like the one in Mlolongo, Athi River. They should be there right at the beginning to make sure that such a thing does not take place. Therefore, I hope that we will be more conscious about use of land and land use planning so that people do not have to go through what they are going through at the moment.

This city would have been one of the greatest cities in the world. In Washington DC, they decided long time ago that you cannot build a building taller than the Capital Hill and the Washington Memorial. In London, you cannot build a building taller than St. Paul's Cathedral. That has been the case over centuries. However, in Nairobi, you find somebody who knows better and has been a senior person in government doing exactly the opposite.

I hope that for this particular matter that has been brought to us, we shall feel the pain for those who are being told to be evicted. Once people have been allowed to build, please execute whatever orders you are executing with a humane approach so that people do not have to suffer unnecessarily. However, let us plan to develop and not try to catch up with development. We have got it wrong. We have to plan to develop and not the other way round.

**The Speaker** (Hon. Lusaka): Proceed, Sen. Mwaruma.

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir, for this opportunity to support the Statement by Sen. Mary Seneta. I propose that this Statement be directed to the Committee on Lands, Environment and Natural Resources because they deal with issues of land and water resources. I remember in the last session, I proposed that we come up

with regulations to deal with how we are going to compensate people who own land legally, because they have titles, in the riparian areas.

There are issues of impunity which we have discovered. For example, a government discovers that there is riparian land at some areas and they just fence it off because they want to protect that area. However, they do not compensate those people who own that land. Let it go to that Committee on Lands, Environment and Natural Resources so that they can look at it so that we can have those people compensated as it were.

*(Interruption of Debate on Statements)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TOROR PRIMARY  
SCHOOL, UASIN GISHU COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a brief communication. I would like to acknowledge the presence, in the public gallery this afternoon, of visiting students and teachers from Toror Primary School in Uasin Gishu County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

*(Resumption of debate on Statements)*

### STATEMENTS

ANTI-MALARIA DRUGS STOCK-OUTS IN THE COUNTRY

**Sen. Omogeni:** Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.46 (2) (a) to make a Statement on an issue of general topical concern regarding anti-malaria drugs stock-outs in the country.

Our nation's greatness and prosperity depends on a healthy and vigorous population, more so, residing in our counties. In the last 15 years, the Kenyan Government has made great strides in preventing and controlling Malaria. However, this progress has not been uniform as some parts of the country, particularly my county of Nyamira and the counties of Kisii, Bomet, Nandi and Trans-Nzoia are still plagued by serious seasonal cases of Malaria.

Mr. Speaker, Sir, we are aware that outbreaks of Malaria in these counties are most common during the wet season, which runs from March to July and from October to

December. As we approach the peak of Malaria transmission season, which starts in June, a number of Malaria cases have already been reported in these counties.

I was in my county of Nyamira on Monday and found several cases of Malaria that have been reported in the county hospitals. There is an outcry and fear that even as more cases of Malaria get reported, counties are likely to experience anti-malaria drugs stock-outs. Unless precaution is taken early, the country is likely to be confronted with a situation that is likely to lead to deaths, especially in epidemic prone areas. In this day and age, no Kenyan should die for lack of medication and more so, anti-malaria medication. I protest and refuse to be moved by the suggestion that it is normal for a country to have more supplies of condoms than Malaria drugs.

Therefore, I want to draw the attention of the Senate to this matter and appeal to the Kenyan Medical Supplies Authority (KEMSA) and the Ministry of Health, at both the national and county levels, and other relevant Government agencies, to take necessary steps to ensure that the affected areas are assisted to take precautionary steps that will prevent Malaria and ensure that adequate stocks of anti-malaria drugs are available for those who may fall sick from Malaria.

Mr. Speaker, Sir, in my county of Nyamira, for the last two months the doctors and nurses have not been paid their salaries. As I speak, two of the doctors who were brought from Cuba, a cardiologist and a family doctor, are unable to attend to the people of Nyamira County because the nurses and doctors are not working.

To demonstrate love for humanity, this matter should be given urgent attention. I appeal to the national Government and the county governments to take the necessary measures to prevent deaths that maybe caused by Malaria.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Proceed, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Speaker, Sir. I seek your indulgence to be given a little more time to deal with this issue, which is very important.

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

*[The Temporary Speaker (Sen. (Prof.) Kamar) in the Chair]*

I had an occasion, as a Minister for Health, to deal with the endemic nature of the highland Malaria that we had in 1989, 1990 and 1991, and the kind of damage it did to the citizenry of Kenya. It is true, like Sen. Omogeni has said, that we have two types. The endemic area is dominantly occupied by the malarial parasites, particularly the Plasmodium Falciparum, which is normally in regions like Nyanza, Coast and other areas in Western Kenya. The low endemic areas like Machakos and other areas can also be invaded because of the nature of the treatment that we offer for our population.

Therefore, it is important to know that there are more than four million Kenyans who are affected in one way or the other by Malaria every year. Out of those four million Kenyans, 5.1 per cent of our people perish because of a treatable and preventable condition of Malaria. This is a very pathetic situation. When you complicate Malaria with

HIV/AIDS and pregnancy, then the mortality rates tend to be higher than is expected in any given society.

When, of course, you complicate Malaria with the slum areas, where the health conditions are not sustainable, and you have pools of water lying everywhere, the mortality rate will as well be higher. No wonder Malaria which never used to be in Nairobi because it is considered to be one of the high altitude areas is now endemic. Therefore, it is important that we are aware of the possible causes and preventable areas that we can adopt vigorously to clear this menace of Malaria.

Madam Temporary Speaker, one line treatment is when people are hospitalised in high numbers, particularly, during the high rainfall time like now. As we go to October and November we need to have adequate stocks of medicines, particularly in areas which are prone to endemic and epidemic Malaria. It is a very important step that must be taken both by the national Government and county governments, to contain any epidemic that may come during that period of time.

Therefore, this Statement is well informed; that if we do not have either the national Government, through the supply chain in the Ministry of Health, or the county governments stocked with these adequate drugs, it will be very difficult to manage the epidemic that may arise during this expected season. What are the consequences? Obviously, the mortality rates will be much higher. Which are the vulnerable groups? Children, particularly, under five years old, are the most vulnerable group that will succumb to death due to simple Malaria that is treatable and the drugs are available.

The number of drugs can be enumerated. There is the first line, second line, third line and weekly treatments which are available. Unless we take proactive measures, it will be very difficult to control Malaria. Therefore, timely availability of drugs would be able to prevent this menace.

Secondly, I do not know what happened to the programme that we brought about of residual spraying of houses, where the area is likely to be of endemic and epidemic nature. This programme worked well, coupled with treated mosquito nets. This can also help in alleviating the problems of Malaria in these regions.

It is important that as we continue thinking about measures that we can take to handle this situation, we must be aware that there are tools within our reach and therefore, we must---

*(The red light on the timer went on)*

Please, can I have one extra minute so that I can complete this important message?

We have the drugs and the budgetary provisions have been made for them. Secondly, the preventive measures are in hand and they can also be put into action, including residual spraying, insecticides and treated mosquito nets as well as the drugs that come through the HIV/AIDS programme.

Although they put emphasis on condoms, I think there is a bigger part of it where the prevention of Malaria is more important than the use of condoms. This House can dictate this programme to be in action without requiring any extra funds.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator. We have got a very nice overview from a doctor. I, therefore, request other Members after him to be brief because at exactly 4.00 p.m., we will move to the other Business. If you can take half a minute each, the better. However, you all have a minute each.

Proceed, Sen. (Prof.) Ekal.

**Sen. (Prof.) Ekal:** Thank you, Madam Temporary Speaker. I agree with the prescription that the doctor has just given. Therefore, Sen. (Prof.) Ongeru, please write that prescription down for us so that hon. Members of this House can use it to stay away from Malaria.

Madam Temporary Speaker, even though I am from a desert region, Malaria is so prevalent there that you cannot believe it. Every time you go to the hospital, you will find many people suffering from Malaria and Typhoid. Many people actually succumb to these infections in those parts of the country. I am, therefore, calling upon those concerned – the Government and other institutions – to avail Malaria medication in the hospitals so that people can get them easily.

Madam Temporary Speaker, I have noticed that people are expected to pay for Malaria drugs. With so much prevalence of Malaria in the country, I think such medicines should be free.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. (Dr.) Langat; you have one minute.

**Sen. (Dr.) Langat:** Thank you, Madam Temporary Speaker. I will take the least time. I am not in agreement with Sen. Omogeni on the reduction of the preventive measure for the worst illness through condoms.

*(Laughter)*

It is quite sad at this moment in time that people are still dying in this country because of Malaria, which can be prevented and cured. However because of human carelessness, people are still dying from this disease.

Madam Temporary Speaker, I have noticed one thing in my county; that there is a great delay in the disbursement of drugs to counties even after payment of money to the Kenya Medical Supplies Agency (KEMSA)---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Langat. Your time is up.

Proceed Sen. (Dr.) Musuruve; you have one minute

**Sen. (Dr.) Musuruve:** Thank you very much, Madam Temporary Speaker, for giving me this opportunity to add my voice. It is very painful and heart crushing for this nation to be talking about issues of Malaria. The Government should move with speed and ensure that there are drugs in the affected areas.

Madam Temporary Speaker, Sen. Omogeni has brought up an issue that needs to be handled with a lot of speed. There are big issues that we need to deal with as a country, for example, Cancer, which we have not resolved to date. Therefore, Malaria

should be sorted out amicably without coming to this House. This issue is, therefore, painful and heart crushing and the Government should move with speed because it is preventable.

Madam Temporary Speaker, this is all about the lack of proper health management. There is need for the health sector to manage itself so that the resources that are supposed to go to the relevant areas get there---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Musuruve. Your time is up.

Proceed, Sen. Shiyonga; you have one minute.

**Sen. Shiyonga:** Thank you very much, Madam Temporary Speaker. I rise to support the Statement. It is unfortunate that we are talking about Malaria in Kenya 55 years after Independence. Many people have invested in this programme, especially those who are partnering with the Ministry of Health. It is important that we look into this issue, especially those programmes that are funded by partners from the Western countries.

Madam Temporary Speaker, it is important that the KEMSA branches in counties be equipped with these drugs so that we avoid deaths as a result of Malaria. It is important that we eradicate Malaria right now, because it has taken a lot of lives in Kenya. Right now, all we need to think about is the eradication of Malaria.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you.

Proceed, Sen. Halake; you have one minute.

**Sen. Halake:** Thank you, Madam Temporary Speaker. I am a bit worried that this House does not seem to be aware that almost 100 per cent of Malaria drugs are donor-driven. Therefore, as we stand here and say that we should have this and that, donors are telling us to finance our communicable diseases domestically. The Global Fund to Fight AIDS, Tuberculosis and Malaria, together with the United States Agency for International Development (USAID), have been the sole providers of Malaria drugs to this country. Even when they have provided these drugs, the distribution has been pathetic.

Therefore, Madam Temporary Speaker, as we stand here and say what the Government should do, we should start by asking ourselves whether we are funding our own health care. Where is it supposed to come from? The stock outs will be there if we are not financing our own disease burden domestically. The disease burden of Malaria is solely driven by the Global Fund, and we should actually thank them for holding it all this time. But, surely, we should start looking at---

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Halake. Your time is up.

Proceed, Sen. Cheruiyot; you have one minute.

**Sen. Cheruiyot:** Thank you, Madam Temporary Speaker; 30 seconds will be enough. I support the statement by my colleague and good neighbour, Sen. Omogeni.

Madam Temporary Speaker, of late, Senators have been raising very interesting topics for discussion which, if we are not careful, we may reduce this House to be a talk shop if the people in authority do not hear the message we are telling them. I, therefore,

propose that the Committee on Delegated Legislation ensures that after Senators have spoken to a matter as important as this, a copy of the HANSARD is sent to the relevant authorities so that they know that Senators and Members of Parliament (MPs) are concerned about these issues.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Senator.

#### INSECURITY IN TURKANA COUNTY

**The Temporary Speaker:** Hon. Senators, Statement (d) is deferred and it will be the first Statement on Tuesday.

*(Statement deferred)*

Let us now move on to Part (ii) of the Statements to be issued pursuant to Standing Order 46(2)(c) by the Senate Majority Leader.

#### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 10TH JULY, 2018

**Sen. Dullo:** Thank you, Madam Temporary Speaker. Pursuant to Standing Order 46(2)(c), I hereby present to the Senate the business of the House for the week commencing Tuesday, 10<sup>th</sup> July, 2018.

The Senate Business Committee (SBC) will meet on Tuesday, 10<sup>th</sup> July, 2018, to schedule the Business of the Senate for the week. Subject to further direction by the SBC, the Senate will, on Tuesday, continue with consideration of Business that will not be concluded in today's Order Paper.

On Wednesday, 11<sup>th</sup> July and Thursday, 12<sup>th</sup> July, 2018, the Senate will consider Business that will not be concluded on Tuesday and any other Business scheduled by the SBC.

Hon. Senators, the following Bills are at Second Reading stage-

1. The Public Participation Bill (Senate Bills No. 4 of 2018);
2. The Disaster Risk Management Bill (Senate Bills No. 8 of 2018);
3. The Retirement Benefits (Deputy President and Designated State (Officers)(Amendment) Bill (Senate Bills No. 2 of 2018);
4. The County Statistics Bill (Senate Bills No. 9 of 2018);
5. The Local Content Bill (Senate Bills No. 10 of 2018);
6. The Physical Planning Bill (National Assembly Bills No. 34 of 2017);
7. The Irrigation Bill (National Assembly Bills No. 46 of 2017);
8. The Kenya Roads Bill (National Assembly Bills No. 47 of 2017);
9. The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 12 of 2018);
10. The Impeachment Procedure Bill (Senate Bills No. 15 of 2018); and,

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11. The Data Protection Bill (Senate Bills No. 16 of 2018).

There are also Bills due for Committee of the Whole, namely:-

- 1) The Food Security Bill (Senate Bills No.12 of 2017);
- 2) The County Boundaries Bill (Senate Bills No.6 of 2017);
- 3) The County Governments Retirement Scheme Bill (Senate Bills No.6 of 2018);
- 4) The Office of the County Printer Bill (Senate Bills No.7 of 2018); and
- 5) The Office of the County Attorney Bill (Senate Bills No.3 of 2018).

Additionally, there are a number of Motions touching on various issues which the Senate Business Committee will consider and schedule accordingly.

I continue to urge Chairpersons of the various Committees to table the reports on Bills and Petitions before them within the timelines stipulated in order to facilitate the House to dispense with them expeditiously.

I thank you and hereby, lay the Statement on the Table of the House.

*(Sen. Dullo laid the Document on the Table)*

**The Temporary Speaker** (Sen. Kamar): Thank you, Temporary Leader of Majority.

## COMMUNICATION FROM THE CHAIR

### VISIT BY DELEGATION FROM KISERIAN JUNIOR SEMINARY

Hon. Senators, I have a Communication to make.

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Kiserian Junior Seminary, Kajiado County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, wish them a fruitful visit.

Thank you. Next Order!

## BILL

### *Second Reading*

### THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 8 OF 2018)

**The Temporary Speaker** (Prof.) Kamar: Hon. Senators, I realize this is a co-sponsored Bill and you will divide your minutes. The first Senator is Sen. Sakaja.

**Sen. Sakaja:** Thank you, Madam Temporary Speaker. Yes, this is a co-sponsored Bill. I am proud of the fact that this is, probably, the first of its kind in the history of our Twelfth Parliament.

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Madam Temporary Speaker, I beg to move:-

THAT, the Disaster Risk Management Bill, (Senate Bills No.8 of 2018) be now Read a Second Time.

Madam Temporary Speaker, this Bill was published on 6<sup>th</sup> March, 2018, and read for the First Time in this House on 18<sup>th</sup> April, 2018.

Madam Temporary Speaker, the disaster that has been disaster management in Kenya is what has really caused us together with Sen. Mutula Kilonzo Jnr. to think of what the best legislative framework for dealing with disaster management in our country should be.

Even today, a lot of the statements that have been raised and discussed on the Floor of this House have had to do with management of disasters. We are talking about the Gikomba fire tragedy, the Statement raised by Sen. Mary Seneta, issues of flood management in Machakos County. Every day we deal with different types of disasters.

This Bill seeks to establish the National Disaster Risk Management Authority that will ensure there is co-ordination of disaster risk management issues at the national level as well as at the county level. The Bill further seeks to establish the County Disaster Risk Management Committees in each of the counties as the role of disaster management is a shared function. If you go to the First Schedule of the Constitution, it is a function that is shared between both the national Government and the county government.

Madam Temporary Speaker, our country has been exposed to a variety of both natural and technological disasters such as fires, droughts, floods, landslides, buildings collapsing, traffic accidents, oil spills, industrial accidents, disease epidemics, terror attacks and many others. These disasters have adverse socio-economic, health and political impact on our society and our country. They have disrupted livelihoods, destroyed infrastructure, cost us lives, diverted planned use of resources, interrupted economic activities and have retarded development in our country.

If we just look at fires alone, for instance, we have had a series of school fires in the past few years that have affected so many of our schools. We have lost lives. We know that our schools do not have capacity to implement safety standards and to deal with these fires. Recently, we, as county, lost a number of girls at Moi Girls School Nairobi because of a fire incident. It is not the first time that has happened in this country.

Madam Temporary Speaker, in 2009 a petrol tanker burst into flames in Sachangwan. A total of 91 Kenyans died, 178 got thermal injuries, were burnt and their lives changed forever.

In January, 2009 as well just down the road, a few metres from where we are today, uncovered gas cylinders exploded, smouldered and burnt at Nakumatt costing us lives, causing injuries and damage to property that has been irreparable until today.

Madam Temporary Speaker, last week we lost 15 Kenyans in Nairobi County in Gikomba because of a fire incident. A few weeks ago, we lost 47 Kenyans at Solai Dam disaster. Two years ago, I lost 51 residents of Nairobi at Huruma after a building collapsed.

I think the extent of the problem really behooves us, as a House, as the Senate of the Republic of Kenya, as the Parliament of Kenya, to think of solutions. In all of these disasters, the response has been poorly co-ordinated leading to duplication of efforts and

wasteful use of resources, in addition to exposing the victims of such disasters to such risks and dangers and slower recovery. Many victims of road accidents have had response injuries further because of untrained people trying to evacuate and move their bodies from the scene of accident. Others have got injured while being evacuated from buildings that have collapsed or that have faced different disasters.

Madam Temporary Speaker, people living in informal settlements, especially in urban areas, arid and semi-arid lands are particularly vulnerable when it comes to disasters because the abilities to deal at a civic level and to cope with these disasters are constrained or limited and require greater investments in the systems of managing disaster. Disaster response reviews of the few that we have been able to look at have indicated that the response costs more than would otherwise be the case if sufficient efforts have been put in place for effective disaster management.

We must realize even as we discuss this Bill that disaster risk management does not happen after the disaster has happened. It begins from the planning, early warning signals and from preventing the disasters. The prevention costs much less than what we need to do once the disasters have taken place.

Madam Temporary Speaker, our Country submitted an action-plan to the United Nations Climate Change Conference held in December 2015 in Paris. According to that action-plan, droughts and floods alone cost us economic losses estimated to 3 per cent of our country's Gross Domestic Product (GDP). You know what it takes to increase a country's GDP by 1 per cent. The effect of disasters, but not all disasters; just floods and droughts has cost us three percent of our GDP in the economic losses.

Madam Temporary Speaker, part of the problem we are dealing with is that we have various agencies dealing with different activities related to disaster management, search and rescue, first aid services and evacuation, anti-terrorism, surveillance, law enforcement and crowd control, peace building, conflict resolution operations and firefighting. However, the bane of our problem and a large part of what we are solving in this Bill is the fact that these institutions are housed in different Ministries and many times duplicate their efforts.

They include the National Disaster Operations Center (NDOC), the National Disaster Management Unit (NDMU), the National Drought Management Agency (NDMA) under the Directorate of Special Programmes. Indeed, it is extremely difficult to get definitive answers on how the mandates of these agencies begin and end. They have varying budgets and different leadership. Many times they engage in turf wars. Their fights on turf has cost us lives. I am saying this because I have been there and seen it. These turf wars have reduced our response time to disaster management.

Madam Temporary Speaker, two years ago at around midnight - it must have been the month of April - I received a phone call in 2016 that a building had collapsed in Nairobi County in Mathare. Once I got the news I moved from where I was and went home. In 2016, I was not yet an elected leader in Nairobi. I thought in my mind that somebody would be dealing with that issue. However, when I switched on my television set I saw the mess that was happening in Mathare Huruma. I went to the site.

For one entire hour, in Huruma, these agencies were fighting over who has the mandate to be in charge of the rescue efforts and who will lead the rescue efforts; while

residents were trapped under a seven store building that had been put up in under five months and housed hundreds of innocent Nairobian.

The young people of Mathare and Huruma were considering chasing away these agencies and using ill equipment like torches on their phones and crude equipment, they went in. I must credit the young people of Nairobi because not just in that incident but many others they saved lives until these agencies got their act in order. I stood there overnight, in Mathare just less than 200 metres from one of the National Youth Service (NYS) barracks with a lot of equipment. It is sad that throughout the night as a citizen, I had to fuel the generator and, in the morning, I had to buy the cutting machines to cut through the steel for those who were rescuing. I had to buy milk and bread for the ones supporting those efforts, yet we had the military, NYS, police and the previous county government.

Madam Temporary Speaker, images of dead bodies of more than 10 children who did not deserve to die have never left my mind. The story of a gentleman who told me that when the first tremor happened, he told his children to wait so that he could go outside and remove some of the little furniture that he had in the house; a table, two buckets and a stool. The moment he stepped out of the gate, the building came down and he lost his children. This image has never vanished from my mind.

The response in these disasters has shown us the inequality in this country. If such a disaster happened in affluent areas, the whole of Kenya Defense Forces (KDF) would be there and business will stop in this country. Since it is Mathare, Ruai or an informal settlement, the response has always been inadequate. The care we give these people after these incidents happen has been inadequate. Till today, I am paying fees for orphaned children from the Mathare incident, Mlango Kubwa and Huruma where there was a fire a few months ago. No Government agency sees the need to take care of the people a week after these incidences have happened.

During different recent disasters that have visited our country, it appears as if these institutions and organizations---It pains me to talk about institutions of Government and yet I am from the majority side that has formed the Government. However, it shows the pain that all Kenyans, whether in Jubilee or NASA, are facing in the face of disasters. It seems like these agencies have their own interests and allegiances more powerful than the incentive for collaboration between them and partnerships.

Many times, getting them on a round table has been difficult. The disaster response activity has been poorly coordinated due to lack of Standard Operating Procedures (SOPs) and disaster emergency operations plans. The existent institutional framework is heavily weighted towards emergency responses. It gives little time and inadequate emphasis to long term preventive measures and mitigation.

Madam Temporary Speaker, the lack of standardized SOPs can cost lives. It has cost lives. My friend, the late Mr. Munene, an officer of the General Service Unit (GSU), during the Westgate attack was killed by the KDF. Both were security officers of our country and both were at the scene of a crime trying to rescue Kenyans under fire. However, due to friendly fire, we lost one of the most valiant and gallant Kenyan servicemen that I have ever known.

I am glad that after that incident, the security forces have had better inter-agency cooperation. These days, they even do some training together to solve and resolve such incidences. But then again one life lost is one life too many.

On top of lack of coordination, multiple actors and approaches make efficiency in prevention and mitigation too difficult to achieve. Additionally, these agencies are confronted with limited budgetary allocations, a lot of challenges associated with cumbersome procurement processes and non-availability of specialized equipment for effective disaster management interventions. You will be shocked to know, being a professor, in this entire country, in case of a biochemical attack, it is only the Kenya Red Cross that is equipped to respond and save lives. The equipment they have is limited to just tens of people.

We put resources into other things and end up spending much more when it comes to rebuilding after the disaster has happened. Data collection and storage is not uniformly adequate and this has resulted in poor planning, lack of institutional memory, lack of effective monitoring and evaluation of disaster risk training, analysis and focus.

Madam Temporary Speaker, this Bill will bring together the staff under The National Disaster Operations Center, the National Disaster Management Unit, the Department of Special Programmes under the auspices of the proposed National Disaster Management Authority. The main promise is to approach disaster risk management in a manner that seeks first to respond effectively and timely to any disaster.

Secondly, to prevent the adverse effects of disaster and recover as many people as possible and save the livelihood of the communities affected by disasters. I know Sen. Mutula Kilonzo Jnr., while responding to the Bill will talk about the preventative measures and the early warning signals that we require. I have only 30 minutes and then Sen. Mutula Kilonzo Jnr. will take the rest.

Madam Temporary Speaker, under the Fourth Schedule, this is a function of both the national Government and county governments. Counties are expected to be the first responders in case of a disaster in the county. However, there has been no mechanism to implement this function at the county level and coordinate between the national Government and the county governments. This Bill provides a framework for the coordination and resourcing to address these gaps. Its enactment will assist in efficient and effective management of disasters across the country.

Madam Temporary Speaker, our counties are playing around when it comes to disasters. They are allocating little resources, and many times, the percentage that has been uniform across the country has been used to siphon funds from public coffers. I will give the example of the County Government of Nairobi and other Senators will talk about their counties. Out of a budget of Kshs32 billion that has just been passed in Nairobi City County, the amount of money that has been set out for fire and disaster management is Kshs162 million; that is under the recurrent budget. The development budget for fire and disaster management in Nairobi City County is Kshs10 million, out of a budget of Kshs32 billion, and this is a county that is most affected by disasters every two or three weeks. We are joking and must get serious.

After allocating Kshs10 million for disasters management, the same county has Kshs129 million for a budget item called news and information. I have able Members of

County Assembly (MCAs) in Nairobi, but I do not know where they were when this budget passed. How do we allocate Kshs129 million for news and information? Are we subscribing to own part of the Cable News Network (CNN) or British Broadcasting Corporation (BBC)? How do we allocate Kshs10 million for development expenditure on disaster management and Kshs160 million under the recurrent budget? We need to align the budgets and investments in disaster.

Recently, I happened to be in Vancouver, Canada, together with Sen. Dullo, Sen. Wetangula and a few other Senators. We saw the kind of investment that has been put in disaster management; the call centres. Today, if a disaster happened in Nairobi, I am sure none of you knows which phone number to call, yet you are enlightened leaders. What will happen to the common citizens?

Madam Temporary Speaker, for example, if there was a fire station close to Gikomba Market, where there are attempts to burn it every four or so months, we would have saved lives. We should have quad bikes because many times the excuse has been that there is no access in many of the informal settlements. If there is no access, what are we doing about? We should provide and make sure that there are alley ways. As we do that, we should get quad bikes that have water at the back.

We do not want to see fire engines being paraded to Kenyans only on Labour Day. We want to see fire engines and ambulance services across the City and the whole country. That investment must be made. This Bill provides the framework through which we will have counties investing and coordinating properly.

The many people who are charged with dealing with disaster only meet at the scenes of disaster. The National Disaster Operations Centre (NDOC), the National Disaster Management Authority (NDMA), county government, county inspectorate, the police and the military only meet when there is a fire in Kijiji in Lang'ata, a flood in Solai or a building has gone down in Huruma, yet they should be meeting often. We have created an institutional structure of the County Disaster Management Committee and the NDMA where they will sit down frequently to evaluate and mitigate these risks.

Madam Temporary Speaker, I urge and beg my colleagues to support this Bill as we bring in some sanity. Kenyans have asked us what we are doing besides always being the first to respond when there is a fire in Gikomba. I thank Sen. Mutula Kilonzo Jnr. who is always online on Twitter to support us. I always tell them that on top of us going there to support directly, we have brought a Bill that will provide a legislative framework to deal with issues of disaster, so that it is not business as usual, especially in our urban and arid areas in this country. I ask Senators to support this legislation and make sure that it is passed and implemented once it becomes law.

Madam Temporary Speaker, I have exhausted my time. I beg to move and ask my co-sponsor, Sen. Mutula Kilonzo Jnr., - and the only thing we co-sponsor is Bills - to also move the Bill.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Proceed, co-sponsor, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Madam Temporary Speaker, my friend, Sen. Sakaja, is aware that the word 'sponsor' has a bad meaning in the public domain.

(Laughter)

First, I want to thank the Committee on National Security, Defence and Foreign Relations led by Sen. Yussuf Haji, Sen. Sakaja and others for the work they have done and the public participation on the Disaster Risk Management Bill. The matrix that I have shows that Kenyans had a lot of interest in this Bill. I am proud to say that the United Nations team on disasters attracted comments to this Bill.

I must disclose that Kenya has been chosen as the country that will showcase its disaster management practices in Tunisia this year. So, this Bill could not have come at a better time. We must show the world and Africa, particularly, Tunisia, where they have chosen as the place to showcase disaster management. The 13<sup>th</sup> of October is the United Nations (UN) day for celebrating and commemorating disaster management.

Madam Temporary Speaker, I hope, pray and cross my fingers that this year Kenya will showcase this Bill as a way of showing that we have truly matured as a country. For the first time since Independence, Kenya has a Disaster Policy, which was approved by the Cabinet on 27<sup>th</sup> March, 2018. Unfortunately, that Policy is still a secret or 'siri kali,' which is a word that I do not like. We do not have it and we have requested that it be on public. Ideally, policy is supposed to inform law. Therefore, we are supposed to marry the two, so that we do not have shortfalls.

The intention of this Bill is what my colleague has mentioned. At the end of this Bill, that is, Clause 37, we have transitioned all organisations that are dealing with national disaster operations in Kenya to one unit, the Authority.

Madam Temporary Speaker, during public participation, this was the bone of contention. The NDMU, the NDMA, the NDSOC, sitting in various Ministries, agreed that this is the way to go. This is a great achievement for this country because the bottlenecks of disaster management have been the various organizations and units that have been set up to do inter-agency.

During the investigations on the disaster in Solai that are ongoing, the Cabinet Secretary, Ms. Rachael Omamo, disclosed disturbing things to us. The first one is that it is only the military that has a unit in Embakasi that can respond to disaster in the country and nobody else. In the case of Solai, the people who went to the ground were actually cadets because the military unit in Lanet and Nakuru is in Somalia. If you want to find out when they got to Solai, you calculate the distance from Lanet to Solai. They got to the site at 6.00 a.m. on 10<sup>th</sup> May, 2018 and the incident happened at 8.30 p.m. on 9<sup>th</sup> May, 2018.

Even the idea that it took so long to call the military to help, is itself a statement that we have failed. President Uhuru Kenyatta, in his statement about the Kenya Red Cross Society (KRCS), has vindicated the work that we have done with Sen. Sakaja. The President has allocated, through the Ministry of Finance, Kshs1 billion, which has already been remitted to the KRCS for purposes of dealing with all the disasters that happened in the country during the last floods.

What does that tell you? It tells you that President Kenyatta realizes that the units which have been formed under the Office of the President have no capacity. When you have the KRCS dealing with every single problem in the country from Makueni, Tana

River, Lamu, Garissa and Marsabit to Solai itself, yet it is a non-state actor, we could have come at a better time. This issue is absolutely late.

Madam Temporary Speaker, when there was fire in Gikomba, a group of non-state actors who deal with fire sent a draft Bill to me so that I can sponsor a firefighting and response mechanism; the Firefighting and Response Act. They felt that that this issue should be dealt with separately from disaster management. Disaster management and firefighting has been put under county governments. A case in point is Nairobi City County and Sen. Omanga –*Mama miradi* –is here. What is Nairobi City County doing about firefighting? For how long are we going to talk about the fire engines that are parked in Moi Avenue? For how long are we going to talk about fire engines that go to disaster sites without carbon dioxide and water?

Madam Temporary Speaker, the most important part of Clause 5(a) on the functions of the Authority, which states that:-

“The Authority shall—

(a) adopt a co-ordinated inter-agency approach in disaster prevention, preparedness, mitigation, response and recovery activities.,”

Sen. Sakaja spoke about prevention, which is better than cure. In this case, it is better to deal with prevention, preparedness, mitigation, response and recovery. In the case of Solai Dam – I am going to use that example again – the Meteorological Department has provided our Committee with information on the flow of flood water into Solai Dam, before and after the disaster. We have been told that this information was available to an organization under the disaster response team, called the National Disaster Operations Centre (NDOC).

What did they do with this information? Why did they not alert the people in Solai to vacate, when it was obvious that they had information that there was going to be a lot of water in Solai? In the case of Masinga Dam, the Meteorological Department has said that because of the coordination with the Kenya Electricity Generating Company (KenGen), they were able to evacuate Kenyans before they were trapped by the water.

Madam Temporary Speaker, the Senate has, since 2013, tried to get money for disaster management but we have faced bottlenecks. In 2013/2014 and 2015/2016, the Commission for Revenue Allocation (CRA) had recommended Kshs4.5 billion to be given to counties for purposes of dealing with disasters. Sen. Sakaja mentioned disaster management in counties and that counties should be the first responders. I am, therefore, not surprised that Nairobi City County has budgeted Kshs162 million for disaster management and Kshs405 million for entertainment, because the cap given in the Public Finance Management (PFM) Act is two per cent. Actually, it is not possible that two per cent of the budget of Nairobi City County is Kshs162 million. The delegation of Nairobi in the Senate is the largest. Therefore, my colleague Senators, you must condemn this action. If there is one centre of disaster in Kenya, it is Nairobi. They should, therefore, budget even more than the cap that has been given.

Madam Temporary Speaker, under Clause 12, stakeholders suggested that we actually do not need to put a person with a degree there. They said, “Dear Senators, please put people there who have Masters Degrees;” because I am told that this country has the best expertise when it comes to disasters.

Madam Temporary Speaker, Clause 14 mentions a database. Unknown to you Senators, the KRCS has mapped this country into four regions in terms of floods, epidemics, fires and other disasters. The country, the NDOC and all these organizations do not have such a database. That database is what makes them prepare for disasters; it is what makes them put a budget and volunteers. However, in the case of Solai Dam, they did not have the information because the owners of the dam did not disclose that they had a dam of that nature.

I am told that there are many dams as big as this one. For example, there is a dam in Embu County that holds over 50 million litres of water. There is another one where Sen. Seneta comes from on our common border, in the Enzai Hill, holding 14 million litres of water. All these water resources and institutions have been mapped out for purposes of dealing with an issue, in case it arises. However, the one in Solai was a secret known only to the Patel fellows. They will answer to those questions because I have seen them in the dock. They will tell us why they did not tell the country what they were doing.

Madam Temporary Speaker, I am told that the framework in this Bill was picked by South Africa and Ethiopia, who already have an Act of Parliament that was passed in 2009; and that is why I am saying we are extremely late. They borrowed the framework from this law that has been on the cards in Kenya since 2009. I could not insist that this matter is very urgent.

Madam Temporary Speaker, we have an international framework under the law called The Sendai Framework for Disaster Risk Reduction, 2013-2050. Kenya is a signatory and has participated in this framework. Once again, I am surprised that Kenya does not think it is a good idea to pass the Disaster Management Bill into law. We have compared the Sendai Framework for Disaster Risk Reduction, which is actually the internationally acceptable term for risk reduction. In our case, we thought that "Disaster Risk Management," as opposed to reduction would suit the cause.

Madam Temporary Speaker, Part Three of this Bill is very important. As I said earlier, counties must be the first responders to disasters. Under Clauses 18, 19 and 20 of this Bill, we have set up the County Disaster Risk Management Committee, which comprises of the Governor, county representatives, County Commissioner, County Police Commander, representatives of the KRCS and others.

In the case of Kilifi County, Gov. Kingi said that they passed a law on disaster management. However, when they called the County Commissioner for Kilifi to sit in that committee, he had to seek instructions from Nairobi. In fact, he appreciated Chapter 3 more than anybody else, and said, "Now I will rest, because I will summon the County Commissioner to that committee." The County Commissioner did not want to sit on this Committee because he thought that it was a county function. We will now put it in law and he will be able to sit in that Committee. However, we want counties to be the first responders because the purpose of this Bill and the committee is to coordinate disasters.

Madam Temporary Speaker, there were floods in Tana River County. If there is one gentleman who suffered the most, it is Gov. Dado of Tana River County, because the flooding was unbelievable. He was helpless and he had to wait for the Cabinet Secretary to fly to Mombasa, Kilifi, Marsabit and Garissa counties before he flew to Tana River

County. This Bill wants to deal with this issue, because you cannot have a one-man show when you have disasters.

When children are dying in Solai, you cannot have one person moving from Nairobi all the way to Solai Dam, Tana River and Makueni. This Bill tries to deal with these issues. The county team will inform the national authority, which will deploy – whether it is infrastructure in terms of equipment or money – but we want the counties to be the first points of call when it comes to disaster risk management. In the case of fires in Nairobi City County, we want Gov. Sonko to be the first one on site in Gikomba.

In the case of Solai Dam disaster, 150 children were affected. Some of the officials of the County Government of Nakuru were charged for being complicit or abetting the disaster there. In a proper system, the counselling would have been done by that county during and after the incident.

I have pointed out there are two children who have been put in *The Standard* newspaper. They saw the disaster with their own eyes. They held on to one another next to a log as the water was raging. They were watching people losing their lives. However, in their case, it was worse because a young child was trapped next to them, but they could not move an inch. It took four hours to rescue those two children. Who is supposed to counsel the two about this disaster? The county should have a mechanism of responding.

Madam Temporary Speaker, in Part V, Clause 30, we have the Disaster Risk Management Fund. The stakeholders have proposed and we will move an amendment to ring-fence an amount. They say put 5 per cent of the national Budget or whatever figure, but make sure the kitty has substantial amounts.

There is a contradiction in law. In the Public Finance Management Act, the country with a Kshs3 trillion budget has ring fenced only Kshs10 billion for disasters. You cannot go beyond Kshs10 billion for disasters in the whole country. That is the only money available. The Disaster Risk Management Fund will deal with this issue. We want to have enough resources to deal with disasters in this country. Thank God we have never had an earthquake, wild bush fires and floods as bad as the ones we have had, or several buildings collapsing.

The gentleman who has been seconded to deal with the United Nations Disaster Management in Nairobi comes from Italy. He says that disaster in Italy is the way of life. They prepare for floods, fires, bush fires, wild fires and forest fires. They are ready and prepared for all of them because it happens. They have mapped the regions. We should know the disasters we are exposed to in the Rift Valley, Makueni, Mombasa, Tana River or Garissa. As Sen. Omogeni mentioned, the malaria epidemic arising out of the recent floods in Nyamira, Kisumu and the counties on the western side of the Republic will be catered for by the funds.

Madam Temporary Speaker, Part VI of the Bill is on Offences and Penalties. The one I did with a smile of the transition. I will transition the Kenya National Disaster Operations Centre (NDOC), the National Disaster Management Unit and Department of Special Programmes and everybody else to one authority, one command and one person.

The Cabinet Secretary (CS) for Ministry of Defence, Madam Rachel Omamo told us that, in fact, the problem lies in coordination. One person is supposed to co-ordinate all

activities to mitigate disaster. What do you do? Sen. Sakaja pointed out that in Huruma when a building collapsed, all these organisations were fighting over who was going to remove the slab and so on. As they were doing so, people were screaming under the slab. No wonder people died.

The bodies to be nominated as board members in the First Schedule are:-

- 1) The Kenya Private Sector Alliance;
- 2) The Kenya Medical Association; and
- 3) The Non-Governmental Organisation Council.

I was informed that during the Sinai fire tragedy, we actually got fire experts from outside the country. We have made provisions that the Department of Immigration will waive the rules on licenses of doctors who can come from abroad as burns experts. We will put that in our amendments, so that it becomes easier to bring experts on burns to deal with the fires. I am not sure whether Kenyatta National Hospital is dealing with burns of the people from the Gikomba fire tragedy. Do we truly have experts because during the Sinai fire tragedy we did not see them? Why have we been left behind? God Knows. I cannot answer that question.

Madam Temporary Speaker, we have brought this Bill with my brother Sen. Sakaja, so that our children will not ask us where we were when we should have passed the most important law to deal with disasters.

There is a lot of information that has been shared. I hope that my colleague Senators will pass this Bill as fast as possible. Let us get this thing off the docks, deal with disasters and start preparing for problems that will emerge. After the floods in Tana River County, we are possibly going to have the worst drought Kenya has faced. It is the contradiction of life.

Sen. Sakaja talked about early warning signs. Does it surprise you that as I said, we have a Kenya Meteorological Department that has a department specifically on agriculture? Madam Temporary Speaker, you are a farmer. You mentioned to me that you have 5,000 bags of maize. They should tell you how much rain you will receive this year. Why were there issues in Solai? Solai was expecting 36 millimetres of rainfall this year. They got 55 millimetres. I asked myself and them, when it got to 37, 39, 40 and 50 millimetres, where was everybody? They should have warned themselves. There should have been a person being told that they had received more rain than usual.

In my county, a place called Makindu was isolated. It got two times the amount of rain. Bridges and roads were washed away. Part of the work of this Committee and Authority at your county of Uasin Gishu will be to collect the information of how much rain you will receive, both for purposes of agriculture and informing people about disasters. Most importantly, prepare a response to whatever it is that will come your way. The evidence based strategies are there. We have work, a data base, priorities, risk profiles and everything.

Madam Temporary Speaker, this issue is wide. I am glad that the person who will second this Bill, Sen. Pareno in her work in the East Africa Community developed the Disaster Risk Reduction Management Strategy 2012-2016, that is now law. I am surprised that while the East Africa Community has adopted a structure of management

of disasters, Kenya has not followed suit. We have been left behind by Ethiopia, Uganda and Rwanda on many fronts, including preparing for disasters.

With those few remarks, I beg to move and request my neighbour and senior, Sen. Pareno to second.

**The Temporary Speaker** (Sen. (Prof.) Kamar): A minute, hon. Senators. Before the Bill is supported, I would like to make a Communication.

*(Interruption of Debate on the Bill)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. ANNE GITUBA GIRLS'  
SECONDARY SCHOOL, KIRINYAGA COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from St. Anne Gituba Girls' Secondary School in Kirinyaga County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

*(Applause)*

*(Resumption of Debate on Bill)*

**Sen. Pareno:** Thank you, Madam Temporary Speaker. I rise to support this Bill and the "super" Senators for Makueni and Nairobi City counties for co-sponsoring this very important Bill at a time when we are just having one disaster after another in this country.

This is one such Bill that elicited a lot of goodwill and participation. I was there when we had the public participation and we had quite some very good contribution towards it.

This Bill is one Bill that has been enriched by those that are stakeholders in this field. The Committee of National Security, Defense and Foreign Relations did receive a lot of views and contributions from the Kenya Red Cross Society, the United Nations, even walk-in Kenyans who were just concerned about disaster including *Bunge La Wazalendo*. They walked in there and had a written submission and made their oral submissions before the Committee. This is one such Bill that is being eagerly awaited by our citizens out there.

Madam Temporary Speaker, this Bill comes out to try and bring order and organisation in the management of how we prepare and handle disasters when they happen. It has always been said that these disasters do not come knocking; they just happen. They can happen to and affect anybody. At all times, we should by now as

Kenya be ready for any disaster. We might not stop it when it happens. However, if we get organized when it happens, we should try to mitigate the impact that such disasters have on the people. As a country, we will have done justice to our people.

You can imagine if we mobilize funds. This Bill comes out to create an authority which has been given powers. First of all, this Bill tries to bring an authority that will try to classify the disasters as they happen. Under Clause---

*(Sen. Pareno spoke off record)*

The disasters are classified under Clause 1 (b) at any time after consultation with the relevant county committee if the magnitude and severity or potential magnitude and severity of the disaster differs from the initial assessment. This Bill seeks to appreciate between a disaster that you can term as a county and a national disaster. It says a disaster is a county disaster if it affects a single county, and the county concerned is able to effectively manage it. However, if it happens in a county and a county is not able to manage that disaster, then it becomes a national disaster.

This classification in itself is to try and bring effective management of disasters. You can imagine how effective it would be if you have an authority that is able to liaise with all those players in the counties and the national field when it comes to disaster. We can get ready and prepare for disasters. We can prevent that. However, when it happens and we are not able to prevent, then we can mitigate them. In the mitigation, we can even mitigate to an extent that we have recovery programs for those who have suffered.

Madam Temporary Speaker, I wonder what is happening to the Solai tragedy victims. Have we checked on them? Have we done a recovery programme for them? Are there rehabilitation programmes for them? That child that Sen. Mutula Kilonzo Jnr. is talking about, a neighbour, father, sister, and brother were swept away. Have we reached out to have rehabilitation programmes for these children or victims?

Look at the Westgate tragedy; probably, it is long forgotten. Where are the victims? Look at the Garissa attack; where are the victims? Have we reached out to them? Over and above all that, I wonder whether we are learning as a country. I do not want to imagine that up to now, we do not have a proper disaster management in place. We only rely on the Kenya Red Cross Society and volunteers to run around without a proper framework to support even that running around of those that volunteer. This is a Bill that seeks to bring proper coordination when it comes to management. That is why we are creating a National Disaster Management Authority (NDMA) that can help us to coordinate these programmes for purposes of intervention.

This Bill has incorporated, not just the inter-county interventions, but also the national interventions. It even seeks to see how we can bring in regional and international interventions. We all know that we had to call in experts from outside in order to manage the Westgate tragedy and the bomb blast that happened in 1998. We can tap in on the expertise out there, but within a proper framework as to how to engage with that expertise. This Bill has come out and we should try and bring sanity in as far as this coordination is concerned.

Madam Temporary Speaker, the authority also tries to adapt and provide for an inter-agency and multi-sectoral approach for purposes of prevention, preparedness, mitigation, response and recovery so that we have everybody on board. You remember at some point in Solai, we just saw the security personnel and Red Cross on the ground. Who is coordinating all these agencies? Who is doing what? In fact, we have very good volunteers in this country. However, how do we tap into those volunteers if there is no way to reach out to them? Even if you reached out, who calls the shots when they all come to a disaster site?

This Bill seeks to bring that multi-sectorial and multi-agency approach. When we say go right, we go right. When we say go left, we go left. We cannot be going left and right at the same time when it comes to a disaster lest we cause more disasters. Most of the time you would find volunteers, *wananchi*, Red Cross, the army, and experts whose expertise you are not even sure of coming in. That coordination is required. This Bill has come out to bring that coordination.

One very exciting provision in this Bill is about collecting and maintaining a databank. The databank gives proper and flowing information to an extent that at a click of a button, you will get the experts from there. You will click and get the volunteers from there. This is because this databank as it is provided, and I want to read that in Clause 14:-

“The Authority shall develop and maintain an electronic database containing particulars of:-

- a) national, county organs involved in disaster risk management;
- b) non-governmental organisations involved in disaster risk management;
- c) disaster risk management experts;
- d) private sector organisations with specialised equipment, skills or knowledge relevant to disaster risk management.”

This means that from this data you will get direct contacts of experts and know who has equipment and skills.

*[The Temporary Speaker (Sen. (Prof.) Kamar) left the Chair]*

*[The Temporary Speaker (Sen. Lelegwe) in the Chair]*

Mr. Temporary Speaker, Sir, the private sector and voluntary agencies are also part of this databank. From this databank that is being established under this Clause 14, you will even see foreign non-governmental organisations and international organisations involved in disaster risk management. If we have such a databank, how can we not manage disasters? I believe that an electronic databank will be very accessible.

In fact, this Bill goes further to say that this Authority shall – it makes it mandatory – make sure that this databank is accessible. This is a Bill that has come in time to try and organise us in as far as our disaster management is concerned. The best provision is about this electronic data, where we can access those that play in that field of disaster management.

In fact, it goes further to say that, that databank should provide a directory of role players with their names and contacts. So, this is a Bill that seeks to bring quick access to help when there is a disaster. You can imagine if you have to start looking for the experts and volunteers and you do not know where to get them. This Bill seeks to bring a directory that has all these and we can have people easily access these bodies when a disaster occurs.

The Bill goes ahead to say that it will give contacts and locations of police stations, hospitals, clinics, emergency services and public buildings that are nearby to any location where disaster occurs. This will enable the evacuation of people to free and open space and turn some public buildings into hospitals and rescue centres. It even provides that this data should have the details of the nearest airports, airstrips, railway stations and other services for the purposes of an emergency in case of a disaster.

Mr. Temporary Speaker, Sir, this Bill has gone an extra mile to actualise the wishes of people and the fact that we need to be prepared, so that when a disaster happens, we move very quickly to assist and relieve the people who are affected.

I support this Bill and it came at the right moment. It is sad that we have had the Solai Dam disaster. I see from this Bill that we are supposed to list what we learn from the mistakes or other disasters that have happened. I am just wondering whether we are learning as a country. What have we learnt from the Solai Dam disaster and the perennial floods, for instance, in Tana River? There is a lot of water that is just flowing away and we do not even harvest it. We just wait for the water to sweep the people after which we wait for another disaster which will be drought. We do not harvest that water and use it as a way of preventing disasters; we wait for the next disaster to happen.

This could be the third or the fourth disaster in Gikomba Market. What happened with the first, second and third Gikomba Market fire tragedies? Are we learning as a country? This Bill seeks to bring those experiences as a way to stop further disasters in this country and learn from those experiences. I strongly second this Bill which has come at the right time.

I beg to second.

*(Question proposed)*

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

**The Temporary Speaker** (Sen. Lelegwe): Proceed, Sen. Mwaura.

**Sen. Mwaura:** Thank you, Mr. Temporary Speaker, Sir. I was wondering why you are not calling my name, after such a great move by the two distinguished Senators from the counties of Makueni and Nairobi, who have ably moved this great Bill.

I rise to support the Disaster Risk Management Bill (Senate Bills No.8 of 2018). From the outset, I would say that this Bill is germane in two ways. First, it is co-sponsored by two Senators; I have never seen this before. This is very commendable and the spirit that we want. One of them is from Jubilee Party and the other one is from the National Super Alliance (NASA). So, this is really good; it is what we call bipartisanship.

Secondly, it is a Bill that seeks to do something very important to this country; to bring sanity to the disaster risk management regime that is currently not in very good shape. In the last Parliament, I happened to have been part of the caucus of the disaster risk reduction, together with Sen. Mutula Kilonzo Jnr. and others like Hon. Shebesh and Hon. Tiyah Galgalo. We really worked a lot on these proposals. We met many stakeholders and I can confidently report to this House that this Bill is not a Private Members Bill, but actually a Bill based on consensus. We had a lot of engagements and it is sound.

In fact, when we were trying to put our heads together on this matter, there were tensions. People wanted to protect their own turfs, because it meant that if we have one agency, then the other people would lose their jobs or something like that. However, that is not the case. We must see the bigger picture. We must ensure that we protect the lives and properties of Kenyans, and this is the basis of this Bill.

Mr. Temporary Speaker, Sir, from the outset, I want to recognise a gentleman by the name Mr. Maasai. Mr. Maasai has really worked and impressed me by his contribution to issues of disaster management. He is a Kenya Police officer and is in the Kenya Disaster Management Unit. I was very surprised to see that within a very short time after a disaster has happened; this gentleman, through his unit and with the support of various development partners, has produced a succinct report of what exactly happened.

Such officers must be commended because disaster risk management has become a gravy train. This is where people get easy money because they are not very accountable. For example, when one is given blankets or food to give to poor people, these items even end up being used for campaign purposes. So, when we have individuals who are committed to saving the lives of their fellow Kenyans and executing their public duty, they deserve to be commended. I believe and hope that over time, when it comes to the presidential honours, this gentleman, Mr. Masai can be considered.

Mr. Temporary Speaker, Sir, this Bill borrows heavily from the Sendai Framework. The Sendai Framework is the globally agreed upon rules of engagement when it comes to disaster risk reduction. In the year 2014, the whole world met in Sendai in Japan to come up with this framework led by the United Nations Institute for Disaster and Risk Reduction. The Sustainable Development Goals (SDGs) are actually predicated on disaster management. It is about trying to avoid climate change and the catastrophic effects that we are seeing here in terms of global warming and having a lot of rainfall.

We just saw what happened in Tana River. The whole place was flooded. Recently I came from Malawi, they have refugees as a result of this global warming. It is critical for us, as a House, to pass this legislation so that we are able to forestall whatever risks that exist within the changing global scenario.

There are many agencies working on disaster mitigation in this country. We have the National Drought Management Authority; the Colonel Kigotho office and the police. At the end of the day, if everybody is claiming to be doing this and that, there might be no co-ordination at all.

We are reminded, for example, of the Westgate incident where there was friendly fire between various security agencies; the GSU and the regular police. This is because

everybody wants to take credit; everybody wants to be in charge. The motivation sometimes is not to help, but it is to get what is there. Regarding the Westgate incident, we were told huge caches of money were lost. We need to have a situation where the buck stops somewhere. When the buck seems to be stopping at many doors, then everybody has room for mischief.

This Authority is welcome because it is not a national Government initiative. When you look at Schedule Four, issues to do with fire services are actually devolved. So, it gives effect to the National Disaster Management Authority, but also the county committees. When you look at the composition of the committees, they are quite representative.

We must recognize the fact that the first people who respond when there is disaster must be the local authorities. Right now, we are asking ourselves what Nairobi County Government did when fire broke out in Gikomba Market. These committees are critical because they will enable counties to take action in cases of disasters.

Mr. Temporary Speaker, Sir, the composition of these committees includes the civil society. Today, the most reputable organization that works on issues of disaster is the Kenya Red Cross Society. We, as a country, recognize it as a statutory body. We have a statute passed by this august House which recognized them. Therefore, we have an obligation to ensure that we work with this organization and others.

During disaster time, many people masquerades as experts who are ready to do this and that. Yes, indeed, we need to get all these actors in case of disaster, but we need to co-ordinate them.

The Kenya Red Cross Society has done a great job. I have personally worked with them in various initiatives. Mr. Abbas Gullet and Governor Mahmud must be recognized because they have contributed a lot in helping poor people and children who become disabled during disaster. At times, they have sent those children to Spain and other countries for surgery. We want to put our money where our mouth is.

Mr. Temporary Speaker, Sir, I am sure this body will ensure that we get value for our money. Sometimes the costing of disaster is left in limbo. When there is drought in this country, we always open up our ports for importation. However, this process is abused. The Government uses colossal amounts of money because nobody is watching and during that time we suspend procurement procedures. With this Act, we will be able to put in place proper mechanism to cushion the abuse of public office and funds by individuals who have been given the role to superintend over disasters. We cannot have a situation where we have calamities and let a few people benefit from them.

Mr. Temporary Speaker, Sir, Nairobi is very popular because it is the home to refugees from very unstable regions. We have people from Somalia, the Great Lakes Region and Burundi. It is a pity that some people want to benefit from other peoples' calamities. We have best practices that make us more resilient to disasters and demonstrate to the world that we can decisively deal with our own matters.

The other critical issue here is that of people living with disabilities. That is what I represent here. Article 11 of the Convention of the Rights of Persons with Disabilities stipulates that in situations of risk and humanitarian emergencies, the first people to be evacuated would be persons with disabilities. This is a global policy action that is

anchored within the ambit of international jurisprudence. It is not that we cannot take action, but when we have fires everybody runs for themselves. For example, when President Mnangagwa faced the attack in Zimbabwe, even the security people forgot that they had a president to take care of. That is the human instinct.

This National Disaster Authority should put in place mechanisms to ensure that we adhere to Articles (2), (5) and (6) of the Constitution. These articles are about our international obligations within the Community of Nations that persons with disabilities be the first to be evacuated and be settled in proper places when there are disasters.

We all know when there are disasters; people with disabilities are most affected. Sometimes we do not see it from that prism. Why? This is because we are either preventing somebody from dying or preventing somebody from getting impairment. When we are talking about programmes that respond to disaster risk reduction, we must ensure that those makeshift structures are accessible and friendly to persons with disabilities. Therefore, we must ensure that we involve persons with disabilities in the process of coming up with interventions that speak to the specific needs of individuals who may be affected.

We do not have to ask ourselves: What can we do when somebody becomes disabled? As I said, a disaster will always produce more people with disabilities. This is not a very positive thing, but we will continue championing their rights. Going forward, because of the encumbrances and difficulties that occur within a non-inclusive society, it would be important to ensure that we reduce these eventualities.

Mr. Temporary Speaker, Sir, this is a very good Bill. It is a Bill concerning counties. Of course, it is true to say that it is a money Bill; and I hope that it will not be caught up in the shenanigans of the contestation between the Senate and the National Assembly. We must have a consensus where Members of either House legislate on matters concerning the Nation. Considering all the disasters we have had in Solai, Gikomba, including those that are going to happen in future, if we delay, we are going to be doing a disservice to Kenyans. As it is very well said, justice delayed is justice denied. Many people are going to profit from the enactment of this legislation.

I, therefore, call upon Senators to support this Bill. I am also calling on the clerks here and in the National Assembly who guide us on administrative procedures not to find contestations about this Bill for the sake of proving the point of which House is superior or inferior. We have to rise above those contestations so that we can deliver to Kenyans. Sometimes when we are here, we have the singular mandate of speaking, because we represent the voices of those who are unheard. We represent the families of individuals who are hurting as a result of losing their beloved through these disasters.

We represent individuals who have lost their livelihoods and who have been reduced to beggars because of these disasters. If you look at the Solai Dam scenario, that is a human catastrophe of the highest order. Individuals were sleeping and had nothing to do with whatever was happening, then all of a sudden, they see their family being destroyed just like that. It could be us tomorrow. As we say in Kiswahili '*Ajali haina kinga*'. Therefore, we have the responsibility of moving this country forward.

Mr. Temporary Speaker, Sir, we are very respected in this region; Kenya is seen as a beacon of hope. Nonetheless, we are slowly but surely acquiring a very interesting

theme; that we have brains but we do not engage them in ensuring that we have systems that work. When you look at societies that have developed the world over, it is not because they have a dearth of individuals who are capable or knowledgeable. Sometimes it is not even because they do not have the subject matter at hand.

However, it is the delays, sabotage, unwillingness and non-caring attitude of establishing systems that are impersonal in nature. So that, then, we are not accounting to individuals; but it is the systems that make individuals accountable. I want to believe that this Bill gives us an opportunity to ensure that we institutionalize such a regime that is going to protect you, whether you are in power, privileged or not.

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

*(Applause)*

**Sen. (Dr.) Langat:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. You always give me the last opportunity, but today I am lucky.

Mr. Temporary Speaker, Sir, I rise to support this Bill, which is very timely. Disasters in our country are, more often than not, caused by very simple and manageable incidents. There was a time I was involved in a task force that was going through schools, when there were several fire outbreaks. We realized that some of the causes were as simple as poor electrification, poor or irregular inspections, compromised standards and many such simple things.

You would find that a qualified and certified engineer would be awarded a contract to electrify a particular institution, only for him to send the juniors to do the job for him to sign the certificate.

Mr. Temporary Speaker, Sir, when it comes to the ill-fated Fly-SAX plane that crashed in the Aberdares, we reacted after 43 hours. People were psychologically tortured and nobody knew what was happening. In the Solai Dam tragedy, which was mentioned by Sen. Mutula Kilonzo Jnr., the report from the multiagency team set up by the Ministry of Interior and Coordination of national Government showed that the Solai dam had cracked a long time before the tragedy. What are we lacking?

Mr. Temporary Speaker, Sir, in March, 2016, the United Kingdom (UK) Department for International Development (DFID) commissioned a development initiative to conduct a political and economic study on Kenya's preparedness to disaster, and the report is amazing. One of the findings was that there are no existing legal frameworks in place guiding the country's disaster preparedness. In line with this, I tend to think that this is the right time for this House to come up with the legal framework that will guide disaster management and preparedness in this country.

The report also said that the country lacks a culture of preparedness; meaning there is little awareness and education to the masses on disaster management and control. The report also held that the resource allocation for disaster preparedness in Kenya appears to be increasing every year, but there is little value to show for it, as Sen. Mwaura has stated. It also shows that there is a lot of data and reports on disasters in our country. However, the irony is that there is little use of that data in decision making.

Mr. Temporary Speaker, Sir, I want to add something on the functions of this very wonderful authority that I have seen being proposed in this Bill. It will be very important if this authority is organized in the following functional divisions, which will involve the formation of departments of disaster management later in the process. One, it should clearly show the following divisions; policy and planning; mitigation, operations and communication; administration and finally, prevention and capacity building. It will be very important if this is included within Clause 5, on the functions of the authority.

First, it is important for every department to have a division of policy formulation and planning. This will help the authority to come up with policies that will guide any functions of this particular authority. From those broad categories or divisions, it will also include a function on coordination and monitoring of the implementation of the national policy on the same. It will enable the authority to have a function on examining vulnerabilities of different parts of the country and make recommendations and mitigation strategies based on different parts of our country.

Mr. Temporary Speaker, Sir, another division will be in charge of evaluation of preparedness in all government and non-governmental institutions on a continuous basis. This is so as to respond to disasters and enhance preparedness throughout with a view to enhancing sustainability of the functions of the authority. The same authority will include a division that will examine any construction in the area and if, in their opinion, the standards have been compromised, they will come up with a directive to ensure compliance to such standards.

Second last, Mr. Temporary Speaker, Sir, it is also my opinion that---

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

**The Temporary Speaker** (Sen. Lelegwe): Order, Sen. (Dr.) Langat. There is a point of order from Sen. (Dr.) Zani.

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, I rise under our standing orders to check whether the Senator is in order to continually read from his notes, whereas he knows very clearly that debate is based on the debate, and not reading of notes in the Senate Chambers.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Lelegwe): Thank you Sen. (Dr.) Zani. Sen (Dr.) Langat, do you need to debate and refer to your notes?

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, these are not notes, as such, but guidelines that I am using to assist me to make broad opinions.

Mr. Temporary Speaker, Sir, it is also my opinion that it will include an area that will recommend provisions of funding for the purposes of mitigation. This is because I have not seen clearly an area that will manage the provision of funding. This is, therefore, a very important Bill---

**The Temporary Speaker** (Sen. Lelegwe): Standing Order No. 84 (1) states that-

“No Senator shall read a speech but a Senator may read short extracts from the written and printed papers in support of the argument and may refresh memory by reference to notes”.

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, that is exactly what I was doing.

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

**The Temporary Speaker** (Sen. Lelegwe): What is your point of order Sen.(Dr.)Zani?

**Sen.(Dr.)Zani:** Thank you, Mr. Temporary Speaker, Sir. I have indicated something that is clearly out of order. We are all here in the room and we can tell when there is reference and when there is a clear long reading of the text. It is quite clear that it was a reading and not a reference. Let us not say we were not reading when we were. Let us not say that we were extracting notes when we were actually reading big chunks of those notes. This is something we need to note quite tacitly for this Twelfth Parliament.

**The Temporary Speaker** (Sen. Lelegwe): Thank you, Sen.(Dr.)Zani. Sen. (Dr.) Langat, you are not allowed to read a speech as indicated in our Standing Orders. However, you may refresh your points by referring to your notes.

**Sen. (Dr.) Langat:** Thank you, Mr. Temporary Speaker, Sir. I still believe that my guideline was not a speech. There is a great difference in reading a speech, which is what I used to teach in high school. These are just simple guidelines.

As I have mentioned, according to the particulars of the report from the United Kingdom, this Bill is important because it assesses Kenya's preparedness on disaster management. It is clear that we lack a legal framework. This is the foundation that will assist this country to get a legal framework that will guide all of us to manage finances for disaster, research, investigation and mitigation processes in our country. On top of that, I support what Sen. Mwaura has said. Many of our institutions are not friendly to people with disabilities. They struggle when it comes to disasters.

While those with no disability have their own disaster management challenges, it is worse and more vulnerable to people with disabilities. This can be seen in most of the schools because up to date, they still lack facilities to support people with disability in case of any disaster.

I support this Bill and congratulate the two Senators who co-sponsored it.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to add my voice to this important debate.

I commend the two Senators; Sen. Sakaja and Sen. Mutula Kilonzo Jnr., for coming up with this Bill for a common goal. It is a good show for all of us and a sign that the handshake is working. They have come up with an important Bill.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Lelegwe): What is your point of order, Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, it is a point of information.

**The Temporary Speaker** (Sen. Lelegwe): Continue with the point of information.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, we drafted this Bill before the handshake. As you can see, the date of publication is 12<sup>th</sup> March, 2018. The handshake followed our handshake with Sen. Sakaja.

*(Laughter)*

By the time this Bill was published on 12<sup>th</sup> March, 2018, the event of 9<sup>th</sup> March, 2018 had already followed. We had done all the work before the handshake. So, this is not a product of the handshake.

**The Temporary Speaker** (Sen. Lelegwe): Proceed, Senator.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir. He has clarified that they had already done the handshake even before it became visible to all Kenyans. I thank him for that effort.

The issue of disaster management is important and core for any Government. No nation can escape disaster; every nation is vulnerable. Disaster does not plan to come, it just comes. So, disaster preparedness is important for any Government.

Mr. Temporary Speaker, Sir, disaster management has a strong constitutional backing. We fought for the 2010 Constitution of Kenya so that it can work for us. The Constitution has handsome and wonderful thoughts about the citizens of this country.

Article 40 (1) of the Constitution clearly states that-

“Subject to Article 65, every person has the right, either individually or in association with others to acquire an own property-

(a) of any description; and,

(b) in any part of Kenya.”

It is the mandate of the Government to protect the property of its citizens; it is a constitutional requirement. Disaster in itself defeats the Constitution that we have fought for and cherish. So, there is need to manage disaster so that the Constitution can work for us in a wonderful way.

Mr. Temporary Speaker, Sir, the impact of disaster can sometimes be terrible. Sometimes people lose their properties. A real example is what happened in Gikomba Market where people lost the merchandise that they had sought for, for many years. It is constitutional to safeguard people’s property. Disaster comes with immeasurable negative impact. For example, the Gikomba and Solai instances where people lost lives. This undermines what the Constitution stipulates.

Article 26 (1) of the Constitution clearly states that-

“Every person has a right to life”.

When people lose their lives, it undermines what the Constitution stipulates. The Constitution desires that as we lead our people, we put in place mechanisms that will ensure that their lives are not jeopardized.

Mr. Temporary Speaker, Sir, disaster does not announce itself. However, its impact has a negative effect on the security of a people. For example, in the 1998 bomb blast situation where parents died, some children became vulnerable and insecure orphans.

Article 43 (1) (e) of our Constitution states clearly that everyone has a right to social security. Therefore, even as we talk of disaster management, we have to know clearly that we are in line with the Constitution and doing what it demands.

Mr. Temporary Speaker, Sir, sometimes disasters are natural, for instance, an earthquake. No one knows when there will be an earthquake. All of a sudden, when an earthquake occurs, people fracture their legs or become disabled or lose their lives. There are also man-made disasters, for example, in the case of the Solai Dam incident, where

people were just negligent and did not do their jobs right. Even though disasters come in different forms, they have painful repercussions on the victims.

When disaster knocks the door, the Government needs to know it will help people to go back to normalcy. I will give an example of someone who lost a leg through a disaster. Since he did not go through a therapeutic process, he was in denial and went into depression. He could not believe that he had a disability and, eventually, he died. Therefore, there is need for us to come up with a way in which we can save lives during disasters.

Disaster disrupts normal lives, for instance, in the case of Gikomba Market and many other places where we have had fires. Life cannot be the same again. If they had gone three steps ahead in terms of business, when disaster happens they lose their stock and go back many miles. Therefore, there is need for this Bill to go through and see the light of day. If this Bill sees the light of day, we will reduce the risk of disasters happening. In a situation where there was carelessness, people can learn from it and take measures to ensure that it does not happen again. As a country, we can possibly mitigate disasters by analyzing issues like the risks and how to avoid it. Mitigation of disasters will have a positive impact since it will reduce the number of people who die.

Mr. Temporary Speaker, Sir, when it comes to disaster preparedness, there is a need to also know how we can rescue people involved in a disaster. For example, when a building collapses, there should be a team on the ground, who would know how to rescue people from the debris, salvage property and prevent disability from occurring. In such situations, people could become disabled and lose their lives. When we are talking of disaster preparedness, there is need to relieve the people who go through disaster. Sometimes people undergo psychological trauma that accompanies disaster. I have given the example where someone loses a leg. They may be in denial and hence, get frustrated. Eventually, such a person may get high blood pressure and die. We want to avoid that.

There is also need for rehabilitation. In a situation where disaster affects people negatively and they lose their loved ones, there is need to ensure that the families that are affected move on with their lives. It is not easy to pick up pieces. For example, if you have invested in a property for almost twenty years and, all of a sudden, it crumbles as a result of an earthquake, it can really break your heart. There is need to have a rehabilitation centre to manage such situations. We should also manage situations where people become disabled as a result of a disaster. For example, somebody may not believe that they have lost one eye. Such people need to be rehabilitated, so that they can move on with their lives.

We need to come up with a fund that will help during disasters. Even when the fund is set up, there is need to manage it objectively, so that it serves its purpose and intention. It is important to ensure that we manage and reduce the occurrence of disasters. When people learn from a disaster, it reduces the chances of reoccurrence of that disaster. More importantly, disaster needs to be managed properly so that life can go back to normalcy. The victims of disasters may be affected for their entire lives.

I remember vividly the bomb blast at the American Embassy, where a number of people were affected. Some children lost their parents and their lives did not go on normally. However, I am happy that the families of those who were working at the

American Embassy were compensated. My cousin, Elizabeth, was among those who were affected. Even though her husband died, she was compensated and her children were educated through university and are living their lives normally. There is a need to help organizations return to normalcy in situations where disaster has disorganized them. This is because some organizations do not recover up after a disaster.

If we manage disasters it becomes possible to minimize the loss of lives and property. I support this Bill and desire that it sees light at the end of the tunnel to become law. This will ensure that we serve our people and go by what the Constitution demands.

Mr. Temporary Speaker, Sir, thank you very much for giving me this opportunity to support this Bill.

**Sen. Kasanga:** Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I rise to support this Bill. I serve in the Special Committee that is investigating the Solai Dam disaster, as Sen. Mutula Kilonzo Jnr. has mentioned. Indeed, what we have learnt from the investigations is a clear sign of how much this country needs this Bill. I commend Sen. Mutula Kilonzo Jnr. and Sen. Sakaja for coming up with this Bill. From a quick reading of it, you can see how much it has been researched and deeply thought through. I want to commend them for it.

Frankly speaking, even after sitting through the Solai Dam tragedy investigations, I can see each aspect of disaster preparedness, management, risk, mapping and everything to do with coordination of the various authorities, bodies and everyone who takes part in disaster management have been incorporated in this Bill. I truly must commend these two Senators for the amount of work that have put into it.

There are certain areas maybe I can highlight because it really touched me when we were investigating the Solai Dam tragedy. For instance, early warning systems are clearly lacking in this country. How many lives would have been saved if they were in place? I can see that has been put in there for the National Disaster Risk Management Authority (NDRMA).

They have also put in a factor of lessons learnt and a documentation to monitor, evaluate and document them. For example, every year we run to Gikomba Market to put off fire. Look at the flooding and the buildings that collapse every year. A documentation of the lessons learnt is a very fine addition for this authority that has been proposed in this Bill.

Clause 5(k) says-

“The Authority shall-

co-ordinate preparation and maintenance of the national, county and sub-county disaster risk atlases including databanks and information on potential hazards and vulnerabilities.”

It is another extremely fine touch which is highly needed in this country. I know of various bodies and organisations that have been trying to manage disasters. We can see someone trying to organise ambulances. This is because we still do not have a working 999 or 911. This Bill is will sort out that, not just at the national level, but also at the county level.

Everyone in this country has been a victim of disaster in one way or another, directly or indirectly. Here in the city we might be a little better off because services

maybe nearby. However, in the counties where services are a little far, we can see the need for this Committee that will be formed at the county level, which is also having very significant tasks. Again, I must commend the Senators for having thought it through to devolve this Authority down to the counties and further proposed the need for the County Disaster Risk Management Committee (CDRMC). When one sees the composition they have proposed for the CDRMC, the County Commissioner and Police Commandant are involved. This is a touch of the national Government and a very good thought.

Maybe further on, I have to appreciate that they have incorporated the need to promote research. I remember when Makueni County was hit by the disaster that hit the whole country because of the extreme rains. The governor called the leaders to think through how we could quickly help in the disaster. The need for research became very clear because we cannot continue doing things the way we do. In Makueni County, for instance, we had all the pit latrines collapsing. As a way forward, we had to think on what else we should do. The need for research is important at all levels, especially for disaster management.

I also must appreciate the civic education that has been proposed here, both at the national and county level, more so at the county level where it now devolved down to where the people are. This is because when people are hit by disasters, they do not know what to do since there is no education that gets to people. Even on basic first aid, most of us are not even aware how to quickly help each other in the event of a disaster. This amongst all the other wonderful things is really commendable. The information gathering even at county level is also commendable as has been proposed in this Bill.

One last thing about the County Disaster Risk Management Committee that I appreciate as proposed here, is the fact that it submits an annual report to the county assembly on its activities, results of monitoring, disasters that have occurred, their classification, effects, problems, progress, regular updating of disaster risk management plans and strategies and evaluation of the implementation of disaster and risk management plans and strategies. This makes the Committee accountable for its activities, whether there are disasters or not, and that they are constantly prepared.

Lastly, I request the two Senators to consider expanding the bodies to nominate board members. We have professionals in the built environment that I think it would be an advantage both at national and county level if they could be included in these boards. When most of these disasters happen, they affect the built environment. It would, therefore, be useful to have professionals sitting there.

Mr. Temporary Speaker, Sir, allow me to congratulate the two Senators and appreciate them. Their children will be very proud of them for this Bill because they have well thought about it.

I support it fully, pray and hope that it will be passed in both Houses in the shortest time.

*(Applause)*

**The Temporary Speaker** (Sen. Lelegwe): Let us have Sen. Nyamunga.

**Sen. Nyamunga:** Thank you, Mr. Temporary Speaker, Sir, for giving this opportunity to support this Bill that has been brought to this House at a very critical time. I take this opportunity to first of all, commend the two Senators for working together and coming up with such an important Bill.

Much as one of the Senators who is in charge of this Bill was not in agreement that it is part of the “handshake”, I believe there is some handshake.

The experience we have in Kenya right now of harmony, working together, moving forward together and comparing notes is, to me, a very good sign of the presence of the “handshake” that has brought this country together. We want to continue building on it from time to time, to make sure that it does not slip backwards.

Mr. Temporary Speaker, Sir, I commend the two Senators for bringing up this Bill. It is very important that we have it at this time. It is not that we do not have enough laws in this country or that we are not in a position to manage our affairs. In my view, I think that we, as Kenyans, are not very responsible. We are prone to being reactive instead of thinking through and putting structures in place that can support the running of this nation. The way one runs a country should be so systematic in a manner that everything falls in place. We can put this Bill into place. To me, it is a very good one.

On Clause 5 on the functions of the National Disaster Risk Management Authority, once put in place, we will have done a lot to the people of this nation.

Disaster risk management is not only about Kenya as a nation or our counties, but it goes down to the level of our families. I wonder what happens or what our children can do if they are faced with a problem at home. Think of a water tap, which could be left running; think of the gas, which could have been left on by mistake; think of a candle, which has brought many families down, more so in the informal sectors, like what we saw in Gikomba and what we always see in slum areas. The moment one makes a simple mistake of just leaving a candle on, it can bring a big disaster to a whole estate or a large place.

Therefore, in my view, when it comes to disaster management, we must start it at the lowest level. It has to be something that is instilled in our people at a very early stage. It should be like first aid, which all people know. This should even include my house help and young child at home and any old woman. They should know that you cannot live with a charcoal or kerosene *jiko* in the house and lock yourself in. They should know that you cannot leave a candle or the local type of lamps on. These are still being used in some parts of this country. It should start at that low level coming upwards.

Mr. Temporary Speaker, Sir, I do not think that we do not have enough laws in Kenya; we have them. We also have the Department of Special Programmes under the Ministry of Devolution and ASAL. During the floods, food was there, however, it took a lot of time to reach the people on the ground. That problem has already been alluded to by most of the Senators who have spoken to this Bill. We must put in place structures which are operational and functional. We must know that when there is a disaster, someone needs to call so and so or a particular number, and it should be reflected in the whole country. Consequently, help should come within the shortest time possible.

Mr. Temporary Speaker, Sir, I know that our infrastructure is not very good. For example, during the Gikomba tragedy, the major problem experienced was the

infrastructure to reach Gikomba on time to help those people. Kisumu County, where I come from, is always hit by floods and other calamities, including Malaria, which was mentioned here before. We know that when the rain comes, Malaria and many other diseases are going to follow, yet that is the time somebody wants to order for Malaria drugs.

Mr. Temporary Speaker, Sir, I had the opportunity to talk to my county government when there were many mosquitoes after the rains. I asked them to help us in spraying, because they normally spray around to reduce the number of mosquitoes. Once this is done, it automatically reduces the number of people suffering from Malaria. However, they did not even have the medicine or the sprays. Alternatively, I was asked whether I could go the national Government, find out if I can get the medicine and take it to Kisumu. In the meantime, people were dying. Mosquito nets should be bought and put in place.

Mr. Temporary Speaker, Sir, there are several disasters that can befall any nation. We are already aware of the bomb blast of 1998, the areophane crashes, flooding and all sorts of fires. However, we have never put in place structures and laws that automatically take care of disasters whenever they strike. This Bill, therefore, comes at a very important time. If you look at the functions of the Authority, it talks about the coordination, prevention and the mitigation of disaster. That is very important. Let me just read these things properly.

*(Sen. Nyamunga put on her glasses)*

Yes, it talks of the authority putting in place a proper approach of the disaster prevention, preparedness, mitigation, response and recovery. Recovery is important and it has already been mentioned. You can easily lose your leg in an accident and if nobody walks with you to make you understand that such things happen, it can be traumatizing. We need to have a lot of counselling, even where fire disasters occur. We need to have a structure, from the beginning to the end, such that once a disaster strikes, we know that this is the course of action to take. We must also put resources in place, because you can put a good structure, but without resources you cannot move forward.

Mr. Temporary Speaker, Sir, Kenyans are already known for corruption. The law, structure and money will be put in place, but the way the money and resources will be utilized will be amazing. Disasters do not happen every day, but once in a while. It can come once in a year or several times a year. The most important thing is that there should be a continuous increase in the resources that we get. Resources are not only about money; we should have experts who are trained in terms of rescue operations. However, what happens after the rescue in the hospitals; are they ready to receive the victims in all parts of the country? This is because disasters will not only strike in Nairobi. It can strike in a rural county somewhere in Mandera or in Kisumu. Therefore, each county should be prepared and the finances should be there. The movement to save lives should be very swift. After saving lives, we should be able to restore those people to the normalcy of their lives.

Mr. Temporary Speaker, Sir, I beg to support this Bill because it is important. We should have done it yesterday. I commend the two Senators who thought about it. As much as we know about these things and we talk about them, nobody has thought of putting it together, giving it a structure and an authority which is responsible so that whenever such a disaster occurs, we know how to handle it.

Mr. Temporary Speaker, Sir, it is important to carry out civic education on risk management, because most of our people are still very ignorant about many things, including those things you think are a given. They may be a given to you, but when you look at people in the rural, they struggle with very small things. We must, therefore, educate our people at every level and aspect of life so that they know. Sometimes there is help next-door, but the people are not even aware. Civic education is important for our people to know, because we represent women, children, people with disabilities and the whole nation. We support life and we represent people's lives and, at the same time, their properties. If you are left there and the property is gone, it is a hustle to start life over again. Similarly, if you lose your life and the property is there, there is a problem. So, at whatever level, we want to make sure that Kenya is run well.

Mr. Temporary Speaker, Sir, I urge the people who are charged with the responsibility of running this nation that it is not very difficult to run a nation, unless we are not serious with our calling. If you are called to be a leader and you have been given a responsibility to take care of Kenya, please take care of this nation. Kenya is just a small state in Africa and we cannot compare it to the United States of America (USA). I know that you will say that the USA is a first world country and Kenya is a developing one. Yes, but they also started somewhere; they built their structures and they are working up to now. Therefore, even in Kenya, we should start to put up structures in place today so that the people who will come after us will find a better life. That better life can start with one step today.

Mr. Temporary Speaker, Sir, I beg to support the Bill and I hope that it will not encounter a lot of problems in the National Assembly, because it is an important Bill for each and every one of us. It should be passed and implemented properly.

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

**Sen. (Dr.) Ali:** Thank you, Mr. Temporary Speaker, Sir. From the outset, I support the Bill, because it is a nice one. We, in Kenya, write a lot of good things, but there is no implementation. The two Senators have done a wonderful job. However, there is something called the National Drought Management Authority (NDMA), which sometimes talks about disasters but it may never do anything, literally. The Office of the President also has the National Disaster Operations Centre (NDOC); the military and the police also have a disaster management sections, but you never see these people during disasters. The only people you see of late when you run around are the so-called Kenya Red Cross Society (KRCS). In the areas of disasters, they are always the first people of call. The only times I usually see the police is when fuel tankers overturn and people rush for the petroleum products. That is the only time they save the people because most of the time when people are struggling to collect those spoilt resources to go and feed their families, they get into problems.

In Kenya, we usually do a lot of write-ups and nice words, but have poor implementation. I do not know how we will change that. You can get monies and create big offices with a headquarter in Nairobi and get holders for boards here and there, but nothing clearly comes out of it. However, for the Senators, I commend them for the job well done.

Mr. Temporary Speaker, Sir, the other thing that I want this Bill to consider is that in the membership, possibly, include physical planners. For instance, in Gikomba Market here, as Sen. Nyamunga has mentioned, and even in the slum areas, there are no spaces to pass through when there is a fire outbreak because everybody builds wherever they want. So, we need people from the Ministry of Transport, Infrastructure, Housing and Urban Development to get involved in this Bill so that the physical planners take actions on these buildings. This is because buildings and bridges collapse every day due to floods and you need people who are experts in those aspects.

For the Non-Governmental Organisation (NGO) Council, if you want to make them a member, they will bring one of their board members. It is better we indicate in the Bill that they get an active NGO that will help instead of the Board Members of the NGO Council since this is a Government organ and sometimes they can misbehave and might not be very helpful.

On the other members, you have talked of private alliances. In some areas, those NGOs might not be very useful. On the one of the counties, if the national and county committees will resource themselves, there might also be some sort of collision. I do not know how the monies from the National Drought Management Authority (NDMA) will be given back to the counties when the county government itself will now think about doing their own things. The Office of the President and the other NGOs can assist in disasters. Therefore, coordinating and bringing all these things might be a problem in the long run so we have to think about that.

When you talk about the Kenya Red Cross Society which is a semi-NGO and semi-Government institution, it might get something little from the Government, but it gets most of the resources from outside. Will the formation of this authority impact negatively on the KRCS? Will it affect the way they do things? Will they feel that the money they used to get from donors might go to this Authority and interfere with the way they do things?

Sometimes we want to do some good things but we might cause problems in between. So, the drafters should think about that as well so that there is no collision, to enable people work together and complement one another. That is the only way we can help this country in general.

When it comes to floods, for instance, in the northern Kenya, you are told; during the rains there are too much floods and when there is drought, people die because of lack of water. This is not because we do not know what we are doing, but because of lack of planning. Why do you have to do the same things every other year? You are told that people are dying of hunger because there is no food and water in a given place and every time it becomes a disaster. This is something that we, as a country, have not performed our duties to make sure that drought is talked about in advance so that food is put in place.

With an Authority like that, if the collisions I was talking of will come about, who do you go to? Do you go to this Authority when you have drought and floods or to the Office of the President who is supposed to be in charge of everything the way Kenya is? This is because Kenyans expect everything from the Office of the President and this Authority most likely will be under that office again because they will say; “this is an emergency thing, a security risk and so on.” So, sometimes, there will be a lot of complications.

In the case of the Gikomba Market tragedies, it is just greed and we know it. It is something which can be taken care of. Some people want to grab land and they burn the area every year and nothing is done. I saw in the social media that the people of Solai Dam where people were killed wanted to demonstrate because the suspects of that tragedy were being taken to court. This is the way our people behave and how you want to do things.

Generally speaking, the Bill is very good; it has everything in place. I hope that we will not have more disasters in the process of making this Bill into law and everybody else will work for the betterment of this country.

Thank you.

**The Temporary Speaker** (Sen. Lelegwe): Proceed, Sen. (Dr.) Zani.

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. I would like to thank Sen. Sakaja and Sen. Mutula Kilonzo Jnr. for bringing up this Bill. I want to go directly to some of the issues and pick on specific clauses.

It is a very structured Bill because it creates various organs from the national Government to the counties. I wish it could go a bit lower to community initiatives with many women in it who can come up with very dynamic methods of dealing with disasters using the African traditional methods of dealing with hazards. However, it goes to the Authority which is at the county level and it is very good.

Clauses 5 and 15 are interlinked and they clearly give the responsibilities of the Authority which is the key organ in this Bill.

I will go straight to Clause 26 and link it with Clause 30 which is the main part because it deals with the funds. When I first looked at this Bill, I went to Clause 30 before I looked at Clause 26. My question was on where the money is coming from. However, I quickly saw Clause 26 which touches on the money that is going to be appropriated from the National Assembly. But still, in Clause 30 where we have the Disaster Risk Management Fund, it is still very loose. This is because it is where the money is going to be put to be used for the disasters.

I can imagine this issue of funding with the levels of disasters we have had. There have been a range of disasters right up from 1991 to 1993, that is, the drought that affected 1.5 million people in northern Kenya, another disaster in 1994; the Mtongwe-Mombasa ferry accident which killed 270 people, as well as the *El Nino* disaster. We are talking about massive hazards that need a lot of money.

I feel the whole clause does not give an insight into the amount of money to be put in there. This means that if an authority is not keen to put the money where it matters, we are going to end up with a very good Bill but a handicapped group of a nice board that is well constituted, but will not be able to utilize the money.

The Bill provides that the money to be paid into this fund is received by way of or otherwise in connection with aid or assistance received to manage disasters. This will be from whom and at what frequency? It is almost like some sort of charity that we are putting there.

The Bill also says that monies accruing to or received by the fund from any other source shall be paid out to the fund repayments in respect of any expenses incurred in pursuance of the provisions of this Act. So, this will be paid out.

Clause 30 needs to be strengthened by going to the allocation of the funds that is meant to come from the National Assembly. I propose some sort of insight about, maybe, a figure that will be essential for this sort of money and then that can be reviewed by the Authority at a particular level of regularity that can be put into place.

The way the Bill is right now means that an Authority might have the money and concentrate on how to run the board and everything else. They may focus on the functions of the Authority that have been put in both Clause 5 and 15 and be involved in the management of issues, which tends to be the problem. Therein really lies the problem. If you go to most of these organizations and ask them why they have been unable to address a particular disaster, most of the time it is because of funds.

Mr. Temporary Speaker, Sir, in Kenya, one of the organizations that come to mind whenever there is a hazard is the Kenya Red Cross Society, which is an independent organization. When we look at the organizations and specific bodies that you would expect to be at the forefront, some of which have been mentioned in the First Schedule, you find that there is not much response. I think it is because of the issue of capacity. How then can we build these organizations? Sen. Mutula Kilonzo Jnr. and Sen. Sakaja need to put in a little bit of insight into that clause because minus that money going in there, we will have a complication.

We have Clause 14(1) (a), (b), (c), (d), (e), (f), (g) and (h) are listed and then suddenly, we have Clause 14(3). I do not see Clause 14(2) anywhere. Clause 14(3) suddenly pops up and states that the Authority shall ensure that the database is accessible. To whom is it accessible? I know there is a Clause later on that talks about the need to protect the data. However, we need to state specifically, under that clause, that the data is accessible and then link it to another clause that specifies who has the data rights.

Mr. Temporary Speaker, Sir, Clause 18(2) has the principle of gender equity. Here we are talking about the County Disaster Risk Management. We are looking at the committee and the provision is put there for the provision of the principle of gender equity; the two-thirds representation in public offices. However, this clause has not been mentioned when talking about the composition of the Authority itself. It only talks of a man and woman.

Clause 18(1) many also be problematic when it talks about the composition of the committee. Clause 18 (1) (a) reads:-

“The governor of the county, or a representative appointed in writing by the governor who shall be the Chairperson.”

Who is the chairperson? Is it the governor or the representative? What is the modality of getting the representative? The governor can choose his best friend and make him the chairman of a very important committee. Some sort of qualification is given later on, but

some procedure has to be put in place. I have seen procedures in this Bill where the county assembly is playing an oversight role

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

### ADJOURNMENT

**The Temporary Speaker** (Sen. Lelegwe): Hon. Senators, it is now 6.30 p.m.; time to interrupt the business of the Senate. The Senate, therefore, stands adjourned until, Tuesday, 10<sup>th</sup> July, 2018, at 2.30 p.m.

The Senate rose at 6.30 p.m.