

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 19th July, 2018

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

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

PRAYER

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 24TH JULY, 2018

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I beg to give a Statement on behalf of the Senate Majority Leader, on the business of the Senate for the week beginning 24th July, 2018.

Pursuant to Standing Order 46(2)(c), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 24th July, 2018.

The Senate Business Committee (SBC) will meet on Tuesday, 24th July, 2018 to schedule the business of the Senate for the week. Subject to further directions by the SBC, the Senate will on Tuesday, continue with consideration of business that will not be concluded in today's Order Paper and any other business scheduled by the SBC.

On Wednesday, 25th July, and Thursday, 26th July, 2018, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the Senate Business Committee.

Honourable Senators, the following Bills are at Second Reading stage-

(1) The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018);

(2) The County Statistics Bill (Senate Bills No. 9 of 2018);

(3) The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 12 of 2018);

(4) The Kenya Roads Bill (National Assembly Bills No. 47 of 2017);

(5) The Physical Planning Bill (National Assembly Bills No. 34 of 2017); and,

(6) The Irrigation Bill (National Assembly Bills No. 46 of 2017).

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

(1) The Food Security Bill (Senate Bills No. 12 of 2017);

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- (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);
- (5) The Office of the County Attorney Bill (Senate Bills No. 3 of 2018);
- (6) The Public Participation Bill (Senate Bills No. 4 of 2018); and
- (7) The Disaster Risk Management Bill (Senate Bills No. 8 of 2018).

Additionally, there are a number of Motions touching on various issues, key among them the reports of the County Public Accounts and Investments Committee on the accounts of various counties which the SBC will consider and schedule accordingly.

I laud Committees that have already tabled reports on Bills and Petitions referred to them and continue to urge those Committees with pending business to expedite their consideration and table reports within the timelines stipulated in the Standing Orders.

Mr. Speaker, I thank you and hereby lay the statement on the Table of the House.

(Sen. (Eng.) Mahamud laid the document on the Table)

**DISBURSEMENT OF COUNTY GOVERNMENTS' EQUITABLE
SHARE OF REVENUE FOR FY 2017/2018**

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, pursuant to Standing Order 46(2)(d), I rise to make a statement on a matter that has been before the Senate Standing Committee on Finance and Budget regarding disbursement of county governments' equitable share of revenue for the Financial year 2017/2018.

Mr. Speaker, Sir, the Division of Revenue Act, 2017 was debated and passed by the 2nd Senate on 16th June, 2017. Further, the County Allocation of Revenue Act, 2017 was also debated and passed on 16th June, 2017. The Act provided for a total of Kshs345,681,018,499 as follows:-

- (a) County equitable share - Kshs302 billion.
- (b) Conditional allocations from national revenue - Kshs12.205 billion.
- (c) Conditional allocations from development partners and donors - Ksh. 31.476 billion

This is the Allocation of Revenue Bill of 2017/2018 and not 2018/2019 which we were looking at. It was the Bill that was passed in the last financial year.

Mr. Speaker, Sir, the very first business of the third Senate was to debate and approve the County Allocation of Revenue (Amendment) Bill, 2017 which was brought after the General Election. This was done on 9th November, 2017. The amendment was to align the County Allocation of Revenue Act, 2017 to the Division of Revenue Act, 2017.

Thereafter, assent was granted to the amendment, after which, the Senate debated and approved the Cash Disbursement Schedule for the 2017/2018 Financial Year. This Schedule was a matter of debate in this House on Wednesday because there were delays to the counties.

Mr. Speaker, Sir, the National Treasury in Gazette Notice No. 6277 dated 29th June, 2018 indicated that the county equitable share for 2017/2018 Financial Year was

revised to Kshs288 billion from Kshs302 billion. That is a reduction of Kshs14 billion. That publication caused uproar from all the devolution stakeholders, including the Senate and the Council of Governors (CoG). In fact, the purported deduction from Kshs302 billion to Kshs288 billion was in the public domain about a week ago.

Mr. Speaker, Sir, the Standing Committee on Finance and Budget was also surprised by the details publicized, since at no time did Parliament consider the revision of the Division of Revenue Act, 2017 or the County Allocation of Revenue Act, 2017. The Committee noted the matter and expeditiously called for information from the National Treasury on the matter.

Mr. Speaker, Sir, the National Treasury appeared before the Committee on Tuesday, 17th July, 2018 and the matter was interrogated. The National Treasury revealed that, that the Gazette Notice No. 6277, dated 29th June was in anticipation that proposals on amendments to the County Allocation of Revenue Act, 2017 and Division of Revenue Act, 2017 sent to the National Assembly and the Senate would be approved.

You remember that the national Treasury proposed to amend the County Allocation of Revenue Act, 2017 and Division of Revenue Act, 2017 and those proposals were sent to both Houses and neither the National Assembly nor the Senate took up the matter. Therefore, they said that in anticipation to that one when they were disbursing funds during the month of May this year, they revised the budget.

Mr. Speaker, Sir, the national Treasury availed information to the Committee that the actual monies released by 30th June, 2018 was Kshs302 billion as per the Division of Revenue Act, 2017 and County Allocation of Revenue Act, 2017 and not Kshs288 billion.

The Committee has seen both the statements of actual revenue and the net Exchequer issues as at 31st of May 2018 that showed the deficiency of Kshs14 billion. The national Treasury published another document in yesterday's paper titled: "The national Treasury Public Statement on the Status of Disbursement to counties and county governments".

Mr. Speaker, Sir, the last publication of the national Treasury shows that all the monies that are in the County Allocation of Revenue Act, 2017 and the Division of Revenue Act, 2017 were disbursed to the counties. We have confirmed with various counties that the money has been allocated as per the law. We had concerns earlier and took the national Treasury to task to not anticipate anything that has not been passed by Parliament. They are to never repeat that again and the apology was noted. The information that we have for the Senate, is that all the monies that were in the 2017/2018 Budget to the counties were disbursed as of 30th June, 2017.

Mr. Speaker, Sir, I beg to lay the document before the House.

(*Sen. (Eng.) Mahamud laid the document on the Table*)

The Committee is seized of the new publication dated 17/7/2018, correcting the earlier publication that was erroneous and misleading to the public.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me an opportunity to commend the Senator for this particular Statement. This Statement is quite loaded and

it is important for this nation because his Committee interrogated the national Treasury. The fact that the national Treasury was interrogated is something very important. It was able to appear before the Committee and they gave valid information about the amount of money disbursed to the counties. That is very important for this country so that we get to know how much money the national Treasury disbursed for the year 2017/2018. It is also important for them to know that this money was disbursed on 30th June.

It was a commendable act for this interrogation to be done because even the national Treasury gets to know that Parliament is hawk-eyed and watchful to see that money is disbursed to the counties.

Mr. Speaker, Sir, why are we keen about money being disbursed to the counties? It is because we want that money to work for the citizens in all the counties. This is because power has been devolved. We have the national Government and the county governments. The county governments need to serve the people of this country. When money is disbursed to the counties, it is possible for the county governments to ensure that there is development in the counties. We do not want people to leave the counties and come to towns to look for jobs.

There is need for development, health facilities, churches to be built and creation of employment opportunities. At the end of the day, we want to attain the Big Four Agenda in this nation. There is no way we can attain the Big Four Agenda without money being disbursed to the counties. It is a commendable thing for the Committee to have interrogated the national Treasury and for the national Treasury to have availed the valued information about the money that was disbursed to the counties. I want to support and commend the Committee for this powerful investigation that they did.

Thank you, Mr. Speaker, Sir, for giving me the opportunity to comment on this Statement.

The Speaker (Hon. Lusaka): Sen. (Dr.) Milgo, make your Statement.

REGISTRATION OF SCHOOLS IN BOMET COUNTY

Sen. (Dr.) Milgo: Thank you, Mr. Speaker, Sir. I also want to give a Statement on the registration of schools in Bomet County and in Kenya at large.

Pursuant to Standing Order No.46(2)(a), I rise to make a Statement on a county issue regarding registration of schools in Bomet County.

Mr. Speaker, Sir, registration of schools is very important because it is a way of recognition and acknowledgement by the Government of the schools. Schools are able to get grants which help in development for instance, building laboratories, libraries and classrooms. Registered schools also get funding every year which allows the boards of management of the various to employ and pay non-teaching staff. The funds are further used for co-curricular activities, thus aiding in development of talents.

Mr. Speaker, Sir, registered schools are also eligible to get well-trained teachers from the Teachers Service Commission who give the students proper preparation, capacity and ability to compete favorably in the final national examinations.

The Government has worked hard to ensure there is success in schools, retention in schools as well as completion by the students. In doing so, the Government has

established several schools within walking distance so as to aid access by pupils and students and to shorten the distance that they have to walk to get to the schools.

Mr. Speaker, Sir, the efforts by the Government to ensure access, retention and completion is welcome. I, however, wish to bring to the attention of this House that some of the said schools are not registered. These schools include such schools but not limited to Tirgaga. There is also a high school referred to as Magindo Secondary School. A few minutes ago, somebody sent me a message regarding Salait Secondary School which is in Singorwet Ward which is not registered.

These schools have classes up to Form Three, meaning the students will be entering Form Four next year. The reason as to why some of these schools are not registered is because they are purported not to be having the minimum number of pupils that are required for a school to be registered.

Mr. Speaker, Sir, failure to register schools means that the schools will not get Government grants; that is the free capitation of these secondary schools, hence derailing development in the said schools. The schools do not get funding from the National Government and they do not also get teachers that are well trained, meaning such students would normally be taught by any other person that may in this case avail themselves to teach in schools with very little salaries.

This definitely affects the quality of education and the students are unable to compete favourably with their counterparts who are in registered schools.

Further, this year the Government streamlined ways of supplying text books to all registered schools in the country. This means that schools that are not registered will not be in the register of receiving the right number of textbooks at the right time and even the right quality because when schools are not registered, that means they are not recognized and so they are not in the particular list that I have mentioned.

In addition to this, you will realize that such schools will not also enjoy the issue of evaluation by the Directorate of Quality Assurance and Standards. Therefore, this begs the question; what type of education is going on in such schools? One would really wonder why such schools are allowed to start developing or in this case, to admit students in the first case. If they continue in this order, it means at the end of four years the students that get out of these schools will be half-baked students or in this case, they cannot even fit into the various training colleges that are available on the job market.

Mr. Speaker, Sir, there is need, therefore, to re-look into the regulations on registration of schools with a view to amending them to allow schools that have met all the other registration criteria, other than the number of students or pupils, to be registered.

Mr. Speaker, Sir, I, therefore, invite the Committee on Education and the Cabinet Secretary for Education to consider the current school registration regulations *vis-a-vis* the status of schools with a view to coming up with recommendations that will ensure that our children are able to access schools, but at the same time ensure the standards are maintained in the said schools.

Thank you, Mr. Speaker, Sir.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for giving me a chance to speak on this very important Statement raised by my colleague, Sen.(Dr.) Milgo. It has raised very

important issues concerning the status of education in our counties. I want to concur with her that we have such schools in all our counties which are not registered. We have several of them in Kajiado County which are not registered, both primary and secondary. In many other counties, you will still get a situation where there are several schools that are not registered by the Ministry. This will deny these particular students quality education which is a human and basic right. Therefore, the Ministry should make sure that it puts in place measures to ensure that all schools are registered.

Mr. Speaker, Sir, registration of schools is also taking a long time. You get a school that has not been registered six years down the line since inception. This will also place a burden on our parents because they have to employ teachers to teach in those schools since the TSC will not deploy registered teachers to teach in such schools. Therefore, parents will be dipping into their pockets to pay the staff, non-teaching staff and also the teachers who are teaching in these schools.

At the same time, when a school is not registered, it will not get Government capitation or funding. In this particular case, where we have free education, the Government is putting a lot of money in free education funding. Therefore, these particular schools which are not registered will not get free primary money that is sent by the Government to other schools. When they are not getting Government funding, it means they will not do any development or get enough resources for these students who are in these schools.

I want to urge the Ministry of Education to make sure that they put in place a framework to make sure that the process of registering schools is very fast; so that schools do not waste a lot of time in registration. Why does the Ministry allow these schools to undertake normal operations up to Form Three and they are not registered? The Ministry should look at ways of ensuring that any school that is being started, if it does not meet the qualifications of being registered, it should be prevented from operating as a school so that we do not get students who are going to unregistered schools to suffer and get half-baked education as we have heard from my colleague.

Another issue concerning registration of schools is the Quality Assurance Directorate in the Ministry. The Directorate of Quality Assurance and Standards should make sure that the schools they allow to be registered meet the requirements. We get some of these schools that have been registered and yet some do not even have enough land for expansion. You find that a school has been allowed to operate on top of a certain building because it has no field.

The Ministry should ensure that these registered schools meet the requirements for a school and those ones which have already met the requirements should be registered immediately so that these students can access quality education, like the rest of the students in our country.

Thank you, Mr. Speaker, Sir.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I also stand in support of the Statement by Sen. (Dr.) Milgo on the registration of schools in Bomet County. This issue is not unique to Bomet County. It is a matter of serious concern in almost all the counties in this country. The issue of registration of schools is an issue that the Ministry of Education and other agencies concerned with basic and secondary education need to take

a lot more seriously. You realize that you have schools that have children in some classes learning under trees. We have schools which are not regulated by the Ministry.

The matter to pursue here in support of this Statement is that the burden of registration should not be left to the parents and school community. The Ministry of Education should be more proactive through their field officers, to make sure that when schools are beginning, especially in new settlements, they are registered if they meet the basic requirements. If they do not, then they should not be allowed to begin operating.

It is a very sad state of affairs when schools begin operating, apply for registration and take six years before they are registered. When students or pupils in such schools want to register for national examinations, it becomes an issue. They are told they cannot sit for that examination because their schools are not registered and yet they have been operating for so many years.

Mr. Speaker, Sir, proper registration of schools helps in two major ways; one, it is a basis for funding from the Government and the donor community. It becomes very difficult for development partners to put their resources in support of education in institutions that are not registered. Secondly, it is through the registration of schools that the Teacher Service Commission (TSC) posts teachers there.

Mr. Speaker, Sir, as we look into that matter of the registration of schools in Bomet County, let us cast the net far and wide and generally look at the issue of registration of schools in every county in this country.

I support the statement.

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I rise to support the Statement read by Sen. (Dr.) Milgo concerning the registration of schools in Bomet County. I agree with my colleague, Sen. Wambua, that we should not use registration of schools as a political tool. In my county, I have a number of schools that are not registered, which compromises the quality of education in this country. We should not deprive our children of quality education as much as they can access free education in this country. How can our children in slums, rural homes and our counties access quality education if our schools are not registered?

I call upon the Ministry of Education to be proactive on the ground and initiate process of registering schools. It is a pity that some parents have taken up the issue of initiation registration of schools. For example, parents of Songoria Secondary in Emgwen Sub County, Nandi County have initiated the process of registering it. We are asking them to do the preregistration process, liaise with the County Director of Education and other Ministry officials in Nairobi and register schools irrespective of the fact that they do not have the ability and the capacity to do so.

This problem is not only in Bomet County, but across many counties; we are facing challenges of schools not being registered. Secondly, the Ministry of education has guidelines. Therefore, they must tell us what is required to register a school. It is sad to see a plot measuring half an acre or an acre of land with some semi structures, iron sheets or the famous mud walled and we call them schools. Some of which, are yet to be registered.

As we push the Ministry to be proactive in terms of registration of schools, they must also develop proper guidelines to avoid registering schools that do not meet the set

out standards for schools. Some of the registered schools are centres of spreading jiggers among our children because the standards of hygiene are compromised. At the end of the day, they should not allow registration to be done in an haphazard manner that will endanger the health of our children. The quality of education will be affected in the long run.

Mr. Speaker, Sir, we call upon the education Ministry even as we look at this issue with the Education Committee, luckily it is chaired by Sen. (Dr.) Langat who comes from Bomet County, to broaden this issue and consider other counties because the situation is no better. Subsequently, if you go to Mombasa County, where my good friend, Sen. Faki comes from, you will see some schools which do not meet the criteria of registration, but they are registered.

We want our children to access quality education as envisaged in the Constitution. If we do not take care, we will use this issue as a political tool; where somebody will stand up and say 'I am the one who registered this school for political expedience'. Let us ensure that we become proactive and handle this matter seriously.

I support this Statement, but call upon the relevant Committee to broaden it so that we solve this issue once and for all.

Sen. (Dr.) Zani: Mr. Speaker, Sir, I stand to support this Statement on registration of schools. Yesterday in this House, we talked about the importance of registration of persons with disabilities. For any developmental policy to be implemented conclusively, there must be some understanding of the situation as it exists. How many students exist in these schools? What studies are they doing? What is happening within the schools?

Mr. Speaker, Sir, sometimes back when I was a lecturer at the University of Nairobi, I went to supervise teaching practice. I was shocked at some of the schools where my students were practicing teaching. The quality of schools was compromised. I wondered whether such schools were in existence. When you go to the registry, you will not find these schools. It is very important because from the onset, when registration has been done, then people know, expect and understand what the provisions are.

Mr. Speaker, Sir, in the Eleventh Parliament, this Senate came up with a very elaborate Early Childhood Development Education (ECDE) Bill that did not get signed into an Act, but its process is being revived. One of the provisions that had been put in that Bill concerning ECDE facilities, which fall in the mandate of the Senate and what we are expected to do apart from Technical and Vocational Education and Training (TVET) as well---. One of those was to ensure that certain specifications are put in place for specific schools.

The ECD classroom was the best classroom model. It had specifications about the size, the stools that students should sit on and the kind of food to be served and so on. The reason for such registration and standardization processes is a way to monitor and evaluate how this sort of schools contribute finally to the quality of education. If you are expecting quality education, standard education across board, you are looking at a system that through its registration can vet the sort of quality that the said institutions will bring on board.

Mr. Speaker, Sir, I support this statement because it is very key. The Ministry of Education should be put on the spot to answer questions about registration. This matter should be taken up by the Committee on Education, preferably so they can delve deeper into it, understand what the issues are, look at the percentage of actions, schools that have registered vis-à-vis those that have not been registered. They should identify the problems and create a sort of systemic and synchrony within the Ministry of Education and educational institutions to solve them.

I support.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir. I rise to support this well thought-out Statement by Sen. (Dr.) Alice Milgo on what is increasingly shuttling towards becoming a national disaster, if it continues unchecked. As it is, Bomet County – as has been clearly brought out by the drafter of this Statement – is one of the counties that has been most affected by this skewed Government policy on registration of schools. You will find the director of Basic Education seated at Jogoo House, determining on his or her own volition which schools to register and which ones not to register. The minute we departed from the norms of what constitutes a primary or a secondary school, that is the point at which we lost it.

Mr. Speaker, Sir, I am a victim of these skewed policies by the Ministry of Education. There is a school close to my home in Kericho County where, up to now, form 3 students who are supposed to sit for the national examinations next year do not have Government registration as a secondary school. Sometimes when I travel home, the students make it their duty to be among those who queue to visit me each morning as their Member of Parliament (MP), making a singular plea.

I have been to the Ministry of Education countless times to request them to register the schools because they have allowed them to admit students. The least they could do is to allow them to register, because the parents have been paying school fees. I do not think this is difficult because it is only after that registration that the Government can begin to give us the stories of what needs to be done, because they never observed the basic policies that were set out in the first place.

I know for a fact that the Basic Education Act has requirements of what needs to be done before one can register a primary, secondary and even a tertiary institution. However, because those rules were flouted and bent, we now have so many institutions where children continue to go to school and they do not have an assurance. The burden must be placed on the Government, because they did not do their work diligently. After that, we can then have this discussion of what to register. If there are schools that we can amalgamate to form one institution, we will consider it at that point.

Mr. Speaker, Sir, because this is an extremely important matter of national importance, I request that the contributions by distinguished Senators do not just end up filling the dusty shelves of our HANSARD rooms. Every contribution that has been made should be considered, wound-up, bound and sent to the Ministry of Education for consideration. I have listened to the views and it is clear that while Bomet County might be one of the most affected, this particular challenge is seen in almost every county.

Finally, Mr. Speaker, Sir, the time has come for us to consider amending the Basic Education Act to ensure that the Committee that sits in our counties to determine registration of schools is not only constituted of representatives from the Teachers Service Commission (TSC). It should, perhaps, be chaired by the county commissioner. This is because one of the things that we know about county administrators – and you know this quite well, having served there in your previous life – is that when they are given Government regulations and told that this is the way, they will not bend, turn or break the law.

Therefore, I call upon Sen. (Dr.) Milgo to consider reading through the provisions of the Basic Education Act with a view of bringing amendments to this House and she is assured of our support.

Thank you, Mr. Speaker, Sir.

Sen. Were: Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Statement and to thank Sen. (Dr.) Milgo for bringing it to the House. She has reminded us that once we are in this House, we should not forget our professions. We should take advantage of this House to correct the issues and wrongs that we faced when we were running our professions out there.

First, Mr. Speaker, Sir, I am wondering why we allow schools to operate without proper registration, yet we have set out conditions or qualifications for registration. Initially, we used to have school inspectors, who are now called quality assurance officers. They would go around inspecting schools for various things, including curriculum coverage and facilities. Why have they not noticed that some of these schools are operating without registration? Subsequently, they should speed up the registration of these schools.

This is because if schools are not fully registered, they cannot benefit from the National Government-Constituency Development Fund (NG-CDF) kitty. Sadly, these are the schools where a majority of Kenyan children go to. These schools cannot also benefit from the funds coming from various donors to the schools of this country. Why is it difficult to register these public schools so that they can enjoy resources from donors and other sources that are dependent on their full registration?

Mr. Speaker, Sir, when a school is not registered, the TSC does not recognize it. Therefore, it means that the only teachers who shall be available there are the ones employed by Boards of Management (BoM), and supervising those teachers is not guaranteed. Therefore, the quality of education that our children get there is compromised and is not guaranteed. We then expect these children to sit for national exams with children from other schools that receive well trained and experienced TSC teachers. I am not saying that BoM teachers are inexperienced or inadequate; no. They are qualified and trained, but regulating and supervising them is not guaranteed.

Mr. Speaker, Sir, when a school is not registered, they cannot get title deeds. That is how private investors and land grabbers encroach on land belonging to these schools.

Mr. Speaker, Sir, the Ministry of Education is usually in a hurry to deregister schools that do not have basic facilities like toilets and other infrastructure. Why can they not use the same speed they use to deregister schools to ensure that the unregistered ones are registered? If there are any gaps in the law, the Ministry of Education needs to inform

us, through the Committee on Education, so that those gaps can be filled. That is the work of the legislative bodies like the Senate.

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

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

Mr. Temporary Speaker, Sir, I would like to add my voice to those of other Senators who are pushing for this Statement to be forwarded to the relevant Committee. This is so that these issues can be dealt with deeper than we have dealt with them; and solutions sought from the Ministry of Education.

Thank you, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Musuruve: Thank you, Mr. Temporary Speaker, Sir, for giving an opportunity to comment on the pertinent Statement by Sen. (Dr.) Milgo. I commend her for coming up with it.

Mr. Temporary Speaker, Sir, education is a way of development. Article 10(2)(d) of the Constitution states clearly that one of the national values is sustainable development. We look at development both from an individual and from a national perspective. Development is an ongoing process. Even when a child is born, the ability to stand or to go to school is development from a personal perspective. Eventually, this child will become part of the leaders of this country.

Mr. Temporary Speaker, Sir, education is core to development. Education is also a social right. Article 43 (f) of our Constitution states clearly that education is a social right. Therefore, if education is a social right, all children in this country have a right to get education.

There are some people who come up with schools; whether private or public. My take is that these schools should only be registered if they meet the minimum requirements for registration. In addition, the registration should not take forever. I know of situations where people move from one office to another asking for registration and they end up not getting it, yet these are proprietors who have decided to invest in intellectual development of this country. Such proprietors or owners of schools must be encouraged because they are doing something commendable for this country.

I know of a school that had big problems simply because it was not registered in good time. It is known as Kamwanga Special School in Bungoma County. When I visited that school, what I saw was terrible. Since they are not registered with the Teachers Service Commission (TSC), they are not given adequate teachers.

This is a special school that needs to be given enough teachers who will help these children to go through their education. There was only one TSC teacher simply because the school had not been registered. The Headmistress of this school visited the TSC severally in pursuit of registration. As I speak, Kamwanga School for the Deaf does not have infrastructure, enough classrooms and books. Therefore, there is need for registration to be done at the right time.

Even when children are transferred, in some situations, some school proprietors try in vain to get registration. You will find that children would reach Class Seven or

even Class Eight and the school has not been registered. In such situations, the candidates are transferred to another school to sit for their examinations. That is psychologically and mentally torturous to the students. We should not subject our learners to the mental torture of being transferred to another school, when they are candidates who are supposed to prepare adequately to pass their examinations. In such situations, the school will not deliver as expected.

Mr. Temporary Speaker, Sir, it is important for schools to be registered so that they also benefit from affirmative action. Right now, there are schools that get sanitary pads for the girls, books and many other things from the Government. However, if a school is not registered with the TSC, it will not benefit from this, which is wrong.

This also includes capitation. There are some schools, like the one that was mentioned by a Senator, which are in rural Kenya. I want to believe that even the parents themselves are straining to get school fees. If the parents are straining to put food on the table, they will certainly not invest in their children's education. If the Government does not give capitation to these children, they will always be in and out of schools. As a result, they will not deliver or perform well. They will be left behind.

Mr. Temporary Speaker, Sir, one of the sustainable goals that all nations are looking at is inclusive education for all. We cannot achieve this if we are not keen about the quality of our learners and the registration of schools for learners. Therefore, this will lead to stagnation. There is need for a mechanism to be put in place to ensure that when our schools apply for registration, it is fast-tracked, so that we do not stagnate in education in this country.

Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to add my voice.

Sen. (Dr.) Kabaka: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity also to add my voice on this important and meritorious subject, with regard to what is ailing our education sector.

I do not want to repeat what the majority of hon. Senators have alluded to on this subject. However, I need only to emphasize a few issues and observations with regard to the subject matter. It has been stated that education is a constitutional right. Under Article 43, every person has a right to education. We do appreciate that soon after Independence, it was the dream and desire of our forefathers that they fight three prominent problems which bedeviled the society of Kenya. There was poverty, disease and, largely, ignorance. The only way to cater for ignorance was through a sustainable education system which, as it is known, is broadly based on the English system.

Through the history of education in Kenya, we do appreciate that the forerunners in establishing and managing schools were the churches, more so, the Catholic Church. They were not only involved in education, but also in other areas of dominance, like health services. We need to congratulate the Catholic and other churches which did very well in establishing the foundation of education.

Mr. Temporary Speaker, Sir, I also need to pinpoint the requisite provisions, as have been mentioned, with regard to the Education Act. There are requirements or conditionalities for institutions of learning, beginning with nursery schools. I do appreciate that nursery schools have been devolved, pursuant to the Fourth Schedule,

with regards to the functions of the county government. However, the process of registration is marred with confusion.

When I read Article 56 of the Constitution, there are a lot of violations of the Act by the Ministry of Education. I understand where Sen. (Dr.) Milgo is coming from. Bomet County is among the regions which face minorities and marginalized realms. Under Article 56 of the Constitution, the State is obligated to put in place affirmative action programmes designed to ensure that minorities and marginalized groups are provided with special opportunities in education and in the economic field. The problem here is numbers. What is in a number? There is a certain threshold which is given by the Education Act. As Chinua Achebe says, that is where the rain begun to beat the Ministry of Education.

We do appreciate that certain areas do not have equal numbers in terms of population strata. This is why there should be exceptions to the rule; it should not be mandatory that for a school to be registered, for instance, a classroom should have 40 pupils in number. What about areas like north eastern Kenya where people are pastoralists and keep moving? We may not achieve that number.

Therefore, if the Ministry is going to follow the law to the letter, they will be discriminating against some Kenyans pursuant to Article 56 of the Constitution. That is why I am saying the Government needs to take cognizance of that fact. Article 53 of the Constitution is also very clear that every child has a right to free and compulsory basic education. If indeed the antithesis is happening; that the Ministry of Education is upholding its requirements strictly, then it means the rights of the child which is of paramount importance will be violated. What is the way forward?

Mr. Temporary Speaker, Sir, the way forward is to harmonize all the requisite and relevant educational statutes beginning from institutions like nursery, primary and secondary schools and even tertiary institutions. We have had cases where medical colleges in this county, for instance, have been given some temporary charters only for the Government to revoke that. There was a case in point in a place known as Laikipia where in a certain institution, the students were forced not to sit for the exams simply because that institution was said not to have complied with certain requirements.

Holistically, there is problem not only with the registration of primary and secondary schools, but also with our tertiary institutions, colleges and universities. We know certain universities in this country have been held not to have complied with the commission of higher education. There was non-compliance of requirements in terms of capacity and land. I do appreciate that for a university to be established, it is a requirement that they should have 50 hectares and above. You may not get that kind of land especially now that land is diminishing in the Republic.

Mr. Temporary Speaker, Sir, there is no better time than this for Sen. (Dr.) Milgo to bring to the fore this important subject to be dissected logically and prudently by people of high wisdom and caliber. We have lecturers here – people who are very passionate in education. Like Sen. Cheruiyot said, it should not be water under the bridge. The relevant education committee should come up with the requisite amendment to the relevant law. I am sure we are going to debate, articulate where necessary, amend, verify, modify or even transmogrify the same so that we may have a solution to the problem.

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

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

Sen. Shiyonga: Thank you so much, Mr. Temporary Speaker, Sir, for giving me this opportunity to contribute to the statement on the registration of schools in Bomet County. The registration of schools should not only be tailored to Bomet County, but rather across the country. This is because it is a need that is time-bound.

Mr. Temporary Speaker, Sir, the education sector mission is to promote inclusive and equitable quality education. It cannot be achieved without enabling people to know the number of schools that we have in a particular county in this nation. It is, therefore, important for us to team up and support this statement and come up with qualified recommendations that will enable schools that are mushrooming in the country to spread across the counties.

Schools that are not registered cannot benefit from Government funding. It is, therefore, important for us to curb mismanagement and exploitation of parents who are taking children to these particular schools.

Mr. Temporary Speaker, Sir, if you look at registration of schools – if it is going to happen in an orderly way – then we should have a budget that is sustainable to enable our children acquire quality education. At this time, we need to register schools that are of high quality to avoid collision with schools that are not registered. Those are schools that cannot enable our children achieve their goal by passing examinations.

I support the Senator who has come up with this statement; that schools should be registered in a standardized way in order to achieve high education standards.

Thank you. I support.

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

Sen. Pareno: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. I rise to strongly support this statement by Sen. (Dr.) Milgo. It is so timely. We can go a long way if we make strong recommendations on how to tackle this issue of non-registration or registration of schools.

I dare say that it is a fact that if a school is not registered, then it is not a school. I say this because for a school to qualify to be a school and be registered, then there are certain conditions and qualifications that such a school should meet. It means that it is either that you have not met the qualifications or the conditions set for you to operate as a school or there is somebody sleeping on the job in the registration department of the Ministry of Education.

We need to know who to blame. Are we saying that schools – not just in Bomet County but the whole country – are not registered because they have not met the qualifications? Or are we saying that these schools have met the qualifications, but it is the necessary registration department that is delaying? This is one thing that we need to go for so that then, if these schools are not registered because they have not met certain conditions, they should be closed, and we have properly registered schools. They could also be given a grace period when they should meet the qualifications and be registered.

Mr. Temporary Speaker, Sir, if the blame lies with the Ministry or directorate that does this registration and these delays are being occasioned by these officials, then that is where the blame should lie. We should point it out. We have had of cases of children

whose lives have been ruined by lack of registration when they are about to sit for their exams. We have had a case where children in the past have gone to do an exam and they find that they cannot sit an exam because in that school, they have not even been registered. The reason being that the school was not registered. This is disastrous for our children. I think that this registration issue should be taken seriously.

Registration of a school comes with a lot of advantages. There was a time when we tried to claim land that was meant for a school and we realized that the first thing that one must do is to show that they are a registered school in order to claim and own the land that the school sits on. There is no way that one can say that they own land when they are not a registered entity. There are other benefits that come with registration and schools that have not registered miss out a lot. Our children even miss out on infrastructure that they are entitled to.

This is because for one to get money for infrastructure, one of the qualifications is that they must have certain acreage of land to qualify to build a school. This means that if you do not have that acreage and are squeezing in a small area, then you also do not have the necessary infrastructure that is required for the school. If we register schools, we will be able to check on the quality of the infrastructure and education and at the end of the day, it will have an impact on how our children are learning.

I support this because registration of schools will also stop the rampant land grabbing that is in this country. Grabbing goes on when the grabbers know that a school is not properly registered, thus, they cannot prove that they own that land. This will go a long way to improve on the quality of education and it will also improve the infrastructure that a school can set up.

If our schools are not registered, then how do we look at the ratio of the schools against the population that is available? How do we provide for the necessary school ratio that we need in a county or a constituency so as to give accessibility to our children? This means that we start from up instead of starting from down. If you know that you have schools that are enough for a certain area, you will then go for the quality but we will not control the quality if we do not control the ratio. We will not even have proper accessibility to these schools if we do not know the kind of schools that we have and how many they are.

I do support.

Sen. (Prof.) Ongeri: Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to comment on the Statement by Sen. (Dr.) Milgo which is on non-registration of some schools in Bomet County, which is something that features in other counties as well.

Article 53(1)(b) of the Constitution entitles a child to free and compulsory basic education. The inference is that the State will be in a position to give the capitation to those schools that have been registered and it will also give both the Teachers Service Commission (TSC) capitation and teachers to those schools as well as the infrastructure funds that are available. The State is to also give those schools the conditional grants that at times target the marginalized groups in order for them to go to school.

In the absence of these basic rights, the result is that there will be chaos. This is because the community will not be in a position to have their children attain the highest

standards of care and training that is required of the State. This is informed by the fact that free primary education is not a walk in the park. It is a conscious decision by the State that it must of necessity be in a position to support these children to grow up like other children in the same circumstances within the same county and within the Republic of Kenya. That is the premise upon which this was predicated.

At the time when I was in the Ministry of Education, we had about 24,000 primary schools but we now have about 30,000 primary schools and correspondingly, there has been an increase in the number of secondary schools. Recently, there was a policy enunciation by the Ministry of Education where they said that one of the features that we must look at is both access to education which must be provided for by the State at the very basic point, which is at the primary level.

We are soon going to move down to the Early Childhood Development (ECD) level because that is where acquaintance with learning starts. If children miss this step, then they have been discriminated against and that is one point that we must make.

The second point is that the resources for primary sector education can only go to a few schools which lead to others being marginalized. There is a third compelling reason as to why the State must change the policy of registration of schools. Currently, the Members of Parliament at the National Assembly through the National Government Constituencies Development Fund (NG-CDF) are creating more institutional facilities in terms of primary schools, health centers, boreholes and water points. They use the resources of the Republic of Kenya and the county governments also do the same with the ECD classes.

These children are condemned to a desert if Government resources are spent in putting up these facilities yet they are denied the right of accessing or triggering off other resources in those schools and this is where this Senate must rein in. An issue of this nature and capacity needs a change of the rules and the regulations governing how schools are registered.

There must be certain basic standards that must be set up. The classrooms that have been put up must be of basic standards so as not to put children in premises that will collapse upon them and cause harm. We must rein in on the people who are putting up these facilities and they must meet a certain standard just as they do for any other facility available in the county. I agree with that.

Secondly, is the issue of building pillars simply because of the numbers of children who are in that school like what happens in nomadic areas where children are moved from one level to another. What are you going to do with them? Are you going to say that they will not access education? It does not require a Motion in this House to change that rule. If the Cabinet Secretary for the Ministry of Education is listening today, I would want to advise her that this is a question of looking at the rules and effecting the change in those rules for there to be a complete change and access be given for other facilities.

(The Senators consulted loudly)

What are they missing, TSC---

Sen. (Prof.) Kamar: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Lelegwe): What is your point of order Sen. (Prof.) Kamar?

Sen. (Prof.) Kamar: Mr. Temporary Speaker, Sir, the hon. Senators who are consulting loudly are preventing us from hearing the wonderful statements from the former Minister of Education.

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, I request that you consult in low tones.

Sen. (Prof.) Ongeri: Thank you, Sen. (Prof.) Kamar for protecting me. What are they missing by not being registered? First, when the capitation for any school is done, it will depend on whether the school is registered or not. What will be the punishment for that capitation? None. This is because the capitation will be based on the number of registered students. However, they will still have the facility.

What does it mean in terms of the Teachers Service Commission (TSC)? They will of necessity provide teachers to those facilities. What does it mean to the infrastructure fund, which is already set up as an entity and a budget line from Treasury to the Ministry of Education? They will also access those facilities, expand the infrastructure for those schools and get more funds.

What will it mean in terms of opportunities like games and other things? They will also be able to get the money for games and take care of the facilities. They will participate in all these games, music festivals, art and other various activities in schools without their parents funding them. Schools which are not registered, they are being blocked out of these activities not unless they are funded by their parents. We must not accept a situation where some Kenyan children are marginalised and deprived of their rights to participate in school activities.

Mr. Temporary Speaker, Sir, this is an area we need to simply pronounce ourselves and I think I have done so very clearly on this matter. It is a matter that we need to take up seriously and a follow-up done by this Senate, so that we can redeem and salvage these children who are already condemned for non-participation in the most important school activities.

Speaking as a professional, when we deny a child the right of association, learning coupled with healthcare and clean water in schools, we are simply saying we do not need that child. Unfortunately, the Constitution will not allow you to take that route. These are fundamental rights entrenched in our Constitution. So the only sensible and most obvious thing to do is for us to admit that there has been a mistake and we must make it right.

We may contend that the number of required teachers is not adequate. At the time I was in the Ministry, there was a shortage of 26,000 teachers. Today, there is a shortage of 76,000. That was why we set up more teacher training colleges to take care of this shortfall. We have many teachers who have trained. As I speak today, out there in the field, we have thousands and thousands of properly trained teachers who are waiting to be deployed to deliver service. Therefore, the excuse that there are no teachers available does not hold water.

The only excuse they can give is resources. We allocate resources to these Ministries through the National Assembly and Senate. We should now look at the budget of education which has fundamentally increased. At the time when Sen. (Prof.) Kamar and I, were in the Ministry of Education, jointly, we were hardly getting more than Kshs150 billion. In the last budget, they were allocated more than Kshs400 billion which includes capitation and all other facilities I talked about. Therefore, we should not run away from providing adequate teachers for these facilities in Bomet, Kisii, Nyamira and, indeed, in all 47 counties in this country. I know there are counties which are discriminated.

There is already a Motion before this House on education in northern Kenya. I believe and suspect it revolves around these issues that we are debating here. We are not yet finished with this matter. For purposes of making progress today, we should accept that this is a very reasonable request by Sen. (Dr.) Milgo. We should pass it in concurrence with what we already know as the prevailing circumstances in our country.

I support.

The Temporary Speaker (Sen. Lelegwe): Let us have Sen. (Prof.) Kamar.

Sen. (Prof.) Kamar: Thank you, Mr. Temporary Speaker, Sir, forgiving me an opportunity to add a few points to what my colleagues have said. I thank Sen. (Dr.) Milgo for bringing out a very important issue on the registration of schools.

Mr. Temporary Speaker, Sir, it is true that our Constitution outlines in Article 53(1)(b), that every child has a right to free and compulsory education. How equal is the education we give in this country? Before we even talk about children who are learning in schools with interim registration, we should look at the quality of our schools, generally. Even if they are in a compulsory education situation, we find that there is unequal treatment and facilitation of the different schools.

Let me address the registration aspect of our schools. In the registration of schools, there is the interim registration and the full registration. After a new school has been given interim registration, often the payment of the teachers is done by the parents. To me, this is discrimination number one. The reason that school has been given interim registration to begin with is because there is a need.

We have large scale farming in Uasin Gishu. Learners walk very long distances to their schools. Most of the new schools cater for children of the lowest in society. Therefore, when such schools are left under interim registration for two or more years before they are fully registered, we are punishing our children. The problem with interim registration is that the TSC does not allocate teachers and resources to those schools. These schools are supported by parents. By discriminating them, we are not providing them with the quality education as envisaged in the Constitution.

It is also very important to note that at the stage of interim registration, it is only the Ministry of education which understands a school is registered as such. Nobody else understands what interim registration is all about. In fact, sometimes, there is a delay of the registration up to Class Eight. That is why we have had schools where at the point of registering for examinations, we are told they are not fully registered.

It is very important for the Ministry of Education to have the two arms of itself talk to one another. Teachers are deployed by the TSC and the registration is done by the

Ministry mainstream line. Therefore, it is very important that they integrate so that they speak to one another, and ensure that when a school is under the interim registration, the TSC deploy teachers immediately. If it does not do so, what other criteria will they be considering? They cannot say they will not deploy teachers there because the school is partially registered and yet it is the same Ministry that is supposed to fully register it.

Mr. Temporary Speaker, Sir, there are special children who need more specialised attention. We have some of them integrated in our public schools. Those children do not often get the right teachers because of lack of registration. It is, therefore, important that when a school is being registered, knowing the need to have special children integrated in that school, we ensure that special education teachers are posted to such schools. We have a number of such schools.

Mr. Temporary Speaker, Sir, I am looking forward to the time the Senate will hold its sittings in Eldoret. This is because one of the programs that I have proposed is that the Senate Committee on Education visits our special schools. We have a special school for the deaf, another one for the mentally handicapped and an integrated special school for albino children. However, facilitation for these schools is not as required, because special children require more attention than normal children and it is important that we pick them out. The whole of Uasin Gishu County has only one special school for the deaf. Therefore, where are the other deaf children? They are still in their homes.

Mr. Temporary Speaker, Sir, I support my colleagues who said that the Ministry needs to relook at how the registered schools integrate special interest groups of children in their schools. They also need to relook at how they register these integrated schools accordingly, so that they can receive the attention and support they require. We know that the allocation of teachers to schools is based on numbers. However, we have schools that have not been allocated teachers, yet they have the required numbers. These are predominantly found around township areas; they have very large streams but they do not have sufficient teachers.

Mr. Temporary Speaker, Sir, whereas we are talking about insufficient teachers in these schools, we have many unemployed trained teachers. This is about prioritisation; how do we prioritise where we are directing our funds? If we want to fulfill the free and compulsory primary education for every child, then the Ministry of Education should get a bigger allocation. That way, the Ministry can allocate enough funds to the Teachers Service Commission (TSC) for them to hire sufficient teachers. If we do not do that, we will be discriminating at the primary school level. By doing so, we will then be ruining many children's lives; because they will not have access to both primary and secondary school education.

Finally, Mr. Temporary Speaker, Sir, we have been told that the determining factor for the distribution of schools is the availability of teachers. This should never be a factor when schools are being distributed. We should, instead, look at the distance between schools and the populations. The issue of distance has to be considered in vast areas, like in north eastern Kenya. The Senate Committee on Education will be going to Northern Kenya soon.

It is important for us to note that registration of schools should not just be based on what we think in our offices. We should look at the areas where Kenyans are located.

For instance, the situation of Kenyan pastoralists is completely different from the situation of Kenyans in a densely populated area around Nairobi. It is also very important that when we come to Nairobi, we look at the condition of schools for our children in the slums. This is because they have makeshift schools, which creates another level of discrimination between children.

Therefore, Mr. Temporary Speaker, Sir, in terms of registration of schools, I support that we need to relook at how we register them. I support the proposal that this statement should transit to the Committee on Education so that we can look at it and give it its due attention.

With those few remarks, Mr. Temporary Speaker, Sir, I thank you.

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, I will give this last chance to Sen. Mwaura to contribute on this Statement.

Sen. Mwaura: Thank you, Mr. Temporary Speaker, Sir. I rise to support this Statement. The great American Legislator, Horace Mann, said that, indeed, education is a great equaliser. He is an interesting man because, together with a lady called Dorothea Dix, they started a school for idiots, imbeciles and the mentally retarded way back in 1757. I have mentioned him because he said something that has capacitated many people, including ourselves in this House; that when you go to school, you are equal; whether you come from a rich or poor background. He is also a pioneer in special needs education and the schooling of those who have disabilities.

Mr. Temporary Speaker, Sir, the issue of the number of students versus that of teachers is a critical one. Every time we hear the Kenya National Union of Teachers (KNUT) saying that there are many trained teachers who are not employed as teachers. Having come from a special needs background; I know that it is not about having the optimal number of students in a classroom.

With the advent of Free Primary Education (FPE), we have seen that the more pupils or students you have, the lesser the quality of education. Therefore, it means that if you cannot register schools because of numbers, this becomes a catalyst for people to get into non-formal schools. These schools exist and the children are learning, but that learning is delegitimised by the fact that these schools are not recognised.

Mr. Temporary Speaker, Sir, the Ministry of Education seems to have developed a criterion where they discourage schools to be registered. You will find a number of schools that have been built using the National Government Constituencies Development Fund (NG-CDF), but it takes too long for them to be registered. For example, we have a situation where most special units – which are now over 2,900 in Kenya – are not formally recognised by the Government. It, therefore, means that they will not have access to Government capitation.

You will find children with a lot of different types of disabilities in a special unit within a Government school, yet there is only one regular teacher. This is because this unit is not formally recognized and registered, thus denying them support. This is a serious issue of inequality, considering the amount of money we are spending in our education system. The current budget tells us that we are spending more than 25 per cent of our budget on the Education Ministry alone; which is more than Kshs4 billion. When

you fail to register schools that are legitimately educating Kenyan children, you are actually perpetuating this inequality.

Mr. Temporary Speaker, Sir, we know that statistics are very important in terms of ensuring that we deploy resources accordingly. Therefore, what we need to do – and I support the Mover of this Statement, Sen. (Dr.) Milgo – that the Committee on Education should relook at these regulations, because regulations are supposed to be enablers and not deterrents. They are supposed to enable people who are willing to create opportunities for our children to actually go to school. This is also in keeping with the Jubilee Coalition Manifesto, where we are supposed to provide free secondary education.

For this to be achieved, we need to create extra classrooms in all the idle land and spaces available in various primary schools so that these will be the new secondary schools. However, because of the numbers, it means that these schools are not going to be registered. This will then defeat the very purpose of the Jubilee administration's policy of increasing opportunities so that we reduce the attrition that occurs after finishing class eight.

When the National Rainbow Coalition (NARC) Government came into power, one million children showed up in Class One. However, since that time, there has been a very small number of students who end up in secondary schools and tertiary institutions.

Mr. Temporary Speaker, Sir, this Statement is timely and important. I would want to support it and ask that we should look at how we can even go further to not just register schools that would want to be registered, but also see how is it that the Government can meaningfully partner with other education stakeholders who run schools, for example, the churches or other development partners. This will enable us make the right to free basic education a reality in Kenya. So, the Government has a role to play.

We also need to ensure that we speak to the quality of the teachers that come from our Teachers training institutions. We also need to speak to the issue of ensuring that every teacher who has a degree teaches even in primary schools. We also need to look at how we deploy these teachers because the schools that are most deprived also seem to get the most inexperienced teachers. This is because the most experienced teachers want to live in more central places; in towns and urban cities.

I am thinking of a school like Mutomo in Kitui, which has no qualified teachers, yet a pupil there is supposed to compete with a pupil in, say, Nairobi Primary School. These are two individuals who live in totally different worlds. So, we also need to ensure that the schools that are most marginalised, as it has been put by Sen. (Dr.) Milgo, get qualified teachers.

We also need to look at the issue of teachers' house allowance because it is the greatest incentive that makes every teacher want to live in urban cities. It also creates disparities because you will find teachers staying, for example, in Kiambu County, but come to work in Nairobi. When you look at the house allowance, it is very different. Those are some of the things that will also inform in terms of what quality of education that would obtain, going by the requirements of this Statement.

Finally, we need to look at special schools, particularly. The fact that there is that special allowance, you will find that special schools are populated with teachers who

have not gone through Special Needs Education because they are getting that special allowance. This happens yet those who are qualified cannot get access to the same opportunities. This is something that the Teachers Service Commission (TSC) needs to look at. There are so many injustices around how teachers are promoted in this country and it demotivates otherwise committed teachers.

Mr. Temporary Speaker, Sir, I support.

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, I defer Order Nos. 8, 9, 10 and 11 to next week.

BILLS

Second Reading

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND
DESIGNATED STATE OFFICERS) (AMENDMENT) BILL
(SENATE BILLS NO.2 OF 2018)

(Bill deferred)

Second Reading

THE COUNTY STATISTICS BILL
(SENATE BILLS NO. 9 OF 2018)

(Bill deferred)

Second Reading

THE SALARIES AND REMUNERATION COMMISSION
(AMENDMENT) BILL
(SENATE BILLS NO. 12 OF 2018)

(Bill deferred)

MOTIONS

THE STATUS OF EDUCATION IN NORTHERN KENYA

THAT, AWARE that Article 43 (f) of the Constitution of Kenya stipulates that every person has the right to education, and Article 53(1)(b) provides that every child has the right to free and compulsory basic education;

ALSO AWARE that education is a basic need and a tool for intellectual empowerment and social-political development;

FURTHER AWARE that education is a shared function between the National and the County levels of Government with the National Government being responsible for Primary, secondary and Higher education while the County Government is responsible for pre-primary education, village polytechnics and home craft centres;

COGNISANT that both levels of Government complement each other in promoting sustainable education;

CONCERNED that the intake, uptake and quality of education in the Northern Kenya have adversely been affected owing to discrepancies in public resources allocation, insecurity, skewed staffing and teacher training in the region;

FURTHER CONCERNED that both the school completion rate and the national examination outcomes in region are poor and that the number of students from Northern Kenya who qualify for core courses in universities, colleges, technical schools and village polytechnics is minimal compared to other parts of the country;

NOTING WITH CONCERN that due to insecurity and other related concerns, the Teachers Service Commission (TSC) which is the body responsible for the employment and deployment of teachers, has in the recent past, taken steps to transfer non-local teachers from the northern region of Kenya to other parts of the country;

CONCERNED THAT, the transfers have led to shortage of skilled teachers which has been a major cause of the dismal performance in examinations in schools in the region;

NOW THEREFORE, the Senate resolves to task the Standing Committee on Education to conduct an inquiry into the challenges facing the education sector in Northern Kenya with a view to:-

1. Evaluating the effect of the teacher transfers from the region and recommending to the Ministry of Education, policy measures to address the challenge;
2. Evaluating the status of the education infrastructure in the region and proposing solutions to mitigate the current and looming challenges;
3. Proposing mechanisms for enhanced resource allocation at both levels of government to facilitate improved education facilities; and,
4. Assessing school intake compared completion levels in the region in order to ascertain the impact of the challenges facing the schools and how these disadvantages the region compared to other parts of Kenya and proposing ways of addressing the challenges.

And that the Committee submits a report to the Senate within three months of adoption of this Motion by the Senate.

(Motion deferred)

The Temporary Speaker (Sen. Lelegwe): Let us move to the next Order.
Proceed, Sen. Kasanga.

**STANDARD POLICY REGULATION FOR CONSTRUCTION AND
MAINTENANCE OF RURAL ACCESS ROADS**

Sen. Kasanga: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I beg to move the following Motion-

THAT, AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that 55 years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

Mr. Temporary Speaker, Sir, the reason I brought this Motion is almost self-explanatory from its body. It is obvious that, in our counties, we are spending a lot of money on maintenance of rural roads. I am not talking about the bituminous ones, but the murram roads; the feeder roads that open up the remote parts of our counties.

I come from the front that we have travelled a lot, as Senators. We are always benchmarking, as politicians and leaders, and have seen how other countries have dealt with opening up their rural areas. It is from this background that I say that we need our

counties to be guided in form of a policy or regulation that can help us maintain and come up with roads that are more durable. It has been done before and it can also be done in this country.

Mr. Temporary Speaker, Sir, the budgets for roads, as we have seen time and again, are very high. For the counties, we have about Kshs40 million to Kshs70 million being allocated to a kilometre of road. That is dependent on whether it is facilitating drainage or otherwise. In the counties' budgets alone, less than Kshs1 billion is allocated to road developments. Bituminous roads are practically not affordable for most of our counties. This is why we are looking for other alternatives.

The technique of stabilising soils is not new; it has been done since time immemorial. This technique is as ancient as during the Mesopotamian time when they realised that you can take soil and stabilise it by just adding a chemical to it, for example, limestone or even calcium. With time, these technologies have developed because of traffic. In the Roman times, they would put stones. But even with stabilised soils, after putting a good soil base, it is possible just to stabilise it a little further to allow for traffic.

Mr. Temporary Speaker, Sir, countries like Malaysia and India have utilised stabilized soil roads to open up their rural areas. There is no denial that once you open up the rural areas, then a country will flourish in terms of economics. A country like India, specifically, is adopting this as a measure for green technology. They are going into stabilised soils to enhance their environment. In this country, we are very big on environment friendly approaches towards construction. This should be the approach that we should take when it comes to roads.

These initiatives are easy to borrow from. Incidentally, there are some counties that are already using it, and I wish the Members of the National Assembly were here. For example, in Embu and Kiambu they have utilised these technologies. We have learnt that we do not even need a foreign contractor to help us build these stabilised soil roads. Once we have the technology, we can do this on our own. It does not even require counties to invest in equipment because we already have it. After all, all we always do is sending our graders and compactors to the roads every time it rains, because we have never found a mechanism that can give us a road that, once built, can give us 10 to 15 years, yet these technologies exist.

Mr. Temporary Speaker, Sir, debate on the Roads Bill is now on the Floor of the House. My Motion had come probably slightly earlier but in the new Bill, there is a provision for a Board that will help set standards for counties. I do not want to go into what the Bill has because we had given our input at Committee level and we are still awaiting input from everyone else on the Floor.

However, once a regulation like this one has been set, my opinion is that you do not need a Board to again come and continue giving us more. It is because once it is set, it will now be up to counties to ensure that they utilise it since it does not require three or four formulas.

I wish this House adopts this Motion ahead of the Bill so that we can have this Regulation going out to counties. It is already being done in some counties. So, why can all the other counties not adopt it? It will be useful in saving counties a lot of money for maintenance and also the back and forth that we see whenever we have floods as we saw

in the last episode of flooding where most infrastructure failed. Maybe it did not come out clearly, but in most counties, roads failed completely. We had engineers and County Executive Committee (CEC) members running up and down, trying to open up, doing some *ad hoc* and quick remedies to make the roads passable so that business could continue.

So, we need to look forward. My opinion would be to adopt new technologies because they exist. They do not require a lot of learning or investment. It would be useful for us in future; then we can say that we have done the right thing in opening up our counties.

Mr. Temporary Speaker, Sir, as I conclude, the Committee on Roads and Transportation will visit counties to look at certain key roads that are supposed to have been done, should be done or had been done but have certain anomalies. We will also be looking forward to see which other counties have adopted these new technologies. However, it is in our information that this technology will be useful cutting across all the counties. Regardless of the soil types that they have, it is something that we can adopt and use.

I beg to move and call upon Sen. (Dr.) Musuruve to second this Motion.

Sen. (Dr.) Musuruve: Mr. Temporary Speaker, Sir, thank you, for giving me the opportunity to second this timely Motion. It has come at a time when we are talking about roads and the Roads Authority. It is important that this House ensures that this Motion sees the light of day.

All nations worldwide and organisations are talking of Sustainable Development Goals (SDGs). When you are talking of such, the issue of accessibility is very important in as far as development is concerned. Roads are an indicator of development. SDG No.9 is about having resilient infrastructure.

When we talk of resilience, we are looking at roads which will be strong enough to serve the people in the rural areas even during rainy seasons. Maintenance of roads is core to sustainability. The Senator has just talked about a methodology that would work. I suggest that this House considers what Sen. Kasanga has said and even do a pilot for the purpose of having sustainable roads.

When we construct substandard roads, it is an extremely expensive venture for this country. We have places where roads are made and after one year they are being repaired. Repair of such roads can be very expensive in terms of time, money and even the users because they will have to maintain their vehicles which will be in the garage most of the time. Apart from that, the road users will also use a lot of money on fuel.

Mr. Temporary Speaker, Sir, this is a Motion that should not be taken for granted. When you talk of urban roads, we have to look at that farmer who is helpless because he has a lot of produce but no means to take them to the market to sell. So, having good rural roads will open accessibility to farmers.

This is one of the Big Four Agenda – Universal Healthcare, manufacturing, affordable housing and food security. In manufacturing, there is creation of employment. Just imagine how the rural farmer has worked tirelessly to produce but at the end of the day, he has no access to the market to sell his products. Sometimes when I go home, I sympathise with farmers because you will find them selling a bucketful of pineapples or

avocadoes at Kshs50 because there is too much in their farms and they do not know where to take them since the roads are inaccessible.

So, anytime they access the market even minimally, they sell their efforts at a throwaway price. This is a timely Motion which this House should not take for granted because we need to help the rural farmer and the person out there who is determined to work but has no accessibility.

When rural roads are accessible, everything else will be accessible and we will see investors going to rural areas in various counties to invest. Once the roads are done, health centres and schools will also come up. Investors and entrepreneurs will even put up factories because they are always waiting. Once there is a niche, they will salvage the situation in rural Kenya because they will go there even if they are acting as brokers who go to pick produce from farmers to sell them. Accessibility is important.

Creation of employment is core and very important for this country because we have many people who are unemployed. We can create employment in rural areas. There is heavy traffic of people coming to towns day in, day out because they realised that they are unable to eke out a living in the rural areas. This is brought about by low development. In a situation where there are standard roads which are also maintained, people will venture into the rural parts of this country and be productive. Productivity is core to development.

Mr. Temporary Speaker, Sir, the Senator has come up with a Motion that is important. It makes us, legislators, think of how we can ensure that rural Kenya is accessible. As we talk of accessibility, maintenance is also core. It is very expensive and it should be continuous. If not, there is a chance of county governments using even more money to maintain the roads. For instance, if a road is not constructed well, it means that after one year, county governments will be thinking of repairs. If they ignore the need for maintenance, in the second or third year, they will use double or triple the amount of money to repair roads and this is a sad state of affairs.

Money should be used in counties in a good way. Money should not be used to do repairs because work has been done shoddily. Instead of allocating money to roads that have been shoddily done, it should be put to use for other things. That money can be used to put up schools and health centres. Roads need to be maintained because if they are poorly done, that has an implication to the country.

I strongly support this Motion. It is my desire and belief that it will see the light of the day and it should translate to a Bill, so that we have a Bill concerning roads and accessibility in rural Kenya. If it becomes law, then wherever the people of this nation are, they will benefit from devolved governments.

I thank you very much, Mr. Temporary Speaker, Sir. I second.

The Temporary Speaker (Sen. Lelegwe): What is it, Sen. Pareno?

Sen. Pareno: Mr. Temporary Speaker, Sir, I wanted to give Sen. (Dr.) Musuruve information although she has already sat down. The other day we debated the Roads Bill that is concerned with roads in terms of the national and county roads.

The Temporary Speaker (Sen. Lelegwe): Thank you. Senator, I believe you are informed.

Before I propose the question, I have a communication to make.

(*Interruption of Debate on Motion*)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM CHRISTIAN EDUCATION CENTRE, KIAMBU COUNTY

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, I wish to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Christian Education Centre in Kiambu County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on my own behalf and on behalf of the Senate, I wish them a fruitful visit. I thank you.

(*Applause*)

(*Resumption of Debate on Motion*)

Hon. Senators, I will now propose the question.

(*Question proposed*)

Sen. (Dr.) Zani: Mr. Temporary Speaker, Sir, I stand to support this Motion and I congratulate Sen. Kasanga for bringing it. She has given us one of the biggest shockers this afternoon by informing us that only 5 per cent of roads are tarmacked. Looking at the statistics in the Motion, we are talking about 9,000 divided by 178,000. When I looked at the statistics, I thought I had gotten my mathematics wrong and I quickly crosschecked. You may have noticed that because she is my neighbour and she confirmed that we have only 5 per cent of roads tarmacked in Kenya, 50 years after Independence.

There is a set of data that is usually developed by a group called Afrobarometer, which makes a comparison in African countries about how they have developed because there is an interlink between the infrastructural and economic development; be it housing, water, buildings and education. All these things add up to the overall development. You cannot talk about development in a country without opening up roads.

When you travel to countries that began to open up later than Kenya such as Malawi and Rwanda, you will realise that we are not only talking about the state of the roads but also the condition of the roads even after they have been tarmacked. It is in Kenya that you will find a road has been tarmacked and after two years it gets dilapidated. That impacts on the people because they rely on the road, be it for transport, getting water, trade and what have you. A road is not just a tool for moving from point A to B but it is a symbol of development.

I am happy that in this particular House, we already have a Roads Bill and I hope we will pass it as a House to enhance this. However, my worry is that we have a lot of legislation. With the devolved system, some sort of impetus should have gone into this, so that you do not have to worry about the rural area that you go to and think about how

you can travel if you live in Kwale County and you want to go to Mombasa or Nairobi counties. You should be able to move from one place to another and conduct your activities. It is time we sought explanations from the Ministries about the status of a situation like this where only 5 per cent of roads are paved.

Sen. Kasanga has proposed a very straightforward mechanism; which is to use modern eco-friendly and inexpensive technologies. This can effectively be applied across the 47 counties.

It is important for this particular Senate to liaise quickly with the County Executive Committee (CEC) members of various counties even as the Bill comes into place. In terms of the mechanism for gaining synergy for this to happen, they need to coordinate with the Members of County Assemblies (MCAs) of various county assemblies. Our work as the Senate is to oversight and push for development.

We have spoken in this House so many times about the money that is devolved to counties. If money is devolved to counties and it gets swallowed by the wage bill and it does not go into the development budget, then we have a problem. About 30 per cent of the money that goes to the counties should be factored in the development budgets. A development budget should change the people's lives.

Look at Kenya now in its second phase of devolution. The social analysts and researchers should give us quick data about improvement of people's lives. They need to tell us whether their lives have improved in the past five or six years; whether there has been a substantial shift and whether there is output in terms of having various facilities improved; whether they are able to get water easily; whether they can take their goods and services to where they need to get to and whether one county is able to transfer a bumper harvest to another county where people are starving.

In areas like Garissa and Mandera, when there is drought, people and cattle die but you will find that there is rainfall in other places like Kericho. This should be done through a road network. This is a serious issue because if you look at the paradigm of development, this is the weakest link for development. A country's economic development is reliant on the quality of its road network. If the road network has not been sufficiently addressed and people do not effectively use those roads for development, then it creates a problem. The scale of development needs to be taken a level higher. Consequently, at the end of the day, people can feel there is a change and it will matter for them.

Mr. Temporary Speaker, Sir, as I move towards the conclusion of my support for this Motion, allow me to invite the Christ Education Center from Kiambu County who are watching us. I want to tell these young people that they are the agents of change and the leaders of tomorrow. They have just come to the Senate when we are talking about a critical infrastructural aspect, which is roads.

We must move towards more public participation within our realms. They are never too young. They can start within their schools and communities and can be sensitized to what legacy they want to leave in their country. Do they want to leave better roads and education system? Do they want to have more enhanced farming methodologies? It is so simple and straightforward. It is not rocket science at all.

I have always said this before and I will repeat it again, that countries that have crossed over like Singapore - it is not rocket science - but about putting infrastructure into place so well that you do not have to keep repairing and utilizing more money. It is about sensitizing the people about the importance of infrastructure in terms of the link to development and then they are able to maintain it.

This is the opportunity for the young people in the plenary who have come to watch our proceedings today. Now we are talking about important infrastructural aspect and let it be taken into consideration. The Kenya Roads Bill (National Assembly (Bills No.47 of 2017) will come and it will be passed. Let us open up these rural areas, by doing that, we will create employment, better opportunities for the young people and various opportunities that are always there as a result of them being exposed.

The other countries are coming up very quickly especially in Africa. When you go to a country like Rwanda, you are amazed at how they have not only dealt with their infrastructure but also how they have dealt with the communities. They have made their communities learn to understand the role that they play in protecting the Infrastructure, be it forestry or natural resources. They have made sure that the infrastructure is built across the resources they have for the betterment of their countries. It comes with a sense of patriotism that the young people of this country especially the ones in this gallery this afternoon need to put what they do at the forefront. I congratulate Sen. Kasanga for this Motion.

I support.

The Temporary Speaker (Sen. Lelegwe): Yes, Sen. Pareno.

Sen. Pareno: Mr. Temporary Speaker, Sir, I rise to support this Motion which was moved by Sen. Kasanga. In this country, roads are in a very pathetic state. The roads in Kajiado are in a very bad state to an extent that sometimes when it rains, some of us do not go home. We have to keep calling to ask if the weather is good so that we can now come. We do not have roads that can take us home.

I am talking about these murram roads, leave alone tarmac roads because we do not have a single tarmac road other than the Namanga-Kajiado tarmac road and the road that goes to Mombasa and branches off to Loitokitok. The roads are in very bad shape.

Mr. Temporary Speaker, Sir, having participated in the debate that we just concluded a few weeks ago on The Kenya Roads Bill (National Assembly (Bills No.47 of 2017), this is a good Motion that complements what we already debated. It is important for the Mover of this Motion to look at what that Bill had come up with. It is understandable that this Motion was there waiting to be debated before we did the roads Bill. Many of these issues that are coming up are already in The Kenya Roads Bill (National Assembly (Bills No.47 of 2017)).

This is a good complement. Since we are talking about doing regulations on the management of roads and that particular Bill also talked classification of roads; the rural roads, national highways and also the management to an extent there was a board that was to be created. It went further to even illustrate the merging of all the authorities that touch on roads; then we have one board that brings all the authorities together. Thus, we will avoid duplication on the issue of roads in this country.

Mr. Speaker, Sir, as we look at what is proposed in this Motion in terms of regulations---

(*Sen. Wambua stood on his place*)

The Temporary Speaker (Sen. Lelegwe): Sen. Wambua, continue.

Sen. Wambua: Mr. Temporary Speaker, Sir, just to clarify a matter that Sen. Pareno has mentioned on the amalgamation of all the boards, for your information, the Bill does not seek to collapse the boards. The Roads Bill creates a standards board for the roads but it leaves the other authorities intact.

The Temporary Speaker (Sen. Lelegwe): Sen. Pareno, proceed.

Sen. Pareno: Thank you for that information. The right word to use is 'harmonize'. The Kenya Roads Bill (National Assembly (Bills No.47 of 2017) seeks to harmonize many things in terms of the different boards that exist in as far as the roads are concerned.

Mr. Temporary Speaker, Sir, so that we do not look like we are duplicating functions, today, we are discussing a Motion about rural roads, management of roads and the maintenance of roads. Last week, we debated a Bill before this House on how we should harmonize our roads systems of management. It will be good for us and the Mover of this Motion to check out as we propose these regulations. It is a tradition in most Bills that there is a provision that the Cabinet Secretary will make regulations to operationalize the Bill when it passes.

At that stage, some of these regulations that could be proposed pursuant to this Motion can be brought together so that we do not have regulations coming out of these particular aspects and then also awaiting other regulations that come to implement the Bill that we passed. As I said, this Motion is a complement. Since when you compare a Motion and a Bill, the latter can take more from this Motion and enrich that Bill so that we do not duplicate our efforts.

Mr. Speaker, Sir, this Motion talks about budgetary constraints in our counties. This is the key thing we need to address. Even if we passed the regulations and the Bill we debated last week, today, without proper budgetary allocation for implementation; the things we talk about and purposes of maintenance of these roads, running the boards, continuous management, capacity building and getting the necessary technical assistance and expertise we need to do these roads, we will be doing nothing.

I want to talk about this because just a few minutes ago, the Chair of the Committee on Finance and Budget brought to the attention of this House a very serious commitment by his Committee that they noted that national Treasury slashed the budget and allocations passed by this House for the counties. It is only after the interrogation and questioning the national Treasury on the slashing of the budget that the national Treasury released the money allocated for the counties approved by this House.

Does it mean that the national Treasury was trying to shortchange the counties? Why did the national Treasury cut back on this Budget when we need more money for the counties?

Mr. Temporary Speaker, Sir, we table Motions and Bills here to ensure counties are running well. However, we need to look at these issues of budgets. If the National Treasury can reduce the budget that has been approved by this House only for them to reinstate it and apologise after our interrogation, it means that we will not implement these resolutions that we are making for the good of the people.

Mr. Temporary Speaker, Sir, in as much as we are doing a good job of tabling Motions on the state of roads in this country, allocate and approve budgets for development in the counties, we need to ensure necessary budgets are provided. We will keep on talking, but there will be no implementation of our resolutions.

I support.

Sen. (Eng.) Hargura: Thank you, Mr. Temporary Speaker, Sir. I thank Sen. Kasanga for coming up with this Motion because these are things that some of us have been trying to discuss with the Ministry of Transport and Infrastructure Development and relevant authorities, especially the Kenya Rural Roads Authority (KERRA). We have been urging them to take it upon themselves to develop the relevant standards. I think they will be more serious about it because it is now from the Senate.

Mr. Temporary Speaker, Sir, as the Motion says, transport is important for any development. For any movement of goods and services, we require good roads. Kenya is mainly an agricultural country. Most of our production is done in the rural areas. Therefore, there must be good roads to transport the produce to the markets. Otherwise, we will not get anywhere in terms of development. As it has been said by one Senator, farmers will sell their produce at a throw away price to brokers because they do not have anywhere else to sell them.

Roads are the necessary links to make sure that we move from one point to another. As it is now, traffic jam in Kenya is at 90 per cent. That shows how important roads are. This is due to the few bitumen roads that have been constructed.

Mr. Temporary Speaker, Sir, we need to focus on rural areas so that we can enable our people to market their goods and transport people back to rural areas. Nowadays, funds are devolved to the counties level. We need our people to produce, create jobs and improve the economy. However, that is not happening because we are not improving our rural roads in any innovative way. We are using the standard ways of waiting for the traffic to reach a certain standard, then we gravel and, later on, improve it to bitumen standards. This does not work because we need to develop the roads to ease traffic jams.

Mr. Temporary Speaker, Sir, the Motion urges the Ministry of Transport and Infrastructure Development to develop and adopt standard policy regulations prescribing modern eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads; in order to ensure durability and sustainability of access roads and reduce expenses. This is basically to come up with a policy.

If you look at Part I of the Fourth Schedule of our Constitution, it talks of the functions of the national Government, Clause 18 (c) says:-

“It is a function of the national Government to make sure they come up with standards for construction and maintenance of other roads by counties”.

The counties are supposed to maintain those roads. Basically, we are asking the national Government to do the function that we have given them as Kenyans. I will use my ability of being an engineer and having worked in the roads sector to bring to the attention of this House and Kenya at large, that this is not anything new.

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

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

In 1974, for example, the Government of Kenya realized that it was concentrating more on roads in urban areas, leaving behind roads in the rural areas. Therefore, produce could not be transported to the markets. So, it came up with the Rural Access Roads Program (RARP) in 1974 to improve the rural roads to gravel standards. It also came up with cheaper ways of constructing them by using labour based technology. That is why we have a school in Kisii which trains contractors and individuals on the use of these technologies. However, this has not been used well.

In 1977, the Materials Branch of the then Ministry of Roads decided to do research on how to use the available materials in different parts of this country to construct roads in a cheaper and durable manner. It is either an earth road which gets muddy and inaccessible when it rains and dusty when it is dry or a gravel road which is costly.

The problem that we have with the gravel roads is that not all materials and soils that we have are useful for road construction. We are losing them at a high rate, not because the material is weak, but when it is dry, it is destroyed by vehicle tires through abrasion. When it is wet, it loses strength. So, the main issue around suitability of roads is how the material is used and protected in such a way that it will not be affected by those two factors, the weather and the vehicles.

One of the research and systems which have been used successfully is a system called Otta seal which is a Norwegian technology. That could be the name of the person who invented it. They construct a normal gravel road, they then come up with bitumen which is spread on the gravel road. The same gravel which you have used is sieved to remove the dust and the coarse material, then you spread it the normal way. The gravel will provide the traction for the tires and water will not get into that road. The Norwegian rural roads have been constructed that way and Norway is not a third world country. They did not stay with that technology. They passed it on to Kenya and we have clear examples.

In 1981, the Norwegian Road Research Laboratory (NRRL) in collaboration with the then Ministry of Transport did a trial section in Marich Pass Road in Lodwar, Northern Kenya. About 260 kilometres of that road were done using that technology. For a long time, Kenyans saw that as a standard tarmac road. However, it was a trial section of a technology which was being introduced into the country. However, that was the end of it because we did not continue with it.

Kenyan engineers did their own research to establish the relevant standards for different soils and gravel material in this country. In 1977, trial sections were established

in different parts of the country to come up with technology and way of construction which will make us use our materials in an effective way, so that we do not have to always go back to gravel every rainy season. Therefore, the trials were done. I am trying to build a case and say that it is not a new thing. Kenyans have done it. It is only that we have a very short memory and we get our priorities wrong. We start a system and instead of building on it like others, we lose it. Trials were done in different parts of this country like in Kiambu, Kisii, Kwale, Lodwar, Narok and Garissa counties.

It was established that the soils available in those parts of this country are all suitable for that kind of construction, where we construct gravel roads and seal them using the same gravel, because the difference in cost will not be much. For example, somebody was comparing the cost of that gravel system; not even to a tarmacked road, but to what you call sealing. This is where you do your gravel, put bitumen and two layers of crushed aggregates or chippings. The cost difference is that the gravel seal will be about 40 per cent of the standard seal, which is not anything stronger than this. This can easily be done. We do not get the aggregates everywhere, but you can get gravel and use whatever you get.

Basically, we have the skills and the technology. However, when I checked with the Ministry of Transport and Infrastructure Development, the furthest they have gone is that they have come up a document they called "Pavement Design Guidelines for Low Volume Seal Roads." What they did was just to reduce the traffic classification so that you can do some light pavements for low volumes. That does not change the technology; we will still have the same problem.

Therefore, Madam Temporary Speaker, yes, we have that requirement. However, the relevant department or the materials branch – the roads authorities – have not been taking it up upon themselves and, as a result, the governors of these counties have been shopping all around the world, looking for appropriate technology. The former Governor of Meru County, Hon. Munya, had to go to Malaysia to come up with a system called Probaste; which, in essence is just improving the existing material and making it stronger by adding some chemicals. These chemicals will then prevent it from being affected by water and the loss of strength because of plasticity. However, they did not go far because they required the necessary support. If the Ministry did not give them the necessary support and the governors themselves were not doing anything, then they were not doing any service to this country. I know that in Maralal Town, there is a section within the town which was done using the Probaste System. The governors are going out of their way to see what they can do. Therefore, mine is to ask and to urge the State Department of Infrastructure to make sure that they make use of existing technology, because it is there and it has been tried.

Madam Temporary Speaker, Botswana is an example for this continent in many things, for example, in development and in fighting corruption, because it is a corrupt-free country. Their road sector borrowed from the Norwegian system, where the Norwegian Road Research Laboratory has worked with the Government of Botswana since 1975. Botswana has the problem of being a desert and, therefore, it has only one type of road construction material called Calcrete, which is problematic. Where it is

found in Kenya, we do not even use it. However, they use that material to improve all their rural roads.

Basically, Madam Temporary Speaker, this Motion is urging the national Government to do what is actually its function in the Constitution. It is, therefore, high time that our engineers woke up, did research and conducted trials in different parts of this country the way it was done in the 1980s by their colleagues so that we can develop standards. Standards for road construction are developed by doing trials on the ground. If we do not do research, we will then end up just telling ourselves that we cannot tarmac these roads because there is no sufficient traffic. When you ask why a road is not tarmacked, you will be told of something called “internal rate of return,” and they will ask you whether that road can return the investment made. Normally, they do not take into account the social component, that once you have put up that road, the people of that area will be able to access other parts of this country.

A good example is the road from Isiolo to Moyale. If you go by the internal rate of return, that road will never be tarmacked because we do not have the kind of traffic needed to return the cost. However, the Government of Kenya owes each and every citizen of this country the provision of that kind of service. Accessibility and movement from one point to another is a right which the Government has to provide. Therefore, it is for them to wake up and see how they can provide it in a cheaper, sustainable and eco friendly way.

With regard to being eco friendly, one of the problems we have is dust. However, you can contain dust by using the system which I mentioned earlier, where you just seal the gravel. Trials have been done which have proved that a gravel road like that will last for about 15 years, whereas a normal sealed road, which is 60 per cent more expensive than the gravel road, will last for only seven years. It is only that we are not using the technology and doing research. Therefore, from this point, we have to urge the State Department of Infrastructure to ensure that the materials branch starts developing the technology.

Thank you, Madam Temporary Speaker.

I beg to support.

The Temporary Speaker (Sen. Pareno): Hon. Senators, before we proceed, I have brief communication.

(Interruption of debate on Motion)

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KAMUNYU PRIMARY SCHOOL, KITUI COUNTY

I would like to acknowledge the presence, in the public Gallery this afternoon, of visiting students and teachers from Kamunyu Primary School, Kitui 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, wish them a fruitful visit.

I thank you.

(*Applause*)

Proceed, Sen. (Dr.) Wambua.

Sen. (Dr.) Wambua: Thank you, Madam Temporary Speaker, for the opportunity to join you and my colleagues in welcoming the pupils and teachers from Kamunyu Primary School. This school is from Kitui East Constituency, which is one of the eight constituencies that make up Kitui County, which I represent in this august House. I encourage the pupils to work hard in school, to be focused and to set their priorities right as early as now. I understand that the pupils visiting us today are drawn from classes' six to eight. It is, therefore, not too early for them to begin setting their priorities in life right; and to set their career paths straight.

(*Resumption of debate on the Motion*)

Madam Temporary Speaker, having welcomed the pupils and teachers from Kamunyu Primary School, allow me to also contribute to the Motion by my colleague, Sen. Kasanga, on the need for the establishment of standard policy regulations for the construction and maintenance of rural access roads. The state of roads, especially in rural Kenya following the recent heavy rains, is pathetic. Access to markets, schools and social amenities has become a difficult task almost everywhere in this country.

Madam Temporary Speaker, one of the biggest challenges that we face as a nation is lack of standards in the construction of our roads, especially roads in rural Kenya. This Motion could not have come at a better time because the news just in is that our President has just announced that Kenya has doubled our shareholding in Africa 50, a continental platform that deals with funding of infrastructure development. Our initial funding was Kshs5 billion and now we have moved to Kshs10 billion. It is a statement that we, as a nation, are serious about infrastructure. The basics of all infrastructure is access roads, especially, in rural Kenya.

Madam Temporary Speaker, the Kenya Roads Bill has been debated in this House. Clause 6 of the Bill proposes the creation of a Public Roads Standards Board (PRSB). It is a board that is expected to set and oversee the implementation of standards of all categories and classes of both national and county roads. When you look at the Constitution and the institutions that are proposed to sit on that board, you will realize that almost every relevant agency of Government that deals with roads is represented.

The same Bill, in Clause 101, creates the County Roads Agencies, which will be responsible for standards of roads in the counties. The widening gap in that provision is that the County Roads Agencies are not represented at the board that is supposed to be setting standards for roads, including the ones in the counties.

Madam Temporary Speaker, this Motion by Sen. Kasanga is timely and will lay the foundation on which regulations for the operationalization of the Bill, if it is passed, will be based. We have just listened to the contribution of our colleague, Sen. (Eng.) Hargura. He has listed a number of technologies that are available, affordable and

sustainable. Being a roads engineer of long and good standing, I just want to pick on what he said about Meru. I had an opportunity to visit a road in Meru that had been repaired, improved and upgraded using the probase technology. I had opportunity to speak to the governor at that time, Hon. Peter Munya. He told me that the cost of that road could not be beyond Kshs20 million per kilometer, irrespective of how big the road could be. Why are we paying upwards of Kshs80 million per kilometer to tarmac our roads, when there are technologies that are available and have been proven to be effective to do roads?

Madam Temporary Speaker, as I speak, a lot of county governments are trying to upgrade and repair roads following the destruction by the rains. Yesterday, I received a memo from residents regarding a section of a road in Kitui County called Kwasiku to Kwa Mutisya. That road is being graveled, but there is so much dust that the people along the road are considering even moving elsewhere until a time that there will be rains. This is happening, yet there are technologies in this country that are available that can be used and employed by county governments, to make sure that the upgrading and the standardization of our roads is not a health hazard to the people who are supposed to benefit from those roads.

With those few remarks, I support.

The Temporary Speaker (Sen. Pareno): Let us have Sen. Wario.

Sen. Wario: Thank you, Madam Temporary Speaker, for giving me this opportunity. I rise to support this Motion. Roads in Kenya are in a pathetic condition, especially, the ones in rural areas. Rural areas are not accessible because they are not connected. The people living in rural areas are locked away from the other parts of Kenya, just because their roads are impassable. Therefore, it is time to come up with a law that will ensure that the people who live in remote areas are connected to other parts of Kenya.

The poor performance by schools in my area is mainly contributed by poor roads. The teachers who teach in these schools live away and sometimes do not report back to school because roads are impassable, especially, during the rainy season. This situation denies children in the rural areas the right to education.

Madam Temporary Speaker, many mothers die on the way when they are referred to referral hospitals because the roads are impassable, especially, during the rainy season. Where I come from, some of the villages are cut away from the bigger market areas during the rainy season. They can only be accessed when the rainy season is over. Therefore, we need to connect these people, who are denied the essential services that we promised them when we were campaigning. The Government of Kenya owes these people good roads. This Motion has come at a very appropriate time and we need to support it.

May I also welcome Kamunyu Primary School from Kitui County. These are very young pupils from maybe lower primary. You are tomorrow's Senators, governors and presidents. There is a trend in high schools where students are burning dormitories. We do not know what is causing this trend. Where I come from, four dormitories were burnt down yester night. Please do not extend your hands to evil things. I urge the students that when they go back to school, they should remember that their parents are paying a lot of

money to see them prosper. If they develop a habit of burning everything, they will become poor in future.

I am told that the students are panicking because they do not want to sit for the mock examinations and their only way of expressing anger is by burning dormitories. They forget that their parents pay a lot of money to build the dormitories as well as see them dressed decently. Your teachers have brought you this far for you to see the Parliament of Kenya and we want you to become good people in future. I welcome you and urge you to resist the habit of burning dormitories in school.

Sen. Cheragei: Thank you, Madam Temporary Speaker. On behalf of the great people of Nandi County, I also extend a warm welcome to the students of Kamunyu Primary School to the Senate. I know that most of you have begun dreaming about the future and I hope that this House and the other Government organs will be an inspiration in your journey to becoming the person that you want to be.

The students need to know that there is no gain without pain so they must wake up, work smart and hard so as to realize and achieve their dreams as they also actualize the Sustainable Development Goals (SDGs) that the country is progressing towards. I pray that they will learn all they can. I have seen their Senator around and I hope that he will have an opportunity to take a souvenir photo with them and that it will be an inspiration to the other young people going forward in this country. We wish you all the best.

I also want to thank Sen. Kasanga for this timely Motion. If there is one thing that is bedeviling all of us in this country, it is the rural roads. The President's Big Four Agenda constitutes food security, affordable housing, manufacturing and affordable healthcare, yet they cannot be achieved if we do not have proper infrastructure. When this Government came in 2013, Kenya had only worked on 10,000 kilometers of road network in this country.

Madam Temporary Speaker, it is during Kibaki's tenure and this Government that we have seen tremendous development and opening of new areas. I know that we have challenges with the Standard Gauge Railway (SGR) and the Chinese for it has been said that they are now selling cobwebs and roasting chicken along our roads. However, despite all that, this decade can be summed up as a construction decade for it is during this time that Kenya has expanded and created accessibility. It is important to note that the Big Four Agenda cannot be achieved if Kenyans do not support the small industries, especially farming.

I come from the North Rift, Nandi County, which feeds the nation. As we speak, most crops and milk are going to waste because of the poor state of roads. Milk and other products cannot reach the markets on time because of the poor state of roads. The roads also include the feeder roads that have been given to the county governments under the Fourth Schedule of the Constitution.

Madam Temporary Speaker, I hope that this will be a wakeup call to the county governments and the Ministry of Transport, Infrastructure, Housing and Urban Development and that they will take charge so that our people can get value for their hard work. It is sad that the heavy rains which should have been a blessing ended up being a curse in disguise because our people could not access the markets. Maize is almost ready

and you told me that you will be in Kericho, so I will organize for you to get maize. Milk is in abundant at our place but the problem is taking it to the market. The rains even affected Nairobi and as we speak, some roads within the city are inaccessible. I saw the backlash that the Governor for Nairobi City County received.

Sen. Kasanga is encapsulating what we are looking at in the Kenya Roads Bill whose debate is still ongoing. One of the salient features of that Bill is the creation of the standards board. When you go to the counties, the biggest problem that we have - Sen. (Dr.) Kabaka, the king of Machakos County knows - is that there is confusion regarding who should be in charge of a road.

When you go to the counties, they will tell you that the Kenya National Highways Authority (KeNHA) is in charge of a particular road or they might even say that the Kenya Rural Roads Authority (KeRRA) or the county government is the one in charge. The problem is that we now have duplication where you will find a Member of Parliament say that he has allocated the money courtesy of KeRRA then the county government comes and puts a billboard and we end up losing money in such confusion. Therefore, we must agree on who is in charge of which road.

Going forward, I know that it will be difficult to do this for there are cartels and we all know that they are very dangerous and you must have seen this in the fight against corruption. Nowadays, the cartels are using corruption as a political tool and you cannot fight impunity with impunity. These cartels will not allow us to merge KeRRA, KeNHA, Kenya Urban Roads Authority (KURA) and the county government. They will never agree to sit on one table because they know that it will be difficult for them to "eat".

Madam Temporary Speaker, these people are busy "eating" our money for there is usually money released for emergency roads repair especially when we have heavy rains in this country. This money is sent to the lowest level but they will not agree to sit. It is normally said that it is bad manners to speak while eating and I think that these agencies are busy eating hence the reason why they cannot talk of how to solve the perennial crisis in terms of management of our roads in the country and in our counties.

I hope that the Kenya Roads Bill and the spirit of this Motion will address some of these challenges. I know that it was proposed in that Bill that some boards be created at the county government and that they comprise of all leaders for them to discuss the problems in our road sector. Nowadays, when you sit at a function, the only problem that people discuss is roads. How can we implement the President's Big Four Agenda if the basics of sustaining the basis and the foundation of the economy of this country is not possible?

I have talked to the Ministries and I have made my request. I hope that we can agree, as a Senate, to force KeRRA, KeNHA, KURA, the Ministry of Transport, Infrastructure, Housing and Urban Development and the Council of Governors (COG) to come to the talking table. Some of these recommendations will not be implemented when we still have confusion on who is in charge of a particular road. The citizens will never understand who the road belongs to and yet all they want is good roads for them to access the market so as to sell their wares.

People want good roads to their work places, for circumcision, marriage and other things that are incidental in life that we cannot ignore. The roads must be in a good state.

We also have sick people. I have told my governor that if the roads are bumpy and the young people who are in the age of siring children are riding those motorbikes, the future is bleak. We might not have children in our nursery schools. We must agree and have an organised way on how to finish and ensure that some of things---

Finally, as we look at the state of the roads outside the emergency funds that we have---- We will coronate Sen. (Dr.) Kabaka "The king" and have time to discuss with him about what is happening in Machakos County.

I agree with this Motion because in a long way, it will assist in full implementation of the Big Four Agenda and even the post-legacy of His Excellency President Uhuru Kenyatta. When H.E. William Ruto will be the fifth President of this Republic, we will ensure that some of these things are fulfilled and we have better roads than we have today. We will protect the posterity of this country.

I support.

The Temporary Speaker (Sen. Pareno): Let us have Sen. (Dr.) Milgo.

Sen. (Dr.) Milgo: Thank you, Madam Temporary Speaker, for giving me this chance to also contribute to this wonderful Motion by Sen. Kasanga.

It has come at a very good time, specifically since we are talking about Kenya becoming an industrialised country. We have talked about the Kenya Vision 2030 when we are imagining that Kenya should become a middle income country. I must say that without a good road network, that will be a pipe dream. For a country to become a middle income earner, it must ensure there is development in all its parts.

Madam Temporary Speaker, we have very poor road networks in the rural areas. While we are talking about the four pillars of our Jubilee Government; that is affordable healthcare, and food, it is unfortunate that food is going to waste in some areas because of lack of transport. In some cases, where there is poor road network, some middlemen are able to get there and buy produce at very low prices. The people therefore, continue being poor.

I come from an area where there is a lot of tea being grown. Sometimes taking the tea leaves to the collection centres is a problem where it sometimes takes up to four or five days in the collection centres before it is delivered to the factories. By the time it gets to the factories, the tea leaves are rendered useless and thrown out. That leads to the farmers and workers losing.

Madam Temporary Speaker, lack of standardised road construction methods is the reason why there is a lot of corruption in their construction. In many rural areas, the roads being constructed are so narrow to the extent that we are left asking ourselves what the standard measure was. With the recent floods, those roads which had been constructed have been swept away. There are, therefore, many potholes and the roads have been rendered impassable. We are therefore, wasting money in repairing them. In other cases, the roads are the cause of accidents that happen in those areas.

Sen. Cherargei has mentioned about the several bodies that are in charge of roads. There was a time I was asking myself what the role of KURA, KeRRA and KeNHA is. I think we are wasting a lot of funds on all of these bodies. Although somebody was saying we are not going to merge all of them, I think we should clearly state who is in charge of roads, where and why they have never come out with a standardised measure.

I realised that a very good suggestion was given about modern, eco-friendly and in-expensive technologies which can be used leading to spending very little money. We have not built roads across the whole country especially the best roads, because we normally do them and they are very expensive. After a few kilometres, we are being told that they have taken large sums of money which is why we are saying that lack of standardised construction is the root cause of corruption in our country.

Madam Temporary Speaker, a poor road network in the rural areas will not attract investors. When we do not have any investors in the rural areas, we do not have industries and a place to employ our youth. There is, therefore, a lot of youth unemployment in the rural areas and this leads to rural-urban migration. It is the reason we have congestion, shortage of facilities and houses have become very expensive because there are many in the urban centres. When people arrive there and they are not employed, they resort to evil ways such as drugs and substance abuse and other causes of insecurity.

I was in Uganda recently and we found out that the country is constructing wonderful roads. We even had to spend a day going around looking at some of the roads. The Roads Authority in Uganda says they are building the best roads in the rural areas to retain the youths there and avoid congestion in the urban centres. It will also ensure that the strong labour; the youth, are left in the rural areas.

Madam Temporary Speaker, the Fourth Schedule of the Constitution of Kenya 2010 states clearly that county governments have been given the management of rural roads. However, I am sure the major challenge is the lack of funding. Recently, when we were looking at The Kenya Roads Bill (National Assembly Bills No.46 Of 2017), we found that there is lack of funding due to the classification of roads. When we do not classify the roads, we have a problem in deciding who is to develop which road; which road is to be developed by the national Government or by the county government. We end up having our roads left without any development at all

Madam Temporary Speaker, I imagine that if this Motion will be developed into a Bill in future, we shall then have a standardised method of construction of roads. That is the time when we shall be able to do many roads in this country in a standardized way. We will know every kilometre of a certain standard of road will cost so much and avoid having similar roads costing differently.

This Motion could not have come at a better time. Again, I want to thank, Sen. Sylvia Kasanga for bringing this Motion to this House.

The Temporary Speaker (Sen. Paren): Let us have, Sen. (Dr.) Kabaka Boniface Mutinda.

Sen. (Dr.) Kabaka: Thank you, Madam Temporary Speaker, for giving me this opportunity to give my support to my sister, Architect Sylvia Kasanga in her Motion that clearly calls for the Kenya Government to address the subject matter which is lack of a standard policy regulation for construction and maintenance of the rural access roads. As it has been clearly stated by the previous Senator, Part 2, subsection 5 of the Fourth Schedule of the 2010 Constitution of Kenya, has bequeathed the county governments with the jurisdiction with regards to dealing with transport, including the county roads.

The problem with that donation of power from the national Government to county governments, in my own understanding, is that the classification of the said roads in the Constitution is in a quagmire. There is confusion with regards to who controls which roads and which roads belong to which authority? Is it the Kenya Urban Roads Authority (KURA), the Kenya Rural Roads Authority (KERA) or the Kenya National Highways Authority (KeNHA) that owns them? With regard to funding, it is not clear.

Informed by the perennial challenges of bad roads, year in, year out, throughout the counties, it is clear that this problem is brought forth by the fact that we do not have a standard policy regulation for the same. So, what is the problem? Kenya is known to have many engineers in civil, mechanical and electrical engineering. We also have Architects like, Sen. Kasanga. They belong to the same professional body. However, if you look at the history of the profession of engineers - with due respect - since Independence, it is now over 50 years, it is a big shame. We are importing engineers to do our railway lines with the level of education that we have. We have professors as civil and electrical engineers.

It would be prudent for our own Government to involve the local engineers. We do not see them anywhere; even where we have big projects and contracts. We always have seen big companies. We had a serious company that was given engineering jobs by the past governments, if you looked at their group of engineers; you failed to see a Kenyan face. We had companies like Mugoya Construction & Engineering Ltd and many others. At the end of the day, it is some of these big companies that are given mega projects like the NSSF. This House knows the story, I need not to repeat.

If you look at the political economics of the roads construction and maintenance in this country, later on, the rural access roads, you will realize that it is not by default, but by design. I will not talk about the devolved units because they are still at the nascent stage. In fact, some of the engineers in the national Government are beneficiaries of the roads fund. The enormous billions of shillings that are released by the national Government to the national Government roads projects and the county roads projects end up in their pockets. So, it is not that we do not have the academic capacity to develop the necessary standard policy regulation. Our problem in this country is corruption. If you look at the combination of the various boards - there is a Bill before the Senate on that - it is like there is war. There is no proper coordination. Why can we not have a solitary body that will coordinate the other aspects of roads construction and maintenance?

When we talk about technology, which our sister, Architect Sylvia Kasanga is trying to bring forth, there will be an issue of what is the appropriate technology that will be applied to move us from the perennial problems of pathetic deteriorating roads throughout the county? As it was mentioned by the distinguished Senator for Marsabit County, there is need for research and development to come up with an ideal standard policy that will cut across the board throughout the counties. We appreciate that Kenya has different geographical terrains, but with a policy that is articulated, can be changed to apply in different situations and leaves some room for improvement; it can guide us. Our engineer scientists can come up with such a policy.

If you travel outside Kenya to foreign states, you will find children who do not know what a pothole is. If you go to countries like Dubai – we are not elevating ourselves

to that standard, but why not? - If you ask the primary level children: What is a pothole? They do not know. If you look at other foreign countries where a majority of you, Senators, have traveled, you will realise that there is a lot that needs to be done in this country. The economic implications, the GDP development and all other physiologies cannot be achieved without good roads.

I will be doing a disservice to the people of Machakos County who elected me if I do not mention that there are certain rural roads which are in a deplorable state. It is good that today we met the Governor of Machakos County when he appeared before the County Public Accounts and Investments Committee (CPAIC). I want to be on record that certain roads, especially in Mavoko, like the Muthwani, Airport, Githunguri Road is in a pathetic state. Something has to be done about it urgently. Kithimani and Kithyoko roads in Masinga are in a deplorable state. Kibauni road in Mwala Sub-county and Kalama-Makaveti road Kimutwa are in bad shape. The road between Kangundo and Mwala was left untarmacked when Paul Ngei - one of the Kapenguria six - was a Minister.

There are other roads, for example, the road from Kabaa to Mbiuni, Kathama up to Tala; the Yatta-Katangi Road in Yatta as well as Muthetheni Road in Mwala. Similarly, where I come from, I travel on the Ikatini-Nduimoni-Mikuyo Road, which is a murram road in a very deplorable state.

Therefore, Madam Temporary Speaker, I support this Motion by Sen. Kasanga that there is need to come up with proper policy guidelines that will help manage rural roads, if not all the roads in the Republic.

Thank you, Madam Temporary Speaker.

Sen. Mugo: Thank you, Madam Temporary Speaker, for giving me this opportunity to also say a word or two about this Motion. From the outset, I support and congratulate Sen. Kasanga for bringing it. We encourage her to go ahead and bring a Bill so that it can become a law.

A lot has been said about road construction, especially feeder roads or access roads in rural areas. I do not wish to repeat what has been said. However, let me emphasise the importance of these feeder and access roads. We congratulate the Government for a lot of work that has been done on major primary roads across the country. However, even though we have all those roads and we continue to do more, without tending to the access roads, it might not do a lot to help Kenyan farmers or traders. Feeder roads are at the base of development because that is where the farms are and where we have the farm produce. We read all the time that in some areas, a lot of food is going to waste, yet there is no food in some areas. It is like that many times. It does not need to be like that way if we can develop feeder roads all over the country.

Of course, Madam Temporary Speaker, there was a question of who is responsible for doing these feeder roads. We know that feeder or access roads, which are meant to access the big roads, were devolved in the new Constitution. Even though they were devolved, the buck still stops with the national Government. It is true that the Constitution says that one level of government cannot interfere with the other level of government. However, I believe that when money is allocated for certain functions, such as feeder roads, maternity care and health centres, it must be followed very closely to

ensure that it is used for what it was intended for. Whereas governors might not like that, it is a responsibility of the Government that is giving that money. We know that the national Government is the one that gives most of the monies for development to the county governments. Unfortunately, county governments have not been able to raise enough money for development at the county level. We all know that there is a lot of waste at the county level and that money is not going to what it is intended to do. Until we all agree that we own the access roads, the health centres and the technical schools in our areas, we will not win the battle.

Therefore, Madam Temporary Speaker, those who are given the responsibility at the county level to do the feeder and access roads owe it to the people of that county to make sure that it happens. When I was the Member of Parliament for Dagoretti Constituency, there used to be a lot of arguments on the issue of money to do the feeder roads. Dagoretti is not all a city; it is mixed, with a part of it being urban and another part rural. I would say: "We did this road using the Constituency Development Fund (CDF)." The County Council of Nairobi then would say that it was their road, they put their money there. The road was used as a cash cow and money did not do what it was intended. We should ensure that money spreads not just on a given road which everybody is claiming to have done, but also to do the other roads in the counties, constituencies or wards. I say so because no matter how much money is available for this work, if there is no accountability that we are all committed to see that a road is done, we will not win the battle. This is like a calling; no one needs to be supervised. The need for good access roads cannot be gainsaid. We know that to open markets for our produce, we need these feeder and access roads. The produce cannot reach the markets without these roads since they connect the farms to the markets.

On the Big Four Agenda which has been talked about a lot, one of the pillars is food security which will ensure that there is enough food for everybody. In Kenya, I believe we produce enough food for everybody. However, we have to move that food to where it is needed. That is why I congratulate Senator Kasanga for bringing this very important Motion. I encourage her to go ahead and bring a Bill, so that it becomes a law to standardise the rural roads. I hope that she will also include the urban roads; the township, not the Central Business District (CBD). When you look at where our people live, there are also no roads there. When we talk about development, we should include everybody.

Madam Temporary Speaker, we must see how to save all the produce that is lost by ensuring that we have good feeder roads. This will enable the farmers reach produce to the markets, so that it can reach areas where there is inadequate food. Farmers will get their worth for the farming because they have sold their produce.

When we look at the issue of affordable healthcare or good health for everybody, patients need feeder roads to access where the health centres are. I have heard of cases where expectant mothers cannot reach the health centre which might be four or five kilometres away. We cannot talk of accessing affordable health if that mother cannot make it to a facility. We congratulate the First Lady who worked very hard to make sure that mothers deliver in a health facility or are helped by a trained nurse or doctor. To support the work which the First Lady is doing and even the President's Big Four Agenda

– one of them being universal health – then we owe it to ourselves to have good feeder roads. Having a big highway will not help that mother because she has to access it through a feeder road or reach a health facility just a few kilometres from where she lives. We cannot talk of accessing good healthcare without transportation. This will happen when we have feeder roads.

There are many other sectors like education. Our children need to access schools in their neighbourhood. For our country to develop or become a middle economy, one of the biggest areas that we have to attend to is the feeder roads and not just the big roads. I had an opportunity to visit Cuba with Parliament, under the Inter-Parliamentary Union (IPU). While in the countryside, we were amazed because Cuba is just a developing country like ours. They are not very wealthy, but their roads have no potholes. As we bring health workers from Cuba to support our health sector, we should also import or learn their technology on how to construct cheap and beautiful roads with no potholes.

Our roads are very expensive because of corruption. I hope all of us shall support His Excellency the President and the people who are working on ridding our country of corruption. If we do that, it will be possible to construct roads and attend to other areas of development because there will be enough money to go to every sector that we are trying to develop. This includes housing and all infrastructure put together. We can do it if we support the war on corruption.

I do not know if we can put a rider that it should not just be the rural roads, but also roads in slum areas like Kangemi, Kawangware and others. They are also economy centres of our people.

I support.

Sen. Kwamboka: Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute to this important Motion. I thank Sen. Kasanga for coming up with this Motion. As we know, roads are the major mode of transport suited for carrying people and goods in rural areas. These same roads are of vital importance in order to make a nation grow and develop. Without roads, we cannot even develop as a country. A reliable and well maintained road system offers access to businesses, health, employment and even education, all of which stimulate economic and social development in an area.

A fail in infrastructure is not an option. The only solution is to continue investing in road maintenance services for the good of the community and the local economy. Good rural roads improve community interconnectivity, social interaction and provide the necessary access to recreational, medical, educational, shopping, employment and other services and activities for rural residents. Lack of road construction and maintenance services in an area results in a failed transport system. This leads to soaring and significant financial costs to the local economy and population.

The Senator calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations, prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads, in order to ensure durability and sustainability of the access roads and also reduce maintenance expenses. I can as well support Sen. Mugo that it is not only the rural roads. Sen. Kasanga should

come up with a Bill that will include the feeder roads in slum areas that are in urban areas. We will support that Bill.

I support.

The Temporary Speaker (Sen. Pareno): I now call upon the Mover, Sen. Kasanga, to reply.

Sen. Kasanga: Thank you, Madam Temporary Speaker. As I reply, allow me to thank all the Senators for their input and contributions towards the Motion. Indeed, you can see the frustration there is with the few Senators who are here today. Repairing roads that are barely used is an expensive affair and a retrogressive approach to the intended economic development.

We have also heard that good roads are a sign and symbol of development. They are the largest engine to economic development and uplifting the living conditions of people by offering the opportunities that they need; be it work or market for their goods. The statistics have shown that we have only achieved a little over five per cent in paving of our roads that have already been classified. So, we have a long way to go. Indeed, this is the only way forward to finding the sustainable, eco-friendly and inexpensive sustainable solution.

We have heard from various Senators that the Big Four Agenda cannot be achieved without roads. What is the point of building hospitals when our citizens cannot get there? How will that universal healthcare work? We have heard of the poor state of education in Tana River because students and teachers cannot access the roads. Mothers die as they try to get to hospitals.

We have also heard about corruption. You cannot talk while you are eating. Coming up with such regulations will help in the fight against corruption because we will be cutting all the avenues where people are constantly looking for any opportunity.

To crown it all, I think Sen. (Eng.) Hargura placed it very well when he said that this is not new, it has been tried before in this country back in 1974. It has been tried and tested and statistics have shown that certain counties have utilised this technology. We have heard about Meru County where it has been reported that the Governor has been going round looking for solutions. As it is, it is the mandate of the State Department for Infrastructure and it is time they woke up.

I urge Senators to support and vote for this Motion so that the State Department can come up with regulations. Even as we await the Kenya Roads Bill (National Assembly Bills No.47 of 2017) to go through let us have these regulations in place.

Madam Temporary Speaker, as you said, it is complementary to the Bill. So, we do not need to wait. Let the State Department come up with the regulations. There is a history that the Department has tried it and so we are not reinventing the wheel as such.

I am grateful for the contributions and I now pray that we vote for it. Let the State Department do its work. Let us look forward to having our counties having accessible roads and then all the frustration will be put to rest.

I thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): Hon. Senators, pursuant to Standing Order No.73, I determine that this Motion does not affect counties and, therefore, does not require Division. I will therefore proceed to put the question.

(*Question put and agreed to*)

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

Hon. Senators, I defer Order Nos. 13, 14, 15 and 16.

MOTIONS

ADOPTION OF REPORT ON THE FIRST EXTRAORDINARY SESSION OF THE FP-ICGLR IN KINSHASA, DRC

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th-20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

(*Motion deferred*)

PAYMENT OF HONORARIUM AND PENSION TO FORMER COUNCILORS

THAT AWARE that National Forum of Former Councilors petitioned the Senate regarding the need for legislative interventions to address the plight and welfare of former councilors;

FURTHER AWARE that the Senate Standing Committee on Labour and Social Welfare considered the Petition and tabled its report on Tuesday, 16th February, 2016;

ACKNOWLEDGING that the Committee's report on the Petition made five recommendations among them that-

1. one-off honorarium of Kshs1.5 Million be paid to former councilors who served a minimum of one term since Independence; and

2. monthly pension of at least Kshs30,000 be paid to former councilors.

APPRECIATING that the recommendations were based on the fact that former councilors did not receive fixed emoluments and experienced disparities with regard to access to pension services and terms and conditions of pension schemes over the years, which made it difficult to fairly and equitably determine each councilor's rightful benefits retrospectively;

CONCERNED that the State Department for Social Services and Security, State Department for Devolution and the National Treasury have to date not implemented the Committee's recommendations on the Petition;

NOW THEREFORE, the Senate calls upon the Principal Secretaries to the said State Departments and the National Treasury to take necessary steps to implement the recommendations contained in the Report.

(Motion deferred)

**USE OF SIGNING EXACT ENGLISH (SEE) TO INSTRUCT
LEARNERS WITH HEARING IMPAIRMENT**

AWARE that Article 43(f) of the Constitution stipulates that every person has a right to education;

FURTHER AWARE that Kenya is among the State Parties that ratified the United Nations Convention on the Rights of Persons With Disabilities in which the parties undertook to ensure that persons with disabilities are not excluded from the general education system and that the education of persons, and in particular children, who are blind, deaf or deaf-blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development;

ACKNOWLEDGING that hearing impaired learners have linguistic challenges and perform dismally in academics since all subjects other than Kiswahili and foreign languages are taught and examined in English;

COGNIZANT that hearing impaired learners who are educable can master the essentials of English language as they are able to sign sing the National Anthem in Signing Exact English (SEE);

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology to-

1. ensure that Signing Exact English (SEE) is used as a mode of instruction for persons with hearing impairment who are educable;
2. develop SEE instructional materials for learners with hearing impairment;
3. work with linguists and researchers to develop sign language resources; and
4. ensure that sign language linguistics is offered as a discipline in universities and teacher training colleges.

(Motion deferred)

NOTING OF REPORT OF THE APNAC CONFERENCE, 2018

THAT, this House notes the Report of the Senate Delegation to the African Parliamentarians' Network Against Corruption (APNAC) Conference held in Ghana from 17th-18th March, 2018, laid on the Table of the House on Tuesday, 19th June, 2018.

(Motion deferred)

The Temporary Speaker (Sen. Pareno): Let us move on to the next Order.

ADOPTION OF REPORT ON WOMEN POLITICAL LEADERS
ANNUAL GLOBAL SUMMIT

Sen. (Dr.) Zani: Madam Temporary Speaker, I beg to move-

THAT, this Senate notes the Report of the Senate Delegation to the Women Political Leaders Annual Global Summit held in Vilnius, Lithuania, from 6th - 8th June, 2018 laid on the Table of the House on Thursday, 21st June, 2018.

We had a delegation of two Senators who were Sen. (Dr.) Agnes Zani and Sen. Mary Seneta chosen to attend the Annual Global Summit of Women Political Leaders. The Women Political Leaders' Forum exists to ensure that there is an independent international non-partisan approach to the way leadership among women is considered. The mission of the Women Political Leaders (WPL) is to increase both the number and the influence of women in political leadership positions.

Madam Temporary Speaker, let me start by thanking the Senate for allowing the delegation to attend this particular global forum. The forum was attended by about 300 women leaders in different capacities including the President of Lithuania who is a woman. She acted as a role model and created a lot of impetus and interest in the fact that women can rise up to the highest levels of leadership including being presidents of countries.

Her Excellency Dalia gave a keynote address. In the address, she highlighted some of the areas that have discouraged women in leadership including economic issues considering various political landscapes and she set the pace for the discussion.

The proceedings of this particular global summit were done through plenary sessions and discussions. There was also a key session on policy which enabled leaders to share experiences. So, it was a forum to allow leaders to speak to each other and about each other, evaluate and compare the situations in different countries, motivate each other and find ways and means of increasing the numbers in the various parliaments.

As you might know, the dream of equality has not yet been attained. In many parliaments, women leaders spoke of the various efforts including quotas and affirmative action to increase the numbers while in other parliaments it is through elective processes and women are struggling to come to the fore. All in all, just to highlight, some of the issues that were discussed dealt with technology and changing role of technology; the

impact of ICT on women; a global network including sometimes misrepresentation of women leaders which also happens to male leaders and also techniques and strategies on how to deal with that were shared.

Another important component was the issue of climate change that affects the whole world but the emphasis is that this is an area which also affects women. Therefore the forum encouraged women to approach issues of climate change with a lot of discernment and interest so that this is primarily addressed in a conclusive manner.

The issue of women economic empowerment was also critical. There was a session on how to ensure that you are able to be grounded financially so that you can stand up and seek for election as a woman leader.

There was also the issue of cultural bias and stereotyping that has been there for a very long time and it continues to be there. It was identified as one of the things that have for a long time brought down the level of leadership that is expected of the women.

Women were encouraged to stand up and be counted. It is time for the women to be heard and listened to. The theme of the Summit was 'It is About Time. A Hundred Reasons to Act' It was a call to action and, therefore, rather than talking about it, when all these issues and discussions have been put across from time to time, it was a point to call to action.

Madam Temporary Speaker, one of the key aspects that came out from this Summit was the issue of leadership, especially in terms of mentorship; the whole idea of mentoring young girls. At that meeting, we had several young girls from various nations mingling with the women leaders so that they get a nexus for this. The programme is called 'Girl2 Leader - Lead like a Girl.' The young girls also had a chance to talk about the promises they had for themselves as leaders as well as to talk about their challenges.

What was also very motivating was the award giving ceremony for people and specific leaders who have done very well in their different sectors. There was a lot of celebration, coming together and ensuring that all these issues have been addressed in a very systematic way.

Madam Temporary Speaker, I want to focus briefly on the policy focus sessions because they were very crucial. They included looking at the benefits of a gender sensitive parliament because at the end of the day, gender perspectives are important. When you listen to only half of what is being said, the thinking and the mind-set is very different. Therefore, when you listen to both sides, you are more likely to better see and solve a problem. Issues of gender budgeting also came up, for example, to ensure that at the end of the day, there were enough partners in economic empowerment for the women. Issues of health were also put to the fore and they are very critical for us.

As a delegation, we made various observations which we thought were very key that even as we come back to our countries, we can make these our working points and hinge even our own challenges as women leaders in this country and proceed to make it even better. One of these observations was that the gender economic gap and working conditions of women in the formal and informal sectors need to be addressed. Together with that was the issue of wage differentials which have not yet become equalized and the need to ensure that it is equal pay for equal work done for both men and women.

Madam Temporary Speaker, I have mentioned the issue of mentorship thorough the ‘Girl2 Leader - Lead like a Girl’ Initiative. We made a proposal that this is an initiative that we should start in Kenya in schools and for young girls. We also talked about the importance of showing that all forms of violence against women and girls are emphasized through legislative means and looking for ways of eliminating them. We know that the situation in Kenya for the last couple of months has been the topic over and over again; violence against girls and women yet these are the women we are relying on to build this country. This has to be addressed.

The issue of technology is also critical and needs to be addressed and encouraged within the realm of leadership. Kenya also needs to make more effort to reduce the gender gap. In this regard, this particular delegation also had a chance to share about the progress of Kenya in terms of the no more than two-thirds gender rule that is in place and the challenges that we have had in implementing as well as the future prospects that we have to ensure that this Bill finally becomes law and something that is aligned to the Constitution because this is a right that has been given by the Constitution.

With those few remarks, I beg to move and request Sen. (Dr.) Milgo to second.

Sen. (Dr.) Milgo: Madam Temporary Speaker, thank you for giving me this chance to second this Motion. This is a Summit that normally brings women together to assess their progress in terms of leadership positions in the political arena.

From the outset, I used to say that the women political leadership in this case whether there is presence or absence, is affected by discrimination when it comes to recruitment and selection into the job market. In any case, this has come as a result of stereotypes particularly with regard to some types of jobs.

Madam Temporary Speaker, in the long run, this ends up making women miss out at the political decision-making table and it becomes a nightmare for them to attain leadership positions. One of the issues that has affected women and made them to be absent from political leadership is the issue of the gender-economic gap which is very wide.

Madam Temporary Speaker, when women want to take part in businesses, it normally becomes a challenge, more specifically because access to funding normally requires collateral. When we talk of collateral, you realize that in Africa, and particularly in our areas, the issue of women owning land and having title deeds is a challenge. Therefore, when it comes to political leadership, it becomes a nightmare. Political leadership requires so much money so that in order for women to participate in seeking elective leadership positions it becomes a challenge because of lack of funds.

Women who have joined politics have had to go through a very rough terrain and, surely, they must have sorted it out. You will realize that even when there is violence, many women and girls are affected. Normally, during political campaigns, many women are affected. During the 2007 General Elections, many women and girls were raped and as a result, there were children born out of wedlock. In some cultures, such children are normally neglected, not being cognizant of the fact that it is not the fault of these children to have been born out of wedlock.

Madam Temporary Speaker, I am happy that right now we have a Bill that will deal with the issue of cybercrime. Otherwise, women have been affected because of the

abuse that comes from the media. Normally, whatever women say is blown out of proportion in the media contrary to how their male counterparts are reported in the media.

Despite the fact that it is envisioned in the Constitution of Kenya 2010 that the two-thirds gender rule should have been in place, we cannot achieve this without the support of our male counterparts. It is our prayer that male counterparts will assist us pass this Bill so that come next time, we shall have it in place. I would have spoken more but because of time, I second this Motion.

Madam Temporary Speaker, I wish to second this Motion. In the future, we will have a lot to contribute to this.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate, therefore, stands adjourned until Tuesday, 24th July, 2018 at 2.30 p.m.

The Senate rose at 6.30 p.m.