

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Tuesday, 17<sup>th</sup> July, 2018

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM NGEI PAG PRIMARY  
SCHOOL, NAIROBI COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence, in the public Gallery this afternoon, of a visiting delegation of students and teachers from Ngei PAG Primary School, Nairobi County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I thank you

*(Applause)*

**Sen. (Dr.) Langat:** Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to also welcome our children, whom we love so much, to this particular important House in this country. Some of us did not get such an opportunity and we congratulate your school for exposing you so early to such an important place. You are welcome to the Senate and I encourage you to continue being disciplined in school. We are currently seeing most schools going up in fire and we discourage our children from misbehaving in schools.

Mr. Speaker, Sir, I have learned today that we have very few programmes in the media which support the discipline of the children in schools. I think only the Kenya Broadcasting Corporation (KBC) has one programme on Saturday, and it is full of cartoons. We should encourage them to have more educative programmes which support building the culture of these young ones. I welcome them and congratulate them for coming to the Senate.

Thank you very much, Mr. Speaker, Sir.

**Sen. Wambua:** Thank you very much, Mr. Speaker, Sir. I also join you and my colleagues in welcoming the students from Ngei PAG Primary School to the Senate. I want to encourage them because currently, this country is experiencing a wave of unrest in schools, which is very unhealthy. I encourage the students who are visiting us today that irrespective of how situations and circumstances turn out, tomorrow is always a better day.

They have a future to take care of; they should stand out from the crowd and be counted as some of the disciplined students at a time when we are experiencing this wave. I would also like to encourage them to take the time, as they visit the Senate, to learn and be inspired such that in the near future, we will have some of them joining the legislative arm of Government in this country both at the national and county levels.

Mr. Speaker, Sir, with those few remarks, I welcome the students.

Thank you, Mr. Speaker, Sir.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I take this opportunity to welcome the young students, who are the future leaders. I challenge them to take an opportunity to see and observe what we are doing in this House. I also want to encourage them to aim higher.

Mr. Speaker, Sir, as the Chairperson of the Committee on Education has said, we are currently experiencing a lot of challenges with the fear of the unknown. However, I would like to challenge these youth to think about education. Education becomes sweet when you are eager for knowledge and not for facts. Do not focus on facts as much, but go in and try to pursue knowledge. The only way that you can pursue knowledge is by ensuring that you remain in school.

Please, take this opportunity to talk to your brothers who are currently engaged in the rowdy activities of burning schools and encourage them to think about tomorrow. We are here because somebody loved us, attended to us when we were in schools and cared for us. When you go back to school, you should remember that the reason we are working here is because we care for you and we want a bright future for you.

Thank you, Mr. Speaker, Sir.

*(Applause)*

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

### PAPERS LAID

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Tuesday, 17<sup>th</sup> July 2018:-

#### REPORT ON FINANCIAL STATEMENTS OF MERU COUNTY ASSEMBLY STAFF CAR LOAN/HOUSING FUND FOR FY 2016/2017

Report of the Auditor-General on the Financial Statements of the County Assembly of Meru Staff Car Loan and Housing Fund for the year ended 30<sup>th</sup> June, 2017.

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REPORT ON THE FINANCIAL STATEMENT OF MERU  
COUNTY IDC FOR FY 2016/2017

Report of the Auditor-General on the Financial Statements of the Meru County Investment and Development Corporation for the year ended 30<sup>th</sup> June, 2017

REPORT ON FINANCIAL STATEMENTS OF KITUI COUNTY  
ASSEMBLY STAFF CAR/MORTGAGE SCHEMES FOR FY 2016/ 2017

Report of the Auditor-General on the Financial Statements of the County Assembly of Kitui Staff Car and Mortgage Loan Schemes for the year ended 30 June, 2017.

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

**Sen. Halake:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Tuesday, 17<sup>th</sup> July 2018:

REPORT OF THE 62<sup>ND</sup> SESSION OF THE COMMISSION  
ON THE STATUS OF WOMEN

Report of the 62nd Session of the Commission on the Status of Women.

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

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

**NOTICE OF MOTION**

NOTING OF REPORT OF THE 62<sup>ND</sup> SESSION OF  
THE COMMISSION ON THE STATUS OF WOMEN

**Sen. Halake:** Mr. Speaker, Sir, I beg to give Notice of the following Motion:-

THAT, this House notes the Report of the 62<sup>nd</sup> Session of the Commission on the Status of Women laid on the Table of the House on Tuesday, 17<sup>th</sup> July, 2018.

Thank you, Mr. Speaker, Sir.

**STATEMENT**

POOR STATE OF SCHOOLS FOR LEARNERS  
WITH DISABILITIES

**Sen. (Dr.) Musuruve:** Thank you very much, Mr. Speaker, Sir, for giving me the opportunity to issue a Statement of topical concern. Pursuant to Standing Order 46(2)(a),

I rise to make a statement on an issue of general topical concern regarding the poor state of schools of learners with disabilities.

Mr. Speaker, Sir, Article 54(1)(b) of the Constitution of Kenya provides for the right of learners with disabilities to access educational institutions and facilities that are integrated into society to the extent compatible with the interest of the persons. Whereas the Constitution actually demands this, schools and institutions of children with disabilities have a number of challenges. Some of the challenges these institutions face include the lack of teachers, basic needs, medication, instructional materials and quite a number of basic things.

Mr. Speaker, Sir, a recent example that was aired in the mainstream media is the case of Kabarnet School for the Deaf and Blind. This school was started a long time ago but it goes through quite a number of challenges. The deaf-blind learners do not have enough teachers. Because they are unable to see or hear, they need individualized attention. Currently, the ratio of special need teachers to students at the Deaf Unit is one to seven.

This problem does not only affect Kabarnet School for the Deaf and Blind, but also the deaf and blind units in Mumias School, Kedowa Special School and other special institutions for the deaf-blind children. Deaf-blind learners need individualized attention. There is need for teachers to be with the learners from the beginning to the end of the day.

As I speak now, schools for the deaf-blind in Kedowa, Nakuru or even in Garissa are understaffed. I recently visited Kimwanga Special School in Bungoma County and I was shocked by what I saw. The infrastructure in the school is not enough. There were only two classrooms to accommodate all the learners from Early Childhood Development and Education (ECDE), kindergarten up to class eight.

Surely, when you are talking of two classrooms to serve from Pre-Primary to Class Eight; that is an issue that is of great concern. What I found in the school was that in one corner of a room, there was Class One. In another corner of a room, there was Class Two. In another corner, there was Class Three and then Class Four. This is not a good state for this country. The schools for children with impaired hearing, deaf and blind are wanting in terms of infrastructure.

Mr. Speaker, Sir, even when I went to Kimwanga Special School in Bungoma, I found that there was only one Teachers Service Commission (TSC) teacher who was the headmistress and was due to retire in February. As we speak now, that teacher has already retired. She retired in February, but she had to press on and remain in the school until a replacement was brought. So, the TSC sent only one teacher to replace the headmistress. Currently, in that school, there is only one TSC teacher and the others are employed by the board.

Mr. Speaker, Sir, I also want to talk about the issue of capitation. When it comes to capitation in special schools, the Government sends only Kshs2,000 per child. This money is not enough because the demands of children with special needs are really big. Even the Kshs2,000 is not sent in good time. This money is sent after three or six months. As we speak, even the teachers who are employed by the board of management are not paid on time because the money is not there. So, most of the schools are in arrears. This means that they cannot even buy food and drugs for the students. They cannot even provide basic items for the students.

There is dire need for the Committee of Education to visit all special schools in the country to survey the situation and see the condition that special needs learners go through and then bring a Report to this House for the purpose of intervention. Even as they do this, there is need for the Government to deploy teachers to special schools. There is need for teachers to be trained. There is need for instructional materials to be taken to these schools because we are taking of achieving parity of special needs children with the others. There is no way there will be parity in education if we do not address the educational needs of children with special needs.

Mr. Speaker, Sir, among the goals that all organizations are following is leaving no one behind. If we do not intervene, there is no way these children will be at par with the rest. They will always be left behind. If they are left behind, it means that we will never achieve our goal of 2030 saying that no one should be left behind. There is need for the Government to intervene. There is need for the Committee on Education to do something to ensure that there is parity.

Mr. Speaker, Sir, thank you for the opportunity to bring to the Floor of this House this important issue that needs to be addressed.

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

## BILLS

### *Second Reading*

#### THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILLS No.47 OF 2017)

*(Sen. Murkomen on 4.7.2018)*

*(Resumption of Debate interrupted on 12.7.2018)*

**The Speaker** (Hon. Lusaka): Leader of Majority.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to reply on this very important Bill. I want to thank all the Members, most of whose views I listened to with regard to this Bill. This is a very important Bill. Some of the views are very important and we must incorporate them in the discussion we will have with the Members, if we are to amend this Bill.

Mr. Speaker, Sir, I must start by saying that hon. Members must appreciate the constitutional basis for the unbundling of this function called roads. It is our responsibility under the law to define what are county roads and what are national roads because these are shared functions. There are so many Members complaining regarding the classification provided here and asking what the problem is with tarmacking a road; you just mix the necessary ingredients and then you are able to make the road.

It is just not about the ability of a specific county to do so. It is actually more about the possibility of roads crossing more than one county and the responsibility of the national Government to ensure that equity and equality is achieved in the country.

Those who have studied economics - I am not one of them; just the little I have heard - will attest that there is benefit in the economics of scale. When you have a bigger entity procuring for purposes of such kind of huge investments as roads, it leads all of us to agree that it is better at the centre.

Mr. Speaker, Sir, I know that we are a House that protects devolution and counties and county governments, but we should not start having this defensive approach to it to the extent that we behave as though we have no role in what Kenya can do as a country; as one unitary entity called Kenya. It is still our responsibility as a House. We still have a role when it comes to equitable distribution of resources to the various counties in this country even if it will be done by the national Government.

In any case, my argument has always been that under Article 174 and the discussion about devolution is not an entity, a system or a governance mechanism only to be used by county governments. People must divorce the arguments of what is devolution from county governments so that we appreciate as Article 174 says that it is expected that the national Government, as much as county governments would also do, are accountable to the people of Kenya on matters devolution. How have you devolved resources to the local level?

I know that in this House, we have a problem with the CDF. The only problem we have is the political influence on that CDF. No Senator can tell me here that it is the right thing to cancel money that is going to the county or constituency say an average of Kshs100 million and tell Kenyans that let us return that money to the centre so that it can be managed at the national level. That is already a good working concept. My only argument with the CDF has always been that we need to identify which national government function it will do.

Mr. Speaker, Sir, in my county, we have had a conversation with our MPs and we agreed that we give priority to schools so that we no longer do harambees for primary and secondary schools. We can use the resources that have been devolved to do that, if we can agree and that law can provide that that money, apart from the bursary will deal with education infrastructure and to a small extent security-related matters, building police stations and so forth. That is already a good concept.

I want to request this House that we should not be apprehensive about any national Government structure or resources being devolved like the case is with the roads. I would persuade all of us that we need to accept that if a road is crossing more than one county and has significant economic importance, it is necessary that the centre should be able to take it as a national road, either as a highway or national trunk road for purposes of the national Government institution to borrow loans, construct those roads and maintain them.

The debate we are having here is that we are only focusing on how the levies will be shared. Those levies are called Road Maintenance Levies; they are not road construction levies. In order to undertake the construction of the road, you must have the capacity to construct the road to the quality and standards we are talking about for you to get the levy to maintain it.

If you look at what KeNHA has been doing, and I want to be very frank on this one, even if it is the roads to go to Kisumu, Eldoret or Mombasa, even with the floods that occurred recently, the roads done by KeNHA do not suffer so much damage yet they

were constructed together with the other roads that other agencies were dealing with. This is because those roads used to have proper maintenance money. You can see that despite the serious floods we had in the country, we are able to protect and maintain those roads.

Mr. Speaker, Sir, I will request, because there are many amendments that hon. Members are proposing, that we approach it soberly. We will sit down as the Senate and agree on which amendments we will do. But let us not do it from the perspective that it is only the counties which should get the money. Getting the money to maintain what because you can only maintain that which has been constructed? The kind of standards of the roads that have been constructed here should be given to an entity that can borrow loans, can look at the national economical benefits and the economics of scale.

I also think that as a House, even after we pass this Bill, we should come up with an amendment later or another law on making road maintenance levy going to counties to be conditional grants.

Mr. Speaker, Sir, it must be traceable. At the moment it is a conditional grant but as we pass this law, we have not said it here that it is a conditional grant. This is because if by law the seven percent will automatically go to the counties it will be our responsibility every year to apportion this money in the County Allocation of Revenue Bill.

This will ensure that when we are allocating that money - the Vice-Chairperson and the Members of the Finance Committee are here - the conversation must be that that money is traceable. It is automatically going to the counties as per the percentage. It is divided based on the formula that will be provided for allocation to various counties, but must be traceable. Counties must account that they got Kshs100 million this year and this are the roads they maintained.

The fear I have is to have an overlapping responsibility where people lump into together with the money allocated under the Division of Revenue Bill, that is the equitable distribution of resources; then the county assembly will budget for it. The money that comes under the levy meant for maintenance of those roads should again be budgeted for as though it is for construction of the roads. It will then be easy for some people to steal the money and run away with it.

Mr. Speaker, Sir, something else that we must appreciate is the Kenya Urban Roads Authority (KURA). We must understand why it is important for it to be there. The resources we are giving to, for example, the County of Nairobi, cannot be able to construct the roads. At the moment, the roads that are being constructed by the national Government in Nairobi County are 60 percent. All those roads are supposed to be county roads. The capacity of Nairobi County, the money that we give them, they struggle to deal with overheads and payment of salaries.

Even collection of garbage has become a big problem. I must say here that I want to congratulate Governor Sonko for the steps he is taking in ensuring that he builds a factory that will be able to recycle waste but at the same time generate electricity. I only hope that it will not be captured by entrepreneurs because I know that their advert is out there. We are living in very interesting times.

Kenyans are now extremely suspicious of any project and nobody believes in any price you tell them that this is the price, whether it is competitive or not. We are so suspicious because the indications now are that every project that has Kshs1 billion in it,

is now being called a scandal. I want to warn my friend Governor Sonko to ensure that that project he is dealing with issues of garbage collection and recycling, let him manage it carefully so that characters may not come in and he finds himself and the Nairobi county government or Kenyans in trouble or Kenyan citizens having problems. I will revert back to that issue because I have something to say regarding that very important matter.

Secondly, I have heard a lot of noise about who constructs these roads. We must accept that there is a problem in the manner in which we, as a country, have mistrusted ourselves so much to the extent that every road project that we want to be done in our counties is given to foreign contractors. In our counties, citizens are demanding that contracts be given to the Chinese. Why is that so? It is because we sold our soul. All the local contractors that were in this country were cowboy contractors being used by politically connected individuals. They allocated money to a particular road for its purported tarmacking.

During former President Moi's time, there is a road in my county that was purportedly declared tarmacked. At that time there was no social media. Every time they claimed that, that road was being tarmacked, but the money was being syphoned to particular connected individuals. I saw some of them the other day saying that we should now do lifestyle audit. I wish that lifestyle audit could be done on that very individual, because I know he was a purported contractor for a road in my county. Those characters--

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**The Speaker** (Hon. Lusaka): Sen. Halake, what is your point of intervention?

**Sen. Halake:** Mr. Speaker, Sir, is the Senate Majority Leader in order to use his time for replying to a Bill to go into politics that he should not be engaging in by the virtue of his leadership position? What does lifestyle audit have to do with some of the things he is supposed to be replying to? Of course, we all support lifestyle audit, but using his opportunity and time for replying to a Bill to go into politics is not in order.

**The Speaker** (Hon. Lusaka): Yes, the Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, could the Senator, before she asks whether I am out of order, declare whether she has any connection with the person I referred to, who was then a cowboy contractor and is desirous of a lifestyle audit? Why is she raising a hand? I just provided a set of facts. Sen. Abshiro is interestingly giving us a pointer to whom I was referring to.

Be that as it may, let me just make this very important point. I was cut short, but I was talking about construction of these roads and the contractors. I want to proceed from there, if I can be allowed to proceed peacefully, unless Sen. Abshiro wants to declare that she has some connection to the person I was talking about.

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

**Sen. Halake:** On a point of order, Mr. Speaker, Sir. The Senate Majority Leader is misusing his powers and the time he has to reply to the Bill by engaging in politics of maligning others. I think it would be in order for him to keep to the subject matter of replying to the Bill.

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

**Sen. Wetangula:** Mr. Speaker, Sir, I do not want to wade into this intra-Jubilee conflicts.

(Laughter)

My point of order is that the Members who contributed to this Bill were very specific. They were decrying serious issues of inflated costs of construction of roads, skewed allocation of resources in the country, to the extent that roads are constructed in some parts of the country and not others. They also decried the issue of the dominance of foreigners in the road construction, which he has casually touched on and many other issues.

I know that my distinguished learned junior was enjoying the World Cup in Russia while we were debating this issue here. But I would want to encourage him to look at the HANSARD, see what we all said and give us a factual and reasoned response.

**The Speaker** (Hon. Lusaka): We will let the Senate Majority Leader to continue. Having come from the World Cup in Russia may be your biggest challenge here, but you can proceed with your submission.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I do not want you to fall into the trap of the Senator. I was the one who moved this Bill. So, to try to purport that---

**The Speaker** (Hon. Lusaka): I was saying that you may be having that problem because you have just come from Russia. It is not that you do not know the content of the Bill.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I am the one who moved the Bill. So, for the record, this is my Bill and I know what I am talking about and what Members raised.

Mr. Speaker, Sir, I was at the level of discussing the cowboy contractors. Why am I being gagged from naming cowboy contractors? Why is someone going on defence? Why is Sen. Abshiro going on defence and yet, I have not mentioned any name?

**The Speaker** (Hon. Lusaka): Proceed, the Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I was coming to the question of foreigners and their control in the roads sector. As a response to these cowboy contractors; the people who messed up our roads--- They formed small briefcase companies and allocated money to those companies. As a result, Kenyans started trusting foreigners. These foreigners do the roads within a very short time and in most cases, Kenyans appreciate that the quality of those roads is up to standard.

However, there is something that is now happening. Why are we training our young people to study Engineering? Why are we encouraging Kenyans to create employment? Why are we pushing for investments to be achieved in this country? How is it that a foreign contractor is paid on time, but a local contractor, who even works so hard on 5 or 10 kilometres road, is not paid on time?

We must agree, as a country, that the time has come for us to have this conversation with a view of supporting the local economy and content and also setting the standard for the same people who will construct those roads to meet the required standards. I know of a local contractor in my county who did a road from 2010 and finished it last year. You cannot use seven years to do 12 kilometres of a road. Therefore, we must balance.

Our argument is that we must ensure that our Kenyan investors and contractors get the contracts to construct our roads. We must ensure that we go back to our values and ethos. We must deal with our work ethics. I speak about this from experience. When a contractor, who is a citizen of this country born and brought up in Elgeyo-Marakwet County, was given a contract to work on a particular road, the locals were up in arms and said: “We want the road to be constructed by the Chinese.” Where is this mentality coming from? We must interrogate the argument as to why Kenyans now prefer foreign investors to local contractors to do the roads.

I think we must change the law to deal with that issue. The Chairperson and the Vice Chairperson of the Standing Committee on Roads and Transportation, Sen. (Eng.) Hargura, must lead us in that Committee to also agree to what extent we can give a contract to a foreign investor. We can start by stating that anything below Kshs2 billion should go to local contractors and then the others can compete with foreign contractors.

A good friend of mine, who is a contractor in this country, has never done any job for the last five years. He has been bidding and losing. He has hundreds of machines in his yard, rusting. I feel for him and many other local contractors. What can we do, as the Senate, to change the law?

If we just say the competition will be about who is able to access the resources, a foreign contractor – whether a Chinese, Turkish or Chinese-American – can get loans at 3 per cent financed by their own country to come and construct roads.

Here, to get a loan, you have to pay 20 – 30 per cent to the banks. How will they be competitive if we do not make the banking sector competitive? How will they be competitive if we do not set aside contracts of certain quantum for our local contractors? So, that conversation must be two-way. What can our local contractors do? How can we improve on our values? How can we ensure that we safeguard the local contractors but on the other hand, be able to change our mindset as a country?

Sen. Wetangula talked about some of us who went to the World Cup and it is a fantastic thing. So many people talk about leaders just travelling and they think that we just travel because we want to. We do not. We travel because there is an opportunity for us to learn something and bring it back to make a difference. That is why in the past, President Mwai Kibaki, former Prime Minister, Raila Odinga, and the Ford-Kenya leader, Moses Wetangula who sits here and raised the issue, went to the World Cup.

All these people went there and some of them came and translated what they saw to make a difference in this country. Wait until the Senate Minority Leader, Sen. Orendo and I, the Senate majority Leader, table our report here and you will see the proposals that we will give about what we need to do to make a difference in this country.

What happened to the five stadia? I hear so many people debate about football and sports from a point of ignorance. Let me speak as a former football player or a Bunge Football Club (FC) player. I gave you an assist to score a goal; you know that.

We must start learning because one of the things that we have learnt from Russia and Croatia is that football is not driven by Government but disciplined federations. It is driven by a private sector that recognises and invests in its youth. The football academies in Europe are private entities. Those are some of the things that we will debate when we talk about it later but as a nation, we must change our values and mindset.

I posted on my *Facebook* wall and *Twitter* that I believe that in my lifetime and in not so many years to come, this country will play in the World Cup. I saw the level of pessimism and disbelief. We have played in the Africa Cup of Nations (AFCON). We just need to be there punctually. That is why I am saying that we must return the faith and belief in our nation, whether in our road contractors or sportsmen.

If we do not believe in ourselves, why is it that we have conquered the world in athletics for over 50 years? We can replicate that elsewhere. Why are we conquering the world in Rugby Sevens? Why did Mr. Wangila win an Olympic medal in boxing? Those examples can lead us to say that we can do things well for ourselves and be world conquerors. That is, if we have good road contractors whom we will invest in and they will have the right values and ethos and that we will be facilitating them to do what they need to do.

The other concept in the roads contracts that we must discuss is; even though we give a contractor like the one who built the Thika Superhighway over Kshs30 billion to build it – or the Southern Bypass or the road that goes to Kisumu or Dongo Kundu, which I do not believe was Kshs11 billion as they said, we will have to see the facts – we must also ensure that they adhere to the requirements of the law as it is at the moment, that they must sub-contract work of certain amount to local contractors. That is the role of the Ministry to follow up.

We do not want a situation where a foreigner comes and registers a company locally and then he is called a local contractor. As a House, I think we need to amend that law and say that a certain percentage of the money must be given to a contractor that is local and whose 70 per cent of the company is owned by Kenyan citizens. That way, we will become so clear because a local contractor can be a foreigner who has registered a local company. That opportunity again will come for us to build infrastructure.

Mr. Speaker, Sir, I persuade hon. Members that this Bill is very good as it is, but we can make it excellent. If we want to make it so, we can sit and incorporate the views of each one of us. As I said, the main concern that Members have was on classification and on the division of those resources being shared to the various entities.

Before we go to the Committee Stage, we must sit down and agree that these are the issues. We must also listen to the Council of Governors (CoG) and the report of the Committee. I have read that Report and to a great extent, it had concurrence from the CoG except that they wanted the percentage to reach 20 per cent. They are the users and we must listen to them. We have our position as the Senate but we must also listen to the views that come from the CoG and the negotiated positions that happened in the Summit.

I was invited in the last Summit and I said this; if the Summit wants us to take their report seriously, they must not only just pass resolutions, but they must also be transmitted to this House so that we can debate and record them for purposes of oversight and guarantee implementation.

This Bill is important for Vision 2030 of this country. Good roads are good for development. It is also important for the Big Four Agenda in terms of spurring matters related to infrastructure towards industrialisation and job creation. Like Sen. Wetangula said, it is also important that roads are distributed equitably across the country so that it is not linked to where the President or Cabinet Secretary (CS) comes from but to what benefits it can give to Kenyans, equitably, as equal shareholders in Kenya.

I am very proud to say that this Bill is progressive and that all of us can make it even more progressive.

I beg to move.

Mr. Speaker, Sir, based on Standing Order No, 55(3) I beg you to postpone putting of the question to another date.

**The Speaker** (Hon. Lusaka): Okay. It is granted as requested. I will give another date when the voting can take place.

*(Putting of the question on the Bill deferred)*

Next Order!

*Second Reading*

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

*(Sen. Olekina on 10.7.2018)*

*(Resumption of Debate Interrupted on 11.7. 2018)*

**The Speaker** (Hon. Lusaka): I do not see any more interest. So, I will ask ---

*(Sen. Outa stood up)*

Sen. Outa, proceed.

**Sen. Outa:** Thank you, Mr. Speaker, Sir. I rise to support this amendment Bill which will give guidance on individuals who are meant to benefit from it. This will cure a number of things. I remember some years back, Kenya was struggling whether to pay the former Prime Minister, Raila Amolo Odinga, his benefits as a citizen who had served this country. It was the same for the former Deputy President, Kalonzo Musyoka.

If this law is amended, it will take powers from the Executive. These are powers which the Executive might use for their own benefit, for example, to intimidate the people they perceive would compete with them. This is the entitlement for the offices that are created, whether in the Executive as the President or the Deputy President; the Speaker of the Senate or of the National Assembly. If we do not give any guidelines or regulations, that is where the Executive will find a way to mistreat such individuals who are entitled to the benefits.

With those few remarks, Mr. Speaker, sir, I beg to support this Bill.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I stand to support the Bill. However, I would like to propose that we expand the scope to cover all public officers because I know that is the spirit with which Sen. Olekina has moved this Bill. He wants to bring certain standards, procedures and minimum legislative framework to ensure that people

who are entitled to a retirement benefit are given a standard and consistent application across the board.

Mr. Speaker, Sir, I stand to support this Bill because in the past, we have seen situations where these benefits have been used as tools of intimidation. For instance, I know that when retired President Moi was told to get into the aircraft and go back to Kabarak, he was also told that if he gets involved in politics, he will not get his retirement benefits. However, to be involved in the politics of this country and to do anything they would like to do is a democratic right of every citizen under the Bill of rights. This is, therefore, a human rights issue and they have a right, having served this country, to be compensated without any conditions, intimidations or anything that would infringe on their personal freedoms.

Mr. Speaker, Sir, we see a lot of former legislators coming here, hanging around and literally pledging allegiance to the powers that be at the moment. This is perhaps because they did not get compensated adequately or they were unfortunately subjected to some whimsical application of who gets to be compensated for the services they rendered.

Therefore, depending on whether or not you are in favor with the powers that be or who you knew, you got something or you did not get something. Those who did not know anybody then just went into oblivion. Therefore, what I like about this Bill is that it brings certain minimum standards that apply to everybody in a fair and just manner.

Mr. Speaker, Sir, it is about time that we institutionalised things in this country and not personalized them or give them to people as personal favours. We have watched this country almost being converted into people's personal foundations or charitable cases. We have seen cases where regions would receive development because some benefactor has said so, has organized a harambee or because somebody has gone to the office of somebody else and the person has said that you get what you actually deserve in the first place. We pay taxes and if you have served in a certain capacity, you deserve to be treated equally no matter where you come from, who you know or do not know.

Therefore, Mr. Speaker, Sir, this is precisely the kind of legislation that this House should be legislating to ensure that citizens of this country are treated equally, because it is a rights issue. Nobody should be discriminated against and everybody has a right to be compensated adequately for the services they have given. They should also be treated equally, whether or not they know somebody in high office. Similarly, they should be guarded against any intimidation or withholding of what is rightfully theirs by forcing them to stay out of politics, out of an office, having any opinions or saying anything against somebody in power.

Mr. Speaker, Sir, this is a very progressive legislation that seeks to empower and serve justice to our public officers. Even though the title of the Bill reads "Deputy President and designated officers," we may consider broadening its scope to cover all public servants or all public officers. I know that it is subsumed under the designated, but perhaps we may want to broaden that.

With that said, Mr. Speaker, Sir, I support this Bill and look forward to its implementation. If there are any regulations or pieces of legislation that need to be reviewed as a result of this Bill, we then need to move with speed to ensure that it is done.

Thank you, Mr. Speaker, Sir. I beg to support the Bill.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir, for giving me this chance. I rise to support this Bill based on the foundations that I have learnt of late while serving as a commissioner of the Parliamentary Service Commission. I have had the opportunity to understand the challenges that leaders go through as they serve in office and the fact that a very small group of people actually understand the burden placed on people who serve in high offices, in whichever capacity and positions.

Therefore, for us to be legislating today and putting into consideration the benefits and entitlements for Members who served in offices as high as that of the Deputy President, is extremely important. This is because many people do not get the chance to occupy these offices and may not know the burdens placed upon these individuals who have had the opportunity to serve as Deputy or Vice President in this country. Nobody understands the burden and the weight of the decisions they make, whenever they are in office. Yet, when they leave office, thanks to political whims and other considerations, many times nobody remembers the sacrifices they made and the challenges they went through.

Therefore, Mr. Speaker, Sir, it is important that we ring-fence it by an Act of Parliament, that having served in such and such a position, it is important that you get a specified entitlement. Similarly, if there is need to either reduce or increase these entitlements, this Bill proposes the setting up of this Committee which, in my opinion, is fairly balanced and has a good representation. You may remember the times we had a few months ago, during the debate about the entitlements of the NASA Coalition leaders.

If this Committee existed then, away from the political noise that would have been witnessed outside there, the team would have considered the requests being made by the former occupants of these offices and they would have given their thoughts to it. Subsequently, I believe that they would have received their entitlements without undue delay or anyone being told that they must speak or do certain things for them to enjoy those benefits.

Mr. Speaker, Sir, the reason I speak like this is because when I was still new, as Member of Parliament (MP), one of the things that I used to struggle with is to battle public opinion and try to always get favorable comments from the members of the public whenever I did anything. That is the burden of leadership. Little did I know that with time, I would come to realise that Parliaments world over are not popular with the populace. Westminster is not popular; Lok Sabha is not popular with its population in India and neither is the Kenyan Parliament.

You will always see a hue and cry in the newspapers when there is a small entitlement or when something has been passed for MPs. You would think that the people who deserve the least amount of entitlement in this Country are MPs, yet I do not know a job – at least, I have not done any in my lifetime – that is as difficult as being an MP. In fact, many people wrongly believe and imagine that people come to Parliament to make money. I am interested to know where that money is.

If you do the sum total of what people earn *vis a vis* what they spend to remain in Parliament, you realize that it is like a cocaine racket chase. People are hooked on it but they do not understand why. Many have the burden of leadership and feel the need to serve their constituents or do something better because leadership is a calling. Therefore,

if we have such an opportunity to legislate and ensure that leaders who have served in offices that are extremely important as this one are given what is due to them, we should do it without batting an eye or having a second thought.

Mr. Speaker, Sir, as I conclude, I would like to add something that has interested me in Section 8 (3). It states that:-

“Where there is a need to reduce or alter security arrangements of an entitled person, the Inspector-General of Police shall refer the matter to a joint Committee on entitlements for approval”.

This is extremely important. A person seated at Jogoo House will not withdraw the security of a leader because they are no longer in office simply because they have received a phone call from the President or whoever is powerful. This matter will be considered by the Committee.

I call upon the people that will be given this opportunity to remember that power, like a pendulum, swings both sides. Therefore, it does not matter what the political temperatures might be at that particular time. Whenever these considerations and petitions are brought before the Committee, they should be as level headed as possible.

Therefore, for those many reasons, I congratulate, my good friend, Sen. Olekina for a well thought out and drafted Bill. I support his thoughts and hope that they will become a legislation.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir for allowing me to contribute to this Bill. I support it because it is not easy for someone to be a head of an institution, for example, like you, the President or the deputy President. People in these positions need a decent retirement package. It is because of this that I support this Bill. However, I have a small amendment to it because we have a youthful population in Kenya. I would like to use you as an example because I would not like to discuss people who are not here.

If a 25 year old person takes over your position, after five years, he or she will be 30 years old. If they retire at that point and assuming that they live for 90 years on average, they will enjoy that position for 60 years. I have done my calculations in terms of the car entitlement and if we replace their car after every four years, that will total to 15 four wheel drive which I estimate to cost Kshs10 million which totals to Kshs30 million for one person. They are also entitled to a saloon car of 2000 cc which I estimate to cost Kshs2 million, which translates to Kshs6 million which gives a figure of Kshs36 million.

As I said before, Kenya has a youthful population. If ten former Speakers retire and they all enjoy this benefit and if we extend the life of the car by just one more year, Kenyan taxpayers will save Kshs360 million.

I have never bought a new car. However, all my imported cars from Japan were around eight years old and they served me for five years without major problems. So, if a car is new, it can serve somebody for five years. For example, if we increase the number of years for cars for ten retired speakers from four to five, taxpayers would save Kshs360 million. This is enough money to do a mega dam in Wajir where I come, where our animals are finished by drought every year. This is an amendment that I would like to make.

I have gone through the rest of the Bill and I am happy with the fact that people will retire to a decent income and that when they are in office serving Kenyans, they will

not need to be corrupt or make enough money to have a decent life in their future and because of that I support this Bill.

**The Speaker** (Hon. Lusaka): Thank you, Hon. Members. I do not see any more requests.

Proceed, Sen. (Prof.) Onger.

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir. I also want to add my voice to this Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill.

The political job is a thankless job. Many times people in these offices sacrifice too much because there is need for them to do the job that has been assigned to them during their time in office and they normally empty everything including family savings.

This happens when the public does not require them in office, when voting patterns do not favour them or when their term comes to an end because of a constitutional dispensation. In either case, we need to treat our retired Presidents, Deputy Presidents and the constitutional office holders that are entitled to these retirement benefits well.

I was impressed over the weekend to see the former President of United States of America (USA) enjoying the trappings of power even after he has left office. Nothing was removed from him including the Secret Service preventing our own governor from attending a function within his county. That is what I call recognition. For us, that recognition is lacking. If it means that we embed this in the law, so be it because it is important.

I remember when I served in Parliament and later, I left. When I went to check my retirement benefits I could not believe the pay slip. It was just peanuts. I looked at it and said is this all I am worth after all these years of service? That is when I realized that people who retire without clear benefits are really in trouble. I have seen many other officers particularly those who were in the Office of the Vice President and have nothing to their record.

Mr. Speaker, Sir, I have also noticed that we should not make this retirements benefits at the whims of anybody who may be in power at that time. Let it be a clearly legislative decision that when a person retires, regardless of what they want to do, they are not disenfranchised from enjoying the benefits of their retirement. It is so important.

Since it also touches on the Office of the Speaker, I have no shame to say that eventually, when you will not be voted back to office, you should enjoy reasonable perks to maintain the dignity of a former Speaker. By the time you reach that level, there would have been a unanimous decision by the Senators who are in this House. To find you on the streets walking around, looking for little help here and there, would be a shame on us; that we have not taken care of the retirement benefits of our top echelons, who have served this nation with distinction.

Mr. Speaker, Sir, I fully support this Bill. However, once it becomes an Act of Parliament, let us not tamper with the provisions of this Bill. That is where the problem starts. Depending on whether or not somebody likes you, they would then dictate when you should get that retirement. We will put conditions that if you do A, B, C and D, then you are entitled to this retirement. That is the area we want to get rid of, so that it is a

clear and straightforward Bill. When it is assented to, it should be a clear and functional Act of Parliament that only requires implementation.

If there is any change that must occur, be it political, it should find its way back to the Parliament to discuss it. We do not want administrative changes that cause so much harm and pain to the people who are affected by this Bill. I would have liked to extend that to the parliamentarians, but it will be a heavy expenditure on the Exchequer to bear that burden. So, I am quite satisfied with the few, who have been identified in this Bill, to enjoy the perks.

This is because even when you reach that level you have travelled a path that you cannot ignore. It is important that we treat our retired people well and give them the dignity that they require in the office, so that they do not lose much. They can then look back and say: “Yes, I served my country with distinction.”

Mr. Speaker, Sir, one other issue I must caution is that if you are going to enjoy these facilities, try your best, during the time you are in office, to be free from corruption so that we give you the perks with an open and clear heart. You deserve these perks and, therefore, need to enjoy the retirement benefits of that office.

With those few remarks, I support this Bill. I want to thank the Mover of this Bill, Sen. Olekina. He thought about it and is well informed as to why it must be on this Floor.

Thank you.

**Sen. (Rev.) Waqo:** Thank you, Mr. Speaker, Sir, for allowing me to add my voice to this important Bill. I also want to thank my brother, Sen. Olekina, for thinking about others who have given their time and sacrificed all their lives for this nation.

When we look at our nation and see the people who have served us faithfully, most of the time you sympathize with them. Sometimes, we talk about those who have served before us, who are now old and keep coming to Parliament to have lunch or tea with other Members, because they have nothing to hold on to. They have nothing much to keep them busy and give them hope. I support this Bill because it will take care of all the beneficiaries and also give them some comfort.

My concern goes beyond the individuals; I think of the family members. When people retire, sometimes they become so hopeless and so do their family members. Some retire when they have young children and wives, especially when men marry as many women as they want. The number of people who suffer is huge and we need to think about them.

However, proper planning is needed and a budget has to be done. Again, many people who have retired get frustrated when following up their benefits. They keep moving from one place to the other. However, given that the offices we are talking about are quite high, I believe they will not be frustrated.

I support this Bill because I do not want the people who have served this nation and given their best, to go out and suffer from diabetes or stress or other chronic illnesses because of not meeting their needs. As Senators and people serving this nation in this House, it is our role to take care of all the others who have served this nation generously.

I beg to support.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir. I would like to thank Sen. Olekina for coming up with this amendment. The principal Act is clear, but the

memorandum is addressing issues that we have seen, where security is withdrawn from retired leaders when their views do not seem to be in line with the Government in place. That exposes them to unnecessary risks. By virtue of having served this country, they need to be taken care of and that is why the principal Act is clear.

The memorandum talks of coming up with ways of amending or reducing the security details of the retired persons. The main issue in this amendment is setting up of the committee, which is made up of the Minority Leaders of the Senate and the National Assembly. It is a Joint Committee of the two Houses; that is very clear.

This will make it difficult for anybody, just because a retired leader does not agree with the person, to use that as a means of punishing him by withdrawing their security. That is a well thought out way of making sure that retired leaders retire with dignity and this country takes care of them, just as they have served this country. That is an important amendment, which I support.

Mr. Speaker, Sir, further, in the event that the retired leader passes on, the pension that goes to their children or spouse is clearly indicated. This is also good because it does not depend on who will be in power at that time; they cannot go ahead and deny them that right. I support this and hope that it will settle some of the problems we have. Retired leaders fear coming out to clearly state their positions on current issues while not in office, yet, being leaders of this country, the public expects them to express their views.

However, because of the fear that if they make their statements or position clear, the current Government might punish them by withdrawing their security and so on, they keep silent. Therefore, this amendment is well thought out and I hope it will go a long way to make sure that our retired leaders contribute to the development of this country, by giving their views without fearing any kind of repercussions from the Government of the day.

Mr. Speaker, Sir, I beg to support.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I start by thanking all the Senators who supported and made their contributions to this Bill. I am much honored that you took your time to read the Bill and understand the importance of our benefits. I start by thanking Sen. Mutula Kilonzo Jnr., for having taken time to second this Bill and try to remind us that today we are here, and tomorrow we could be on the other side.

It is always important for you to look at life, as today you are winning and tomorrow you could lose. Your personal welfare is very important, more so, of a person who has given five or ten years of their life to serve this nation diligently; waking up very early in the morning and sometimes not even sleeping at all because of the interest of this nation.

I also thank Sen. Mwaura for his contribution on this Bill. I am happy that he was able to illustrate clearly how desperate one becomes when he leaves and has to depend on another person for their benefits to be granted. Sen. Mwaura spoke a lot about the youth. By the end of his second term, he will not even be 45 years old to access his benefits. That tells you that this issue of your personal welfare or well-being when you are serving this nation is something that must always be considered. In the event that one wants to alter your benefits, they have to go back and think about the time that you served this country without asking any question.

Mr. Speaker, Sir, all the comments made by all the Senators, for example, Sen. (Eng.) Hargura, explained the importance of this Bill. The fact that you are given benefits, even though you do not agree with the current Government, that should not be the reason why your benefits should be altered, yet it is written within the law.

The challenge that I saw in this Bill earlier on is that the Act of Parliament as it was passed in 2015 had a lot of loopholes. I agree with Sen. Sakaja that there might be additional amendments which are required to be brought on this Bill. The more I interrogated the Act of 2015, the more I realized something on the Office of the Chief Justice which is very important. There are certain benefits which we should consider including during the amendment stages.

Mr. Speaker, Sir, when a Chief Justice retires, it is important that we value that office. I have looked at the First Schedule of the Act, and there are certain benefits which I do not think would cost us a lot of money if we can rely on the knowledge and experience that a former Chief Justice has. It is imperative, and I will be bringing some amendments to fully support an office of a retired Chief Justice which is still covered in the Act as it was in 2015.

They can mentor our youth, even though we may not require them, supporting them and giving them an opportunity to take care of their well-being. It is important for us to think about what we gain from ensuring that we continue supporting their lives.

Giving them an office and allowing a retired Chief Justice to be consulted in the event, for example, we want to amend the Constitution or change certain laws is something which is very important and supporting these people. There are so many people who are interested. I know governors were also very interested in the matter. There was an issue of the other Bill which was sponsored by Sen. Sakaja which was looking at the county governments. However, it is important for us to look at State officers and also reward them or actually continue appreciating the time that they served this country.

Mr. Speaker, Sir, one issue which was of concern to Sen. Sakaja had to do with Article 245 of the Constitution. It related to the issue of the Inspector-General, and particularly on the employment, assignment, promotion, suspension or dismissal of any member of the National Police Service (NPS). I will spend some more time with Sen. Sakaja to try to understand the issue.

This Bill does not focus on the issues of suspension. It does not also focus on the issue of employment of the police officers; it focuses on the benefit aspect of it. I am willing to engage Sen. Sakaja for him to educate me further on this aspect where he saw that this Bill could be unconstitutional; looking at trying to change the powers of the Inspector-General as enshrined in the Constitution.

If, indeed, we may need to change certain provisions of this Bill, I welcome and encourage more Members to look at the Act as it was. The most important thing is that the public ought to know that this Bill does not aim to increase the wage bill - It is very clear - it is sealing loopholes. It is also encouraging people to serve this country. This is because you know that after you serve this country no one has a right to alter your benefit. Even though you differ in your political opinion, that is what democracy is all about.

Mr. Speaker, Sir, on the amendments proposed by my dear sister, Sen. Farhiya on the issue of the car, that is something that we can look into. However, I ask myself; how much money do we lose in terms of corruption? These are not so many people. We are looking at the Speakers of both Houses, the Deputy President, Chief Justice and other designated state officers and the former Prime Minister of this country. These are very few people.

I was moved by the amount of power or benefit that the former President of the United States of America enjoys. Sen. Mutula Kilonzo Jnr., spoke about the way the former President of this Republic, President Mwai Kibaki is treated. When he goes to church, there is a seat there waiting for him and he enjoys the security. We must encourage this kind of thinking.

Let us think about our future. It is high time we Members of Parliament took this thing very seriously. This is because the number of former Members of Parliament that I see walking in the corridors of Parliament shocks me. This issue of personal welfare is something that---

I agree with my dear sister when she talked about us looking at all other legislation that focuses on the personal welfare of State officers. This will help us to deter corruption. This is because there is no point of somebody going out there to start a briefcase company because having been a former State officer, he still has connections to come up and do shoddy jobs.

Mr. Speaker, Sir, the entire issue of personal welfare of former State officers, Members of Parliament, Members of County Assemblies (MCAs), and even former councilors ought to be considered. That will help us move this country. Even the future generation will be looking forward to working for the Government because they know that once they are done, no one will alter their benefits.

All Senators who spoke on this Bill, for example, Sen. Cheruiyot spoke about the issue of respect and dignity. When you respect me, I will definitely respect you. When I have served this nation diligently, I ought to be respected. If at any time anyone feels that there is a need to alter the benefits that have been given to me, they have a right to petition Parliament. When they petition Parliament, it will go before the leaders of both sides. Nobody will say you are targeting me because I do not agree with you politically.

We will introduce a Clause whereby anyone who seeks to alter the benefits of a former State Officer will have to petition this joint committee for them to give justice. In most cases, when you give so much, you do not get much in return. However, I think we now have an opportunity, as a Senate, to talk about these issues.

Once again, Mr. Speaker, Sir, I thank all the Senators who have contributed to this Bill; Sen. Mutula Kilonzo Jnr., Sen. Mwaura, Sen. (Dr.) Musuruve, Sen. Cherargei, Sen. Sakaja, Sen. Farhiya and Sen. Outa. Of course, I must thank Sen. (Prof.) Ongeru, who talked about what happens when one leaves office. In most cases, once State Officers leave their offices, their phones stop ringing completely. I know that one former State Officer spoke about this.

He said that his phone would ring for 24 hours, 7 days a week when he was a Permanent Secretary. However, the moment he left office, he lost all his friends. When you lose your friends, who you are always cutting deals for, what about your immediate family? That is the reason why I ensured that in this Bill, the children of former State

Officers are protected in the event of death or even in the event where the State Officer has just retired.

Mr. Speaker, Sir, I beg to move that this Bill be read a Second Time. However, because of the numbers of Senators present, I request that you defer putting the question for us to do that another time pursuant to Standing Order No. 55(3).

**The Speaker** (Hon. Lusaka): Thank you, Sen. Olekina. Your request is granted.

*(Putting of the question on the Bill deferred)*

Next Order.

*Second Reading*

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

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. I beg to move that the County Statistics Bill (Senate Bills No. 9 of 2018) be now read a Second Time.

Mr. Speaker, Sir, this Bill seeks to establish a statistical system that will assist county governments in planning for the development of counties and to measure the gains made by the county governments in improving the lives of their counties. Currently, matters relating to statistics are governed by the Statistics Act (Cap.112), which was enacted prior to the establishment of county governments. Therefore, the Act does not recognize the role of county governments in matters of statistics.

Mr. Speaker, Sir, as you are aware, under the Fourth Schedule of the Constitution, statistics is a concurrent function between the two levels of governments. Under Part 1(11) of the Fourth Schedule, national statistics and data on population, the economy and society is generally a National Government function. On the other hand, Part 2(8) of the Fourth Schedule states that county planning and development, including statistics, is a devolved function.

Therefore, there is need to have a legal framework that will clearly delineate the functions of both levels of government on matters statistics. The Bill, therefore, seeks to provide a legal framework for counties to collect, collate and analyze data that is specific to a particular county in order to enhance planning and decision making processes within counties according to their needs.

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

*[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]*

Mr. Deputy Speaker, Sir, the need for this Bill cannot be gainsaid because statistics are an indispensable component of planning for any government. Without timely and accurate statistical data, the Government cannot match its resources to its

needs. Statistics acts as a standard for the Government to determine whether it is meeting its goals in providing services to its people.

Therefore, there is a nexus between statistics and good governance. Reliable statistical information is vital for good decision making, effective poverty reduction strategies, economic development strategies, access to information, transparency and accountability in good governance.

Mr. Deputy Speaker, Sir, the County Governments Act also imposes a statistical mandate on the counties. Part XI of the County Governments Act requires counties to develop County Integrated Development Plans (CIDPs), County Sectoral Plans, County Spatial Plans and Cities and Urban Areas Plans. In this regard, counties are mandated to ensure the collection, collation, storage, updating of data and information suitable for planning process. A proper statistical system will, therefore, be the backbone for any successful county government.

Mr. Deputy Speaker, Sir, this Senate, in the discharge of its mandate to protect the interest of counties and their governments, has a duty to ensure that counties do not have to rely on the Kenya National Bureau of Statistics (KNBS) to supply them with the relevant statistical information for their planning and decision making. Each county is unique and has its own priorities, which differ from those of the national Government. Counties, therefore, require their own statistics offices which report directly to the county leadership.

Mr. Deputy Speaker, Sir, I will give a brief overview of the County Statistics Bill. Part II of the Bill provides for the establishment of the county statistics office in every county, which shall be responsible for, among others, collection, compiling, analyzing, abstracting and disseminating statistical information of the functions devolved under Part 2 of the Fourth Schedule of the Constitution.

It shall also ensure coordination of operations of county government bodies involved in the compilation and dissemination of statistics related to information with particular regard to avoidance of duplication in the collection of statistical information, the attainment of compatibility and integration of statistics compiled by official bodies.

It shall also ensure maximum possible utilization for statistical purposes of information and means of collection of information available to official bodies. It is also to advise county governments on all matters relating to the use and development of statistical information. This office is also tasked with providing liaison between the national Government and county governments on matters relating to statistics.

It should also coordinate the county statistical system, develop and use statistical standards and appropriate methodologies, subject to the direction of the committee in the county and statistical system. They are to also monitor the technical quality of the official statistics and promote adherence to good practices, international recommendations and standards.

Mr. Deputy Speaker, Sir, it is of utmost importance to observe that the County Statistics Bill takes cognizance of the need for standardized statistical systems in the county. In this regards, the Bill provides that the county statistics office shall be guided by statistical standards and the use of appropriate methodologies approved by the KNBS.

This will ensure that counties produce information that is reliable and consistent across all counties. Further, it is important to note that the County Statistics Offices are

responsible for statistical information in the functions of devolved government under Part II of the Fourth Schedule to the Constitution within the county. The Bill clearly states the role of counties in matters of statistics, *vis-à-vis* that of the national Government. There will, therefore, be no conflict between the functions of the KNBS and those of the county statistics office.

Mr. Deputy Speaker, Sir, Article 182 of the Constitution requires both levels of government to liaise with each other for the purpose of exchanging information, coordination of policies and enhancement of capacity. These constitutional principles become even more important where both levels of government are undertaking concurrent functions since they have a role in collection, analysis and dissemination of statistical information; it is important that we have a forum for consultation and coordination in matters relating to statistics.

The Bill, therefore, establishes a national consultative Committee on statistics which is part-time and will be required to meet at least twice a year. The Committee will ensure that elements and procedures relating to statistics at both levels are consistently followed and constantly improved in a consultative manner. This will also be a forum and vertical and horizontal coordination of offices of the county statistics in the counties and the KNBS. At this juncture, I would like to mention that in the Committee of the Whole, an amendment will be moved to establish a technical Committee instead of consultative one for effectiveness and efficiency.

Mr. Deputy Speaker, Sir, Part II of the Bill requires the County Statistics Office to ensure public access to statistical information in accordance with Access to Information Act No. 31 of 2016.

Finally, the Bill prescribes a penalty for willful falsification of information relating to statistics. This provision will be further reinforced to discourage misinterpretation of statistics. I wish to reiterate that no county government can plan properly without reliable statistical information. Statistics offer critical guidance and produce trustworthy analysis and predictions. The Bill will therefore, enhance the quality of decisions made by county governments.

Mr. Deputy Speaker, Sir, I beg to move and request Sen. Mutula Kilonzo Jnr., Senator for Makueni County to second. I thank you.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Farhiya. You are aware of Standing Order No. 84 (1) that says that you should not read speeches and statements. I have overlooked that, given the technical nature of this Bill on statistics. However, going forward, you are supposed to summarise your moving notes and make occasional reference to them. Given the technical nature of this Bill, I have exercised my discretion under Standing Order 84(2) to allow you to read word for word.

**Sen. Farhiya:** I thank you Mr. Deputy Speaker, Sir. I am most obliged.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Let us have Sen. Mutula Kilonzo Jnr. I hope you will not rely on the technical nature of the Bill to also read the seconding speech.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, you know me better than that.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): I do not.

(Laughter)

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, you remind me of Saint Peter in the Bible who denied his---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): What about him?

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, the cock is about to crow on the third denial, but it is okay. You have only done it once.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hold on, Senator. Are you implying that you are Jesus?

(Laughter)

**Sen. Mutula Kilonzo Jnr.:** No, Mr. Deputy Speaker, Sir, I am using that analogy of denying somebody. You know I will not read.

I beg to second The County Statistics Bill (Senate Bills No. 9 of 2018). This is one of those Bills that we passed in the last Senate but it never saw the light of day. Perhaps, we did not do justice to it. I hope in the new spirit of the “handshake”, it will see the light of day and that Members of the National Assembly will see reason.

Mr. Deputy Speaker, Sir, the Constitution gives counties the work of dealing with their statistics. That is also a matter that is done at the national level. There is one organisation that has monopolised statistics in Kenya that is called the KNBS. In the advent of the Kenya Constitution, 2010, it has become important to have correct statistics.

Mr. Deputy Speaker, Sir, I have a book and I will read it for you and state why my colleagues should have a book of this nature. It is called *Exploring Kenya's Inequality: Pulling Apart or Pooling Together*. This was done by KNBS and the Danish International Development Agency (DANIDA). Let me just read some of the statistics. Access to education: major urban areas in Kenya have high education levels of education but large disparities.

Mombasa, Nairobi and Kisumu have gaps between the highest and the lowest wards of between nearly 50 per cent of residents with secondary education. In most rural counties; that is, Baringo, Siaya, Pokot, Narok and Tharaka-Nithi, education levels are lower but the gap, which is still large is somewhat lower than espoused in the urban areas. The statistics are everywhere.

On improved sanitation, Kajiado County has the highest gap between the ones with access to improved sanitation. On improved sources of water in all the 47 counties, the highest gap in access between the county with the best improved water sources and the least is over 45 percentage points. The most severe gaps are in Mandera, Garissa, Marsabit and Kilifi counties with over 99 percentage points and Wajir with over 97 percentage points. That speaks to the Mover. There is also lighting.

Mr. Deputy Speaker, Sir, for my county, I am aware that in Mbooni Constituency, we have the highest number of children between zero to five years born in the whole of Makueni County. Why is this important? It is because early childhood development education (ECDE) is now a devolved function. For purposes of the ECDE and planning for that category of children, the Makueni county government cannot treat the

constituencies the same way. Kilome Constituency has the lowest with 14000 while Mbooni has the highest with 36,000. We have information on the number of constituencies with the highest or lowest primary education with Kibwezi East in Makeni County leading.

Mr. Deputy Speaker, Sir, in terms of planning, it is these statistics that will help. The book I am holding is entitled: *'Facts and Figures 2017, Kenya National Bureau of Statistics: men and women of Kenya.'* It says that between ages zero and four, there are 3,526 females and 3,582 males. That is the country. Would it not be nice for every Senator and Governor to hold a book like this saying, for example, the Wajir County has 'X' number of women between the ages zero to four and 14 to 17. This is national statistics; not aggregated in terms of counties.

Why then is this Bill important? Sen. Farhiya, in her proposal, quoted Clause 4(2). We have this problem in the Committee of Finance and Budget. The Clause says:-

“The office shall, in carrying out its responsibilities under subsection (1), be guided by statistical standards and use appropriate methodologies approved by the Kenya National Bureau of Statistics.”

If, for example, Tharaka-Nithi County collects data on the number of children born in every maternity hospital, the number of mothers who are on post-natal care and the number on free maternal health care - because we do not know how many women are receiving the benefit in your county - the question would be: What do we do with these statistics once collected?

The Kenya National Bureau of Statistics is of the view – and I disagree - that once this statistics are collected, they should be forwarded to the Kenya National Bureau of Statistics for recording. I propose that Clause 18 be amended so that once this statistics come from our counties, they become the national statistics, particularly if the Kenya National Bureau of Statistics has confirmed that the standards that are envisioned in Clause 4(6) are correct.

In the last four budget cycles, the counties in the northern frontier, that is, Wajir and Mandera counties have had problems with population. Turkana County lost Kshs1.5 billion in the last formula because of the question of population. If the counties had done their own statistics, these problems would not arise and they would not be in our budget cycle. Therefore, the question of the monies that we accord to them being reduced would not arise.

Mr. Deputy Speaker, Sir, the purpose of devolution is not to have numbers. We are not counting cattle or the amount of goats we have; we are counting people. How much does it cost to have services in a Level Five Hospital? This year we have Kshs4.3 billion for the 13 Level Five Hospitals in the country. Is that money enough? How many people have been served using that kitty that comes from the national Government? We have no statistics on that. From what I have gathered, Machakos Level Five Hospital, Jaramogi Oginga Odinga Teaching & Referral Hospital Level Six and Moi Teaching & Referral Hospital Level Five are catering for more people which cost more than the amount of money that is being given. Because we are not collecting statistics as a nation, we are sending money into a hole. As far as I am concerned, it is a hole. Statistics will enable counties to plan.

There is a Ward Development Fund proposed by Sen. Irungu Kang'ata. *Prima facie*, he is proposing that we equalize counties by giving them 8 per cent of the revenue of counties. In our statistics and collating the data, it came to the fore that, in fact, if you pick Lamu, being the smallest county, and allocate that sort of money, you will have a *per capita* per person of 100 to 1000.

That is the gap and it is just Lamu County. When you go to Kiambu and Nairobi counties, it is worse. These statistics are important. What is the population of Nairobi in terms of poverty? It is over 4,000. While Nairobi is budgeting for Kshs32 billion, we do not know how they are providing services, because they have not bothered to collect statistics.

I am aware why the national Government, through the Universal healthcare, is having a pilot programme in five counties. The President addressed us on the same in Kakamega County. Its purpose is to collect statistics. They will go round collecting statistics as a pilot programme, so that in granting this universal healthcare, they can have value for money. You can put a shilling per person.

Madam Speaker, we found a concept in Germany that is extremely useful in terms of dividing resources. They have something called tax per capita. How much, for example, is Nairobi remitting to the national Government per capita? When we punish some of the counties that are not collecting revenue---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Mutula Kilonzo Jnr. This is the fifth time you are referring to the Chair as 'Madam Speaker.'

**Sen. Mutula Kilonzo Jnr:** Mr. Deputy Speaker, Sir, I apologise and withdraw.

The tax per capita would help this country determine whether we should reward Nairobi County for collecting revenue or Tana River County who do not have revenue to collect. Instead of punishing Tana River County for not meeting its revenue targets, the tax per capita will determine whether, in fact, the counties that are making more in terms of taxes should not receive that incentive. That is the purpose of this Bill and the statistics that will be collected.

Therefore, in future, when we ask the Intergovernmental Relations Technical Committee (IGTRC), led by Prof. Karega Mutahi, on the costing of functions, that costing will relate to human beings as opposed to size. Why is the size of Turkana County important for purposes of services as opposed to the population? The same question applies to Nairobi County, which is smaller in size than Turkana but has a large population.

Therefore, the resources that we are giving to these counties, just as I have mentioned about tax per capita, should relate to the individuals. Zone Nairobi into seven, eight or nine categories and establish which parts occupy the largest population, what the needs of the people are and whether they are relative to those of the people living in the leafy suburbs of Nairobi, like where Sen. Abshiro lives.

What disparities do they have? Such statistics are not available for planning. Spatial planning, municipalities, collecting of rates and entertainment taxes would help if counties can collect this information and forward it to the Kenya National Bureau of Statistics in Nairobi and it becomes the statistics of Kenya.

I envision a situation in future where the census and collecting of data on population will be done by counties as opposed to the national Government. These

disparities and questions that have arisen in our census every 10 years should not arise. The way to resolve it is by having this process where every county can collect statistics on the number of people who are residents in those counties.

Similarly, since this is a concurrent function, the Bill in Part II and Part III has put this work together, so that once statistics are collected from the 47 counties, they can be collated and put in a database, so that they are not duplicated.

Since the Constitution was promulgated, unfortunately – and Sen. Farhiya can confirm this – the Statistics Act has never been amended. It is still 2009. We have proposed an amendment, as the Committee of Finance and Budget, where we shall have a consultation process which will reconcile the information. Data should not be a secret; it should be accessible to every Kenyan. There is no reason the people in our counties should not access, for example, the data I am holding on men and women in Kenya.

There should be a requirement that this data can be available on a platform, even if it is on The Portable Document Format (PDF). That is what we have proposed in the County Statistics Bill, so that, that information can help in planning.

Planning is central to devolution and devolution is about services. The principle under devolution is that services must be rendered at the nearest place to the population. This Bill is late, but since it is here now, we should insist that every county, at the end of five years, other than giving a report on assets and liabilities of counties, should also provide information on what they have done on the aspect of statistics and various other aspects that can be identified.

Mr. Deputy Speaker, Sir, in the book that I was reading, produced by the Society for International Development (SID) and the Kenya National Bureau of Statistics (KNBS), we have statistics on the people who are using firewood in Makueni County, people who have mud-thatched houses, people who are not using electricity or using kerosene lamps and those who are using electricity.

In the part concerning the use of firewood, it has informed the county in terms of using their plans of afforestation and ensuring that people plant trees. The places in Makueni Constituency where they use the most firewood have suffered the most in the last floods because there was surface runoff. I have that information on my iPad. Therefore, there is no reason why every county should not have similar amount of information.

I know that in Makueni County, for example, Kilome Constituency has the most underground rivers. The county would be best placed if it had plans of sinking wells in that constituency.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to second the above Bill. Thank you.

*(Sen. Mutula Kilonzo Jnr. shook hands  
with some hon. Senators)*

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Mutula Kilonzo Jnr.! Your responsibility as a Seconder of a Bill does not include going on a greeting spree in the Chamber like someone who is in a livestock sale yard.

*(Laughter)*

Hon. Senators, there is nothing wrong with the yard, but the livestock sale yard is not here; it is elsewhere.

*(Question proposed)*

Proceed, Sen. (Prof.) Ongeru.

**Sen. (Prof.) Ongeru:** Thank you, Mr. Deputy Speaker, Sir. I stand to support the County Statistics Bill (Senate Bills No.9 of 2018) for specific reasons. Statistics in any language is the main artery of the information that you need to extract; on the information that you want to use for work, conclusions or for posterity.

This Bill deals with the framework that will enable the county governments to collect statistics. They should not only collect statistics, but also collect quality statistics. If you do not have quality statistics, it will be very difficult to make any sense out of the statistics so collected. When you look at those statistics and compile them, you will be in a position to analyse and make sense out of them.

They have a language that you derive out of these statistics. Once you get that language, you will be able to decipher it from the statistics. You can disseminate them for use within the county and the contiguous counties so that, together, they are able to help you in planning and in many other areas.

Medicine is an area that I am very conversant with. For example, one of the areas that we put a lot of importance in public health is the data and the information. We collect a lot of statistics on disease epidemiology. In other words, you can use statistics if you want to know how tsetse fly plagues or foals around with the populations whether in Lambwe Valley or other places.

The same applies if you want to know the density of the tsetse fly or mosquito concentration in any given area and the number of bites that you are able to get from that individual either from mosquito or the tsetse fly. That will then give you the amount of the poison that they are able to transmit into a human being. Therefore, those statistics will then help us to know the burden of disease in any given locality.

Statistics become a very important avenue on which we can translate information to the public and bring public good to rein in on those who are not doing their jobs.

I have just given you a purview on one side where you are able to collect these statistics and get information from them. Today, that is why we can stand up and say that the birth rate in this country is so much per thousand as well as the death rate in the infant mortality between the ages of zero and five. Without statistics, we cannot plan for health activities in the nation.

I am in the Sessional Committee on County Public Accounts and Investment. One of the things that we have noted is lack of understanding by some of the county officers on how to deal with money that has been allocated to their counties for use for various activities within the county. The reason is that they think that when that money arrives in the county, they take and distribute it as if it was just a family gathering where you hand out some gifts to people. This is public money; therefore, you need to use it judiciously and very carefully.

In dry areas, one of the biggest necessities is the provision of water for the populations. One needs to know how he or she can collect, for instance, the underground water, surface water or the roof collection. You need statistics to do so. If you want to go for roof collection, then obviously, you will have to know how many houses have corrugated iron sheets or thatched roofs. If grass thatched roofs are many, first of all, it gives you one indication that the rate of poverty is very high. That is the first information that you get out of this.

Secondly, the intended action that you want to take is not feasible because the number of houses with corrugated iron sheets is fewer than those which have grass thatched roofs. Therefore, it is important to disaggregate this information and use it for correct purposes. Therefore, statistics stand out to be very useful to us in anything that we do.

I have also noticed that when we want to know what kind of level of services we want to give to our children in schools, we will require some statistics. We have now started the Early Childhood Development and Education (ECDE). However, we have not assessed, in each county, the magnitude and the level of the ECDE classes that we need to establish so that when the children in EDCE finally transit to lower primary, we are able to make provisions for their services, particularly, in building the facilities for them.

If you do not have that information, what normally happens is that counties go around putting up more little huts. Consequently, we have about a hundred children crowded in a small classroom that can only carry forty. The net effect of that crowding is that in a cold season like we now have, infectious diseases are spread. Any cold that comes from one family will be transferred to another child and depending on the level of immunity in those children, you may run into difficulties trying to contain the spread of diseases within a given population. Therefore, statistics help us to locate the type and kind of facility that we want to offer to that community.

Mr. Deputy Speaker, Sir, with counties now able to bear 60 per cent of the disaggregated functions from the national Government, they must have tangible and quality statistics to enable them make informed decisions. Without those decisions, it is going to be extremely difficult to find out what they want to do. Therefore, we need those statistics in terms of health, agriculture and tourism.

For instance, in the livestock sector, if you want to know how many abattoirs to put up in any given area for farmers or cattle keepers to deliver their cattle for slaughter, you need those statistics. More importantly, when resources have been devolved to a county, their use will depend on your level of understanding of the needs of that county. You can spend a little money with very effective results; and you can squander away the money with very poor results. The net effect is that those counties will be left behind by the rest.

Mr. Deputy Speaker, Sir, when a county keeps statistics, it is one measure of knowing whether it is making progress or whether it is stagnant. If you do not have clear statistics upon which you can draw conclusions, then you are at a loss on what is happening in that county. They will come and give you a rosy picture showing that all is well and wonderful; that the county is doing extremely well; that the numbers of tourists who have visited are so many or that the households receiving health support are so many.

However, when you do a reality check, you will find that the kinds of facilities available at any given point are pathetic. We want to avoid this callous type of approach in service delivery to our populations. The most sensible thing we can do, as the senate, is to have quality statistics that will help us make quality decisions.

Therefore, Mr. Deputy Speaker, Sir, the establishment of the County Statistical Office is a welcome sign and we should embrace it with speed. We should dissect it and find out who the users of the data we are collecting and who the suppliers are. This data will also be critical for our research institutions because for any meaningful development to occur, you need to have correct research.

Sen. (Eng.) Mahamud always says that you should get your County Integrated Development Plans (CIDPs) before you can use any money allocated or devolved to you. Okay, they sit; like I know they did yesterday in my county, where the whole County Executive was sitting, looking at the CIDP. My major interest would be that by the end of this exercise when all has been said and done, I want to look at the CIDP to find out what they have done in terms of the 2018/2019 programme of planning, and how they intend to use those resources.

It is only through this process that I can oversight them and know, from what they said they would do in their CIDP, because those are clear statistics. For instance, you wanted to put up so many cattle dips, which you have not put up; you wanted to drill so many boreholes, but you did not drill them; you wanted to set up so many health facilities in particular areas, but you did not set them up; or you wanted to do so many roads in certain wards that you did not do. That way, the oversight exercise becomes a better tool to rein in on those who do not follow the CIDP programme of any given county. It also becomes easier for the Auditor-General to follow through and see whether they have followed the normal path or not.

As I said earlier, Mr. Deputy Speaker, Sir, statistics is like an artery in the body that supplies blood to the brain, stomach, lungs and the feet, regardless of what position you are holding. Whether you are standing upright or upside down, the supply still continues. Therefore, statistics must be like an artery in any county so that, at any given time, you can say that the delivery of various essential services for that county must be accomplished within a given period of time.

It is also one way of checking on the quality of governance of county governors and executives. Have they understood the jobs that they have been given? It is also one way of measuring the poverty index of any given county and to check if they have made any discernible progress in the use of resources availed to them.

Therefore, Mr. Deputy Speaker, Sir, I fully support this Bill and hope that they will see it in the light of making our operations better at the county level, more so in the use of the resources that have been availed to the county and alleviating the burdens. These may be the burdens of disease, water shortage or whichever other burdens we want to alleviate in those counties caused by lack of those facilities.

With those few remarks, Mr. Deputy Speaker, Sir, I beg to support this Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. (Prof.) Onger. The remarks are not few, but thank you very much.

Proceed, Sen. (Eng.) Mahamud.

**Sen. (Eng.) Mahamud:** Thank you very much, Mr. Deputy Speaker, Sir, for giving me the chance to contribute to this important Bill. First of all, I thank the Member – who is a Member of my Committee – for bringing this important Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Which is your Committee, Senator?

**Sen. (Eng.) Mahamud:** The Committee on Finance and Budget.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): You are assuming that the Chair and everybody else is conversant with that information.

**Sen. (Eng.) Mahamud:** Mr. Deputy Speaker, Sir, our Committee had the opportunity to navigate this Bill. In fact, we had a lot of discussions on it and we engaged in public participation. In fact, this Bill has been really worked on and I thank my Committee, including the Member, for a job well done.

This is a very important Bill. Hitherto, we have had the Kenya National Bureau of Statistics Act, which deals with statistics in this country. After the promulgation of the Constitution of Kenya 2010, we have not changed anything and the same old National Statistics Act is still in place, yet when you come to counties, they are supposed to do planning. In fact, we know that statistics is an indispensable component of any good governance because it requires planning to be done as a statistical function.

We know counties are supposed to make the CIDPs and other special plans. Without any framework for statistics, it is very difficult to do this. Up to now, they depend on the statistics provided by the national Government from the Kenya National Bureau of Statistics (KNBS). This Bill is very timely. There is a very big connection between statistics and good governance and we cannot overlook that. Statistics is also a function of the county government because they are dealing with planning matters. They should undertake that function properly. This Bill is giving a framework within which counties can undertake that function, hence it is very timely.

The Bill seeks to establish a system in the county governments which is not in isolation but works in coordination with the national statistics office so that we have some harmony. Statistics is everything in this country or everywhere. If the Integrated Financial Management and Information System (IFMIS) is done wrongly, it can distort things. For that reason, it is important that we have coordination mechanism between the county statistics office and the national Government office. This is why, under Part II, the Bill establishes the County Statistics Office whose functions are well documented.

Further, the Bill, under Part III, establishes the National Consultative Committee on Statistics. The functions of the County Statistics Office -which is going to be led by the County Executive Committee in charge of County Statistics with the Committee and with the full secretariat---. Their functions are as listed, which is to collect information and do all that is required to be sure you have enough information for you to plan.

When it comes to the National Consultative Committee on Statistics, we have persons from the national statistics office and the county's office who look at that so that we have proper harmonization. The first function is to develop strategies which shall ensure uniform standards, policies and methodologies amongst the various offices of county Statisticians. As a result, we do not have confusion, the standards are maintained and the data collected is accurate so that it is not misused.

Mr. Deputy Speaker, Sir, statistics information is very important because the national and county governments shall consult and cooperate in the performance of their

functions, including the collection, analysis determination and use of statistics information. In everything we do in this country and moreso in the counties; for them to undertake their functions properly, they must have proper statistics in their place.

If they want to build some roads, they must know what sort of traffic will use that road. If they are building the Early Childhood Development (ECD) Centres ,as earlier mentioned, they must know the number of students. When you are providing water, you must see what you are providing for. It is important and nobody can do without the statistics.

Mr. Deputy Speaker, Sir, in the current system of revenue allocation, both vertically and horizontally, when you come to horizontal allocation on the counties, we go through a formula and it employs a lot of statistical parameters that cannot be overlooked. Article 176 (2) of our Constitution require counties to further devolve. Counties need to be devolved further because you are dealing with units like roads and other units. For them to share revenue equally, whatever they get from the division of revenue vertically, and horizontally within the cities, they must be objective on the way they allocate funds.

Currently, there is no system and when you get statistics information, they can plan properly. The Ward Development Fund is before Senate today where somebody is suggesting that we distribute funds equally between the wards. Nevertheless, it is important we have parameters so that we can have equitable distribution. We cannot do that without having statistical data.

Mr. Speaker, Sir, this is a very timely Bill. We have looked at it as a Committee and during the Committee of the Whole, we will come with amendments to polish it and make it a bit refined. We are happy with this report. In fact, our report was supposed to have been tabled today. I will table it tomorrow because the Speaker has approved it.

With those few remarks I support the Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you, Sen. (Eng.) Mahamud.

**Sen. (Dr.) Musuruve:** Mr. Deputy Speaker, Sir, thank you for giving me this opportunity to add a voice to this important Bill. It is very important to have the County Statistical Board. Because of the devolved function of the County governments, it is important for the board to be constituted to ensure implementation of what the Constitution says.

It is very clear that power belongs to the people of this nation. In a devolved system, it is possible for the counties to effectively serve the people in their county if they know the exact number of people they have. The statistics would inform the number of people in a county. The statistics can be a roadmap for governors to know how many people are in the county, their needs, and requirements and how they can be served effectively.

As we talk of the county statistics, the census should be done periodically because children are born every day and people also die daily. It is not possible for a county to say that these are the number of people in this county. It is something that needs to be done often like after every two or three years although it is a very expensive venture. Even if it is expensive, it is worth the expense because it will help governors to know the number of people in the counties and how best they can serve them.

When it comes to decision-making, the number of people in a county will inform the decision made in that county. Statistics need to be accurate because if not, the decisions made will not help people in the county. There is need for county governments to work with the Kenya National Bureau of Statistics to ensure authentic, valid data and the technical support that is important in collecting data is afforded.

The Kenya National Bureau of Statistics would be very willing to work with county governments for the purpose of ensuring that accurate information is given. A census is very important for the purpose of economic planning in any county. It is possible to know the density in a given county. For instance, it is possible to know which counties have large or small populations. This is very important for the purpose of distributing resources equitably.

When a census is done, it is possible to know the available labour in a county. There are some counties that may have enough labour force, while some may be in dire need of labour. So, a good count of people who work in a particular county will inform the county governments in terms of tax collection. It will show the number of people who are working, how much they earn and what is expected from them. So, it is important to carry out a census, so as to find out the number of people.

Mr. Deputy Speaker, Sir, when it comes to provision of services like health, it is possible for a county government to have data on the number of health centres in the county. It will, therefore, establish health centres in areas which do not have in order to serve the people in the remotest parts of the county. Health is one of the Big Four Agenda. Therefore, it is important for the county governments to ensure that they have the right data on the people in their counties, so that they can serve them effectively.

When it comes to employment, census can help county governments to have data on the people who are employed and those that are not. This is important because it will ensure that even the marginalized people in a particular county are employed. Due to lack of proper data in the counties, there are a number of people with academic qualifications who are not employed. This means that their energy is being wasted. They are 'useless' because they are not being utilized. So, there is need for county governments to utilize people with academic qualifications and skills.

Through census, it is possible to know how many educational facilities are in a county. In some counties, there are some areas that do not have educational facilities and children have to walk long distances in order to access education. In a situation where there is effective census of everything in the county, it is possible for the county government to allocate reasonable resources that will go to different areas, to ensure that people access education, healthcare and are served better.

Mr. Deputy Speaker, Sir, apart from schools, it is important for each and every county to ensure access to social amenities, for example, hospitals and churches. There are some people who get out of the rural set up and move to towns simply because they want to access amenities like health centres, hospitals and schools. It is possible for county governments to stop that movement of people from counties to big towns by providing social amenities. County governments should not give people a reason to get out of the rural areas and go to the cities.

If a good census is done, it is possible to know the poverty stricken people in a certain county and how to address them. For example, there are people who are in dire

need of houses and housing is a basic need. If you do not have a roof over your head, there is no way you can long for anything higher in the hierarchy of needs.

During heavy rains, some people leave their houses and migrate to other places because their houses are not habitable. County governments need to know such people who are in dire need of housing and find a way to support them, so that they benefit from devolution. Therefore, it is important for this body to be formed. This body should be empowered to do what it is supposed to. If it does not have the power, it will then be a toothless bulldog.

Mr. Deputy Speaker, Sir, I believe and hope that this Bill will see the light of day and become a law that will eventually ensure that people in the counties enjoy the benefits that they are supposed to. The Constitution demands that we serve people. For us to do so, we have to know their number, needs and the intervention that needs to be put into consideration for them to feel that they own this country.

Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to make the remarks I have made.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Do you support or oppose?

**Sen. (Dr.) Musuruve**: I strongly support this particular Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): The strength is of no consequence. What is of consequence is whether you support or oppose.

**Sen. (Dr.) Musuruve**: Mr. Deputy Speaker, Sir, I support.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Unqualified. Issues like velocity or volume of support are not anticipated in the Standing Orders.

Proceed, Sen. Halake.

**Sen. Halake**: Thank you, Mr. Speaker, Sir, for giving me---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Senator. Resume your seat for a minute.

*(Interruption of debate on the Bill)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM TAMBACH HIGH  
SCHOOL, ELGEYO MARAKWET, COUNTY

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Hon. Senators, I have a Communication to make.

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Tambach High school, Elgeyo-Marakwet County.

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

Thank you.

*(Applause)*

Sen. Halake, you now have the Floor.

*(Resumption of debate on the Bill)*

**Sen. Halake:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to support this Bill. The objects of this Bill are clear. Statistics as evidence base for socio-economic development cannot be overstated. For that reason I support this Bill.

The more reason I support this Bill is the fact that it gives effect to the mandate of this House which, as stated under Article 96 of the Constitution, is to protect and entrench devolution.

Article 174(d) states that one of the objects of devolution of governments is to recognise the right of communities to manage their own affairs and to further their development. Therefore, the County Statistics Bill (Senate Bills No.9 of 2018) provides evidence upon which communities will manage their own affairs because it will be about evidence based policy making at the county level.

Mr. Deputy Speaker, Sir, the importance of statistics for evidence based policy making cannot be overstated. Counties need these kinds of statistics to ensure that they are not blindly making policies and that their policies are evidence based. In terms of the role of statistics in planning progress, monitoring and evaluation of development activities, again, this gives effect to our mandate as people who oversight and are stewards of counties and their governments. This House can base its developmental oversight with regard to the basic baseline statistics will form and the mid-term evaluation of our oversight. So, this Bill will give this House a lot of information and tools on which we will base our oversight and evaluate progress of our counties and the nation.

The role of statistics in monitoring, developing and maintaining a reliable set of information cannot be overstated. More importantly, what I like about this Bill is the fact that it pushes information and data to the frontlines of decision making which, in this case, are our counties. This is where the counties will have information on which they can make decisions based on information and statistics on where to allocate resources. We have seen in the past that a lot of resources are allocated. However, when you ask for the evidence base that informs the resource allocation, usually it is because somebody up there, it could be the governor or the President---It may be whispered: "It is from above." Therefore, I like this Bill because it eliminates these whispers around "it is going to be done because it has been said from above" to evidence based because of the gaps and the needs have been identified through scientific methodologies of statistical evidence and data.

Mr. Deputy Speaker, Sir, we live in difficult times where our country is plagued by corruption and has below optimal governments. Therefore, this is a good starting point for us to clean house and stop straining the counties for which we are responsible, towards evidence based decision making, policy making, progress evaluation and monitoring towards desired goals and identifying needs as opposed to who you know, which tribe you come from and, therefore, your road or constituency shall get development. This Bill, as I have said before, will bring an evidence base for decision making, having noted previously that the number one driver of corrupt practices is not

decision making based on new evidence, but based on favouritism, other injustices and considerations.

There are certain concerns I have with the Bill; perhaps it is because I have not interrogated it to the depth I would have liked to. This is the fact that right now we should be making laws for the future. At the moment, I know that statistics is a big deal, but data analytics is even bigger. This leads to issues of protection, anonymity, pseudo anonymity, flow of data between counties and the national government back and both and the integrity for such data that we must guard against. So, as we make these laws, it is progressive in its thinking and its objects, but let us risk mitigate around some of the undesired consequences of perhaps misuse of the data that may become available in counties. In the 2009 census, there were issues around legitimacy of certain data that our country produced. Therefore, as the Senate, it is our obligation to build mechanisms into our legislation, so that the data and statistics that we generate and how we use it, are legitimate, reliable and can stand the test of any scrutiny, so to speak.

Mr. Deputy Speaker, Sir, I belong to the Committee on Information and Technology. The Data Protection Bill (Senate Bills No.16 of 2018) has already gone through the First Reading. Some of the issues that we are dealing with in the Committee with regard to ownership of data, for instance, as much as it is the counties that will have this data, we need to know: Who owns it? How is it dispensed? Who generates it? A lot of the legislation we make is making assumptions that data and statistics are generated by people but there is more to data generation than data generated by other sources like Apps and artificial intelligence. So, we need to make sure that our legislation links itself to these new ways of doing business. These include risks that may be inherent in the way we handle our data and statistics, the ownership, collection, protection and analysis. In addition, integrity must be included, protection issues must be looked at and the undesired consequences of some of these things that we must guard against.

That said, this is a good Bill and I congratulate my sister, Sen. Farhiya, for bringing it and making sure that, as a starting point, we push our country and counties towards evidence based decision making, policy making, needs identification and resource allocation. Also, giving us a tool against which, we in the Senate, can use statistics not only as a baseline for our decisions to begin with, but also as measurement tools towards the desired goals both at intervals, mid-term and at the end of our projects. Therefore, I am happy with this Bill and I know that it gives us a good tool, even for fighting corruption that is based on decisions made out of the blue based on whims of certain people that are in power.

With those few remarks, Mr. Deputy Speaker, Sir, I do not want to go to the other merits because they are many. In terms of the objects, ownership and means to dispense some of these issues, I know a consultative committee has been proposed. In the counties, nothing exist at the moment and I will be supportive of that as well, but more importantly, we should start pushing for our public service to work and do what it is supposed to do, as opposed to every legislation coming with its own layer of people to execute some of these things.

That said, with regards to all the other aspects of this Bill, in terms of the reasons for it, the way it should be executed, the consultative approaches that have been proposed

and the fact that it does concern and empower counties, it gives us a lot of tools of accountability for resource allocation and decision making.

I stand to support.

Thank you, Mr. Deputy Speaker, Sir for the opportunity.

**Sen. Omogeni:** Thank you, Mr. Deputy Speaker, Sir. For the record, I rise in support of the County Statistic Bill (Senate Bills No.9 of 20180. I begin by giving my hearty congratulations to the Mover, Sen. Farhiya. Statistics is everything. We all know that there is a lot of confusion in our counties in terms of allocation of money for development. It is not possible to have a scientific approach to the utilization of resources that we send to the counties if county governments do not have good statistics. I, therefore, have no doubt that if we enact this Bill, we will have given full meaning to Article 96 of the Constitution that requires us, as Senators, to protect the interests of our counties.

First, Mr. Deputy Speaker, Sir, what I like about this Bill is the fact that we are now going to have data collected, analysed and ready for dissemination. We all know the critical role played by our chiefs, assistant chiefs and village elders in our counties. However, most of these officers do not have statistics that can assist them to disseminate information that is factual to our people in our counties.

Mr. Deputy Speaker, Sir, I want to do away with this myth by Members of the National Assembly, including our Women Representatives, that county governments are separate in terms of development from Members of the National Assembly or the Women Representatives. In fact Article 6 of the Constitution, which talks about devolution and access to services, is very clear that the national Government and the county governments are distinct but interdependent. It further states that they shall conduct their mutual relations on the basis of consultation and cooperation. I am saying this because in terms of allocation of development money in our counties and constituencies, there is a lot of duplication. This is happening because we do not have statistics at the local levels – in the counties, constituencies and sub counties – that can assist the governors, Members of Parliament (MPs) and Women Representatives to bring about development without duplication. How I wish that we could reconsider Clause 4 of this Bill and include MPs and Women Representatives as people who should be getting advice from statisticians at the county level. Going by the provisions of Article 6, there is nothing illegal or unconstitutional if this information was to be given to the governor, MPs and Women Representatives.

Mr. Deputy Speaker, Sir, I will give examples. As we speak, most county governments are now giving out bursaries at the county level. Similarly, MPs are giving bursaries at the constituency level and our Women Representatives are giving bursaries in the counties divided amongst the constituencies from the respective counties. What will be illegal or unconstitutional if the statistician was to share information to all those elected leaders? The spirit is that we want to ensure that we do not have a duplication of duties and services at our counties, constituencies and wards. That is actually what is intended by Clause 4(c)(i), which says that the intention is to ensure that there is avoidance of duplication on statistical information. This is, therefore, beneficial to both leaders from the head of the county cascading it down to the level of the ward, led by the Member of County Assembly (MCA).

Mr. Deputy Speaker, Sir, another reason this Bill is important is because there are some duties that the State owes to some special cadre of citizens of this country. An example is what is in Article 57 of our Constitution, on the care that we should give to older members of our society. The obligation in Article 57(d) is that older members of society should receive reasonable care from the State. That is why, under the National Hospital Insurance Fund (NHIF), the Government has an obligation to take care of members of our society who are 70 years and above. If we have these statistics, I can walk to my local chief, sub chief or village elder, get statistics and know how many people are benefiting from access to universal health care through the NHIF. I can also get statistics on how many people are getting money for the elderly under the National Social Security Fund (NSSF). I will also get statistics on how many have already been registered and are accessing this money through the banks; and how many people are not getting access to this money. This Bill, therefore, breathes life to Article 96 of the Constitution. We will discharge our functions in terms of protecting the interests of the people whom we have been elected to serve in our counties.

Mr. Deputy Speaker, Sir, the other reason I fully support this Bill is when it comes to issues of health. You will go to your county and find that there is a budgetary allocation, for example, for drugs. A part of it will be to purchase vaccines for newly born children aged between zero to five years, which is part of the national program on universal healthcare. Another part of it will be to take care of outbreaks of Malaria. However, the allocation of these funds could be abused if we do not have good statistics and data in our counties. Another problem is in the Early Childhood Development and Education (ECDE). We may have a very ambitious program of building ECDE classes, but we also need to do this based on the statistics we have in terms of new babies being born in our counties. This Bill is, therefore, very useful.

Mr. Deputy Speaker, Sir, I challenge us to consider the qualifications of the person who is going to be the head of this unit. In Clause 5(3)(a), the qualification of the head of this unit is defined as somebody who holds a degree and has five years' experience. However, in this country now, people have gone to school properly. When we went to bury the Senator for Migori County last week, we were told that in that part of this country, professors are counted in terms of how many you have per square kilometer. I, therefore, do not think we can miss a person who at least has a Master's Degree and who has experience which is slightly more than the five years.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Order, Sen. Omogeni! That is only in one part of the country.

*(Laughter)*

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, I was just making reference to the county that we visited. I believe if we visited---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Yes and you said that it is per square kilometer.

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

**The Deputy Speaker** (Sen. (Prof.) Kindiki): But that is only in Migori County.

**Sen. Omogeni:** Going by the person on the Chair, who is also a professor, I believe that ---

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Is this the same case in Nyamira County?

*(Laughter)*

**Sen. Omogeni:** Mr. Deputy Speaker, Sir, going by the person who is in the Chair right now, I believe that the same applies to Tharaka-Nithi and their cousins in Nyamira.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Proceed, Senator.

**Sen. Omogeni:** Thank you, Mr. Deputy Speaker, Sir. To give some importance to the person who will head this unit, I request that we reconsider the qualifications that have been set out in Clause 5 of the Bill. We do not want to pass a Bill that will create problems in terms of implementation. I have concerns with Clause 8 which talks of people who will sit in the Committee. Clause 8(d) talks of two statisticians who will be picked from among County Executive Committee (CEC) members but I have not seen if a criterion has been put down or a body that will be mandated to pick the county executives which might create room for conflict. The same is applicable for Clause 8(e) that talks about representative of research institutions. I do not know if we have a body that has brought all research institutions together such that we can write to them and ask them to nominate one representative, hence, there is something that is not clear. If one is to write to our public universities, then the question is: Which university will we write to seeking for the nomination? Those are some of the grey areas that we need to tie up.

This Bill reminds our national Government and county governments that there should be consultation and cooperation with each other. That is what we have in Clause 11. Quarrels between National Government and county governments do not serve the interest of the people that we represent. It is good that we understand that Article 6 recognizes that the two levels of government are independent and distinct but interdependent. The idea of bringing the spirit of consultation is giving an opportunity to the national Government and county governments to realize that we serve one people and we are all from the same country, so we should not have friction, instead, we should work as an entity that is geared towards bringing services to our people.

Mr. Deputy Speaker, Sir, Clause 20 looks at the regulations though we should not give too much power to the county executive without putting in place mechanisms for checking abuse. Clause 20(1) states that-

‘The county executive committee member may make Regulations for the better carrying out of this Act.’

It is always a good safeguard to say that the county executive committee member will make regulations with the approval of the county assembly for they could pass regulations that may be counterproductive. Therefore, there is need for the county assembly to act as a check on the powers of the county executive.

In terms of where this committee will sit, we can now bring the spirit of devolution by picking one of our counties as the headquarters of this particular committee. There is no reason as to why all these bodies should be concentrated in Nairobi. We could pick a different county or even say that this committee will have its headquarters in any other county other than Nairobi.

With those few remarks, I support this Bill.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Sen. Omogeni. Could we now hear from Sen. (Dr.) Milgo?

**Sen. (Dr.) Milgo:** Thank you Mr. Deputy Speaker, Sir. I also rise to support this Bill for a number of reasons.

First, Part II of this Bill provides for the establishment of the County Statistics Office which will work together with the Kenya National Bureau of Statistics (KNBS) that has been the main custodian of statistics in this country. I am a Member of the Committee on Information and Technology and during our meeting today, we were wondering why the KNBS is the main custodian of statistics yet we have a devolved system of government.

This Bill will go a long way in assisting the Government that has been majorly relying on national census that has always been held after every ten years which may not give timely information based on statistics. This Bill has come at a very good time, especially now that there is a lot of interest in the counties.

Part IV of this Bill provides a good framework in terms of collection, dissemination and control of the data that has been collected. With this kind of statistics, the counties will go a long way in terms of development. Statistics in relation to development cannot be overemphasized. The reason we have complaints about lack of development projects in counties is due to lack of statistics that could provide for a match of statistics and resources for equitable distribution of development.

When this Bill goes through, we may have transparency and accountability for the first time in the county governments. It will also make our work easy as we perform our oversight role. Many times, we realize that there are areas that have been neglected but for the first time, we will be in a position to recommend that development moves in a certain pattern due to population.

When this Bill has been passed, the County Integrated Development Plan (CIDP) will go in line with issues of statistics particularly in terms of policies and strategies to be used in the county thus budgeting for that matter. Many times, we realize that the CIDP programs are simply plans that are set aside and those who want to be corrupt develop their own lines or use favoritism. However, I am sure that the statistics will help pinpoint areas where our roads, hospitals and schools should be built. It will also help with agricultural and food supplies issues.

We have been talking about provision of Early Childhood Development (ECD's) in the counties and the statistics will inform the national Government of the transition from the ECD's to primary schools which will lead to provision of schools. Issues of statistics will not only be used by the counties for development but it will also be used in many areas by the national Government. The national Government can use such statistics to plan for health now that it is one of the four pillars of the national Government.

I am sure that what we are talking about will take place in the counties. Issues of health, industries and housing will be addressed in the counties in line with the statistics that have been provided. By so doing, we will spur development according to the number of people who live in particular areas.

*[The Deputy Speaker (Sen. (Prof.) Kindiki) left the Chair]*

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

Madam Temporary Speaker, many times when we go to the counties, it is not uncommon for us to meet people complaining that they have never been registered. These include the old and widows who are supposed to be accessing the funds which were provided by the Government. We still have complaints of not being registered because of lack of statistics in the counties that would have captured such people.

We have very many issues that are crippling the counties, such as youth unemployment. Without statistics we may never be able to know how many of them are unemployed. We also have health issues, as one of my colleagues mentioned. We may need statistics to determine the areas we need to provide medical facilities. That will ensure that affordable healthcare is provided for all. In terms of industries, statistics will assist the national Government in identifying the location to plan, develop and determine the type of industries.

Madam Temporary Speaker, statistics is very important. Data is useful even when it comes to trading. E-commerce, for example, makes use of the data that is available. We may have e-trade and information that helps in educational issues, such as the levels of education, qualifications in particular counties and the number of employees we have in particular institutions. That is the role that statistics will play.

Madam Temporary Speaker, as I conclude, I thank the Mover, Sen. Farhiya, for coming up with a good Bill that shall go a long way in bringing change not only to the county, but the country at large.

Madam Temporary Speaker, with those few ideas, I support.

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

Let us have Sen. Seneta.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this very important Bill. I support and congratulate my sister, Sen. Farhiya, for coming up with this very important Bill. It is constitutional in that it aligns the frameworks and systems that it is creating to the county function on statistics. Therefore, this is a very timely Bill, especially now when we are thinking of promoting devolution and developing our county governments.

Statistics or data informs development. When we talk of planning, in terms of integrated urban and cities plans and all other development plans needed in our counties, we need to be informed by data. We need to know how many people we have in a particular city, urban or rural area. Therefore, data is a very important tool when it comes to development.

When we talk about planning for the kind of resources we need in a particular unit, be it a ward, constituency or county, we need to be informed by data. This Bill that creates an office that is mandated to collect, maintain, analyse data and statistics is very important.

Madam Temporary Speaker, the Bill seeks to create an office which we initially never had. We used to depend on the Kenya National Bureau of Statistics (KNBS) which is a national institution. In most cases we used to wonder where they get their statistics from. This Bill has created a particular office that is mandated to have data and statistics.

It is also intended to be the one that disseminates this information when it is required. This is because we cannot just pick statistics from anywhere and start implementing policies that require those kinds of statistics.

This Bill also tries to cure the issue of getting data from everywhere, even from unreliable sources. Initially, in our counties, we used to have statistics that were collected by partner institutions, Non-Governmental Organisations (NGOs) and educational institutions. We used to have different sources of statistics. This Bill seeks to create an office that is mandated to have this data.

The statistics will also help counties in the distribution of resources. For example, if we want to build an admission ward in a health facility, we can easily tell the number of patients we expect at a particular time. This will inform equitable distribution of resources, so that we do not do a health facility that will cater for a very small population, when it is supposed to cater for a bigger one.

Madam Temporary Speaker, the Bill also creates an office with the expertise to do the same. In some communities in our counties, cultural beliefs hinder the disclosure of the exact number of children, wives or cows one has. If we have trained officers, who will put their time into this, we shall get accurate and reliable information from the office that will be mandated to do that.

The Bill is very important, especially when we are just starting our second term of devolution, where we need to distribute resources equitably. This data will also inform the national Government on the budget that is supposed to be allocated to our counties. Again, the office to be created will be a liaison between the national Government and the county governments. When the national Government is implementing a policy on development, it will get the necessary information from this office.

With those few remarks, I support this Bill.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Thank you, Sen. Seneta. Sen. (Dr.) Zani, you have the Floor.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I stand to support this Bill. Statistics is an indispensable component of planning. This Bill is directly connected to the Fourth Schedule, Part 2 of the Constitution where the functions of the county government are clearly given in different facets like agriculture, pre-primary education, animal control, trade development, county planning and development. All these areas need statistics. That is why we need to have that kind of data.

For a long time, this has been centralised within the Central Bureau of Statistics (CBS). The reason was that anybody who is looking for certain data, could easily access it. Sometimes, it is not easy to get this data. When you are doing a research, you need to have permission to go to the CBS who may give the data you need or not. At the CBS, it is collated on a national perspective. In other words, it does not centre on data that can be helpful at the county level. This Bill clearly pre supposes all segments of data that will be necessary within a county like bio data and population data put in various variables like age. We can look at the agricultural component of a county and know what is to be done to improve it. All this needs to be put together in a constructive way.

The Bill sets various organs to do this comprehensively starting with the national consultative committee on statistics that is well established and headed by a governor who will be nominated by the Council of Governors (CoG), to be the chairperson.

Clause 8(1)(d) says:

“There is established a National Consultative Committee on Statistics comprising of—

(d) two county statisticians who are not from the same county as the county executive committee members under paragraph (c).”

This is interesting because according to Sub clause (2), the members appointed will serve on a part-time basis for a renewable term of four years. This is rich because it will enable an exchange of ideas from the various counties. We do not want this to remain a county oriented process because people can keep changing from the various counties giving specifics about what can be done.

As Sen. Omogeni said, the qualifications of the chairperson of this body will be better if it was a Master's degree. I happen to have taught statistics at the University of Nairobi both at undergraduate and postgraduate levels. There is a lot more richness. As you would know, at the Doctor of Philosophy (Ph.D) level, statistics gets more interesting, complicated and relevant. Therefore, a person with a university degree, especially for such a body, might end up having challenges. Also, I noted that this person should have at least five years experience in public administration. That may help to some extent. However, if we have somebody who is qualified and, probably, has worked in the field of statistics, it will be better.

Figures can be complicated and confusing. You can use data in all honesty to make a particular point. However, if you do not know how to use it, you can give contrived results that are not accurate in terms of what you want to say. For example, if you are working on a mean without giving the standard deviation, then that will not be accurate. This is because the standard deviation will give you the measure of dispersion from the mean which is critical in your understanding of the all proportion of the people who have views. If you give only the mean, it might be complicated. So, it is important to do so.

Madam Temporary Speaker, having said that, apart from just collecting data, the beauty is that you can use the richness of that data to do much more. For example, in the field of agriculture, apart from looking at what the yields might be, you may also want to make standard correlations like the proportions of productivity between male and female farmers. That might inform policy formulation. You will tell if farm yields are higher for the women farmers. If that is the case, then you will know the direction to take and who to target when you are given farm implements or fertilizers.

This office should go beyond just looking at the primary data. As much as possible, it should also try to correlate that data, do regression analysis, multivariate analysis and all sorts of other data techniques which can help to give more information that may be hidden and not clear by looking at the primary data. That will give more yields in terms of what is expected out of this particular Bill.

The responsibilities are very clear for the county statistics office. The day to day management of the office and staff, overseeing the implementation of policies, preparation of following documents like the strategic and annual plan which have been mentioned by other Senators. You cannot do this without the proper data. What is the output that is expected? What is the process to get to that specific output? What needs to go in? If it is an education matter, you will want to know, if it Early Childhood

Development Education (ECDE) in the counties, how many and what sort of classrooms do you want to have. We now know that most of the counties that have the ECDE Bill that would have been an Act in the Eleventh Parliament but it did not, will look at the best classroom model that is talked about in that particular Bill and how that can be attained. Some correlations have already been made in certain schools where we know because of school feeding programmes, more children have been able to go to school.

So, all these deliverables, which are clear from statistical analysis, will help us to move on to a point where we will put everything together as the Bill says. It will be in charge of collection, compilation, analysis and dissemination of statistical information. That office will use that information usefully and share it. In the Bill where we have many players from the various counties coming into the committee, that experience will be important. For example, one county will say this is how we solved problem “X”, “Y” and “Z”. Another county will also give its experiences and this will bring it all together.

Those two persons in that consultative committee from the research institutions and public universities will add value to that particular committee. Of importance is what is in Clause 9(d) where the committee will co-ordinate the harmonisation of national and county policy and methodologies relating to statistics. That is key. What that means is that, if they proceed with a particular matter and use a particular methodology that works in a particular county, they can proceed to use that specific methodology again and apply it to another county successfully. So, in harmonisation, it is making sure the way data is collected and handled does not give any spurious outputs that might not reflect the actuality of what that data is meant to put into place.

Part IV is broad; it gives statistical information and everything that needs to be done. Clause 13 says-

“The county statistician shall issue a code of practice that sets out professional standards to be followed by all departments and agencies of the county government.”

This is very key. Data can be used to present accuracy, but a lot of times data can also be misconstrued. One of the chapters when we are teaching statistics is “How you should know data to lie.” Somebody can use data in such a way that they over inflate a situation. For example, if it is on a correlation using an outlier, just one or two figures that are completely out of the range of the other data points might represent an over representation of a particular output that is not really the case. Therefore, somebody has to pinpoint and say that: “As a result of this particular outlier, the grades of this particular school indicate that they have done very well.” However, we had one student who had an A Plus of 100 per cent, while everybody else was within the mean of about 60 per cent. Therefore, that one person drives that one point very high.

Once again, Madam Temporary Speaker, that whole bit about professional ethics, standards and qualifications all come together to ensure that there has to be proper use. I congratulate Sen. Farhiya for bringing this Bill, which I think is very timely. However, I have looked through it and I have not seen any penalty Clause, for example, for the misuse of statistics. That is critical because without this clause, we may find that this good office could be abused.

Madam Temporary Speaker, we also need some more information about how this data can be cascaded. Apart from this county office, when researchers or development

partners want to use this data, what code of conduct controls how they are going to use it? Do they have to stick to the primary data? Is it going to be given to them? Do they have to work with that data within the county? What penalties are there for misrepresenting the data? This is because once the data has been put up and there is a database or a data set within a county, it is important for it not to be misconstrued by any person. Therefore, if it is a development group, a Non-Governmental Organization (NGO) or somebody else, they can have access under certain strict principles. They might be asked what they want to use the data for and we can then guide them to some sort of analysis that would be useful for them, if you do not want to give them the primary data. Therefore, at the end of the day, you will know what you have given them and when it has been misrepresented. Consequently, you can actually follow through. For the people who handle the data, it is very important that they should be able to confirm how the data looks like and that it does not change from time to time.

Last but not least, Madam Temporary Speaker, Part V in the Miscellaneous Provisions, the use of the data and the reporting is very good. It states:-

“The County Executive Committee (CEC) Member shall, four months after the end of the financial year, make a report to the respective governor on the new statistical information on matters affecting the county government”

This is key so that somebody does not make very serious decisions and policy on data that is not relevant. Similarly, the ability to report and make it very conspicuous is very good. Some sort of report can also go to the county assembly right down to the basis of the legislative house within the counties. That would add more value and probably even begin to give more education about how people, who want to use data within the counties, can do so. This will excite people and they will begin to see various possibilities as a result of this data.

Congratulations Senator. I beg to support and I hope that this Bill passes and changes the way we do our work. I think that it will lead to better development as a result of using vital statistical and accurate information.

Thank you, Madam Temporary Speaker.

**Sen. Cherargei:** Thank you, Madam Temporary Speaker. I rise to support the County Statistics Bill, 2018 and congratulate Sen. Farhiya Haji for this timely Bill. I know most of my colleagues have talked about its importance and timeliness in terms of resource allocation and development planning at the county level. I agree largely because this Constitution is not old enough. I think it might be starting to work after crawling. We still need to do a lot of legwork in ensuring that we put in place the necessary and absolute legislations.

Madam Temporary Speaker, I was looking at the comparison of the Access to Information Act 2016 and in line with Article 34 on access to information and media freedom, I want to say that statistics form a very big basis in terms of development. I have looked at many issues that have been raised in this County Statistics Bill and noted that it is very important. If you walk into any governor's or administrator's office, they cannot tell you exactly what is happening because even as we allocate resources to the county level, we need also need statistics.

Madam Temporary Speaker, it is very important that most counties are now working on their county budgets. Most of them have not factored in even the CIDP. They have been in the same size that we do after every decade or so and it has not always been up to date. I think what is important in this Bill is that there will be a regular up to date statistics to ensure if we are doing a CIDP or annual development plans as per the County Governments Act, it will be very timely. The CIDP is anchored in the law, but most of the county budgets have not factored in what we have said. That is why when you ask county governments what they have done with their CIDP, they do not have statistics of who attended, how many attended and what the agenda was. Therefore, when such statistics will be in place, it will be easy for the Members of the County Assemblies to ensure that they allocate resources appropriately as per the county.

Secondly, the issue of statistics is very important because under the Constitution, the issue of the Equalization Fund has not been dealt with appropriately because we have the Commission on Revenue Allocation (CRA). In future, the decisions made by the CRA will be based on the statistics that are up to date such that when they are making the decisions in our counties across the country, they have up to date statistics. There are so many areas in the Equalization Fund that have not been factored in because they are using the census. It is good that we have statistics. The census is important in this country because we will know which county has quite a number of citizens. Nowadays, we use the census for interesting reasons. Apart from procreation, we are also using the census for politics. That is why people can stand today and say which community has the highest number of voters. It is based on the census. The census results were meant for development reasons. It was not meant for issues that some of us would want to use.

Madam Temporary Speaker, I have not seen in the Bill a mention of the use of the internet. The X and Y generations that some of us have grown into are allergic to papers. Therefore, we would want to go online on social media platforms, google and we will get the statistics. I hope that Sen. Farhiya will ensure that we factor in the use of internet. I would like to thank the Speaker for the good work. At least, we have access to internet, but the speed is still slow. I hope that it will improve in future; there is always room for improvement. If there is an issue on the boundary between Isiolo and Meru, for example, by a click of a button, I should tell from the statistics how many people live there and how many animals are there. If there is an outbreak of Foot and Mouth disease in Nandi County or Uasin Gishu County, where you come from, how can we access the information?

Madam Temporary Speaker, these are some of the things we should put on an online portal. It should be created now that we have the Ministry in charge of Information, Communication and Technology (ICT) on its own. That should be in line with the Cabinet policy. We have the Data Protection Bill and there is a challenge in terms of the use of cyber. We now have cyber crime laws in place. Sen. Farhiya should look into this so that we can also include the use of internet in terms of ensuring that statistics are shared across various organisations and multi agencies.

I agree with the Senior Counsel, Sen. Omogeni when he said that the problems we have in counties are very interesting. You will find a Member of Parliament (MP) giving out bursaries under the national Government Constituencies Development Fund (CDF) and after two weeks or so, the governor goes back and gives bursaries. Our beloved

Women Representatives also, in the third week, go and give bursaries. That confusion informs us that there is a challenge in terms of data sharing. These statistics should be shared across the board, especially with the policy makers, so that we do not end up duplicating roles.

Let us share these statistics before any decision is made by any leader. If you ask a Member of Parliament the number of people they allocated bursaries to in the Financial Year 2017/2018; they cannot tell. These are statistics that must be shared across all Government agencies. I would suggest to Sen. Farhiya that we should also factor in the development partners, so that when we discuss the issue of external borrowing – which this country is working on a red tape – we must agree that we have certain statistics that we can rely on.

I would request Sen. Farhiya, who is a good accountant, to consider ensuring that some of these statistics are not only shared to the agencies within the Government, but also the development partners. Some of us have engaged with foreign donors and development partners. Most of them will just want to look at statistics. When you draw a proposal maybe on child mortality or any other empowerment project, for example, the United States Agency for International Development (USAID) would ask for statistics.

Madam Temporary Speaker, it is good to put on record that you were our patron when we were in campus and used to work with the USAID in drawing proposals. You were a very able patron, who used to guide us on how to work on statistics. The development partners would not just want to sit in a room and then you tell them: “Approximately.” They would want you to have what we call military precision. Those words are famous with one Member of Parliament from Ainabkoi Constituency, Hon. Chepkut.

On the issue of regulations, we are giving the County Executive Committee (CEC) Members unlimited powers. We know that absolute power corrupts absolutely. I have looked at the Access to Information Act and would propose that, in terms of overseeing this board, we should have the Commission on Administrative Justice (CAJ) or the Ombudsman, so that at the end of the day, these people can be oversighted.

On how this Board is being formed, we can give that opportunity to the CAJ or the Ombudsman because they have the capacity and ability to come up with a board and do oversight. In my proposal, the Cabinet Secretary (CS), in line with devolution, should be given an opportunity to make rules and regulations. Nowadays, with a lot of power struggle within counties, the CEC Member in charge might decide to make regulations that even defeat the spirit and substance of Article 35 of the Constitution on access to information. They can even go out and stifle. We should have uniformity. I think that is the proposal that we should be looking at. When we spoke about the County Boundaries Bill, we were very clear that we give it to a Cabinet Secretary so that we have uniformity of rules and regulations across the 47 counties.

Madam Temporary Speaker, I have looked at Section 13 of the Access to Information Act. The accuracy of statistics is key and that numbers do not lie. There is a song which I cannot sing here and some people know it. It says that some other things can lie, but numbers do not. For accuracy, we can still rely ---

*(Sen. (Dr.) Zani nodded)*

I can see Sen. (Dr.) Zani is aware of the song that I am talking about.

Section 13 of the Access to Information Act has provided that some of the information can be corrected or accurate. This is because, at the end of the day, it does not give skewed information that will implicate on policy making in the spirit of Article 10 on National Values and Principals of Good Governance.

The County Governments Act has provided for many aspects in terms of information. However, the issue of formation of statistics must be based on openness and confidentiality. I am happy there is non-disclosure of any official secret or confidential information under Clause 15. As I said, the census has been used and politically motivated. Therefore, we would like to see real non-disclosure. That is an important aspect of this Bill as we will not have people using this information against or for their own selfish interest at the county level at any given time.

Clause 17 provides for up to date information. We hope that Members of County Assemblies (MCAs) will try and domesticate this Bill at their level. This is because this information will help them when it comes to developing annual development plans and passing the law on CIDPs after public participation as provided in the Constitution and the County Governments Act. MCAS rely on these statistics. Therefore, the office of the County Statistician will be formed and will ensure up to date information.

As I said, I agree with the issue of the Board. I do not know where Sen. Farhiya will add this, but I propose that we have annual reports to the necessary organs that make decisions in terms of legislative processes. For example, the Senate, other multi-agencies and development partners get an annual report from that office. I suggest that we have two forms of reports; annual and special reports. Special reports will be for when there is an issue that needs to be looked at. For example, the statistics of Nakuru County might have changed after what is happened in Solai. Statistics might change because of a natural occurrence or something that might not be in place. I hope that in the reporting system, annual reports will be put in place, but it is also important to have special reports.

*(The red light was on)*

I can see my time is over; I want to give other colleagues a chance to also give their thoughts and ideas on this very important Bill. This is a good Bill. Let us look forward to putting into focus the County Statistics Bill 2018. This is the right path for us to continue enriching our Constitution. We must ensure that we put legislation into place such that even if we are to do constitutional amendments in the near future, we will ensure that we have exhausted all the necessary legislation that needs to be in place.

I support.

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

**Sen. Mwaura:** Thank you very much, Professor, Madam Temporary Speaker. I must qualify that so that I do not appear to be in disrespect of the chair.

This is a very timely Bill and it is long overdue. We have canvassed about this Bill and various stakeholders have appeared before the Committee on Finance and Budget. This is a good Bill because there is a very clear move to ensure that the work that

has been done for many years by the Kenya National Bureau of Statistics (KNBS) also goes down to the counties as per Part 2 of the Fourth Schedule. This is because we need to ensure that there is evidence-based policy making. This is something that personally I espouse, because my background is in public policy. It also helps us to ensure that we have proper projects that are informed by statistics. Currently, if you look at the County Integrated Development Plans (CIDPs) and the Annual Development Plans, they are actually wish lists. They are about people meeting and agreeing that these are their priorities without necessarily being informed by evidence.

Madam Temporary Speaker, I remember being asked in class whether we would prefer a government led by professors – who come up with evidence based policies – or whether we would take the nominal role of the first one hundred people in a given locality. The answer was always that we would go with the first one hundred people. Why? Because sometimes when you have a lot of evidence, people tend to be polemic and they take stands based on ideological underpinnings or whatever orientations based on their disciplines. Be that as it may, it has been consistently proven that statistics and data make us increase our accuracy and probability of success, because as somebody said, experience is yesterday's answers to today's problems. It is, therefore, very important that we have such a Bill.

Madam Temporary Speaker, when you look at the procedure established in terms of the structures, you have a situation where you have depoliticized the process. You have technical people who are going to be looking at the data so provided, while the Kenya Bureau of Standards (KEBS) still maintains the principal role of ensuring international standards are attained based on the current role. In fact, an issue arose about which Bill takes precedence; is it this County Statistics Bill 2018 or the already existing Statistical Bill? However, we were unanimous that this is the most current and up to date Bill, which seeks to implement the provisions of Part 2 of the Forth Schedule of the Constitution.

Madam Temporary Speaker, one of the things that come out in this Bill is the fact that we have been having variance of data. When you look at the development index, we have had situations where certain parts of this country have been analysed to represent certain countries in this world that are more developed than others. This is the essence of inequality and the mantra around marginalisation. Therefore, this Bill will help us know the situation on the ground in terms of development, because some of the pockets of development are sometimes inflated. It will also help us know the real poverty index in this country, county by county. For the first time this year, we have seen the KNBS releasing the household survey that was conducted in 2016, which is county-based. This will help us, as this House, as we debate the marginalisation policy, the equitable share of revenue and the conditional grants.

When you generalize, you realize that sometimes, you may not get the real picture. So, I believe that this will not be misused by people who want to use their own statistics to get more monies for development that is disproportionate to the population and the real situation on the ground.

Madam Temporary Speaker, there is a penalty for a staffer or any officer who may mislead the public with regard to giving false or inaccurate data. This is commendable so that we do not end up with a situation like I have just described.

Madam Temporary Speaker, by the end of the day, statistics must speak to the realities of people's problems. If they just remain to be numbers that we crunch, then they do not make sense. In fact, if you want to have a boring session even in this August House, start talking numbers. I have noted that were it not for the fact that the Senate primarily specializes in the distribution of resources between the two levels of Government, when we have finance or budget-based Bills, the debate may not be as robust. This is something I also observed when I was in the National Assembly. However, data must speak to the real human problems of the society. It must bring to the fore the actual challenges that people face on the ground. That is what we anticipate this Bill to help us achieve. However, even if that is the case, the final decision is always a political one. The person that makes a determination and the priority of where resources will be allocated makes a political decision because we are always competing. So, this Bill is good because political decisions in this country have been made based on other considerations, for example, ethnic orientations, nepotism, including personal whims.

I commend my sister and friend, Sen. Farhiya, for taking up this Bill and for making sure that we debate it. We believe that this will help us to move to the next level. Kenya is seen in this region as a leader in many ways, including statistics. You do not find this in many African countries. The mis-governance that you find around is largely as a result of the fact this data lacks.

I imagine that this Bill will also help us to properly document the situation of persons with disabilities in the counties. I also hope that when we will do the pre-census on 24<sup>th</sup> and 25<sup>th</sup> August, 2018, we will have passed it. This Bill concerns counties. Therefore, I hope that it may not have to go to the National Assembly so as to avoid any form of delay. We can utilize the Washington Group of Questions to really capture the data of persons with disabilities. The lack of this desegregated data by gender, type of disability and region has meant that inadequate resources are allocated to ameliorate the situation that currently obtains.

Therefore, as we pass this Bill, I hope that it lives to ensure that we have a better Kenya and counties that are strong. May it help us in the fight against corruption which threatens to obliterate the many gains that we have made in this country.

I support.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Beth Mugo had requested to contribute but she is gone. Therefore, I invite the Mover to reply within the minutes that we have. Sen. Farhiya, you are aware that we can always give you more time later. So, it is your choice to finish or come back to it.

**Sen. Farhiya:** Thank you, Madam Temporary Speaker. I beg to reply and thank Senators for their invaluable contributions that will enhance this Bill.

Pursuant to standing order 55(3), I request that the putting of the question to be deferred to a later date as we do not have enough delegations in the House to make a decision.

**The Temporary Speaker** (Sen. (Prof.) Kamar): It is so granted.

*(Putting of the question on the Bill deferred)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, it is now 6.30 p.m.; time to interrupt the business of the Senate. The Senate, therefore, stands adjourned until tomorrow, Wednesday 18<sup>th</sup> July, 2018, at 2.30 p.m.

The Senate rose at 6.30 p.m.