

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 11th September, 2018

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

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

PRAYER

COMMUNICATIONS FROM THE CHAIR

WELCOME TO HON. SENATORS TO THE
THIRD PART OF THE SECOND SESSION

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I would like to take this opportunity to welcome you back from the recess. It is my hope that you have had time to interact with your constituents over the last 30 days and the Committees have had the opportunity to consider and conclude urgent business for reporting to the House. In accordance with the Calendar of the Senate adopted on 20th February, 2018, this part will see the Senate transact business until 7th December, 2018, with a one week break between 26th October and 5th November.

Hon Senators, as you may recall, on 9th August, 2018, the Senate approved the amendment of the Senate Standing Orders as recommended by the Procedures and Rules Committee with regard to the procedure for the processing of Statements. The revised Standing Orders have been published and are now in force. I urge the hon. Senators to familiarize themselves with the new provisions relating to Statements to enable their seamless processing both in the plenary and Committees.

In this regard, I wish to inform the House that a *Kamukunji* was to be held tomorrow, Wednesday 12th September, 2018, but has been pushed to Thursday, 13th September, 2018 after consultations with the Senate Business Committee (SBC), in the Senate Chamber to, *inter alia*, apprise the hon. Senators on the new provisions of the Standing Orders.

I also wish to inform the hon. Senators that in light of the new provisions, particularly relating to the content and form of requests for Statements, the previous requests for Statements which had been filed by the Senators but not finalized have now lapsed. Senators who wish, therefore, to pursue these Statements are required to file them afresh, in accordance with the provisions of the revised Standing Orders.

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Hon. Senators, pursuant to the resolution of the Senate on 21st June, 2018, the Senate is scheduled to hold its inaugural sittings outside Nairobi in Uasin Gishu County from 24th to 28th September, 2018. Preparations are at an advanced stage to ensure that the sitting is a great success and also set a benchmark for subsequent sittings of the Senate outside the capital. More information regarding the programme of business, logistical and other arrangements for the sitting will be communicated to Senators in due course starting with tomorrow's *Kamukunji*.

Hon. Senators, being the Senator for Uasin Gishu County, I would like to warmly welcome you to Uasin Gishu and confirm that preparations are ongoing on the ground. Eldoret and Uasin Gishu County in general is waiting to welcome you. You are most welcome.

Hon. Senators, as has been communicated to you, you will have interactive sessions with the community of Uasin Gishu County and the various stakeholders. Again, you are most welcome.

Hon. Senators, I will now allow Members to come in.

(Several Senators walked into the Chamber and took their seats)

Hon. Senators, allow me to take this opportunity to remind the House that one year is already gone since the commencement of the present term of the Senate on 31st August, 2017. This calls for reflection on how we have performed both as a house and in our various collective and individual responsibilities, even as we look forward to the remainder of the term. I, therefore, urge you to redouble your efforts in ensuring that we achieve the goals that we set for ourselves at the beginning of the term and that we meet and exceed the high expectations that Kenyans have placed on us.

Hon. Senators, I welcome you once again from the recess and look forward to a productive period as we come to the end of the Second Session.

I thank you.

(Sen. Halake entered the Chamber while the Temporary Speaker was on her feet)

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Wambua, what is your point of order, even before we start?

Sen. Wambua: Thank you, Temporary Madam Speaker. I just caught nominated Sen. Abishiro Halake walking in the Chamber when the Speaker was on her feet. Is that in order?

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Halake, can you confirm that you actually walked in, casually?

Sen. Halake: Madam Speaker, my apologies. My mind was a bit far.

The Temporary Speaker (Sen. (Prof.) Kamar): Apology accepted. I know she heard about Uasin Gishu welcoming her and she was very happy about it.

Next Order!

Hon. Senators, before we move to the next Order, I also have other two communications from the Chair on the visiting delegation from the County Assembly of Elgeyo-Marakwet.

VISITING DELEGATION FROM ELGEYO-MARAKWET
COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation from the County Assembly of Elgeyo-Marakwet. I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

- (1) Hon. David Kipketer, Vice Chairperson, County Assembly Service Board;
- (2) Hon. Lawi Githire, Member;
- (3) Mr. Livingstone Talel, Member;
- (4) Mr. Mosale Toroitich, Member;
- (5) Mrs. Jane Kiptum Mutai, Clerk and Secretary to County Assembly Service Board;
- (6) Mr. David Barngetuny, Senior Procurement Officer;
- (7) Ms. Rael Rotich, Principal Human Resource Officer;
- (8) Mr. Philip Cheor, Chief Serjeant at Arms;
- (9) Peter Kiptum, Board Secretariat.

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

I thank you.

VISITING DELEGATION FROM MACHAKOS
COUNTY ASSEMBLY

Hon. Members, I also would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from the County Assembly of Machakos.

I will request each member of the delegation to stand when called upon so that they may be acknowledged in the Senate tradition.

- (1) Mr. Joel Kiptum, Senior Serjeant-at-Arms;
- (2) Ms. Miriam Musombi, Commissioner;
- (3) Mr. Stephen Munyao, Commissionaire;
- (4) Mr. Jonathan Mumo, Commissionaire;
- (5) Mr. Christopher Kiilu, Commissionaire;
- (6) Mr. Erastus Mutua, Commissionaire;
- (7) Mr. Daniel Ndambuki, Commissionaire;
- (8) Ms. Josfridah Mutua, Commissionaire.

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

I thank you.

I see a point of order from Sen. Murkomen.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I thank you for giving me this opportunity. I join you in welcoming the delegation from the County Assembly Service Board of Elgeyo-Marakwet.

I am very proud of the work that is being done by the County Assembly of Elgeyo-Marakwet. It is a very robust, hardworking and committed County Assembly. The County Assembly Service Board, being the enabling agency within the Assembly, is doing a fantastic job.

I hope, Madam Temporary Speaker, like we did for Tharaka-Nithi, Nyandarua and Tana River, when I come with a Motion to support the County Assembly of Elgeyo-Marakwet to have good facilities, especially offices for the County Assembly staff like we have in your county and other counties, and I am not saying that you should be excluded, but on this matter, we are part of the counties that did not have the advantage of having the county council facilities that are good enough to hold a proper county assembly with offices.

I am very grateful that Members of the County Assembly in our county have continued to serve Kenyans even if their offices are their own personal vehicles and outside Iten, where you are familiar with, in the market place, that is where their offices are. I hope that with the support of this House, we can still support counties that have no enough infrastructure, to push for them to have good offices so that Members of the County Assembly can serve them.

Lastly, I assure the County Assembly of Elgeyo-Marakwet and the County Assembly of Machakos and all the assemblies in the Republic that we have been keen partners of the county assemblies. We believe that county assemblies are important agents of development in this country in ensuring that devolution works.

We have only one request to them that, Madam Temporary Speaker, the behavior that used to be there in the past where county assembly members are fighting, are causing chaos, like we saw in the Nairobi City County Assembly, is extremely unfortunate. Particularly in the Nairobi County Assembly, there was a quick amendment of the Standing Orders. There are so many things that perhaps they are still in court.

I want to caution that county assemblies will receive our support 100 per cent but they must also become good agents of good governance at the local level, exercise their powers to impeach the speakers and the governors, the deputy governor and so forth. That is their right. We cannot question as a Senate, but in terms of projecting the image of assemblies across the Republic and being their guardian angels here in protecting counties and their agencies, I request county assemblies to continue conducting themselves in a manner that befits the constitutional requirements of Chapter Six.

Thank you, Madam Temporary Speaker.

Sen. Poghiso: Madam Temporary Speaker, Sir, this is just to follow suit on the Senate Majority Leader in welcoming the delegations from Elgeyo-Marakwet and Machakos counties. Those from Machakos County must know that at some point in my life I served as the national Chairman of Wiper Party. Probably, I would have known some of them during that time.

(Laughter)

My message to our friends from Elgeyo-Marakwet County is that West Pokot and Elgeyo Marakwet counties are neighbours. Therefore, we must work tirelessly to foster peace and prosper together as neighbours.

Karibuni sana.

Sen. Wambua: Thank you, Madam Temporary Speaker. I join you, the Senate Majority Leader and the former national Chairman of Wiper Party who is also the Senator for West Pokot County, currently serving on loan to the Kenya African National Union (KANU) party, to welcome the visiting delegations from Elgeyo Marakwet and Machakos counties.

Currently, the Senator for Machakos County is engaged elsewhere in his representative role. On his behalf and the people of Machakos, Kitui and Makueni counties, I extend our welcome to them and hope their stay here will be worthwhile. I believe they will use their time here to learn the best practices which they will use when they go back to their counties.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have another Communication to make.

VISITING DELEGATION FROM KIMUNDI PRIMARY
SCHOOL, MAKUENI COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Kimundi primary School in Makueni County.

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

I thank you.

(Applause)

Next Order.

MESSAGES FROM THE NATIONAL ASSEMBLY

APPROVAL OF THE DIVISION OF REVENUE
(AMENDMENT) BILL, 2018

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order 41(3) and (5), I have received the following Message from the Speaker of the National Assembly regarding the approval by the Assembly of the Division of Revenue (Amendment) Bill (Senate Bill No. 14 of 2018).

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

WHEREAS, the Division of Revenue (Amendment) Bill (Senate Bill No. 14 of 2018) was published vide Kenya Gazette Supplement No. 57 of 15th May, 2018 as a Bill seeking to amend the Division of Revenue Act, No. 1 of 2018, to provide for additional conditional allocations to the County Governments for the Financial Year 2018/2019;

WHEREAS, the said Bill was passed by the Senate on Wednesday, 13th June, 2018 and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly passed the said Bill on Thursday, 30th August, 2018, without amendments and in the form passed by the Senate;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41(1) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, this Message was received at a time when the Senate was on recess and pursuant to standing order 41 (5), I transmitted the Message to every Senator, vide letter Ref. SEN/L&P/MSG.2018 (02) dated 5th September, 2018.

In accordance with the provisions of Article 110(5) of the Constitution and Standing Order 163 of the Senate, the Bill is being processed for presentation to His Excellency the President for assent.

I thank you.

Hon. Senators, I have another Message from the National Assembly-

I wish to report to the Senate that pursuant to Standing Order 41 (3) and (5), I have received the following Messages from the Speaker of the National Assembly on 29th August, 2018, regarding the passage by the Assembly of The Copyright (Amendment) Bill (National Assembly Bill No.33 of 2017), The Public Private Partnership (Amendment) Bill 2017 and The Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018).

PASSAGE OF THE COPYRIGHT (AMENDMENT) BILL, 2017

“Pursuant to the provisions of Standing Order Nos. 41(1) and 142 of the National Assembly Standing Orders I hereby convey the following Message from the National Assembly.

WHEREAS the Copyright Amendment Bill (National Assembly Bill No.33 of 2017) was published vide Kenya Gazette Supplement No.142 of 18th September, 2017, as a Bill proposing to amend The Copyright Act 2001;

AND WHEREAS, the National Assembly considered and passed the said Bill on Tuesday 25th July, 2018 with Amendments in the form attached hereto;

FURTHER, WHEREAS an amendment to part (c) of the Second Schedule to The Copyright Act, 2001 introduced provisions that concern counties in the terms of Article 110 of the Constitution;

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

PASSAGE OF THE PUBLIC PRIVATE PARTNERSHIP
(AMENDMENT) BILL, 2017

“Pursuant to the provisions of Standing Order No. 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS, The Public Private Partnership (Amendment) Bill (National Assembly Bill No. 52 of 2017) was published vide Kenya Gazette Supplement No. 196 of 29th December, 2017 as a Bill concerning County Governments proposing to amend The Public Private Partnerships Act;

AND WHEREAS, the National Assembly considered and passed the said Bill on Tuesday 31st July, 2018 with Amendments in the form attached hereto;

NOW THEREFORE, in accordance with provisions of Article 110 (4) of the constitution and Standing Order No. 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration”.

May I allow the hon. Member standing to come in.

(Several hon. Members entered the Chamber)

PASSAGE OF THE LAND VALUE INDEX LAWS
(AMENDMENT) BILL, 2018

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, the third message is on the passage of the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018).

“Pursuant to the provisions of Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly:-

WHEREAS, the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018) was published vide Kenya Gazette Supplement No.9 of 12th February, 2018, as a Bill concerning county governments proposing to amend the Land Act, the Land Registration Act and Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act and to provide for the assessment of land value index in respect of compulsory acquisition of land;

AND WHEREAS the National Assembly considered and passed the said Bill on Wednesday, 8th August, 2018 with amendments in the form attached hereto;

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

Hon. Senators, these messages were received at the time when the Senate was on recess and pursuant to Standing Order 41(5), I transmitted the Message to every Senator vide letter REF. SEN/L&P/MSG.2017/01 dated 30th August, 2018.

Hon. Senators, pursuant to Standing Order 157 which requires that a Bill originating in the National Assembly be processed by the Senate in the same manner as a

Bill introduced in the Senate, by way of First Reading in accordance with Standing Order 138, I direct that the Bills be listed for First Reading tomorrow, Wednesday, 12th September, 2018.

I thank you.
Next Order!

PETITIONS

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, there are four Petitions before the House today.

COMPENSATION OF RESIDENTS AND RESTORATION OF THANGE RIVER BASIN

The first one is the Petition to Parliament concerning the restoration and reinstatement of the residents of the Thange River Basin.

I hereby report to the Senate that the Petition has been submitted through the Clerk by a Mr. John Kimeu Mukai on behalf of Thange River Basin Community. As you are aware, under Article 119(1) of the Constitution, and I quote:-

“Every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.”

Hon. Senators, the salient issues raised in the said Petition are as follows:-

(1) An underground petroleum oil spill incident by Kenya Pipeline Company (KPC) Limited occurred on 12th May, 2015, at Thange River along Mombasa-Nairobi pipeline, in Kibwezi, Makueni County.

(2) The water sample analysis by the Water Resource Management Authority indicated high presence of oil and grease from ground and surface water samples collected from River Thange.

(3) An Environmental and Socio-economic Impact Assessment study of Thange River Basin was conducted by PANAFCON Kenya Limited, where observations, analysis and recommendations were made.

May I allow the Members to come in.

*(Hon. Senators entered the Chamber and
took their seats)*

(4) Kenya Pipeline Company Limited through a letter by the Managing Director to the community chair, Mr. John Mukai, committed to compensate the community affected by the oil spill on the basis of an environmental and socio-economic study.

(5) The following have continued to be the grievances of the Thange River Basin residents caused by an oil spill incident by the KPC:

(a) there has been no appropriate compensation for losses and damages caused by the petroleum oil spill;

(b) The KPC has not released the medical examination results conducted by PANAFCON Kenya Limited to the 45 residents sampled and examined;

(c) The KPC through the CIC General insurance Limited was quick to dismiss and dispose of the oil spill matter and claims by affected residents through letters, in a move to either deny or delay compensation for damages and losses caused;

(d) the oil spill incident by the KPC has devalued lands in Thange community; and,

(e) the community continues to suffer due to the insufficient water supply.

The Petitioner, therefore, prays that the Senate, through the relevant Committees, directs the National Environment Management Authority (NEMA), the Water Resource Management Authority (WARMA), the KPC and other relevant Ministries to intervene to ensure appropriate and urgent measures are taken to remediate, restore and reinstate the affected residents of Thange River Basin, their children and environment.

Hon. Senators, pursuant to Standing Order 225, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, once again, there is demonstration of the Senate as a House that is trusted by the people of Kenya to solve problems that pertain them and their localities. This Petition is important because it deals with the issue of health and environment. It calls for the responsibility of state agencies, in this case, the Kenya Pipeline Corporation (KPC) to be more responsible.

When there was oil spillage in the Atlantic Ocean in the United States of America (USA) by Shell, the punishment was severe because in other parts of the world people take the health of their people very seriously. It is only in this country that---

The other day I was on Ngong Road to check something. I stopped by a *Jua Kali* area where artisans do their things. Unfortunately, at the same place where they work, there is a sewer with a lot of dirt around the place. That was on Ngong Road leave alone Kibera, Mukuru kwa Njenga, Mathare and many parts of this country. It is time we woke up as a nation.

The reason why we have many queer and peculiar diseases afflicting our people is because we do not take seriously the responsibility of ensuring that we prevent diseases from happening from the source. I am told one of the greatest successes of Cuba as a country, and I think that is why they donate doctors to other countries, is because they do not wait for patients to go to hospitals. Instead, doctors and community health workers go to the community and deal with health issues from the homesteads. In this country, a big corporation like the KPC does not take seriously the issue of health.

We have oil spillage everywhere and Kenyans just watch other Kenyans mixing petroleum products. Who does not know that if you go to Mai Mahiu, before you reach the town, there is a corner where lorries enter and get out but it is not an official road. Drivers of lorries enter there and syphon diesel, if they have, and add paraffin to their vehicles and continue with the journey. It is normal for us to see adulteration of fuel and other things that can cause havoc in our country but we do nothing about it.

I am grateful that this Petition came to this House. I hope the relevant committee that will handle it will take its work extremely seriously and use such situations to be an example, so that in future, every Kenyan and institution will take the responsibility and health of the people of Kenya seriously.

I support the Petition and I look forward to the report. The only caution is that we have many petitions but where are the reports? We have been waiting for the reports. We do not want to take advantage of our 30 minutes and say what we want to say and have investigation take place but we do not get the reports back.

Madam Temporary Speaker, I hope that from where you are sitting, you will hold our committees to account to ensure that they report back to this House on everything that we have committed to them.

I thank you.

Sen. Khaniri: On a point of order, Madam Temporary Speaker. I thank you for the opportunity. I am looking at our Order Paper and I can see a number of Bills that are supposed to go through the First and Second Readings and the number of Motions totaling to about 25. So, we have a heavy day ahead of us.

Since you have already said that there are three other petitions, I propose that you present all the three petitions so that we comment on all of them simultaneously so that we save on time. Otherwise, if we gave 30 minutes to each petition, that means two hours. Therefore we will not transact the important business that is ahead of us.

The Temporary Speaker (Sen. (Prof.) Kamar): Let us finish with this Petition. I will ask Sen. Mutula Kilonzo Jnr. to contribute on it and then I will give direction regarding what Sen. Khaniri has raised.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I was not aware that John Mukai had a petition here. John Mukai is a student I taught in Moi University. He is an environmentalist from Thange in Makueni.

This matter was resolved by the Senate Committee on Energy but the issues that are in Thange are the same issues that were in Solai and any other place where the National Environment Management Authority (NEMA) is involved. The Polluter Pays Principle means that once the KPC is required to do an audit, the NEMA is supposed to go and access whether the audit has been done properly. In this particular case, it is required that once there is an oil spillage, other than compensation for the land, the KPC is supposed to ensure that people are paid.

The effects of Lead and Benzene in Thange will be felt or seen in the residents after a while. Although they have started cleaning the environment in Makueni, the Environmental Restoration Order is not clear as to what happens when somebody develops complications. I know of two ladies who have rashes all over their bodies because of consuming the water. So, other than Thange and oil spillage in Sinai where there is a court case pending, we need a legal framework that will determine how the NEMA will do an assessment of the audit by some people but particularly by the KPC where there have been several oil spillages. One occurred in Kisumu and the other one near Sachangwan where people burnt to death. How will the issues of health be handled and who will be held accountable for purposes of health?

As Sen. Murkomen has pointed out some of the issues concerning the environment and issues brought to us by way of petitions are serious but sometimes we do not take them seriously. The oil spillage in Thange was over 500,000 litres. Even today, that pipeline passes under the river. So, there are serious environmental issues. They have done a new oil pipeline passing under the same river.

Madam Temporary Speaker, other than the Committee on Energy, would I be in order to ask that this matter also be handled by the Committee on Lands, Environment and Natural Resources because there are environmental issues that are outside the Committee on Energy?

Lastly, I would like to suggest the following. In the case of the Environmental Management and Coordination Act, you are aware that we made recommendation in the Solai Dam Tragedy Report that a certain deposit be made by people who conduct dangerous work like the KPC. Those regulations need to be passed because if they were in place, a bond of in excess of Kshs5 billion would be available for victims of Thange, Solai, the recent oil spillage in Kisumu and Sachangwan, so that the money is readily available.

Madam Temporary Speaker, I suggest that you direct it to two committees. I am willing to assist them with the information I have which I have collected from the KPC. This is a very serious environmental issue.

I would like to thank the young man because money did not go to waste.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, pursuant to Standing Order No.232(1), the Petition should be committed to the relevant standing committee for its consideration. In this case, I direct that the Petition be committed to the Standing Committee on Lands, Environment and Natural Resources.

In terms of Standing Order No.232(2), the committee is required, in not more than sixty calendar days from the time of reading the prayer, to respond to the petitioner by way of report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

Notwithstanding that, I would like to welcome the suggestion from Sen. Mutula Kilonzo Jnr. to be a friend of the Committee. You are also welcome to join the Committee whether you are from the Committee on Energy or any other.

Hon. Senators, I have considered the intervention from the hon. Senator and it is true that we have a very heavy programme. Twenty-five Orders are not that small when we have just come from recess and we need to prosecute as many as possible. So, I will read the next two petitions and we shall prosecute them jointly. You are welcome to comment on any of them.

DISRUPTION OF LOCAL TRADE BY GOVERNMENT ACTION AND SANCTIONS

This is a Petition to Parliament concerning the disruption of local trade by Government action and sanctions. Hon. Senators, I hereby, report to the Senate that a petition has been submitted through the Clerk by Mr. Vincent Ombaka.

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As you are aware, Article 119(1) of the Constitution says:-

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation.”

(Sen. Ndwiga stood at the Bar)

May I allow the Member to come in?

(Sen. Ndwiga entered the Chamber and took his seat)

Hon. Senators, the salient issues raised in the said Petition are as follows:-

- (1) THAT, the fast-moving consumer products wholesale and retail traders are significant contributors to economic growth in the country;
- (2) THAT, Regulation of trade, including fair trade practices, is a county function and any function that significantly affects trade affects the operation of the county governments and persons within their jurisdiction;
- (3) THAT, the importation of duty-free sugar allowed by Gazette Notice No.4536 of 2017 was in contravention of the East African Community Customs Management Act 2004;
- (4) THAT, the Cabinet Secretary for the National Treasury published *Gazette* Notice No. 4536 that allowed importation of duty-free sugar under the Natural Disaster Management provisions of the East African Community Customs Management Act 2004;
- (5) THAT, Paragraph 20 of Schedule 5 of the East African Community Customs Management Act 2004 provides for the exemption of duty due to Natural Disaster on the following terms-
 - (a) The exemption should define the quantities and period for the exemption;
 - (b) The exemption should be granted to the Government, Government Agencies/Agent; Non-Governmental Organization; or Relief Agencies;
 - (c) The goods are to be used where the Natural Disaster occurred.
- (6) THAT, all these provisions of the East African Community Customs Management Act 2004 were flouted and that the duty-free sugar was not imported as a Natural Disaster relief measure by the relevant persons but as a commodity by various business persons;
- (7) THAT, in any case, sugar is not a basic commodity that should be accorded priority in relief circumstances. The import of Duty Free Sugar led to unfair trade practices in the market
- (8) THAT, the duty-free sugar was way cheaper than locally processed sugar and the sugar the wholesale and retail traders had earlier imported and paid

duty. Thus, wholesale and retail traders were exposed to dead stock and significant losses.

(9) THAT, the Kenya Bureau of Standards (KBS) is being discredited by the law enforcement agencies. Therefore, wholesale and retail traders have no way of determining safety standards and are at the mercy of rogue police officers who are demanding bribes

(10) THAT, the Cabinet Secretary for the Ministry of Internal Security and Coordination of National Government has not given any clear directives on which imported sugar or sugar factories should be avoided thus throwing the country into confusion.

The Petitioner, therefore, prays that the Senate refer this matter to the relevant committees and invite the relevant Government agencies to respond to the issues raised as well as recommend to the President the establishment of the task force to examine key issues on the regulation of sugar importation.

Hon. Senators, pursuant to Standing Order No.231, I shall allow comments, observations or clarifications after I have read the next petition as earlier stated.

REVIEW OF LAWS RELATING TO BUSINESS PREMISES

Hon. Senators, the next Petition to the Senate concerns the review of laws relating to business premises.

I, hereby, report to the Senate that a petition has been submitted through the Clerk, by Mr. Kevin Ndehu Macharia, a resident of Kitengela in Kajiado County.

As you are aware, Article 119(1) of the Constitution says-

“Every person has a right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are as follows-

(1) THAT, the Rent Restriction Act and the Landlords and Tenants (shops, hotels and catering establishments) Act, were enacted in 1959 and 1965, respectively, with the objective of protecting tenants in certain business premises from exploitation through arbitrary increases in rent and from eviction without following due process;

(2) THAT, with time, the circumstances under which the law was enacted have significantly changed, rendering the said Acts ineffective in achieving their stated objectives;

(3) THAT, this has been occasioned by, among others, the rise in rental prices, which has placed majority of business premises outside the ambit of the Acts, as well as jurisdictional limitations placed on tribunals and courts which can address disputes arising from the Acts; and,

(4) THAT, consequently, small business owners, who would otherwise have benefitted from protection under the said Acts, have been left exposed to exploitation by landlords through arbitrary rent increases as well as evictions from business premises without following due process.

The Petitioner, therefore, prays that the Senate reviews the two pieces of legislation with a view to:-

- (a) Removing the caps on the jurisdiction of the Business Premises Rent Tribunal under the Landlords and Tenants (shops, hotels and catering establishments) Act;
- (b) Removing the caps on jurisdiction of the Rent Tribunal under the Rent Restriction Act; and,
- (c) Enacting legislation to ensure fairness and equity in landlord-tenant relations so as to achieve business efficiency, fair leasing practices and a stable and predictable investment environment.

I thank you.

Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to this and the earlier read petition.

I welcome the first contributor.

Sen. Ndwiga: On a point of order, Madam Temporary Speaker. First, you have not said which committees you have committed the petitions.

Sen. Murkomen: *Bado*. Comments first.

Sen. Ndwiga: Not comments.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Chairperson of the Committee on Agriculture and Fisheries. We will do the commitment after the comments.

Sen. (Dr.) Musuruve, proceed.

(Sen. Ndwiga stood on a point of order)

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Ndwiga, you are giving yourself a point of order when I have not.

Sen. Ndwiga: Madam Temporary Speaker, I apologise.

The Temporary Speaker (Sen. (Prof.) Kamar): I had finished with you and told you that we have not reached that point. I will commit the petitions after comments.

Sen. Ndwiga: Madam Temporary Speaker, a second point of order.

The Temporary Speaker (Sen. (Prof.) Kamar): Okay. A second point of order from Sen. Ndwiga.

The Temporary Speaker (Sen. (Prof.) Kamar): What is it, Sen. Ndwiga.

Sen. Ndwiga: Thank you, Madam Temporary Speaker. My point of order is that we have so much business on the Order Paper. If this will be our trend, we will never get down to serious business. My proposal is that if we---

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Ndwiga! Unfortunately, it is dangerous to arrive late because you might repeat what other Members have said. I ruled earlier that we will allow the two Petitions and then give a combined time of interactions for them. We have already committed the first one. We will also commit the next two Petitions.

Sen. (Dr.) Musuruve: Madam Temporary Speaker, I sincerely thank you for giving me this opportunity to contribute to the Petition. I congratulate and commend the petitioner for coming up with this Petition with regard to laws relating to business

premises. There is need to enforce them to ensure that entrepreneurs are protected because they are paying high rents. Most of the time when someone leases a business premise, the goodwill is very high and he ends up taking loans to pay it. Once he starts his business and it thrives, the landlord gets canny and ends up increasing the rent. This is painful for an entrepreneur who had taken a loan to start the business.

Madam Temporary Speaker, we need to protect entrepreneurs because they contribute a lot to the economy of this country. They also assist in creating employment opportunities for our people. Therefore, there is need to encourage them to start as many businesses as possible, as long as they operate within confinement of the law. I urge the relevant Committee to pick up this issue and see to it that business people are supported and protected.

The Temporary Speaker (Sen. (Prof.) Kamar): Please, let us remember the appeal made by hon. Sen. Ndwiga and Sen. Khaniri. We have a very long agenda, so let us be as brief as possible.

Hon. Sen. Halake, I saw you struggling to switch on your microphone.

Sen. Halake: Thank you, Madam Temporary Speaker. It was on when we were discussing the previous Petition. I will mention a few observations with regards to the three Petitions. I do not want to go back to the Petition on the oil spillage. However, I am glad that it was committed to our Committee. These are issues that have caused, not just environmental, but major disasters in this country. I do not know if any of you remembers a few years ago when we had fires in Mukuru slum and other slums which were caused by spilled pipelines that run under sewers. I am glad that we have been given the opportunity to go to the bottom of this and come up with some remedial recommendations.

With regards to the Petition which has been brought by traders before this House, once again, as the Senate Majority Leader said, it is true many Kenyans are looking up to the Senate to address these issues that ail their business and lives. As you are aware, small traders are the backbone of the economy of this country, particularly this city which contributes about 60 per cent to our Gross Domestic Product (GDP).

Madam Temporary Speaker, we should look at the issue of unfair trade practices locally and not internationally. What is going on here is really detrimental to our small-scale traders, especially the issue of importation. Corruption is causing unfair ground which is something that this House must stand up to be counted for and must rectify.

A few weeks ago, we saw people petitioning and picketing along this street. This tells us that they have been disadvantaged and that certain obligations of the country, for example, some of the terms of exemption under the East African Community (EAC) Act of 2014 were flouted. They were right because there was no major relief for which the exception was made. All the other criteria were flouted giving unfair advantage to big importers while the small traders were literally driven out of business. Therefore, I hope that this House does not stand by but acts. The Petition is now committed to the right Committee which will do justice to similar matters as it is the norm in this House.

Madam Temporary Speaker, we do not want to belabour the issue of importation of sugar because we have done this over and over again. However, that said, it not only disadvantages the small traders who have brought this Petition before us, but also the

sugar belts. We do not want to go there again, but we will see the effects of this importation from every corner of the economy of this country. Today it is the small traders, tomorrow, it will be the sugar cane growers and the next day, an entire value chain will come to the Senate with a Petition. We have not seen the effects of this Petition yet. So, we hope that we will look at the entire value chain as we commit it to the relevant Committee.

I thank you, Madam Temporary Speaker for giving me the opportunity to contribute to this Petition. With regards to rents, the small people are always disadvantaged. I spoke to the Senator for Nairobi County, Sen. Sakaja. He told me that a small room in Luthuli Avenue where small traders trade in has a goodwill of between Kshs2 million to Kshs4 million or Kshs6 million. I do not know what this is. These are laws that have been overtaken by events. These are things that are really making our traders to have a difficult working environment. What is becoming evident is that unless a person becomes a tenderpreneur anybody trying to do a clean business has many barriers put in their way. Be it unfair practices---

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, this is becoming too long.

Sen. Halake: Yes, Madam Temporary Speaker. Thank you, for giving me the opportunity. I hope that the Committees will do justice to this as we go along.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, we have two Statements that must be read before 4.00 p.m. Therefore, I will give one minute to hon. Sen. Khaniri.

Sen. Khaniri: Madam Temporary Speaker, I thank you for the opportunity. I specifically stand to make a comment on the Petition by Mr. Vincent Ombaka with regard to the importation of duty free sugar.

Madam Temporary Speaker, I do not come from a sugar growing county, but I must declare that I neighbour many counties that grow sugar. The collapse of the sugar industry has affected the entire belt, even my own county that does not grow sugar. Therefore, this calls for urgent measures to address the issue of duty free sugar so that we can revive our sugar factories.

Madam Temporary Speaker, this is a very thorny issue. I hail the petitioner for the salient issues that he has raised in his Petition; that opening flood gates for imported duty free sugar is actually what has contributed to our dying sugar industry. I agree with the prayers that he has made.

We recommend to the Executive to establish a taskforce that will look into this matter in totality, so that all the salient issues can be addressed to ensure that this does not recur, where we open floodgates for cartels to import sugar at the expense of the sugar cane farmers and the local sugar factories.

In fact, I would recommend that whenever there is a shortage and there are quotas to the imported, then this must be restricted to sugar factories. They should be allowed to share the quotas of importation and not the usual cartels that bring in sugar that is even contaminated.

Madam Temporary Speaker, I know that my minute is over, but I urge the Committees to which this matter will be referred to expedite, so that it can be concluded.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, on the Petition to Parliament concerning the disruption of local trade by Government action and sanctions, pursuant to Standing Order 232(1), the Petition stands committed to the relevant Senate Committee for its consideration. In this case, I direct that the Petition be committed to the Senate Committee on Tourism, Trade and Industrialisation.

In terms of Standing Order 232(2), the Committee is required, in not more than 60 days from the time of reading the prayer, to respond to the petitioners by way of a report addressed to the petitioners and laid on the Table of the Senate.

I thank you.

Hon. Senators, with regard to the Petition to the Senate concerning the review of laws relating to business premises, pursuant to Standing Order 232(1) the Petition stands committed to the Standing Committee on Tourism, Trade and Industrialisation.

In terms of Standing Order 232(2), the Committee is required, in not more than 60 days from the time of reading the prayer, to respond to the petitioner by way of a report addressed to the petitioner and laid on the Table of the Senate.

I thank you.

Hon. Members, Statements normally should stop at exactly 4.00 p.m., yet we have two Statements. I will, therefore, skip Order No.6, which is Notices of Motion and go straight to the Statements. We will then come back to Notices of Motion.

It so ordered.

Sen. Sakaja: On a point of order Madam Temporary Speaker. Allow me to ask for your indulgence on a small matter on petitions. If you look at Standing Order 232(1) and (2) as well as Standing Order 226, and I am raising this concern as a Chairperson--- When Sen. Ndwiga asked whether you can commit it first before comments, I referred to Standing Order 232(2), which talks about a petition that is committed to a standing Committee. It says how long the Committee shall take and there shall no comments on the report, but general comments for 30 minutes on a petition.

The wisdom of asking that a petition be committed to a Committee before the comments is that once a Chairperson knows that petition is committed to his or her Committee they are naturally more attentive to the comments by other Senators during that discussion. Of course, the Chairperson can also consult the HANSARD, but for convenience of us processing the petitions, we would ask that we first commit them to the relevant Committees and allow comments from Members if possible. So, you can use your leeway between those Standing Orders to change that procedure. I have not seen where a different procedure is provided for in the Standing Orders.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I want to bring your attention to the titles or subheadings of the Standing Orders you have mentioned. Standing Order 230 talks about presentation of petitions. Standing Order 231 is about comments on petitions and how they are supposed to be handled, while Standing Order 232 is on committal on petitions. If you look at the subheadings, you will find that there is a reason for the way they have been worded.

Thank you for that.

Next Order!

STATEMENTS

DEMISE OF H.E. KOFI ANNAN, FORMER UN
SECRETARY GENERAL

Sen. Wetangula: Thank you, Madam Temporary Speaker. I start by welcoming the distinguished Senators back to the House after a month's recess.

Thank you, for allowing me to make the following Statement on a matter of general topical concern under Standing Order 46(2).

On 18th August, 2018, the sun set on a great son of Africa - Kofi Annan from Ghana - at the age of 80 years. He shall be remembered as the first Sub-Saharan Africa or black African to have ascended, through sheer hard work, the ranks of the United Nations (UN) system to the position of Secretary General. It is important to mention that before him Boutros Boutros Ghali from Egypt had been honoured to be the first African to ascend to that office.

Kofi Annan shall be remembered as a UN civil servant who rose from a junior officer to the rank of Secretary General. Most of his predecessors and, indeed, successors, have risen through political patronage, having served as ministers, prime ministers or even presidents in their sponsoring jurisdictions.

Madam Temporary Speaker, Kofi Annan shall equally be remembered as the Secretary General that paid the greatest attention to the role of civil society and the female gender in human development. He paid keen attention and made critical intervention in the fight against poverty, deprivation and under-development. Indeed, it is Kofi Annan who gifted the developing world with Millennium Development Goals (MDGs) that have now been succeeded by yet another initiative known as Sustainable Development Goals (SDGs).

A soft spoken, well-groomed and medium height African gentleman, Kofi Annan was also described as the man with a soft voice, but a strong message. So strong and firm was Kofi Annan that the big powers and bullies of the world's political stage were unable to manipulate and/or unduly influence his decision making. He resisted military aggression by the mighty against the meek and weak. He was on record as opposing the American invasion of Iraq under the guise of Iraq's possession of weapons of mass destruction. History and facts were to eventually prove him right.

Madam Temporary Speaker, you may remember how the US Secretary of State, Collin Powell, graphically and nationally detailed Iraqi weapons of mass destruction and their threat to the world peace and security to the UN Security Council. It turned out to be utterly false, and Kofi Annan was right.

Kenyans will remember after the violent dispute that arose after the 2007 General Elections in our country that was steered by the African Union (AU) under the Chairmanship of President John Kufuor of Ghana, the eminent persons from the continent in the persons of Kofi Annan, President Benjamin Mkapa and *mama* Graça Machel who were appointed to mediate between President Kibaki's Party of National Unity (PNU) and Hon. Raila Odinga's Orange Democratic Movement (ODM), the successful mediation between the two protagonists saw the partial change of the

Constitution and the creation of the position of Prime Minister that was taken up by Hon. Raila Odinga.

Allow me to mention that as Kenya's Minister for Foreign Affairs then, I played a role under the direction of President Kibaki in getting the AU to send the eminent African persons led by Kofi Annan to our beloved country. His Excellency Deputy President William Ruto, Hon. Musalia Mudavadi, the late Hon. Mutula Kilonzo, Hon. (Dr.) Sally Kosgei, Hon. (Prof) Sam Ogeri, Hon. James Orengo, Hon. Martha Karua and yours truly constituted the Serena Team that negotiated the return to normalcy to our country. The Serena process led to the delivery of the new Constitution 2010 and other major reform recommendations - though several remain unimplemented - that have held our country together.

As I prepare to travel to Ghana tomorrow to attend the State Funeral of Secretary General Kofi Annan, I wish and believe that I speak for the Serena Team and the millions of Kenyans and I urge this House to record our respect and appreciation to this gallant son of Africa by rising to observe a moment of silence. May God rest his soul in eternal peace.

Madam Temporary Speaker, I request for a minute of silence to be called by you.

The Temporary Speaker (Sen. (Prof.) Kamar): That is not the job of a Member who is moving a Statement.

Sen. Wetangula: Madam Temporary Speaker, that is a request. I said that as we remember him, 'I urge that the Chair calls for a minute of silence'. We always do that in honour of great people. I do not know anyone greater than the man I am talking about.

The Temporary Speaker (Sen. (Prof.) Kamar): Because of the time that we are going to have, I will only allow two comments then we observe one minute of silence.

Sen. Sakaja: Sorry, Madam Temporary Speaker. I had pressed my button for a different matter. I will, therefore, relinquish---

The Temporary Speaker (Sen. (Prof.) Kamar): The second Member is Sen. (Prof) Ogeri.

Sen. (Prof) Ogeri: Thank you, Madam Temporary Speaker, for the opportunity that you have given me to comment about a very effective and illustrious person in the name of His Excellency Kofi Annan who is no more with us.

As you have heard from the Statement, he is the one who put us together during the Serena talks. Many Kenyans may never get to know the kind of drama that was in Serena during the early days when we were trying to negotiate for peace for this nation. At some stage, we thought that the talks would break down but because of his diplomatic skills and the experience that he had with multilateral organisations and the United Nations (UN), he was able to wind his way around. On one side we had PNU and ODM which was the opposition. I am happy that we were able to participate in those talks as Sen. Wetangula has already alluded in his Statement.

Without the Serena talks, there would not have been the forerunner today; the most celebrated Constitution of Kenya of 2010. Without the Serena talks, there would have never been what we now call the so-many reforms that have taken place through various constitutional offices that are now independent and discharging very credible work for this country. He is one person that if I had an opportunity to suggest to the

Government, I would have asked it to use this occasion through their diplomatic shuttles to enable the entire Serena team to travel to Ghana to mourn a great leader who was able to put this nation together. Sometimes we may not accept it but it is a reality.

Africa has lost a great leader and Kenya has lost a great friend who was able to put us together. We argued together and even though we had different opinions, we were able to harmonise our opinions so as to produce a document that saved this nation.

Therefore, I join the rest of my colleagues, that it is only befitting that we give him the honour of observing one minute of silence and also send a very powerful *note verbale* from the Senate House; one of the highest because after all, if he was not here, the Senate would not have been created.

Therefore, we have a primary responsibility, as a Senate, to send the sentiments of good will to the people of Ghana and the family of the late His Excellency Kofi Annan through the envoy, who is going on our behalf.

With those few remarks I support that Statement.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. I will give Sen. (Dr.) Zani one minute.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker, for this opportunity. I also stand to support that Statement and to acknowledge the existence of Kofi Annan, a man who is not only associated with Kenya and its success, but the world over.

His Excellency Kofi Annan was a member of the Ford Foundation and as a result of a Scholarship that he received and the fact that he came back to his community and made changes to it, an award system called the International Fellowships Program (IFP) was introduced that has educated almost 200 students across the world up to now. This would not have happened if His Excellency Kofi Annan had not exemplified that an African student can go out there, study, come back and assist their communities in education, agriculture and all the other fields, keeping in mind that development is so critical.

It is because of his sense of development and a clear sense of the fact that African nations can succeed that he was always on call to assist. We will never forget the work that he did for us in Kenya and that he actually enabled us to have a successful talk process that led us out of the brink of the precipice where Kenya was at that time.

We mourn and even as we do that, we also want to tell our compatriots in Ghana that they produced a great man. Let the young people in Africa copy that example. Let the work that he did be captured and talked about over seasons. When one talks about a mentor, this is the sort of mentor that we need for Africa and the world. As we mourn, we acknowledge what he has done in the world and he will always be remembered.

As a Senate, we do support that we observe that one minute of silence to acknowledge the role that he has played in our lives.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. hon. Senators. Could we now be upstanding for one minute in honour of the late Kofi Annan.

(Senators stood and observed a minute of silence)

Thank you.

The next Statement is from Sen. Dullo.

OVERSIGHT ROLE OF THE SENATE
VIS-À-VIS COUNTY GOVERNMENTS

Sen. Dullo: Madam Temporary Speaker, I wish to give the Statement on the oversight role of the Senate or Senators *vis-à-vis* the county governments.

Madam Temporary Speaker, pursuant to Standing Order No.47(1), I wish to make a statement on the oversight role of the Senate or Senators *vis-à-vis* county governments. I wish to state the following:-

(1) The guiding principles and objects of devolution as enshrined in Articles 174 and 175 of the Constitution of Kenya, 2010, include, *inter alia*: promoting democratic and accountable exercise of power; giving the power of self-governance to the people; promoting socio-economic development; promoting decentralization of services; enhancing checks and balances and separation of powers; democratic principles; separation of powers; reliable revenue sources; and, effective service delivery.

(2) The mandate of the Senate (exercised by Senators) as provided under Article 96 of the Constitution of Kenya, 2010, is to represent and protect the interests of the counties and their governments and to exercise oversight over national revenue allocated to the county governments.

(3) The County Assembly is mandated, under Article 185 of the Constitution of Kenya, 2010, to exercise oversight over the County Executive Committee and any other county executive organs.

(4) The County Executive Committee is entrusted under Articles 179, 183 and 186 of the Constitution of Kenya, 2010, with the exercise of the executive authority of the county.

(5) The County Executive Committee is obligated under Article 183(3) to regularly provide the County Assembly with full reports on matters relating to the county.

The crux of the matter is in (6).

(6) The Isiolo County Executive Committee recently embarked on negotiations with private investors to undertake a Public-Private Partnership (PPP) arrangement for the delivery of healthcare service in Isiolo County.

Madam Temporary Speaker, health is a devolved function. As you are aware, there is a PPP Act that governs this. Secondly, there is a PPP unit that is supposed to give guidance in terms of how this should be engaged. Thirdly, there are the ones to look for the threshold and vet the investors that county governments are supposed to engage with.

(7) That the above process was commenced and is being undertaken in total disregard of the constitutional requirements under Articles 10 and 73 on transparency and accountability and the right to access to information under Article 35 of the Constitution of Kenya, 2010, which together call for public participation in matters affecting the public.

(8) That the above process was commenced and is being undertaken as a pilot project for six months in total disregard of the legal and procedural requirements under the Health Act 21 of 2017 and the Public Private Partnerships Act 15 of 2013.

(9) That the process in its current form potentially exposes county revenue to the risk of misuse and essential public service to unregulated capture by private entities and poses a health risk to the people of Isiolo County. Consequently, the County Assembly finds itself unable to oversight itself over what is happening within the Assembly.

Madam Temporary Speaker, one of the issues raised by the County Assembly is that there is misappropriation and mismanagement of finances at the county level yet the County Assembly cannot oversight itself. That is a challenge that we need to look into as a Senate.

(10) In exercise of my constitutional functions, my Office sought responses and action from the County Executive Committee and the County Assembly of Isiolo concerning the above PPP process and the audit queries that normally we present to the counties.

(11) That the response of the County Executive Committee to my Office's concern was to dismiss the oversight role of the Senate and Senators. The Governor stood up and said publicly that the role of the Senator is to make laws in Nairobi and not to oversight the county governments. He said that it is only the County Assembly that can oversight the finances allocated to them.

Madam Temporary Speaker, my concern is also drawn to the health insurances that counties are getting into without being regulated by the Senate and the Government. I think the Senate Committee on Health should look into these matters because several counties are coming up with health insurance schemes without guidelines yet the Senate is just sitting back and watching. This House needs to be taken seriously.

The universal healthcare will be rolled out in November, yet the Senate has not been involved. This is something that the Committee on Health seriously needs to take up and tell us where we are headed; which is the role of Senators in terms of universal healthcare.

The matter on the role of the Committee on Health also came up in the Senate Business Committee (SBC) meeting today. We need to take serious action on this.

(12) That the County Executive Committee firmly believes that the Senate and Senators have no role in exercising oversight in such manner.

(13) That the Governor claims that the County Assembly is the only organ or institution to play the oversight role.

(14) That I have no mandate to oversight the Assembly expenditure.

I therefore implore the Senate to-

- (i) affirm its constitutional functions under Article 96 of the Constitution of Kenya, 2010; and
- (ii) restate and assert its oversight role vis-à-vis county governments in order to eliminate any potential misunderstanding of the oversight role of the Senate and Senators.

Madam Temporary Speaker, according to me, there is a lacuna in terms of how we should relate and oversight counties. There is the feeling by governors that only county assemblies can take oversight role in terms of budgetary allocations to them.

According to me, from what I have learnt in the current scenario in Isiolo, some of the county assemblies do not have capacity to look at major Memoranda of

Understanding (MoUs) that are committed by governors. It high time that the Senate defined how we should engage county governments *vis-à-vis* county assemblies.

We have a good example in Isiolo County. Right now, if you go to the hospital, you will see that bodies, leave alone anything, are being referred because our morgue does not work. The hospital does not have anything yet they run around trying to get investors or private partners. I think there is also confusion where members of the public do not understand what is involved in partnerships.

Madam Temporary Speaker, this is something very serious because governors are committing to partnerships involving huge amounts. Those are financial commitments that this House needs to take seriously.

I thank you.

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

Again, I will take two or three speakers because of time. Please take a minute each knowing that Statement time ended five minutes ago.

Sen. Sakaja: Thank you very much, Madam Temporary Speaker. I am also grateful to Sen. Dullo for presenting the Statement to the House. I will take over from where she left. In as much as we must affirm the constitutional role of the Senate, it is also upon us to go further and give life to those provisions by creating the proper framework for the actual work; whether on oversight or representation that a Senator plays within the county and their relationship with the county assembly.

For instance, today, the Senators for Kisumu and Uasin Gishu counties will deal with their county assemblies differently from the Senators for Narok and Nairobi counties. It has been left to the personal relationship, demeanor or the personality of the specific Senator.

Our oversight role, for instance, cannot be done retrospectively. That is why, as Sen. Dullo has said, governors are comfortable to say that the only people who are overlooking them on real time basis are Members of County Assembly (MCAs). This is because hon. Senators will have to wait for three, four or five years to get the Auditor-General's reports on specific counties. For instance, the only Auditor-General's reports that I have seen here are on former Gov. Kidero's Government. Yet, Nairobians expect me to oversight Gov. Mike Mbuvi Sonko together with the rest of the governors. We, as the Senate, oversight in corporate as well as our specific counties.

The other day, the Speaker of the Nairobi County Assembly was impeached. The matter is in court. We saw some scenes yesterday and the day before as well about forceful eviction. A part from the fact that as an individual, I have spoken on phone to the leader of majority and the leader of minority and others MCAs in the Assembly. However, there is no framework for that interaction between Senators and the county assemblies. Yet we call ourselves the guardians of those assemblies and the protectors of devolution.

Let me give you another example. This morning we were told how the Kenya Urban Roads Authority (KURA) is working with Nairobi City County to construct roads. I am grateful that KURA and the national Government have constructed many roads in Eastlands and they are continuing do so. However, inter-governmental relations are

supposed to be domiciled within the Senate, yet we have no provision; whether within the County Governments Act or any other law, that guides that.

As I finish, I think that Statement should be taken beyond the specific issues that Sen. Dullo has raised. That, we, hon. Senators, and probably, a smaller team, will be able to look at provisions of the law that we need to strengthen, define or clarify to ensure that these interactions are formal, recognised and provided for in the law.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cherargei, one and a half minutes, please.

Sen. Cherargei: Thank you, Madam Temporary Speaker. I support what Sen. Dullo and Sen. Sakaja have said. I think there is some confusion here. Governors want money to be allocated to them, but they do not want oversight done.

I agree that we, as a House, need to assert our authority in line with Article 96 of the Constitution. Before I was elected, I took the former Governor for Nandi County to court over borrowing from a bank in this Republic. At that time, the courts gave an order. There was a circular by the Ministry that there should be a guarantor which should be the national Government. However, there are so many Memorandums of Understanding (MOUs) that governors have signed with financial institutions or organisations with little or no input from the leadership of the Republic. Therefore, it is high time that we took our position as Senators.

As I wind up, we need to have a standardised legal or policy framework that will ensure that we maximize the use of oversight. There should not be a clash between a governor and a Senator when Senators are doing their oversight role. We must take our rightful position to legislate and oversight.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. One and a half minutes to sen. Wetangula.

Sen. Wetangula: Thank you, Madam Temporary Speaker. I support the Statement and urge that this House pays serious attention to what Sen. Dullo has said.

To be oversighted by the Senate is not a matter of choice by any governor, or county government. Accountability is not an option for anybody in public service. So, nobody should be allowed to say that they choose who to oversight them and who not to do so. The Constitution and laws are clear. Precedent is available that we have been oversighting and we must continue oversighting counties.

It is more disturbing to note that the Governor for Isiolo was our colleague in this House in the last Parliament. He was on the frontline with us going to court to demand accountability of governors. He was on the frontline with us calling for impeachment of governors who were resisting oversight. He should know that this House saved the Governor for Kericho County after he was impeached for signing MOUs with some benefactors without involving stakeholders and the public.

I urge that the committees that are in line with what Sen. Dullo has said, particularly the Committee on Health on matters of insurance should not wait for the direction of the Chair. On the basis of that statement alone, they should send an invitation and even if intransigence sets in, send as summons with clear reminder that sanctions of a court of law can follow if they defy those summons.

As I finish, if we do not do this, this war that is going on in this country against corruption will be a big joke. Corruption and its war is not a matter for the national Government. Accountability at the village is as important as accountability at the national level. Every single tax payers' money, regardless of where it will be spent, must be prudently put to good use to benefit the people of this country. Anybody doing anything different is waiting to be a candidate for an invitation to Kamiti as a guest of the State, so that they can learn that public property belongs to the public and not any individual.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. One minute to sen. Wambua.

Sen. Wambua: Thank you, Madam Temporary Speaker. I also take this opportunity to congratulate Sen. Dullo for the statement. There is no dispute that health is a devolved function. However, the biggest problem that we are facing in almost every county in this country is that there are no standards in terms of regulation of the health function. Every county is doing their own thing in regard to health management, especially the establishment of these health insurance schemes.

As noted by Sen. Dullo, the universal healthcare programme is rolling out in a few months' time. Every county is now starting their own health insurance schemes. We have the National Health Insurance Fund (NHIF) which is also recruiting from the same people. I request that the Senate Committee on Health takes leadership in this matter and guides us, as a House, in setting basic standards for health insurance in counties. To me, before we even begin talking about health insurance schemes, we should look at the issue of medicine in hospitals, proper medical equipment and personnel in hospitals in counties.

I support.

The Temporary Speaker (Sen. (Prof.) Kamar): One minute for Sen. Olekina.

Sen. Olekina: Thank you, Madam Temporary Speaker, for giving me the one minute to comment on this issue of accountability in regard to this private-public partnerships and even contracts in counties.

Isiolo County has a serious problem. I remember when we, in the Committee on County Public Accounts and Investments Committee (CPAIC) were meeting with the Isiolo County Government, we clearly identified where they were going wrong. One, they were faulting the Public Finance Management Act in terms of collecting revenue and deducting interest at source. We gave a direction that, that contract between Isiolo County Governments and KATO which is a tourist operating company, be done away with. That was never done. As I stand here as a Member of that Committee, I request that you task this issue to our Committee so that we can follow up.

Madam Temporary Speaker, Article 96 of the Constitution is very clear. It gives this House the power to protect the interests of counties and their governments. Therefore, when you hear a governor say that the job of Senators is to make laws here in Nairobi, he or she is completely misadvised and misinformed. We need to do what is mandated to us by the Constitution, to ensure that any Public/Private Partnership (PPP) that involves public funds is done in accordance with the law.

Madam Temporary Speaker, the issue of healthcare is what we are debating. Already, county governments are bleeding. There is over Kshs200 million which is being

deducted on a yearly basis. They were forced to sign contracts by the national Government, yet they did not know about it. Now, they are saying that this is a devolved matter. Instead of getting their people on the ground to understand and get full information, when they are questioned they say that we do not have the moral authority to ask that.

Madam Temporary Speaker, I request that as the Committee on Health looks into this matter, the County Public Accounts and Investment Committee (CPAIC) should do the same, so that we can put an end to this thing.

Thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. (Dr.) Zani, you have one minute.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I thank Sen. Dullo for bringing one of the most important Statements I have heard in this House. This really clearly contextualizes the role that the Senate has to play and its constitutional mandate.

I re-emphasize that the oversight that is made for and to the governor and the county is a constitutional responsibility of the Senate. Nobody can run away from that. What we have not been able to have properly are the structures to do this. I urge especially the Committee on Devolved Government and Intergovernmental Relations and the Committee on Health to give some very concrete proposals. Some of the ideas that were based on the regulations that were put into place for monitoring and evaluation deal with exactly this.

If it is difficult to do it at the level of the individual Senator or at the Senate, then the people also have the power to speak. Once they have been educated, through public participation and forums that have been suggested, they will know the debt that will come as a result of those PPP agreements that have not been scrutinized will create bigger problems within the counties. Members of those counties will suffer as a result and only a few will be brought to the fore.

Madam Temporary Speaker, this Senate has to be heard loud and clear across the board; at the Senate, the community and county levels. So, if we put structures into this system, it will be essential because at the end of the day, the perception should not be allowed to be entrenched in this second generation of devolution. By now, the role of the Senate should be clear. There should be no explanation made to any governor about the clarity of the oversight role of the Senate over the county governments.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Finally, I will give the Senate Majority Leader one-and-a-half minutes.

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. I would like to congratulate the Senate Deputy Majority Leader for coming up with this very important Statement.

Madam Temporary Speaker, the former Sen. (Dr.) Kuti, who is now the Governor for Isiolo County, was here when we passed the County Development Board (CDB) Bill. In that law, we said that it was necessary for counties and their leadership to come together and agree on various aspects of development, to ensure that there is coordinated development and understanding across the board.

We expect the governors, who were Senators before, to be the best champions for the role of the Senate in so far as working together as a team is concerned. In fact, I do not agree with Sen. Sakaja who says that there is no legal framework for us to engage in oversight. There is more than enough; we do not even need a law. What Sen. Dullo needs to do is to come up with a Petition, which will be directed to the Committee on Health or the relevant Committee. That Committee will then go to Isiolo or summon the governor to come here.

We can direct it to the CPAIC, which will then summon the governor. He will not refuse because it is the law. He will first be invited and if he refuses he will be summoned. We have enough laws. We have public forums out there that allow us to engage with the citizens because representation is about going back to the citizens. We can have a *baraza* that involves all the county leadership and discuss a matter. We do not need any other law.

What we need at the moment is to ensure that we use the institutional mechanism provided by the law. It is for us to test this mechanism and the Committees to take up these responsibilities. During last term we invited governors to this House and eventually summoned them. Some of them like Gov. Oparanya went to court but finally came here. Gov. Kabogo and the team refused, but finally came here. The former Gov. Isaac Ruto made a lot of noise out there but finally came here. This is about us using the institutional mechanism that we have here. We have the teeth to bite. In fact, there is nothing that stops us.

Madam Temporary Speaker, when I was the Chairperson of the Committee on Devolved Government and Intergovernmental Relations, I used to summon county assemblies for things like those we saw yesterday. There is nothing that stops that Committee from inviting the County Assembly of Nairobi to shed light on that matter because it is our role; we oversight those counties. In fact, I ended up being involved in mediation for the county assembly and county executive in Isiolo in the last term. So, we have enough institutional and legal mechanism. It is for us, as a House, to use it and raise these issues.

I urge Sen. Dullo not to be discouraged. If you remember, in the last term, everywhere we went people used to tell us that Senators are useless people who are just supposed to sit in Nairobi. They will still make those statements. The reason they are talking about you is because they can feel the pinch of what you are doing. If you were not doing anything, nobody will even refer to a Senator or the role of the Senate. The encouragement that comes with that is to continue pushing the boundaries, to ensure that we do what the citizens want us to do.

The Temporary Speaker (Sen. (Prof.) Kamar): I see a point of order from Sen. Sakaja, although I thought he had finished.

Sen. Sakaja: On a point of order, Madam Temporary Speaker. Is it in order for my friend, the Senate Majority Leader, to change the record of the House by saying that I said that there are no institutions? I was clear that what we need is a framework, apart from the corporate oversight as a Senate, the individual Senator, his county assembly and county executive. Sen. (Dr.) Zani has actually also confirmed that, that concern was there in the last Senate. That is what I am talking about. I know that as a Senate there is no

limit to what we can do. We can summon any governor and deal with any assembly as a House. However, when Sen. Dullo goes to Isiolo, how she deals with the County Assembly of Isiolo and how Sen. Cherargei deals with the County Assembly of Nandi is completely different because it is left to the whims of the individual Senator.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senator, you have made your point.

Sen. Sakaja: Madam Temporary Speaker, is it in order for something different to be alluded to?

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I still disagree with him on that one too.

The Temporary Speaker (Sen. (Prof.) Kamar): You only have 15 seconds; just wind up.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg that you give me 30 seconds. This is an issue that we debated for five years. Does an individual Senator have a role, individually, to oversight county governments? The answer is 'yes.' We are being given the oversight fund because it will enable us to go and hold meetings with *wananchi* and the county assemblies. It is their choice whether or not to attend the meetings, but as the Senate or individually, we do not lack the legal framework; we do not even need a law. In fact, having a law will restrict us from exploiting the advantages that come with the constitutional responsibility of oversight of a Senator on the county. That is why I am saying that---

The Temporary Speaker (Sen. (Prof.) Kamar): Senate Majority Leader, wind up because we need a *Kamukunji* with you on some of these issues.

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. In reality, what Sen. Dullo has brought is important. Every Senator is asking the same question, but it is important for us to know we have unlimited space within the Constitution to perform our responsibilities as Senators. I really urge the six governors, who used to be Senators, to set a good example of the relationship between counties and the importance of being oversighted as one tool of making them shine better in their performance as governors.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, as I said earlier we had skipped Order No.5 – Papers laid. Let us go back to them before we go to Order No. 8. Let us have the Leader of Majority.

PAPERS LAID

The Senate Majority leader (Sen. Murkomen): Madam Temporary Speaker, I beg to lay the following papers at the Table of the Senate today, Tuesday 11th September, 2018-

THE COUNTY GOVERNMENT CASH DISBURSEMENT
SCHEDULE

The County Government cash disbursement schedule for Financial Year 2018/2019

THE NCIC ANNUAL REPORT

NCIC annual report for Financial Year 2016/2017

REPORTS ON THE FINANCIAL STATEMENTS OF
VARIOUS COUNTY GOVERNMENTS/AGENCIES

The Report of the Auditor-General on financial statements of Wote Water and Sewerage Company Limited for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Kwale County Bursary Fund for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of Kwale County Youth Women and PWDs Revolving Fund for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of Kwale County Youth, Women and PWDs Revolving Fund for the year ended 30 June, 2016.

The Report of the Auditor-General on financial statements of the Kwale Water & Sewerage Company Limited for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Kwale County Trade Revolving Fund for the year ended 30 June, 2015.

The Report of the Auditor-General on financial statements of the Kwale County Trade Revolving Fund for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Kwale County Assembly Members and Staff Loan Scheme Fund for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Kilifi County Ward Scholarship Fund for the year ended 30 June, 2014.

The Report of the Auditor-General on financial statements of the Lamu County Fisheries Development Agency for the year ended 30 June, 2016.

The Report of the Auditor-General on financial statements of the Lamu County Fisheries Development Agency for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Isiolo County Assembly for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Taita Taveta County Assembly Revolving Car Loan Scheme Fund for the year ended 30 June, 2017.

The Report of the Auditor-General on financial statements of the Taita Taveta County Government Result Based Financing for the year ended 30 June, 2017.

(Sen. Murkomen laid the documents on the Table)

The Temporary Speaker (Sen. (Prof.) Kamar): Next Order.

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

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

The Temporary Speaker (Sen. Nyamunga): Next Order.

BILLS

First Readings

THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL (SENATE BILLS NO 18 OF 2018)

THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILLS NO.19 OF 2018)

THE PREVENTION OF TERRORISM (AMENDMENT) BILL
(SENATE BILLS NO.20 OF 2018)

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

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, for the convenience of the House, we are going to defer Order nos.11 and 12 at your own request.

Second Reading

THE ENERGY BILL (NATIONAL ASSEMBLY
BILLS NO. 50 OF 2017)

(Bill deferred)

Second Reading

THE LOCAL CONTENT BILL
(SENATE BILLS NO. 10 OF 2018)

(Bill deferred)

We are also going to defer order Nos. 13 and 14 because I do not see the Senators in the House. We are also going to defer order Nos.15 and 16.

Second Reading

THE IMPEACHMENT PROCEDURE BILL
(SENATE BILLS NO. 15 OF 2018)

(Bill deferred)

Second Reading

THE DATA PROTECTION BILL
(SENATE BILLS NO. 16 OF 2018)

(Bill deferred)

Second Reading

THE CARE AND PROTECTION OF OLDER MEMBERS
OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)

(Bill deferred)

Second Reading

THE PETROLEUM BILL (NATIONAL ASSEMBLY
BILLS NO. 48 OF 2017)

(Bill deferred)

Next order. There is a resumption of debate on the Motion.

MOTIONS

ENFORCEMENT OF NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLE) REGULATIONS 2015

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country, leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on 1st January, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing and Urban Development; identifies strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations; in collaboration with County Governments, develop programs to sensitize and educate members of *bodaboda* associations and the public on the laws regulating motorcycle operations; submits a report to the Senate within ninety(90) days outlining the short and long term strategies and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

(Sen. Kasanga on 2.8.2018)

(Resumption of Debate interrupted on 2.8.2018)

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, I have a request from the Sponsor of the Motion that we defer it since the Senator who was supposed to second it is not around.

(Motion deferred)

Hon. Senators, we would like to defer Order Nos. 18, 19, 20 and 21.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF NAKURU COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Nakuru County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF KILIFI COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Kilifi County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

(Motion deferred)

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF HOMABAY COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Homabay County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

(Motion deferred)

ADOPTION OF CPAIC REPORT ON FINANCIAL OPERATIONS
OF KISII COUNTY EXECUTIVE FOR FY 2013/2014

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Kisii County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Tuesday, 19th June, 2018.

(Motion deferred)

Next Order.

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

Sen. Poghiso: Thank you very much, Madam Temporary Speaker.

I beg to move that the Report of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) be read a second time.

The first ordinary session of the plenary assembly of the forum of parliaments of the member states of the FPICGLR took place from 19th – 20th March, 2018, at the Parliament Building in Kinshasa, Democratic Republic of Congo. The Session was opened by the Speaker of the National Assembly of Democratic Republic of Congo, the Hon. Aubin Minaku and was closed by the Speaker of the Senate of the Democratic Republic of Congo, Hon. Kengo Wa Dondo. The sitting President of the forum, the Hon. Abdou Karim Meckassoua, who is the Speaker of the National Assembly of Central Africa Republic, presided over the sessions assisted by the forum outgoing General Secretary, the Hon. Prosper Higiro.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, I think that you are senior enough to know that you should move the Motion as it is on the Order Paper first.

Sen. Poghiso: I think I did, Madam Temporary Speaker. I should maybe do it again.

The Temporary Speaker (Sen. Nyamunga): Yes, please.

Sen. Poghiso: Madam Temporary Speaker, I beg to move:-

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

Madam Temporary Speaker, I have already mentioned that this session was procedurally held at the National Assembly or the Parliament of the Democratic Republic of Congo. I already mentioned that it was opened by one Speaker and closed by another Speaker. The Speaker who opened the session was the Speaker of the National Assembly of Democratic Republic of Congo. We have also talked of the outgoing Secretary General, the Hon. Prosper Higiro.

It is important that I mention the outgoing Secretary General of the FP-ICGLR because it was in this session where we had a change. This is because the Secretary General was retiring and another one was coming in. It is important to note that this organisation was founded in 2004. It is made up of 12 countries of the Great Lakes Region. It had a Secretary General who has served it for the six years, but as required by law, he had to leave office for another one to come in.

The First Extraordinary Session of the Plenary Assembly was convened to conclude the agenda that was left pending during the Eighth Ordinary Session of the Plenary Assembly held in December, 2017, in Bangui, Central Africa Republic, primarily for appointment of a new Secretary General. Therefore, it is very important to note that

Hon. Prosper Higiro who comes from Rwanda was finishing his six years at the helm of this organisation.

This Report is very important. I am delighted to inform this House that following extensive consultations, the Executive Committee of the forum was able to broker a consensus which was subsequently approved by the conference of Speakers and the plenary assembly regarding the appointment of a new Secretary General of the forum. The debate over appointment of the new Secretary General had threatened to tear apart the forum due to competing claims from the Republic of Uganda and Central African Republic.

With the previous sessions unable to break the impasse, the deal proposed by the Executive Committee and adopted during the present extraordinary session, was for the Republic of Uganda to nominate a candidate for the post of the Secretary General for the first single term of three years following which the Central African Republic will likewise nominate a candidate for the position for the next single three year term.

It was so difficult to arrive at who becomes the Secretary General of the organisation because of those opposing forces. Both Uganda and the Central Africa Republic wanted their candidates to be the Secretary General. There was a tussle, but eventually, the Executive Committee decided to do something more Solomonic, which was to divide the baby into two. It is not really Solomonic in that sense, but they decided to divide the six years into two; so that we have one country take a term of three year and the other country take the remaining term. Therefore, there is no serving two terms in this case. Therefore, Uganda and Central Africa Republic will only serve one term each of three years.

I have to remind the House, that there exists an organisation called the International Conference on the Great Lakes Region, the ICGLR. The forum where we belong is the Parliamentary forum for organization. It is like having a parliamentary forum for an organisation like Intergovernmental Authority on Development (IGAD). This is what it means. So, we are the Parliamentary group that supports ICGLR, which is based in Bujumbura, Burundi. The FP-ICGLR is based in Kinshasa, Democratic Republic of Congo.

Subsequently, the FP-ICGLR has a new Secretary General called Hon. Onyango Kakoba who is a Ugandan. Previously he served as a Member of Parliament in Uganda and has participated in the forum's activities for many years. The Assembly commended the outgoing Secretary General for his exemplary service to the forum and pledged to support the incoming Secretary General during his tenure.

The Members of our delegation were Sen. Poghio who was the leader of the delegation, Sen. Kasanga, Sen. Prengi, and Mr. Charles Munyua, our delegation secretary. The Kenyan delegation participated actively in the meetings of the Executive Committee of the Conference of Speakers and the plenary of the Assembly. The delegation further came up with a number of recommendations regarding Kenya's participation in the activities of FP-ICGLR which are contained on page 16 of this Report.

I encourage Members to read this because part of the role of the parliamentary forum is to follow up on peace and security issues, governance, children and vulnerable

communities within the region, subsequent to the various wars that have been fought in this region. Many are vulnerable and so we get concerned. Therefore it is important for you to read this Report.

We have a report every time whenever the Forum meets. We have heard of reports about elections and they are very important. When you read this, we are reporting about which countries have had elections the last time. As we speak now, there was a team from the Parliamentary Forum that has gone to Rwanda to observe the Rwandan Parliamentary Elections.

The delegation is grateful to the Speaker of the Senate for allowing them to attend the session, facilitating travel and accommodation and providing logistical and technical support in liaison with the Office of the Clerk of the Senate.

I appreciate that I sit in the Executive Committee of this Forum. I know that there are many members of the Committee but I will single out Sen. Kasanga who will be representing us in the Committee on Children, Women and Vulnerable Groups. So, we already have a Member of this Senate who will be sitting in the committees.

It is my duty, on behalf of the delegation, to present and commend this Report to the House. With those few remarks, I beg to move. I ask Sen. Halake to second.

I thank you, Madam Temporary Speaker.

Sen. Halake: Madam Temporary Speaker, I rise to second this important Report that has been tabled by Sen. Poghio. This is a Report of collaboration between some 12 African countries in the Great Lakes Region which looks at the issues around stability, peace and security, democracy and governance, humanitarian and social issues, economic development, natural resources and regional integration as well as gender, children and vulnerable persons. These are some of the key strategic focus of the 12-member states. I cannot think of anything more important than these key areas of focus for member states.

We keep saying that issues and problems of Africa must be resolved by Africans and Africa itself. That is why I have been following the FP-ICGLR with a lot of interest because it is important for the parliamentarians and because peace and security is essentially a political and not necessarily a technical process.

I have worked in technical fields in peace and security and humanitarian and social issues but there is a limit to which some of the technical interventions go. I know, now being here and having the privilege of being a legislator in this House, that peace and security, developmental, gender and humanitarian issues are essentially political issues. So, I am happy that African countries have a parliamentary forum, not just the technical or programmatic fora that we know, which has been elevated beyond the technical forum that looks at these issues.

I congratulate Sen. Kasanga, Sen. Poghio, Sen. Pregei and the rest for having participated in the meeting. Just looking at some of the deliberations and some of the recommendations, a lot of these issues, if well implemented, will go a long way especially from the political will that is usually needed to ensure that Africa has good governance, attains peace and security and ensures that its humanitarian crises and needs are met by Africans themselves.

With those few remarks, I encourage all colleagues to read this Report which is important. From the Report, we can look at policy options and other interventions that

can go a long way to promote peace and security, democracy and governance, and humanitarian as well as economic development of our counties and our country at large.

I support and congratulate the team.

(Question proposed)

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, I wish to support the Report. However, I would like to say that it is a little bit disappointing. While this Report is welcome, it relates to a region. Just by going through the names of the countries involved in the Forum, we have Angola, the Central African Republic (CAR) and the Democratic Republic of Congo (DRC), an area with big problems. When you read this Report, it is like it is the best place in the world to live in.

There are regional organisations that are trying to ensure that the principles enunciated by the United Nations and other regional conventions are fully complied with and Parliament should be in the forefront in trying to convince states to be obedient and loyal to some of these conventions. I can tell you, as a matter of fact, that in the few meetings that I have been attending, the Economic Community of West African States (ECOWAS) or the Southern African Development Community (SADC) as organisations are playing a more fundamental role in bringing peace and security in those areas than our own regional organisations in the Great Lakes Region.

Part of it has been because of the involvement of the parliamentarians so that when there is a problem in any country, especially in relation to human rights including elections, there are interventions in the appropriate cases but even if there is no intervention of some sort, including diplomatic, there is an environment for people to talk openly. The same thing is not happening in our region.

Look at what is happening in Uganda, for example, to a Member of Parliament who belongs to this organisation. You will find parliaments in Europe and the USA talk about this but our own Parliaments--- I am also criticising myself. Parliamentarians elected in this region can go through those kinds of experiences and there is not a word from any parliament in the region or from parliamentarians in an organised and formal kind of a discourse in which people share the principles.

You will find people are very excited when there are statements from the USA, Europe and more democratic counties in Asia. You will find they are live to their constitutions and the objectives of the various laws that inspire democratic rule.

Madam Temporary Speaker, my problem with this Report is that parliamentarians cannot meet in Kinshasa, in the Democratic Republic of the Congo (DRC), where there are a lot of problems and there is not even one sentence noting any of the problems in the region, including South Sudan. There are Members of Parliament in the East African region, apart from Uganda, one of whom was hospitalized here in Nairobi for quite a while and had to be taken to Brussels for treatment. If we cannot protect our countries or children and women, as one of the objectives of this forum, then at least we can do something for ourselves in the spirit of fellowship and brotherhood or sisterhood, for that matter.

In paragraph four of this Report, the FP-ICGLR talks about intervention in the following priority areas: Peace and security, democracy and governance, human rights and social issues, economic development and gender, children and vulnerable person. Whereas I support the Report and the organisation that this should be encouraged instead of being criticized, I hope that the Chairperson and the leader of the delegation, whom I respect very much---

In fact, if there is anybody who has been oppressed and hunted like a wild animal just for standing firm for the truth, it is the leader of this delegation. He had to run away to the United States of America (USA) while serving as a Member of Parliament. Imagine! He had to wait for a little while to come back. Truly, I am proud of the people of West Pokot County because when he came back in the arena of a new beginning under the new constitutional order, there was no stopping him. He found himself back into Parliament in the National Assembly and even became a Cabinet Minister.

I am crying for this region because people sacrifice a lot to make democracy prevail. However, in terms of our conduct and actions, we do everything possible to push the clock back. So, I would recommend to this Forum that the next time they meet, there should be an audit of every country. Let every delegation give a status report, especially on the issue of human rights, including even electoral justice. I do not want to criticize any State or Government, but in Rwanda the only people who are standing up for democracy are women and they are locked up in prisons. Who speaks for them?

I think there were three women who have vied for the presidency in the elections in Rwanda before, yet we cannot say a word in support of such women who are showing such courage that is probably comparable to even the Nobel Peace Laureate, Leymah. I do not think what they are experiencing is something that one would want to wish away.

Madam Temporary Speaker, let us talk about what is happening in South Sudan. Unless we have proper and true democracy, it is wrong to meet as a forum of Parliaments amongst people who have not been properly elected, and you say that you are parliamentarians. If you look at the record of some of these countries, truly speaking, quite a number of them do not have free and fair elections.

I hope that having known about this Forum now, I may be energized to join in and see what little contribution I can give, because I am persuaded that the work they are doing is for the good of the region. However, let us speak the truth to the leadership of the region. If parliamentarians cannot speak truth to power, then who can speak to governments in this region? In fact, without fear of contradiction or any power that may be, I think part of the problems in the Great Lakes Region is bad governance. If you look at the way refugees and conflicts are going on in the region, in the name of politics and power, I do not think this region deserves some of these experiences.

Madam Temporary Speaker, without belabouring the point, I support but encourage that next time this Delegation--- I congratulate those who were elected into the executive, including the leader of the delegation, who probably has been serving in the executive and still remains there. I also congratulate Sen. Kasanga, who we are told is now serving in a committee of the Forum. All that is for the better, but next time let us have something more substantive that looks like a Report from parliamentarians who are dealing with the problems of the region.

This Report is not reflective of the problems that are faced by any category of people, particularly those listed here, like children and women. If the Report that has been laid before this House and the annexure were to be considered as a mirror of the challenges in the region, I think many people will find it a little bit wanting.

Madam Temporary Speaker, with those remarks, I beg to support.

Sen. Were: Thank you, Madam Temporary Speaker, for giving me the opportunity to support this Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the Great Lakes Region.

First of all, let me express my surprise that the DRC is the host of the Forum for Parliaments in the Great Lakes Region, comprising 12 countries. This is a country where we have all sorts of conflicts, especially in the eastern part. Is it that Member States are afraid to face their colleagues from that country and ask them to adhere to proper governance structures, especially in eastern DRC?

Be that as it may, I think it is crucial to state that the future of Africa lies in its integration at various levels and regions. This Forum of Parliament in the Great Lakes Region should be encouraged as the first step towards achieving this integration. The United States of America (USA) has worked very well for Americans. As we move towards the United States of Africa, these small unions based on regions, because of special issues of environment and the fact that we share natural resources such as Lake Victoria and River Nile, which are shared across the countries in this region, should come together at those various levels. We hope and pray that eventually we will have a United Stated of Africa.

Madam Temporary Speaker, I also want to challenge the Forum of Parliaments of the International Conference for the Great Lakes Region (FP-ICGLR) in terms of what they are doing towards a peer review of each other in terms of the way Parliaments operate. I am happy that at this meeting, the Central African Republic Delegation brought up an initiative by Parliament to enforce governance on the member States of the Great Lakes Region. We know that moving forward, this peer review of each other will help to strengthen the region.

As we move further towards the United States of Africa, all these will be achieved. When we force good governance on member States, we will eventually get rid of these problems that are associated with African leadership where African leaders think that they should stay in power for life and that once they are in power, it is only death that can take them away or if they come to power through the gun, then, they can only be removed by the gun.

We these kinds of mechanisms in place, for example, peer education and review, fora of Parliaments, East African Community (EAC) and all these regional integration efforts, we will achieve good governance for Africa which will, therefore, deal very squarely with humanitarian and social issues which will translate to economic development and proper sharing of natural resources so that we do not have a skewed utilization of natural resources.

For example, we know that River Nile is not properly shared out by the countries that enjoy this resource. We have one country which enjoys the value of River Nile more

than the other countries. However, with these kinds of integration and forums, we will be able to agree on how we use our natural resources for the betterment of all the countries involved.

Madam Temporary Speaker, with those remarks, I thank the delegation, led by Sen. Poghismo, for the good work they did in Kinshasa early this year. The fact that they were elected to various committees of this forum tells us that Kenya was properly represented and we thank them.

Sen. Omogeni: Thank you, Madam Temporary Speaker. I also rise to support the initiative by the FP-ICGLR although I support this report with a few reservations.

Madam Temporary Speaker, there is no doubt that the 12 member States that comprise membership to this FP-ICGLR share a number of common problems. When we form a conference of this stature, we expect that it will create an avenue and opportunity for us to tackle some of these problems that may not be tackled by people who live in some of those individual countries.

I make a fair criticism on this report that we have just scratched the surface. We have not gone into the depth of the problems. To begin with, part of the objectives and vision that was to be addressed by the FP-ICGLR was to deal with issues of democracy and good governance within the region to make it possible that in this 12 member States, we shall have accession to power through free, periodic elections. However, that is not what we are seeing.

In the Democratic Republic of Congo (DRC), we have seen a scenario where elections have been postponed year in, year out. In Southern Sudan, we have not had a credible election. The last time I heard about elections in that country was when there was a decree by a President suspending any elections. This report does not bring forth these issues so that when it is tabled, we can debate them and remind our brothers in Southern Sudan and DRC that they should learn from the examples of what happens in Zambia and South Africa (SA) where there is periodic, free, fair and transparent elections.

Madam Temporary Speaker, I hope that our friends who represented us in that Conference will be bold enough in future to address the issues that are inflicting these 12 member States.

Madam Temporary Speaker, we will never achieve the dream of Africans if we do not openly discuss the problems that face Africa and more so the 12 nations that are represented in this Conference.

If we allow - and I am saying this without any fear of contradiction - the level of corruption and bad governance that is happening in these 12 member States to continue, we will never achieve the dream of having the Trans-African Highway that is supposed to run all the way from Mombasa to Lagos. So, when we attend a Conference like this, it gives us an opportunity to have a scorecard on how we are performing as a region and individual member State.

When we talk about issues of democracy, good governance and human rights, I agree fully with what my learned senior, Sen. Orengo, has said about what is happening in Uganda. As we speak, a young Member of Parliament is in the United States of America (USA) receiving treatment because of the brutality that was vested upon him by

members of the military in Uganda. How can we be proud that we have a conference that should address issues of good governance, human rights and democracy when these issues are not brought forth to the Senate for us to debate?

Madam Temporary Speaker, when we talk about issues of economic development and regional integration, we know the suspicion that has always been there between Kenya and other East African member states. We will never achieve economic integration in these regions if we continue treating each other with suspicion. I will give an example of the legal profession. We are supposed to have had cross border practice between the five member states of the East African Federation (EAF).

Madam Temporary Speaker, when I was serving as the President of the Law Society of Kenya (LSK), we opened our borders to our brothers from Uganda. If you go to the Kenya School of Law (KSL) today, about 30 per cent of the students are from Uganda. However, our brothers across the border, both in Tanzania and Uganda, have refused to open the borders for our lawyers from Kenya on the pretence that if they open the borders for Kenyans, the legal profession will be finished in those countries. Now, with that kind of suspicion, we will never achieve the economic integration that is the dream of many people that live in the 12 member States.

We can only achieve this if we accept that we are all brothers and sisters. These borders were an invention of our colonial masters. We should do away with them in terms of economic integration. We should be prefects of each other. Where we are going off track in terms of good governance, we should remind our brother on the other side of the border.

Madam Temporary Speaker, I challenge Members who are our representatives in this very important conference that we expect to get a report that does not put anything under the carpet. It must bring everything on the table so that we freely debate the state of affairs in this region. That is the only way we will send a wakeup call to our leaders.

Madam Temporary Speaker, even if we were to talk about the issues touching on the freedom of the press, we still have challenges in this region. Just the other day, I saw a journalist from Kenya Television Network (KTN) Ms. Sophia Wanuna being roughed up at the airport when she was covering the story of Miguna Miguna who was being deported. This is a young, helpless girl being brutalised by members of the military force in the full view of local and international press. If we do not put those issues in a report like this one, how will we have issues of checks and balances against the leadership in these regions? These are issues we should bring forth to the Senate for debate.

In Uganda, for example, freedom of the press is under threat day in, day out. Talking about issues of gender, we, as a country, know the challenges facing us. We cannot compare Kenya with a country like Rwanda which is far ahead in terms of gender representation.

I conclude by congratulating the three colleagues who will represent us and urge them that next time they table such a report, please let us boldly discuss issues dealing with political instability, conflicts and challenges that are faced by these twelve member states so that we can build on it to build a better future for the inhabitants of those states.

Madam Temporary Speaker, with those remarks, I support.

Sen. Shiyonga: Thank you very much, Madam Temporary Speaker, for giving me this opportunity to support the Report.

I like its title: Adoption of Report on the First Extraordinary Session of The FP-ICGLR in Kinshasa, DRC. It looks good. It contains a lot that can help this great region. It calls upon us to be more united. This forum accorded 12 states opportunity of sharing ideas geared towards fostering peace and development within this region. The African continent faces myriad of challenges. It is a pity that we have never learned from the past experiences. Economies within this region are not doing any better in comparison to other regions of Africa. A conference like this one, gives us a rare opportunity of discussing our problems. We need to come up with lasting solutions to our challenges.

I believe this organization has its vision and mission. Therefore, it is important for us to help them achieve their vision and mission. It is high time we implemented reports from such conferences. We should not just discuss our problems, but take the necessary actions to mitigate against them recurring now and then.

I am very happy that this Report is now being discussed in this House. This is the House that upholds our Constitution and sees to it that devolution comes to fruition. It also discusses issues to do with gender. In Kenya, for example, there is violation of the Constitution with regard to the two-thirds gender rule. We, as a country, have not achieved it. Yes, we have women Senators in this House, but we have not achieved the two-thirds gender rule as stipulated in our Constitution. This is one of the issues highlighted in this Report.

Kenya can improve its economy if it can implement what is contained in the Report. Our economy is not doing well. We have been witnessing a decline of our economy day in, day out. Our people are crying to the Government to do something about our economy. Is it that in all these conferences we cannot come up with lasting solutions to our problems? How can we assist our government to improve their economies within this region?

We need to learn from other economies in Africa and western countries. How come their economy is better than ours? We should learn from what others are doing, especially in Asia, where it is said we were at par economically some decades back. We need to focus on the best economy and livelihood that our people need.

There are so many areas that have been covered in this Report. For example, the issue of democracy was extensively discussed in the conference. As my colleagues said, there is violation of freedom of expression in Uganda. We cannot talk about the rule of democracy in Uganda when politicians and journalists are harassed right, left and centre. We cannot say we practice democracy in its totality in the region when there is violation of children and vulnerable persons. Much needs to be achieved. After attending those meetings and returning to our countries, we need to practice what we are saying. We need to go ahead of what we tell other countries.

I need to point out one issue about the Tanzania Government. The other day, they killed our chicken and cows. They chased away our business people from their country. If we look at Uganda, Migingo Island is still an issue up to now, yet we are pretending we are united in the region. We need to look beyond that and bring true issues even if it

means coming together and sorting our own issues. We can then give best practices in our own countries before we discuss other issues.

Madam Temporary Speaker, it will be better for us, as a country, and in this great region, to uphold the tenets of democracy. We can achieve that by respecting other member states.

I appreciate the Members who represented us in that session and congratulate them for coming up with this Report. We shall continue internalising and implementing it until we foster peace and prosperity in this region.

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

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

Thank you, Mr. Temporary Speaker, Sir.

Sen. Farhiya: Thank you, Mr. Temporary Speaker, Sir. I support the Report. Discussion around the economy is one of the issues that are supposed to be tackled by these parliamentarians. They need to discuss the issue of debt from China. There has been debate in the social media and mainstream media about countries that succumb to debt or those that are going through economic crisis.

For example, we are told that Sri Lanka lost its port to China because it was collateral for a loan that they had borrowed. In one of the newspapers, I also read that Zambia is about to lose her airport to China because of debt. I also read that Djibouti is in a debt crisis at the moment.

We are financing big infrastructure projects whose rate of return and the cost of financing is imbalanced. I do not know if this is being over-emphasised by the Western world. I do not know whether our former partners like Europe and America are now feeling bad and want to put it badly, but whichever way you look at it, African countries will not grow unless they turn back their economic strategy. They should not be countries that are in debt all the time. It is like working for other people all the time.

Kenyans work hard and pay taxes, which just pay interest and principal. I do not need to belabour the fact that there was analysis in the media regarding how bad our debt is. When will we address this issue in such a forum, so that Africa is not cursed anymore? Africa has a lot of resources compared to some Asian Tigers that are developed and moving in the right direction.

Regarding gender issues, the Speaker of the National Assembly singled out one lady in a Commission of nine people and removed her from it. He said that she does not have experience. We also have the case of the former Senator, Sen. Elachi, who has been impeached because of some myopic issues that have not been properly substantiated. I was in a youth forum yesterday and there were two issues that came to the fore. One of them is prostitution, which was very rare in our region, but is now emerging.

One of the participants said that in the olden days, brothers used to beat their sisters to prevent them from engaging in wrong things. I asked myself why only a lady should be targeted, yet a man is also involved. The other issue was rape. Somebody said

that rape is an issue that is brought about by an expensive wedding. Somebody was trying to justify rape using that. I asked myself why somebody should justify a crime.

When will Africa use its resources properly? We are told that one million youths will be getting into the job market every other year. When will we create jobs for these youths? When will we ever take responsibility, as governments, by discussing such issues in such forums? I am not saying that what was discussed was bad - there has to be a beginning - but when will we reach at a level where we can say that since there is something wrong, there is an urgent need to address the issues of Africa? The solutions to African issues will never come from anybody else, but Africans themselves.

There is a lot of inequity, underdevelopment and injustice at the moment. If these inequities and injustice do not stop, we will never stop the conflict that we are trying to address. This is because conflict is about resources and as long as we have countries whose resources are being squandered, the crisis will never stop. Resources have limitations; they are not unlimited. What will happen when Africa will run out of resources, especially given that our rate of population growth is very high compared to the rest of the world? We need serious leadership in this continent.

Almost half, if not more, of the countries in the Great Lake Region are suffering from conflicts that are resource related, and people are taking advantage. There are people who are strategically planning for the Democratic Republic of Congo not to develop because they feel that if it develops to a point where they have good governance and everything, then the resources that are being stolen will stop. Therefore, there are people who are planning ahead for Africa while Africans are sitting and watching.

We also need to come up with strategies that will benefit Africans. There are countries that have come together for economic reasons and opened their borders. Maybe we should open our borders, with certain limitations, and improve business amongst African countries, resolve our conflicts and forge this continent to the next level. I am sure that all Muslims and Christians believe that the world will come to an end. I think Africa will be in this crisis until the world comes to an end if we do not think strategically and start making decisions, instead of letting other people plan how to deplete our resources. We should have discussions on how we can benefit and protect our resources and people from exploitation.

The debt issue is a time bomb for the whole of Africa that needs to be addressed urgently.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Pareno: Mr. Temporary Speaker, Sir, I rise to add my voice on this Report. I think this is the second time in the past six months that we have had a report from the Forum because I remember us debating a similar report. I remember complaining that they had indicated that a lot was said about Kenya. I was wondering because apart from saying that a lot was said about Kenya, because we had just come from the election period, they did not talk about what had happened.

Instead, they just said a lot had happened. Some of us agreed that a lot had happened but they should have stated that there was so much in Kenya that the Forum should have debated. That makes me wonder whether these conferences are bearing the fruits that we want them to bear.

For those who had a chance to read the last report which came early this year, you saw that the parties to the Forum could not even agree on choosing the secretary-general. I have just looked at the Report. It goes ahead to say that this was discussed and the Secretary-General in place reported that there was a debate and they reached a consensus as to how to pick the Secretary-General who they could not agree on last time during the Forum. It means that there was an impasse about the secretary-general.

It has been reported that the Executive Committee met in Kinshasa in DRC on 31st January, 2018. They reached a consensus that the next two terms of the secretary-general be given to Uganda and the Central Africa Republic respectively, each to serve for a single term of three years and review of the statutes and rules of the Forum be deferred to a later date. If we cannot even agree on a secretary-general and have good rules and statutes that can guide this Forum for it to bear the fruits that we need---

I am not saying this is not an important forum. It is a forum that talks about the livelihoods, democracy, good governance and peace and security for our region, which are the pillars for development in our region. In the Forum, they could not agree on who the secretary-general should be and we had an impasse. They had to reach a consensus that one serves for three years and then the other one for three years. That shows we are not serious as parties to the same.

Apart from that, when you look at the last report, it is just not bold enough. We are not bold enough to say that there was a mess in this country. Kenya did not do well in the 2017 General Elections like. The same also happened in another country like Sen. Omogeni said. Look at what is happening in Uganda, but we are not bold enough to talk about in the Forum! At the end of the day, we just brush everything. We keep doing conference after conference and therefore we will not realise what we want.

I was also a bit hurt when the last report indicated – I spoke about it – that Kenya was eligible to forward a candidate for secretary-general, a position they could not even agree on but what did Kenya do? Kenya had papers that were not signed and they were submitted late. Eventually, we did not even play our part to claim our stake in the Forum by asking that we be given a fair chance to have a secretary-general. That is simply how we lost. Maybe the position could have been ours. Even if it was to be for another partner state, we should have put our foot forward to also claim our stake.

It is not just for us to attend those conferences when people are fighting for space and we do not even submit papers in time. I wondered what happened. They said the papers that were supposed to be submitted were to be submitted by the Speakers of the Houses but definitely our Speakers could not have been that reckless to submit documents that were not signed. It simply means that there was mischief.

I am now happy that finally they reached a consensus and agreed on who the secretary-general should be but after an impasse which we cannot afford to have considering what is happening in this region. I am also happy that we have been informed that two of our Members are in the committees and they might push the agendas for the Forum.

However, they could have gone ahead to discuss and review the statutes and rules that guide them on how to do elections for the secretary-general. How can a conference which is supposed to kind of guide on good governance and democracy fail to ensure

good governance by choosing a secretary-general until there is an impasse? They should have reviewed the rules and come up with a new statute to govern them.

It is a bit disappointing when we do not have, in the resolutions, a resolution that says they sorted this one out because it means postponing a problem. If you postpone the review of the rules which should guide you on how to work, then you have postponed a problem. I fear that the Forum postponed a problem that they should have dealt with.

It is symbolic that the Forum was born in Kigali. Rwanda is a country that I personally admire. I must say that on Friday, I came back from observing Rwanda elections. If you have a chance to go to that country to observe elections like I did last week, you will wonder what is wrong with us. We used to wake up in the morning and go to the polling stations that were opened at 7.00 a.m. because we used to be there at 6.30 a.m. At the entrance, the first thing you see is a decorated polling station with colours of the national flag. The next thing I saw were flowers and you would wonder whether it was a garden party.

You enter a polling station with flowers all the way. When you enter the polling station, you find it decorated with ribbons and tables that are covered and some flowers next to the ballot boxes. There were also some traditional pots at the entrance all the way to the polling stations. In each polling station, there was a deejay manning some music system that played patriotic songs.

All elections officers took an oath before entering polling stations. When I went in, I asked to take a photo. The polling booth is nothing other than a simple corner decorated and covered by a small light sheet with colours of their national flag. It was that simple. The cost of their election is US\$1 per person. The cost of the last election in this Republic was over US\$27 per person. When I asked them how they managed, they said it is about trust and systems. I am happy that this started in Kigali and we need to borrow a leaf.

You will be shocked at the way they protect their environment and the security. In our case, to enter a polling station, you have to pass about 10 police officers before you enter. I had to go round checking whether there was a security officer on site. I then saw one seated very far just observing what was happening. You would not even notice that they are there.

Mr. Temporary Speaker, Sir, we have a lot to learn. What this Report is bringing out is not what we expect. We need to learn a lot. May be in future, we will discuss that Report of elections observation so that we learn from each other. Definitely, we cannot copy from each other when we are not doing things right.

This Conference is supposed to discuss regional integration. As we speak, the East African Community (EAC) is coming to a halt as no money is being remitted by partner States. In fact, one of the problems that the Secretary General (SG) reported in this Conference is that they do not have enough money. They have challenges in terms of financial capabilities because partner States are not contributing. I mean, partner States and parties to the Conference are not contributing to EAC because of conflicts. Are we going anywhere near the objectives of this Conference? If we cannot even finance this secretariat work, then why do we have this conference of parties if we cannot do what is required?

Mr. Temporary Speaker, Sir, this would have been a better Report if they had reported that we did our bit to get the SG in the right manner and not by impasse and then consensus. If we did our bit to say that we are contributing to the cause as parties to this Conference and not frustrating all these processes.

I submit.

The Temporary Speaker (Sen. Lelegwe): I call upon the Mover to reply.

Sen. Halake: Thank you, Mr. Temporary Speaker, Sir. Allow me to congratulate you on your newly acquired Doctor of Philosophy (PhD). Very good, we are proud of you. I would also like to thank all the contributors to this Motion and what great inputs and observations you have made.

The Temporary Speaker (Sen. Lelegwe): Order, Sen. Halake! There is a request from Sen. Seneta. Let me give her time to contribute before you reply.

Sen. Halake: Obligated, Mr. Temporary Speaker, Sir.

Sen. Seneta: Thank you, Mr. Temporary Speaker, Sir. I was shocked that you did not see my request and we are very few in the House. Thank you for giving me a chance to contribute to this very important Motion.

From the onset, I congratulate the Members who attended this Forum of Parliaments of member States. Issues of these Inter-Parliamentary organisations need to be taken seriously. It is important that we also learn from these conferences and the resolutions followed-up and implemented by member States.

Looking at the areas of interventions by these forums of Parliaments, peace and security are issues that are important to member states. The EAC needs a very serious discussion on peace and security. At our boundaries, quite a number of issues surrounding security are reported every day. Talk of Migingo Island and the Kenya-Tanzania boundary at Namanga; insecurity is being reported. It is either in terms of trade, cattle rustling, boundaries, trade related crimes. There is a lot that we need to discuss about security as member States. We need to push forward the issues of integration in terms of economic development.

Mr. Temporary Speaker, Sir, as we speak, we have other countries in EAC that have allowed free movement of goods from one country to another. We still have many countries that have a big problem in allowing free movement of goods. The other day, Tanzania decided to auction a large number of livestock from Kenya. In another incident, chicks which were being transported in a lorry were burned by the Government of Tanzania yet, every morning here in Kenya, there is a long queue of lorries entering Kenya carrying mangoes and milk from Tanzania.

Only today, we had a lorry bringing in *Lato Milk*. I do not know whether it was from Uganda or Tanzania. Fish is coming into Kenya through all boundaries. All sorts of stuff are coming into Kenya and we have freely allowed it.

However, Mr. Temporary Speaker, Sir, we still have issues of goods moving from Kenya to Tanzania and Uganda. Traders have complained about scrutiny of what they sell in Tanzania and other member states. I think the Forum of Parliaments should have scrutinized issues of implementation of EAC agreements so that we see the position of free movement of goods.

For democracy and good governance, we need to strengthen democracy in the EAC member states and have free and transparent elections in all member states. These are things on which we need to learn some lessons as to how we are doing. We need to discuss which member states have strong electoral systems which we can admire and copy as a region.

Still on good governance, there are a number of countries talking about corruption every day, starting from our own country. Corruption has really cost us as a country. The moral fabric of our people and institutions has disappeared. We have cost ourselves by borrowing from other countries. Corruption has cost us our economy. Therefore, good governance is an issue that these forums of parliaments should be exchanging ideas on; regarding how Member States are going about it. One of our colleagues just talked about Rwanda. There are some countries that practice democracy and good governance. We need to learn from them to ease integration.

Mr. Temporary Speaker, Sir, we still need to do a lot with regard to issues of gender, children and vulnerable persons within the East African Community (EAC). Our member States need to take the discussion about women in elective seats in our countries very seriously. We also need to put infrastructure and electoral systems in place to encourage more women to be in leadership positions.

There is need for a serious discussion on issues of gender violence within the region. In our country today, for example, university female students are being killed. Even in our local villages, there is a lot of gender violence.

Mr. Temporary Speaker, Sir, we are living in a region that is endowed with natural resources. We can grow our economy through the natural resources that we have. We need to protect our beautiful water catchment areas. Therefore, this FP-ICGLR must encourage member states to use their natural resources for the benefit of their people. We have natural resources that we are sharing as member States, for example, rivers and lakes. We need to protect them well. We need to benchmark from other countries to learn how they protect their natural resources.

This forum needs to formulate policies that will boost trade among member states. We do not have to go to China. We can trade some of the products amongst ourselves rather than crying for a market that is tied with stringent conditions.

As my other colleagues have said, these forums of parliamentarians and conferences are very important and educative. However, as we interact we need to look at what has been learnt from past conferences and what we can carry to the future. We should not just learn and collect a lot of information without implementation.

Mr. Temporary Speaker, Sir, as I finish, I congratulate you prior to your graduation that you will be attending this coming weekend.

I thank you.

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

Sen. Halake: Thank you, Mr. Temporary Speaker, Sir. I would like to thank the colleagues who have contributed very well to this Report. Clearly, Africa has a lot of work to do since our scorecards on all the areas, be it security, governance, gender, and humanitarian situations do not seem very good. However, as we say in Africa, resolving a

problem starts with us first of all coming together. In terms of coming together as the twelve nations of the Great Lakes Region, I think that is the start.

The colleagues that attended the conference have told us that even though some of these scorecards, issues and areas are not optimal, the first step and seeds have been sown. As we continue to talk as Africans, we will definitely then hold each other accountable. Perhaps accountability begins with us. As a country we like to pride ourselves in the region as an island of peace and development and, perhaps, not so much for gender. However, we must also again accept that our Constitution has given us quite a bit of leeway to right the wrongs of the past. Perhaps, even the Two-Thirds Gender Rule could be one thing that could be reported back by this House and Committee in the next forum that will come.

I am sure that this House and the delegation has taken note of the gamut of issues you have raised, including some of the barriers that you have pointed out and some of the areas in the scorecard that are below optimal. We, as Kenyans, must look at those areas and provide leadership in the region. As you know, a lot of the regional member states are still in conflict, be it the Central Africa Republic, Burundi, South Sudan, you name it. As I said, when people come together, they can resolve their issues.

Mr. Temporary Speaker, Sir, I know that this Report has been debated greatly and Senators have all spoken to every aspect of the issues raised. Regional integration has taken a big part of it. This is because we cannot have a forum like this without looking at issues of integration. From this Report, we have not paid our dues to the Conference. However, we would like to thank the people that continue to represent us so well, even in the face of a lot of these shortcomings, and hold themselves and others accountable in this House and these forums as we go forward.

Lessons have been picked and we look forward to the implementation of these. The value of these reports is not necessarily in what happened at the Conference but thereafter. Let us hope that our countries are listening and the contents and some of these issues that have been raised will be looked into.

Mr. Temporary Speaker, Sir, with those few remark, I beg to move.

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, this matter does not affect counties. I will, therefore, proceed to put the question.

(Question put and agreed to)

The Temporary Speaker (Sen. Lelegwe): Order No. 23, which is the Motion on development and implementation of national disaster risk financing strategy is deferred, while Order No.24 has been withdrawn.

DEVELOPMENT AND IMPLEMENTATION
OF NATIONAL DISASTER RISK FINANCING

THAT, WHEREAS Kenya's disaster profile is dominated by droughts, fire, floods, terrorism, diseases and epidemics that disrupt

livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development;

FURTHER WHEREAS the government, through its various agencies, is ultimately responsible for disaster reduction, preparedness and management;

COGNIZANT of the fact that government agencies involved in disaster management are usually overwhelmed when called upon to provide response services during disasters and emergencies;

AWARE that the Kenya Red Cross Society Act, Cap 256 of the Laws of Kenya establishes the Kenya Red Cross Society, a sole national Red Cross Society in Kenya, as a voluntary aid society;

RECOGNIZING, the efforts of the Kenya Red Cross Society to provide first-line disaster response services in incidences of disasters and other emergencies across the country;

OBSERVING, the huge financial resources required to finance disaster reduction, preparedness and other emergency services;

NOTING that one of the sources of the Kenya Red Cross Society in financing its operations is through accepting unrestricted contributions and assistance, in any form, from individuals, public authorities and private bodies;

APPRECIATING, the efforts made by the prudent management of funds by the Kenya Red Cross Society;

FURTHER AWARE that emergency fund is a substantial proportionate Vote Head in both the national and county government budgets;

CONCERNED, that the Kenya Red Cross Society has not been allocated a budget from the national and county governments despite the huge contribution in disaster and emergency response across the country;

NOW THEREFORE, the Senate urges the national and county governments to explore collaborative mechanisms for the Kenya Red Cross Society to support and implement a paradigm shift from post disaster response to risk reduction by developing and implementing a national disaster risk financing strategy across all sectors and incorporate it into the national and county development planning and financing processes.

(Motion deferred)

FRAMEWORK TO PERMANENTLY
ADDRESS EFFECTS OF FLOODS

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

(1) developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and

(2) preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

(Motion withdrawn)

ADJOURNMENT

The Temporary Speaker (Sen. Lelegwe): Hon. Senators, having concluded the business of this day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Wednesday, 12th September, 2018, at 2.30 p.m.

The Senate rose at 6.15 p.m.