

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 21<sup>st</sup> February, 2019

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM ELGEYO-MARAKWET COUNTY ASSEMBLY

**The Speaker** (Hon. Lusaka): 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, Committee on Sports, Youth Affairs, Gender, ICT and Social Services.

They are:-

- |                           |   |                  |
|---------------------------|---|------------------|
| 1. Hon. Winnie Kanda      | - | Chairperson      |
| 2. Hon. Lawi Kibire       | - | Vice Chair       |
| 3. Hon. Trubena Yego      | - | Member           |
| 4. Hon. William Cherutich | - | Member           |
| 5. Hon. Tich Cheboi       | - | Member           |
| 6. Hon. Thomas Kimunei    | - | Member           |
| 7. Hon. Ambrose Kiplagat  | - | Member           |
| 8. Mr. Pius Koech         | - | Clerk Assistant  |
| 9. Mrs. Eva Maiyo         | - | Hansard Reporter |

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you.

*(Applause)*

**Sen. Cherargei:** Mr. Speaker, Sir, I join you in welcoming the Members of the County Assembly (MCAs) from Elgeyo-Marakwet County Assembly. On behalf the Senate Majority Leader who is the area Senator, I would like also to welcome them to the Senate. These are my neighbours and that is why I know some of them like Hon. Lawi

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Kibire. I wish them the best as they interact with us in the various Committees of the Senate.

Finally, we all know that county assemblies and the Senate are intertwined in their roles of protecting the interests of our people across the Republic of Kenya. It is my prayer that we continue cordially working together to make sure that our people at the grassroots level benefit a lot from devolution.

**Sen. Dullo:** Mr. Speaker, Sir, I wish to join you and my colleague, Sen. Cherargei to welcome the MCAs from Elgeyo-Marakwet County Assembly. I have been there and I know that they have been doing a good job. I hope that they are still doing a good job. I welcome them to the Senate and the Parliament of Kenya. I believe that whatever they will learn, they will take it back to Elgeyo-Marakwet to assist the community in terms of their oversight role.

For the information of the House, Elgeyo-Marakwet County Assembly has one of the best Chambers in this country.

**Sen. Wambua:** Aaah!

**Sen. Dullo:** Sen. Wambua is saying “Aaah” but that is my opinion. They have the best Chambers compared to the ones that I have visited. I know it is good.

I hope they will have a nice stay and utilize their time well, so that they can learn what devolution is all about and what the role of oversight is by interacting with the relevant Committees of the House.

Mr. Speaker, Sir, I wish them a happy stay in Nairobi.

**Sen. Wambua:** Mr. Speaker, Sir, thank you for the opportunity. I join you and my colleagues in welcoming the visiting delegation from the County Assembly of Elgeyo-Marakwet.

Mr. Speaker, Sir, I have heard what the Senator for Isiolo County has said about Elgeyo-Marakwet having one of the best Chambers in the country. I congratulate them for that. However, I would like also to invite her to visit the Kitui County Assembly and see the kind of Chamber we have. The Hon. Speaker has been to that Chamber. I am sure he can attest to the state of that Chamber of Kitui County Assembly.

Having said that, I would like to encourage the visiting delegation to take their time here today to learn and make maximum use of transfer of best practices in terms of the legislative agenda of the Senate and the County Assembly of Elgeyo-Marakwet.

Mr. Speaker, Sir, I am pleased to note that with very little budgetary allocations to the County Government of Elgeyo-Marakwet, it has continued to distinguish itself as a good performer in terms of delivery of services. I, therefore, encourage them to take their time in this Chamber to learn as much as they can and take our greetings back to Elgeyo-Marakwet when they go back.

**Sen. Wetangula:** Mr. Speaker, Sir, as a senior in the House, I join you in welcoming the delegation from Elgeyo-Marakwet County Assembly. Elgeyo-Marakwet are our neighbours on the Trans-Nzoia side and are friends of all of us. I would like to encourage the MCAs and the staff to engage fully with this “Upper” House; a House that has a duty constitutionally to defend counties, their governments and their interest. I encourage them to be on the frontline of primary oversight, so that all the monies that we allocate to their counties are put to good use for the development of their people.

Mr. Speaker, Sir, during the last campaigns, I went to several places in Elgeyo-Marakwet, including a place called Tot. Many people turned up and they were cheering us uncontrollably. However, when the votes came, they were not as many. That is politics.

Mr. Speaker, Sir, I urge our visitors that yours truly will be visiting them again. I encourage them to welcome me in large numbers in 2022. I hope they will not reduce the numbers of ballot for me.

**Sen. Cheruiyot:** Mr. Speaker, Sir, that is a very interesting experience for Sen. Wetangula.

I would like to join my colleagues in welcoming the good leaders from Elgeyo-Marakwet County Assembly. I welcome them with great honour. It will be a great travesty if I do not welcome them to our House because that county is very special to me. It is where my better half comes from. Any time I meet people from that county, I treat them with all the respect and honour. Therefore, if there is anything that they want to enjoy more than what is being offered, I am ready to pay for it.

**Sen. Malalah:** Mr. Speaker, Sir, I thank you. I join my colleagues in welcoming the MCAs from Elgeyo-Marakwet. The presence of these MCAs resurrects a fresh memory of my past. I was an MCA in Kakamega before I came to the Senate. We all know devolution is meant to take resources down to the counties. Therefore, they are our ambassadors of hope. There has been a debate on who exactly between the Senator and the MCA is supposed to perform the primary role of oversight.

Mr. Speaker, Sir, we have had challenges on issues of oversight at county level. I urge the hon. MCAs to up their game when it comes to the day to day oversight of the county assembly. As the Senate, we are willing to mentor them through the process of oversight. I am sure that together we will strengthen devolution.

I was about to represent the Senator for Elgeyo-Marakwet in welcoming you. He is an able Senator, my colleague in the football time, a lethal striker and a wise politician. You have a Senator who is up to his task. I believe that with this kind of leadership in Elgeyo-Marakwet, you will take Elgeyo-Marakwet County to the heights that you have never imagined.

I thank you and welcome you to the Senate

**The Speaker** (Hon. Lusaka): Sen. Murkomen, the Senate Majority Leader and the Senator for Elgeyo-Marakwet County.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, thank you and my colleagues who have already spoken, particularly the Deputy Senate Minority Leader, who is a former MCA. He is definitely an inspiration to our MCAs up there. Sen. Malalah is my friend. Therefore, I can say anything.

First of all, I would like to thank the MCAs of Elgeyo-Marakwet County Assembly for visiting today. I can see the MCAs for Kapchemutwa, Moiben-Kuserwo and Kamariny wards. I can also see the three nominated MCAs. They are very important people in our county assembly.

I am very happy that they are here to learn from the very best in terms of the institution that we have here.

Mr. Speaker, Sir, I would like to state that some of us did exactly the same before we found ourselves sitting in the Chamber here. Without demeaning the position of MCA, I emphasize that we have more than three MCAs in this House who are now Senators. Tomorrow, they could be something else. Therefore, serving in county assembly is a great honour and a great responsibility.

Mr. Speaker, Sir, you must have seen public discourse between the officials of Elgeyo-Marakwet County and I. I have a lot of confidence in the current MCAs in my county in terms of looking into the expenditure of our county and ensuring that there is proper accountability.

There has been a lot of propaganda and lies that the only money that goes to Elgeyo-Marakwet County is Kshs3.7 billion. However, out of reality, it must be known that the amount of money that goes to Elgeyo-Marakwet County from this Chamber is over Kshs5 billion. Despite the fact that we are giving the county government Kshs3.7 billion in the sharable revenue, we have also passed so many grants to counties from the national level that are dealing with all devolved functions.

Mr. Speaker, Sir, it is important for our counties to appreciate the responsibility of this House when pushing monies to the counties. Secondly, I have heard the officials of my county, just like the officials of other counties, complaining why the Senate does not give the county assemblies enough resources to perform their functions. We sat in this House and when the mandate was given to this House, in so far as allocation to county assemblies, many county governors came with representation and they wanted to cut the money that goes to county assemblies. Their argument was that county assemblies do not need money and there is no development in the county assemblies.

I was looking at the budget of Elgeyo Marakwet County, despite the fact that we have a whole county assembly, which is a whole arm of government getting Kshs500 million only, while the office of the Governor alone has Kshs167 million allocated to itself for *mandazi*, tea and hiring of every kind of advisor. We cannot allow the pilferage that is happening in counties to continue.

I want to challenge MCAs who come from Elgeyo Marakwet County, that they must take the oversight role seriously because, Elgeyo Marakwet County, apart from having ghost workers, I saw in the office of the Governor, including when the Governor spoke to the press the other day, some brokers who have absolutely no additional value to the County who have been hired and put in the County's payroll.

Mr. Speaker, Sir, Elgeyo Marakwet County should do a proper audit of staff and persons serving in the County Executive at the behest of political interest. Secondly, I want to emphasize that the County Assembly has a role in approving the chief officers and the CECs that serve in the county executive. It is appalling - I can say it here without any fear of contradiction - that in my County, they went for the worst people who could ever serve Elgeyo Marakwet County.

Since the MCAs are standing here, I want to tell them that when the chief officers are brought to the County Assembly, they must do us a favor and get the best people to serve the County and avoid vetting persons with considerations such as who is a friend of the governor, who campaigned for the governor and or who gave campaign money to the governor?

We want Elgeyo Marakwet County to be governed by the best. This is because at the moment, it is not that there are no good ideas in the market; there are persons in the County Executive of Elgeyo Marakwet County who have blocked their brains to new ideas and do not want to hire people who have better ideas than them. That is why we are always talking about allocation and not generation of resources in that County.

Mr. Speaker, Sir, Elgeyo Marakwet County has great potential for tourism. You lived in Chebyebit, you know the place; you went to Kapsowar and there is no better beautiful place. If you go up to Embobut, it is a very beautiful place. It needs a governance that has ideas, that wants to change the County. It can attract many resources. Elgeyo Marakwet should not just be raising Kshs130 million only because the County has the capacity to raise over Ksh500 million on its own revenue so that we can change our County. Therefore, when I say as the Senator---

**The Speaker** (Hon. Lusaka): Order, Senate Majority Leader. Try to keep to---

**The Senate Majority Leader** (Sen. Murkomen): Yes, Mr. Speaker, Sir. It is the excitement of having 6 MCAs in the House.

*(Laughter)*

This is the best opportunity for us to pass the message directly. It is also important for them to feel how issues are raised in this House that concern Kenyans so that when they go back to Iten, they can use the same vigour and energy to try and push for development, accountability and allocation of resources in our County. I am just leading by example.

*(Laughter)*

Therefore, I want to welcome them---

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

**Sen. Wetangula:** Mr. Speaker, Sir, is it in order for my distinguished learned junior, Senate Majority Leader, to use an opportunity to welcome MCAs from his County, to settle scores and feuds with his governor, who is not here to defend himself?

**The Speaker** (Hon. Lusaka): That is why I cautioned him. Despite the excitement, you need keep within the---

*(Laughter)*

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, for the last five years, when the former governor of Bungoma was not sitting in this House, the Senator of Bungoma used every opportunity to talk about him.

*(Laughter)*

Mr. Speaker, Sir, I do not know what has changed now that I am the one raising very important issues about Elgeyo Marakwet County? So, this opportunity that I have

here is important for us. There is no other opportunity. In fact, all these other things we talk about in *barazas* is just to report to people what we do in this House.

This is the place I can speak for record purposes so that 100 years from now, when someone reads the HANSARD of the Senate, they will find what I said about governance, use of resources, allocation of resources and prudence in management of the counties. Therefore, when we get these opportunities, it is important to put it on record and to tell our MCAs that we are more than willing to work with them as Senate. It is also good for them to report to the country that this Senate has reinvigorated its dream for oversight.

We will now be working closely with our county assemblies, auditing every step of each resource. We will insist when the time comes, that apart from the budget of the county being tabled in the county assembly, the approved budget by county assembly that works in our counties, should be tabled in this House, so that when we are looking at allocation of money from the Controller of Budget and when the Controller of Budget is overlooking our counties, we have an official document to refer to so that each one of us can have a say on what is going to happen in the county assemblies on the Floor of this House.

The way we speak on the Floor of this House about allocating the money, we must have even a greater say when it comes to the use of the money.

Mr. Speaker, Sir, some counties - I hope our county assemblies do not do such things - I saw an MCA launching some funny man-created view point in some county. I saw the Senator of Taita Taveta sharing it in the social group of the Senate. I hope our MCAs can keep a reasonable distance from the county executive so that they will have the moral authority to question what is happening there and help their counties succeed.

I am grateful for your indulgence and with so many remarks, I want to tell our MCAs that they are welcome. After this, there will be tea served in the office of their Senator. That is their office, not my office. It is the office of the people of Elgeyo Marakwet County and we must work together to ensure that this country moves forward.

Thank you.

**The Speaker** (Hon. Lusaka): I can see you have used every opportunity to try and win over your MCAs.

*(Laughter)*

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I want to thank you for this opportunity to support you in welcoming the MCAs from Elgeyo Marakwet. I want to say that they are welcome to the House.

MCAs have a vital role to play in the counties and are actually the implementers of devolution and they can make devolution work. In order to make devolution work, they have to be impartial in the way they execute their mandate in the House and in the way they carry out the oversight role. They need to ensure that they are representing their constituents very well. We are relying upon them to do a good job so that when we do the oversight role as the Senate, we can work in conjunction with the MCAs.

I commend the MCAs for coming and I am sure that as we do our debates here on the Floor House, they will see how objective and impartial we will be and how much we have passion for representing the counties and their interests.

Thank you very much for coming and please pick a note or something that you can take back to the counties.

Thank you.

*(Sen. Linturi entered the Chamber)*

**The Speaker** (Hon. Lusaka): Sen. Linturi, welcome.

**Sen. Linturi:** Thank you, Mr. Speaker, Sir.

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

**Sen. Sakaja:** Thank you, Mr. Speaker, Sir. As we welcome the MCAs to Nairobi, and I am glad they have come to Nairobi County, is it not proper that now we give them a chance to watch us debate? We have welcomed them for close to 30 minutes?

**The Speaker** (Hon. Lusaka): I had given a chance to Sen. Linturi because he has been away for a long time to welcome the MCAs.

Proceed Sen. Linturi.

**Sen. Linturi:** Mr. Speaker, Sir, I can as well say that the procedure or motion of welcoming Members of Parliament is part of debate of this House.

I am a Member of the Committee on Public Accounts. Like Sen. Murkomen, I want to take this opportunity to emphasize the work of the MCAs in the oversight function in the counties.

Mr. Speaker, Sir, the opportunity that MCAs of Elgeyo-Marakwet have today is very rare because not all MCAs in the country will have an opportunity to come here and share ideas. So, the more they visit, the more we are able to use the opportunities to enlighten and encourage them on the challenges that they face. In my view, that will go a long way in trying to help them to conduct their businesses more prudently and in the best way possible.

I want to remind all MCAs that they are referred to as Members of County Assemblies and are legislators at the county level. MCAs, by virtue of our new Constitution, are people that make laws and the laws that they make have serious implications on the citizens and within the counties. For that matter, the work that they do must be taken seriously. They must understand that their level in the country's leadership, in terms of their functions and duties, is very different from what used to happen when we had councilors that used to serve in the then local authorities where they used to make by-laws. So, the position of an MCA is so important in our country and system that devolution cannot work properly without the work of the MCA as it is required.

I would like the MCAs that are here today to know that oversight work is not only for the Senator of a particular county. The Senator has to work very closely with them. The support system of Senators within the county assemblies is limited. At least every MCA represents a certain ward in the county but sometimes the Senator cannot easily reach or get to every ward because they could be busy performing their duties in Nairobi.

These are people that we require once in a while and we should see how to build capacity for them to perform their functions in the best way possible.

Let me remind them this, because I have shared with a number of Senators in this country. MCAs need to know and must understand that they do not serve or are not subservient to any governor in this country. We have shared experiences where some MCAs have been intimidated to the extent of being warned not to raise certain issues. They are told that if they become firm in their work, they will not have any development in their wards. That is not how it should be. The work of a governor is to develop the county.

If my memory serves me right, there is a section of the County Governments Act that prevents or does not allow MCAs to participate in the implementation of the governor's projects because that may bring a lot of conflict in terms of their oversight role.

So, I encourage MCAs that are here today that the complaints that the Senator for Elgeyo-Marakwet has can be properly addressed if they work closely and in consultation because he can assist them sort out the issues.

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): I think the delegation from Elgeyo-Marakwet has received the best welcome since we started---

*(Applause)*

Let us go to the next Order.

## PAPER LAID

### REPORT ON THE SUGAR INDUSTRY TASKFORCE CONSULTATIVE MEETING WITH MPS

**Sen. Malalah:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 21<sup>st</sup> February, 2019:-

The Report on the Sugar Industry Taskforce Consultative Meeting with Members of Parliament held on 15<sup>th</sup> January, 2019, in Kisumu County.

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

Next Order!

## NOTICE OF MOTION

### NOTING OF REPORT ON THE 5<sup>TH</sup> GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP

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

THAT this House notes the Report on the 5<sup>th</sup> Global Summit on Open Governance Partnership in Tbilisi, Georgia, 17<sup>th</sup> to 19<sup>th</sup> July, 2018, laid on the Table of the House on Wednesday, 20<sup>th</sup> February, 2019.

**The Speaker** (Hon. Lusaka): Let us go to the next Order.

## STATEMENTS

### CONCERNS ABOUT THE NIIMS

**Sen. Cheruiyot:** Mr. Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a statement from the Standing Committee on Security, Defence and Foreign Relations regarding the National Integrated Identity Management System (NIIMS) or commonly referred to as the *Huduma* Number. In the statement, the Committee should-

- (1) Explain to the House the reasons for the introduction of NIIMS;
- (2) Provide ownership details of the companies that are undertaking the exercise and explain whether due procurement process was followed in acquiring the services of the said companies;
- (3) Explain what the NIIMS exercise entails, the expected budgets for each component and the justification for each;
- (4) Explain how the personal data of Kenyans will be protected from unauthorized access;
- (5) State why the relevant Cabinet Secretary has not briefed Parliament on the exercise and when he plans to do so; and,
- (6) Explain why the exercise was not conducted along with the forthcoming national census.

I am sure many of my colleagues are aware that this is a matter of great national concern. Kenyans are asking many questions about the *Huduma* Number. I am sure colleagues are being confronted when they go to public functions to explain about the new thing that will be introduced. Therefore, it is important for this House to be furnished with the details of why this exercise is important, its benefits to the country and whether it was not possible to use already existing data as opposed to what is currently happening.

Therefore, I request that the Committee expeditiously furnishes this House with the details. I thank you.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, during our leadership meeting held last week, I talked about the importance of public participation in Government policies particularly of this nature. I referred to the Big Four agenda and that the national Government needs to brief this House and the National Assembly about the details of this important project.

Some of the information that some of us got, because we sought it from Government officials, is that we need an official policy document tabled in this House that can be discussed and appreciated by the Senate. In fact, Mr. Speaker, Sir, the Committee that will seek the answer should not do it in the usual manner of going to get a statement from the Cabinet Secretary (CS). They should call the CS to come here so that

we can ventilate on this important programme, where everybody will be able to ask questions.

During that day, Sen. Cheruiyot who brought the question, should be called and each one of us should also be given an opportunity to make a decision on whether we will come or not. This is because it is important. When we are doing this work, some of us who are lawyers are being pushed by the public to give guidance on issues that are related to right to privacy. Some of the information that we are being told is that we did not need to spend billions of shillings for information that already exists.

I also saw a *Tweet* from the Immigration Department which I thought was unfortunate because someone tried to insinuate that you will not get public service – although they wrote there “Government service” – but it is public service; that one will not be entitled to public service because he does not have that number. Serving citizens of this Republic under the Constitution of Kenya, Chapter Four, as a right is not predicated on a number. It is still possible that some people may not have that number.

All these questions are very important for us, as a Senate, and must be taken very seriously and particularly the relationship between this number and whether or not we will still have the census. If the argument is that we will collect data for everybody, is it then necessary for us to say we are waiting for the census to be done? The verifiability of these issues, the transparency that goes with it---, I challenge the Senate that we have a great opportunity – like I said last week – to deal with these issues of registration, census, and boundaries. It all starts with how we take seriously programmes that are labeled like this.

I thank Sen. Cheruiyot and request that when you order the Committee to do so or even if you do not order here, I am sure the relevant Committee would have heard what we have said. They should be able to invite all of us and the CS so that we can ventilate on these important issues.

**Sen. Wetangula:** Mr. Speaker, Sir, I thank the distinguished Senator for Kericho County for bringing this important issue. I had also drafted a request for a Statement on the same.

Whichever Committee you direct to deal with this matter, should find out and tell this House how a matter as fundamental as violating people’s privacy – including but not limited to taking people’s DNAs in the registration of this process – found its way into the law through a miscellaneous amendment law in the National Assembly and was never brought to this House, when it is a matter that affects counties at its very core because people live in counties.

Secondly, the Committee must also tell us and the country whether this new number is a replacement of the identity card as we know it. If it is so, what guarantees do we have that this Government and the successive governments that have been unable to give identity cards to Kenyans is not going to register Kenyans in a different way to give them services that they are promising.

Thirdly, and more important, Mr. Speaker, Sir, the Committee should find a way of recommending the discontinuation of the application of that law until it is subjected to public participation, scrutiny and above all, brought to this House to legislate on it. Otherwise, this is a serious violation of the rights of the people of the country.

Lastly, the Committee must also tell us how much this process will cost, who budgeted for it, who approved the budget, who recruited the supplier of the service and where they are going to apply this service to Kenyans because Huduma Centres, as they are now describing them, are not available in every corner of the counties to give Kenyans the number that they now say will be predicated on access to public services.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. I also want to add my voice here to the so-called National Integrated Identity Management System (NIIMS) which we do not know what it really is for. This thing just came from nowhere, nobody knew about it. We are just being told that it is starting in the Huduma Centres and that we go. As Sen. Wetangula said, are we forgetting our identification cards? Should we forget about our identification cards, the National Social Security Fund (NHIF) number, Kenya Revenue Authority (KRA) number and voter's card completely and get NIIMS? This looks crazy. We should be told what this thing is for and why it is being ---

I am told it was done through single sourcing and Kshs6 billion was put in that thing. Are we fighting or encouraging corruption? This is a very seriously issue and Kenyans should be allowed to participate in these things and public participation is paramount.

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

*(Sen. Mutula Kilonzo Jnr. consulted another Senator)*

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, is it my turn?

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

**An hon. Member:** Ati Kalonzo?

*(Laughter)*

**Sen. Mutula Kilonzo Jnr.:** Kalonzo is a small version of Kilonzo. You should read the book *Against All Odds* and how all those names are interpreted.

Thank you Mr. Speaker, Sir. I will not be nice about it. This process is illegal absolutely. You cannot collect the data of people unless you have a legal framework. The law that Sen. Wetangula is referring to is registration of persons. I am happy to note that the Information Communication Technology (ICT) Committee, where I sat as the Vice Chairperson in the last Senate, developed the Data Protection Bill which went to the National Assembly and was put on the shelves. It is a data protection framework that would dictate how your DNA can be kept and protected and to whom it can be released.

Recently, the founder of *Facebook* had lots of problems about data infiltration. Just access to that information of *Facebook* raised an uproar. Now, imagine a country like this with terrorists, fraudsters and you are required to give your DNA profile to agencies without a safety and legal protection. We must tell the Jubilee Government that they are looking for "tenderpreneurs" to make money out of nothing. This process is illegal.

In fact, Mr. Speaker, Sir, what will happen, for example, if you do not give your DNA? What service do you need from any Government outfit that would require you to

provide your DNA? Some of the things that the Jubilee Government does are just beyond ridicule. Who conceives these things? They are illegal. They must be declared illegal---

**Hon. Members:** There is the Handshake!

**Sen. Mutula Kilonzo Jnr.:** It is nothing to do with the handshake. If this was what ---

**Sen. (Dr.) Langat:** On a point of order, Mr. Speaker, Sir. All things were moving on very well, Senator, before the handshake.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, this is the portion of the handshake that is wrong if that is what ---

*(Laughter)*

If this is what the handshake is all about, let us just say this is the broad part of the handshake because I am aware that, for example, the fingerprints that you collect every time, the Criminal Investigation Department (CID) have the fingerprints of all Kenyans since 1963. They keep them and they have a framework. That is why it is so easy to make sure that you can deal with crime. However, DNA and personal information?

Mr. Omtata and the Kenya National Human Rights Commission (KNHRC) should go to court. We must make sure this does not pass. Just the fact that this matter never came to the Senate and because they bypassed us and that is why I have refused this Bill on retirement, we are going to do the same things that they do to us. Let us not complain. The Retirement Benefits Scheme was passed in the National Assembly. It is a county function and they brought it here. We will put it in the freezer. The same way when we want to do data protection and give work to “tenderpreneurs”, they do it without our consent. I want to tell the Members who seat on the Jubilee Side that they will not take the DNA of Kenyans like this.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, is it in order for the Senate Minority Whip to insinuate that every Jubilee Government supporter, including the one who brought the question, are the ones who are taking people’s DNA? If anything, we must thank the Jubilee Senators for their pro-activeness on issues that have public interest. Instead, Sen. Mutula Kilonzo Jnr. should use this opportunity to praise Sen. Cheruiyot because we could not get a single Member from the Minority Side to raise such an important issue. We must thank the Majority Side.

**Sen. Wetangula:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Wetangula:** Mr. Speaker, Sir, is the Senator for Elgeyo-Marakwet in order to say that Sen. Cheruiyot is championing this issue when I have just been on the Floor saying that I had drafted a Statement and I am supporting him because he has come ahead of me? Is he in order?

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, as a matter of fact, we are not discussing the fertile imaginations of the Senator for Bungoma; we are discussing an actual document from the Senator for Kericho.

Mr. Speaker, Sir, if you allow this kind of behaviour to thrive, every time someone does a good thing, everyone will start to say that they had imagined it.

*(Laughter)*

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

**The Speaker** (Hon. Lusaka): What is your point of order, Senate Minority Leader?

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I was taken aback by the distinguished Senator for Bomet County on what he said about the handshake. Now, it is not a long time ago when I said in this Senate that if they are not careful, they will come to me. If I begin to enumerate the people who have come to me from that side, they are not only numerous but substantial. This includes those that have seen me in private. However, more importantly, is the question of being judged by the record of this House which is very important. When we brought the issue of Ruaraka Land before this House, what did they do, except for Sen. Sakaja, who is looking at a very bright future? However, the way the Senator for Kericho County is going, he should take instructions from me. I want him to rise high as Sen. Sakaja is rising and not as low as Sen. Murkomen.

*(Laughter)*

He is my very good friend but, sometimes, he is overtaken by events including voting against the Ruaraka Land Report. He will never find a day to justify why he voted that way.

**The Senate Majority Leader** (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

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

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, first of all, I know Sen. Orengo is my senior and there is no doubt about that. As I have always said, when I was born, he was already in this House. However, he should not live in self praise; he should allow others to praise him. Therefore, if Sen. Orengo wants us to praise or appear before him for any advice, he should allow others to say it. That is a general rule of humility for those who are great. I have no doubt that he is a great man. I just want him to relax and know that there should be no anxiety on his side when it comes to greatness and he does not need to explain himself.

Mr. Speaker, Sir, more importantly, when we voted for the Ruaraka Land Report, I voted clearly and sat in this House and gave my explanation on record. As we speak today, there is a pending Motion on the Floor of the House where the Senator for Homa Bay, the Chairperson of County Public Accounts and Investment Committee (CPAIC) is opposing the inclusion of people to be investigated. It is his right but-----

*(Sen. M. Kajwang consulted loudly)*

**The Senate Majority Leader** (Sen. Murkomen): Let me finish what I am saying.

**The Speaker** (Hon. Lusaka): Order, Senator for Homa Bay. Let him make his point. I will give you an opportunity

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I am on a point of order.

When we voted on the Floor of this House on The Irrigation Bill, many Members of the Minority Side voted against it. For example, when I asked Sen. Mutula Kilonzo Jnr. why he voted against it, he said it is because of *siasa mbaya*. Also, Sen. Orengo, who was not a Minority Leader at that time voted against the Bill.

Mr. Speaker, Sir, as if that is not enough, during the vote for the Ruaraka Land Report, most Members of the Minority Side walked out. That walking out was the same as walking out on this side. To try and insinuate that the Ruaraka case can be attributed to any particular political party is a lie.

I have no regrets.

Mr. Speaker, Sir, I am not here to praise myself on whether I will be great or not. However, at my age, having been born when Sen. Orengo was here and serving as the Senate Majority Leader in the Senate of the Republic of Kenya is already a great honour. I leave the rest to history.

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members. Sen. M. Kajwang, before I give you an opportunity, let us not lose track of what we are discussing.

**Sen. M. Kajwang**: Mr. Speaker, Sir, technically speaking, I ought to have raised this when Sen. Murkomen was on his feet because he is anticipating debate. From wherever he sits, he has no capacity to tell what Sen. M. Kajwang is thinking of. Maybe, I am not even thinking about the maize report. Maybe, I am thinking of the fish that I will be eating later on in the day.

I want you to rule him completely out of order for trying to insinuate that I, Sen. M. Kajwang, who brought a report here in the House, is considering or contemplating, opposing or supporting a report, in any form, or version so as to justify the position he took on the Ruaraka Land case. Could you rule him out of order?

**The Speaker** (Hon. Lusaka): We are veering off completely. I want Sen. Mutula Kilonzo Jnr. to conclude what he was presenting.

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the legal issues surrounding data protection together with the census is something that we must take up as the Senate so that it does not become an issue of Jubilee, NASA, handshake, *tangatanga*, *kieleweke* or whatever it is.

Mr. Speaker, Sir, I propose that you suggest that we have a Committee of the Whole on this matter and at a later date, we start to talk about the census and take joint positions. This way, my good friend, the Senator for Elgeyo-Marakwet, will not have to defend himself before his people because we know what happened on that day.

**The Speaker** (Hon. Lusaka): In the interest of time we need to make progress. We, therefore, move to the next Statement. I commit the Statement to the Standing Committee on National Security, Defence and Foreign Relations.

**Sen. Cheruiyot**: On a point of order, Mr. Speaker, Sir.

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

**Sen. Cheruiyot**: Mr. Speaker, Sir, you did not communicate the time within which they are to furnish us with the response?

**The Speaker** (Hon. Lusaka): Standing Order No. 48 does not have the timeliness. However, I direct 30 days.

**Sen. Cheruiyot**: Mr. Speaker, Sir, this is a matter of great national importance. I assure you that when my colleagues travel home this weekend to meet their constituents, they will be faced with these questions. For example, the constituents in Narok do not know that Sen. Olekina belongs to Jubilee or NASA. They just know that he is a leader and he has a platform in Parliament. He is supposed to find answers for them.

Mr. Speaker, Sir, we can go for this weekend without answers but at least, let us know something by next weekend.

**The Speaker** (Hon. Lusaka): The vice Chair of the Committee is here. Let him commit himself to it.

**Sen. Sakaja**: Thank you, Mr. Speaker, Sir. Members of my Committee will tell you that this is a matter we have already begun deliberating on. We discussed it in our last meeting when we were working on our work plan. In fact, we had suggested that we bring it closer and deal with it in the next two weeks because of the urgency of the issue.

Listening to Senators speaking about this, I have two options: One, following Standing Order No.48, just as we had planned as a Committee, we could invite the Ministry of Interior and Coordination of the National Government, the Ministry of Information Communication and Technology (ICT) and a few other agencies to come to our Committee next week. Then, we will be able to give a response. We will also invite the Senator and give a response in 14 days.

Mr. Speaker, Sir, alternatively, based on the kind of interest we have seen, we can have a sitting of the Committee with the relevant stakeholders, Ministries and agencies here in the Chamber. We ask for your guidance; whether to go by Standing Order No.48 or your direction.

**The Speaker** (Hon. Lusaka): Because of the great interest in the matter, we can discuss the matter in the Committee of the Whole.

*(Applause)*

It is so directed. Proceed, Sen. Malalah.

#### STATE OF KAKAMEGA COUNTY GENERAL HOSPITAL

**Sen. Malalah**: Thank you, Mr. Speaker, Sir. I stand to issue a Statement pursuant to Standing Order No. 47(1) on a matter concerning Kakamega County. I rise to make a

statement concerning the state of affairs at Kakamega County General Hospital in Kakamega County.

First and foremost, I wish to inform the House that during the last quarter of the year 2018, I visited the Kakamega County General Hospital to determine its state of affairs.

Mr. Speaker Sir, I wish, from the onset, to register that there was a general positive transformation of the facility, both in infrastructure and management systems that had brought about improved service delivery. The hospital Information Technology system was perfect and patients did not walk all over the facility with papers from one section to another.

The Intensive Care Unit (ICU) had modern working machines, hence, the county did not have to refer patients to the Moi Teaching and Referral Hospital for Intensive Care Unit (ICU) services as it was the case in the past.

Mr. Speaker Sir, there were several other remarkable improved hospital structures and infrastructure; modern parking lot, well constructed gate, roofed pathways connecting administration blocks, different offices and the wards, as well as a neat and current beautification of the entire hospital premises. The entire hospital was generally clean, both outside and inside, including the wards, hence, enhancing the hygiene standards of the hospital.

Mr. Speaker, Sir, I would also like to take this opportunity to applaud the hospital management for having considered locals for job opportunities in the hospital, especially cleaning and security services. This goes in tandem with the true spirit of devolution as envisaged in Article 174 of the Constitution of Kenya.

However, there were certain areas that needed improvement. First, there was a glaring deficit between the number of personnel needed to run the facility and those available at the time to offer the said medical healthcare. I also established that the hospital was in dire need of drugs and other non-pharmaceutical items, all attributed to inadequate monthly allocations received from the county government.

There was also reported an upward review of hospital service prices and this had a negative effect on clients. Most patients found it difficult to access the services because they could not afford the bed charges, which had increased from Kshs200 to Kshs500. The X-ray services increased from Kshs5,000 to Kshs10,000, just to mention but a few. These increases were partially attributed to the fact that the hospital was treating the cash patients at the same rates with the National Hospital Insurance Fund (NHIF) patients, whose costs were generally higher than for the cash patients.

Mr. Speaker, Sir, bearing in mind that the hospital had inadequate drugs in the hospital pharmacy, it meant therefore that most patients, after treatment, were referred to buy drugs in private chemists. This, therefore, increased further the cost of treatment in Kakamega.

The entire mortuary department was in a pathetic state. No single fridge was working and the entire working environment was not conducive to the morticians. There is a need to review the contract awarded to renovate the mortuary.

The intern doctors' block was incomplete. This meant that the intern doctors were accommodated far away from the facility. There was also an outcry by doctors and nurses

that they were not given any opportunity to go for further studies and capacity building programmes to enhance competency and specialized service delivery.

The recurrent expenditure of the hospital facility was too high compared to the allocation given per month by the county government to run the hospital. The facility required approximately Kshs26 million per month to run its activities, yet they only received Kshs.10 million per month. The monthly cash collections were approximately Kshs14million and cash received on NHIF patients was 150 per cent of the cash collected.

Mr. Speaker, Sir, I also established that it was very expensive to maintain the Cuban doctors. First, they do not understand English or Kiswahili, let alone Luhya. There are certain diseases in Luhya, which cannot be translated to English. These include diseases such as *Indulume*, *Indwasi*, *Amakakha*. We do not have an English translation of such diseases. Those Cuban doctors are unable to treat my people in Kakamega because of the language barrier.

*(Laughter)*

The cost of remunerating one Cuban doctor is five times higher than that of five local doctors---

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your intervention, Sen. Cherargei?

**Sen. Cherargei:** Mr. Speaker, Sir, I would not wish to interrupt my colleague, Sen. Malalah, but he should be courteous enough to explain the words he has mentioned mean. It could mean dangerous things. They cannot be translated, but he could at least paraphrase, so that we are on the same page.

**The Speaker** (Hon. Lusaka): He has already said that, that is the barrier. They cannot be translated into---

**Sen. Cherargei:** Mr. Speaker, Sir, he can demonstrate, so that we can understand.

*(Laughter)*

**Sen. Malalah:** Mr. Speaker, Sir, I think I will have a private session with my colleagues and elaborately explain to him in Luhya and not English.

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

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

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, I do not know whether the distinguished Senator has been talking to his people about their medical problems. Sometimes I go to the village and an old man would come to me and say: "There is something that starts from my leg *na inakimbia mpaka kwa kichwa, halafu inatokea huko chini.*"

*(Laughter)*

With that type of a problem, even if we asked Sen. Malalah to try and explain, it would be extremely difficult. However, if we have a local doctor, probably, he will have a sense

of experience and know that when Malaria comes, for example, the pain comes in a certain way.

Give Sen. Malalah some little accommodation. The point he is trying to make is that we need local doctors also in this arrangement.

**The Speaker** (Hon. Lusaka): Sen. Ochillo-Ayacko, what is your intervention?

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. I heard Sen. Malalah talk of *Indulume*. My understanding of that word is that it is epilepsy. The Luo translated it a long time ago. If the distinguished Senator can get a Luo-Luhya doctor or a National Super Alliance (NASA) doctor, I think there will be headway.

**Sen. Malalah:** Mr. Speaker, Sir, I was talking about the Cuban doctors and not the Luo doctors.

I also established that the doctors who are given an opportunity by the County to pursue higher studies and paid by the county while on study leave are required to report back to the Ministry of Health for redeployment upon completion of their studies. This impacts negatively on the County for it invests in a doctor by training him or her then they may not come back to benefit the same County.

I have come up with a raft of recommendations to enhance services at the Kakamega General Hospital, some of which I have already shared with the Kakamega County Government leadership for action and also wish to share with Members of this House especially those serving in the Committee on health.

1. Enhance the number of specialized staff to effectively man specialized units such as Intensive Care Unit (ICU), Renal Units and Cancer Centre.

2. Intensify and conduct a massive National Hospital Insurance Fund (NHIF) drive to allow the lower level income earners, who are the majority, to afford medical care at the facility.

3. Implement or actualise the semi-autonomous status of the facility so that the hospital can run its operational costs as per the Kenya gazette supplementary notice of 2017.

4. The government to consider the upcoming referral hospital in Kakamega as Level six and leave the Kakamega County General Hospital to act as Level five.

5. Using the conditional grant, the old buildings at the facility to be renovated just like the maternity and the pediatric wards which look pretty better.

6. The extend of poverty and unaffordability of medical care by mothers was quite alarming. A comprehensive *linda mama na mtoto* program, that is currently in Kakamega, to be enhanced to touch more lives of mothers in the villages.

7. The annual capitation grant given by the national Government should be shared between the two facilities. The conditional grant that we receive from the national Government is currently being used to construct another referral hospital and that money is not directed to the Kakamega County General Hospital. I propose that the money be shared between the two facilities for us to use the money to maintain Kakamega County General Hospital;

8. The Ministry of Health to develop a policy that ensures that once a county invests in the further training of a medical profession from the county, that the trained

professional should be bound to go back to the county and perform his duties in the same county.

I further urge the Committee on Health to take interest in the affairs of the Kakamega County General Hospital and consider paying a visit to this facility and the County Government of Kakamega to delve more into these issues in order to come up with a workable way of improving services rendered to the people of Kakamega County and recommend some policy options on issues affecting the health sector in Kenya.

**The Speaker** (Hon. Lusaka): Thank you. I do hope that the Chairperson of the Committee on Health has taken note of the issues that have been raised.

THE DIRECTIVE BY THE CS EDUCATION TO HAVE  
HELB DEFAULTERS ARRESTED BY THE POLICE

**Sen. Wetangula:** Thank you, Mr. Speaker Sir.

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

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

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I thought you would give the Committees---

**Sen. Wetangula:** Not under that Standing Order.

**Sen. (Dr.) Ali:** Alright.

**Sen. Wetangula:** Thank you, Mr. Speaker Sir, for the opportunity to request for a Statement.

Pursuant to Standing Order No. 48(1), and for the benefit of the Senator for Wajir County, this is the Standing Order under which you can make comments if you wish. I rise to seek a Statement from the Standing Committee on Education regarding the directive by the Cabinet Secretary (CS) for Education to have Higher Education Loans Board (HELB) loan defaulters arrested by the Police.

In the statement, the Committee should:-

1. State the total number of beneficiaries of the HELB loans since its inception, the number of beneficiaries who have paid up the loan, the number of defaulters and the cumulative amount of money for each category.

2. Explain why the CS has issued a directive to have defaulters of HELB loans arrested yet most of them remain unemployed long after they cleared institutions of higher learning.

3. Explain whether the Ministry is planning to come up with a policy to write-off loans of beneficiaries who, due to joblessness, are unable to repay their loans just like the Government has written-off loans to coffee, tea and dairy farmers.

4. Explain the measures that the Government has put in place to ensure that the youth who graduate from institutions of higher learning are gainfully employed to realize its zeal for loan repayment.

**Sen. (Eng.) Maina:** On a point of order Mr. Speaker, Sir.

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

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I rise regarding the matter being raised by Sen. Wetangula. A civil debt is not a crime. Police do not go on chasing people who are defaulters of civil debts. The police may be bouncing on the so called loan defaulters

tomorrow or next week and I do not think that they are defaulters. They are just people who have gone through some pecuniary embarrassment which could be due to the way the country is. They are our children and we should actually be sympathising with them. You cannot be setting police on them. Therefore, this matter needs a different direction. We should discuss it here and make a conclusive statement within a day or two for us to salvage the situation.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I worry that the direction that we are taking as a country is one which is dictatorial; where a CS gives herself powers which she does not have. These are people who are suffering from what the good Sen. (Eng.) Maina would refer to as poverty related syndrome. You are poor and are being punished for being poor. You went to school and finished and a CS now comes to say that she is the law unto herself. This is the most ridiculous thing that I have ever heard from a CS. You cannot go out there and order the police. There is something that we call; the due process of law. Sen. (Eng.) Maina refers to this loan as a civil debt and if it is a civil debt, let them go to court and get a court order.

However, this points to a bigger problem that we have in this country. When we go to the villages, the communities tell us; 'you keep telling us to send our kids to school. We send them to school and you give them bursaries but what next? They graduate from school then we start looking at each other'. Instead of saying, 'go and arrest those defaulters', we need to start asking ourselves serious questions.

What is it that we are doing? There are so many young people out there who are educated and unemployed. How do you expect those people to pay the loan? During the high moments of our political campaigns, I have heard every party say that, 'we will waiver your Agricultural Finance Corporation (AFC) loans and coffee loans'. Why not look into the issues of these students? They are young people who are not even farmers.

The CS ought to first know that what she did is illegal. That is why I keep on saying that we need an opposition in this country. We cannot allow people to keep on running up and down and deciding what they should do. Powers given to cabinet secretaries in this country are ridiculous.

Mr. Speaker, Sir, we, as Parliament, need to sit down together and decide what should be done. For example, it will not be a crime to waive these loans. We can treat them as a bad debt. We are all businessmen in one way or another. Sometimes we negotiate with the banks on how to service our loans. A bad debt is a bad debt. Therefore, we need to waive it.

We should think of prudent management of our resources so that we can create job opportunities for our youth. Once they are employed, they can start paying their loans. Maybe when Sen. Mutula Kilonzo Jnr., was going to university he took a loan from HELB. I am sure it took him many years to repay it. We have lawyers who are yet to repay their loans they took from the HELB. Some of them have never started paying theirs because they have never been employed.

We need to be sober and create job opportunities for our youth if we want them to pay HELB loans. How can we bequeath this country to them when we want them to be arrested because they are not paying HELB loans?

**The Speaker** (Hon. Lusaka): Okay, Sen. Olekina. We have heard you. Sen. Mutula Kilonzo Jnr, you may proceed.

**Sen. Mutula Kilonzo Jnr:** Mr. Speaker, thank you. This is a very useful Statement by Sen. Wetangula. The framework of HELB does not contemplate criminal action or criminal liability in case of default. So, to that extent, the Cabinet Secretary misdirected herself in fact and law, to order the police to arrest defaulters.

Mr. Speaker, Sir, the contradiction about this is that we are punishing children and not their parents. The people who qualify for HELB loans are not able. They are people who want to study, but they are unable to study because their parents do not have finances. Their parents are poor. These people have done well and have gone to school. Therefore, we cannot punish them that way.

We know what happened to people who stole money from this country – the National Youth Service (NYS) I; NYS II and NYS III. The people who are stealing money from counties are walking around after they have paid cash bail. Some of them are even called for interviews. Criminals in this country are heroes. These children of ours need to be protected. When people were seeking for votes from Kenyans, we all know coffee, tea and sugar debts were waived. What are we talking about?

If we have allowed this Government to borrow on behalf of our grandchildren - Kshs.18,000 for every child who is born and yet to be born - why do we not protect our children who have gone to the universities? We must ensure, first of all, that we comply with the law that Sen. Sakaja proposed and have a bureau of the youth. Find out who is this person who became a doctor. Sen. Malalah is complaining about Cuban doctors who are being paid five times the salary of a Kenyan doctor. The correct position is that about 1,200 qualified doctors cannot be employed into the Kenyan system.

Nurses are on strike because of Kshs20,000. One nurse in Kisumu County is taking care of over 600 patients because of Universal Healthcare (UHC). What happened to humanity in this country? We have borrowed so much to finance some ghost projects. For example, a dam in Elegeyo-Marakwet is being financed at the tune of Kshs63 billion. This contract was given to a person who is bankrupt and it has stalled. We also have Galana Kulalu where the Government has sank billions of shillings and yet it has stalled. We must go back to the ethos of this country. I do not even know why we sign our National Anthem if we can arrest children because they have qualified to get a degree. Shame on you!

**The Speaker** (Hon. Lusaka): Sen. Haji Farhiya, you may proceed.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. I also want to look at this issue in a different way. Some people might default not because they do not have money, but they do not want to pay. Those are two different issues. So, I want this House not to address it from one angle. There are many other Kenyan children out there who are also poor who need loans so that they can continue with their education. That does not mean that I am supporting the fact that people should be arrested because they are not paying their loans.

Let us also look at the other side of the coin. Let me also look at it differently in terms of the corruption in this country which is making people to be out of jobs. We need to address corruption. Some people are already employed, but they also do not want to pay. Have we also analysed this?

I agree that for people who cannot pay because they are not employed, the same way coffee loans and others are waived, let them be waived. However, have we analysed to find out whether all those people who are not paying are actually not employed? Are there people out there who are employed and are taking advantage of the system and, by extension, keeping other students who should have gone to school, not go to school because they are not paying their loans.

Nobody has told them that this is a free loan. If you borrow from banks and everywhere - if you borrow, you are supposed to pay. How many people do we know of, who have money and who are able to pay, but they are not paying? The ones who are not employed and are not paying, we can understand them. We need to analyse the two scenarios before we take action.

*(Loud consultations)*

That is how I started my contribution. I do not agree with that, but a legal process should be followed to ensure that every person pays---

**The Speaker** (Hon. Lusaka): Hon. Senator, I think you have made your point. Have you made your point?

**Sen. Farhiya:** Mr. Speaker, Sir, then protect me because there are people who are attacking me.

**The Speaker** (Hon. Lusaka): Okay, then wind up.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. The gist of the matter in this country is; let us address corruption. Corruption drives the youth out of employment. More people in this country are becoming poorer. Economies that we were at par with, have already overtaken us. Let us not just look at it from just one angle.

**The Speaker** (Hon. Lusaka): Sen. Naomi Masista Shiyonga, you may proceed.

After Sen Masista, we will have the Chairperson of the relevant Committee making his comments.

**Sen. Shiyonga:** Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to support---

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Cherargei:** Mr. Speaker, Sir, I am sorry to interrupt my good friend. However, I thought that since some of us left university recently, it would be good for the Senate to listen to our wisdom on this issue because we are still repaying our loans. So, it would be unfair to proceed to allow the Chairperson to comment, yet yours truly is here and is undergoing the same experience.

**The Speaker** (Hon. Lusaka): Are you fearing arrest?

**Sen. Cherargei:** Yes, Mr. Speaker, Sir, I might be arrested. So, it is important to hear me.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Sen. Naomi, you may proceed.

**Sen. Shiyonga:** Thank you so much. I think Sen. Cherargei might be arrested once he steps out of that door.

I want to support this Statement which has been brought by our dear colleague, Sen. Wetangula.

**Sen. Ochillo-Ayacko:** On a point of order, Mr. Speaker, Sir.

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

**Sen. Shiyonga:** Let them not interrupt me because I just need to contribute.

**The Speaker** (Hon. Lusaka): Order, Senator!

**Sen. Ochillo-Ayacko:** Mr. Speaker, Sir I am sorry I have obliged. She has pleaded. Thank you.

**The Speaker** (Hon. Lusaka): Okay, Senator you may proceed.

**Sen. Shiyonga:** Thank you very much, Mr. Speaker, Sir. In this country based on the Statement, we have a database that has all the names of these---

*(Loud consultations)*

Mr. Speaker, Sir, protect me from this gentleman here.

In this country, we have a database that has all these names of individuals who took HELB loans. It has a lot of information that can be traced to its specifics that can enable those who have not paid this loan to repay. Those who have not paid their loans should not be arrested. As my colleagues have said, they are our children, sisters and brothers and not criminals. How can somebody think of arresting them when they have not even been employed?

**An hon. Senator:** They are not children.

**Sen. Shiyonga:** Somebody is telling me that they are not children. You may find that those individuals have not been employed and are not earning salaries but somebody says that they must be arrested. When our police officers are given the responsibility of arresting anybody, they will do it. So, the Ministry should reconsider the idea of arresting those individuals. They should discuss with this House so that they know the right way of handling these issues.

The punishment that has been proposed is wrong. How do you arrest an individual because they have not paid a debt yet they have not secured any job? We are concerned about our graduates in this country who have not been employed. We have very many graduates who surpass the number of those who have been employed. Why should the Ministry not think of how to absorb those particular individuals who completed their education and passed very well rather than thinking about arresting them?

Mr. Speaker, Sir, I support the Statement. The Ministry should reconsider its position and look for the best way of dealing with that if the aim is to get their money back. If I were one, I would not have paid.

**Sen. Cherargei:** Mr. Speaker, Sir, from the outset, I support the Statement by Sen. Wetangula. I had thought about making a similar request but my senior, Sen. Wetangula, was way ahead of me.

It is unfortunate for some of us who just graduated from universities. We are still repaying loans but the Ministry wants to come after us. I think that is lack of creativity. The Cabinet Secretary for Education should be more creative and ensure that those people are accommodated. We should ensure that the youth of this country do not suffer because there are many unemployed people in this country.

If you walk to any Senator's office, you will find many envelopes. Our offices have turned into employment bureaus. In any function that you go to, you meet five to ten young people who have graduated with degrees approaching you for any opportunity. We should address the unemployment rate in this country. The police should be busy arresting people in this country who are corrupt.

As Sen. Mutula Kilonzo Jnr. said, people of this country should have ethos. Nowadays you will even find the Chief Justice attending political rallies instead of giving judgments to Kenyans. You are not supposed to see the Chief Justice in a public rally. So, we must revisit our values and ethos so that we protect and ensure---

**Sen. Ochillo-Ayacko:** Point of order!

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

**Sen. Ochillo-Ayacko:** Mr. Speaker, Sir, is it in order for the fellow who has not paid his HELB loan to provoke the Chief Justice when the Chief Justice merely attended a presidential function? Is it in order for him to claim that the Chief Justice went to attend a political rally? He has not paid his loan and he could get jailed.

*(Laughter)*

**The Senate Minority Leader** (Sen. Orengo): Mr. Speaker, Sir, normally the tradition of the House and the Standing Orders is that you cannot discuss judges without a substantive Motion. However, I want to make a distinction because I think the distinguished Senator for Nandi has a point. In my political history, I have never seen a chief justice appearing in a public rally and that we must say. It is bad manners for the judiciary.

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

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

The Chief Justice must be told this. We have known chief justices who used to be directed by the Executive and were more executive than the Executive but they had the sense of decency and decorum of never appearing in political rallies. In fact, that has been the tradition of the House.

The substantive Speaker is not here. I was in the House when Hon. Mati was the Speaker of the Kenya National Assembly. He made sure that he never appeared in a political rally because he was the head of an arm of Government.

This is a point that I as a senior counsel must take to the Chief Justice because he is bringing dishonour to the courts and that should never happen in a democratic constitutional country which has three arms of Government that are co-equal. On matters

justice, the Chief Justice is supreme to the two arms, just like we are supreme on matters legislation and that is what the Constitution says. According to the Constitution, on matters executive, the President together with the rest of the Executive is supreme. On matters judiciary, the judges, magistrates and the Chief Justice are supreme. When you have a situation where the Chief Justice stands in line in a crowd waiting to be recognised, in terms of decorum and manners, that is very bad manners, leave alone the question of judicial decency.

I appeal to the Chief Justice that we have been there before. It actually shows that the attack on the Judiciary is intimidating the Chief Justice. If the Chief Justice is intimidated, it means the rest of the magistrates and the judges who have to make rulings can be intimidated. Most of the times, the contest is between ordinary people and the Executive.

I know there are senior counsels here. Sen. Wetangula, the distinguished Senator for Bungoma has been in the courts for a long time and I am sure he does not remember a day when an incident like that happened.

Chief Justice Maraga should wake up and realise that he is the Chief Justice of the Republic of Kenya and the head of an arm of Government which is co-equal.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, before we proceed, I would like you to familiarise yourselves with Standing Order No.96(1) on contents of speeches, so that when you make your contributions, you stick to the issue before the House.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, I cannot resist making a comment on this. I thank the distinguished young Senator for Nandi County, a lawyer in his own right, for raising that issue.

The Chief Justice is not just a Chief Justice, but he is the President of the Supreme Court. A month ago, we saw the Chief Justice being read the riot act in a public meeting in Bomas of Kenya, and he struggled to defend himself and the institution, and he did it rather clumsily.

Mr. Temporary Speaker, Sir, in comparable jurisdictions - all these great lawyers can tell you - if you go to England, the ordinary man does not know who their Chief Justice is. If you go to the United States of America (USA), the ordinary man on the street does not physically know who the Chief Justice of the US is. You meet the Chief Justice in his judgments or in court, not standing on a roadside gathering and looking bamboozled.

This is bringing dishonor to a profession that is so honored. We call ourselves learned friends because we are learned and the head of this profession in this country is the Chief Justice and the President of the Supreme Court. We feel embarrassed to see that happening. When I heard the Chief Justice saying that he is happy that the Executive has come to bring development to his homeland, he is not the Chief Justice of Kisii County but the Chief Justice of the Republic of Kenya and this must be told to him, over and over.

I want to suggest to my distinguished colleague, Sen. Orenge and others who are lawyers in this House; let us pay a courtesy call on the Chief Justice and tell him that this dishonor must stop.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Olekina? Are you on a point of order?

**Sen. Olekina:** Yes, Mr. Temporary Speaker, Sir. I cannot resist but comment on this. Yesterday, I was in a heated argument where someone showed me the Chief Justice in a public rally and I told him that it was a photo shop, because I could not believe. However, the issue is very clear: What we need to do is to ask ourselves whether that was really the Chief Justice or it was a photo shop. I am still not believing it.

*(Loud consultations)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, hon. Senators. Proceed Sen. Cherargei.

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, I had not finished when Sen. Ochillo-Ayacko raised that issue. However, I am happy that senior counsels; Sen. Orenge and Sen. Wetangula have done justice in responding to that.

Secondly, my Committee on Justice, Legal Affairs and Human Rights will see what to do. We will deliberate at committee level so that we protect the office of the Chief Justice. In future, we would not like to see a situation where the Chief Justice will walk in the streets or attend public rallies and say: "Thank you, you have brought development to our community".

I agree with senior counsels that judges and people in judicial practice should only speak to the people through their judgments and pronouncements, and not through attending public rallies. I want to assure Sen. Olekina that, that was the Chief Justice; it was not photo shopped. Some of us are experts in social media, he was not photo shopped; he was there. In fact, it was updated by the official Facebook page of his Excellency the President Uhuru Kenyatta and even the famous *baba* did update the same. So, there is no photo shop there; the Chief Justice was there.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators we are on the Statements on education and I would wish us to proceed with that Statement. I call upon the Chair because we are also---. What is it Sen. Sakaja?

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I want to contribute to that Statement because it is affecting young people. I am the Chairman of the Young Parliamentarians Association (YPA) and I believe I am also the Chairman of the Committee on Labor and Social Welfare that---

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Hon. Senator, I think we should give Sen. Cherargei time to conclude his contribution.

**Sen. Sakaja:** He has finished, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Then proceed.

**Sen. Sakaja:** Thank you, Mr. Temporary Speaker, Sir. Even as I do that, I regret that we have stretched our understanding of Standing Order 96 of our own rules. I know what happened in Kisii County was not the best but, even as a House, let us stand by our

rules. The adverse mention of the Chief Justice is not permitted. If we want to discuss him, let us bring a substantive Motion.

In addition, what is good for the goose must be good for the gander. You cannot say that the Chief Justice should not attend political meetings, yet speakers are attending them from both divides. Let it be the same.

Mr. Temporary Speaker, Sir, on that Statement on education, I want to thank Sen. Wetangula. A country that is at war with its young people is a country that has no future and is cannibalizing itself. Today, our young people have no hope; they are disillusioned and disengaged.

In the months between October and December in Nairobi County, I have lost more than 30 young people to extra-judicial killings. In the last two weeks we saw a 21-year old young boy shot at the Dusit attack abandoned. We have also seen a 26-year old young boy arrested and charged in court because he had to sneak out his baby in a bag because he could not pay the hospital bill. What are we talking about as a country? What future are we trying to build?

Mr. Temporary Speaker, Sir, we have toiled in this Parliament for the last few years. We have brought Bills like the National Employment Authority which I sponsored in the last Parliament, where all these young people who are supposedly defaulters of Higher Education Loans Board (HELB) would have now been engaged in compulsory internships which would have paid those loans. They are not being implemented.

I have brought the Bill that has introduced 30 percent procurement preferences for young people but Governors, Cabinet Secretaries and Permanent Secretaries (PS) are giving contracts to their children and cronies. It is not being implemented.

Mr. Temporary Speaker, Sir, I want to say it today with the authority of the Senate as the Vice Chair of the Committee on National Security, Defence, and Foreign Relations, that any police officer listening to me today, do not try to arrest any young person who has defaulted on HELB.

I think the character of Cabinet Secretary (CS) Amina is different. I just pray that she was misquoted because I cannot imagine her having said that. We cannot be talking about recovering over Kshs7 billion from young people who have no jobs. In fact, this House should amend the law. The HELB loans should not have an interest; it is not about interest.

Secondly, you should not be asked to pay any penalty before you get employment. The Government should figure out how they will find out whether those young people have gotten employment. Why is it that today it is a crime to be a young person? In parts of my county, the highest cause of death is youth. Just because you are a young person you are at risk. You have to be in the house by a certain time, you go out to look for a job, you get onto a *bodaboda*, you come to town and you are arrested and the *bodaboda* is not yours, it is taken and you have to pay Kshs25,000 to get it back. You open a *kibanda* in Nairobi County, the City County *askaris* are on you; you are arrested. You get into a *matatu* you are arrested.

Let us become serious. The youths are the trustees of our country's posterity and we do not want a generation that is growing up in this country trying to get even because we will not survive. So, I pray that the Chair of the Committee on Education who is here

and he is a great gentleman, together with the Committee on Justice, Legal Affairs and Human rights, because we have taken up the issue of extra-judicial killings with my Committee on National Security, Defence and Foreign Affairs and we want to do it together with them. Let us return hope to this country and resist any such retrogressive proposals coming from whichever quarters or individuals.

If you had a HELB loan, come up with a mechanism as Government to find out whether that young person has gotten a job and it is simple; implement the laws that we are passing in this Houses.

Thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I now give the last chance to Sen. (Rev.) Waqo, before I give the last chance to the Chairperson of the Committee.

**Sen. (Rev.) Waqo:** Thank you, Mr. Temporary Speaker, Sir. I stand to add my voice to this and say that I support the Statement simply because I am a mother and a woman leader. We are here on behalf of the young people who are suffering in many ways in our country. We can understand the dilemma the Ministry of Education is in with an outstanding over Kshs7 billion, but Kenya can come up with a way of dealing with that and if we had planned well, we would not have been in this situation that we are in today.

Mr. Temporary Speaker, Sir, I stand to support this Statement simply because we know the number of unemployed young people in the country. Most of them have good papers and they are graduates but they cannot find a job anywhere. Most of them are frustrated, and their parents are also frustrated. They have used what they had to educate them and yet they are not able to get anything from the investment that they have made in the past.

The issue of arresting the defaulters will not solve the huge problem that we are in as a nation. I will be very brief. This should serve as a wake-up call for our nation. Instead of discussion how we can arrest the young people, we should ask ourselves and plan on how young people can be employed in our nation. Many are the times when we advertise new jobs, we say that we need 10 years' experience. How can our young graduates be employed when we are always demanding for 10 years' experience? How can young people even be employed when we still have what we call godfathers somewhere? Unless you are well connected, the children of the common mwananchi cannot be employed anywhere.

It is high time for us leaders to advocate for employment of young people in our country. We urge the ministries to see how best we can employ young people. We blame them for drug addiction and getting into radicalization and yet we have not given them any solution in life. That is why I stand to support this Statement. Arresting them will not solve any problem.

As I finish, Mr. Temporary Speaker, Sir, in the northern part of Kenya, many students do not even qualify for the Higher Education Loans Board (HELB) because they cannot even get identity cards. This august House needs to know that even when they finish their Form Four, getting an identification card is a big problem especially when

you come from Marsabit, Moyale, Sololo and Wajir. It is because we are always treated as foreigners. For how long should our students be treated as foreigners in this country yet, we are born and brought up here, given birth in this country and yet our children are being mistreated? Most of them do not have identification cards today and cannot qualify for funding from the HELB.

Mr. Temporary Speaker, Sir, the students who come from northern part of Kenya should be given priority and their identification cards distributed. The Ministry that is holding the identity cards that are already there should release them as soon as possible so that those students from the northern part of Kenya can also qualify for funding from the HELB.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, hon. Senators! As you can read from the Standing Orders, we have already passed the one hour that we are supposed to discuss all these statements. We still have a Statement to go by Sen. Mwaruma. I know there are many requests here and Members have come to the Chair to request to contribute to this Statement. I will give only one minute to Sen. Dullo, another to Sen. (Dr.) Milgo and another to Sen. (Dr.) Musuruve. Only three minutes to the three of you.

**Sen. Dullo:** Mr. Temporary Speaker, Sir, one minute is already over. Thank you for that moment. I support this important Statement. If we had thought seriously, we should have had an adjournment Motion to discuss this particular matter because it is a matter of national importance.

It is sad for us, as a country, to arrest our children because of defaulting to repay money to the HELB, when they do not have jobs. Last weekend I was in my county going round markets, I came upon a young lady who is a graduate of Economics from the University of Nairobi selling tomatoes. You will find our boys, especially those who are being looked for over the last attack of DusitD2 Complex, some of them are graduates and they cannot get jobs. That is why they end up being radicalized.

We need to implement solutions where we get job placement for them immediately they graduate from university. Finally, even in those counties, you will find that those who have low level education get high level jobs while graduates do not have jobs. We must have policies that give jobs to those graduates. Arresting them is a criminal offence. We should not allow it.

**Sen. (Dr.) Milgo:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Statement. It is absurd to learn that some of our children have been arrested by the Ministry that is supposed to protect them.

If it were not for the HELB loan, I do not think I would be in the Senate today, having come from a very humble family. I think the purpose for which this loan was coined was to ensure that even Mama Mboga's children could access education.

Right now, we are talking about 100 per cent transition from basic education. Come the future, I think we will have many students trained in the university and many will be from humble backgrounds. With a critical analysis of the HELB loan, you will discover that it attracts very high interests to the extent that even when it comes to the time of payment, the students are not even able to ---

*(Sen. (Dr.) Milgo's microphone went off)*

**Sen. (Dr.) Musuruve:** Mr. Temporary Speaker, thank you, for giving me this opportunity to comment to the Statement. I comment Sen. Cheruiyot for coming up with this powerful Statement.

When it comes to education, you find that it is what even breaks the barrier of poverty to economic empowerment. You will realize that most children who go for HELB come from humble beginnings which help them climb the ladder after they are economically empowered. Let me state clearly on the Floor of this House, I am a daughter of a cleaner. My mother was cleaner and my father was a clerk who could not afford fees. It is the HELB loan helped me so much. It is just the other day in 2017 when I finished repaying the loan.

Arresting students because they are unable to pay the loan is inhuman, feelingless and something that needs to be reviewed urgently. We need to protect our youth.

*(Sen. (Dr.) Musuruve's microphone went off)*

**Sen. (Dr.) Langat:** Thank you, Mr. Temporary Speaker. I hope you will give me some more minutes to make a conclusive summary.

Thank you, Sen. Cheruiyot, for bringing this Statement to this House. It was quite unfortunate when I heard the same from the CS. We are headed to a very wrong direction in our country. The fact that most CSs are making sweeping statements on the streets that some people should be arrested is a signal to a dangerous position that requires a referendum to bring those people in this House.

*(Laughter)*

First of all, I expected the CS to talk about giving free education up to university level. In this country, we are giving these students loan which is not enough. Let me bring to the attention of this House that the loans that our children are receiving today are equivalent to the ones we were receiving during our time, and yet, life has become expensive.

As I speak, most of the universities in this country are only offering accommodation to first year students. So many students who joined the University of Nairobi and could not get accommodation in the second year are at home despite the meagre loan being given and charged a lot of interest.

The Cabinet Secretary for Education should revise the HELB structures and even reduce the interest charged on the loans. It should not be like any other loan in the market. Our young people are suffering, like Sen. Sakaja said. We are punishing them instead of relieving them from the frustrations they are going through.

I thought that the Cabinet Secretary would talk about the internship programmes, to give these young people the experience that they require. Imagine every job opportunity requires five years' experience.

There is a problem with the HELB as an institution. Some people told me that up to date they still receive messages reminding them to repay loans that they cleared five years ago.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Hon. Chairperson. I think you need to give a commitment as to when you will bring a response.

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, we will call the Cabinet Secretary, Amb. Amina, to our Committee to clarify what she intended. We need to know if she is serious about arresting people for failing to repay the HELB loans, yet the Government has not given them job opportunities. We will invite her to clarify what she said yesterday.

Thank you, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Thank you, Chairperson. We will now proceed to the next Statement by Sen. Mwaruma.

#### STATUS OF VOI SISAL ESTATE

**Sen. Mwaruma:** Thank you, Mr. Temporary Speaker, Sir. Pursuant to Standing Order 48(1), I rise to seek a Statement from the Standing Committee on Lands, Environment and Natural Resources regarding the status of Voi Sisal Estate.

In the Statement, the Committee should-

(1) State details pertaining to the ownership of the Voi Sisal Estate and the status of the lease of the parcel of land.

(2) State the acreage of the estate and indicate the current economic activities taking place.

(3) State the area of the land under dispute between Voi Sisal Estate and Mkamenyi residents, and the circumstances that have led to the dispute.

(1) State the fate of the residents dwelling on the disputed land, which they claim to be their ancestral land.

Thank you, Mr. Temporary Speaker, Sir. I will not add anything because I am supposed to leave for some journey.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Chairperson, Standing Committee on Lands, Environment and Natural Resources.

**Sen. Kang'ata:** On behalf of my Chairman, I wish indicate that we will deliver that Statement after two weeks.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): It is so ordered.

Hon. Senators, we proceed to the Statement by the Senate Majority Leader, pursuant to Standing Order No. 52(1).

#### BUSINESS FOR THE WEEK COMMENCING TUESDAY, 26<sup>TH</sup> FEBRUARY, 2019

**Sen. Dullo:** Mr. Temporary Speaker, Sir, pursuant to Standing Order 52(1), I hereby present the business of the House for the week commencing Tuesday, 26<sup>th</sup> February, 2019.

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On Tuesday, 26<sup>th</sup> February, 2019 the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further direction by the SBC, the Senate will on Tuesday, 26<sup>th</sup> February, 2019 consider Bills scheduled for Second Reading and those at the Committee of the Whole. The Senate will continue with consideration of the business that will not be concluded in today's Order Paper.

On Wednesday, 27<sup>th</sup> February and Thursday 28<sup>th</sup> February, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Hon. Senators, I wish to commend you for the commitment you have shown so far, where the House has considered and passed eight Bills at the Committee of the Whole and Third Reading stages. These Bills are:

- (1) The Copyright (Amendment) Bill, 2017 (National Assembly Bills No.33 of 2017).
- (2) The Physical Planning Bill, (National Assembly Bills No.34, 2017).
- (3) The Irrigation Bill (National Assembly Bills No. 46 of 2017).
- (4) The Kenya Roads Bill (National Assembly Bills No.47 of 2017).
- (5) The Petroleum Bill (National Assembly Bills No.48 of 2017).
- (6) The Energy Bill (National Assembly Bills No. 50 of 2017).
- (7) The Public Private Partnership (Amendment) Bill (National Assembly Bills No.54 of 2017).
- (8) The Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018).

The Senate also considered and approved The National Assembly amendment to The Urban Areas and Cities (Amendment) Bill (Senate Bills No.4 of 2017), which will now be presented to His Excellency the President for assent.

Hon. Senators, having concluded consideration of the said Bills, there are still 11 Bills pending at the Committee of the Whole stage. Twenty Bills are due for Second Reading and there are two Senate Bills, where the Senate is to consider the National Assembly amendments to the said Bills.

The two Bills are:

- (1) The Warehouse Receipt Systems Bill (Senate Bills No.10 of 2017).
- (2) The Assumptions of Office of the County Government Bill (Senate Bill No.1 of 2018).

I urge the Committees to which these two Bills were committed to expedite consideration of the said amendments and table the reports thereon to enable the SBC to schedule the Bills for consideration at the Committee of the Whole stage. We also have several Bills before standing Committees for consideration. I take this opportunity to remind respective chairpersons to ensure that the reports are tabled in good time, so as to enrich debate on the said Bills during the Second Reading stage. I also appeal to Chairpersons to expedite consideration of statements and petitions pending before their respective committees.

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

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

Finally, we have started the current Session well and I urge you to continue with the same momentum throughout the Session.

Madam Temporary Speaker, I thank you and hereby lay the Statement on the table of the House.

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

**The Temporary Speaker** (Sen. Pareno): Next Order!

### MOTION

#### ADOPTION OF REPORT OF THE *AD-HOC* COMMITTEE ON THE MAIZE CRISIS IN KENYA

THAT, this House adopts The Report of the *Ad-hoc* Committee on the Maize crisis in Kenya, laid on the Table of the House on Tuesday, 27<sup>th</sup> November, 2018.

*(Sen. (Prof.) Kamar on 19.2.2019)*

*(Resumption of Debate interrupted on 20.2.2019)*

**The Temporary Speaker** (Sen. Pareno): Sen. M. Kajwang', you had a balance of 17 minutes.

**Sen. M. Kajwang'**: Madam Temporary Speaker, I do not intend to take the 17 minutes because I believe that this is a very important Motion that needs urgent and expedited attention by the Senate.

Let me make it clear that I am speaking to the amendment to the Report rather than to the Motion itself. I must make it clear that I support the Motion, the Report and the findings that were brought and tabled in this House.

Madam Temporary Speaker, yesterday when I rose to object to the amendments, it was on certain basis. One, this Select Committee was given 60 days to determine this matter. It was then given an additional 45 days to conclude its work. After 105 days, on 25<sup>th</sup> November, 2018, six out of nine Members of that Committee adopted a report that indicted certain persons and said they should take responsibility for flooding the market and causing misery to maize farmers across the country.

Madam Temporary Speaker, on 26<sup>th</sup> November, 2018 Sen. Wetangula, my leader in the Coalition, signed and tabled the Report. My concern was that in 105 days, and an inquiry that took the Committee all over the country, particularly in the cereals producing areas, it came with certain recommendations. My worry was: What was the Eureka moment that led the Committee, having tabled the Report in the House, to decide that the persons indicted need to be broadened?

Madam Temporary Speaker, I fear that we have a situation where we are trying to democratize punishment by spreading it to as many people as possible. However, having read the report alongside the appendices that were tabled before this House, some of the fears that I had have been laid bare. The amendment sought not to delete the responsibility of the Cabinet Secretaries for National Treasury and the Ministry of Agriculture and Irrigation, but to add the Inter-Ministerial Taskforce.

Madam Temporary Speaker, the report that we picked from the table did not have the detailed appendices. The question on my mind is this; who is the Inter-Ministerial Committee? The report that we received described the Inter-Ministerial Committee as comprising the Presidency, the Ministry of Agriculture and Irrigation and others. I was left at loss to imagine that we want to assign responsibility for opening the floodgates and the subsequent flooding of maize in the markets to the Presidency, which includes President Uhuru Kenyatta, Deputy President William Ruto and others. That would be spreading responsibility out too thin.

I have since seen the appendix that has the gazette notice of the Inter-Ministerial Committee, which has identified and defined the persons who should be held responsible. The only concern that might be outstanding was on the issue of natural justice. Parliament has gone through moments; for example, there was the Akiwumi Report, where a Member of Parliament (MP), the late Nicholas Biwott – may God rest his soul in peace – went to court and convinced it to expunge his name from a report that had been adopted by Parliament. He did that on the basis that he was not given an opportunity to defend himself. That is the only fear that remains. Did the Committee invite the Inter-Ministerial Committee and give it a chance to defend, represent and state its case?

Madam Temporary Speaker, I do not know whether in these kind of Motions, the opening statement is more important than the closing one. My opening statement was one of opposition; however, my closing statement is one of support, having looked at the documents that the Committee has brought before us.

**Sen. Wetangula:** On a point of information, Madam Temporary Speaker.

**Sen. M. Kajwang’:** Madam Temporary Speaker, I wish to be informed by Sen. Wetangula.

**Sen. Wetangula:** Madam Temporary Speaker, I wish to inform the distinguished Senator for Homa Bay County, who is speaking very eloquently on the matter that, in fact, the Inter-Ministerial Committee proceedings and details were brought to the Committee and tabled by the respective CSs whose Ministries were in the Inter-Ministerial Committees. Therefore, they were adequately represented and validly brought to the Committee.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. M. Kajwang’.

**Sen. M. Kajwang’:** Madam Temporary Speaker, I thank the Vice Chairperson of the Committee for that information.

In conclusion, I support the amendment, the main report and the recommendations that this Committee has brought before us. I urge the House that we need to belabor the point because the maize farmers out there are looking up to us to help them understand who the cartels are. There are some who believe that the cartels sit here with us. I would not want, through technical objections, to appear as if I am a

representative of those cartels. I, therefore, stand with the maize farmers in their misery and plight. I encourage this House to expeditiously deal with these amendments so that we can go back to the main report and return a verdict to the people of Kenya.

**Sen. Mutula Kilonzo Jnr.:** Madam Temporary Speaker, I rise to support the amendments. Communication was not done by the Chairperson that there is another extra bundle of document – about 600 pages long – in the Journals Office that explains how the Inter-Ministerial Committee is being put back into this recommendation.

Madam Temporary Speaker, I have seen these recommendations, but I will only highlight one. The CS for the National Treasury and the CS for the Ministry of Agriculture and Irrigation must take responsibility for the gazette notice which led to the flooding of maize imports, leading to distortion of the local market and disadvantaging the local farmers.

On page 63 of the bundle which supports this report, the Inter-Ministerial Committee made a decision on 14<sup>th</sup> November, 2017. Minute No.1 reads as follows-

“Immediate measures-

(1) The Government should immediately buy 1,143,390 bags of maize at a cost of Kshs3,200 each at the stock being held by millers including to cater for November and December shortfall at a cost of Kshs3,000,658,560, of which the subsidy cost is Kshs1,486,290,000.

(2) The Government should immediately buy 4 million bags of physical maize stocks from Mexico; 1.7 million bags for December and January and 9,800 bags for February and March.

(3) The Government should buy 1.5 million bags of 90 kilograms from local farmers.”

The recommendation talks about flooding of markets with imports. This recommendation was made by the Inter-Ministerial Committee to buy maize, amongst other things, from Mexico.

Therefore, Madam Temporary Speaker, to refuse this amendment is to water down this report. At some point I was wondering how this omission was done, because it would have been a grave omission.

Madam Temporary Speaker, the gazette notice is the precursor to the flooding. I believe that this is a criminal enterprise. Therefore, we must tie, from the beginning, the preparation to commit the crime with the crime itself. The crime was committed when the gazette notice was issued, and it was completed when this Inter-Ministerial Committee imported 4 million bags from Mexico, amongst other things. We must hold them in law, jointly and severally liable.

I beg to support.

**The Senate Minority Leader** (Sen. Orengo): Thank you, Madam Temporary Speaker. I support this amendment, which is borne out by the report. Before I speak to the amendment, I congratulate the Committee because in reality, over the period when this Senate was elected in 2017, we have received various Committee reports. However, this report is exceptional.

I congratulate the Committee for coming up with a report which deals with the problem at hand in a very effective way within the period that they had. In fact, in

supporting the amendment and looking to the future, this Committee must be reconstituted in some shape and form to follow up. This is because the report came out in November last year and after making these recommendations, by this time, there should have been some signs that the Executive or the people responsible are taking some actions with regard to this report.

The amendments are borne out by the report without going to the second volume, which the Senator for Makeni has referred to. However, if this report came at a time when Ministers were sitting in Parliament, we would have, without a doubt, had some resignations. This report is far damning than the report on similar issues that former Sen. (Dr.) Khalwale brought to Parliament.

This report is more damning than the accusation which was made against Minister Kimunya in a Motion which was brought in the National Assembly in the previous Parliament. It is even more damning than the single most exhaustive report that has come to Parliament by way of a commission of inquiry which was established in 1965, and which led to resignation or the firing of several Cabinet Ministers.

It also damning because despite the issues that it raised, the CS for the National Treasury and Planning never appeared before the Committee. He, instead, sent a Chief Administrative Secretary (CAS). This is a matter which if the CS knew dealt with his responsibility under the Constitution, he would have elected to come in person.

Madam Temporary Speaker, if you looked at the minutes of this Report and at the questions; you will see that this Committee worked in a very methodical way. They were preparing questions in advance for the people who were invited to come before it. Some of these questions could not be answered by anybody else except the CSs. For example, there is a question that was directed to one of the CSs, which remained unanswered; and it is captured in the Report.

In answer to the question which was put to him by the Committee with regard to clarity of the gazette giving an open quantum by request of the Ministry of Agriculture and Irrigation, the CS said the Government reached the decision to have subsidized maize due to the high cost of maize in the country caused by the shortage of maize.

The CS was saying that the cost of maize in the country was higher because there was a shortage. However, they elected to pay the local farmers about Kshs2,300 per bag, despite the shortage, but imported maize from Mexico for Kshs4,000. There is no explanation at all to that inquiry, which was made with justification by the Committee. He did not answer satisfactory the question of ordering 4 million bags from Mexico, which has been referred to, as opposed to 1.5 million bags.

There is even the question which makes this Report look like it is from a movie. The Kenya Defence Forces (KDF) have logistical problems moving men and machines to the border to fight Al Shabaab and to quell conflict in Somalia. However, the National Cereals and Produce Board (NCPB) and the Ministry were able to get a Probox vehicle, whose details are given in this Report, which was able to carry 10,000 kilogrammes of maize through Malaba on 17<sup>th</sup> October for delivery to Nairobi. Imagine a Probox saloon! I think KDF should get this Probox to move troops, supplies and equipment to our borders.

Even the very tragic problem we had when terrorists attacked us at Riverside Drive, of just moving equipment we needed; fire equipment, men and women and ambulances. There were about 100 taxis which had to be brought there because they are limited in terms of capacity; yet we had a Probox here which could carry 10,000 kilogrammes of maize. In terms of tonnage that is 1,000 tonnes. I have never seen even a lorry on our roads that can move about 5 tonnes of haulage at any one time.

There is also an important question which is there right from the beginning. The maize crisis that led to the flooding of duty free maize imported to the country was a ploy by both the public and private sector players who wanted to profiteer from distortion of the maize value chain. The Committee gets it right that it was a ploy; however, the reaction from the Executive is that this was a mistake by the Gazette Notices. It was now possible to bring this amount of maize into the country in the circumstance and the way it was brought without questioning the idea that went beyond these Gazette Notices. Those who issued the Gazette Notices must take responsibility.

Madam Temporary Speaker, if you look at the Report and its recommendations, I want to convince Sen. M. Kajwang' that these amendments are in line with the amendments that are proposed in a matrix which is towards the end of the Report. It says that the CS, National Treasury and the CS, Ministry of Agriculture and Irrigation must take responsibility for these Gazette Notices which led to the flooding of maize, leading to distortion of the local market. There is a direct accusation against these two CSs. If you read the Report generally, the Ministry or the Inter-Ministerial Committee also stand accused. The amendments, as far as I am concerned, are in line with this Report.

As I support this amendment, I want to say systems that operate effectively and fight corruption do not fight corruption by having effective prosecutions. In Japan, when you are being prosecuted, you are going to jail because those systems work effectively. But the more important thing they do is they make their systems work. They make it impossible for somebody to do the kind of thing that happened during this maize scandal. It cannot happen! It is impossible to do it, even if you are dealing with more people. If you do it, most probably in China, you will get shot.

The emphasis should be and that is why the CS and other people should stand accused. The most important thing is to ensure that there is no leakage and fraud. That is the best way of fighting corruption. Fighting corruption is not by dragging people to courts. There have been places where people are just shot, hoping you can achieve the consequences.

If you go to the Philippines, the law is very effective; they catch you. If it is a drug problem, lo and behold if you get caught – even for children – the way they treat you is not a joke. We should change the narrative to make sure that these systems work. How does a CS issue this kind of Gazette Notice? I can tell you that the person who crafted this Gazette Notice probably knew what he was doing and its consequences. This is because when it came to importation of milk ingredients, they were very meticulous on that one; they did it properly. There was no way you could short change the system.

However, on this one, they knew that crafting it in a broad way like it was gave opportunities. When that opportunity resulted in a lot of money being made, then they

said they could extend it. They, therefore, had another Gazette Notice issued. The elections were also coming and so they extended it a third time.

Madam Temporary Speaker, I beg to support the amendment. For those who have been found at fault in this Report, this should not be the end of the game. This Committee should be reconstituted. The people implicated should appear before the Committee so that we can have long term solution.

I think the records show that the first place where there is a record of maize being used was in Southern Mexico, 10,000 years ago. Maize came to our continent through the Portuguese in the 16<sup>th</sup> to the 17<sup>th</sup> centuries. If you look at the history of production of maize in this country, production went up after the turn of the 20<sup>th</sup> century. The Colonial Government was pushing for the production of this staple food. There were moments when Kenya was exporting maize even in the colonial days

If you go to the Report which was tabled in Parliament in 1965, it was showing that after the war in 1957, Kenya was exporting some maize. They were driving it so that there would be a staple food available for Kenyans at a stable price and sufficient production, and so on, and so forth.

Madam Temporary Speaker, having gone that far, it is unfortunate that today, as we speak, we still have this problem. It is not just confined to maize, but the same cartels are there in the sugar industry. Some of these companies change every season. In year one, it can be Wanjiru *wa* Reuben when they are importing maize; and when they are importing sugar, the name probably will be Wanjiru *wa* Onyango and so on, and so forth. The way to fight these cartels is not just by prosecution, but by making sure that the systems work and by closing those loopholes.

Madam Temporary Speaker, I beg to support the amendments and commend the Committee again for a work well done.

*(Applause)*

**Sen. Ochillo-Ayacko:** Thank you, Madam Temporary Speaker, for the opportunity to speak on the amendment. The issue of maize and farming is a very important one. This country's economic mainstay is farming and over 80 per cent of Kenyans depend on it; even my constituents and I depend on it. Although it may not be known to many, my county has a section in Kuria sub-county – Kuria West and Kuria East – where maize is their cash crop. In those sub counties as we speak, the price of a bag of maize is Kshs900.

Unfortunately, the NCPB has not been allocated any money to purchase maize from farmers who come from Kuria Sub County. My father, in his days of strength, used to work for Kenya Farmers Association (KFA) as the manager in Kitale. He is now retired at home, and he is also a maize farmer. However, he is unable to dispose of stocks of maize that he has in his farm. In fact, he has sent me a short text message requesting if I could buy a bag of maize from him at Kshs1,500. That is not the cost that is commensurate with the effort and cost that they have used in producing the maize.

Madam Temporary Speaker, maize and sugarcane farming are activities which, when we talk about them, we cry for our beloved people, counties and nation. This is

because they have been exploited by faceless and hidden cartels who continue to exploit our people.

Having said that, I am also a lawyer and I believe in the legal process. There is a cardinal principle in law that states that it is better to allow guilt to escape than to punish innocence. I support this amendment because my able seniors, Sen. Wetangula and Sen. Orendo, have spoken to this topic and are giving us an assurance that what is being done is proper. However, I want us to caution ourselves, because in my earlier life when I was more vigilant and a Member of the other House, I noticed situations where reports that adversely mentioned certain people were challenged in certain fora because such people had not been invited to give their side of the story. This cardinal principle has expression in Article 50(1) of the Constitution of Kenya, which requires that we should hear people more importantly when we are likely to make determinations that may be adverse to them.

The assurance that we have been given by senior counsels is comforting, but we should also be cautious. If we are going to insist that the resolutions that are recommending serious consequences be visited upon these people who did not have opportunity to appear before this Committee, then we should also take the process and the possibility that we may punish the innocent very seriously. We will, therefore, be in breach of the cardinal principle in criminal law that at times it may be better, in the general principle of justice, to let guilt escape than to punish the innocent.

Madam Temporary Speaker, I know that these cartels have done damage to millions of Kenyans, and what they have done to us has impacted negatively in terms of the revenue we collect as a nation. In my very honest opinion, they deserve the harshest punishment that we can find in our Statute law books. However, as we do so and consider ourselves the House of Senate, and people representing the citadel of justice in this country, we must also be very cautious. We must attempt to be fair and ensure that all the processes that might make innocent or people who would have otherwise had explanations be punished, are taken care of so that they are safeguarded.

I conclude by indicating that the amendments are proper, because they are in the spirit of ensuring that whatever or wherever impunity reposes, we pursue it and have to punish it. The amendments intend to ensure that farmers who have been paying taxes, who are self-reliant and self-dependent continue to run their affairs unimpeded as they continue to do so.

Madam Temporary Speaker, we must punish these people but, at the same time, ensure that our processes are good.

I conclude by saying that when I rose on a point of order yesterday, the Senate Majority Leader attempted to interject and say that processes do not matter. I believe that substantive justice also includes processes that are fair and which give opportunity to those against whom punishment may be meted. It is important for us, as a House, to lead by example. It is important for us, as a House seeking justice for our farmers in their large numbers, to ensure that the culprits and the perpetrators of the economic crimes that are visiting our countries are also punished in a fair process that can be defended on earth and in heaven.

I beg to support the amendments and thank the Committee for doing a commendable job. I hope that those who will be tasked with the responsibility of implementing this Report – and that is the Executive – will be able to walk the talk. It is one thing to talk about the fight against corruption, but it is another thing to implement it. I hope His Excellency the President is as serious as he speaks. I hope the people's President is as committed as he says he is; and I believe all us are equally committed.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker allow me to thank you for giving me this opportunity to add my voice to this debate. I want to begin by commending the *ad hoc* Committee that was tasked with this work. They have done a commendable job and it has to go on record. This is a very important Motion on the issue of maize, which is a staple food in Kenya. Being a staple food, you will find that in most households, people eat *ugali*.

Madam Temporary Speaker, this Motion is even speaking to Sustainable Development Goal (SDG) 1 and 2, which seek to eliminate any form of poverty and ensure that there is zero hunger. This Committee did a commendable job. The Committee's findings should not be just left to go like that; they must be taken with a lot of seriousness they deserve. We are here, as a Senate, to represent the counties, all the constituencies in the counties and we must feel the pinch of the farmer.

I am happy about to learn that farmers are being paid, and that almost all of them have been paid. There is need for us to come up with guidelines that will ensure that farmers will not continue to suffer because of lacking markets for their produce, year-in, year-out. This is very discouraging. As a country, we have a duty to defend our farmers. If we do not protect them, who will protect them? They will be helpless.

Madam Temporary Speaker, agriculture is important. That is why the Maputo Declaration resolved that 10 per cent of the national budget should go to agriculture. It is important for us, as a nation, to take the recommendations contained in the Report seriously. It is also commendable that the President declared that all stores should be open, and that farmers should take their produce and be paid for. It is unfortunate---

**The Temporary Speaker** (Sen. Pareno): Order, Senator. We are discussing whether we should allow the amendments that have been proposed or not. It will be good to speak on the amendments as well.

**Sen. (Dr.) Musuruve:** Thank you very much, Madam Temporary Speaker, for the clarification.

As I speak on the amendments, I also support the Motion. That is why, in my view, there is need to ensure that the NCPB is devolved completely so that we can bring to an end the farmers misery, where they plant and have nowhere to take their produce, hence discouraging them.

Concerning the gazette notice, I want to state that it is an irony of the highest order that a gazette notice authorized the importation of maize in July or October, when we had a bumper harvest; and farmers were looking for a market for their produce. There is need to investigate why the Inter-Ministerial Committee did this. There is need also for corruption to be brought to an end. It is also unthinkable that one Wanjiku *wa* Reuben had 800 acres of land in Bungoma, where he planted maize and delivered the produce to the NCPB.

I support all the amendments that were brought forth. The Committee did a commendable job that should actually go on record. Thank you for giving me the opportunity to air my views.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for also giving me a chance to speak and air my voice on this very important Motion on the Report of the *ad hoc* Committee on the maize crisis in Kenya.

From the onset, I want to congratulate the Committee, which I was also a Member, for the work they did. I want also to thank the Office of the Speaker and the Secretariat because of the support we received during this particular time when we were investigating the maize crisis.

This was the first time I felt very sad as one of the children who had been brought up by farmers in this country. We met several farmers who were very frustrated, demotivated and discouraged about farming. Many of them asked us whether we are supposed to encourage agriculture, or whether we just forget about food production and go to other service delivery sectors like Safaricom. This is all because of the frustrations that these farmers have undergone.

I want, from the outset, to say that I support the amendment on the inclusion of the Inter-Ministerial Committee that sat down to agree that there was need to import maize to the country at that particular time. This was an economic crime. Why am I saying so? Because you cannot do a gazette notice that is just open, authorizing the importation of maize without indicating how much maize you need at that particular time; or who is supposed to import or whether there was a budgetary allocation for it.

The gazette notice promoted the flooding that we are experiencing up to today in our NCPB stores. The same gazette notice also overstretched the allocated budget, and that is why we are not able to pay the farmers because a lot of maize was imported into the country. The same open ended gazette notice promoted importation of a lot of maize that was not of good quality, as we were told by Kenya Bureau of Standards (KEBS). It also promoted long queues that caused a lot of problems during delivery of maize to the NCPB stores. When you create such a crisis, you create a gap for corruption. That is why the farmers and the cartels were corrupting their ways into the NCPB stores because there were long queues.

The same open ended gazette notice that caused all these problems also promoted lack of transparency in the payment, because it was not easy to identify the person who delivered the maize. The open ended gazette notice caused lack of transparency in the identification of farmers. When we met with some farmers in Bungoma County and others in Kitale, Trans Nzoia County, they told us that they have been farmers in those counties for more than 30 or 50 years, and no single person in Kitale does not know them. However, they were shocked that the agricultural officers who have been working with them for many years did not know them because of the many traders, millers, private business people and companies who had imported maize. That meant that the genuine farmers from the grain basket regions of Kenya were not being identified. Therefore, the gazette notice was the core cause of the problem that we have today; the lack of payments of maize farmers.

We also realised that in as much as we have a new Constitution in place which devolved agriculture, not much agricultural services have been devolved to date. The NCPB stores are not yet devolved and they are being managed by the national Government. Some of these stores – like the ones in Machakos, Loitoktok and Kajiado town in Kajiado County – are not known by farmers. We have NCPB stores that are possibly owned by private people because farmers are not using them, and they do not even know the people who manage them. Checking of standards of cleanliness in those NCPB stores is a non-issue to the counties because they are not devolved. The national Government, through the Ministry, is still holding the NCPB stores.

We also found out that registration of maize farmers is not devolved. In Bungoma, we heard that a list of farmers who are not known there was taken to Bungoma from the headquarters in Nairobi by the national Government. That happened because counties are not registering their own farmers. The Ministry is still holding on to the registration of farmers. When we went to these counties, we also found out that the delivery, procurement and distribution of fertilisers is still being held by the national Government through the Ministry. The county governments are not mandated to procure the fertilisers. We also found out that the standards of the fertilisers is not checked.

In Nyamira or one of the counties that we visited, we found out that they had fertilisers that had long expired. Nobody cares about the kind of fertilisers that the farmers are using because of corruption. In this particular case, we recommended that the county government be given the mandate over the NCPB management, supervision, registration of farmers and standards of those stores under the Ministry of Health, which is also supposed to be devolved. It is a high time that the NCPB be devolved, because they should be serving those counties. We found out that the NCPB stores are in every county apart from two or three counties. Therefore, the counties should be allowed to run, manage, supervise and get to know the person who is to deliver maize and other grains.

The issue of the extension of the importation period was another careless thought by the ministries concerned and the Inter-Ministerial Committee. They extended the period without considering the fact that it had started raining, and that there were farmers who were harvesting food. Therefore, it is high time that the Ministry gets to know the time when they need to import, and that period should be limited. Importers should also be well regulated; and they should be told the quantity that they are supposed to import.

The other mess that we found during this investigation is the issue of the KeBS. I believe that it is the reason why many Kenyans are suffering from different diseases. This is because the quality of the food that we are consuming is not well examined.

When we visited the border post at Busia, we found only one KeBS officer, who had no single equipment and was just seated. That officer told us that they only do a physical check of the maize; “*Tunaangalia tu magunia ya mahindi.*” He was not even able to explain what they use or what they are supposed to check, yet this is food that is coming to the country and eventually gets into our supermarkets and on our tables.

Therefore, it is high time that this House even scrutinises the work of the KeBS. They should be well-equipped and have enough skilled personnel. They should also have the right machines to determine the quality of food we consume. When we asked them about the quality of the maize in the stores, some of them said, “That is not our work. It is

the work of officers from Public Health to check the NCPB standards.” They do not even know their mandate. This House should find a way of assisting the Ministry of Industry, Trade and Cooperatives to equip the KeBS so that we can have quality food in this country.

The recommendations in this Report should be taken seriously by this House. Agriculture is one of the devolved functions, and we must make sure that it is devolved fully. All the people that have been mentioned in this Report should step aside so that they can allow investigations to take place. They should also be charged because of the suffering they have caused our farmers.

We should also be very serious with both agriculture and livestock keeping. We have farmers who delivered their livestock to the Kenya Meat Commission (KMC) in the last three years, and have never been paid to date. The KMC is allocated a budget but they are not paying for farmers who deliver their animals to be slaughtered there. We are discouraging farmers and yet we talk of food being one of our Big Four Agenda. How can we talk of food being one of our Big Four Agenda items, yet we are not promoting farmers? Our farmers must be taken care of and helped so that they can produce food for this country.

Today, there is so much unemployment. We have many youth who are jobless. If we also discourage farmers who are producing food and supporting our economy, the economy of this country will suffer. I, therefore, urge this House to support this Report and follow up on its implementation.

Madam Temporary Speaker, I beg to support.

**Sen. Olekina:** Madam Temporary Speaker, I will restrict my comments to supporting the Motion of amending the Report in order to expand the scope of responsibility. At first, when I was listening to Senior Counsel Orengo, I was not too sure whether to support or oppose the amendment. Ordinarily, I would oppose anything that is an afterthought in terms of responsibility. But as I specifically look at the Gazette Notice, which I want to refer to, I think the people who ought to take responsibility on this matter extend further even to the Presidency.

I will be seeking direction, because I have looked at the recommendations that were made by the Committee – I believe the distinguished Senators did a good job – and they went ahead and really interrogated this issue. I am sure that my very good friend, *Mzee* Silas Rotich Rono from Kibomet in Kitale, who currently has over 20,000 bags of maize in his store, would be happy to see this issue of maize resolved.

I have looked at the recommendations that have been moved and I was baffled. This is because when I go back and read the Gazette Notice, I think that for the Minister of Treasury to issue it, he must have done so following certain laid out steps or conditions. However, reading the Gazette Notice, I am not sure whether it was just for issuing or for notification; people will have to tell us the difference. I wish the Vice Chairperson was here to notify me on the difference between issuing a Gazette Notice and notifying the public. If I can refer back to this particular Gazette Notice, which we are now blaming for the flooding of our markets, it is not even under the Kenyan laws *per se*. It is under the East African Community Customs Management Act of 2004.

If I can read the Gazette Notice and this Act to go specifically to the exemption part, it says: –

“It is notified for the general information of the public that in pursuit of powers conferred on the Cabinet Secretary under Section 114(2) of the East African Community Customs Management Act of 2004, and in consequence of the declaration by the President and Commander-in-Chief of the Kenya Defence Forces of a national disaster, through Executive Order 1 of 2017, duty shall not be charged for the importation of items set out in the Schedule here into.”

On that Schedule, maize is one of those items. I am, therefore, completely baffled when I look at the recommendations that have been made by this *ad hoc* Committee, that clearly say that the CS of the National Treasury and Planning should take responsibility. It is important for us to look at the Gazette Notice.

In the same annexure of Gazette Notices which have been laid on the Table of this House by the Committee, there is a similar Gazette Notice, which is probably from the Chief Justice. It says:-

“In exercise of the powers conferred by Section 10 of the Community Service Order Act---”

This is specific to Kenya. Therefore, when I look at the Gazette Notice which was published under the directive of the CS, Treasury and Planning, there was a consequence and an Executive order. I am, therefore, not sure who should take responsibility here; should it be the President of the Republic of Kenya?

Madam Temporary Speaker, you may want to give us direction on whether the Committee should have asked the President to appear before it and ask him under what circumstances he issued Executive Order No.1 of 2017. This is because Mr. Rotich proceeded by notifying the general public that there was the East African Community Customs Management Act, which provides that you can go ahead and open a window when there is a crisis. At that time, the President of the Republic of Kenya under Executive Order No.1 of 2017, went ahead and said that there was a crisis in Kenya, and that we had to solve the problem.

I am not sure whether we should be blaming the CS for the National Treasury and Planning, who went ahead and notified the public, having looked at the East African Community Customs Management Act. I am sure that the Co-Chair of the *ad hoc* Committee knows very well that those to deal with on this issue of operationalizing of the East African Community Customs Management Act are all Ministers of the East African Community (EAC). So, they are guided by certain legislation.

I fully support the amendments to this Report. However, I would like to ask a very simple question, which this House could resolve, on the reconstitution of the Committee or maybe expansion of its mandate. I would like to know whether the President could be called to state under what circumstances he issued Executive Order No.1 of 2017.

The issues to deal with here are broad. One of the things of concern is the laxity in implementing the rule of law at the border point. If the CS notified the general public that people could import X amount of maize into this country because there was a shortage, who allowed for the over importation of maize which the CS had not authorised? That is

the question I want us to ask after we have determined the issue of whether or not to pass the amendments, because those are the people who should be held culpable.

There are amendments calling for the Inter-Ministerial Committee on Food and Security to take full responsibility. They are the ones to give us an answer as to why Mr. Silas in Kitale is not able to sell his maize to anybody because of the flooding of the market. If they are the ones who will respond to the question as to why they allowed the over importation, then I will support this Report by all means. When it comes to holding only the CS for the national Treasury responsible, yet the gazette notice is very clear under what circumstances the general public should be notified, then we will be missing the point.

Madam Temporary Speaker, we have crises in this country. We have a lot of issues that affect the farmers. I will be missing the point if I do not mention the issue of sugarcane farmers. Right now in Narok County, there is group of people protesting because Trans Mara Sugar Company has decided to drop the price of sugarcane because the market is flooded. The reason is that they can no longer compete with the illegally imported sugar, which is actually smuggled. These are issues that we must prosecute. We need to carry extensive due diligence, and those people who should carry their crosses should do so.

Sometimes I get disappointed when we go out to interrogate matters. We take time to read and look at issues but at the end, we come back and throw out everything that we have done. This time round, I have to commend the Committee. However, I am still wondering; why is it that it took them so long to realise that the responsibility was not with the CS for the national Treasury? We need to look into that so that we can be fair. If something is wrong, you should say it is wrong; and if it is good, you should say so. The thing here is that the committee has a perfect opportunity to deal with the cartels. There are various issues that we will discuss after looking at the Report. I have seen other gazette notices by the CS for the national Treasury.

Last year, we were dealing with the issue of wheat and I was concerned, as a Senator who comes from one of the bread baskets of this nation, particularly when it comes to wheat production in Narok. If the millers do not mop all the local wheat, then wheat farmers will suffer. In that gazette notice, it was very clear because it listed every single miller and stated the maximum amount to be imported.

I believe that when we will be looking at substantive issues in the Report, we will clearly see that miller A was told they can import up to X amount; and so on, and so forth. If I were the judge then, for every amount of maize imported over the allowed threshold, I would issue the maximum penalty. This is because the amount of pain that our farmers have gone through in this country cannot be repaid by mere payment of taxes to the Kenya Revenue Authority (KRA).

Therefore, Madam Temporary Speaker, I fully support these amendments. I hope that you will give us a way forward in terms of looking at the initial gazette notice and who should be held fully responsible.

With these few remarks, I beg to support.

**The Temporary Speaker** (Sen. Pareno): Thank you for those submissions. You have consistently asked that I give a way forward. I think it will be stretching it too far to

call the President of this Republic to appear before a committee of the House. We have sufficient agencies and mechanisms in this country. In fact, what we should be asking him to do is to help us implement the recommendations that the Committee came up with.

Let us listen to Sen. (Dr.) Milgo.

**Sen. (Dr.) Milgo:** Madam Temporary Speaker, I thank you for saying what I wanted to say. I wanted to inform the distinguished Senator for Narok County that we should never call our President to appear before a committee of this House. I am sure the President plays an Executive role, and there are implementers who are supposed to undertake particular activities.

I also take this time to add my voice to this important Motion on maize. First of all, I thank Members of the *ad hoc* Committee for the great job that they did.

Madam Temporary Speaker, all these issues came as a result of Executive Order No.1 of 2017 that led to the exemption of white and yellow maize from taxation. While this Executive Order was issued by the Head of State, there were officers in the line Ministries who were supposed to oversee its implementation. They were to put in place a proper framework which could have ensured there was some limitation on the importation of maize.

It is unfortunate that the Inter-Ministerial Committee on Food Security did not put into place mechanisms to ensure that they regulated the quotas that were supposed to be imported. They did not adhere to the restrictions in terms of timelines and ensuring that the maize which was imported was of high quality. The major challenge came as a result of their failure to play their roles properly. It is the role of the Government to feed its citizens. However, based on the unregulated imports, a lot of maize came into this country which affected our farmers in terms of them accessing markets for their produce.

In addition to that, there was a delay in opening up of the NCPB stores for our farmers to take their produce, and their price was not competitive enough. It was very low and not commensurate to the input of farmers. Currently, our farmers are greatly demoralized and we are fearing this country might continue importing food at high prices.

Madam Temporary Speaker, it is quite unfortunate that this inter-Ministerial Committee was not able to control the amount of maize that was imported. Initially we were to import 10 million bags of maize, but we ended up importing an extra 4.5 million bags. By so doing, this led to wastage of meagre resources we have in this country. This country is in dire need of resources and it is unfortunate that this mess ended up affecting the KRA. This is because we lost over Kshs13 billion in terms of taxes that would have been paid to the KRA. Additionally, the maize that was imported was substandard. The KeBS had reported that there was a lot of maize in the stores which was substandard and contained aflatoxins; they gave a figure of 63.3 percent.

Given all these scenarios, what is happening in this country? Some time back we were talking about imported sugar which contained mercury and peanut butter having aflatoxins. My sons tell me that all these substances that are said to be in these foods are carcinogenic. Therefore, while we are declaring Universal Health Care (UHC), we may

never be able to achieve it because very many people will suffer from cancer in the near future. We have very many cases of cancer in this country.

It is unfortunate that it took the *ad hoc* Committee a lot of time to unearth this mess. To me, the NCPB is no longer a regulatory body. It used to regulate, control and market all cereals, including maize, but it failed miserably. We are told that they even paid people who are not farmers. This institution is being used by people who want to enrich themselves. It is not being controlled and nobody knows how much they are paid.

In this case, it suffers as a result of under-funding as well as mismanagement and corruption. It has many court cases to deal with and it has been reduced to a shell; that is why it cannot store farmers' maize. It has failed in its core functions.

Madam Temporary Speaker, I support the amendments as they are. It is time we recommended a reorganization of the NCPB to be in line with the 2010 Constitution. If we do not do so, this country will continue relying on relief food.

Madam Temporary Speaker, whereas agriculture has been fully devolved as per the Maputo Declaration of 2003 by the African Union (AU) countries, to which Kenya is a signatory, all countries accept that 10 per cent of the GDP should go to agriculture. However, it is unfortunate that in our country, we only allocate 4 per cent of our GDP to agriculture. That is the reason when the farmers deliver their produce to the NCPB, they are not paid immediately.

Agriculture is supposed to be a function of the county and, therefore, we need to devolve more resources to it. It is absurd to note that county governments do not understand what is happening with agriculture at the grassroots level. In any case, the control of food is still within the NCPB. Therefore, without ensuring that this function is fully devolved, food security will continue to be a nightmare in this country.

Madam Temporary Speaker, it is unfortunate that when the national Government promised to give farmers subsidized fertilizers, nobody took any interest to identify which regions required what type of fertilizers. There are areas in this country with very acidic soils. Therefore, if you put acidic fertilizers in these lands, there will be no produce. Farmers in such areas will suffer psychological torture because they will not produce enough food for themselves and for the country. Production costs are so high because these fertilizers are very expensive and cannot be found easily. Some time back, it was reported that these fertilizers used to land on some unscrupulous traders, who would sell it exorbitantly to farmers. Sometimes, they will repackage it so that they can reap maximum profit. As the Senate, we are supposed to take care of counties and speak to the issues affecting them. We do not want to continue relying on relief food to feed our people.

Madam Temporary Speaker, this particular case should be followed up to ensure that there is implementation. The reason we were really advocating for an Implementation Committee the other time is because of many other *ad-hoc* committees that have been formed and to date, we do not know the fate of whatever was discussed.

I remember one such case which concerned tea farming. My area is a tea growing zone and the challenges affecting tea are yet to be solved. The other time I said that tea prices are dwindling each year. In any case, our tea is used elsewhere as a raw material. It

is high time that the people concerned become more innovative and looked for better ways to manage not only the NCPB, but to assist all the farmers.

A few minutes ago, we were debating the issue where university graduates will be jailed because of non-payment of their Higher Education Loans Board (HELB) loans. There was a time when the slogan was to encourage them to take up agriculture as a business. However, no youth would ever dare take agriculture as a business. This is, first of all, due to the lack of capital; and even after getting capital through whichever crooked means, at the end of it all, it will end up on the rocks. You realise that farmers in the North Rift are being paid slowly for their produce to date; and they have suffered for long without payment. This might lead to a delay in preparation of those farms as well as in planting, which will affect the next cycle.

It is very unfortunate that those farmers that produce large quantities of maize are being subjected to the issue of supplying only 400 bags. I know Kitale, because I stayed there for many years; and I knew many farmers who would produce even over 4,000 bags of maize. When we go to the extent of actually limiting how many bags the actual farmers can supply, we are discouraging them from producing.

Madam Temporary Speaker, Sir, the people concerned should to devise better methodologies of identifying the actual farmers which, in any case, is not very hard. I come from Bomet County, where if you want to purchase fertilizer for your tea farming, they send an agricultural extension officer to come and ascertain the acreage of your tea farm. In any case, what is the role of these technical officers in the NCPB? Their work is to identify genuine farmers so that they are assisted to produce and find a market for their produce.

I support the amendments that have been proposed. It is high time that this country, because food and nutrition is one of the Big Four Agenda--- I do not know whether another committee will be formed to ensure that we get the actual solutions which will ensure that, in the future, we will be able to produce food. I am sure that if farmers are supported in this country, we may not even import food. We are supposed to be selling food. There was a time when we were forced to import milk in powder form. When people sat and looked at the issue of milk, eventually this country is now exporting milk elsewhere because milk farmers are now being assisted. It is my prayer that this report is taken into consideration so that the resolutions are implemented to the letter.

Thank you for giving me the chance.

**Sen. (Rev.) Waqo:** Madam Temporary Speaker, as I begin, I want to congratulate the Senate *ad hoc* Committee on the Maize Crisis in Kenya because of a job well done. I sit in the Senate Committee on Agriculture, Livestock and Fisheries, where I have also interacted a bit with this Committee and seen some of the things that they have done. I have also interacted with the farmers at some stage.

I have gone through the Report and realised the mess that we are in, as Kenyans. We always talk about different forms of corruption and the mess we are in, as Ministries, especially on the National Youth Service (NYS). We have made a lot of noise and formed *ad hoc* committees, which have come up with recommendations. My prayer at this time is that those recommendations will be implemented.

As I was going through the report, I felt sad that we have destroyed our own nation and resources with our poor leadership and non-commitment. As we are aware, sugarcane farmers have gone through a lot of challenges. Yesterday in the Senate Committee on Agriculture, Livestock and Fisheries, we met a team of petitioners on tea, coffee and macadamia, and they shared with us the suffering and frustrations that they have gone through.

Madam Temporary Speaker, if we cannot take any action today, as a nation; and if we cannot be firm and take radical action, as a Government, then we are going nowhere. We have destroyed all that God gave us. Kenya is a very beautiful country; Kenyans are very hardworking, creative and innovative, but we have destroyed the gift that God gave us with our own hands and poor leadership.

Historically, farmers were supported by the Government in the production processes through provision of inputs from the Kenya Farmers Association (KFA), the Agricultural Finance Corporation (AFC) and the NCPB. However today, our farmers have no support at all. We have cartels everywhere and we keep on talking about cartels, yet the cartels we are talking about are not far from us.

Most of them are in the offices that we have in this city. We know them by their names, but unfortunately, they cannot be touched. In fact, if we are serious with what we are doing, I wonder why some officers are still sitting in their offices today, yet this Report has revealed a lot of mess that we are in, as a nation.

As I was going through the report, I saw that most of the genuine farmers have not been paid for the deliveries they made to the NCPB even by the time this Report was compiled. One of things that the Report brought out is that the money allocated to pay maize farmers was diverted to pay traders, brokers and ghost farmers, occasioning the delay of payment to genuine farmers who had already delivered their produce.

We keep on talking about ghost suppliers, farmers and cartels, as I have said earlier. However, how long will the leaders and hon. Members keep on talking about these ghost suppliers, farmers and cartels?

One of the things in the report that touched me is where the Committee stated that Kshs4.5 billion was paid to only 146 individuals, with 20 out of them receiving Kshs2.1 billion. One of the glaring cases out of this is a family comprised of a mother, two daughters and a son, who from the NCPB records, supplied maize worth Kshs745 million. It seems their family was an expert of these corrupt deals. You remember the Ngirici family in the NYS scandal? I believe that today, they are seated somewhere enjoying their resources.

**The Temporary Speaker** (Sen.) Pareno: For the record, the name was Ngirita and not Ngirici; Ngirici is the Chair of Kenya Women Parliamentary Association (KEWOPA).

**Sen. (Rev.) Waqo:** That name is well-known to me. I apologize for that; it is the Ngirita family and the mess they did in supplying 'air' and receiving a lot of money. As a nation, we have lost the direction. If one member of a family is corrupt, the rest can try to help him or her. However, if the entire family is in it, then what can we say as citizens of this country?

It is time for Kenyans to wake up and say no to what is happening in our nation. Women are the most affected. In this particular case that I have mentioned, a woman is involved. However, I believe there are women of integrity who can stand for this nation and say no to what is happening.

Madam Temporary Speaker, we can clearly see in the Report that the importation of duty free maize in 2017 was shrouded in mystery, as each Government agency which appeared before the Committee gave conflicting statements and figures. We have people who are not committed to the services that they give to the common *mwananchi*. I know that importation of different crops is necessary, but we need policies to guide our nation. As we import, we should not make our local products and farmers to suffer at the expense of the rich people – who have the potential to import different things into the country – and flood our markets with unhealthy products.

Madam Temporary Speaker, as I went through the report, I realized that our farmers have gone through a lot of frustrations. We all know very well that farming is not easy, and that is why we do not have many young people who are looking at it as an area of interest. Climate change has affected the products and most of the time, the prolonged drought has affected farmers. To make the matters worse, we have seen in the report that poor quality seeds have been availed to the farmers.

The people who have supplied these poor quality seeds do not care about the end product. This is because they have received their millions, stay in the city and eat what is good for them, but our poor farmers have been supplied with poor quality seeds. At the end of the day, it has affected their harvest negatively. When we have people who are not faithful in the offices – who are there just to exploit others – we are not progressing well as a nation. It is high time for us, as the Senate, to stand up and be the voice of the voiceless.

Madam Temporary Speaker, we have seen inefficient fertilizers being supplied. We know very well that the produce, at the end of the day, depends on the fertilizer, yet you supply what cannot even help the farmers. I think we are asking God to curse our nation.

As I said, corruption is evident in the Report. Once again, I read somewhere about corruption at the weigh bridges and the NCPB depots with regard to quality and quantity. During the 2017/2018 crop season, it was established by the Ethics and Anti-Corruption Commission (EACC) that suppliers and traders who were not farmers were facilitated by the NCPB officials to supply maize in large quantities using fake vetting forms. If those officers are still in office, why should we be even discussing this Report? Those officers need to be somewhere until they are cleared and we have taken the necessary action against them.

Madam Temporary Speaker, as I said earlier, we have destroyed our nation and frustrated our own people, who are very creative and innovative. Today, a good number of farmers cannot pay school fees for their children; they cannot even buy shoes for themselves. Both the husband and the wife suffer in the farm, yet we have people who have used their names and enriched themselves. It is high time for us, as a nation, to say no to corruption and act.

Madam Temporary Speaker, the Report says that the Committee received evidence that the NCPB silos are poorly maintained and cannot hold maize for more than six months. I am sure that within six months, no farmer can even go through the process that has been put there and sell their crop. Therefore, even before they receive their money, their product goes to waste. The Government has invested a lot of money in this particular Ministry. Therefore, the recommendations that this Committee has put forward should be implemented as soon as possible.

As I conclude, this honourable House should recommend that if there are farmers who have not received their payments, they should be paid with immediate effect. If there are farmers who have their produce in their stores, the Government should--- Of course, the President has already ordered, but more needs to be done because we have farmers who have a lot of maize in their stores, and they do not know what to do with it. The review of The NCPB Act should also be put into consideration and a database of farmers has to be developed as soon as possible.

Madam Temporary Speaker, with those few remarks, I fully support the amendments and the implementation of the Report. Officers who have put the nation in this mess must be dealt with as soon as possible.

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. Dullo.

**Sen. Dullo:** Thank you, Madam Temporary Speaker; Pursuant to Standing Order 61(3), I request that you defer putting of the question to a later date.

**The Temporary Speaker** (Sen. Pareno): You notice that I gave so much time for each Member who was contributing to this Report. This is because the maize issue is at the heart of this nation. Kenyans deserve an answer. The farmers are waiting to hear what the Senate will pronounce itself on this one.

This being a matter that touches on counties, it is true that we cannot proceed, because there is no quorum for that vote. Therefore, putting of the question this matter is deferred.

*(Putting of the question deferred)*

Next Order.

## MOTION

### CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE WAREHOUSE RECEIPTS SYSTEM BILL (SENATE BILLS NO. 10 OF 2017)

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. Dullo.

**Sen. Dullo:** Thank you, Madam Temporary Speaker. I beg to move the following Motion:

THAT, the Amendments by the National Assembly to the Warehouse Receipts System Bill (Senate Bills No. 10 of 2017) be now considered.

I believe this is fairly straightforward Motion because it concerns amendments that came from the National Assembly. I hope that the Bill will be forwarded to the relevant Committee of the House. I also believe that when it comes to the Committee of the Whole, hon. Members will contribute effectively to it so that we can have the Bill assented to, as it was our Bill.

**The Temporary Speaker** (Sen. Pareno): Who is your Seconder?

**Sen. (Dr.) Milgo:** Thank you, Madam Temporary Speaker. I second.

*(Question proposed)*

**The Temporary Speaker** (Sen. Pareno): Noting that this matter has already been handled by this House, I therefore, proceed to put the question.

*(Question put and agreed to)*

### MOTIONS

#### REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS' INFRASTRUCTURE PROJECTS

**The Temporary Speaker** (Sen. Pareno): Where is the Chairperson of the Standing Committee on Finance and Budget?

The Motion is deferred because the Mover is not there.

*(Motion deferred)*

Next Order.

#### CREATION OF DISABILITY INCLUSIVE SCHOOL CLUBS IN ALL PUBLIC SCHOOLS

**The Temporary Speaker** (Sen. Pareno): Proceed, Sen. (Dr.) Musuruve.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker. I beg to move-

THAT, WHEREAS Article 19 of the Convention on the Rights of Persons with Disabilities(CRPD) affirms the equal right of all persons with disabilities to live in a community, with Choices equal to others, equal access to services and facilities that are responsive to their needs;

AWARE THAT societal perception of disability is negative, mainly due to lack of Socialization and integration during the formative years;

COGNIZANT THAT participation in school clubs provides important life skills that Prepare children holistically for their future and

plays a major role in transforming Students' lives as they transit to various professions in adulthood;

CONCERNED THAT no policy exists addressing inclusivity in school clubs for persons with disability in the public school system;

NOW THEREFORE the Senate calls upon the coordinated effort of the National Government through the Ministry of Education, and the County Governments through the Council of Governors to develop policy that would ensure inclusiveness of special needs learners in school clubs in public schools beginning at the Early Childhood Development (ECD) level up to and including Secondary School level.

Madam Temporary Speaker, when I was thinking of this Motion, I was looking at the role that education plays in an education system. Education is an ongoing process and it helps us impart skills, knowledge, right perceptions and attitudes to learners. In a school environment, the school does this through many ways. School clubs have a big role to play in the education sector. It is in the school clubs that it is possible to inculcate the right attitudes you want in our learners and the right perception. This is so that by the time our learners transit out of school, they have the right mind, they are all round and they are able to drive our nation politically, socially and economically to the level that is desirable.

In a school environment, you will find that schools have different clubs like Chinese Club, Engineering Club, Leadership Club, Home Science Clubs *et cetera*. The essence of these clubs is to ensure that learners have a feel of what it is like to be in the outside world. Clubs help to prepare our learners so that they are all round. The essence of education is to come up with an all-round person.

Learning takes place in a school environment. Learning that takes place in the school environment helps learners to acquire the right skills, attitudes and mind that will help the nation later on. School clubs are, therefore, possible ways in which schools can help the learners get the right perspective.

When you look at the issue of disability, most of the time people talk about inclusivity and awareness. There are so many issues surrounding the issue of disability, lack of awareness *et cetera*. When you are talking of inclusivity of Persons with Disabilities (PwDs), it will be good for it to start in a school environment.

When you talk of inclusion of PwDs, it will be good for it to start in a school environment. If learners in all public schools are exposed to issues of disability and what it is like to be disabled, they will have the right mind and perspective of PwDs. To change learners or to impart the right perspective, we have to start doing so when they are young. The United Nations (UN) convention on the rights of the persons with disability says that a child is any human being below 18 years. When we impart the right information in our children at an early age, it will be possible for them to include PwDs when they transit to the world of work and become managers, because they will have the right perspective of what it is like to be disabled.

School clubs are important avenues of making learners know that disability is not inability, and that it is not contagious. They will also know that one can make economic impact in the society even with a disability. When schools train children at an early age

about issues of disability and inclusion, we will not talk about lack of inclusivity or access to public places, because schools will have already groomed the right managers, employers and human resources persons with the ability to include and embrace PwDs.

Societal perception on disability is overwhelmingly negative but this negative perception can be changed in the school system during the formative years. It is in the formative years that the schools train students how to go about life as well as the leadership skills. The society has a negative perception on disabilities. You will, at times, find people with disabilities isolated such that the deaf will have their own church and the blind people are left to do their own things, yet inclusion should ensure that there is no barrier.

The disabled should be part of the society and part of what is happening in the society. They should also be part of the development process that is going on in the society. This is a perception that can be rectified in school for the learners to know that they can include PwDs in all ways when exiting school. They should also know that mingling with someone with a disability does not mean that they will be disabled, and that having an employee who has disability does not mean that he cannot work. I had the opportunity of---

**The Temporary Speaker** (Sen. Pareno): Order, Senator! Sen. (Dr.) Musuruve, you will have a balance of 12 minutes when this matter comes in the Order Paper.

### ADJOURNMENT

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to adjourn the Business of the Senate. The Senate, therefore, stands adjourned to Tuesday, 26<sup>th</sup> February, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.