

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 28th March, 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

STATE OF THE NATION ADDRESS TO
PARLIAMENT BY H. E THE PRESIDENT

The Speaker (Hon. Lusaka): Hon. Senators, as you may be aware, Article 132(1)(b) of the Constitution and Standing Order No. 22(1) of the Senate Standing Orders requires the President to address a Special Sitting of Parliament once every year and at any other time.

By a letter referenced SH/5/VOL2/09 of 7th March, 2019 and addressed to the Clerks of Parliament, the Office of the President requested to have the Presidential Address to Parliament scheduled for Thursday, 4th April, 2019.

The Sitting has subsequently been gazetted *vide* Gazette Notice No. 2921 dated 26th March, 2019.

Hon. Senators, this is, therefore, to inform you that a Special Sitting of Parliament will be held on Thursday, 4th April, 2019 at 2.30 pm, in the National Assembly Chamber.

Hon. Senators, this is an important occasion in the calendar of Parliament that provides an opportunity for H.E the President to deliver the State of the Nation Address and to address the Legislature and the people of Kenya on critical matters concerning the country. I, therefore, urge you to attend the Special Sitting.

Hon. Senators, due to limited sitting space, Senators and Members of the National Assembly will be at liberty to invite one guest each for the occasion. In this regard, you are hereby requested to provide the names of such guests to facilitate the preparation of formal invitation cards. The names should be submitted to the Office of the Clerk by Friday, 29th March, 2019.

Hon. Senators, the Special Sitting has also necessitated a re-arrangement of parking slots. Consequently, the current Senators' parking area here at the Main Parliament Buildings will not be available for parking by Senators on Thursday, 4th April,

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2019. Alternative parking arrangements within the precincts of Parliament are being made, and will be communicated to Senators before the Special Sitting.

I thank you.

(Loud consultations)

Order, Senators!

(Sen. Cherargei stood up in his place)

Sen. Cherargei, can you find a seat; otherwise you will stand throughout?

MESSAGES FROM THE NATIONAL ASSEMBLY

PASSAGE, WITH AMENDMENTS, OF THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 7 OF 2017)

The Speaker (Hon. Lusaka): Hon. Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage of the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017)-

“PURSUANT to the provisions of Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) was passed by the Senate on Thursday, 21st June, 2018 with amendments and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly passed the said Bill on Tuesday, 26th March, 2019 with further amendments attached herewith;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Hon. Senators, Article 112 (1) (b) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

Hon. Senators, in this regard, I direct the Standing Committee on Devolution and Intergovernmental Relations to deliberate on the National Assembly amendments and report to the Senate. Further, pursuant to Standing Order 159(1) of the Senate Standing Orders, I direct that the National Assembly amendments to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be circulated to all Senators and be listed in the Order Paper for consideration on Wednesday, 3rd April, 2019.

I thank you.

PASSAGE OF THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILLS NO. 11 OF 2019)

The Speaker (Hon. Lusaka): Hon. Senators, there is also another Message from the National Assembly on the passage of the Division of Revenue Bill (National Assembly Bill No. 11 of 2019).

Hon. Senators, I wish to report to the Senate that Pursuant to Standing Order 41(3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage of the Division of Revenue Bill (National Assembly Bill No. 11 of 2019).

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

WHEREAS, the Division of Revenue Bill (National Assembly Bill No. 11 of 2019) was published vide the Kenya Gazette Supplement No.18 of 6th March, 2019 to provide for the equitable division of revenue raised nationally between the National and county governments in the 2019/2020 Financial Year;

WHEREAS, on 21st and 26th March 2019, the National Assembly considered and passed the said Bill without amendments in the form attached hereon;

NOW THEREFORE, in accordance with the provision of Article 110(4) of the Constitution and Standing Order 41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.

Hon. Senators, Standing Order No.157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.139.

I, therefore, direct that the Division of Revenue Bill (National Assembly Bill No. 11 of 2019) be read a first time on Tuesday, 2nd April, 2019.

I thank you.

Next Order.

PAPERS LAID

REPORT ON THE TEA BILL
(SENATE BILLS NO. 36 OF 2018)

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries, I beg to lay the following Paper on the Table of the Senate today, Thursday, 28th March, 2019:

Report of the Standing Committee on Agriculture, Livestock and Fisheries on its consideration of the Tea Bill (Senate Bills No. 36 of 2018).

(Sen. Murkomen laid the document on the Table)

NOTICE OF MOTION

Sen. (Dr.) Ali: Mr. Speaker, Sir, I beg to give Notice of the following Motion today, Thursday, 28th March, 2019;

WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES

THAT, AWARE THAT Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the Government has lost Kshs7.2 billion through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six months waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are, therefore, burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the Government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

- (1) institutes a six-month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six-month period; and,
- (2) embarks on a 45 days sensitization exercise preceding the waiver, not later than 90 days after the passage of this Motion.

Thank you.

STATEMENTS

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 2ND APRIL, 2019

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, pursuant to Standing Order No.52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 2nd April, 2019.

On Tuesday, 2nd April, 2019, the Senate Business Committee (SBC) will meet to schedule the business of the Senate for the week. Subject to further directions by the SBC, the Senate will, on Tuesday, 2nd April, 2019, consider Bills scheduled for Second Reading and those at the Committee of the Whole. The Senate will also continue with consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 3rd April, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the Senate Business Committee (SBC).

Hon. Senators, there are 13 Bills due for Second Reading and 19 Bills at the Committee of the Whole Stage.

In this Session, we have done well so far in terms of Senate Business, and I appeal to you to maintain the tempo.

Hon. Senators, let me take this opportunity to remind Standing Committees that petitions hold a very central role in our governance as they avail a mechanism in the House for the public to exercise a right granted in Articles 37 and 119 of the Constitution. I, therefore, once again, urge committees to deliberate on them with the seriousness they certainly deserve. I note that a big number of petitions are still pending before various committees.

Lastly, hon. Senators, and as the Speaker has confided, pursuant to Article 132 (1) (b) of the Constitution of Kenya, the President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces is scheduled to address a Special Sitting of Parliament on Thursday, 4th April, 2019 at 2:30 p.m. In this regard, the Senate Business will not schedule regular business on that day.

Mr. Speaker, Sir, I thank you and hereby lay the Statement on the Table of the Senate.

(Sen. Murkomen laid the documents on the Table)

PROPER CONSTITUTION OF NAIROBI
CITY COUNTY GOVERNMENT

Sen. Sakaja: Thank you very much, Mr. Speaker, Sir. Pursuant to Standing Order 48 (1), I rise to seek a Statement from the Chairperson of the Standing Committee on Devolution and Intergovernmental Relations on the proper constitution of Nairobi City County Government.

By way of introduction, the Constitution in Article 179 (1) and (2) states that the Executive authority of a county is vested in and exercised by a county executive committee composed of a governor, deputy governor and members appointed by the governor. It is unfortunate to note that the County Executive Committee of Nairobi County has been operating without being properly constituted as per the Constitution. It has been operating without a deputy governor for the last 15 months as well as County Executive Committees (CECs). There is a ruling that was given by the Supreme Court on this, where they said that it is constitutionally inconceivable to have a vacuum in the office of a deputy governor until the next election is held.

The court advised that such nominees must be given 14 days; the blatant ignoring and undermining the role of a deputy governor sets a dangerous precedent to county governments and is a threat to the spirit of devolution.

In the Statement, the Committee should-

(1) Explain why the County Executive has been operating without a deputy governor for the last 15 months in contravention of Article 179 (1) (2) of the Constitution and state measures that have been put in place to address this matter.

(2) The Committee must explain why the County Government has been operating without the required number of county executive committee members and put measures in place to correct this situation.

(3) To explain why the County Governor has failed to adhere to the ruling of the Supreme Court, which advised that governors should nominate fresh nominees within 14 days to replace the deputies who resign, die in office or are impeached.

(4) Explain why Nairobi City County Assembly has been operating without a substantive speaker and how soon this matter will be cleared.

Mr. Speaker, Sir, kindly, I would like to ask that you impress upon the Committee because this is not the first time that we have raised this issue. The County Government is not properly constituted and this has led to lack of proper service delivery to the people of Nairobi. If the Senate cannot pronounce itself on this matter, I do not know what matter the Senate can pronounce itself on and be respected.

Thank you.

The Speaker (Hon. Lusaka): I have tasked the Chairperson, Committee on Devolution and Intergovernmental Relations because it is actually in breach of the Constitution. So, your committee must move in very fast because this is going to set a bad precedence for other counties. I ask you to make sure that you provide us with a report within the next two weeks.

Senate Leader of Majority, it seems you want to say something.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I want to agree with Sen. Sakaja that this is a very important issue and we do not want the precedence of Nairobi to be borrowed in the 46 counties that have not done the same especially on the question of the presence of the deputy governor.

The Bill that you read; the communication from the National Assembly was passed by this House to concretize the provisions of the Supreme Court and provide the procedure for replacement of a deputy governor. It is incumbent also upon us to expedite that law so that the gap is not there. There is a bigger question; is there a number in law?

I hope the Chairperson is listening. Can we by law amend the relevant sections of the County Government Act to make it mandatory that there is a certain number within which a county government cannot operate without a certain number of county executive officers or chief executive officers and for what kind of a period, so that then we run a more accountable and open governance?

I understand that for Nairobi, there are many concerns around why those vacancies are there, some people left and others might have been sacked due to corruption. These reasons could be genuine, but when it comes to replacements, we must have a legal framework. It is not just Nairobi. When the Committee comes back, they should also come back with suggestions on what legal amendments we need to put in place, perhaps to make it better for all county governments to operate legally.

Sen. Malalah: Mr. Speaker, Sir, I want to join my brother, the Leader of Majority and the Nairobi Senator in emphasizing that this is a serious matter which needs our attention. What we should start interrogating first, even before we start looking at the legal framework, is the capacity of the governors that we have.

I want to state here that I reside in Nairobi from Monday to Friday and I have very serious issues to deal with the Governor of Nairobi in the manner he governs this City.

Therefore, I would like the Committee to go further and look into ways in which this Capital City is being governed. This calls for a constitutional audit and even a deeper interrogation on the quality of governors we are going to elect. We have seen governors who have fake degrees, which are being accommodated by Independent Electoral and Boundaries Commission (IEBC) because IEBC has no database to ascertain whether these degrees are genuine or not.

The Speaker (Hon. Lusaka): Hon. Senator, try to stick to the issue at hand. You seem to be bringing in other issues that are not relevant.

Sen. Malalah: Mr. Speaker, Sir, the situation of lacking a deputy governor, a speaker and a number of CECs in Nairobi is a result of poor governance which has been caused by lack of experience and enough academic credentials to lead this---

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

Sen. Ochillo-Ayacko: Thank you, Mr. Speaker, Sir, I am alarmed that my very good friend, Sen. Malalah has indicated that there is a governor without a degree. We are supposed to do oversight, would I be in order to ask Sen. Malalah to name this governor, so that we can deal with this governor perpendicularly?

(Laughter)

The Speaker (Hon. Lusaka): Sen. Malalah, could you substantiate your allegations?

Sen. Malalah: Mr. Speaker, Sir, the safe way to go about it is by carrying out an audit of governors who have fake degrees. The IEBC has got no capacity to ascertain the original degrees and fake ones. As we move forward to---

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

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I would like you to rule Sen. Malalah out of order. We are discussing a specific situation of Nairobi, governance and filling positions in Nairobi City County government, which in my honest opinion, in some of the things we have suggested, it is not imperative in law to do certain things but it is good in governance.

The Governor of Nairobi City County is being discussed. Is he in order to insinuate that the Governor of Nairobi City County does not have a degree, when I know Gov. Sonko posted a picture when he was in class at the Kenya Methodist University (KMU)? It is just like another picture I have seen today, of a person hiking a train in Germany to indicate that he went to school.

Is he in order?

Sen. Sakaja: On a point of order, Mr. Speaker, Sir. I have raised very substantive issues about constitutional provisions on the constitution of Nairobi City County in terms of the dockets. Is it in order that we are now being side tracked to a different conversation? I do not want us to talk about the personality of the individual. I am talking about the issues that are making Nairobians not access services.

Can we, kindly, stick to those issues? If we want to discuss a Governor in our Standing Orders, we will bring a substantive Motion to talk about the individual. As it is, it is a simple---

Sen. Kinyua: On a point of information, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Do you want to be informed, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, I am not sure whether---. He will be responding at the end. Let me be informed.

Sen. Kinyua: Mr. Speaker, Sir, let me inform the Senator for Nairobi City County that the issues that he mentioned are very clear to our Committee and we will deal with them and not the sideshows that are being mentioned here.

Sen. Sakaja: Mr. Speaker, Sir, that is not information as per our Standing Orders. That is an undertaking which he should give after people have deliberated on the issue.

Please, Mr. Speaker, Sir, millions of residents of Nairobi City County want services. On the issue of personality, the Independent Electoral and Boundaries Commission (IEBC) cleared him and it means he has papers. I do not at all doubt that he has a degree. However, what Sen. Malalah doubts is whether that degree is working. That is what Sen. Malalah is questioning.

(Laughter)

The Speaker (Hon. Lusaka): That is why I cautioned Sen. Malalah that he is likely to veer into areas that will land you in problems. If you want to discuss a specific Governor, bring a substantive Motion. Otherwise, stick to the issues that Sen. Sakaja has raised.

Sen. Malalah: Thank you, Mr. Speaker, Sir. As I wind up, I want to be guided accordingly. I encourage the Committee to delve and interrogate the matter deeply and even look into the issues that led to the absence of the deputy governor, the speaker and

County Executive Committee (CEC) members. You will end up finding that it borders on incompetence and---

The Speaker (Hon. Lusaka): Order, Sen. Malalah! Let the Committee investigate the matter and bring a report. You seem to be giving them some direction on what they should look at.

Sen. Malalah: Mr. Speaker, Sir, this is a serious matter which requires even deeper interrogation on matters pertaining Nairobi City County. Nairobi is our capital city; the heartbeat of our country and economic hub. Therefore, we must look at Nairobi City County with a special microscopic eye to ensure that it is handled by competent people.

I have people from Kakamega and Bungoma counties and the western region who reside in this city. We need a Governor who is competent.

The Speaker (Hon. Lusaka): Sen. Malalah, your time is up.

Sen. Malalah: Thank you.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for also giving me a chance to add my voice on this important Statement by Sen. Sakaja. From the onset, I congratulate him for having really thought of this important concept concerning Nairobi City County.

In Article 176 of the Constitution, there exists a county government. It says-

“(1) There shall be a county government for each county, consisting of a county assembly and a county executive.

(2) Every county government shall decentralize its function and provision of its services to the extent that it is efficient and practicable to do so.”

In this particular case, Nairobi City County is totally contravening the Constitution of Kenya. Kenyans fought for the Constitution because of the gains that Kenyans envisaged in this Constitution. For Nairobi City County to operate outside the law of this country, it calls for the Committee on Devolution and Intergovernmental Relations and this House to look into this matter seriously.

We cannot allow a county government to run its issues as if it is not in Kenya. We cannot allow a county government with a County Assembly that has no speaker. We cannot allow a county government to run its affairs with no executive officers and the Constitution calls for that.

We need to come up as a House and seriously look at this issue because this will encourage other county governments to behave the same. All of us have an interest in Nairobi City County and we see a lot of recklessness in the running of this County. Therefore, I also urge the Committee to urgently look into this matter and report to the House. We need the assistance of this House as whole to deal with this matter.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. This is an important Statement and exactly and properly contextualised within the Senate. We do not want to set precedent because this is how it slowly starts. You get away with five years without a deputy governor and you set a trend. You get away with two CEC members and you set a trend.

Article 179(3) is very clear about even the composition of CEC members. It says-

“The number of members appointed under Clause 2(b) shall not exceed –

- (a) one-third of the number of members of the county assembly if the assembly has less than 30 members;”

So, that is at least, a third. “and,

- (b) ten, if the county assembly has 30 or more members.”
(c) Thank you.

That already gives us the rule to the number of the CEC members who are meant to be in each county assembly. It is very critical that, that is taken into consideration.

Secondly, even when we juxtapose this issue, look at it and also think about other counties, that is fine. This is because as much as we are talking about Nairobi City County, maybe it is a good time to also just do a quick audit of the other counties and see whether those CEC members in those counties are well contextualized. Later on, if the Committee has time, they can even go into the qualifications and ensure that the work is done.

Mr. Speaker, Sir, those CEC members are not there because they are the governor’s friends. They are there because they are meant to take care of different components of county governments to ensure that services trickle down to the county. So, somebody is in charge of finance and another in food. If we have a docket that does not have a person, it means that that docket will be in problems in the sense that work may not be done by somebody.

I would also like to conclude that as this Committee is looking at Nairobi City County, maybe they can browse across other counties and also see what is happening. The issue of having a substantive speaker in a county assembly is very critical. Sometime back - I think in the Eleventh Parliament – we debated a Bill for deputy governors, giving them clear roles and definitions. I do not know whether that Bill saw the light of day or whether it was extinguished midway. However, that is exactly what needs to be done to have clarity in terms of roles. This is because these are constitutional positions and there was a reason for this.

Mr. Speaker, Sir, as I wind up, I think even as the Committee deliberates on this, let them extend their scope a little bit. Let them see what is happening with the other counties as well. At the end, let the Committee give us the health of the county as far as office bearers in the county as per the Constitution and what the position is in the various counties.

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I want to commend Sen. Sakaja for this important Statement.

The Committee on Justice, Legal Affairs and Human Rights and the Committee on Devolution and Intergovernmental Relations have been looking at some of the amendments. The court did pronounce itself on how deputy governors can be replaced and how to make our county governments efficient. We are also facing problems with the issue of speakers. The more we stabilise our county governments, the better for all of us because we will be able to prevent corruption or lack of proper governance structures.

There is a Bill that was sponsored by Sen. Cheruiyot that sought to remove Nairobi City County from the 47 county governments because of its significance in Kenya and its strategic position in East and Central Africa. However, I know that it is a long shot in terms of trying to achieve some of these issues. Nairobi is an administrative

centre and it controls most of the Gross Domestic Product (GDP). Therefore, everybody in this country must be keen on ensuring that Nairobi City County runs efficiently and effectively because we are all affected in one way or the other.

I do hope that the Committee - that I am a part of - will discuss this and ensure that we prosecute this matter expeditiously. We do not need some of these things. The Governor of Nyeri County, where Sen. (Eng.) Maina comes from, replaced a deputy governor the other day. Why is it hard for Governor Sonko to get a deputy governor for the people of Nairobi to be happy? These are trivial matters that Governor Sonko should address at his level. The Jubilee party leadership must intervene and assist him if he feels that he is incapacitated in any way.

Sen. Pareno: Thank you, Mr. Speaker, Sir. I rise to support Sen. Sakaja on this Statement. This is not the first time that the Senator has brought this issue to this House. This is either the second or the third time. It is actually the third time. I ask that this matter be treated as urgent. It has come to this House for the third time with no tangible results. We all live in Nairobi and it is our right to have the representation that is stated in the law.

We are supposed to have a governor and a deputy governor in Nairobi. That is in the law. Therefore, Governor Sonko cannot hold Nairobi City County at ransom by not appointing a deputy governor. It is a requirement of the law and it is a right of all those who stay in Nairobi to have this kind of administration to run the County.

I have seen Gov. Sonko helping people in other counties. That could be a noble idea but how do you run to help others when you are not sorting out your own county in terms of the leadership that is required? What happens to a County that has no deputy governor and has issues with the speaker? It is time for us to take measures and intervene through the relevant Committee. It is time for Gov. Sonko to be summoned before the relevant Committee of this House to explain the reason why he is derailing Nairobi County by not appointing a deputy governor.

I urge that you direct that the Committee urgently handles this matter for us to bring it to a conclusion.

Sen. Kang'ata: Thank you, Mr. Speaker, Sir. I do not blame Gov. Sonko. Instead, I blame myself and the Committee on Justice, Legal Affairs and Human Rights because there is no express provision in the law that commands Gov. Sonko to appoint a deputy governor within a certain period of time. We should take the initiative and come up a clear provision. Otherwise, I do not see anything that---

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

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

Sen. Sakaja: Mr. Speaker, Sir, is the Senate Majority Deputy Whip in order to say that there is no provision when this House has passed legislation and the Supreme Court passed a judgement that gave 14 days for that to be done? Is he in order or was he just ill informed? I do not want to say misinformed. He is a lawyer of serious repute.

(Sen. Kang'ata spoke off record)

The Speaker (Hon. Lusaka): You are not on record.

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

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

Sen. Kang'ata: Mr. Speaker, Sir, allow me to reply then I can address---

The Speaker (Hon. Lusaka): Order Sen. Sakaja.

(Sen. Seneta spoke off record)

The Speaker (Hon. Lusaka): You are not on record.

Sen. Seneta: Mr. Speaker, Sir, is the Senate Majority Deputy Whip in order to try to give us an answer to a Statement that has just been laid in this House without making an attempt to investigate this important Statement in the Committee where he sits?

This Statement has been in his Committee twice and they have never brought an explanation to this House, yet he is now attempting to give us an answer.

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

The Speaker (Hon. Lusaka): What is your point of information, Sen. Cherargei?

Sen. Cherargei: Mr. Speaker, Sir, I am trying to inform---

The Speaker (Hon. Lusaka): Are you informing or you are trying to inform? You have to be clear.

Sen. Cherargei: Mr. Speaker, Sir, I am informing Sen. Seneta.

(Sen. Seneta spoke off record)

The Speaker (Hon. Lusaka): Order Senator. She has said that she does not want to be informed.

Sen. Cherargei: Mr. Speaker, Sir, Sen. Kang'ata sits in my Committee---

The Speaker (Hon. Lusaka): Order. She does not want to be informed.

Sen. Malalah: Mr. Speaker, Sir, is the Senate Majority Deputy Whip in order to contribute on a Statement that he has not heard or read? The Senator was out of the Chamber. He has walked in and sneaked to sit next to me. He has no idea of what we are discussing but he has started contributing. I wish that you can give him adequate time to refresh himself by looking into the Statement before he starts to contribute.

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

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

Sen. Kinyua: Mr. Speaker, Sir, I am aware that the Senate Majority Deputy Whip was following the debate. He does not have to be here. He was following from where he was.

The Speaker (Hon. Lusaka): You are out of order Sen. Kinyua. Sen. Kang'ata can defend himself. Let him confirm that he heard the question for him to remain relevant.

Sen. Kang'ata: Mr. Speaker, Sir, allow me to address two issues that have been raised by the Senator for Nairobi County. The first issue is on the Bill or a law that compels the governor to appoint a deputy governor within a certain period. It is true that the Bill was passed here but it is yet to become law. It is still in the National Assembly.

An hon. Senator: What?

Sen. Kang'ata: Yes, it has not been signed by the President for it to become law. There is a procedure to be followed before a Bill becomes law. The President must sign it and it has to be gazetted. Until that happens, we do not have a law. That is my position.

Secondly, on the issue of---

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

The Speaker (Hon. Lusaka): Order Sen. Kang'ata. What is your point of order, Sen. Sakaja?

Sen. Sakaja: Mr. Speaker, Sir, I would hate to educate a lawyer about a law. This country has other sources of law. One of them is Statute which is the process through which that Bill has gone and is now waiting for assent. Tomorrow, when you go to State House, you will tell the President to sign it.

Another way is precedence, in a common law jurisdiction like ours, a declaration by the Supreme Court forms part of the law of this country. Therefore, the Supreme Court has said that this resolution must be made. I can see that Sen. Omogeni and Sen. Faki are agreeing with me that a judgment of the Supreme Court forms part of our law in this country.

Mr. Speaker, Sir, could you kindly ask the Senator for Murang'a County to take time, read my Statement and address those issues because he is continuing to embarrass himself as he pronounces himself on this matter?

The Speaker (Hon. Lusaka): Sen. Kang'ata, the Supreme Court pronounced itself on this matter. Therefore, it is on record.

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

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

Sen. Cherargei: Mr. Speaker, Sir, one of the sources of law is court decisions and judgments which is used to grow legal jurisprudence. Sen. Kang'ata is my senior in profession. However, he is taking a wrong tangent to interpret this issue. The Supreme Court which is the highest court has pronounced itself on this matter. If it is that hard, you can give him two minutes to consult the senior counsel, Sen. Omogeni, who is sitting behind him.

(Sen. Kang'ata consulted loudly)

The Speaker (Hon. Lusaka): Order Sen. Kang'ata. You are not on record. Relax!

Sen. Kang'ata: Mr. Speaker, Sir, I am very surprised that Members of this honourable House can say that Judiciary has the power to make laws. It cannot have that power. That is what is called making law while seated at the Bench. It is true that the courts have the power to interpret. However, they do not make laws. That explains why Kenyans are unhappy when, for instance, the Supreme Court or the Court of Appeal says that they will lower the age of sexual consent. It is not their work; it is ours. There is the concept of separation of powers.

Sen. Ochillo-Ayacko: On a point of order, Mr. Speaker, Sir. I have to interrupt my learned junior.

(Laughter)

The law is what the court declared it to be. We do not want to bore other Members with legal matters. However, if the Supreme Court declared something to be what it is, then that it is the law as far as there is dispute in terms of what it is supposed to be. Therefore, I beseech my learned friend, Sen. Kang'ata to respect the mandate of the Supreme Court or any other court to declare the law as what has been declared by the court.

The Speaker (Hon. Lusaka): Sen. Kang'ata, when you see many points of order on the same matter, you need to re-examine what you are saying.

Sen. Kang'ata: Mr. Speaker, Sir, I convince you to disagree or disallow that point completely. If you do not, the powers of this honourable Chamber and that of the National Assembly will be negated. He is espousing jurisprudence that argues that law is per what judges say it is. There is another major jurisprudence that argues that the argument is bad because it makes judges to become lawmakers which is not their work; it is the work of honourable Members. The best jurisprudence which we should uphold is the one that argues that it is the work of lawmakers to make laws and courts to interpret laws. Otherwise, if we change that, we shall go into a very slippery ground where laws are made at the Bench.

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

The Speaker (Hon. Lusaka): Sen. Omogeni, what is your point of order?

Sen. Omogeni: Mr. Speaker, Sir, I think we now need the wisdom of senior counsel. I urge my good friend, Sen. Kang'ata, not to argue on the obvious. All over the world, we have what we call judgement law. What we call judicial review in the country was developed by the Supreme Court of United States of America (USA). That becomes part of the sources of law.

If the Supreme Court has pronounced itself and directed that the good Governor of Nairobi City County should appoint his deputy within 14 days, that is the final court in this country as per the Constitution. So, we should not belabor the point. I urge you to give direction that Sen. Kang'ata is out of order.

The Speaker (Hon. Lusaka): Sen. Kang'ata, I know you came from Egypt last night but that is no reason to drag us behind. I give you two minutes to conclude on the subject matter.

Sen. Kang'ata: Thank you, Mr. Speaker, Sir. My position is, the finding by the Supreme Court on this issue was advisory. It is not binding.

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

The Speaker (Hon. Lusaka): Order Sen. Kang'ata. What is your point of order, Sen. (Eng.) Maina?

Sen. (Eng.) Maina: Mr. Speaker, Sir, this is a House of leaders of the citizens of the Republic of Kenya. Therefore, I call upon your guidance, wise judgment and quick action so that this House does not dwell on legalities. They are lawyers and they have their space in court.

(Laughter)

Mr. Speaker, Sir, this is not about the leadership of Nairobi City County or about the necessity of the deputy governor. It is the issue of legality between lawyers who can cause a lot of problems in life. Therefore, I call upon you to save the House and get it back to the core business.

The Speaker (Hon. Lusaka): The point is noted. That is why I told Sen. Kang'ata to wide up.

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

The Speaker (Hon. Lusaka): Sen. Ochilo-Ayacko, what is your point of order?

Sen. Ochillo-Ayacko: Mr. Speaker, Sir, I rise to ask you to save this House from Sen. Kang'ata. He is saying that what the Supreme Court said was advisory. Some of us who were serious in law school know that courts do not act in vain or engage in pedantic arguments. Therefore, when the court pronounces itself on something, it is what it is supposed to do. It is not pedantic, academic argument or orbiter. Therefore, we cannot say that whatever the court says is advisory. We would be promoting anarchy. So, would I be in order to ask you to save us from the jurisprudence according to Sen. Kang'ata, because we will get into murky waters?

The Speaker (Hon. Lusaka): Sen. Kang'ata, wide up your discussion on that matter so that we make progress.

Sen. Kang'ata: Mr. Speaker, Sir, I urge anyone who thinks that the governor has done anything legally wrong to go to the Supreme Court and push for contempt of court. As for me, I believe that the finding was either an *orbiter dictum* or it was advisory. It is this House that has the power to make laws that sets timelines through which he can do what he is supposed to do. It is not the work of courts to make laws. That is my position.

The Speaker (Hon. Lusaka): The Chairperson, Committee Devolved Government on Inter-governmental Relations, can you provide an answer in the next two weeks?

Sen. Kinyua: Mr. Speaker, Sir, I will provide the answer in two weeks. However, if I need more time, I will let the House know.

The Speaker (Hon. Lusaka): The next Statement is from Sen. Kinyua.

ALLEGED HARASSMENT AND INTIMIDATION OF MOMBASA MCAs BY CEC MEMBERS

Sen. Kinyua: Mr. Speaker, Sir, I rise pursuant to Standing Order No. 51(1) (a) to make a Statement relating to a matter for which the Committee is responsible.

Mr. Speaker, Sir, on Tuesday, 12th March, 2019, Sen. Mohamed Faki, MP, made a Statement pursuant to Standing Order No. 47(1) on the issue regarding the County Assembly of Mombasa.

In his Statement, the Senator stated that the County Assembly of Mombasa had invited three County Executive Committee (CEC) Members for a meeting by their respective committees, but instead the CEC Member issued threats to dissolve the county assembly claiming that they had failed in their mandate.

This was considered as an act of intimidation of Members of County Assembly (MCAs) which prevented them from performing their oversight role. This matter was referred to the Senate Standing Committee on Devolved Government and

Intergovernmental Relations for review and to submit a report to the House within 14 days.

Mr. Speaker, Sir, the Committee met the Governor of Mombasa on Monday 18th March, 2019 at 12.00 p.m. and some of the highlights of the meeting are as follows-

(1) That he was aware that he does not have power to dissolve the County Assembly of Mombasa.

(2) That he did not intimidate the County Assembly of Mombasa in any way, and that he has a good working relationship with the county assembly.

(3) His CEC members have always responded to the county assembly's invitations and summons.

(4) He is not aware of and is not party to any lobby group that is collecting signatures for the dissolution of the county assembly.

Mr. Speaker, Sir, the Committee met the Speaker of Mombasa County Assembly on Thursday, 21st March, 2019, at 11.00 a.m. The Committee had intended to meet the Speaker prior to the meeting of the Governor. However, the Speaker had indicated that he was unwell.

Some of the highlights with the Speaker include-

(1) The impeachment of the CEC for Transport was as per the mandate conferred to the Mombasa County Assembly by the Constitution of Kenya.

(2) The County Assembly of Mombasa has invited the CEC for Transport on numerous occasions, and the invitations were not honoured.

(3) The CEC for Transport was being impeached due to incompetence.

(4) The impeachment process is on-going.

(5) On Wednesday, 20th March, 2019, the Motion of impeachment of the CEC for Transport was adopted.

(6) The CEC for Transport will meet the Committee formed by the County Assembly of Mombasa to look into the matter.

Mr. Speaker, Sir, the Committee intends to meet the Governor of Mombasa County again as a follow-up on the issues raised by the Speaker and, if need be, the Committee intends to travel to Mombasa.

Additionally, the Committee would like to see the outcome of the impeachment process before reporting back to the House. We, therefore, request for an additional 21 days to conclude this matter.

Thank you.

The Speaker (Hon. Lusaka): I do not see any interest.

Next Order.

MOTIONADOPTION OF REPORT ON THE COUNTY GOVERNMENTS
INFRASTRUCTURE PROJECTS

(Sen. Sen. (Eng.) Mahamud on 21.3.2019)

(Resumption of debate interrupted on 21.3.2019)

The Speaker (Hon. Lusaka): Sen. Malalah, you have five minutes to second.

Sen. Malalah: Thank you, Mr. Speaker, Sir. I want to continue seconding the Report of the Senate Committee on Finance and Budget on the County Governments' Infrastructure Projects, comprising county executive headquarters' offices, county assembly chambers, county assembly offices and county state officers' residences.

Mr. Speaker, Sir, I congratulate the Committee and the Chairperson. As I do that, I remind this House that Article 201(d) of the Constitution of Kenya on the Principles of Public Finance provide that-

“public money shall be used in a prudent and responsible way;”

This Report has clearly reported on how counties have used monies on non-core projects yet we have counties which are grappling with lack of basic amenities.

The Fourth Schedule of our Constitution clearly states the functions that have been devolved, and what the county governments should prioritise when it comes to the devolved functions.

Mr. Speaker, Sir, we have the Early Childhood Development Education (ECDE) and health centres, which are a core mandate of the county governments. There are county governments which do not have dispensaries, where people walk for 20 to 30 kilometres just to access a basic health amenity. This is so, yet counties are spending millions of shillings on doing a house for the governor. Therefore, this Report has recommended various ways in which we are going to curb the misappropriation of public funds and also prioritise projects.

When you read Article 10(2)(d) on National Values and Principle of Governance, it demands for sustainable development. It is, therefore, prudent for the county government to look into how they are spending their money. It is quite unfortunate that we have county governments which are spending Kshs800 million just to come up with a county assembly chamber, yet the residents of that county are grappling with abject poverty. It is, therefore, important that we look into the recommendations of the Committee. However, the big question that I kept on asking the Chairperson was what will happen next after tabling this Report.

Mr. Speaker, Sir, we need to ensure that the resolutions of this House are respected by the respective constitutional offices. We need to forward these resolutions to the Controller of Budget (CoB) to ensure that the recommendation on the ceiling of the amount of money that should be used in coming up with the county government headquarters, governors' and speakers' residences are upheld.

We also need to find a mechanism through which we can monitor the implementation of the various resolutions of this House. This is because we have turned into a House of debating; coming up with very good suggestions, yet they are not being implemented. How I wish the Chairperson, through his oversight role, would ensure that the resolutions of this report are implemented to the latter. Let us share the resolutions of this report to the CoB, the Commission on Revenue Allocations (CRA) and other relevant offices which deal with the disbursement of monies to the respective counties.

Mr. Speaker, Sir, it is also prudent and wise enough if we shared the resolutions of this report to the respective counties, as they come up with their annual budget estimates, to be considered. This is because the Constitution gives this House the mandate to represent counties and to oversight revenue that is being disbursed to counties.

Therefore, the Committee did a good job in ensuring that it does an audit on where we have reached, as pertains to the implementation of the non-core projects to the counties.

I beg to second this Motion and ask the Committee to continue pressing on, specifically on the issues of implementation of the recommendations.

Thank you.

(Question proposed)

The Speaker (Hon. Lusaka): Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Mr. Speaker, Sir. I support the work that has been done by the Senate Committee on Finance and Budget on this very important issue, because it was beginning to threaten our work, as legislators.

This is because, many-a-times, when we went to public functions, one of the questions that I remember being asked was: “What informs some of these decisions that you people make in Nairobi and want to force down our throats, as residents of a particular county?”

Mr. Speaker, Sir, many of the residents that we represent in this House do not have the luxury or the latitude to understand and know that the various government institutions operate independently, but also interdependently with each other. Therefore, when the Salaries and Remuneration Commission (SRC) goes to give a directive, such as the one they have given on this issue of the county Speakers’ residence and county headquarters---. When many of the people we represent find us in public they usually tell us: “The Members of County Assembly (MCAs) are telling us that you have instructed them from Nairobi to put up a county assembly building worth Kshs400 or Kshs500 million.” While they are speaking, many of the people who share these sentiments with us perhaps have only one meal per day or they have come to the meeting barefooted.

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

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

Many of them have not paid school fees for their children, including many challenges that you are aware of, that the citizens of this country continue to face. Therefore, owing to the cries that were brought before us by members of the public on this particular issue, it was important for the Committee to sit down and have a roundtable discussion with the Council of Governors (CoG), the County Assemblies Forum (CAF), the Salaries and Remuneration Commission (SRC) and the State Department for Public Works.

Though I did not sign the report, it is not because I did not agree with it but I may not have been around. I agree with it entirely because I participated in coming up with the recommendations.

Having listened to contributions about building county governments residences, including the county headquarters, this is an issue that has been before this House for a long time. We had this issue during the previous Parliament. I think five counties were found not to have any infrastructure that would support county headquarters offices and we made our recommendations.

Concerning the SRC circular that was issued on 24th October, 2016, county governments should consider vacating that decision. In many occasions, we Members of Parliament (MPs) speak about the SRC. It is considered that we do so based on our interaction with them on issues of salary but that is not the case.

I do not think that the drafters of our Constitution envisioned an institution that will work in such a callous manner, the way it is being done by the SRC. They make decisions that affect the operations of the counties without even consultations with relevant institutions like Parliament.

When officers of the SRC appeared before us, we asked them how they arrived at the figures they proposed. We wondered whether they knew that the people that reside in the counties have representatives who they sent to this House, which is the primary institution that passes the budget of the country. Before even going to the State Department of Public Works and informing members of the CAF about the decision, they ought to have sought the opinion and concurrence of this House before issuing the circular.

It is not just on this particular issue that I found the SRC to be operating in a way that is not constitutional. The spirit and the national values that are espoused in Chapter 10 of our Constitution require that there should be consultation and cooperation, where Government entities engage each other from a point of understanding and knowing how the decisions made affect others.

Today, we woke up to news of what the SRC intends to do on allowances of civil servants. That is unfortunate. I do not think they properly understand their mandate. Much as their work is to consider the remuneration of state officers and public servants, consultation is key in their decision-making. That is why, as a committee, we have looked at all the issues that were placed before us. The SRC erred, in fact, in law. The figures they gave cannot be supported by any evidence and justified. It is just wrong even morally.

In a country like Kenya where we cannot even feed our population, there is no way you can convince me that leaders should live in opulence which is a direction that the SRC wants to force us to do. They have proposed residences for county speakers to

cost Kshs150 million each. Even if you were to pay rent for the next 50 years, you cannot spent Kshs150 million. You can get a decent house where a county speaker can live and there is room to receive even other guests. Therefore, the circular was not thought-out.

There is also the issue of county government headquarters. The Committee has not only told the SRC that they did not do their work properly but we have also gone ahead to give proposals which we think can be justified before the people that we represent. I can face the people of Kericho and explain to them the reasoning behind the figures that are being proposed. We proposed that a county governor's residence should not go beyond Kshs45 million, a deputy governor's should cost Kshs35 million maximum and a county assembly speaker's home is put at Kshs35 million maximum.

The problem is that our county residents do not separate between the office from the office holder. Therefore, when people hear about Kshs45 million to be used for construction of the governor's house, they ask what he has done to deserve a home that is worth Kshs45 million. A county governor's residence is the seat of power of a particular county. Therefore, it is symbolic and the amount we have proposed is not on the higher side.

There is also the issue of capping the county headquarters at Kshs500 million. In my opinion, this is well thought-out. We are aware that there are counties that did not have strong municipalities where municipality offices were not good enough to be used as county government headquarters. The figure of Kshs500 million is enough for them to put up decent structures that people are proud of.

We also need to teach our citizens not to be myopic. Sometimes, because a leader may not like the county speaker, they tell people that they are being misled when an assembly worth a certain amount of money is put up. As leaders, we also owe it to the people that vote for us to come to this House. We should rise above petty parochial politics of just looking at figures.

If a county was to have a state visit by the Head of State or visitors from other county governments, they should be received at the county headquarters where they can get a brief of all the goings-on in that particular county.

Madam Temporary Speaker, finally, the Committee recommended to the county governments that they should construct county assembly chambers that are within certain limits. We have visited certain county assemblies as Members of this House and you will sympathise with our Members of County Assemblies (MCAs). If you go to some counties, the chambers do not even inspire the thoughts of leaders because they are squeezed in particular places.

They also do not have services like what we have here and good microphones for them to articulate and share the issues of the people that they represent. They also do not have a good climate for them to sit and engage their constituents. Many of our MCAs do not have offices and they operate from the backseats of their vehicles where they attend to their constituents. Therefore, I do not think it is wrong and unjustifiable for us to give proposals because the SRC gave a blank cheque to everyone.

We have different sizes of county assemblies' chambers. For example, Nairobi City County has 85 wards and, therefore, the size of its chamber cannot be the same like that of Kericho County which has 30 wards.

We have gone ahead and done a breakdown as a committee on what should be the expected figure of each county assembly depending on the number of wards. We proposed that county assemblies' chambers and offices should be constructed so that MCAs can do their work expeditiously. These are modern parliaments.

We do not know whether it is possible for the designs to be synchronized but they should. If I am in Mandera, Kakamega, Mombasa, or Lodwar, the minute I spot a particular building, because of the design and architecture, I should tell that it is a county assembly chamber because it is neat and beautiful. Nothing significant about it should be identified. That is what progressive societies do.

We have visited many other countries that have devolution systems of government. The minute you spot a certain design of building, you know that it is the seat of power for that particular county, municipality or state. Therefore, this recommendation by the Committee is well thought-out.

Madam Temporary Speaker, we are told that some counties which had awarded contracts that were above the recommended figure should consider renegotiating with a view to adjusting the contract sum. We have two or three counties that had awarded contracts worth almost Kshs800 million to Kshs1 billion, to put up very huge offices that cannot be justified given the ability or the size of the county governments. Therefore, this is a very good recommendation.

Madam Temporary Speaker, I agree with the sentiments of the Senate Minority Leader that we should be able to write, for example, on this final recommendation, to these specific counties because they are known. We know which county assemblies are putting up offices, whose price is way beyond what this Committee is recommending. They should be advised that this is way beyond and they should renegotiate with the contractor.

The beautiful thing about all these contracts is that they were done in consultation with public works. Therefore, there is the possibility of scaling it down, so as to meet the figures. Otherwise, the people that we represent will always think that all we do in this House is to find ways of making the lives of leaders comfortable, while the people that we represent continue to suffer and wallow in abject poverty.

Madam Temporary Speaker, with those very many remarks, I support this Report.

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

Sen. Cherargei.

Sen. Cherargei: Thank you, Madam Temporary Speaker, for this opportunity. I commend the Committee on Finance and Budget, through its Chair, for the wonderful work. I can see that they started in November 2018 and now we have a good Report.

Madam Temporary Speaker, I have read their recommendations, which are very far-reaching. It is good that they have rejected the Salaries and Remuneration Commission's (SRC) recommendations. During the first generation of devolution, governors were constructing houses up to the tune of Kshs1 billion. When it came to the County Integrated Development Plan (CIDP) and the annual development plans, most of the *wananchi* would ask: "What is the priority in all these issues?"

It is important that we have put capping. Let me begin from what my colleague, Sen. Cheruiyot, has said; that we should ensure the standardization of county

headquarters, deputy governor's and speaker's residences and county assembly chambers that will host plenary sessions and committee sittings. They should have a particular simple heritage, which is the pride of every region. For example, Turkana County or Mombasa County should have its unique design that represents a specific symbolism with the purpose of ensuring that devolution works for the people.

Madam Temporary Speaker, I agree that we need county headquarters that are very convenient to use. This is because they do not belong to specific governors, but the residents. They are places where issues can be handled. The capping of Kshs500 million for the county headquarters is very important. Since my governor was elected, he is still using the provincial administration offices in Kapsabet. He is, therefore, squeezing the county commissioner. I am happy that the Principal Secretary (PS) in charge of Housing and Infrastructure was able to intervene at some point because the governor wanted to bring down the old offices that were being constructed by his predecessor due to vested interests or variations. The contractor who was there would be replaced with a new one or variation done, and that is where corruption would come in.

Madam Temporary Speaker, that is why we need some of these oversight mechanisms. Were it not for the intervention of the PS in charge of Housing and Infrastructure in this country with regard to the construction of Nandi County headquarters that will house the office of the governor and other departments, a building would have been brought down based on political vested interests or issues of variation. Some people would "eat" money meant for that project. That is why I agree that oversight should be done. I am happy that the construction of the office of the governor in Kapsabet is ongoing without interference and has been given clean bill of health by the relevant public works department. This is despite the contrary opinion that was being perpetuated by the governor and his government that it did not meet the standards.

Madam Temporary Speaker, I agree that some of these governors' residences are very crucial. We need to have them, but modesty should be key. We agree that the former provincial commissioner's and district commissioner's residences were at that time, at that level. However, in as much as our governors and county assembly speakers want to live large like kings, we should have modesty as a way of ensuring--- I know that most governors do not live in their counties. Just like my own governor, the Governor of Nandi County, the governors of Elgeyo-Marakwet, West Pokot, Homa Bay and Tharaka-Nithi counties do not have houses.

They are, therefore, forced to live outside their counties. For example, the governors for Nandi and Elgeyo-Marakwet counties reside in Eldoret, which coincidentally, is in your county. We are very gracious that you are hosting almost four governors in your county. Therefore, even as we construct we should prioritize based on this facts. I agree that we need to fast-track this, so that our county governments can run well.

Madam Temporary Speaker, the previous construction of county governments governor's, deputy governor's, and county assembly speaker's residences would cost Kshs100 million to Kshs250 million. It caused a lot of uproar because people were asking for Early Childhood Development (ECDs) centres, dispensaries, roads, drugs, and bursaries. To spend Kshs100 to 250 million to build a home in a rural county does not

make sense. I am happy that the SRC, in consultation with the Committee, has set the maximum capping. I hope that there will be a mechanism to monitor this.

The Chairperson of the Committee on Budget and Finance should ensure that they follow up on this because a governor's residence has now been capped at Kshs45 million; deputy governor's residence at Kshs35 million; speaker's residence at Kshs35 million and, county headquarters at Kshs500 million. I hope that the Chairman of the Committee on Budget and Finance will do proper follow up, so that we do not exceed this capping. What was happening was causing uproar. People were saying that the purpose of devolution was to ensure the promotion of equal and equitable distribution of resources and development in all villages and counties. However, what was happening was like enriching a few and giving five-star treatment to the governors and the county assembly speakers.

Madam Temporary Speaker, I have gone through the observations, and on the issue of rent, the timeline of 20th June should be rescinded. Even as we agree that there should be extension of time from the SRC, we should agree that we move in a more convenient way, so that we do not go to the third generation of devolution--- In fact, the latest period should have been the second generation on devolution because constructing governor's residence, county headquarters, county assembly chambers and speaker's residence should have been done in the first generation of devolution. I want to urge the Committee on Budget and Finance that they should not give more time. They should extend for only two to three years, so that we conclude and ensure that devolution settles and works for the people.

There are many counties who exaggerated budget provisions for construction of speaker's and governor's residences. For example, Homa Bay County had allocated Kshs150 million for the speaker's residence. Murang'a County had allocated Kshs350 million for the governor's, deputy governor's and the speaker's residences. Nyeri County had allocated Kshs200 million for the governor's residence while Kirinyaga County had allocated Kshs100 million for the governor's residence.

I want to agree with the Committee that we need to have a standardization design. Here they have attached a prototype of what should be built. For example, the house of a governor in Nairobi should be like a governor's residence in Kisumu County, Moyale, Garissa or any other county, but with a few modifications depending on culture or symbolism.

Madam Temporary Speaker, I know there are counties ongoing with the construction of county headquarters. Other counties have finished construction of county assembly chambers, while others are still constructing the speaker's and governor's residences. The issues of pending bills totaling Kshs110 billion should be addressed immediately by the National Treasury. The President has tried to address it. As we re-negotiate these pending bills, we must be very keen because someone might have been awarded a contract of Kshs100 million to construct a house in county 'A' or 'B' and, probably, did a shoddy work.

We should not risk another legal impediment to some of these projects. This is because the moment you re-negotiate a contract, and if there was no clause that would allow for such negotiations, then we will be risking many legal suits. For example, the

contract that was awarded of Kshs150 million for the construction of governor's residence in county 'X' or "Y" would be reduced to Kshs45 million. We must do it in an amicable way or use alternative dispute resolution. We do not want to have many court orders delaying some of these projects and derail success of devolution in this country.

Madam Temporary Speaker, as we move forward in making sure that our governors, deputy governors and speakers are comfortable and work in air conditioned offices, they must also deliver services to our people. As we also ensure that we build county assembly chambers for MCAs, they must also whole heartedly serve the electorate and ensure devolution succeeds.

The reason we are making their environment more enabling is for them to fulfil to the letter spirit of Article 174 of the Constitution. With enough office space, proper chambers, consultation rooms where they host their County Executive Committee members, visitors and investors coming to discuss development agenda of their counties, we expect them to work for the people.

I want to finish by challenging the Council of Governors (CoG) to do their own peer review on what they doing in terms of ensuring that devolution works for Kenyans. Even the speakers, through the County Assembly Forum (CAF), must also ask themselves whether they have facilitated the passage of legislation to make devolution succeed.

Yesterday we saw the Auditor-General's Report that some counties are spending too much on foreign travels. Some of these foreign travels are unnecessary. Some people travel all the way to Jerusalem to see where Jesus was born. That is very interesting. We, Christians, believe that Jesus Christ was born in our hearts the moment we embraced him. Why should you go and waste taxpayers money by visiting places that are not important or which do not add any significance to the development agenda of that particular county?

The ball is on the governors and MCAs' courts to make sure devolution works. We hope that as we make devolution work for the people, they must ensure that it works for all of us.

Madam Temporary Speaker, I support.

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

Sen. Farhiya: Thank you, Madam Temporary Speaker, for giving me this opportunity to support and also to request the House to pass a resolution to support this Report.

Madam Temporary Speaker, the initial estimates given by the Commission on Revenue Allocation (CRA) in terms of governors' residences was Kshs267,980,000. When we enquired why such high figures, we were told they were thinking of the same status as that of State House. Honestly, how can a governor have a residence that is equivalent to State House?

Madam Temporary Speaker, in 2010, Kenyans voted overwhelming for the current Constitution with the hope that services would be brought closer to them. That is what they are demanding from. Despite all of us knowing those requirements, there was a proposal to build a governor's residence for Kshs268 million, a deputy governor's and

speaker's residences at Kshs174 million, respectively. Surely, is that essential service delivery? Why would you build such an expensive residence for people who are supposed to be humble enough to serve our communities?

There was also a sample study which was done to check the budget provision on non-essential infrastructure. For example, Kilifi County had proposed Kshs214 million for a deputy governor's residence. Kilifi County is one of the poorest counties. Surely, where is our priority on this issue? Nyandarua County had a budgetary provision of Kshs800 million for construction of county headquarters. Right now, the Committee is proposing Kshs500 million. So, the taxpayers' money being saved here is Kshs300 million.

Madam Temporary Speaker, the same Kilifi County is also proposing Kshs200 million for a speaker's residence. Look at your own county, there is a budgetary provision of Kshs850 million for the headquarters, while the maximum that the Committee is proposing is Kshs750 million. At least the margin of your county is not that bad. Imagine a budgetary provision of Kshs200 million for a deputy speaker's house. Seriously!

Madam Temporary Speaker, our Committee should demand for status of the current contracts that the county government has already engaged. Where there is a clause in the contract where it can be reduced, so be it. The ones that cannot be reduced, we cannot go back when there is already an existing contract. We need to request for the current status. After the adoption of this Report, our Committee should write to the CoG so that it does not look like we came here, debated and the Committee wasted their precious time doing this Report.

Madam Temporary Speaker, the other thing that I want to bring to your attention is that there is already a contractual obligation. There are some contracts that have already started. For instance, the budgetary provision for Isiolo County headquarters is Kshs 870 million. Tana River County, which is also another poor county, has a budgetary provision of Kshs900 million. Where is the conscience of these people that these respective counties have given them mandate to represent them? We have many poor mothers who cannot afford food. We have people who are dying of hunger in some of those counties. Honestly, are these our priorities? We have not even secured water for those people yet we can afford to waste a whopping Kshs870 million for a county headquarters.

Madam Temporary Speaker, the current proposals by this Committee are based on designs that were done by the State Department for Public Works where even the governor's residence is built on a two-acre piece of land. It is designed in such a way that there is uniformity in that residence.

Madam Temporary Speaker, some counties had the proposal that the governor's residence be built on a 10 acre piece of land. Why do you need all that space for a governor's residence, when Kenyans are dying of hunger, they need food security and there is no space to do farming? What are our priorities in this country? Who speaks for the poor? We were told in this House that corruption is already embedded in the budgeting process of the counties. If that is the case, then it is very unreasonable for

anybody to start proposing for a Kshs900 million contract to be done for a county that is as poor as Tana River.

The Salaries and Remuneration Commission (SRC) set a deadline for completion of construction of this infrastructure. A resolution was passed by this House arising from the fact that we did not agree with the figures that they provided. As a result of this, I feel that the information regarding this which was put out as a gazette notice should expunged from the *Kenya Gazette*.

At the moment the country is experiencing drought and as a result some Kenyans have died, but we are expecting some rains soon. County governments should create the infrastructure to collect rain water during the rainy season so that if a drought occurs there is enough water for irrigation to ensure food security in our counties. Resources are never enough in whichever context that you look at it but they can be enough depending on how prudently they are used.

Madam Temporary Speaker, counties are supposed to be self sustaining in the future. In order for them to have that income-generating capacity to continue giving services, there is need for prudent investment of the money that goes to our counties. There is need to ensure that we entrench certain parameters in our Constitution to guarantee proper livelihood, health, industrialization and jobs for our youth. We have a very big youth population that we need to feed and provide employment for. We cannot afford to lose foresight; we need to ensure that we deliver services to our community.

I support the Report of the Committee and I request this House to adopt it.

Thank you, Madam Temporary Speaker.

Sen. Pareno: Thank you, Madam Temporary Speaker, for giving me this opportunity to contribute and to say that I fully support this Report of the Committee on Finance and Budget on the infrastructure projects of the county executive headquarters, chambers and the residences.

I was looking at this Report and I think we have a long way to go when it comes to this devolution aspect. The other day the Auditor-General told us that some counties had spent zero on development and my county, Kajiado County was one of them. You will find in this Report, the observations of this Committee and the outcry by the citizens about wastage of money.

Look at what we have in this Report on Homa Bay County. It is indicated that they had set aside Kshs150 million for the Speaker's House. Murang'a County had set aside Kshs350 million for the residence of the governor, the deputy and the speaker. Nyeri County had set aside Kshs200 million for the governor's residence and then, Kirinyaga County had set aside Kshs100 million for the governor's residence yet some of these counties spent zero on development, which is what touches directly on the citizens.

Madam Temporary Speaker, out of all outcry by the citizens and coming out as a recommendation, I am happy that now there are suggestions on the capping. It has been recommended that the county governor's offices should not spend more than Kshs45 million, the county deputy governor should not spend more than Kshs35 million and the county assembly speaker should not spend more than Kshs35 million.

If we did not do this, and if the Commission on Revenue Allocation (CRA) had not come out to intervene, we would have wasted so much money that is meant for

service to the public. We are not saying that we should not have residences for our governors and speakers. We are not even saying that there should not be chambers. We should have chambers, houses, residences but not at the expense of development. We should have these residences and the chambers but not with exorbitant prices. That is all that this Senate, the CRA and the *mwananchi* are saying.

There was an outcry from the citizens because they were saying they want to see development. If only they had brought water, done roads, schools and dispensaries; and if these were not done at exorbitant prices, I can assure you that the citizens would not have come out to cry and all of us would not have had to do a capping. Incidentally, in this country nobody seems to do things right. People have to be forced to do things right. We have had to come up with a capping for people to do things right. You have to keep checking otherwise there will be plunder on the money that is meant for development.

Madam Temporary Speaker, I am also happy that there is a capping that the county government should ensure that the cost of the chambers should not go beyond a certain limit so that then we have a standard way of doing things. I am happy that this Committee and these recommendations are geared towards a standard way of doing things. This will ensure that we have standardized chambers in our county assemblies that are not too big or too small, depending on the number of MCAs. This will also ensure that we have standard residences so that we stop this wastage of public funds. It will not be a choice for one to decide how much they want to spend on constructing these residences, but there will be guiding principles to be followed. I am happy that this has come out clearly in this Report. What we need to do regarding this Report is to ensure that these recommendations are followed.

Madam Temporary Speaker, I have kept talking about the Committee on Implementation. We keep saying that we need to follow up on whether these resolutions and recommendations are being followed up. We also need to communicate properly to the county assemblies that the capping is in place and that if they exceed the capping, it will be upon them to answer for it; they shall be held accountable. We need to communicate to counties that if they have already started construction of their chambers, residences or infrastructure and they have exceeded the limit, they will need to find a way of capping down to what has been recommended in the guidelines.

After making these resolutions, we need to follow up to ensure that the capping and recommendations are being implemented down at the county assemblies. This will ensure that they start talking to their contractors and instruct them not go above these capping that has been set otherwise we will have to start holding them accountable.

Madam Temporary Speaker, it is not in vain; it is all because of value for money and also for the citizens to see that there is value in what has been done. We do not want to see those zero developments. You build for yourself a very big house, make yourself comfortable in your residence and spend nothing on development! It should be the other way round. You had better have no house as a governor or a speaker; you had better not even have a good chamber if it means that my mother will get water or that lady in the village will have a dispensary.

If children are suffering and cannot even have proper maternal health care; you had better do without a governor's residence than to use this money to build for yourself a lavish house and leave those people suffering. The residence should be secondary.

I am concerned about the contradictory circulars by the Commission on Revenue Allocation (CRA) and the Salaries and Remuneration Commission (SRC). We should not have this happening. We should not have the CRA saying that, priority should be given to development and then SRC says: "let us have houses". Then they allow them to rent. We should not have that contradictory communication from the two Commissions. We should be able to guide our county assemblies and speak in one voice when it comes to development.

I am happy that with these recommendations, we have merged both the concerns of the CRA and the SRC when it comes to how these things are supposed to be done. I am also happy that in the recommendations, we are asking that they rescind the earlier circular so that it gives these county assemblies time to digest the recommendations. It will enable them to comply and for us not to just rush into programmes and then money is released in a short time and then they are told they have not completed. That is why we end up having white elephants.

That circular should be rescinded as communicated so that these county assemblies have the time to comply and construct their residences and chambers within time and account for what they are doing. We cannot avoid using money, what we are saying is, let us use it prudently. We cannot devolve services and not escort these services with the expenditure that is required. We are saying, yes, the money should be used, but prudently.

I support, Madam Temporary Speaker.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity. I support this Report.

This is a good and timely Report. The need for implementation of the same is wanting. If you go through the Report, there is much that has been discussed and observed by this Committee. There is need for this House to be given money for implementation especially in the Committee that will be formed for implementation and oversight.

Madam Temporary Speaker, if you look at the quotations of these projects, they are just going to be white elephants as we have seen in the past. Whoever did this budget is misleading, especially the SRC. Therefore, there is need for us to look at it and make sure that the implementation of what has been recommended and passed in this Report is dealt with.

As much as we would like the leadership in the county governments to be given good housing to facilitate them to do their work; as much as we are looking at our county assemblies and our executive officers at the county governments, we do not need to go overboard and apply the syndrome of corruption in this particular issue. I am happy that the Report recommends that the projects that have been started should be standardised through prototypes, structures and design. Where we have established counties like Nairobi City County where we have buildings that are worthy, then we need to revisit the same. This budget set out here can do so many projects in our counties.

Madam Temporary Speaker, when we came up with devolution the aim was to offer services to Kenyans. We do not want to see the county governments robbing Kenyans whereby individuals like county government executives feel they need to stay in palatial homes instead of offering services.

If you look at the budget, again, this is total robbing of Kenyans. Kenyans are dying right now as much as we are refusing to admit it, and yet we are seeing people being given money to build palatial homes. Who said that this money is for palatial homes? This will encourage governors and county executives to fight for longer terms in office in order to continue staying in these houses. If you allow somebody to build a house, who says that they will be willing to leave that house? We need to look at where the money is going. The money should go directly to Kenyan citizens to assist them and not make them have doubts regarding the county governments.

Madam Temporary Speaker, we need our governors, county executive officers and the county leadership to perform from a more comfortable environment. Even us, as Senators, we want a more comfortable environment but, we need to standardise things and look at the issues at hand and not luxuries. What the SRC has done here is all about providing luxuries and that is not what we need. We want to see development projects that are actually beneficial to Kenyans; that will sustain Kenyans to see a Kenya that is worthy and not that which is crying foul.

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

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

Madam Temporary Speaker, I support this Report and I am really against the budget that was put there. I support the implementation and the observations that are in this Report. It is my prayer that we come up with an Implementation Committee as fast as possible and look at the issues being implemented. There are many issues that we have passed in this House that have not been implemented and we will just be talking stories.

We need these issues to be implemented through a committee that will be facilitated so that when we discuss an issue here which is touching on devolution and our citizens, it is dealt with immediately without wasting Kenyans' time. Kenyans want to see people working and the results of this particular devolution.

Madam Temporary Speaker, I support this Report and acknowledge those who worked on it; but let its recommendations be implemented. Let us have money for oversight; let us go down there and make sure that what has been passed here is put into action and practice. Let us ensure that we curb any wastage in terms of finances, projects and budgets.

Thank you, Madam Temporary Speaker. I beg to support the Report.

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker, for the opportunity to support this Report from the Committee on Finance and Budget on the County Government Infrastructure Projects. I support it for the very simple reason that there is need for standards as far as our county developments are concerned.

Madam Temporary Speaker, when you look at the report, you realise that our governors and even county assemblies initiated development projects with completely varied Bills of Quantities (BQs). From the same county, we get different BQs and different dimensions of infrastructure. For instance, one has an office of 9,000 square metres while another 7,000 square metres. It is, therefore, very important that we standardise and have a prototype. That is why I support this Committee that we need to come up with a county assembly that is standardised in the whole country. This is so that the variation is only on cost of materials, but the maximum ceiling has been given. This is important for us.

Madam Temporary Speaker, it is also important for us to know that when we talk of the governor's residence, a governor only has a maximum of 10 years. It is, therefore, important to know that we are building it for the county, and not for the specific governor, speaker or any other person. There is no need to be so extravagant, the way we have seen the proposals that the CRA has expressed in this Report. We realize that as they gathered information, this Commission discovered not only the variability, but also the wastage that was going to take place.

Madam Temporary Speaker, we do not know how anybody decided that the house they wanted to live in was going to cost Kshs400 million or Kshs800 million. This is one house where we have one individual, who is a governor for only 10 years. That would be wastage that we will be remembered for, as country. Wastage is not going to be recovered. I, therefore, support these ceilings that have been proposed; that a normal residence, like the houses that we live in, should be developed for our governors, and a figure of Kshs45 million is a very good figure. Similarly, the house for a deputy governor should be capped at Kshs35 million, which will give us a very good house. Even the acreage that has been given and expressed here in this Report is normal. There is no reason why you need an office inside 10 acres of land. If we allowed this kind of developments to continue, we would see a complete difference and disconnect between the buildings that we have for our county governments, and those that we have under development.

Madam Temporary Speaker, we are talking of schools. We have heard debates about our schools. The teachers' unions have been complaining that they live in dilapidated houses; that they go to dilapidated laboratories and teach in dilapidated buildings. As we devolve, we should be conscious of where we are, as country, and the kind of development that we must have for our institutions. This is because our institutions will cater for more people than the houses that we live in.

Therefore, Madam Temporary Speaker, I strongly support the Report that has been given by this Committee, and the ceilings that they have given. For county headquarters, Kshs500 million is a lot of money. To build a county headquarters for anything more than Kshs500 million when, our secondary schools from Form One to Form Four, we spend less than Kshs4 million, it would mean that there is a lot of extravagance. Unless somebody else from the moon is building this; but if we are building using the same materials and the same contractors, then we must be conscious of the fact that the costs are exactly the same.

Madam Temporary Speaker, I thank the National Housing Corporation (NHC) for doing the measurements meticulously and coming up with reasonable figures. This is because it was going to be a shame for us to build houses for ourselves, governors or speakers at costs that are unimaginable. It looks as if Kshs1 million is nothing in this country, and that is why you can hear of somebody talking of a building costing Kshs800 million.

Therefore, Madam Temporary Speaker, mine is to support the ceilings that have been proposed and to urge the Committee that they must monitor implementation of these resolutions. This is because, as a Senate, our role borders on oversight. We must ensure that the interests of the counties and county governments are taken care of. In that role, we expect this Committee to monitor.

Madam Temporary Speaker, I support what a Member said earlier, that this is an agenda that belongs to the first group of county governments. We failed in the first round; therefore this time round, we must finish. We need to give ourselves a deadline and make sure that within the next year or two, we have completed the development of both the residences of our county government officials, county assemblies and county government headquarters. Most of our headquarters – I can mention the example of Uasin Gishu County Government, in particular – are actually within buildings that had already been done by the county councils for the mayors. Therefore, the amount of work that will be done within these headquarters, in some cases, will not be as much as what we are seeing in these documents as proposals that have been given.

Our expectation, Madam Temporary Speaker, would be that the Committee on Finance and Budget will continue to monitor the development to ensure that, at the end of the day, we get value. This is because some counties will not spend the Kshs500 million that we are talking about; and others will not even spend the Kshs35 million for the speaker's residence because of the variability within the country. We know that in some places, the stones that we are talking about are cheaper than in other places. Similarly, cement and sand are cheaper in some places compared to other places. We need to get value for money.

Madam Temporary Speaker, as I wind up, it is important that we not only get value for money, but we also get decent buildings without being extravagant.

With those remarks, I beg to support.

Sen. (Prof.) Ekal: Thank you, Madam Temporary Speaker, for giving me the chance to also contribute and to support this report.

Madam Temporary Speaker, we need to have a prototype within the establishment of these counties such that every county has a certain structure on which they base the buildings that they build for the assemblies and the governor. This should be such that when you look at a structure, you can tell, for sure, that that is the governor's office or the county assembly for that particular county. This is important because of what my fellow Senators have already given. This includes, one, there should be limits, because human beings have this hunger of wanting to be better than somebody else.

If you do not put limits to the amount of money that can be spent on such structures, some people will come up with fancy ideas. They will say that: "I want my office to look like this or I want it to be this wide or this large". I do know of a deputy

governor who has an office that is larger than that of the governor. Such ridiculous dimensions do not make that deputy governor better than his governor or anybody else. We should have limits as to how much money can be spent in constructing these buildings.

Sen. (Prof.) Kamar has said that the amount of money to be spent on these structures is not the same in all the counties because the building materials could be cheaper in one county than in the other. Therefore, there should be a certain limit. One can say that; 'you can only spend so much.' The rest of the money can then be saved for other things especially in a County like Turkana where people are now hungry. We would rather save this money to buy food instead of building wild and unimaginable colossal structures.

I am wearing a suit but it may not be suited for the climate in Kenya. It is probably something that I should be wearing in some cold place. Therefore, when building in a County like Turkana, which is very hot at about 40 degrees celsius, the building should take into account the temperature in those particular counties even though we may have a standard. It would be good to consider that Turkana is hot hence the design of the structure should be a model that can keep the place cool for the comfort of those inside. Otherwise, some of those materials may not be necessary in windy areas that have less rain. You can build structures that are tailored to what happens in that particular county.

In as much as the structures need to be standardised, they can be designed to fit the situation of a particular county. I think that our people do things without thinking. People should look at what is available then tailor the buildings to that particular situation based on where they are. Otherwise, the idea of standardisation throughout the country should save people and the country money, which can be used for other things.

I support the Motion.

The Temporary Speaker (Sen. Pareno): There being no other requests, I call upon the Sen. (Eng.) Mahamud.

Sen. (Eng.) Mahamud: Madam Temporary Speaker, pursuant to Standing Order No. 61(3), I request that you defer the putting of the question to a later date.

The Temporary Speaker (Sen. Pareno): Some guidance Sen. (Eng.) Mahamud. Does that mean that you do not have a reply? You can put it on record.

Sen. (Eng.) Mahamud: Madam Temporary Speaker, allow me to thank the Members who have contributed and supported this Motion. This is a very important Report. As the Members have said, once we have the resolution of the House, we can forward it to the various oversight institutions so as to bring this matter to their attention for us to make sure that there is some sanity in the counties in as far as the building of the infrastructure is concerned.

I thank every Member who has contributed to this Motion. With those few remarks, I beg to move. Pursuant to Standing Order No. 61(3), I request that the putting of the question be deferred to a later date.

The Temporary Speaker (Sen. Pareno): I do order that the putting of the question of the Report be deferred to another date when it will appear on the Order Paper.

(Putting of the question on the Motion deferred)

Next Order.

MOTIONS

REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and nondiscrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

- (1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- (2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle

of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

The Temporary Speaker (Sen. Pareno): I am informed that the Mover of this Motion is not present. Therefore, this matter is deferred.

(Motion deferred)

Next Order.

COMPLETION OF STALLED COUNTY PROJECTS
THROUGH BUDGETARY MANAGEMENT

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

(1) Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;

(2) Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and

(3) Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

The Temporary Speaker (Sen. Pareno): Hon. Senators, I am advised that the Movers of Order No. 10, 11, 12, 13 and 14 are not present. Therefore, all those matters are deferred to another date.

(Motion deferred)

RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY
TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY

THAT AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a Member of Parliament for Kiharu Constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD-Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

(Motion deferred)

CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED
FORCES AND THEIR FAMILIES

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counselling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Coordination of National Government, in partnership with the Ministry of Defence, to establish counselling and support centers in all premises housing disciplined forces, and provide mandatory counselling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

(Motion deferred)

THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES

AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that the Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors 1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics; 2) develops a clear policy on street families rehabilitation and reintegration at county level; and 3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

(Motion deferred)

NOTING OF REPORTS OF THE PAN AFRICAN PARLIAMENT

THAT, this House notes the Reports of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7th to 18th May, 2018, laid on the Table of the House on Tuesday, 24th July, 2018; and, the First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18th October to 3rd November, 2018, laid on the Table of the House on Tuesday, 12th March, 2019.

(Motion deferred)

Next Order.

NOTING OF REPORT ON THE 5TH GLOBAL SUMMIT
ON OPEN GOVERNANCE PARTNERSHIP

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

The Temporary Speaker (Sen. Pareno): The Chairperson of the Committee on Justice, Legal Affairs and Human Rights, are you ready to move?

Sen. Cherargei: Madam Temporary Speaker, I am not ready to move because I did not travel. The Members who travelled are not in the House to second. I request that you defer it to a later date.

The Temporary Speaker (Sen. Pareno): Hon. Senators, Order No. 15 and 16 are also deferred for lack of seconders. The movers are here but the seconders are not here.

(Motion deferred)

NOTING OF REPORT OF 50TH SESSION OF THE ACP AND 35TH
SESSION OF THE ACP-EU JOINT ASSEMBLY

THAT, this House notes the Report of the Parliament of Kenya delegation to the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 13th to 20th June, 2018.

(Motion deferred)

Sen. Farhiya: On a point of order Madam Temporary Speaker.

The Temporary Speaker (Sen. Pareno): What is your point of order Sen. Farhiya?

Sen. Farhiya: Madam Temporary Speaker, the Order Papers are usually circulated in advance. I am not talking about the Chairperson of the Committee on Justice, Legal Affairs and Human Rights but I am making a general observation. Order Papers are circulated early and unless one has an excuse and permission from the Speaker, their Motions should be dropped.

I want you to give direction on that matter.

The Temporary Speaker (Sen. Pareno): I noted that you were seeking for direction on what we should do with people who seek that their matters be listed in the Order Paper but are not there to prosecute them. You will note that we have deferred almost all the business on the Order Paper. We have only transacted one business.

I thank Sen. (Eng.) Mahamud for being there to prosecute his business. The Chairperson of the Committee on Justice, Legal Affairs and Human Rights has tried his best to be here to prosecute his business. I thank those that are here to prosecute business. However, there are those who are not here. It is sad that we have to adjourn at this moment, not for lack of business on the Order Paper, but for the absence of the movers.

Therefore, we will pick up this matter and take this concern to the next meeting of the Speaker's Panel and the Senate Business Committee (SBC) so that we see how to address it. Otherwise, we will be going back to the same old story. At one point, we were complaining about Chairpersons not being present. We had to redo our Orders because we were not receiving answers to Statements. Now, we are back to having an Order Paper that has all the business but without Members to move them. I will take that back to the SBC and the Speaker's Panel to sit and agree on how to handle it. So, a report will be given after such consultations.

ADJOURNMENT

The Temporary Speaker (Sen. Pareno): Hon. Senators, there being no other business in the House, the Senate, therefore, stands adjourned until, Tuesday 2nd April 2019 at 2:30 p.m.

The Senate rose at 4:50 p.m.