

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 16<sup>th</sup> May, 2019

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

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

### PRAYER

### PETITION

#### IMPLEMENTATION OF THE TJRC REPORT

**The Speaker** (Hon. Lusaka): Hon Senators, pursuant to Standing Orders 226(1) (a), and 230(2) (b), I hereby report to the Senate that a petition has been submitted, through the Office of the Clerk by Bernard Wachira Waihere and Jacqueline Namuye Mutere.

In the Petition, the petitioners state, THAT-

(a) Following the political violence that erupted in Kenya after the disputed elections in 2007, the people of Kenya embarked upon comprehensive reforms aimed at ensuring Kenya transitioned into a peaceful, prosperous, inclusive and stable country;

(b) One of the measures adopted to address long-term issues that had contributed to the said violence was setting up the Truth, Justice and Reconciliation Commission (TJRC) with a mandate to promote peace, justice, national unity, healing and reconciliation by among other things inquiring into the gross violations of human rights and historical injustices;

(c) According to the Truth, Justice and Reconciliation Act, the Attorney-General was to table the TJRC Report in Parliament for its consideration and implementation and that to-date, Parliament has not considered the Report hence delaying its implementation;

(d) Victims of the violence continue to suffer from the violation as a result of the delay; and

(e) There continues to exist instances of gross human rights abuses committed against innocent Kenyans resulting in deaths, serious injury and trauma like the cases of extra judicial executions, shooting of unarmed demonstrators in the 2017 election cycle.

The petitioners, therefore, pray that the Senate-

(i) Requests transmission of the Report from the National Assembly to the Senate for consideration and adoption;

(ii) Passes all necessary legislation in order to enable victims of gross human rights violations as identified in the TJRC process, receive physical and psychological support; and

(iii) Causes the establishment of a Parliamentary Select Committee to oversight the implementation of the TJRC Report recommendations and promote national healing and reconciliation.

Hon. Senators, pursuant to standing order 231, I shall now allow comments, observations or clarifications in relation to the petition for not more than 30 minutes.

**Sen. Wetangula:** Mr. Speaker, Sir, I would want to make some comments on that Petition and thank the petitioners for bringing that Petition to the right House. After the fireball in the country in 2007, yours truly here and seven others; the late Sen. Mutula Kilonzo, hon. Martha Karua, Prof. Sam Ogeri, Sen. James Orengo, the Deputy President, hon. William Ruto, hon. Musalia Mudavadi and Dr. Sally Kosgei spent hours on end at the Amani Room in Serena Hotel with the late Dr. Koffi Annan and other international interlocutors.

Among the milestones of the Serena talks was to address the historical injustices that had cemented and exacerbated in this country; the mistrust and distrust between individuals; different communities and different political formations.

The TJRC was to address the historical foundations of these suspicions, hatred and dislike for each other which was including, but not limited to issues of land, alienation, dispossession and all the issues including extra-judicial killings that have been listed in the petition.

Mr. Speaker, Sir, millions of public resources were spent on the TJRC which was headed by the late Ambassador Bethuel Kiplagat. The TJRC had its own dramas, but they gave a Report to H.E. the President. Dutifully, the President forwarded the Report to the National Assembly as the House of first call. One would have expected that the Report be debated in the National Assembly, adopted or rejected as the case may be and thereafter forwarded to this House out of which we could concur with their decision if it is positive or go to mediation to adopt it.

The TJRC Report has been gathering dust in the National Assembly for the last over seven years. This is like an ostrich that sees a raging fire coming and because it has a small head and a big body, it dips its head in the sand hoping that the fire will not affect it when, in fact, the fire will hit the most vulnerable part of it. It will hit the feathers that are left out uncovered.

Mr. Speaker, Sir, I am so grateful to whoever has brought this Petition. I hope that the Committee to which it will be committed to, will dig into the historical effects of this delay and has an upshot of bringing the Report for debate in this House as the House of first instance. We cannot live with a historical baggage that makes us continuously unsafe and suspicions with each other. We are sitting on a time bomb that can explode at every election.

As I finish, the TJRC Report touched on virtually every single aspect of Kenya's negativity. It is only by confronting these facts that we can heal this country and look to

the future. The Bible says that the beginning of healing is founded on the acknowledgement of wrong doing. The small word, “sorry” which the President had the humility to say to Kenyans in the National Assembly in one of his Addresses can make a difference.

Mr. Speaker, Sir, I want to encourage us to go beyond the word “sorry” and compensate those who were affected, remedy the wrongs where people were dispossessed and make Kenyans happy and comfortable with each other knowing that we have no alternative country except this one.

Thank you, Mr. Speaker, Sir.

**Sen. Sakaja:** Mr. Speaker, Sir, I want to thank Mr. Bernard Wachira Waihere and Ms. Jacqueline Namuye Mutere for presenting this Petition at this important time in our country. As Sen. Wetangula has eloquently taken us through history, we have become a country that lives in denial and loves sweeping things under the carpet. The cycle of ethnic divisions and violence that has been mainly ethnic based started many years ago. The 2007 process was a painful one. I am sure that Sen. Wetangula will tell you that at that time when they were in that Amani Room - in as much as I was a young boy I was their “*mtu wa mkono*” - and that is when I got to “eleven”. Sen. Wetangula knows what I am talking about.

Mr. Speaker, Sir, but even then, the young people of this country felt quite alienated through all of those processes. If you go through the TJRC Report, it goes to the core of fundamental issues; land, the historical injustices in Wagalla, communities that have been disenfranchised by successive regimes through development or non-development or lack of equality of opportunities.

You can never cohesion where people in this country do not feel that they have equality of opportunities. Unless a child born in Nyamira feels and the parents knows that their child has the exact same shot at life as a child born in Kisumu or Nyeri, we can never have national cohesion.

Mr. Speaker, Sir, before the 2007 Post-Election Violence (PEV), we used to say that Kenya is an island of peace within a sea of turmoil. If you looked at our neighbours; Uganda, Rwanda, Burundi, South Sudan and Ethiopia, all had their issues. Kenya has always been hailed as the island of peace. However the 2007 PEV showed us that what we felt was the fabric that held this country together was non-existent and that we are always one election-cycle away from destruction.

Mr. Speaker, Sir, we cannot talk about the “Handshake” and completely ignore the work that was done through the TJRC. That is why I want to impress upon the Chair that this Committee needs to bring the TJRC Report to this House. This country needs to have difficult conversations with itself. Do Kenyans feel Kenyan wherever they are? Is there unity of the people, or it is just leaders who come together? When Sen. Wetangula forms a coalition with Sen. Omogeni, we will say that the Kisiis and the Luhyas have come together. How does a young person in this country feel like when they have to go through so many problems just to get an identity card because their community resides at the border? There are many more issues which makes us feel as if we have not achieved national cohesion.

Mr. Speaker, Sir, I urge that this Committee takes this Petition seriously and looks at it within the context of building bridges because that is where we are moving to as a country. There is nothing more important for us in this country today than the unity of our people. I thank the petitioners and pray that the Committee will invite all of us throughout this process.

They should also ask the National Assembly why it has sat on the TJRC Report for so long. I was in the National Assembly in the last Parliament, but I wonder why it has sat on the TJRC Report all this time.

In the last Parliament, when the President came and gave an apology, it looked like something simple, but I could see that some of colleagues had tears in their eyes. An apology by the President for historical injustices meted on some communities was enough for some people to shed tears.

In the last State of the Nation Address, the President said that he has set aside Kshs10 billion to be put aside for the processes of historical injustices. I do not know what else he put aside; but under which legal framework? We, as a House, need to put that together so that we stop paying lip-service to this very important thing of uniting our country and building bridges.

*(Interruption of debate on Petition)*

**The Speaker** (Hon. Lusaka): I wish just to interrupt debate on the Petition by making the following communications.

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATION FROM SALIENT MIXED SECONDARY SCHOOL, NYANDARUA COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Salient Mixed Secondary school, Nyandarua County.

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

I thank you.

#### VISITING DELEGATION FROM MANDERA COUNTY ASSEMBLY

Hon. Senators, I also want to acknowledge the presence in the Speaker's Gallery this afternoon of visiting Members of County Assembly (MCAs) from the Public Accounts and Investments Committee from Mandera County Assembly, who are on a study visit in the Senate. They are-

1. Hon. Bishar M.A. Abdulahi - Chairperson
2. Hon. Abdulahi Eunice Gulie - Vice Chairperson
3. Hon. Abdinoor Dagarne Rafat - Member
4. Hon. Fatuma Omar Kasai - Member
5. Hon. Abas Abdile Mohamed - Member
6. Hon. Hussein Adan Haji - Member
7. Hon. Khalif Hussein Hassan - Member.

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

I thank you.

*(Applause)*

*(Resumption of debate on Petition)*

Proceed, Sen. Cheruiyot.

**Sen. Cheruiyot:** Thank you, Mr. Speaker, Sir. I want to join the rest of my colleagues who have spoken to the very important issue that is before us this afternoon. This Petition has been brought to us by concerned citizens. These citizens should be commended for a very gallant move of reminding this House that as leaders drawn from all corners of this Republic, if we do not sort out many of the issues that are being canvassed in this Petition that are contained in the Committee on Truth, Justice and Reconciliation Committee (TJRC) Report, then we are walking down a very dangerous path.

Mr. Speaker, Sir, as it has been observed on many occasions, God has been faithful to us, as a country. On many occasions where we have been on the brink of the precipice and just about to collapse, as a country, we have had the opportunity to be able to sober up and confront the issues, albeit not in a conclusive manner, but which many other countries have never had.

Mr. Speaker, Sir, we know that in this House we have the distinguished honour of having two Members who served in the initial exercise that led to the formation of TJRC; that is Sen. Moses Wetangula and Sen. (Prof.) Ongeru. Again, this year, we also have Sen. Amos Wako and Sen. Haji serving in another Committee that is doing an exercise that is almost similar to what was done by these great and gallant seniors in this House. However, what motivation do the Senators that are currently carrying out the Building Bridges Initiative (BBI) have if we have not executed even a single recommendation of the earlier version of the TJRC Report?

Mr. Speaker, Sir, I want to request that the Committee that will be tasked with executing this Petition expeditiously carries out the request of the Petitioners. They should ensure that they lay in place all that is necessary for us to begin, as a House, to discuss that Report; and agree or disagree with many of its recommendations. If we are not careful and address some of those issues, what evidence is there that will not fight as we head towards another cycle of elections? What guarantee do we have should there be any disagreements, that this time people will not give up and fight? You will remember

how difficult it was in the last election cycle, where we even went ahead and had a President that had been sworn in legally and another one that had been sworn in, in some sort of a private function.

Mr. Speaker, Sir, this is a very important issue that should not be treated casually. I look forward in exactly two months to debating the TJRC Report in the precincts of the Senate.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to also add my voice to the Petition on the TJRC Report.

Mr. Speaker, Sir, I sit in the Senate Standing Committee on National Cohesion. Today, many years after the PEV, we are still grappling with cases of compensation for the victims.

Mr. Speaker, Sir, it will be remembered that in 1997 in South Africa, they established a Commission to look into historical injustices visited on the people of South Africa during the Apartheid era. There was so much debate on that Report that some people were not sure whether this was not a 'kleenex' commission where people were given tissue paper to wipe their tears and the Report was never going to be implemented.

I am looking forward to a situation where if you need to adopt a resolution of the Senate to lift the Report that was tabled before Parliament so that it is tabled before this Senate for debate and for action, we shall do so.

Mr. Speaker, Sir, one of the documents that I was looking forward to be tabled before the BBI was the TJRC Report. This is because it does not make sense for the BBI to go round the country seeking to reconcile and unite our nation when a cardinal Report that chronicles all the injustices visited on the people of this country is lying on the shelves of the National Assembly.

I urge the leadership of the Senate to expedite the process that will bring that Report before this Senate for debate. It will not just be for debate for the sake of it; but debate that will produce results and actions to remedy the wrongs that have been visited on huge population in this county for many years.

**Sen. Pareno:** Thank you, Mr. Speaker, Sir. I wish to contribute to this very important debate.

Mr. Speaker, Sir, the name that was given to this Commission – the Truth, Justice and Reconciliation Commission – and the Report itself speaks for itself. Here we are talking about the truth about ourselves, as Kenyans. What did we do to each other? How did we harm each other? Where did we go wrong, as a country, against each other? We need that truth to come out if we are serious about taking this country forward.

We must also talk about justice. Justice for who and against who? It is justice for this country for those who were wronged and tortured. Justice for land and historical injustices committed against each other. We must also talk about oppression, discrimination, the massacres and the kind of cohesion that we need in this country.

Mr. Speaker, Sir, the person sitting on the TJRC Report is the enemy number one for this country. If we are serious, then we would want to stay on truth path. We would want to have justice for each other and live in harmony in this country. If we care about our cohesiveness, we should then go down in history as having implemented to the letter what the TJRC came up with.

Mr. Speaker, Sir, the commission's name also contains the word "reconciliation." We need to reconcile ourselves, as a nation. Once we forgive each other, then we will live together and work together for the sake of this country. However, if we just shelve the decisions and recommendations that had been arrived at in this Report and nobody bothers to implement them, then it means that we do not care about our future.

Mr. Speaker, Sir, this Report is connected to the Building Bridges Initiative (BBI). We are out to build bridges for this country and we must say sorry to each other. We should bring this together with the BBI and have the Committee look at it. We will then pick out the recommendations and link them to the BBI. This is the only way we will take this country forward.

Mr. Speaker, Sir, this Report needs urgent attention in view of the mood in the country because of the BBI. We need to come up with a permanent solution, once and for all.

**Sen. (Dr.) Langat:** Thank you, Mr. Speaker, Sir, for also giving me this chance. As the Chairperson of the Committee on Education, I welcome the students and the visitors in the Speaker's Gallery.

I support this Petition to the core. Let me begin from the initials of the Petition concerning the TJRC. It begins with truth. We must pursue the truth of this matter seriously. The Bible says it is only the truth that will set us free. We must debate this Report and implement some of its recommendations. It is only the truth that will help this country. Otherwise, we shall be a country that will continue setting up commissions and not implementing their recommendation. We will never have solutions to the problems bedeviling us, as a country.

Mr. Speaker, Sir, if we do not implement recommendation on truth and justice, the current BBI will not help us much. We must revisit historical injustices in an attempt to reconcile ourselves forever.

I urge the Committee that will handle this Report to scrutinize it and make sure the truth comes out so that we heal as a nation. This is the right time for the Senate to debate this Report.

**Sen. (Prof.) Onger:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to ride on this Petition.

First of all, I welcome the students from Nyandarua County who are here with us. I also welcome the Mandera County Assembly Committee on Public Accounts and Investments. We had a full session with them in the morning. They witnessed what we do in the CPAIC.

Those of us who participated in the Serena talks immediately after the Post-Election Violence (PEV) of 2007 can safely say – as Sen. Wetangula said earlier on – that it was not a mood that you could tolerate one another in that room. It was so tense and the country was heavily polarized and everybody was looking at the solution. Whether you were on the opposing side or the Government side, what was needed at that time was brokering the peace within a reasonable period of time.

As we agonized through those sittings, one thing that came clear in our minds was that we needed to reconcile this nation to one another. Therefore, peace became a major platform for us to bequeath the generations of Kenya in anticipation that when Kenyans

come together, we will live together in harmony without recognizing the ethnicity or boundaries that divide us in every aspect.

Mr. Speaker, Sir, that was the reason for the TJRC Report which was very well executed. The issues that were being conversed there was that never again should the citizens of this country go to war against each other. That is why all the time whenever there is any dispute, I stand and my clarion language is dialogue because I saw what it can lead to. Many people were killed and others displaced. Today, we have to deal with those who were displaced from their communities and place of abode. That has not been resettled.

We are hoping that when the TJRC Report comes out, it will give Kenyans the opportunity to ventilate their feelings and look for ways and means on bridging their differences. I still stand by that.

Unfortunately, when this Report was tabled before our sister House, the National Assembly, it stuck there. My first reaction is that we should be the first point of call at the Senate level. If need be in looking at this Petition by these two gallant Kenyans, we should recall that Report to the Senate level as a first point of call, so that we can debate and bequeath to Kenyans the conclusions of it.

Secondly, we should not rubbish the BBI because it is in response to what has become a mutation problem in this country. Let me state here without any apology that unless we are careful as a nation, this country is mutating and what we are seeing today is families killing one another mercilessly and people seeking rent left, right and centre. This country is being turned to a country of mafias by the mutation of what happened in 2007/2008 which has not been attended through the recommendation of the TJRC. We are now seeing the imminent resuscitation of various groups coming up.

Mr. Speaker, Sir, I passionately plead that in order to save this country from collapse and from the level of Columbia and Mexico where the mafias have dominated the society - you do not have to look afar to see what is happening now within our society. Now that the Petition is before this House, let us make sure that we do everything possible to retrieve that Report from the National Assembly, debate it here and have Kenyans get the benefit.

When the BBI report comes, it will also add flavour to this Report and we shall have a complete and comprehensive report to guide this nation towards that path of peace.

Thank you for your attention.

**The Speaker** (Hon. Lusaka): Hon. Senators, the time allocated for the Petition is over. Therefore, I will only allow Sen. (Rev.) Naomi Waqo who was in time.

**Sen. (Rev.) Waqo:** Mr. Speaker, Sir, I thank you for allowing me to add my voice to this very important petition. I also take this opportunity to thank the Petitioners for coming up with this petition on implementation of the TJRC Report. Kenya has gone through many things. People's rights have been violated in different ways. Currently, we have many disputes over boundaries and land. We have many conflicts among different ethnic groups. Kenyans have suffered and a number of people have lost their lives. This report is very important for us, as a nation, to look at and implement all the recommendations.



It is unfortunate that we use a lot of resources in forming commissions, but when we receive their reports, we shelve them. Time has been consumed and the taxpayers' money has been used. If we do not implement the recommendations of the report, then, we, as a country, are not doing justice to ourselves.

We all recommend and appreciate the efforts of BBI, but if we are not careful, their hard work and commitment will not have any relevance to this nation. This is so because again after they compile their report, it will be shelved.

Mr. Speaker, Sir, our recommendation is that the implementation of this takes place as soon as possible. As Senators, it is high time for us to commit ourselves to this so that we prevent the challenges that are ahead. When you look at what is happening in our nation today, you fear what will happen during campaigns in 2022. If we implement some of these reports, we will prevent some of the problems and challenges that have always been there. We have no option, but to support this Petition and see how best it can be implemented to better the lives of the people who have been affected.

It is unfortunate that some people who participated in this have already gone to be with the Lord. Others who were affected have already died, but it is good for us to give it attention.

I support the Petition.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No.232(1), the Petition stands committed to the relevant Standing Committee, in this case, the Standing Committee on Justice, Legal Affairs and Human Rights. So, in terms of Standing Order No.232(2), the Committee will be required in not more than 60 calendar days from the time of reading the prayer, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the Table of the Senate.

*(The Petition was committed to the Standing Committee on Justice, Legal Affairs and Human Rights)*

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

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

**Sen. Wetangula:** Mr. Speaker, Sir, given that there is not a single petition in this House and the previous House that any Committee has ever brought a report within 60 days as the Standing Orders envisage and; given the magnitude and importance of this Petition – can we, as a House, have the undertaking from the illustrious Chairperson of the Committee on Justice, Legal Affairs and Human Rights, that indeed, he will deliver a reasoned and productive report to this House within the 60 days? We hold him to it.

**The Speaker** (Hon. Lusaka): That is a good contribution from the Senator for Bungoma. Sen. Cherargei, I can see you smiling; maybe that may not be enough. You need to assure this House that you will bring the report.

**Sen. Cherargei:** Mr. Speaker, Sir, I assure the House that as provided for by the Standing Orders we will table a report within 60 days. My Committee has a good history of tabling reports within stipulated time. We tabled a report on the Talai historical injustices and the report on the use of the word “Harambee.” With our zealous

commitment, no doubt we will deliver. We will do so, within the provided timeline of the Standing Orders.

### PETITION

#### UNLAWFUL ENCROACHMENT AND FORCEFUL OCCUPATION OF BARWAQO PLOTS, MANDERA COUNTY

**The Speaker** (Hon. Lusaka): Thank you. I have another Petition.

Hon. Senators, pursuant to Standing Order No.226(1)(a) and 230(2)(b), I hereby report to the Senate that a Petition has been submitted through the office of the Clerk by residents of Barwaqo Location, Bulla Mpya Ward, Mandera County.

(1) In the Petition, the petitioners state that-

(a) They applied for and were allocated plots in Barwaqo Location by the County Government of Mandera in or about 2013.

(b) That, after complying with all the relevant requirements, the County Government of Mandera issued them with allotment letters.

(c) That, they have dutifully paid to the County Government of Mandera, land rates and all other statutory requisite payments.

(d) That, in or about February, 2014, the Government of Kenya forcefully evicted them from the land and unlawfully occupied the same.

(e) That, the action of the Government offends express provision of the Constitution and statutes with regard to compulsory acquisition of land by Government.

(2) The petitioners, therefore, pray that the Senate investigates the matter with a view of ensuring that the property rights of the petitioners are upheld and the due process of the law is followed in the event of compulsory acquisition by the Government.

(3) Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes.

Proceed, Sen. Halake Abshiro.

**Sen. Halake:** Mr. Speaker, Sir, I rise to support the residents of Mandera on their Petition. This issue is very prevalent in our counties and the entire country. The Government, both at national and county levels, is becoming number one grabber of land from our communities. Just because they are the bearers of duty and have the instruments of power does not give them any rights to mistreat communities. This is so, especially in areas, for example, Mandera, Isiolo and Northern Kenya where the land is mostly community. We have seen a trend where through wanton gazettelement, the communities have been disenfranchised.

*(Loud consultations)*

Mr. Speaker, Sir, there is too much noise.

*(Sen. Murkomen consulted loudly)*

Senate Majority Leader, I need to---

**The Speaker** (Hon. Lusaka): Order! Hon. Senators, consult in low tones.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. This issue is very emotive and close to the hearts of many people from Northern Kenya. I have said this and I will keep on saying it until the cows come home – the community land, especially in our counties and even in our national jurisdictions are being converted by the Government. We, as the communities, see the Government as the number one grabber of our land.

In the last two years only, over 50 areas were gazetted as Government protected forests. We support conservation of forests, but without any compensation and provision of any alternatives, that is tantamount to grabbing land from communities.

While I stand to support this Petition, I am very disturbed that this trend is so prevalent in all counties. I would like this Senate to look at what is happening to community land in our country, especially in Northern Kenya where a lot of this land is deemed free just because it is supposed to be grazing land. It is appearing as though it is free land for grabbing.

It does not make sense for the duty bearers, somebody who is supposed to be providing land to the people or compensation to just take the land and evict people. There are human rights abuses. We are looking forward to the Committee on Lands to give a way forward. We will definitely make sure that we come to the bottom of this because it is becoming too prevalent for us to bear.

Mr. Speaker, Sir, I support this Petition.

**Sen. Nyamunga:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support the Petition.

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

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

**Sen. Sakaja:** Mr. Speaker, Sir, my apologies for interrupting Sen. Nyamunga. I believe there is a question that you need to help us determine. I wish Sen. (Prof.) Kamar could allow you because I would need you to consider this issue. The Constitution gives every Kenyan the right to petition Parliament. We also have Acts of Parliament as well as the Standing Orders, which guides us on how to exercise of the right of Kenyans.

*(Sen. Murkomen consulted loudly)*

I would like the Senate Majority Leader to listen to this.

We reviewed our Standing Orders last year. Previously, Members would bring Statements on matters that could have been handled by the county assemblies and that is why the amended Standing Order No. 48 states that:-

“A Senator may request a Statement from a Committee relating to any matter under the mandate of the Committee that is of county-wide, inter-county, national, regional or international concern.”

That Standing Order is on Statements, but the spirit of that amendment was to prevent the Senate from dealing with matters that are restricted to or matters that are affecting one ward. A matter affecting one ward should be handled by the county

assembly. However, a matter that is county-wide, inter-county, national, regional or international concern should come to the Senate.

You need to make a determination on this issue. Should the Senate be addressing petitions that are only affecting one ward within a county? If so, what will the county assemblies do with respect to petitions?

We need to deal with county-wide, inter-county, national, regional or international concern at the Senate for us not to look like a glorified county assembly. All the wards in this country have issues and if they are to all bring their petitions, we will never be able to deal with them.

I do not want you to make the ruling right now, but I am asking for a considered view on that matter. I think that it was an omission by the Rules and Procedural Committee when we amended our Standing Orders.

**Sen. Wetangula:** Thank you, Mr. Speaker, Sir. My distinguished colleague from Nairobi County, who is my nephew, has a point that is only clever by half. He has a point, but we must appreciate that the Petitioners feel that it is only in this House where they can get justice.

My colleagues who come from Northern Kenya like Sen. Halake, Sen. Dullo and Sen. Farhiya know that clannism makes it impossible for an individual from a particular clan to get any iota of justice in the county and that is why they come here. I know this for I have practiced law in the northern part of Kenya for a very long time.

In as much as Sen. Sakaja is right when he says that we do not need to overload ourselves with issues that can be resolved at the counties, it is incumbent upon the office of the clerk to carry out an inquiry on the petitioners as they process the petitions. They should establish the reason as to why the petitioners have chosen to come to this House and not the county assembly. I believe that they have a purpose and reason for coming here. We do pride ourselves as the House of reference, justice, last resort, the House of the wise, and a House that will give hope and a future to this country and that is what we must remain to be.

**The Speaker** (Hon. Lusaka): Thank you for your contributions. The Constitution allows any Kenyan to petition this Parliament hence these people have a right to petition the Senate. However, Sen. Sakaja has raised a valid point. When these petitions go to the Office of the Clerk and my office, we evaluate the raised issues. There is always a reason as to why they bring the petition to this House. It could be that the county assembly is already compromised. That is why they look for an alternative House that can address the issue.

**Sen. Sakaja:** Mr. Speaker, Sir, for clarity, I am not sharing my opinion. It is a request for a considered view. I do not question the people's right to come here and how the Senate has been put on a pedestal. My question is on the matter of scope and not mandate.

The 85 wards in Nairobi County have issues. However, I have sent many petitions to the county assembly though I would be happy to bring them here and have them resolved in 60 days.

It is not a matter of mandate or how the Senate is looked at, but a matter of scope and that is why I was not asking you to make a ruling right now. This is a matter that we

can consider. I, probably, need to put my thoughts in writing. We could be save ourselves from something in future.

**Sen. Nyamunga:** Thank you, Mr. Speaker, Sir. I also support the comments made by my senior and you. In as much as this matter comes from a ward in Mandera County, it does not mean that land issue is not rampant in other parts of Kenya. Land allocation and reallocation is rampant in Kenya and should be looked at. The problem could be with how the Petition was written. However, the problem touches on almost all the wards in this country.

I support the people of Mandera County. This is not the first complaint that we have received. The other day, a place in Kibera was burnt down because it had been allocated to some people who were not the real owners. This Petition touches all of us. It touches on people from Kanyakwar in Kisumu County whose land has been allocated and reallocated to several people. Different people pay land rates yet the land is not theirs. This is a matter that should be looked into for it touches on most parts of Kenya.

The issue of corruption and land grabbing has affected many people in this country. Therefore, it should be solved, once and for all.

*(Interruption of debate on Petition)*

## COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM MIATHENE  
BOYS HIGH SCHOOL, MERU COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I want to make a communication.

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers of Miathene Boys High School, Meru County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

*(Resumption of debate on Petition)*

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir. I also wish to join you in welcoming students from Miathene Boys High School, Meru County.

It has become normal for people to be evicted haphazardly in this country. People develop land using their retirement money just for the Government to evict them. Where was this Government when these people were building those houses? According to the Petition, those people have been paying land rates which means that the land belongs to them hence it is unfair for someone to evict them without compensation.

People come to this House to seek justice. In the counties, we have small and big clans. We even have marginalised sub clans within the bigger clans. With due respect to

the ‘super’ Senator, I want him to understand the dynamics in those areas. Those people will never get justice from the county assembly because they, probably, do not have a Member of the County Assembly in the assembly. At the end of the day, nobody will take their issue to the next level. Therefore, they have every right to Petition this House.

This House is impartial and it has representatives from 47 counties and nominated Senators who take care of special interests. The inequality within the counties is the reason as to why this House passed the County Wards Development Equalisation Fund Bill. So, they cannot find justice within county assemblies. I want the ‘super’ Senator to understand that issue.

Mr. Speaker, Sir, you know---

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

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

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, I would like to know from Sen. Farhiya if we have super, minor and whatever Senators. I thought we are all equal in this respect.

*(Laughter)*

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

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for protecting me. Land is an emotive issue in this country. Land being one of the economic resources, it is contentious. Unless there are laws and people who can protect others against losing their land--- That is the reason people felt that the Senate is the right place to come to.

I support Sen. Halake in terms urging the Government not to grab land from the people of Northern Kenya hence displacing them permanently.

Due to high illiteracy levels in those counties, sometimes they do not know their rights and people take them for granted. I, therefore, commend these people from Mandera for coming to this House for justice.

Let us protect our electorate from whoever is grabbing their land. Let them get justice because everybody in this country deserves it. They come to this House because of its wisdom. They believe that their rights will be protected.

Mr. Speaker, Sir, whichever Committee this Petition will be committed to, we want them to dispense with this issue with the justice it deserves.

I thank you for allowing me to contribute to this Petition.

**Sen.(Prof.) Ongeri:** Thank you, Mr. Speaker, Sir. First of all, we must recognize that land is a very emotive thing. Anything to do with being displaced from land is itself very emotive. I suspect that the residents of this ward in Mandera County have gone through all manner of petitions until they have reached a level of no return. They found out that the only recourse was for their petition to be heard is in this Senate.

Since I know what land means to every community, I am fully persuaded that this Petition is properly before this House. Therefore, the best thing we can do is to prosecute the merits and demerits of this Petition in the relevant Committee, so that we give correct results to the people of Mandera and relieve them of this agony. They are already suffering many other problems in that border county. We have the *Al Shaabab* harassing

them left, right and centre. Added to that, there is this land problem and disputes coming their way.

Mr. Speaker, Sir, when the big brother in the name of the national Government comes to harass the small brother who is the county and even smaller at the ward level, there is reason for us to look into it and find out why this harassment exists.

Mr. Speaker, Sir, I submit to you in this House that this is properly before us and we should prosecute it.

**Sen. (Eng.) Hargura:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I support the petitioners in submitting their Petition to this House. It is very clear that when the right of the public is being violated by the Government then they have to seek recourse where they think their grievances can be addressed by this House.

Mr. Speaker, Sir, from the way you read it, maybe there is a message you need to know from that Petition. That is why we need to get the Committee work on it, so that we know what happened. This is because compulsory acquisition is a very clear process. It does not involve the Government going in and kicking out residents. There are very clear steps if the Government is interested in particular private land. It is private land the Government has to engage the National Land Commission (NLC) to acquire the land on its behalf, be it national or county government. In this case, what we are hearing is strange and that is why we need to quickly get down to it.

As a Member of the Committee on Land and Natural Resources, I urge my colleagues that we have to treat this kind of Petition with the urgency it deserves. Kenyans are suffering because of actions of the Government. We have to come in and make sure that things are done right.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir. I also support this Petition from the people of Mandera County. It was recently when we heard that some people from Isiolo County were evicted to pave way for security personnel in this country.

When it comes to evicting people from land, in this case being carried out by the Government; it leaves a lot to be desired because it is supposed to take care of its people.

Matters to do with land, as has already been said by my colleagues, are extremely emotive. This case is not unique to only Mandera County, but in all other parts of the country. This is very similar to cases of eviction from the Mau Forest that have affected the people of Bomet and Kericho counties.

When we evict people from land for which they have been paying land rates and living in for many years, it is in essence visiting them with a lot of issues that are going to affect them. In most cases, those people will suffer economic crisis as a result of their houses being burnt, crops destroyed and schools burnt down. When schools are been burnt down, it goes a long way to even affect the schooling of their children.

These cases are similar to the ones Mau Forest, which have affected our people for many years. In most cases, the issue of Mau Forest has been used as a political tool to gain political mileage. In some cases, there are people who have cheated the people to vote on the promise of settling them after the elections.

In this case, such an injustice---

*(Loud consultations)*

**The Speaker** (Hon. Lusaka): Order, Members! Let us consult in low tones.

**Sen. (Dr.) Milgo:** Thank you, Mr. Speaker, Sir, for saving me from such noise. Issues to do with land have affected our people even in terms of health. This is because stress for many years normally ends up---

**Sen. Pareno:** On a point of order, Mr. Speaker, Sir. I do not know whether you heard Sen. (Dr.) Milgo say: "Thank you, Mr. Speaker, Sir, for saving me from such madness?" I do not know whether that is what she said. If that is what she said, I do not think there is any madness in this House. She needs to withdraw.

**Sen. (Dr.) Milgo:** Mr. Speaker, Sir, I said "from such noise." I did not talk about madness in the House.

Before I was interrupted I was saying that issues of land have normally affected the health of our people. This is because of stress that they have been subjected to for many years as a result of being chased out of land they have occupied for many years and losing what they have invested all their lifetime.

Mr. Speaker, Sir, I believe that these people have faith in the Senate. Therefore, the concerned Committee should take up this issue as a matter of urgency and bring on board the NLC. The injustices begin at the NLC because it has the knowledge and information that concerns plans. In this case, sale and allocation of land.

I support this Petition.

**The Speaker** (Hon. Lusaka): Finally, Sen. (Dr.) Mbito.

**Sen. (Dr.) Mbito:** Thank you, Mr. Speaker, Sir. I would like to add my voice to this Petition. I thank the residents of Barwaqo Area for bringing this important Petition. I assure them that it is in the right place and it will be given its due consideration.

Mr. Speaker, Sir, I thank you for your pronouncement that every Kenyan has a right to bring a Petition to this House and to ensure that it is heard. Whereas we all support the position that everybody has a right to bring a Petition, it is rather unfortunate that when we, as leaders go out there, we have a different opinion. We have a situation where we have a double speak.

When residents of Mt. Elgon brought a Petition to this House, for example, one of our Members in this House announced in a funeral that the Petition is dead on arrival. I found that comment inflammatory and unfortunate. This is because everybody has a right to be heard. However, we should not go out there and incite the public against each other and term Petitions as dead on arrival. These are not statements that should be used by hon. Members of this House. Therefore, I thank the residents for bringing this very important Petition. I assure them that it will be considered in due course.

**The Speaker** (Hon. Lusaka): Hon. Senators, pursuant to Standing Order No. 232(1), the Petition stands committed to the relevant standing Committee in this case, the Standing Committee on Land, Environment and Natural Resources.

In terms of Standing Order No. 232(2), the Committee is required, in not more than 60 calendar days from the time of reading the prayer, to respond to the petitioners by way of a report addressed to the petitioners and laid on the Table of the Senate.



*(The Petition was committed to the Standing Committee on Land, Environment and Natural Resources)*

Next Order.

### PAPERS LAID

#### REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY AGENCIES /FUNDS

**The Senate Majority Leader** (Sen. Murkomen): Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, Thursday 16<sup>th</sup> May, 2019-

(a) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Car Loan and Mortgage Fund for the Year ended 30th June 2018;

(b) Report of the Auditor-General on the Financial Statements of Kirinyaga County Health Sector Service Fund for the Year ended 30th June 2018;

(c) Report of the Auditor-General on the Financial Statements of the Kirinyaga County Executive Emergency Fund for the Year ended 30th June 2018;

(d) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Bursary Fund for the Year ended 30th June 2018;

(e) Report of the Auditor-General on the Financial Statements of Nyeri Water and Sewerage Company Limited for the Year ended 30th June 2018;

(f) Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Assembly Car and Mortgage Revolving Fund for the Year ended 30th June 2018;

(g) Report of the Auditor-General on the Financial Statements of Gatanga Community Water Scheme for the Year ended 30th June 2018;

(h) Report of the Auditor-General on the Financial Statements of Karuri Water and Sanitation Company Limited for the Year ended 30th June 2018; and

(i) Report of the Auditor-General on the Financial Statements of Kilifi County Ward Scholarship Fund for the Year ended 30th June 2018;

(j) Report of the Auditor-General on the Financial Statements of Mombasa Water Supply and Sanitation Company Limited for the Year ended 30th June 2018; and

(k) Report of the Auditor-General on the Financial Statements of Tavevo Water and Sewerage Company Limited for the Year ended 30th June 2018.

*(Sen. Murkomen laid the documents on the Table)*

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

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next order.

## STATEMENTS

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. Murkomen): Mr. Temporary Speaker, Sir, I ask for your indulgence, I give my Statement first so that I can attend to another meeting that is in relation to my responsibility as the Senate Majority Leader. That is if you do not mind.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed.

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 21<sup>ST</sup> MAY, 2019

**The Senate Majority Leader** (Sen. Murkomen): Thank you, Mr. Temporary Speaker, Sir.

Pursuant to Standing Order 52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 21<sup>st</sup> May, 2019.

I take this opportunity to welcome you back from the 31 days recess. I hope you enjoyed the time spent with family, friends and your constituents. During the recess, the Senate also participated in the Annual Legislative Summit 2019 in Kisumu County. I thank all Senators who attended and participated at various levels in the Summit.

Hon. Senators, subject to further directions by the Senate Business Committees (SBC), the Senate will consider Bills due for Second Reading and Committees of the Whole on Tuesday, 21<sup>st</sup> May, 2019. The Senate will also continue with the consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 22<sup>nd</sup> May, 2019 and Thursday, 23<sup>rd</sup> May, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Before we proceeded on recess, I informed the House that there are several Bills before the House at Second Reading and Committee of the Whole stages. There are also a number of Statements and Petitions pending before Standing Committees. I urged the respective Standing Committees to ensure that the process of consideration of the said business is expedited during the recess period and table reports on them upon resumption of sittings in May, 2019. You may note that we have 35 Bills pending at the Committee of the Whole.

Hon. Senators, once again, I appeal to the committees to take appropriate measures. This will facilitate the House to enrich debate at the Second Reading stage and also effectively navigate the Committee of the Whole stage of the Bills.

I thank you and hereby lay the Statement on the Table of the House.

*(Sen. Murkomen laid the documents on the Table)*

OPERATIONALIZATION OF THE MENSTRUAL  
HYGIENE MANAGEMENT POLICY

**Sen. Halake:** Thank you, Mr. Temporary Speaker, Sir. Pursuant to Standing Order No. 47(1), I rise to make a Statement on operationalization of the menstrual hygiene management policy.

Mr. Temporary Speaker, Sir, in early 2017, the Ministry of Health developed the National Menstrual Hygiene Management Policy and Strategy with support from Non-Governmental Organisations (NGOs), the private sectors, including various area experts.

The policy was an initiative by the national Government to break the silence on menstruation and provide more adequate services to girls and women in our country. However, the policy has not been made operational. Therefore, it raises the question as to why this has not yet been done.

Mr. Temporary Speaker, Sir, I have a Bill that is being prepared where I am trying to ensure that we zero-rate the local production of sanitary towels. It is unfair for this country to tax women because they are menstruating because this is a biological function that they have no control over. Therefore, we would like to make sure that all aspects that regard management of the menstrual hygiene are operationalized.

Given that Article 21 (1) and (2) of the Constitution impose an obligation on the State and every State organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms set out in the Bill of Rights. Further the State is required to take legislative, policies and other measures, including setting of standards aimed at ensuring the rights guaranteed under Article 43 of the Constitution are progressively realised.

The economic and social rights as contained in the Constitution, reflect the rights as set out in the International Covenant for Economic, Social and Cultural Rights. The Policy examines the prevailing social, economic, cultural and demographic contexts on menstrual health for women and girls, including implications for consequences to their health.

Menstrual Hygiene Management (MHM) is closely linked to healthcare, education, water, sanitation and hygiene and a healthy and clean environment for all. Therefore, the Policy has a section requiring that these rights are addressed within the existing regulatory environment of our Constitution.

In addition, the Policy has outlined principles, objectives and priority areas for the management of menstrual health, coordination and provision of services, roles and responsibilities for different stakeholders.

I would like to highlight some of the action plans that will help in managing menstrual health such as-

- (i) Review of existing standards and guidelines for WASH facilities in public places, work places, correctional facilities and healthcare facilities to integrate MHM;
- (ii) undertake MHM as a right-based intervention for all, with emphasis on hard to reach areas, humanitarian situations and Persons with Disabilities (PWDs);
- (iii) ensure access to clear and correct information and knowledge on available for options for managing menstruation;

(iv) ensure that women and girls have access to a range of menstrual hygiene management products; and,

(v) ensure that counties include MHM in their County Integrated Development Plans (CIDPs) and County Health Strategic Plans (CHSPs) and have a dedicated budgetary allocation for MHM activities.

Mr. Temporary Speaker, Sir, even though the Policy is a good initiative to curb the problems women and girls face during menstruation, it needs to be revised to have pragmatic steps or activities to achieve the objects and action plans in the Policy. I believe the Policy should not be an academic research paper but a pragmatic strategy or framework that can be implemented to bring out the results which we are seeking.

It is a concern that policies, laws and strategies are developed in this country but honoured more in breach than in practice. We have many good laws and policies gathering dust on shelves. I call upon the Government to zero-rate pads and sanitary towels in this country because that is gross violation of the rights of women to have access to menstrual health.

We need the Policy to be operationalised so that we have menstrual health products zero-rated because women should not pay for menstruation which is a biological function over which they do not have control.

I thank you.

PARALYSIS IN LEARNING DUE TO  
ALLEGED OPPOSITION TO THE CBC

**Sen. Pareno:** Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Education regarding the total paralysis in learning activities in Mashuru Sub County in Kajiado County, resulting from the interdiction of 58 teachers for alleged opposition to the Competency-Based Curriculum (CBC).

In the Statement, the Committee should-

(1) Explain the circumstances under which the Teachers Service Commission (TSC) interdicted 58 of the 134 teachers in Mashuru Sub County, with a serious ripple effect to neighbouring regions within Kajiado County and provide a list of the interdicted teachers.

(2) Show proof that the interdicted teachers were opposed to the introduction of the CBC as alleged.

(3) Clarify whether the teachers were given a hearing prior to the interdiction, considering that many of the teachers, some of whom were on sick leave or maternity leave, received their interdiction letters before the period provided to respond to “show cause letters” had lapsed.

(4) State what urgent measures the national and county governments are taking to deal with the matter and also ensure that normal learning activities are restored at the sub-county, considering that 22 of the victims are headteachers and all the schools have candidates who need to be prepared for the 2019 Kenya Certificate of Primary Education (KCPE).

(5) State what plans the Government has in the long term to address the shortage of teachers in the County and in the short term, to address the dire needs of the schools affected by the interdiction, particularly of teachers of AIC Ilmunkush, Eselenkei, Olmeleleki and Naretoi schools, each of which had 4 or less TSC teachers and all of whom have now been interdicted.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to add my voice to this particular Statement. I commend Sen. Pareno for bringing the Statement, because this is a countrywide matter. The issue of the CBC has been debated many times.

Now that 58 teachers were interdicted in the sub county, that is something of great concern that we as a Senate need to seriously interrogate whether there was any need for them to be interdicted. There is no rationale interdicting the 58 teachers because it has a direct impact not only on the learners but also on the teachers' performance. It also has psycho-social impact that is not positive.

From the Statement, teachers who were on sick leave and maternity leave were also interdicted. That means that they were not given audience or time to air their views. From the Statement, right now, 22 schools have no headteachers. A headteacher has an important role to play in a school.

If 22 headteachers were arrested, it means that there are 22 schools without headteachers, thus the schools do not know where to head or the direction to take. It is unthinkable for a school to be without a headteacher because a deputy cannot play the role of a headteacher.

The issue of divergent opinion should not warrant an interdiction. If people have divergent opinions, it is good for the opinions to be brought on board and see whether they hold water or not. Instilling fear for purposes of effecting a policy or a programme cannot work. When people work in fear, matters cannot go very well. So, it is illogical, not sustainable and well-thought out. This is an issue that the Committee on Education, Information, Communication and Technology, where I sit, should interrogate with speed. The head at the TSC should come here and tell us why those teachers were interdicted.

Mr. Temporary Speaker, change should be accepted by people. It should also be people-driven and owned by people. If change is not owned by people but instead forced through their throats, it can never work. So, there is need for us to intervene as a Senate and see how we can resolve the issue.

Of course, there were teething problems even when the 8-4-4 system was started. Even though there were problems, they were eventually ironed out. There was consensus and things went on well.

It is true that the CBC is being rolled out; a system is being put in place, but we have to really interrogate and see if the system is for the better or worse. There is need for the Ministry and the Teachers Service Commission (TSC) to accept divergent views.

As we talk of this interdiction, there were teachers who were also arraigned in court. There is need for this Statement to go to the Committee on Education, Information and Communication Technology, for it to seriously intervene for the sake of our children in this country.

**Sen. (Prof.) Kamar:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to contribute in support of the Statement that has been brought by Sen. Pareno. I want to thank her for highlighting this issue.

I am not worried about interdiction because TSC has the powers to interdict and they have done it for a long time. My greatest worry is the victim who is a student. These students are victims of quarrels between grown-ups; between a Ministry and a union and between a Ministry and teachers who have disobeyed.

Interdicting a teacher does not mean that you have sent the teacher away from Kenya. If we felt that it was necessary to interdict that number of teachers, I think the Ministry and TSC should have planned properly to ensure that we do not have students or classrooms without teachers. This is because currently, there are so many schools that do not have teachers due to carelessness and lack of planning.

If the Ministry decides to discipline these teachers but eventually pay their salaries as they have always done, they should bear in mind that conflicts between the TSC and KNUT are almost predictable since they have always been warned by KNUT as a union. If the union wins, the victim remains the child. The TSC should plan differently to ensure that students do not become victims of a situation like this. The conflicts between the union and the TSC should have been handled differently.

Mr. Temporary Speaker, Sir, in my opinion, teaching should have continued while they dealt with the process. If teaching would have continued, they would have dealt with the teachers during the April holidays instead of victimizing them. Alternatively, they should have hired other teachers before carrying out the suspension because they were not going anywhere; they are still around.

We have had cases where teachers who are guilty of mishandling children and rape cases have continued to receive their salaries and nobody has been in a great hurry to interdict them as we are seeing now.

The Ministry should reconsider the approach that they are taking because having a child in school as a victim of a situation that they cannot control is not correct or right. It is important that children who have to go through the same examination at the end of the year or after eight years, be treated equally.

Mr. Temporary Speaker, the rights of those children have been violated. It is time we protected children who face such situations. There has to be a different way of punishing a guilty teacher. The TSC must find a different way of dealing with these issues. Alternatively, they can redistribute teachers from other schools so that we do not have schools where teachers are being victimized. This is because they are not victimizing the teacher but the children.

Mr. Temporary Speaker, Sir, the Committee should handle this issue properly. We need to have a proposal from the discussions between the Committee and the TSC, to ensure that we never again experience this kind of situation in the country. It is embarrassing and shameful that we are making children suffer because of pride between two groups that cannot talk to each other.

I support this request for a Statement and I believe that we will be able to handle it properly at the Committee Stage.

*(Interruption of debate on Statement)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MOI  
PRIMARY SCHOOL, NAKURU COUNTY

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Moi Primary School, Nakuru County.

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

Thank you.

*(Applause)*

*(Resumption of debate on Statement)*

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Statement.

Yesterday, I mentioned that 14 teachers from Makueni County have been interdicted from Kibwezi. They have gone to court. They have not only been interdicted but they were also charged with causing mayhem.

**Sen. Cherargei:** On a point of order, Mr. Temporary Speaker, Sir. I would like to request that you limit the time for contributions because of the interest that this matter has generated. You could allow Sen. Mutula Kilonzo Jnr. to proceed but limit the time for the rest of us so that at least all of us can contribute.

*(Sen. Olekina spoke off record)*

I do not know why Sen. Olekina is shouting all over the Floor and yet he is not the Speaker.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order! Sen. Cherargei, you have made your point.

Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, something is wrong about the way the Executive is running everything.

I was in a meeting over the weekend where a chief stood up and told old women who collect money every six months, that the money will not be paid unless they register for the Huduma Namba. Is that the correct position? It is not because the court has said that this is not compulsory. We have been told that by 18<sup>th</sup> May, 2019, we must register. What about the child who is in school like my own daughter, somebody who is in hospital or outside the country? What is supposed to happen?

The same thing is happening with this issue of interdiction. The same people we are interdicting are the same people who are supposed to teach. How can policy become forceful? What happened to public participation? I cannot see the Chairperson of the Committee on Education, Information, communication and Technology here.

In terms of education, all of us need to sit as the House of wisdom, together with the Ministry and reason with them. We need to tell the Ministry that this is our country and they are hurting our children and teachers. These same teachers who campaigned for this Government are the same ones who have been interdicted. Have they been interdicted for not refusing to teach or not going to school?

Mr. Temporary Speaker, Sir, other leaders and Senators are not speaking enough about the lack of public participation on the Huduma Namba, this curriculum and many other things that the national Government is doing, which appear to be forceful.

That 95-year old woman who is supposed to get Kshs2,000 from the village contributions is told that if she does not get the Huduma Namba, she will not get that money. A total of 58 teachers have been interdicted from a County like Kajiado. In every essence, any person who is teaching in Kajiado County is teaching in a hardship zone, where they should get hardship allowance and yet, 58 of them have been interdicted because we want to force everything. On the other hand, the things that we should do; like provision of laptops, we just dump them in school and it is forgotten.

Article 129 states that –

“(2) Executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya, and for their well-being and benefit.”

Do we need to remind this Government that the principles of wellbeing and benefit to this country, is also in the Bible in the book of Isaiah which says: “Come now and let us reason together?” The same thing is happening in Kitui about the road. That is the reason why I objected to the Land Index Bill that suggested that Kenyans should leave their land and be paid after two years. Somebody in Kajiado has not been paid. They have been evicted by the Chinese. In Kitui, their graves have been dug, they have been evicted and have been told; we will pay you at a later date.

My dear colleagues, if we do not defend Kenyans, even your parents and brothers will face the wrath of the same Government that we seem not to be able to talk to. I am surprised that the Government of Kenya is behaving as if it is in a bad mood or it woke up on the wrong side of the bed. Something is wrong.

Thank you.

*(There was a technical hitch)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, sorry for that technical error.

Proceed, Sen. Wetangula.

**Sen. Wetangula:** Mr. Temporary Speaker, Sir, I thank you for the opportunity to contribute to the Statement by the distinguished Senator, Sen. Pareno. I would like to give free advice to Prof. Magoha, a gentleman with a very long Curriculum Vitae (CV) showing his distinction in academia and everybody believes that he has the ability to run



the Ministry of Education and make a difference. He should enter that office knowing that it has had the highest turnover of Cabinet Secretaries in the Jubilee Government; and that he may also be walking through a revolving door.

When Prof. Magoha came into office, the first thing he said was that he has no reverse gear, yet nobody had asked him whether he had any gears. That once he takes a trajectory, that is it. Yesterday, he said that he will crush anybody who stands in the way of the new curriculum. That is not how to run public affairs or behave in present day Kenya.

Mr. Speaker, Sir, 58 teachers have been interdicted in Kajiado. In Bungoma, they arrested all the heads of the Kenya National Union of Teachers (KNUT) who had simply gone to schools where tuition was being carried out to ask the teachers whether they were ready for the tuition. They were asking as their leaders in KNUT. They arrested them, locked them up, bungled them in court and charged them with all manner of spurious offences. We had to rally to bond them. This is not how to run a Ministry.

A county such as Kajiado suffers from a serious deficit of teachers, yet you dismember the few that are there from teaching. At the end of the year, the children of Kajiado will sit exams with children from State House Girls School, Mary Leakey School, Makini School and other schools in Nairobi. At the end of the day, they are to be graded equally and, eventually you will tell them that those who scored a grade of D+ will not go to colleges. This is not right.

Therefore, I join Sen. Pareno in demanding that this is a matter of very urgent national importance. In addition to Kajiado, there are many parts of the country where teachers are being terrorized and harassed for simply raising questions. When you ask a question, you deserve an answer. You do not deserve being harassed, interdicted and locked up with charges on your head in your court.

I urge the Committee on Education, Information, Communication and Technology, though I do not see Dr. Langat, the Chairman here, that this is a matter that should not wait for even two days. They should have the Cabinet Secretary for Education come before the Committee as early as tomorrow and demand of him that even as he answers questions, all the charges preferred against teachers for raising questions be dropped forthwith unconditionally and those who have been interdicted be lifted to go back to school and help the children of this country.

Otherwise, if we go this route, we are creating a situation where we get people unhappy, angry, revolt and can cause discomfort in the country for no reason.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I bring to your attention Standing Order No.46.

It reads –

(1) “Notwithstanding Standing Order No.40 (*Sequence of proceedings*), there shall be time to be designated “Statements Hour”, every sitting day, commencing not later than 3:00 p.m. and ending not later than 4:00 p.m. during which a Statement under this Part may be made.”

Hon. Senators, I give two minutes each for a Senator who may wish to contribute on this matter.

Proceed, Sen. Ledama.

**Sen. Olekina:** Mr. Temporary Speaker, Sir, I thank you for the minute to contribute on this matter. Sometimes, I feel sad and sorry for the young Kenyans who were born in rural areas, and deserve, as Article 43---

**An hon. Senator:** On a point of order.

*(Sen. Kang'ata approached the Dispatch Box)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Sen. Kang'ata. On the screen here, I do not see your intervention.

*(Sen. Kang'ata spoke off record)*

Order, Sen. Kang'ata, you are already standing, yet I have not given you any chance to state your point of order.

Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Temporary Speaker, Sir. I rise to support the Statement by Sen. Pareno. As a country, it is time for us to come back to our senses. If you want to destroy the future of a young person, just mess with their teachers. The teachers of this country teach in deplorable conditions. Interdicting teachers because they are not comfortable or because one thinks that they oppose the Competency Based Curriculum is not right.

In doing so, they are denying the children of this country their right to education, yet the Constitution states that they have a right to education. That is totally misguided.

As we talk about referendum, we should think of how to devolve education. It is sad that some people in Nairobi can sit and decide to deny a child in Mashuru, Eselenkei, Kajiado County an opportunity to go to school.

Prof. Magoha and the Teachers Service Commission (TSC) do not realise that young girls will end up getting pregnant and the young boys will go out there because they do not have people to teach them.

There are schools in Kajiado with no single teacher.

**Sen. Kang'ata:** On a point of order Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Kang'ata?

**Sen. Kang'ata:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No. 98(1), (2) and (3) states that:

“(1) Subject to paragraph (5), no Senator shall refer to any particular matter which is *sub judice* or which, by the operation of any written law is secret.

(2) A matter shall be considered to be *sub judice* when it refers to active criminal or civil proceedings and the discussion of such matter is likely to prejudice its fair determination.

(3) In determining whether a criminal or civil proceeding is active, the following shall apply-

(a) Criminal proceedings shall be deemed to be active when a charge has been made or summons to appear has been issued;

(b) Criminal proceeding shall be deemed to have ceased to be active when they are concluded by verdict and sentence or discontinuance.”

It is public knowledge that the subject matter of this Statement has a criminal case that is pending in court. If we proceed with this discussion, when it is still active and witnesses are yet to give evidence, we shall be flouting this law.

**Sen. M. Kajwang’**: On a point of order Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. M. Kajwang’?

**Sen. M. Kajwang’**: Mr. Temporary Speaker, Sir, the good Senator for Murang’a, who is a well-known lawyer and is representing Kenyans in American courts ought to have also read Standing Order No. 98(4) which states that:

“A Senator alleging that a matter is *sub judice* shall provide evidence to show that paragraphs (2) and (3) are applicable.”

Saying that it is public knowledge is not enough.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Thank you, Senators. Sen. Kang’ata, produce evidence or you withdraw your point of order.

**Sen. Kang’ata**: Thank you, Mr. Temporary Speaker, Sir. You can either take parliamentary notice of what is happening because it is in public realm but in the unlikely event that you refuse to adopt that, I give a pledge that I will Table those documents on or before Tuesday next week.

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Wetangula?

**Sen. Wetangula**: Mr. Temporary Speaker, Sir, I want to join Sen. M. Kajwang’ and point out to my distinguished learned junior that he is a known lawyer in this country and he knows that Standing Order No. 98 does not operate in a vacuum.

In fact, I want to refer him and the Chair to the rulings of Speaker Marende and the recent ruling by our Deputy Speaker to the effect that a mere fact that a case is in court, assuming that it is there, does not get prejudiced because it is mentioned.

Judges and magistrates of this country are so well trained that they cannot suffer prejudice because somebody has stood up in the Senate and mentioned that there is a case in court. We cannot be that simplistic. I want to urge that you rule him out of order and give him no opportunity to produce anything for there is nothing to produce.

(Laughter)

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Cheruiyot?

**Sen. Cheruiyot**: Thank you, Mr. Temporary Speaker, Sir. I agree with my colleagues who have spoken before me that what Sen. Kang’ata is pursuing is an exercise in futility.

A few months ago, the Deputy Speaker of this Senate made a detailed ruling about this particular issue when we had a matter that generated more heat than this particular one. I know that Sen. Kang’ata occasionally walks in and out of the Senate but sitting down and following the proceedings of the House will do him more justice. He should also take time to read the copies of the HANSARD.

**Sen. Mutula Kilonzo Jnr.:** On a point of order Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Mutula Kilonzo Jnr.?

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, the question of *sub judice* has been discussed. In fact, Sen. Halake had a French pronunciation of it last time.

For the benefit of my good friend Sen. Kang'ata, we have a substantive ruling issued in the case of Solai. In his case, he does not have a court case number, pleadings, he has not tabled anything, the parties and the issue that is *sub judice*.

As far as I am concerned, he just wants to cause chaos and mayhem in the House or he just wants to be heard. Otherwise, he does not have a point.

Mr. Temporary Speaker, Sir, you should rule him out of order on the basis of the previous rulings of this House.

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it Sen. Pareno? That will be the last point of order.

**Sen. Pareno:** Mr. Temporary Speaker, Sir, Sen. Kang'ata walked in and started making noise. He did not listen to our contributions. Instead, he rushed to inform this House that there is a court proceeding on this matter. Is he in order to mislead this Chamber that there are court proceedings on this matter?

As the Senator who has read this Statement, who is also a lawyer like him, I am aware that there are no existing court proceedings in the matter that concerns Mashuru Sub County, which is my sub county. Is he in order to mislead this House?

I think that he was looking for a way of being relevant having been away from this House for so long.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order Hon. Senators. Standing Order No. 98 is very clear. We, therefore, rule Sen. Kang'ata out of order.

Proceed Sen. Olekina.

**Sen. Olekina:** Thank you Temporary Speaker, Sir. I expected the hon. Member to support my people. In this case he appears to be with some people who think that the only way to bring sanity is through dictatorship.

Mr. Temporary Speaker, Sir, insubordination is being defined in different manners. The reason why those teachers were interdicted was only because they said that they did not agree with that, and they did not understand it. Does it mean that when you do not agree with something, it has to be pushed down through your throat for you to be able to understand it? We have to be serious in this country.

This is why I am saying that when it comes to the issue of us going through a referendum, it is about time that we seriously thought about the aspects of devolution that we want to promote.

When it comes to education, the only thing which is fully devolved is Early Childhood Development Education (ECDE). However, the children of Mashuru---. If you go to Eselenkei---. Yesterday, I saw a teacher who decided: "Okay, let me now go take care of my cows." The children are so poor such that even the conditions they are learning in are so deplorable. This teacher who earns peanuts, had gone there just to change a life so that he could be remembered for the time he is alive.

Mr. Temporary Speaker, Sir, this House must defend the children and teachers of this nation. If we force those teachers to go there and learn---. The argument being made is that in Kajiado, it is only 55 per cent of the teachers who have adopted this Competency Based Curriculum (CBC). If the rest do not understand, take the time to teach them so that they can understand and buy in. If there is no buy in, it will end up being like those big white elephant projects which were started in this country many years ago that no one supported.

Therefore, I hope that the Senate Committee on Education, Information, Communication and Technology, will take this matter seriously so that we can protect the future of this nation.

Thank you.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I just have two issues. I am at pains to understand what is going on with this Government. I know the President very well, and I feel that there are some elements in certain areas of government who are undermining and sabotaging the work he is doing.

Yesterday, on the matter of education, I said that I am happy that my former Vice Chancellor and good friend, Prof. Magoha, is on that seat, because I know he is a man of reason. However, on the first issue, why is the Government acting as if it is at war with its people? Are we fighting Kenyans? What is going on?

*(Sen. Nyamunga spoke off record)*

Sen. Nyamunga, I am a Senator like you. Today there is this tax, tomorrow you are telling people that they must pay the 1.5 per cent per cent tax on Housing by force or else---. Tomorrow, you are telling car dealers that they must only bring vehicles that are five years and under, or else---. Hundreds of young people are employed in these dealerships. People cannot afford these cars. Tomorrow you tell them: "Take this number or else---" Are we threatening Kenyans? You ask a question; you are arrested, taken to court and then we expect you to go teach those children the following day.

Mr. Temporary Speaker, Sir, there is something fundamentally wrong. I think certain Ministers came in and saw that for them to be popular, they must be tough. So, "Let us all be tough such as this one---"

No, no, no! You are not dealing with children in this country. We have Houses of reason. Kenyans are sensible people. When Kenyans were told: "Let us ban polythene bags because of this," they stopped in a day. Therefore, do not threaten Kenyans; reason with them.

Mr. Temporary Speaker, Sir, I want to tell those who are listening in the Government; when you stir a hornet's nest, be prepared for the sting.

**Hon. Senators:** Yes!

**Sen. Sakaja:** Kenyans are frustrated. There is a way things can be done. All these things are good, but there is a way they can actually be done. It is the process; it is not even the content. It is the manner in which these things are being unpackaged to Kenyans. Somebody must look at that.

Mr. Temporary Speaker, Sir, secondly, we are not interested in the fight between the Ministry and KNUT. The Minister and KNUT will come and go. Hon. Sossion will be there and he will go. We feel very strongly that the Committee on Education, Information and Communication Technology in this House is doing us a disservice.

We want to hear about the CBC *vis-à-vis* the outcome-based curriculum. We need a session in this House that tells us what has happened in other countries that have moved from outcome based to CBC, because these are two very different things. In CBC we are talking about concrete skills as opposed to abstract learning. We are talking about going at the pace of the learner and mastery of specific skills.

For the sake of time, the outcome or performance-based curriculum is around what is essential for every student to have achieved by a certain time. That is the discussion we must have. Let us not delve into the non-issues of the personality problems or personal character issues of Hon. Sossion and Prof. Magoha. Let us talk about the future of millions of young Kenyans as we move to CBC, which was introduced in Malaysia and Rwanda. There are case studies around the world. We should look at these so that we can make a reasoned decision and interaction, which only the Senate can do.

Mr. Temporary Speaker, Sir, I, therefore, urge you to direct that the Committee on Education, Information and Communications Technology actually calls the Committee of the Whole.

**Hon. Senators:** Yes!

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, education is fundamental, and if we are not talking about it, what else are we talking about? We need a Committee of the Whole for us to be taken through what this CBC is all about and why they want us to move to it.

Do we have the resources, as a country, to move at the pace of each learner, because you must assess everybody's competence as they start? What are the merits or demerits of outcome-based curriculum? Thereafter, we can then make a reasoned decision. However, let us leave the sideshows of Hon. Session, KNUT and KUPPET. Those ones do not matter; they will not hold and have no bearing on eternity and on the future of our children.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir. I also rise on the Statement that has been requested by my good friend, Sen. Pareno. However, I think the case we have at hand is a very clear indication of an institution, by the name, Teachers Service Commission (TSC), which has gone berserk. This is the expression of an institution that wants to become the Lord of impunity.

Mr. Temporary Speaker, Sir, Article 47 of the Constitution states that:

“Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.”

What I have heard from the nominated Senator is that the TSC has proceeded to interdict teachers even before the period provided to respond to the “show cause” letters had elapsed. This is an indication of an institution that does not even want to respect our own Constitution.

I urge this House to invoke the provisions of Article 251 of the Constitution. If we have people who occupy State offices, who do not want to respect the Constitution, then we should invoke Article 251 and push for their removal from office.

The Article provides that-

“A member of a Commission (*other than an ex officio member*), or the holder of an independent office, may be removed from office only for—

(a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;

(b) gross misconduct, whether in the performance of the member’s or office holder’s functions or otherwise;

It is an act of gross misconduct for somebody to interdict teachers even before they are given an opportunity to respond to any accusations that they are facing. I do not think this is the way we should run our business. You can see the lamentations from our friend from Jubilee. You heard what the Senate Majority Leader said the other day and what Sen. Sakaja has said today. Why should they allow these office holders to taint the already tainted name of Jubilee?

*(Loud consultations)*

Mr. Temporary Speaker, Sir---

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

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Sakaja?

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, is the Senator for Nyamira and Senior Counsel in order to try and score cheap political goals by bringing up the names of Jubilee and the Orange Democratic Party (ODM) in this House? On issues of national interest, we have always moved in a bipartisan and united manner. If we now make this about Jubilee and the National Super Alliance (NASA), we will then all retreat into our corners.

Mr. Temporary Speaker, Sir, on this one, please advise him that it is about the children of this country and our future; it is not about Jubilee, ODM or NASA. We can score those political goals over the weekend in *harambees* and funerals.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Thank you, Sen. Sakaja.

Proceed, Sen. Omogeni.

**Sen. Omogeni:** Thank you, Mr. Temporary Speaker, Sir. I did not invite Sen. Sakaja to make lamentations about his party, Jubilee. He heard what his Senate Majority Leader said the other day.

In conclusion, I think this a serious matter. Since the Chairman of the Committee on Education, Information and Communication Technology is in the House, we need to evaluate and relook at the conduct of the head of the Teachers Service Commission (TSC), especially how he is treating teachers.

This morning, I saw some reports on social media that 157 teachers from Kitui had obtained a court order reinstating them back to office. This is a waste of public funds. If we allow TSC to disregard the law and the Constitution, people will go to court, they get orders and they are taken back to office. Who will meet all these legal costs? This is

abuse of office. We should call a spade a spade. It is time that serious action is taken against the head of TSC.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. (Rev.) Waqo, you have one minute.

**Sen. (Rev.) Waqo:** Thank you, Mr. Temporary Speaker, Sir. I stand to support the Statement. It is quite clear that the Ministry of Education is not giving our children any attention. They seem not to be concerned with the future of our children. What they have done has affected the performance of our children. This is the second term of the year when our children need to concentrate on their books but that is not what they are doing.

They have also affected the poor parents who have provided for all the needs of the children. However, the children are not getting what they deserve. Sometimes, I wonder why we tell our young people that education is the only way to success. This is because, for Kenyans, the opposite is happening. We have many graduates whose future has been ruined by the interference of the education system. You can clearly see that anybody that is put in the position wants to push for his or her own agenda.

Mr. Temporary Speaker, Sir, last night, I saw Prof. Magoha and officer from his Ministry on television. From the body language, I could see that there is a lot of war going on. Therefore, unless the Senate takes action, our children will continue to suffer. Therefore, I suggest that we conduct proper evaluation and take the necessary measures so that our children, parents and teachers do not continue to suffer.

We need to understand that this is mere allegation. I wonder why the Ministry of Education has taken that unnecessary step and action that is irrelevant to our nation.

**Sen. Nyamunga:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity. Mine is brief. Change is critical. At any level of life, a person may want to change things from time to time. When we were starting the 8-4-4 system, we had the same experiences and after 20 or 30 years, we are changing it again. It is not bad. Normally, change comes with a lot of resistance which is generally understood.

Mr. Temporary Speaker, Sir, the issue is simple; how can a whole sub county in Kajiado have only 127 teachers? This is starvation of the highest order. So, I do not disagree with the issue of teachers. This is because if they wanted to stop it, they should not have waited until the project is implemented to disrupt it. That is not allowed. If they had issues, I am sure there was a procedure and process that must have been taken before rolling out this particular programme. They should not have disrupted it. I do not have a problem with that.

However, how do we starve children of teachers? Apart from the 55 teachers who were interdicted, having 127 teachers in a whole Sub County in the vast Kajiado County which has several schools is serious and should be treated with the seriousness it deserves.

**Sen. Mwaura:** Thank you, Mr. Temporary Speaker, Sir. This country must also have discipline. You cannot have a country where the whole Senate is speaking from both ends of the mouth. Let us face it. I saw some unionists disrupting classes for the new curriculum. People have freedom of assembly and picketing is allowed. However, it is



wrong for a person to fight, beat or remove people who are being taught from classes. It is totally unacceptable. So, Prof. Magoha should go on. I, personally support him.

We should not come here and be populists. We need to check whether due procedure of interdiction and the TSC policy was followed. We cannot have a country that is reckless. We may beg to differ. However, there is no system that is perfect. We have had the 8-4-4 system for the last 33 years. In fact, most of us may be beneficiaries. There must be a way to raise grievances.

Mr. Temporary Speaker, Sir, Prof. Magoha has clearly said that people should not keep on barking and yapping; they should give the alternative which should not be violence. Kajiado County does not only have 127 teachers. I know that we want to secure some *bonga* points. However, we must have law and order in this country. We cannot bash zealous Government officers who are willing and ready to push the agenda forward.

The former Cabinet Secretary (CS) Amb. Amina Mohamed got out of that Ministry because she gave conflicting signals about that. Therefore, Ms. Nancy Macharia and Prof. Magoha might be the minority but they must stand for this country. Any teacher who will disrupt other teachers from learning must be taken care of and disciplined properly.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I have already noted that we are past Statement Hour. I kindly request the Chairperson of the Committee on Education, Sen. (Dr.) Langat, to make the last contribution to this Statement.

**Sen. Cheruiyot:** What about the points of order?

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Hon. Senators. Proceed, Sen. (Dr.) Langat.

**Sen. (Dr.) Langat:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to make my contribution.

*(Sen. Cherargei consulted loudly)*

Mr. Temporary Speaker, Sir, please protect me from Sen. Cherargei.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, Hon. Senators. Proceed, Sen. (Dr.) Langat.

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, in this particular era, I do not support dictatorship and intimidation of any professional. The interdiction of these particular teachers has demoralised teachers in the country. I tend to think that the TSC could have used a more civilized way on the approach of this particular training to motivate these teachers. Therefore, as the Committee, we will act accordingly and make sure that reason comes to the country.

Mr. Temporary Speaker, Sir, this House should protect citizens of this country against rushed policies. We were told that digital learning is an important thing to this country. However, last week when we were in Eldoret, we realised that Moi University, which is assembling these particular gadgets is producing 1,350 gadgets every day. We were told that six counties have been supplied the gadgets 100 per cent.

We asked the County Director from Uasin Gishu County to take us to two model schools which he thinks are perfect. We were taken to two primary schools and to the

shock of each one of us, we found that a school called Lelit has only 13 gadgets against 30 pupils in Standard Two and only one teacher is digitally literate. Of the 13 computers, only six were working. It took 30 minutes for each and every computer to come into operation. Therefore, it is a waste of Government money.

We were told that around Kshs30 billion has been injected into the production and assembly. However, there is nothing going on in the implementation and training of teachers. As a committee, we shall make sure that the policy that was rushed, which takes a lot of taxpayers' money, is checked.

I would like you to know that we are dealing with a professor. I have taught in universities for 10 years and I have known professors to be humble people who consult. However, I am sorry to say that we are dealing with a professor who said that he has no reverse gear because he talks of "forward ever, backward never", irrespective of things that are happening.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. (Dr.) Langat, you need to conclude.

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, as the Committee Chairperson, we request that we have a Committee of the Whole, so that this matter is resolved properly.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, the Statement by Sen. Pareno stands committed to the Committee on Education, Information and Communications Technology.

Hon. Senators, statements (a) and (b) pursuant to Standing Order No.48(1) are deferred.

PREPAREDNESS FOR THE CYCLIC DROUGHT  
AND FLOODS IN THE COUNTRY

FRAUDULENT SACCO SOCIETIES IN KENYA

*(Statements deferred)*

Statements pursuant to Standing Order No.51(1)(b) which are statements (a), (b), (c), (d), (e) and (f) are also deferred.

ACTIVITIES OF THE COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND FISHERIES

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION  
AND INTERGOVERNMENTAL RELATIONS

ACTIVITIES OF THE COMMITTEE ON EDUCATION

ACTIVITIES OF THE COMMITTEE ON ENERGY

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## ACTIVITIES OF THE COMMITTEE ON FINANCE AND BUDGET

## ACTIVITIES OF THE COMMITTEE ON HEALTH

*(Statements deferred)*

Let us go to the next Order.

**Sen. Sakaja:** On a point of order, Mr. Temporary Speaker, Sir. I had earlier sought your indulgence on the Statement that was issued yesterday regarding the security situation in Kakamega. Yesterday, the Senator for Kakamega raised a statement which was directed to the Committee on Security, Defence and Foreign Relations with respect to killings happening in Kakamega County. I just want to give the commitment - because yesterday the Chairperson and the Vice Chairperson of the Committee were not there - that we are taking it seriously.

I am well informed that yesterday, Members of Parliament (MPs) including the Senator had a meeting with the Cabinet Secretary, Dr. Fred Matiang'i and the security team. The Cabinet Secretary has gone there today.

In March, there was a similar issue of six watchmen who were killed at a place called Kilingili in Vihiga County. There have been other killings in former western province. For those of us who know the former Western Province well, there was a gang in 1970's that was called Angola-Msumbiji that used to terrorise residents in Vihiga and Kakamega. We are not sure if it is related but we are taking it extremely seriously and we will report back to this House at the soonest available opportunity.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Outa?

**Sen. Outa:** Thank you, Mr. Temporary Speaker, Sir, for your indulgence. I have a Statement that I want to seek from the relevant committee. It is more urgent.

I rise pursuant to Standing Order No.48(1) to seek a statement from---

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order Sen. Outa! The Chair is not aware about the Statement because it is not approved.

**Sen. Outa:** Mr. Temporary Speaker, Sir, I have the approval here before me.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senator, please approach the Chair.

*(Sen. Outa approached the Chair)*

**Sen. Pareno:** Mr. Temporary Speaker, Sir, I had risen on a point of order after the conclusion of your ruling on my Statement. Considering the urgency of this matter, you should have given the timeframe to the Committee because no timeframe was given. As you can note from my Statement, there are schools that do not have even a single teacher and no learning is going on.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, considering the weight of the matter, Sen. (Dr.) Langat, the Chairperson of the Committee on Education, Information and Communication Technology, will have seven days to report on the Statement.

**Sen. (Dr.) Langat:** Mr. Temporary Speaker, Sir, we have three other pending issues. Therefore, I request for 14 days.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Okay, you will report in 14 days. Sen. Outa, you may proceed.

**Sen. Outa:** Thank you, Mr. Temporary Speaker, Sir, for your indulgence. I will take one minute.

#### CLOSURE OF KISUMU URBAN PROJECT BANK ACCOUNTS

Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a Statement from the County Public Accounts and Investments Committee (CPAIC) concerning the closure of bank accounts of the Kisumu Urban Project (KUP).

The Kenya and French governments funded this infrastructure expansion and social amenities project for the benefit of the residents of Kisumu County.

In the Statement, the Committee should-

(1) Explain the circumstances that led to the closure of the project's bank accounts.

(2) State whether there has been an investigation into the operations prior to the closure of the accounts, and if so, table the findings of the investigation.

This is an urgent matter. As I speak, my county will lose a lot of money for projects. We have been receiving up to a tune of Kshs4.7 billion for different projects in Kisumu County. Without knowing the circumstances after the national Treasury sent the money to some "ghost" accounts in Kisumu, the Directorate of Criminal Investigations (DCI) moved with speed and they are trying to investigate why Kisumu County had a different account instead of operating the previous one.

This is a matter of concern because as I speak now, most of the contractors are out of site because they fear they will never be paid. That is why I want the relevant committee to move with speed. They should tell us what happened and why the bank accounts were closed.

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Sen. Outa, please approach the Chair.

*(Sen. Outa approached the Chair)*

Hon. Senators, the Statement stands committed to the CPAIC. Let us go to the next Order.

**BILLS***Second Reading*

THE ELECTION LAWS (AMENDMENT) (NO.2) BILL  
(SENATE BILLS NO.37 OF 2018)

*(Sen. (Dr.) Zani on 14.5.2019)*

*(Resumption of debate interrupted on 15.5.2019)*

**Sen. (Dr.) Zani:** Mr. Temporary Speaker, Sir, I will start by thanking Senators who contributed to this Bill. It is a simple amendment but very important for election processes.

We have noted the various views and suggestions that were presented and we will put them into consideration as we proceed with this Bill.

I beg to reply and request that the putting of the question be deferred to a later date, pursuant to Standing Order No.61(3).

I thank you.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I defer the putting of the question on The Election Laws (Amendment) (No. 2) Bill (Senate Bills No. 37 of 2018).

*(Putting of the question deferred)*

Next Order.

*Second Reading*

THE ELECTION LAWS (AMENDMENT) BILL  
(SENATE BILLS NO. 33 OF 2018)

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I defer Order No.9.

Next Order.

*(Bill deferred)*

**MOTIONS****ADOPTION OF REPORT OF THE MEDIATION COMMITTEE  
ON THE WAREHOUSE RECEIPT SYSTEM BILL, 2017**

THAT, the Senate adopts the Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017) laid on the Table of the Senate on Tuesday, 14<sup>th</sup> May, 2019 and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I defer Order No.10

*(Motion deferred)*

Next Order.

**REALIZATION OF GENDER EQUITY IN ELECTIVE  
AND APPOINTIVE POSITIONS IN KENYA**

**Sen. (Rev.) Waqo:** Thank you, Mr. Temporary Speaker, Sir. I beg to move the following Motion-

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 non-discrimination 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;

Mr. Temporary Speaker, Sir, to date, many girls go through Female Genital Mutilation (FGM) that affects their lifestyle in different ways. I recently read this from an article about a clinical officer in my home town who was about to circumcise a 32 years old woman because her husband alleged that she must receive the cut, otherwise the whole family will be cursed. The clinical officer claimed that he had obtained all the necessary consent from the lady, the husband and the family members. He was waiting for the group to arrive in order for him to conduct the act. The woman that I am talking about is a mother of two.

Mr. Temporary Speaker, Sir, those are the struggles that we go through as a nation. While many of us are fighting the practice of FGM, others are going back to the practice that we have already abandoned and one that the Government is fighting. We are far from achieving some of these goals. Women are not benefitting from some of the constitutional privileges. Many men register and benefit from their companies using the names of women so as to benefit from the 30 per cent that is set aside for women and marginalized groups. Businessmen are out to exploit women who can do nothing on their own.

“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;

Mr. Temporary Speaker, Sir, women go through a lot of hardship when it comes to elective positions. Some women are abused while others are nicknamed. Women are marginalized in many ways. Sometimes, people stop women from getting into some places. Women have gone through nasty experiences. When I first joined politics, somebody called me, sat me down and said that I do not belong to this group. I asked why and he replied that politics is not for honourable women. We said that the women that are in politics are those that have bad records, are known for doing funny things in the society and have no respect for themselves.

We all know that the women who are in politics and hold different offices have always performed.

#### 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;

Mr. Temporary Speaker, Sir, we all know what has happened before but I still request that-

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 50 per cent.

Mr. Temporary Speaker, Sir, sometimes back, I shared a forum with many women who hold different positions. Statistics show that women are employed but they still go

through different challenges. Sometimes when a woman has equivalent qualification to a man that is answerable to her, he is given more salary than what a woman earns.

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 50 per cent.

From the onset, I am greatly honoured to move this Motion that speaks to the realization of policy framework to realize gender equality in this country. The terms of this Motion are very familiar to many of us in this Parliament and the previous one.

About four Bills on how to achieve gender equality have been moved in both Houses since the promulgation of the new Constitution. However, none has borne fruit. We all know what happened to the last Duale Bill that we all fought for. Many Non-Governmental Organizations (NGOs) and the people who support women invested in it by holding conferences and creating a lot of awareness, but even this failed the last minute.

The journey towards attainment of gender equality has been a long one for women in this country. However, Article 81 of the Constitution of Kenya (2010) provides that not more than two thirds of the members of elective public bodies shall be of the same gender.

Unlike several years ago, it is now common to find women in leadership positions around the world. In Kenya, since Independence, women have been under-represented in leadership positions. There is some remarkable improvement, but a lot needs to be done.

One may ask: Why this Motion? Unlike men, women face a number of challenges to make it to a leadership position. Among them are cultural and religious considerations, where our religions bar women from leadership positions. We also know the patriarchal communities that are only led by men, where women are considered as children, including even a wise and intelligent woman. In fact, in my own culture, they say that women can only be big, but not intelligent enough. They believe that a young man of 18 years can be more intelligent and wise than a woman aged 50 years.

There is also the issue of lack of finances to facilitate campaigns. This is what is known to all of us, because women are considered as property and the man owns everything. When a woman wants to facilitate her campaigns, she must beg and most of the time, end up not getting the approvals.

The other challenge is a rough political terrain. As you are aware, campaigns in Kenya are not easy. From the way God created us, at times it is challenging to go through some of the experiences. It is even worse for pastoralist women to go through this.

Other challenges include the process of relating to political parties, low levels of education and early marriages. Women are confined to domestic roles. As we are aware, they take care of their husbands, children, and that poses a big challenge.

There is also media portrayal and voter perception of a woman's place being the kitchen. Most people believe that women belong in the kitchen and not outside the house. False perception and stereotypes have affected women. A number of people believe that women leaders will just present issues relating to women and children.

There is also false implications that additional seats to ensure affirmative action will cause the country's wage bill to go up. We know very well that many people,



especially now, say that we want to *punguza mzigo*. What we need to realize is that the *mzigo* belongs to all Kenyans and it is not the positions that women hold that have become a burden to this nation. It is as a result of our poor planning that we are in the mess we are in today.

The Constitution has gone into detail to talk about equality and freedom from discrimination, not only for women, but also the youth, Persons with Disabilities (PWDs) and the other communities.

Globally, women are still under-represented. As of October, 2017, out of the 193 United Nations (UN) countries, 11 had a woman serving as head of state and 12 had a woman as head of government (UN, 2017). Within parliaments, only the Nordic come close to equal representation, with women making up to 41 of their single house parliaments. In all other regions, less than three out of 10 parliamentarians are women; 28.5 in Americas, 26 in Europe, excluding Nordic countries; 24 per cent in Sub-Saharan Africa, 19 per cent in Asia, 18 per cent in the Pacific and 17.5 per cent in the Arab States.

In Africa, Rwanda has the highest number of women in parliament. That is why, in my view, they are performing very well. They have brought total transformation to leadership in that country and they are growing very fast. The total number of women in legislatures now stands at 61.2 per cent.

Where are we in terms of representation? In the Kenyan Parliament, the current Senate has a representation of 23.32 per cent. The National Assembly has a representation of about 21.84 per cent. The total percentage of female Members of Parliament is only 21 per cent. The majority of the counties have women leaders who are nominated, with very few elected.

Why do we need more women to take up leadership roles? Women participate in influencing legislative business and eventually affect sectors such as education, health, security and *etcetera*. As caregivers of their families, women have a greater influence on gender-based budgeting. The health of a newborn child, for example, is best understood by a woman. Women through policies influence and affect the survival of communities.

Participating in leadership positions in national, parliamentary and county assemblies, the devolved system of government has provided a perfect opportunity for women leaders to interact at the grassroots level. Consequently, women leaders are able to solve basic problems facing communities. They are role models for the young women and girls.

How and why should we achieve the one third gender rule? The Parliament of Kenya was expected to have ensured that provisions on Affirmative Action were met by 27<sup>th</sup> August, 2015. To date, no law has been passed by Parliament. It is worth noting that the Constitution did not state how appointment or election of women to positions would be achieved.

Countries around the world have improved representation through various methods that fit their context including –

- (1) Gender quotas such as voluntary party quotas and reserved seats.
- (2) Political party policies that allow for representation by women.
- (3) Building networks that assist women in succeeding in the electoral process.

Noting the terms of the Motion, I urge the Parliament to fast-track the passage of a law on the one-third gender rule. Further, that the national government and county governments observe the principle of equality and empower the female gender by increasing appointive positions to at least 50 per cent.

The seats should not be just about meeting the one-third rule, but allowing women to take a leading role. There are unfortunate incidents happening in our counties. Of course, women leaders have gone through a lot, especially the women speakers. We also need to challenge those women who have managed to rise to leadership positions, to protect their seats, serve this country with a lot of dignity and do their work professionally.

With those remarks, I beg to move and request Sen. Cherargei to second this Motion.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. From the onset, I congratulate Sen. (Rev.) Waqo for this important Motion.

This is a conversation that we have continued to have as a country since the promulgation of the Constitution in 2010. In Article 10 of the Constitution, one of the key words that have been used is “non-discrimination” and “gender equality”. Women of this country have come a long way in trying to achieve gender parity in elective and appointive positions in this country.

I am privileged to come from a county which produced the first firebrand woman Member of Parliament (MP), the late Chelagat Mutai. It was at a time when politics was male-dominated but she was able to represent the former Eldoret North Constituency which was later represented by our beloved Deputy President, H.E. Dr. William Ruto. She showed us that women could do anything in this country and be who they want to be. Hon. Phoebe Asiyo, at that time, beat the famous then disciplinary KANU Chairperson from Luo Nyanza.

Women have come a long way and these are gains we do not want eroded. The Constitution, under Article 10, captured very well the future and aspirations of achieving gender equality. Women, the marginalised, young people, PWDs and many others must be given an opportunity to lead and participate in the leadership of this country.

The other day, our beloved President, H.E. Uhuru Kenyatta said that he hopes that in his lifetime, that he will see a woman President in Kenya. I think that should have excited the women because the majority of voters who are very loyal and committed during voting day are women. I hope women took that advice seriously coming from the Head of State. I want to assure them that they have our full support when the time comes for a woman to run for presidency in this country. However, since the candidacy for the 2022 and 2032 elections are already sorted, we would advise women to run from 2032 and onwards.

I can assure you from where we sit that we shall ensure we have a woman President in this Republic. I urge women that the President told them that they need to stand and run for presidency.

**Sen. Pareno:** On a point of order, Mr. Temporary Speaker, Sir. Is the Chairperson of the Committee on Justice, Legal Affairs and Human Rights, who is a lawyer of good standing, in order to mislead this House and allege that the 2022 presidential ticket is

already sorted out? We all know, like I know as a Chairperson of an elections board, that there is no such candidate who has been sorted out as of now. Is he in order to mislead and try to give wrong facts to this House?

**Sen. Cherargei:** Mr. Temporary Speaker, Sir, Sen. Pareno did not tell this House which elections board she is chairing. I do not think she is the Chairperson of the Independent Electoral Boundaries Commission (IEBC). Maybe she would have clarified.

All the same, what I was saying is very simple, that Jubilee as a party, we have already sorted ourselves out. With the blessings of Kenyans and of the Almighty God, everything will happen as planned. I want to assure her that there will be an opportunity of exercising that democratic right during the vote.

As I mentioned earlier, I come from a county where one of the most firebrand women politicians hailed from. In as much as I support this Motion, women have come a long way. For the first time in the history of this country, we had the highest turnover of women to run for elective positions for both Senator and Governor during the last elections, at a rate of 29 per cent. This should motivate women to go for better things. As we talk, for the first time since post devolution, three women Governors were elected; Gov. Joyce Laboso of Bomet County, Gov. Charity Ngilu of Kitui County and Gov. Ann Waiguru of Kirinyaga County. We want to challenge those women in positions of leadership like my sisters, Sen. (Dr.) Musurube, Sen. Pareno, Sen. (Rev.) Waqo and other serving women leaders to work hard so that they can inspire more Kenyans to elect more women to these positions.

Mr. Temporary Speaker, Sir, I do not want to take much time because I know there is a lot of interest in this matter. I want to talk about the role of political parties. I am happy that Sen. Pareno is here and she is the one who has been signing nomination papers. I wish that hand would only be signing for women to get nomination tickets for one of the largest political parties in this country. We also want to see political parties incorporating women to the role of key decision making since we know that women must play a critical role in the decision of how parties are run in this country. We know our people vote based on political affiliation or following.

As we talk, people like Hon. Martha Karua stood and were political party leaders. We challenge our political parties to ensure that they give women leadership roles so that they are key in ensuring that women are elected into various positions.

Mr. Temporary Speaker, Sir, regarding our social culture and values as a society, we need to value women. There are regions in this country where they do not elect women and we need to know why this is the case. I know it goes beyond what the law provides for, but we should ensure that we move forward. Even as we ensure that we have gender equality, we must also look into the future where we will incorporate the youth, PWDs and many other factors so that we can move forward. That way, we will avoid discrimination of any aspect of the society like PWDs, the youth and women.

Finally, as we talk about the elective positions, the one-third gender rule, the famous Duale Bill and whether we must pass this law, we also challenge Government entities, parastatals and county governments to take this issue into consideration. You will find that some county governments in this Republic do not observe the gender parity rule. Some State corporations and parastatals and even the Executive – the current

Cabinet of President Uhuru Kenyatta do not meet the gender threshold. We want to challenge that in future we must ensure that it is 50-50 per cent as we move forward as a country.

I want to thank Sen. (Rev.) Waqo. We fully support and look forward to full realization of gender equity. The future for the women of this country is very luminous. I want to assure you that - because I sit in the Committee on Justice Legal Affairs and Human Rights as the Chairperson - we are working on the audit of the general elections of 2017 and the audit of the repeat Presidential elections of 26<sup>th</sup> October, 2017. We have sat with IEBC and agreed that we must relook at how the election process is conducted in this country.

Mr. Temporary Speaker, Sir, as Sen. (Rev.) Waqo has said, there is no level playing field to ensure that women can compete fairly and this is because of dirty tricks and hooliganism that ruin their campaigns. We need the IEBC to be stronger so that any person who intimidates and fights women unfairly must face the full force of the law. I know when we come to the audit of the elections law, we will ensure that we give that a priority and protect our women, going forward.

I want to challenge the political parties, let us support women. Looking at the leadership of women across the country, they have done extremely well. I look into the future where my daughter, mother or sister will have a country where they can rise up and will not be judged by their gender, but by the content of what they can provide for this country.

I second.

*(Question proposed)*

**Sen. Pareno:** Mr. Temporary Speaker, Sir, once again, I thank you for giving me this opportunity to support this Motion. I congratulate Sen. Naomi Waqo for coming up with this Motion. I sit closely with her in the Committee on National Cohesion, Equal Opportunity and Regional Integration where she is Vice Chair. I note that this Motion has been long overdue; probably drawn, filed and she has been waiting to prosecute it. She waited probably until the two-third gender rule debate in the other House was undertaken. It is as if it was meant to strengthen that debate and put our say as a Senate to that debate that has been going on.

Nonetheless, affirmative action and promoting women in appointive and elective positions is still a current issue. As we speak, the two-thirds gender rule Bill that was in the National Assembly did not meet the threshold and, therefore, solve the problem that we have in elective positions. So, we are still where we are. Women in this country are not in the rightful place in terms of positions and making decisions. That is why we keep talking. We will never tire to keep pressing and making sense. Many people know of the sense we are talking about. Many of them support us but somehow for some reason, it never comes to be as we wish.

As we speak, even before we look at the elective positions that we have, in the Cabinet, there is no gender balance. The two-third gender balance is not there. It is just being taken as if it is normal even as much as we make noise all over. We expect that the

President look at this constitutional provision. It is a right. It is no longer business as usual when we do not have things in place.

I am aware that there are court decisions on this; that, you must comply with this constitutional provision. In fact, the court has made several rulings on it yet nobody seems to put into effect what these courts have said about us complying with our Constitution. We came up with this constitutional provision of having this two-third gender rule because of the history of this country. It is also because we wish well for this country. It came out clearly from Kenyans. Whatever is in the 2010 Constitution is after public participation by all Kenyans. Therefore, I do not know why it is so difficult. If it is difficult in terms of elections, when people decide it is the people who vote and they end up not voting women, it should not have been even difficult when it comes to appointment of ambassadors.

We have had recent appointments of ambassadors and boards of parastatals. Have we even complied on the two-third gender rule? We have not. If we are serious, we should emulate our sister country for example, Rwanda. I went there for election observation. In fact, they increased the number of women in this election from the last election to 61 per cent of the entire membership in their Parliament.

So this country must be having an issue that we do not know. However, we know, we are just pretending that we do not. Rwanda is doing so well in development. In fact, Kigali was rated the cleanest city in Africa. The other day, media reports indicated that they have drones that deliver medicines to hospitals yet in our country, people still die. We cannot even copy simple good acts of our young sister country that is doing so well. We should even copy from their leadership characteristic. In our election observation mission, we found out that in the first day, there is early election for people with disability then on another day they have elections for women alone. This is so that they are given a conducive environment to choose their leaders and top up on the two-third gender rule.

You can imagine how peaceful it was. When we went to the polling stations, we found patriotic songs being played. There was a Disc Jockey (DJ) somewhere playing patriotic songs in a polling station. I did not see a police officer anywhere near the polling station. There were only patriotic songs of the country. There were flowers on the table next to the ballot boxes. The polling station was decorated with different fabrics with national colours. People sang as they went to vote. What a country?

On the other hand, here, the first thing you encounter as a woman is your legs and hands being broken. Your car is also vandalized before you even get anywhere near the voting day. By the time of the voting day, you are faceless. We do not have the right and conducive environment that we should create as a country yet we brag to be the big sister in East Africa. We are not even leading the way to show that we can do it better.

Therefore, we need to get serious on this two-third gender rule. We need to see the two-third gender rule being applied during appointment of cabinet secretaries and ambassadors. The other political parties should catch up with ODM. The ODM structures start from the grassroots. We do have a women's league right from the polling station to the national level and we have women in leadership within the party. That is why some of us are where we are today.

We also have a youth league which has youthful women. We have a national league office, ward league, polling station league, constituency and county leagues. We have two good roads of leadership within the party. Our National Executive Council complies with the two-third gender rule. The other political parties should have structures which should comply with the two-third gender rule for us to lead by example. We call upon the appointing authorities to do the same.

I applaud my sister for coming up with this Motion because women are the backbone of the economy of this country. They are ones who toil in the farms, harvest and store the food. How can a group that contributes a lot to this economy not benefit from the little that there is before it is stolen? Statistics show that women are more than men. They are over 50 per cent yet they are left behind when it comes to development.

I want to know if the Building Bridges Initiative (BBI) has complied with this rule. Is it male dominated or how many women do we have there? Women should be there when decisions are being made and that should be the case in all areas including the BBI. In any case, women are the best people to build bridges because they know how to cry out to their children. There is nobody who does not have a woman in their lives. One can either have a daughter, mother, sister or wife. What happens when men make decisions minus the women?

I support this Motion and I hope that we can copy our sister state; Rwanda. Thank you.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me the opportunity to add my voice to this Motion. As a woman living with disabilities, I know what marginalisation is and that is why I commend Sen. (Rev.) Waqo for coming up with this Motion.

The Mover of the Motion has talked about national values and some of the national values that we should not forget are support for the marginalised and equality. We must uphold those values. If we do not defend our Constitution and the national values, it will be difficult for us to achieve Article 10(2)(d) that talks of sustainable development. We are in the era where everybody is talking of sustainable development and we cannot achieve sustainable development if we do not walk with a significant number of the population; the women and children.

There is need for us to walk with the marginalised; women, children and people with disabilities. Kenya ratified the United Nations convention that is against gender based violence and discrimination. Ratifying those conventions means that we are bound by the international laws hence we have to stop discrimination. There is need for the national and county governments to ensure that the two-thirds gender rule is realised when it comes to appointive and elective positions so as to raise the voice of women. They should also make sure that women with disabilities are not left behind.

I support the proposal that 50 per cent appointive and elective positions be given to women. As they give women the 50 per cent elective and appointive positions, they should remember to give about 10 per cent of those posts to women with disabilities because their voice is minimal. There are some counties where women with disabilities do not have a voice because their representation is missing. As we fight for our fellow

women, let us remember the category of women that is perpetually forgotten due to lack of proper sensitisation.

The nation should endeavour to be patriotic. We cannot be patriotic if we cannot defend our Constitution, national values and nation by standing out to say that we are stopping the issues of marginalisation of women, including those with disabilities. We must defend our Constitution. We can only defend it if we walk the talk. Walking our talk has the implication that we raise the voices of women, including those with disabilities in this country, in elective and appointive positions.

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

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

Madam Temporary Speaker, it is clearly the case worldwide that women and children are among the world's poor. We must bring this to a stop and endeavour to ensure that we are not subjecting women to poverty. We should strive to give them a chance to make it and to be empowered. I always say that empowering a woman is synonymous to empowering a whole community, society and nation. I am saying this because I know, for sure, that an empowered woman will ensure that her family stands, that the children are going to school and that she is adding value to this nation in terms of political, social and economic stability.

Madam Temporary Speaker, I heard Sen. Pareno and the Mover of the Motion citing the case of Rwanda, where women have been empowered economically. In terms of political representation, they are 61.2 per cent. As a country, we can benchmark and borrow a leaf from what is happening there. We should look for mechanisms of ensuring that representation by women in Parliament is high. That is doable. If it is happening in Rwanda, it also can happen in Kenya.

Madam Temporary Speaker, empowerment of women is an independent variable because it directly affects the family, children and everyone else. If the women are empowered and are able to bring something on the table, it means that everyone will be involved in the development of this country, from the family, societal and national levels.

This is, therefore, an issue that we must really interrogate as a country. If the people are uncomfortable with the two-thirds gender rule, then let us rebrand it and talk about giving women a bigger voice. We should do this so that we look for mechanisms of ensuring that women are given more visibility. Party leaders have debated this issue of women's empowerment. I remember that even the Rt. Hon. Raila Odinga came to Parliament to listen to the debate because he empathises with the plight of women. I am sure that when our political leaders hear about these issues, they will do something within their party structures to ensure that they implement it. This is so that what happened in the year 2017, where women were not given a bigger voice, will come to a stop. It is also good because I know that the national and county executives have been listening to this debate and they are going to correct the issue so that women are given more voice.

Madam Temporary Speaker, as I finalise my contribution, I know that we are in a patriarchal society. The current perception of women in this country must stop so that

women should be seen as partners in socio-economic development and policy formulation. They should come up with policies that affect women and they will be able to speak for themselves. That way, they will be more empowered and able to address the issues that drag them behind. It is my hope and belief that this Motion will see the light of day. Thank you, Sen. (Rev.) Waqo, for coming up with this Motion.

Thank you, Madam Temporary Speaker, for giving me the chance. I beg to support.

**Sen. Poghiso:** Thank you, Madam Temporary Speaker. I stand to support this Motion. I congratulate Sen. (Rev.) Waqo and the Senators who have spoken before me. This is a Motion that should not take too long to deal with. This House will stand in unison to support the Gender Equality Bill.

Madam Temporary Speaker, the more we speak about these things in terms of theories and academics and compare ourselves with countries such as Rwanda and so on, the more we miss the point. Ideally, this is the issue of a psyche of the people; this is the issue of culture and people coming to terms with who they really are. The core of the human spirit should be able to guide Kenyans to know that their attitude towards a woman is the first thing to change.

Madam Temporary Speaker, every time I look at the newspapers, I read about another woman has been strangled; another has been attacked and so on and so forth. Are these the same people that we expect to come to terms with equality and equity, if their attitude towards the Kenyan woman is like that? We have to work harder that just discussing these things theoretically. We have to address the male counterparts and the nation on the issue of not just numbers, because numbers alone will not work. When will we begin to own, in our attitudes and minds, the fact that women are equal in our Constitution and that we are all given equal treatment? In fact, Article 27 of our Constitution says exactly that; that-

“Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.”

That is our own Constitution; so, we do not even have to belabour the point.

Madam Temporary Speaker, the attitude we have and the things we read every day about the way we treat women, as if they are objects of mistreatment; that is what needs to go. If that attitude does not go and then we come back to these men and say, “Give us an equal opportunity,” it cannot happen with such an attitude. We need to do more than just legislate. We need to go to our roots to our boys and girls in schools and begin there, by helping them to treat each other with equality and equity. With those eyes now, we will have to progressively reach a point where we understand that we need to have those two-thirds, 50 per cent and so on. There is a lot that can be done here in terms of legislation, but in reality, there seems to be a problem with the way we look at our female counterparts.

Madam Temporary Speaker, the good books – the Bible, Quran and all those books – will tell you about equity, equality and that God created everyone in his image. I think that is where we need to go back to. I challenge the churches, mosques, temples and everybody to begin addressing the issue of honouring our women, respecting them and giving them the opportunities. We have already done well in educating the girl child. We



can, therefore, no longer have the excuse of no workforce. Maybe in the past, it used to be an excuse, but we now have them. I think the girl child is almost surpassing the boy child. We are now almost beginning to work for the rights of the boy child more than the girl child in terms of education. That is not enough; women are catching up in all these positions. Therefore, the best thing is for us all to gain that respect, get to the roots of our culture and accept the facts.

Madam Temporary Speaker, the decision makers today are mostly men. Therefore, we should change our attitude and go back to our African culture which respects women. We have been through religious experiences. Therefore, we should use these opportunities to get back to a place where we respect our women and the female gender.

Madam Temporary Speaker, the Gender Bill has been dealt with but it has come to the Senate again. It has not been successful in the other House. There is enough evidence that it should pass without any opposition. This is because we have already tied ourselves in our Constitution. We have a number of international treaties that Kenya has become a signatory to. We have already committed ourselves and our nation to these things. Therefore, it should not be difficult to support this.

I would like to get to something that is strongly in our Constitution which is the issue of human rights. Our Constitution is one of the best in terms of putting our rights down on paper, which is already a commitment.

Article 91 (e) clearly states that-

“Every political party shall respect the right of all persons to participate in the political process, including minorities and marginalized groups;

Women are part of the marginalized.

It goes ahead in Article 91(f) to state that-

“Every political party shall respect and promote human rights and fundamental freedoms and gender equality and equity.

This is in terms of nominations and appointments to political parties. It is well granted in our Constitution. Therefore, we have come of age. The only thing that we need to do is to start with the leadership. Let us begin to push for this Bill to become a law and anchor this in our laws so that we can practice it.

Madam Temporary Speaker, if there is a delay in practicing it, we must allow the attitudes to accept that, when we make a mistake, we apologise. When we have changed our attitudes, we will apologise to the women of this country for what we have done.

Madam Temporary Speaker, the resolution sought in this Bill is that Parliament fast tracks the enactment of the law that shall give effect to the one third gender rule. These are things that we have anchored in our Constitution. So, it should not be a difficult thing. This is one of the processes that I hoped the other House would process what they have and ensure that it goes through.

The other prayer is that pursuant to Article 81 of the Constitution both the national and county governments observe the principle of equality and empower the female gender by increasing the appointive position to at least fifty per cent.

Madam Temporary Speaker, these are prayers that cannot be gainsaid. They are things that can be done over time. The truth of the matter is that this country needs to

grow its economy, create jobs and opportunities. Therefore, we need to be bold in terms of making sure that we fight corruption. I am sure that having more women in appointive positions could probably help.

Madam Temporary Speaker, there is a good indication that women are probably less corrupt. May be, if we have more women in appointive positions, they can protect and keep our resources because they are good stewards in terms of keeping resources. However, not all of them. We still we have our own share of those who do not do that. Generally, if we do this, we might change because mothers have a responsibility towards their families. I am sure that we might lead to stronger families if we have more women in the work place.

Madam Temporary Speaker, in supporting what we have proposed here in terms of the resolutions, I repeat that as much as Rwanda has made progress, let us build and inculcate culture in our children and allow them to know that there is respect for each other. For example, if a boy can do well, a girl can do well too. We should also empower the girl child and women.

Madam Temporary Speaker, a lot can be said about appointive positions. However, have we given the opportunity to the women so that they can compete on equal footing in terms of preparation for leadership? We can appoint them but are they in the crucial leadership positions? Are they empowered? Do they know how to survive in those positions by being strong so that they can run organisations without having to think of who they are?

Madam Temporary Speaker, therefore, attitude and culture belongs to both men and women. Women should stop to think of themselves as weaker. In terms of equality and working, they should never consider themselves as if they do not have the capacity. Men and women who have been educated and have degrees should know that they have the same capacity. So, attitude must come from women as is from the men.

I support and encourage this House to pass this fast without any hesitation.

**Sen. (Dr.) Zani:** Thank you, Madam Temporary Speaker. I will pick it up from where Sen. Poghiso has left on the whole issue of looking at Rwanda's culture and wondering what sort of dynamics have happened there. We need to ask ourselves very soul searching questions and look at deep historical issues. We should ask ourselves questions about how Rwanda got there. Did they get there because they learnt to respect women more, may be, because the war left many men dead and so there were many mother figures in the society? Is it because somewhere along the line they got tired of the gender divide? If we do not do that, we will miss a very important research question in understanding the dynamics of the wars between the men and women.

If you think about it, men and women live together. We have brothers and sisters who also have fathers and brothers. On many issues, there is no divergence. They sit and eat together. However, when it comes to the issue of materialism and leadership that is where the battles begin. When people talk about inheritance, looking for various provisions and wealth, that is where the division begins. That is where the violence comes in.

Countries like Rwanda have moved away from all that. Such should be case studies for us to see how women have moved to leadership positions and how well they

have done. It is important to know how well they have done because the changes in Rwanda give an impetus about the way women look at development.

When you look at gender perspectives to understand the way men and women are formed, you will realise that they are formed in different ways and each of them has different values because women have a certain perspective. During a meeting, there is need to have a woman because there could be something that a woman can point out. Likewise, when you have a meeting of women, there could be something that a man can identify. Therefore we need to get to the point where we value and understand people's contributions and make them useful. Otherwise, it will be an exercise in futility.

When Sen. (Rev.) Waqo brought this Motion, that was the same time we were trying to push for the two-thirds gender rule. At that time, many meetings, negotiations and discussions went on. However, when the basic theoretical framework is not put in place, usually there is disconnect and that is what we are experiencing in Kenya. This is despite political and policy framework that is being put in place, the Constitution and the various progressives Acts that indicate commitment to the international and regional obligations arising from treaties and other ratified conventions. We have done that willingly and so have other countries. However, if there is no practical way of turning theoretical framework into something practical, then you end up with a problem.

Likewise, we have also entrenched it in our policy framework to enhance gender equality. We have the Kenya National Policy on Gender and Development (NPGD), the Vision 2030, Sessional Paper No.2 of 2006, the National Land Policy (NLP), the National Policy for Prevention and Response to Gender-based Violence and the National Policy for the Abandonment of Female Genital Mutilation (FGM).

Culture, socialization and acculturation are processes and people see things in different ways. In some communities there are practices such as FGM. Recently we read in the newspapers about a lady who has filed a case in court that that is a traditional practice and it should continue.

There are various contradictions about how people respond to the dysfunctional nature of gender relationships. If you look at gender and violence, you will find that sometimes it is masked in traditional cultures. Many traditional cultures are good and I will speak about that in a bit but some of them have elements of violence. I think the lash out from women is worse than the one from men. So, people have to be careful about relationships and how they build them and progress. All we have is on paper and the most glaring ones are Articles in the Constitution that provide for gender equality.

The provisions in the Constitution have been actualised for county assemblies as per the provisions of Article 177, but they have not been actualised for the National Assembly. For the Senate, the distribution is not too bad. It is good that because of affirmative action, we have nominated women Senators. We have a provision for two more Senators to achieve the one-third gender rule. It is not about gender parity but we are comparing where we have come from and where we are going to.

After the 2013 General Elections, we had no women but in 2017, three of them were elected to the Senate. Likewise, no women governors were elected during the 2013 General Elections but we have those who were elected in 2017. So, clearly something is changing. That something has to be further strengthened that women can deliver.

Rwanda has stood out as a case study. They have made the case for themselves and the women have proven themselves. How has the Government strategy worked to bring this out and put it in such a way that it amplifies the role played by women? We need to sort the lens of how people see things. Women do good things but when they are presented, they dwell on the negatives. So, it is important to have a concerted effort. We should not just think of the families, political and economic institutions but also other players such as the media to restore human dignity.

I always say that first and foremost, you are a human who deserves to have human dignity. Secondly, you are either a man or woman. You are still a person and therefore the dignity that goes with being a person is important. So, such kind of politics needs to be addressed right from the beginning.

We know that the wife of the Duke of Sussex got a baby recently and they are planning to bring him up in a sort of neutral way. Is that the best way to go? What about the African culture and the place of a man in society? Maybe that authority created the stability that was so important because they respected women.

I am a Digo and my mother is a Giriama. Giriama women walked with *mahando* with their breasts out. There were few rape cases during those days. Rape is related to lack of respect and traditional aspects that enhanced women's place. Women were respected because they cooked, took care of their families and they were leaders within their own right. What has happened to that kind of socialization? How are we socializing our children? Are we clearly defining to them gender roles? All these create an idea about the culture, attitudes and values because you cannot change somebody when they are 20 or 25 years old. If they have grown up to disrespect women, they cannot change at 25. Likewise, if women have grown up to disrespect men, they are not going to change when they are 25. What we missed somewhere along the line is how to infuse all these within our educational curriculum as we thought about changing our curriculum from outcome oriented to competency oriented. We hope that these values will be infused.

The United States of America (USA) was able to change a lot by introducing patriotism as a key element in their academic programmes and it changed the way they viewed themselves. That is what we need to do in Kenya. We need to infuse the values of equality, governance, human dignity, social justice, inclusivity and human rights and make sure that marginalised groups do not exist. All these should be infused within our psyche, as a country, so as to push this country to a point where people blend. When you do that, automatically you will be dealing with issues of gender inequalities. Gender inequalities might be second-tier responses to other inequalities that are already there. They might also be as a result of interaction from other variables that are already there.

As Kenya, we had our story which was simple. We need to look at the provisions in the Constitution that we have. There is a provision for making sure that there is at least not more than two-thirds of any particular gender in the county assemblies because women are less elected. Therefore, many proposals were put in place. The proposal that finally ended up as the Duale Bill was to allow people to move Article 177 and infuse that Article in the National Assembly and the Senate. It seems like a very straightforward thing to do.

Madam Temporary Speaker, the other issue was, even an assessment of the county assemblies to understand--- When we look at the provision for the county assemblies and maybe an *ad hoc* Committee needs to come up to look at the provisions, even where they were given a provision for the one-third, has it been actualised? We have heard many stories from county assemblies that women have been removed from committees. For example, women have been removed from leadership positions within counties. We have had the more glaring ones about the speakers.

All these does not augur well in terms of contextualizing and being able to move towards fast-tracking and enacting a law that gives effect to the one-third gender rule. Yes, the law is there in place but, again, we need to think about the enactment of that law. Therefore, various processes of putting in place KEWOPA really leading the way and KEWOSA was involved as well. We got to the point where this promise looked like it might be happening. We held various consultations and dinners. Men spoke very well in all those meetings as I have heard them speak very well today. They said that when they look at women, they see their mothers and girls. However, as I said earlier, sometimes somewhere along the line, that notion tends to suddenly disappear.

*(The red light on the timer went off)*

As I wind up, I see my light is on, the correlation between development and involvement by women has to be actualised. Actually, many scholars are now talking about the future management being women. Some companies go out of their way to ensure that 60 or 70 per cent of their employees are women because of the productivity angle. So, they do better.

Clear correlations have been made about specifically corruption and development. The correlations show that the more developed counties are, the less there is corruption. Those correlations become our talking points be it at organizational, company level or whatever level. They then begin to put us into specific context.

Lastly, the whole issue of affirmative action needs to be put in place. I think when we look at how the issue of affirmative action has helped in the universities and ensuring that young people can come on board. It has helped to a large extent. However, we have also seen policy and action make a big difference. So, we might just want to see where we are missing the point or where the parallelism is coming in. Clearly, we know from policy that we put in place, more girls are going and being retained in school. However, when it comes to leadership, what is happening? When it comes to fighting for public space, what is happening that they are unable to get there despite all these efforts?

As Sen. Poghio and others speakers said earlier, we need to think about the gender balance. Gender is just the social construct.

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

Madam Temporary Speaker, can I have just three minutes to wind up, please?

*(The Temporary Speaker (Sen. Pareno) spoke off record)*

Okay. I thought I saw that light go off. Thank you.

So, as we continue to look at it in terms of the perspectives that are given, it is very important to put affirmative action and see how it has brought about development and see where the gaps are.

This Motion hopes that the Senate resolves this issue. This Senate has been very clear about gender relationships and I just said that gender is a social construct. So, even boys and girls coming up is key. It is just a social construct on how people view either men or women and then begin to respond to those specific constructs that have been put into place. That balance is clear, needs to be clear and it is important. We have reached the point where that Bill did not go through, but I think it has injected a new impetus around women. I hear women say that now we want to be able to even move forward and try to move to the 50 per cent.

Madam Temporary Speaker, the second prayer is that pursuant to the Constitution, both at the national and county governments observe the principle of equality. That principle has been put in place but we need to ensure it is well protected. It should also be well protected for appointive positions. Maybe, we should have mechanisms of confirming whether the provisions that were put in place have been actualized. What do we do in situations where they have not been actualized? If you put the law in place, we need to find ways of carrying those laws right through.

I congratulate Sen. Naomi Waqo. She has been very passionate about this Motion. It is a strong Motion that contextualizes this issue. As we do all this, let us think about the future generation. Let us think about our boys and girls as we motivate ourselves to build better societies across the world.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Pareno): There being no other request, I ask the Mover to reply.

**Sen. (Rev.) Waqo:** Madam Temporary Speaker, I take this opportunity to greatly thank all the Senators who have contributed to this very important Motion. I thank Sen. Cherargei for seconding this Motion and you for contributing so passionately, demonstrating your experience and sharing the importance of this Motion to be supported. I also thank Sen. (Dr.) Musuruve who gave her contribution so passionately. In addition, I thank Sen. Poghismo and Sen. (Dr.) Zani for their contribution.

From all the contributions, we have all seen the dilemma that the women in our country face. We know that women play a very important role in this nation. In fact, without women, I think Kenya would have been a very boring country. When it comes to campaigns, all the politicians rush to women. Many of our men colleagues have told us that when you want to succeed, go to women because they keep their promise. Many have succeeded because women have always supported them. In life, women have brought up their daughters and sons. They have educated them and stood for this country. They have fought for their freedom. They have always been there to fight for different rights. Women will continue doing so.

In our context today, we have passionately pushed and fought for human rights. Sen. Poghismo in his contribution talked about going back to our roots and honouring our

women. The case of Rwanda is a good example. They are successful politically and as a country. All the Senators have mentioned that. That clearly shows that women are good leaders. If we do the same in this country, I have no doubt that the confusion that we are in as a nation will be reduced.

Today, every Kenyan is worried about the future. Nobody knows what will happen. Corruption has eaten up our country. Rwanda is clean and progressing very well. One Senator said that we do not need to refer just to that but we need to make our history. Turning theoretical framework to practical work that Sen. (Dr.) Zani mentioned is one of the important things that we need to do as a nation. Then, we need a proper assessment to be carried in all the counties so that we know how our counties have put what is there for women in the Constitution. Even forming an *ad hoc* Committee to some extent will help this country.

Many women MCAs have been marginalised, denied the opportunity of even bringing any Bill, speaking and so on. Women speakers have faced many challenges. Women holding different positions have been challenged in many different ways. Therefore, there is need for us to do that assessment so that we are guided by what is happening currently. Many consultations have been done.

I urge the lobby groups to continue assisting our women and the nation until we achieve our goal. I am a proud person because I am a woman. I have children and I am also a leader. I might not have been in this position if I was not a woman. We are proud to be women and we will work hard so as to ensure that our daughters and sons do not face the same challenges that we are in today.

I appreciate the Senators who have contributed and I will consider their concerns.

**The Temporary Speaker** (Sen. Pareno): This is a matter that does not affect counties. I will, therefore, proceed to put the question.

*(Question put and agreed to)*

### ADJOURNMENT

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until Tuesday, 21<sup>st</sup> May, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.