

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 30th 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

REPORT ON PETITION: INSECURITY CAUSED BY CAMEL HERDERS IN TERI B RANCH, TAITA-TAVETA COUNTY

The Speaker (Hon. Lusaka): Hon. Senators, yesterday, the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations tabled a report on the Petition by residents of Teri B Ranch in Taita Taveta County. However, we gave him time to circulate the report so that Sen. Mwaruma who had brought the petition make his intervention. It is now time to make the interventions.

Sen. Mwaruma: Mr. Speaker, Sir, although the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations is not in the House, I will proceed to make my intervention. I have had an opportunity to look at the report that was tabled yesterday by the Committee.

The Committee made good observations in this Report. They observed that despite the Constitution provisions under Chapter Four on the Bill of Rights recognizing various rights and freedoms of every person, several rights and freedoms of the Teri B Ranch residents, including right to life, protection of right to property, economic and social rights and access to justice have been blatantly violated over time. That is true because the people of Teri B Ranch do not have right to life because some have been killed and others maimed.

Mr. Speaker, Sir, the Committee also observed that camel herders from North Eastern Kenya have moved to Teri B Ranch in Taita Taveta County in search of pasture with hundreds of their livestock leading to wanton destruction of farms and crops. Efforts by local communities to resist forceful occupation of their farm lands and water points have resulted in brutal violence and destruction of private properties.

It is true that there are so many camels that have invaded the land belonging to the residents of Teri B Ranch. However, when the communities try to resist or remove the camels from their farm lands, it is resisted by the herders. The camel herders kill or maim the community members. That was a good observation by the Committee that visited the residents of Teri B Group Ranch.

The people of Teri B Group Ranch end up without food which is against the Big Four Agenda of President Uhuru Kenyatta of ensuring that Kenya is food secure.

Another observation that was made by the Committee was that there are reported cases of proliferation of small arms and light weapons in the area which is inimical to the spirit of integration and peaceful co-existence. The herders from the Northern Kenya do not come herding empty handed. When the residents try to resist them from herding in their farm lands, they repulse the community members using crude weapons such as *pangas*. This was corroborated by the Taita Taveta County Government County Executive Committee (CEC) member for agriculture and livestock who said that after they detained hundreds of camels in the detention area, police officer were attacked by the herders using crude weapons and they made off with their animals.

Mr. Speaker, Sir, another observation that was made by the Committee is that there is no conflict resolution mechanism in place and periodic efforts to get justice from the police officers and courts of law rarely suffice. That is a good observation because after the residents report to police officers, nothing comes out of it. There is reluctance by the security organs to help the herders in Teri B Ranch.

The Committee also made observation that when reporting a conflict, the police officers often brutalize and extort them while the camel herders are favoured and protected. Most of the residents in Teri B Ranch reside in the land that is unregistered and, or adjudicated making is more attractive for dry season grazing since it is unfenced.

Mr. Speaker, Sir, the observations by the Committee was very good. However, I am saddened by the recommendation of the Committee. The first recommendation was that all grazing agreements entered between individuals or ranch owners and livestock herders should be registered and deposited with the County Government of Taita Taveta, the County Commissioner and the County Police Commander and within 30 days of the adoption of this report should have the agreements

The Committee also recommended that the National Police Service (NPS) and the Kenya Wildlife Service (KWS) should increase the number of enforcement officers. This is not helpful because the residents of Teri B Ranch have been reporting the crime cases, but the police officers are not interested in helping those people. Therefore, whether they are increase up to a million, as long as they are not interested in helping the residents of Teri B Ranch, they will not assist them. This recommendation might not help in solving this problem.

Another recommendation by the Committee was that the Commission on Administrative Justice, the Ombudsman, should inquire into allegations that the county security organs have been reluctant to protect the resident of Teri B Ranch. There are cases that have already been reported in police stations and have Occurrence Book (OB) numbers. The ombudsman has no powers to prosecute so he will go to the police officers to investigate. What will he be investigating when there are cases that have been reported already? It is upon the police officers to take action and take the perpetrators of these heinous crimes to court and prosecute them. What should the residents of Teri B Ranch go to do to the police officers?

Mr. Speaker, Sir, my opinion is that the Committee of the Senate should have inquired further from the Cabinet Secretary (CS) of Interior and Coordination of National Security why there is reluctance of the county security organs to prosecute or take action against the illegal herders.

The Committee further recommended the NPS should enhance the crime reporting mechanism through the local administration, the police officers and the county government officials. The reporting mechanism is fine. The only problem is the reluctance of the police officers and the security organs to facilitate peaceful co-existence of the people of Teri B Ranch.

Mr. Speaker, Sir, these recommendations are generic and they may not help the residents of Teri B Ranch attain peace. Most of the recommendations here might not help the people of Teri B Ranch. The Senate through the Committee should dig further into this matter. They should invite the CS to tell us what he is doing about the insecurity of the residents of Taita Taveta. The Teri B Ranch is just one of the ranches in that county that are ravaged by these illegal camel herders.

We need to know whether the residents of the Teri B Ranch are Kenyans who deserve protection, right to life and a right to livelihood. The residents of Teri B Ranch work very hard. We want Kenya to be food secure. However, if that food is destroyed by camel from North Eastern, the residents of the Teri B Ranch might not feel like they are Kenyans.

The Speaker (Hon. Lusaka): Sen. Mwaruma, you need to finalize.

Sen. Mwaruma: Mr. Speaker, Sir, I am dissatisfied by this report. We need further inquiry into how the Senate of Kenya can assist the residents of Teri B Ranch access justice.

I thank you.

Sen. Pareno: Mr. Speaker, Sir, I thank you for allowing me to make a comment on this petition. I am a Member of the Committee on National Security, Defence and Foreign Relations that handled the petition by the residents of the Teri B Ranch. We did our best as a Committee in visiting the affected area, talking to the residents and noting the security concerns that affect the resident of Teri B Ranch.

We would like to help the residents of Teri B Ranch. However, they must also help themselves. I am speaking from my experience of being a pastoralist who also engages in moving animals from one place to another. From the investigations by the Committee, it is clear that the camel herders are to some extent in agreement with individuals within Teri B Ranch and they can lease out parcels of land to graze their camels.

The problem is that they are unable to contain these camels to the particular areas where they have agreed that there is a lease agreement between the members of Teri B Ranch and those camel herders.

We will at no time ever defend criminals. Even if you have been allowed to graze on a certain land and you have an agreement between the camel herders and the owners of the land, you cannot go out to kill people in order to ensure that you graze on their land even when the agreement expires. This is a very complex situation. Probably, the call by Sen. Mwaruma is that we go deep into the issues that are being raised to ensure that we enforce what the Committee has recommended.

We have recommended that these security committees must operate because we found out that there is laxity on the part of the security apparatus. We do not understand how people can force themselves into land that has not been leased to them. Why should they kill when they meet some resistance? We, as a Committee, have recommended that investigations must be done so that we know and bring to book the culprits that are causing the deaths of the innocent residents of Teri B Ranch.

Mr. Speaker, Sir, we need to talk to camel herders and inform them that if the land given to them to graze their animals is not enough, they should get out and find another leasing area. They cannot force themselves into a piece of land for which they do not have a lease.

It is a complex issue. I also want to report that the Committee has given a 90 day period for which the security apparatus will report back to us when we revisit the ranch. We would like to hear from them how they have been able to enforce security and ensure there is peace between Teri B Ranch residents and the camel herders who are genuine lessees of the land on which they are grazing.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir, for giving me this opportunity to also make a comment on this Petition concerning the people of Teri B Ranch.

We visited Taita Taveta County and we noted that the residents of Teri B Ranch had many challenges. The greatest percentage of the land is occupied by the animals. It is a pity that the Government seems to favour the animals more than human beings. We also realised that most of the human beings have been killed by animals while others have been maimed, but the Ministry concerned is yet to compensate them. In this recent incident, their land had been invaded by the camel herders. I tend to think that the people of Taita Taveta County need to be rescued from all these man-made calamities.

It is interesting that even in our prayer today, we want to emphasize on peace. Unless something is done to bring harmony between these camel herders and the people of Taita Taveta County, we might never achieve this peace. It is evident that the people of Taita Taveta County face so many threats in the form of herders, animals, starvation and many other things.

The recommendations in this report are critical and I ask this House to support them so that they may be implemented.

Thank you, Mr. Speaker, Sir.

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. First, I want to thank the Committee for the report that has been given as a result of that Petition. We have seen Sen. Mwaruma struggling with this issue for a long time. Sometimes he circulate pictures of the elephants walking right near the villagers. The issue of human-wildlife conflict is a problematic and delves into the poverty of the people. It becomes a problem when people plant their crops and then wild animals destroy everything.

The recommendations shows that there has been very little action taken. I remember when I sat in the Committee on National Cohesion, Equal Opportunity and Regional Integration in the Eleventh Parliament, we went round the country talking to communities on the need to live in harmony. However, this problem kept on recurring over and over. It is really sad when somebody has planted his crops for a year knowing that they will have something to eat and then overnight, animals come and destroy them. Some communities feel that wild animals are given more protection than human beings.

The issue of consultation, as much as it is there in law, is hardly ever implemented. There are people have been reported, but nothing has happened. Clearly, the conflict that is happening between the camel herders and the grazers on one side and the farmers on the other side, is a real problem. It is not just being experienced by communities in Taita Taveta County, but by very many communities

across the world. This is usually the basis of conflict because one community will get to a point where they cannot take it anymore.

Sen. Mwaruma together with other Members in specific committees should take up some of the issues and try to find ways of resolving them. They can do so by approaching the relevant Ministries to implement specific recommendations in this report. It is a cry that has been made in this House over and over again that we need to implement some recommendations by Senate Committees. We have listened to observations and recommendations by the Committee. We need now to take the next bold step and implement them once and for all.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker, Sir. I have a few comments to make regarding the Report. This problem that is in Taita Taveta County is also found in Makueni County to a larger extent. Whether it is camels or cows, the issue is the same.

The tragedy about Taita Taveta is that 75 per cent of arable land is under sisal cultivation. Another large portion of land is under wildlife. There are big tourist sites and lodges in Taita Taveta. The other pieces of land are under mines. The little that is left for the people who live on the hills, is the one that is affected by this illegal herding. Taita Taveta County is considered a marginalised and poor county because of the historical injustices that these people have faced from time immemorial.

I tend to agree with Sen. Mwaruma when he said that the Committee has found that the grazing of animals is illegal. If that grazing is illegal, then it means a crime has been committed. If a crime has been committed, somebody should be charged for it. To suggest that we should increase enforcement officers is not addressing the issue that nobody should enter your land without your consent. All herders, whether camel or cattle herders, come armed to the teeth. Those who resist them face their wrath. You might even lose your life.

Sen. Mwaruma is right when he says that if a person makes an agreement with a land owner, they should restrict themselves to that land. The people who have violated the law of the country must be punished. Once they are punished, they must compensate the people whose land they trespassed with their animals.

We have a principle in the law of torts which we call trespass *ab initio*. This is one of it and where you can charge somebody a certain token for the number of cows or camels that are in your land. I should have preferred that the names of people who have trespassed into other people's land should have been put in this report. The Committee, with the assistance of agricultural officers, should have found those herders liable, so that they pay for it. If they have entered into agreements with the owners of land, they pay for it. Where they enter into somebody's land illegally, they should be forced to pay for it. If not, you take criminal action against them. We must protect the rights of land. Herders must be told that we love them and their animals. However, we too love our land. They should not come unless they have our consent.

The Speaker (Hon. Lusaka): Thank you, hon. Senators for your contributions. First, I congratulate the Committee for bringing a report. We have had instances where we have heard complaints about petitions not coming on time, or going way beyond the stipulated time. At least, they have brought the report.

According to Standing Order No.233, the Clerk shall, within 15 days of tabling of the report on a Petition under Standing Order No.232 in committal of petitions, submit a copy of the report to the petitioner (s).

So, the Report will now go to the Petitioner and they will see what they have recommended and for further action based on the contributions that have been made by Members on the Floor of the House.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM LORETO CONVENT, MATUNDA SCHOOL, UASIN GISHU COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Loreto Convent, Matunda, School in Uasin Gishu 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.

VISITING DELEGATION OF FROM ST. ANUARITE GIRLS, NYANDARUA COUNTY

Hon. Senators, I would also like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from St. Anuarite Girls, School in 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 my own behalf, I welcome and wish them a fruitful visit.

I thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me the opportunity. I join you in welcoming the girls from the two girls' school to the Senate Chambers.

It is a noble thing for the two schools to visit the Chambers, so that they can interact with the Senate and see for themselves that it is important and possible for women to work hard and be leaders.

This is a good mentorship programme. The fact they have come to the Senate and seen women engage in women national issues is a plus for this country.

I encourage them to work hard, so that they can have papers. Therefore, it will be a plus for the society. This is because women are the salt of the family and the fabric of community. An enlightened woman is an enlightened nation.

It is not a waste of time for them to come to the Senate to see how we debate. Therefore, I encourage them to be morally upright as they go through their school. I urge them to listen to teachers because they are their parents in school.

Never go against them.

I would like them to know that their God given parents are important. They should listen to them. Whatever advice they give is for their benefit.

I remind the girls that they are the drivers of their own lives. They will decide where they want to go and be five years from now. Therefore, I encourage them to have positive thoughts about themselves so that they can make it in life. We, as a

nation, are ready to support the girl child to get an education and until they take the right leadership button in this country.

Thank you for giving the opportunity.

The Speaker (Hon. Lusaka): Next Order.

PAPERS LAID

REPORTS ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY AGENCIES /FUNDS

Sen. Kang'ata: Mr. Speaker, Sir, I beg to lay the following Papers on het Table of the Senate today, Thursday, 30th May, 2019:-

(1) Report of the Auditor-General on the Financial Statements of Kwale County Assembly Members and Staff Loan Scheme Fund for the Year ended 30th June 2018;

(2) Report of the Auditor-General on the Financial Statements of Kwale County Trade Revolving Fund for the Year ended 30th June 2018;

(3) Report of the Auditor-General on the Financial Statements of Taita Taveta County Datu Sawazisha Fund for the Year ended 30th June 2018; and

(4) Report of the Auditor-General on the Financial Statements of Turkana County Biashara Fund for the Year ended 30th June 2018;

(Sen. Kang'ata laid the documents on the Table)

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

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

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I am wondering out a loud that we have had several reports on various funds. For example, I have heard about Kirinyaga mortgage and now this one on Taita Taveta. I am not quite sure whether we are referring these reports to any Committee for purposes of reporting to the Senate. So, would I be in order to seek your directions? It is a first time I am hearing of them. If there have been coming, there is no Committee that has a mandate of doing those particular issues. If it is the Committee lead Sen. M. Kajwang, I do not think this matter has been addressed.

The Speaker (Hon. Lusaka): All these reports are being referred to County Public Accounts and Investment Committee. Therefore, once they go there, they should take action.

Next order.

NOTICE OF MOTION

DEVELOPMENT OF ICT AND TELECONFERENCING POLICY CONNECTING COUNTY HEALTH FACILITIES TO NATIONAL REFERRAL HOSPITALS

Sen. Pareno: Mr. Speaker, Sir, I beg to give notice of the following Motion-
WHEREAS Article 43 of the Constitution of Kenya provides
for economic and social rights enjoyed by every person, including the

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right to the highest attainable standard of health and the right to health care services;

AWARE that the Fourth Schedule to the Constitution of Kenya lists health as one of the functions to be performed by county governments, with the national Government providing health policy framework;

NOTING that Parliament enacted the Health Act, No.21 of 2017, to establish a unified health system, to coordinate the inter-relationship between the national Government and county government health systems, to provide for regulation of health care service and health care service providers, health products and health technologies;

COGNIZANT that the role of both county and national levels of government to ensure a healthy nation is complimentary;

FURTHER AWARE that most health facilities under the county governments are not well equipped with modern technological facilities and requisite personnel, leading to loss of lives, especially from preventable and curable disease;

RECOGNIZING that the Government the National Broadband Policy has developed more advanced communities and efficient ICT systems with good fiber connection covering of the major counties;

FURTHER COGNIZANT that the lack of a structured engagement through the technology between the county and national referrals hospitals in impacting on quality of health service provision in the county and referral health facilities;

NOW THEREFORE, the Senate resolves that the national Government:

(1) Fully and urgently implements the Health Act, No.21 of 2017;

(2) Further collaborates with county governments to facilitate and develop ICT and teleconferencing policy framework; and,

(3) Facilitates connecting all county health facilities to each other and to the national referral hospitals with a view to ensure seamless and efficient medical consultation between and among medical personnel and health facilities.

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

STATEMENTS

IRREGULAR APPROPRIATION OF LAND BELONGING TO KIST

Sen. Mwaura: Mr. Speaker, Sir, I rise pursuant to Standing Order No.48(1) to seek a statement from the Standing Committee on Education, Information, Communication and Technology regarding irregular appropriation of land belonging to the Kiambu Institute of Science and Technology (KIST). In the Statement, the Committee should:

(1) Explain the circumstances under which the institute's Board of Trustees (BoT) obtained, in their name, a title deed for land belonging to the institute, in

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contravention of The Technical and Vocational Education and Training (TVET) Act, 2013.

(2) Explain how the BoT obtained relevant consents and approvals for the subdivision and assignment of the resulting parcels to vaguely described purposes and intended utilisation, and why the BoT has failed to respond to directives by the Attorney-General and the Ministry of Education to reverse the illegal transactions.

(3) State the reasons for the BoT allowing non-teaching staff to occupy staff houses at the institute, at the expense of the teaching fraternity, and also leasing out the institute's coffee farm without any benefits to the institution.

(4) Explain the measures that the Government has put in place to ensure that a loan agreement between the Government of the Federal Republic of Germany and the Government of Kenya for funding of the construction of new buildings in the institution at a cost of Kshs2 billion is not frustrated on account of the irregular transactions on the institute's land.

The Speaker (Hon. Lusaka): The next request is by Sen. Kwamboka.

DEMOLITION OF STRUCTURES IN NAIROBI CITY COUNTY

Sen. Kwamboka: Mr. Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a statement from the Standing Committee on Roads and Transportation concerning demolition of structures in Nairobi City County. In the Statement, the Committee should:

(1) Explain the rationale of demolition of some buildings in Nairobi City County and why the demolitions have of late been recurrent.

(2) State whether the demolitions are being conducted by the Nairobi City County Government.

(3) State whether people and companies whose properties have been demolished were given adequate notice to vacate and explain how the notices were issued.

(4) Explain the measures that are being put in place to ensure compliance with existing laws and by-laws to avoid future demolitions and losses.

STATUS OF MOBILE CONNECTIVITY FOR MARGINALISED AREAS AND SPECIAL PROJECTS

Sen. Kasanga: Mr. Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a statement from the Standing Committee on Information, Communication and Technology on the status of mobile connectivity marginalised areas and special projects. In the Statement, the Committee should:

(1) Explain the status of the rollout of the Universal Access Fund set up in 2009 to provide better signal access nationwide which is under the Communications Authority of Kenya (CAK).

(2) State areas of the country that have been connected to the mobile network even to the basic 2G mobile network through the Fund.

(3) Submit to the Senate implementation and status reports with regard to network expansion and special projects updates for all the counties with specific emphasis on the counties of Marsabit, Samburu, Turkana, Isiolo, Garissa, Kitui, Makueni, and Tana River.

(4) Provide information on the Authority's tendering or subsidy tender scenarios, stating whether any service providers were given tenders as envisaged in the rollout, and if so, indicate which ones.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, allow me to make a comment and maybe the Committee should make a further request. When I was the Chairperson of the Committee on Information, Communication and Technology, the Universal Access Fund had up to Kshs4.1 billion of taxpayers' money for the rollout of the network in the country.

The Statement should include how much money of the Fund they have spent to date and how much money they have received from the public, so that we determine whether they have utilised that funds as envisioned in the law because the problem of network in the country should be resolved through the Universal Access Fund.

For more than 10 years, Safaricom was supposed to have 100 per cent coverage in the country, but it has not complied. In the Statement, the CAK must answer why they have allowed Safaricom to continue having a monopoly when they should not be a monopoly or whether they should be declared a monopoly and sanctions to follow.

The Speaker (Hon. Lusaka): I hope the Chairperson of the Committee has heard the additions on the questions raised by Sen. Kasanga.

Let us have the Statement on the Senate business for the coming week.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 4TH JUNE, 2019

Sen. Kang'ata: (*Words expunged at the order of the Speaker*).

The Speaker (Hon. Lusaka): Order, Hon. Kang'ata! In as much as you have presented the Statement on behalf of the Senate Majority Leader, we have a challenge with Standing Order. Standing Order No.52(1) states that-

“The Senate Majority Leader or, in his or her absence, a member of the Senate Business Committee designated by the Senate Majority Leader for that purpose shall, every Thursday or on the last sitting day of the week, present and lay on the Table, a Statement informing the Senate of the business coming before the Senate in the following week.”

You are not a Member of the Senate Business Committee (SBC). You are, therefore, out of order.

Sen. Kang'ata: Mr. Speaker, Sir, can I make a comment?

The Speaker (Hon. Lusaka): Order! You cannot make a comment. We need somebody who is a Member of SBC to make the Statement. We can have Sen. Mutula Kilonzo Jnr.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 4TH JUNE, 2019

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, good things come to those who wait.

Mr. Speaker, Sir, on behalf of the Senate Majority Leader, I present the Statement of the Senate Majority Leader on the Business of the Senate for the week commencing, 4th June, 2019, pursuant to Standing Order No. 52(1).

Hon. Senators, pursuant to Standing Order 52(1), I present the said Statement.

On Tuesday, 4th June, 2019, the SBC will meet to schedule the business of the Senate for the coming week. Subject to further directions by the SBC, the Senate will consider Bills due for Second Reading and Committees of the Whole on Tuesday, 4th June, 2019. The Senate will also continue with the consideration of business that will not be concluded in today's Order Paper.

On Wednesday, 5th June and Thursday, 6th June, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

There are 37 Bills pending consideration by the Senate of these, 21 Bills are pending at the Committee of the Whole stage while 16 Bills are pending at the Second Reading stage. In order to expedite their passage and to ensure effective use of the time available to debate and conclude on them, the SBC has resolved to have Divisions on Wednesdays. As a result, I urge all the Senators to be present during the Divisions so that we can expeditiously conclude this business.

I also take this opportunity to urge the Senators who have sponsored Business to ensure that they are present to prosecute the Business when scheduled.

I continue to urge Standing Committees to expedite consideration of the Bills referred to them and table reports in the House. This will enrich debate at the Second Reading stage and facilitate the House to effectively navigate the Committee of the Whole stage.

In addition, I urge Senators who are serving in the Mediation Committees for the 5 Bills currently undergoing mediation to expedite the process, taking into consideration the constitutional timeline and need to have the issues settled without undue delay.

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

(Sen. Mutula Kilonzo Jnr. laid the document on the Table)

The Speaker (Hon. Lusaka): I have been reliably informed that Sen. Mutula Kilonzo Jnr. had been designated by the Senate Majority Leader to make the presentation. Therefore, the earlier presentation should be expunged from the records because the Statement was being tabled by a 'stranger.'

(Laughter)

Next Order.

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

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

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, there is a Statement that was supposed to be delivered by the Committee on Education on the curriculum based issue. The Statement was read yesterday by the Senator for Kitui County and the Speaker, who was sitting where you are, ordered the Committee to present an interim report today. Could we get directions?

The Speaker (Hon. Lusaka): Could we hear from the Chairperson of the Committee?

Sen. (Dr.) Lang'at: Thank you, Mr. Speaker, Sir. We are convening on 19th and we have invited the Cabinet Secretary (CS). We plan to have him attend the Committee of the Whole for him to answer most of the questions on that day.

The Speaker (Hon. Lusaka): Okay. Next Order.

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

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

INTERDICTION OF TEACHERS BY TSC

Sen. Wambua: Thank you, Mr. Speaker, Sir. I sought a Statement. I have heard the Chairperson of the Committee on Education say that they are convening on 19th. A lot of things have been planned before that day along the issues raised in the Statement. Teachers are supposed to go on strike on 7th June, 2019. We were of the view that we should meet the CS before that day because these are serious issues.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, this matter is serious. The teachers that Sen. Pareno, Sen. Wambua and I, talked about have not been reinstated and have not been paid.

My plea to the Committee is that this matter is urgent. Temporary measures ought to have been taken before they hold their meeting. These people do not have salaries. In the case of Kajiado, Sen. Pareno said yesterday that head teachers have been posted to the schools where teachers were interdicted. Can we wait for this crisis until 19th? I do not think so.

Sen. Pareno: Thank you, Mr. Speaker, Sir. We discussed a lot about this matter yesterday. There was a directive that the Committee should give something tangible to this House because there is a crisis. You cannot interdict half the teachers of a zone. Their salaries have been stopped and those who were promoted to replace the interdicted head teachers are unable to report to the schools because of the circumstances surrounding this matter.

Today, is the 14th day from the day when the Committee was told to report back. Therefore, the days they were given have expired and we have not heard from them yet this is a crisis. I gave the names of schools that do not have teachers. We are informed that the same thing is happening in Kitui and the same thing might happen in another county. We will soon have paralysis in the education sector. Can the Committee tell us something about this crisis?

Sen. Mwaruma: Thank you, Mr. Speaker, Sir, for giving me this opportunity to add my voice on this issue. I was to request for a Statement on the same because some head teachers in Taita Taveta have been interdicted. Some of those head teachers were sick hence they were unable to attend the Competency Based Curriculum (CBC) training. The sad part is that they have already been replaced by other head teachers. What would happen if casualties are written yet those teachers have been replaced? There is a crisis and we need to nib it at the bud before it goes out of hand.

Sen. Seneta: Thank you, Mr. Speaker, Sir. I am Member of the Committee on Education, Information, Communication and Technology. I also have a concern regarding the teachers' interdiction. As I speak, several students in Kajiado County are being handled by Parents Teachers Association (PTA) teachers or the Early

Childhood Development (ECD) teachers because their teachers have been interdicted. The head teachers who were sent to replace them have not reported.

As a matter of concern, we sat with the education board of Kajiado County and requested the Teachers Service Commission (TSC) to put some urgent measures to salvage the situation. However, TSC has not taken any measures even after having a meeting with the leadership of Kajiado County. Our children are suffering because our schools have been closed. I am also of the view that 19th is very far because this matter needs to be brought to the attention of the Government through the CS.

We need a comprehensive answer from the Chairman of the Committee on what urgent matters they are putting in place to help the situation.

Sen. Khaniri: Mr. Speaker, Sir, this is a serious matter. I am not sure that my good friend, the Chairman of the Committee, is giving it the weight it deserves. We can gamble with anything else, but we cannot afford to do so, with the lives of our innocent children. We can play with our politics, economy or any other thing, but not the future of our innocent children.

(Applause)

Mr. Speaker, Sir, I am not satisfied because the Committee was given two weeks. At that time, some of us even thought that two weeks was too long. However, the Speaker was magnanimous enough and gave them two weeks. Some of us wanted answers immediately the same week. Two weeks down the road, we do not seem to be having answers from the Chairman.

I propose that we summon the CS for Education to come to the Senate so that he can respond to Senators directly without going through the Committee on Education, Information, Communication and Technology.

(Applause)

The Speaker (Hon. Lusaka): Hon. Senators, I direct the Chairman to provide a concrete answer on Tuesday, next week. Let us give them an opportunity to provide us with an answer. If they do not, then we will take the other route that has been proposed by hon. Senators.

It is so directed.

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir. The matter is so urgent and serious. I think on Tuesday, we shall have a concrete answer to give to this House.

(Loud consultations)

The Speaker (Hon. Lusaka): *Daktari*, they are telling you to stop thinking.

(Laughter)

Sen. (Dr.) Langat: Thank you, Mr. Speaker, Sir. We shall give a concrete answer to this House on that day.

(Loud consultations)

The Speaker (Hon. Lusaka): They say you are now talking. Being a Senator with letters after your name, I think you know what to do.

Next Order.

MOTION

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL

The Senate Majority Leader (Sen. Murkomen): Mr. Chairperson, Sir, they have not updated the current Order Paper. I can only see the one for Wednesday. However, I beg to move the following Motion-

THAT, pursuant to Standing Order No.159, the amendments of the National Assembly to the County Governments (Amendments) No.2 Bill (Senate Bills No.7 of 2017) be now considered.

Mr. Speaker, Sir, we sat in this House and deliberated on the processes of dissolution of county governments and reports that come from the Committee that deals with dissolution of county governments. This is a very important provision.

Sen. Mutula Kilonzo Jnr. came with these amendments informed by the process that ensued in Makueni County Government last term when it was almost being dissolved. I remember very well because I was the Chairman of the Committee on Devolution. I was charged by this House to shepherd the process, including approval of the Members that were sitting in that Committee and listening to their Report.

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

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

Madam Temporary Speaker, we are very happy that the Committee did a good work in terms of recommendations on the working relationship between the County Assembly of Makueni and the County Executive. This was a very unique mechanism for dissolution because it came from the county government. It was the County Executive of Makueni who felt that their relationship with the county assembly was so broken down to the extent that they had no choice, but to go for the dissolution of the county.

Madam Temporary Speaker, when that process started, the Chairman of the Committee was Counsel Mohamed Nyaoga. It comprised of many lawyers and public servants. I do not remember whether Sen. (Rev.) Waqo was a member of that Committee. No, it was another lady who looks like her who hails from the same county with Sen. (Rev.) Waqo.

When that Committee did the work, we had a disadvantage by virtue of the operation of law of not having the opportunity to deliberate on the Report because the law as it is, provides that the President of the Republic of Kenya once he makes his decision that he does not agree with the proposal by the committee for dissolution, that was final. If you remember, the Committee that was established to do the inquiry came with a finding that the County Government of Makueni should be dissolved.

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When this Report went to the President, he disagreed with that recommendation and the matter ended there.

The question for all of us here was: “How do we import the recommendations of that Committee for the purpose of operations in the rest of the country? How do we capture them and put it on record if this House cannot debate and deliberate on the findings of that report? Informed by that experience, Sen. Mutula Kilonzo Jnr. came up with these amendments.

Unfortunately, when the law went to the National Assembly, who do not have the institutional memory and the history, foundation and background of this amendment, went ahead to return an amendment that just mirrors the exact provisions of the law as it is at the moment, except for the change of words here and there, defeating the very purpose of the work that Sen. Mutula Kilonzo Jnr. did.

Madam Temporary Speaker, though I am moving this amendment from the National Assembly, I am recommending to the House that we should defeat it, so that we can then go for mediation and agree on a proper version.

We will now send Members to the Mediation Committee, including Sen. Mutula Kilonzo Jnr., who will explain to our colleagues in the National Assembly the history of the enactment of that provision. I am very sure that the mediation process will result into a version of the Bill that will capture the spirit and the intention that this House had.

Now talking about the dissolution of counties, as a Senate, we must continue working so hard to ensure that our counties do not find themselves in the situation that we had. It is usually around this period that wrangles begin in the counties. I told many Senators during the orientation in Naivasha that a number of them here came into the Senate holding hands with their governors. They had very good relationship and campaigned together. They came back here having endorsed each other with their governors. For example, for purpose of the public discourse, Sen. Kang’ata and his governor came very happy. They had a very wonderful political romantic moment. I am saying that because they are all men, so I do not want to be misunderstood.

An hon. Member: No instinct!

The Senate Leader of Majority (Sen. Murkomen): Knowing that Sen. Kang’ata has just won a case in court that relates to sexual orientation, I must be very clear that it was political romance between him and his governor.

(Laughter)

I told Senators at the beginning of this Parliament that it may not reach six months and you will have one of the fiercest political disagreements between Senators and governors. That played out in the County Public Accounts and Investments Committee (CPAIC) just a week ago when the Governor of Murang’a County took issue directly with his Senator. That is the case.

If you ask the Governor of Samburu County and his Senator, they also came here holding hands to leadership. My friends from Nandi County came holding hands too and many of these other counties, just like Sen. Hassan Omar did with---

The Senate Minority Leader (Sen. Orendo): Even Meru County!

The Senate Majority Leader (Sen. Murkomen): Yes. In Meru County, they campaigned and, in fact, formed the government together.

The Senate Minority Leader (Sen. Orendo): And Kisumu.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, Kisumu County was even worse because Gov. (Prof.) Anyang'-Nyong'o and Sen. Outa campaigned and shared the government together, but they do not see eye to eye at the moment.

I am not faulting governors or Senators. The design and architecture of our Constitution was such that at all times, the Senator must oversight the county government, which includes the governor. Every time you raise the issues, they will definitely put you at loggerheads with your governor.

A Senator who does not raise those issues risks the possibility of not being re-elected. I do not know how Sen. Mutula Kilonzo Jnr. does his. He disguises his way of doing it and that is how he survived and came back. You have to be careful when dealing with second term Senators, especially those who have aspirations to be governors. I am just digressing a little.

The point is that relationships in county governments will not at all times be rosy. This is because the county assembly does a lot of oversight work. In Elgeyo-Marakwet County, for example, all the Members of County Assembly (MCAs) but two, were elected in Jubilee Party ticket with the governor. The other two are independent. There is no other political party. There is no minority leader in Elgeyo-Marakwet County. However, because of oversight issues, there is a lot of pull and push in the county assembly. There are those who believe that they should go this or the other direction. I say that confidently because I am also working to ensure that my county is properly oversighted.

Madam Temporary Speaker, it is important that with all these issues that we are dealing with in counties, there will come a time when citizens will be very unhappy with their county governments. They will collect the relevant signatures and want dissolution.

The one for Makueni County was about the county government wanting to dissolve itself. However, for this one, citizens may petition for dissolution of the county government. There may even come a time where a Senator is the one who will prepare the petition to dissolve the county government.

The most important thing is for this House to record officially, the issues that come from there and find ways of acting on them via the relevant Committees. That way, the report will not get to the President and get lost. It must be transported to this House formally. Once it is given to us, we will have the opportunity to deal with the issues of dissolution of county governments.

I am proud of the work that we are doing in this House and the progress we are making. We have sent a number of our colleagues to go for mediation on various Bills. I have been receiving updates and reports about their engagement with the mediation panels from the National Assembly. I thank Senators for behaving in a mature manner. I am told that the insults that are sometimes targeted at Senators even scare HANSARD officers who then do not know what to do when transcribing.

Madam Temporary Speaker, let me tell Senators that we must maintain the higher road of leadership. Like Mrs. Obama said: "When they go low, we go high." We should not give them the opportunity to go to a pig's fight, which leads to a lot of mud. We must always maintain the soberness that this House demonstrates when we engage on issues. Like St. Paul's said, we must acquit ourselves. In doing this, those people who look at us – our lives and testimony and read our HANSARD – will say

that, indeed, these people were pursuing a higher road of leadership and were intended in leaving a legacy.

Talking about legacy, I have made up my mind as the Senate Majority Leader. I will not compromise for political expediency, anything that touches on the Senate and deals with the jurisdiction of the Senate and the mandate of the Senate to protect devolution, which includes counties and county governments. This is because history is a very dangerous judge.

I have read and seen the things that people of the yesteryears have done and some of them have lived to regret in their memoirs. It is important to read the history of other people. It is unnecessary for us in this House to opt for shortcuts because we want to please the most immediate political interest. I will lead this House from the Majority Side. I am very glad that I have 100 per cent support of my colleagues; that when we are dealing with issues related to the mandate of the Senate and devolution, there is no Jubilee or National Super Alliance (NASA). There is only one guiding principle that the Constitution requires us to abide by that law.

Madam Temporary Speaker, when we go to mediation Committees and do not agree with our colleagues from the National Assembly, we do not just do so, because of political interest. We disagree because we want to leave a legacy. Legacy is not a cloth that is hanging in a house which you pick and wear. It is a piecemeal and step by step thing that you have done.

Sen. Orenge has, probably, already done 80 per cent of what will be remembered of him. You cannot just wait for later years of your life to start building your legacy. It must start from when you are young. You cannot just wake up and say: "Now, I want to pursue legacy at the end of my political career. I want to get a cloth of legacy and cloth myself." People will see through it. That is why some Presidential candidates are struggling. They want to look democrats, but in the whole history of their life, they have survived being dictators.

Let me tell my colleagues and Kenyans who are listening, that they must allow some of us to do what we must do. This is because in some years to come when we write our memoirs, we have something to say. We will say that we stood for devolution and the Senate. It was painful at that time and may have gone against the wishes of a few, but it was important for leaving legacy. That is why I have no regrets on what decision we will make about the Roads Bill, land laws, nullification of health and other laws that will not have followed the Constitution.

Madam Temporary Speaker, when I looked at the health laws that were passed the other day, I was flabbergasted to see that graduation of hospitals is in that law. That you can graduate a health facility from a county government to the national Government without resorting to anybody at the county level. That you can create a body which can transfer staff of counties and approve transfers from one county to another. What constitutional principle is that law operating?

We know that the Constitution recognises every person who works for every county to be under the County Public Service Board (CPSB) of every county. The CPSB is independent of the national public service and the CPSB of another county. There are so many glaring and constitutional issues that we must address.

By the way, let me just tell this to the media. Sometimes I look at the reports and the news written in this country, and particularly when we discuss very serious issues in this House. Sometimes we are given footnote or a margin in a newspaper when we raise critical issues here. Some people think that we care, but we do not

because we know that history will acquit us. We know there will come a time when people will go back and ask what exactly happened when these things happened. When the impact of what we do here will now be felt out there, people will rise and say Senate is very serious in addressing issues.

I get so many people who say: “By the way, we have now come to the realisation that the Senate is very serious in addressing issues.” I encourage Senators to take that route and do things that will be remembered later. They may not be juicy at the moment, make headlines or be news bites, but they will at least have a greater impact in this Republic.

Madam Temporary Speaker, for the Bill to have the required impact, I suggest that we defeat this amendment, so that then we have an opportunity to go for mediation and come back to ensure that we have the necessary amendments that respond to the constitutional requirements.

Madam Temporary Speaker, I beg to move and invite the Senate Minority Leader to second.

The Senate Minority Leader (Sen. Orengo): Madam Temporary Speaker, allow me to Second. I do not have a lot to say. I fully support the sentiments expressed the Senate Majority Leader.

Madam Temporary Speaker, if we do not look carefully at some legislation which comes from the House, we will be legislated out of existence. In the areas where the Constitution is clear about our role, we are suffocated out of that role.

Madam Temporary Speaker, when it comes to the issue of intergovernmental relations that is governed by the Intergovernmental Relations Act which is underpinned by Article 189 of the Constitution, the Senate has no role to play at all. In fact, when there is a meeting between the executive at the national and county levels, the Senate has no role. We are never invited even to participate as observers. However, in a situation where the Constitution is clear who are the players when it comes to suspension of county governments, there are only two players; that is the President of the Republic of Kenya and the Senate.

The amendments that are brought by the National Assembly want to bring another body in the process of dealing with the question of suspension of county governments. In fact, whereas the President can suspend a county government, he can only do so, with the authority of the Senate. Without the authority of the Senate, he cannot. That is why Sen. Mutula Kilonzo Jnr. has said that it is important that once the President makes a decision, a notice is sent to the Speaker of the Senate to communicate that information to the Senate.

When it comes to our suspension, which cannot last for more than three months, the Senate can countermand that decision and end the suspension on the county government. Therefore, I persuade the distinguished Senators, in the same vein as the Senate Majority Leader, that this is something that we have to say no to. This is because when it went to the National Assembly they knew what they were doing by bringing these amendments which were to weaken the authority and powers of the Senate. In fact, the authority and power of the President has not been interfered with. It is only the authority of the Senate.

If you look at the history of how the old Senate died, it was through these small amendments which were not challenged. Those who tried to challenge them gave up and the Senate died. Therefore, I urge distinguished Senators that these

amendments by the National Assembly are mischievous and are without a constitutional basis.

Sen. Mutula Kilonzo Jnr. must be commended because when he was crafting this Bill, he followed the constitutional path on how to suspend a county government. All that is laid out in the Constitution just like the question of impeachment law that has been brought and is under discussion; we have followed the constitutional path and structure for undertaking an impeachment.

Madam Temporary Speaker, I, therefore, agree with the Senate Majority Leader on important things like these. I am glad that the Senate has always been together. It is only one time that we were not together on the question of election laws. However, with the wisdom on hindsight, people are beginning to see that there was a problem, especially when there are rushed amendments.

Madam Temporary Speaker, if you go to other countries, the role of the Senate is always very important. It is like the quality control of legislation rests on the Senate. They look at Bills more carefully.

I join the Senate Majority Leader in saying that those that we have nominated to be in these mediations have done us proud. It has not forced us to send the leadership into these mediation Committees. Our Senators have been up to the task. Even when the leadership of the National Assembly is involved, they have stood by the Senate as a delegation of the Senate. That is something that is worthy to note. I hope it will continue so that when we send Senators to mediation, it does not matter whether it is NASA or Jubilee. I have as much confidence in a Jubilee Member of a mediation team as I would have in a Member from NASA.

I commend that this Motion, as considered by the House, would end in the rejection of the proposed amendments which go against the Constitution. If they were to become part of the law of the land, somebody will rush to the court and at the end of the day, they will begin ask who were sitting in the Senate, seeing unconstitutional laws being enacted without scrutiny.

I support and second.

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

(Question proposed)

(Interruption of debate on Motion)

Ho. Senators, before I give the next person a chance to contribute, I have a Communication to make.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM KARUGIA SECONDARY SCHOOL, MURANG'A COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Karugia Secondary School in Murang'a 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.

VISITING DELEGATION FROM ST. JOSEPH BOARDING
PRIMARY SCHOOL THARAKA NITHI COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from St. Joseph Boarding Primary School, Tharaka Nithi 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 the debate on Motion)

Sen. Seneta: Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this important Motion. However, before doing so, I join you in welcoming the students from Murang'a and Tharaka Nithi Counties who are in the Public Gallery. I wish them a good time and success as they learn the business that we transact in the Senate.

I add my voice to this Motion by saying that it is time for the Senate to rise in support of devolution. We have been given a mandate by the Constitution to oversight counties. We are here to represent our counties. We must make sure that anything that comes to this House from the National Assembly will benefit our counties.

I concur with my colleagues that whenever Members are nominated to mediation committees, because of some Bills where we do not agree with the National Assembly, they should scrutinise what we need to mediate on behalf of this House. I also concur that constitutionally, independent institutions must be respected. There is no way a report by a commission can be assumed by any other arm of Government. Likewise, any report on county governments should not be assumed by any constitutional institution. Therefore, we should reject this Motion.

I was in the Eleventh Parliament when Makueni County Government was in the situation it was. If it was not for the wisdom of the Commission and Members of this House, we would not have had Makueni County Government at that time. As I speak, Makueni County Government is one of the best performing counties. It had some issues at that particular time but this House stood with both Makueni County Assembly and the Executive. Senators intervened and gave them another chance. Right now, it is one of the best performing counties.

We need to enlighten and support our county assemblies. Any Bill that deals with county governments should strengthen institutions in the county governments. The intergovernmental bodies should have the capacity to support Bills concerning county governments. Therefore, I support that we should reject this Motion and stand with the county governments.

I thank you.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I rise to support the Motion and reject the proposed amendments. You have been with me in some of the mediations. I do not think our colleagues understand or read these things.

The purpose of amendment to the County Governments Act was born out of the lacuna in law that when a county is dissolved and the President is given a petition, once he makes the decision and appoints a commission, that commission---

Like the case of Makueni County was approved by the Senate. The Commission went to Makueni and after doing its work and submitting its report, the President, in his discretion, rejected it. I raised the concern and the then Speaker, Hon. Ethuro, directed that the report submitted to the President be tabled before the Senate. However, we went to elections without having that report.

I had the benefit of reading that report which I received unofficially. Other than the suspension in Makueni County, there were many issues concerning the budget, how much county assemblies can do and the issue of oversight. In fact, the attempt to impeach Governor Mwangi wa Iria at that time and the late former Governor of Nyeri County, Nderitu Gachagua, came shortly after Makueni and the issues of Murang'a and Nyeri were similar. The issue was about budget-making process and that is what caused problems in Makueni County, leading to the said impeachments.

The idea of having a report tabled here is being negated because the National Assembly seeks to amend the law to provide that the President of this Republic will notify the Speaker. What kind of logic is that? When Senators approve members of the commission, the report should be tabled and then the President should notify the Speaker. They are not even saying how they will be notified. I do not know whether they are supposed to notify via WhatsApp or a message. The document on dissolution is a petition and a report of the commission which is in the amendments. They just talked about notifying the Speaker and that is what Sen. Orengo was saying.

In Article 192, there is no other body or person other than the President and the Senate. In a true spirit of protection of counties, the decision to terminate a suspension must come to the Senate. The law provides that we may consider terminating suspension of a county. Which apex body is being mentioned by the National Assembly?

In the Intergovernmental Relations Act, we have the Inter-Governmental Budget and Economic Council (IBEC) and the Summit. Which apex body are they referring to? If we are to insert the apex body that is referred to by the National Assembly into this amendment, we will have violated Article 192 of the Constitution. Only God knows how that small issue passed the National Assembly and found itself into the amendments.

More importantly, to address the concern, I heard that we missed a tremendous opportunity where a commission of inquiry of about seven people spent three months in Makueni. Public funds and a lot of other resources were utilised but I do not know where that report went.

Regarding amendment to Section 14, it is stated that where the commission does not recognise the suspension of a county government or where the President is not satisfied that justifiable grounds exist, for suspension of a county government, the Senate may consider any other recommendation of the commission not related to whether or not the county government should be suspended and make a determination on the way forward with respect to those recommendations.

However, the National Assembly, in its wisdom, deleted that paragraph. Witchcraft is real because I have no other way of explaining it. How that was deleted is something that I do not understand because Mr. Nyaoga had almost 21 recommendations. There was only one recommendation about suspension.

What happened to the other 20? They all disappeared with the Report and a lot of public resources were wasted. People of Makueni travelled to Wote and spent nine months wrangling about this issue just for it to end at the tap of a finger. It was done with and nobody knew what to do. Governor Kibwana went back to office, we did not know what to correct and what to do. The people of Makueni waited patiently for the election and they sent all the Members of the County Assemblies packing. We at times think that Governor Kibwana survived because he joined the political party that I belong to. Otherwise, they would have sent everyone packing because they were angry. That happened because we never resolved the underlying issues that resulted in the Petition to dissolve Makueni. This Senate was in a good position to mediate because our work is to protect the counties.

With those few remarks, I urge my colleagues to reject this amendment.

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

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Wamatangi, do you have a point of order?

Sen. Wamatangi: Madam Temporary Speaker, I have a point of information. I do not know if my good friend would want to be informed.

The Temporary Speaker (Sen. (Prof.) Kamar): Would you like to be informed?

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I am always happy to hear from Sen. Wamatangi.

Sen. Wamatangi: Thank you, Madam Temporary Speaker. I heard my colleague, the Senate Minority Whip, wonder why a Clause that makes so much sense in terms of the proposed legislation would be deleted by the National Assembly. I want to inform him that the mention the word Senate elicits unbelievable reaction from our colleagues in the National Assembly and it even happens when they are amending the law.

Yesterday, some Senators and I sat in the Committee on Mediation on Roads and Transport. The mention that a Senator's office be allowed to propose two members, appointed to that committee through an Act of the Parliamentary Service Commission (PSC), to sit in the committee constituted to advise a Cabinet Secretary on road matters in a county led to war that lasted for three days.

The Temporary Speaker (Sen. (Prof.) Kamar): I think that he is now informed, unless you want to contribute.

Sen. Wamatangi: Madam Temporary Speaker, I want to inform my colleague that he should not be surprised with the kind of reaction that he will get.

However, we must stand our ground for the Senate to occupy its space and for it to be mentioned honourably.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Wind up Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, the information is useful. The Senate Majority Leader said that we should expedite the mediation processes. You and I have sat in two mediation Committees. We have always had to educate our colleagues when we sit in those meetings. I do not think that this is going

to be short. People must be prepared for the long haul for we are not going to budge. We refuse.

Therefore, I beg to support the Motion by rejecting these amendments. Once again, let us go to mediation and spend some time doing what we have been doing in mediation; educating our colleagues.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I do not see any other Member who wants to contribute. The Mover has forfeited the opportunity to reply. I also confirm that this matter does not concern counties as set out in the Standing Orders. I will, therefore, put the question.

(Question put and negatived)

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

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, some of our key Members of the Committee are not in.

I will, therefore, defer Order No. 9, 10, 11, 12, 13 and 14.

COMMITTEE OF THE WHOLE

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

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

THE COUNTY GOVERNMENTS (AMENDMENT) BILL
(SENATE BILLS NO. 11 OF 2017)

(Committee of the Whole deferred)

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND
SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

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

(Committee of the Whole deferred)

Next Order.

MOTION

THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES

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

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

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

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

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

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

NOW THEREFORE the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors

- 1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
- 2) develops a clear policy on street families rehabilitation and reintegration at county level; and

3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

(Sen. Kwamboka on 29.5.2019)

(Resumption of Debate interrupted on 29.5.2019)

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Hon. Senators. The Motion has already been moved. Sen. (Dr.) Musuruve was on the Floor seconding the Motion and she has a balance of four minutes.

Sen. (Dr.) Musuruve: Thank you, Madam Temporary Speaker, for giving me the opportunity to continue seconding this Motion.

This Motion is very noble and we cannot afford to ignore the people who live on the streets. According to Article 1 of the Constitution, this country belongs to the people of Kenya and the street families are also Kenyan citizens. They, therefore, have the powers. As a nation, we have to come up with mechanisms to protect street families. The State is supposed to protect its citizens. We need to protect street families wherever they are. Of late, we have been talking of *Huduma Namba* and I wonder if any officer was sent to the streets to register the street families. We cannot ignore street families for they are part of us and we must empathize with them.

As a nation, we have to do something about the street families. This nation will not achieve the Sustainable Development Goals (SDGs), if we do not empathize with the street families. We have to treat street families with dignity because it is a constitutional demand and the Senate has to defend the Constitution. We cannot say that we are walking the talk if we are not concerned about street families. I want to warn the people who are in Government offices who are waiting for this Motion to be passed, for them to come up with organizations in the name of taking care of street families, just for them to collect money and pocket as street families languish in the streets. As a Senate, God will judge us if we do not make life better for street families. Nobody ever chooses the family to be born in. You find yourself born into a certain family. So, if you find yourself in the streets, it is not your wish to be there.

Madam Temporary Speaker, according to human personality, unless a person is given an opportunity, there is no way he or she would be able to maximise their potential. Even in the streets, we have people who, if given the opportunity, can become doctors and leaders such as we are.

There is need for us, as a nation to ensure that we are giving families in the streets an opportunity to maximize their potential. You never know about the hidden potential that someone has unless they are given the opportunity to exploit it. There is need for us as a nation to ensure that we do not discriminate the disadvantaged because nobody chooses to be disadvantaged. There is need for us to empathise with them and ensure that we raise them to a level where they will say: "Yes, this nation empathised with us and we are somewhere".

I want to support this Motion and I hope that it will see the light of day so that eventually it transits to a Bill.

I second.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Members, the Motion having been seconded, I now propose the question.

(Question proposed)

Is there any Member wishing to contribute to the Motion?

Proceed, Sen. Seneta.

Sen. Seneta: Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this very important Motion by my colleague Sen. Kwamboka.

From the onset, I want to congratulate her for having thought deeply on the concern of these street families, homeless, destitute and vulnerable persons, mostly in our urban areas. This is a very noble idea especially at a time when we have devolved units. It is a timely Motion. I want to encourage her to go further and come up with a Bill.

As you walk in the streets in any small town or urban centre in our counties today, you come across all sorts of homeless persons be it women, children and Persons with Disability (PWDs). They are all over our urban areas. This is a very important Motion which will help our counties to deal with this issue.

Madam Temporary Speaker, there is need for our county governments to come up with proper data concerning street families. When we look at these persons in our streets, we need to ask ourselves: Who are they? Where are they coming from? Are they registered? Do they have *Huduma Namba*? Are they enjoying any benefits such as the Cash Transfer Funds? Are they and their children accessing education? Are they able to access the National Hospital Insurance Fund (NHIF) cards that are being given out in collaboration with the county governments? These are issues that our county governments need to address. Our county governments need to have data of these homeless families. They need to know their origins; where they come from. Are they Kenyans?

Madam Temporary Speaker, as we speak, there is an emerging trend where PWDs are being brought from Tanzania, across our boundaries to be traded within our cities. There is need for the Government to be aware of who these families are. Are they brought here by design for some people to earn from them as a form of business?

This is an issue that we do not need to leave to the Non-Governmental Organisations (NGOs) to deal with. We do not need to leave the issue of street families to the activists or in the hands of people who only show them mercy one day and the next day they do not have any mercy for them. The Government needs to come up with strategies to help the street families.

Madam Temporary Speaker, I agree with the Mover of this Motion on the issue of the audit of the monies meant for street families. Do we have a law in place that governs the Fund or an annual budgetary allocation? Our county governments need to look into the issue of budgetary allocation and determine whether it is enough or if there is need for us to lobby for the increase of allocation.

Sen. Kwamboka should find a way we can consolidate this Fund with other funds so that every county receives some amount to cater for the street families. The funds should also be audited and given in a transparent manner. There should be governance by Government institutions so that we are aware how the street families are receiving assistance.

Madam Temporary Speaker, we should come up with sustainable strategies such that the street families are not only helped one time and forgotten about. We

need to have strategies to ensure that the street children and families can access education, healthcare in our facilities, food and any Government programmes.

I beg to support this Motion and encourage my sister to go ahead and draft a Bill on how this Fund can be consolidated with other Government funds so that we end up with a budget that can help our street families. This Motion is very noble because it is the constitutional right of street families to live a decent life. We need to have such kinds of programmes that take care of our street families like in the developed countries.

I beg to support.

Sen. Chebeni: Thank you, Madam Temporary Speaker, for giving me the opportunity to add my voice to this Motion. I thank Sen. Kwamboka for coming up with this Motion. The issue of street families is real but their plight always seems to fall on deaf ears.

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

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

Street families face so many challenges such as poor health, lack of education, sexual harassment, abuse, harsh and unhealthy living conditions, diseases, child abuse and child labour. Due to these challenges, street families do not enjoy the rights and privileges as citizens of this country such as; the right to health, shelter, adequate standards of living, among other rights.

Madam Temporary Speaker, there are young people who have only known street life. They end up engaging in criminal activities and drug abuse. These are energetic and creative individuals who would have participated in building this nation had we engaged them in programmes that empowered them and allowed them to gain skills to seek employment to attain their basic needs.

There are rehabilitation centres in existence but they have inadequate infrastructure. Although the rehabilitation centres are designed to give street families another chance at life, they always feel more like detention camps. The centers are not as friendly as they ought to be.

Madam Temporary Speaker, Sen. Seneta has alluded to the fact that we need data collected on street families. We lack comprehensive and reliable data on numbers and trends of the street families which results to poor planning on how best to help the street families. Proper data has to be collected to cater for their needs. I support that a census should be conducted for the street families.

The Government of Kenya should take serious consideration about the predicament of street families in Kenya and come up with sustainable solutions in order for them to enjoy full benefits of being Kenyan citizens and restore their full participation in our society.

I beg to support this Motion.

Sen. (Prof.) Kamar: Thank you, Madam Temporary Speaker, for giving me the opportunity to contribute to this Motion. I thank Sen. Kwamboka for coming up with such a great Motion. Street children are our children. They are not from anywhere else. I am aware that there is invasion by some street families from neighbouring countries, but I am more concerned about the Kenyan street families.

The Motion that is before us will help us distinguish between the Kenyan street families and those from neighbouring countries. That is a great starting point that has been brought out by this Motion. We need to do a census to determine whether the street families are from Kenya or not. Once we have done that, we should embark on dealing with the Kenyan street families.

Madam Temporary Speaker, street children in this country have rights that have been articulated by this Motion. According to the Constitution, our children have a right to shelter, education, food, water and education. The problem that we currently have with street children is that, nobody is paying attention to them. We ignore the street children at our own risk. If they lack food, they will demand for it or look for a way to get it. We have heard of cases of small street children mugging or throwing dirt on people to make sure that they get something. You will realize that these are desperate kids who want nothing but food.

There is a major difference between street children and grown-ups who go about begging on the streets. Street children are normally looking for nothing but food. There are university professors who did an analysis on who the street children in the Town of Eldoret are. They discovered that the street children were those who had dropped out of school due to lack of school fees that their parents could not afford. The street children discovered that in Eldoret, when the farmers harvest and take their goods to the market, what is left is poured out. The street children discovered that there is excess food in the Town of Eldoret and that is what attracted them there.

A child is attracted because of food, but, thereafter, where will that child go to? They will graduate from being street children to mugging others. It is very important that we seriously look at this Motion that has come before us and how we treat our street children. In Uasin Gishu County, we have SOS schools and rescue centers, but do we have enough teachers and social workers to deal with the issue of street children?

Madam Temporary Speaker, the other day, I was in a rescue centre that brings street children together, not only for food, but also for skills development. I was amazed by the kind of things they do. I would like to congratulate the Eldoret Rescue Centre for that. They have skilled them and they now are able to make wheelbarrows for themselves. They are wonderful welders. They even weld frames for school windows.

You find that, these are people who, when given an opportunity, can transform themselves as well as the whole community. As the country is undergoing industrialization, we are talking of vocational training centres, this is the target population that we must attract to these institutions. I congratulate our colleague, Sen. Kwamboka, for thinking about how we can deal with them. I would like to join Sen. (Dr.) Musuruve, by emphasizing that we need a law that will have clauses that are punishable if we do not take care of our street children. Their right to education, food security and water is in law.

We need another law to actualize the rights of these children because the only thing remaining is where they live. If it is where they live, it is possible to actually have a fundraising, from CDF kitty or the county Governments can build boarding facilities for such children. According to the Constitution, everything else is their right and they only lack shelter. If we can give them shelter within the schools that are currently in existence, we will change the face of this country. It is not fair that after 60 years of Independence, we still have issues of children living in the streets. Some

of them are frustrated and the only thing they can do is to sniff glue. We are creating another population that will be extremely difficult to deal with.

I, therefore, support this Motion and encourage Sen. Kwamboka to take a step further and develop it into a Bill so that we assess what the Government must provide, so that we take care of these street children. It is their right and our responsibility to make sure Kenyans are raised equally, equitably and enjoy the rights outlined in the Constitution.

With those remarks, I support.

The Temporary Speaker (Sen. Nyamunga): Well spoken. Sen. Shiyonga, you have the Floor.

Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to support the Motion on rehabilitation of street families.

Street children, especially in this country are struggling to survive. There is no official data or statistics that has been taken to establish the number of street children in the country, hence, lack of consideration for any help that comes. However, the Government has allocated over Kshs100 million from their mission in the budget of 2017/2018 Financial Year meant to fund institutions taking care of street families. However, this has not been realised. The question then remains: Where has this money gone if at all there was allocation? Has this money gone into the corrupt hands or those who feel like street children are unworthy to utilise it? This money is meant for the institutes that are supposed to house or offer homes for these children.

Mr. Temporary Speaker, Sir, an international charity organisation suggests that the number of street children has increased. There are between 250,000 to around 300,000 in Kenya, majority of whom are in Nairobi City County. Given that this number is increasing, there is need for data, to know whether this number is of genuine street children or some just pose as street children and go back to their homes. There is need for further research or discussion on that.

However, the street children struggle in life and here in Kenya. They are homeless and the number is multiplying. They are violated and hungry. They do not have anybody to take care of them. The violence they mostly face is sexual exploitation accompanied with other risks. These children do not get enough medical attention because, of course, they do not have money. They do not go to good facilities. These are our children whose rights have been violated.

Madam Temporary Speaker, I support this Motion and the sponsor. Indeed, it calls for much more than just what we are discussing here. They have many problems. As my colleagues have put it, their basic needs, as provided for in the Sustainable Development Goals (SDGs), have been abused. They do not have access to schools. If these children are not taken care of, will they spare any person whom they think is living well, knowing that their rights are being violated?

Let us stop stealing funds meant for these children. They are our children and Kenyans. We need to accommodate these children because they need homes. They need to get what belongs to them and be in school. Kenya needs to take care of these children. If this Motion can be elevated to a Bill, then let us do so. The laws, framework and policies that will be put in place will assist these children get their rights as any other Kenyan and lead a better life.

I support.

Sen. (Rev.) Waqo: Thank you, Madam Temporary Speaker. I stand to support Sen. Kwamboka and thank her for coming up with this Motion. Sen. Kwamboka, thank you for remembering street families in our country today.

When I was going through the Motion, I saw what it captures and the challenges that street families go through. It reminded me of when I used to work in a children's home. At one time, I was the manager of St. Nicholas Children's Home. That is the time I got converted, because coming from Marsabit County, with less experience of street children, I had to go through some learning session.

I was moved by the testimonies of the children that were in that orphanage. Some of them have parents, but were mistreated. Some lost their parents due to some sicknesses and the guardians mistreated them. Some of them were even sexually abused and molested by their guardians. When you hear their testimonies, that is when you understand what it means to be an orphan or to be on the street.

Madam Temporary Speaker, many young ladies may have participated, but what is the cause of the problem? The girl or woman cannot conceive on her own; there must be a man somewhere. Most of the times when we see families or children on the streets, it is the poor woman who is blamed without knowing the circumstances that have forced her.

Of late, the number of girls who die while undergoing abortion has increased. As we condemn those girls who do that, because many Kenyans have always condemned them, we have never wondered what challenges they have gone through. Many of those girls have gone through issues and have no support. They are even abandoned by their boyfriends and the best they do in order to avoid sending or throwing the child on the street, is to abort.

I have mentioned that because, as a nation, we have a responsibility to play. We have a responsibility in what is happening in our nation. As I said, the challenges they face are enormous. When you take care of your own child at home, sometimes you get concerned even when they sneeze and run to hospital and overdress them. As you do so, remember that child on the street without anything.

We are approaching the cold season – our own 'winter' in Kenya – but nobody is minding the street families. That is why it is our responsibility, as leaders, the national Government and county governments, because we are already in this mess.

Madam Temporary Speaker, according to an estimate that was given in 2007 the number of street families was between 250,000 to 300,000. According to the statistics, 60,000 are within Nairobi City. This is not a small number. I wonder whether they have identification cards. As one of us already said, even the *Huduma Namba* that every Kenyan has been forced to have, I am sure nobody bothers whether the street families have been considered.

Getting into serious matters like education, street families have their children there. They are gifted and talented, just like any other Kenyan. Given an opportunity, some of them can sing, compose their own songs and do what all the other Kenyans can do; but we have denied them the opportunity because of the situation that they are in.

Madam Temporary Speaker, we all support the housing programme. We congratulate our President for saying that we should give the housing programme priority and focus on it as a Government. I urge the Ministry concerned, the Government and even the President, that the first people to benefit from this should be street families. When you see the huge number of street families in the Central

Business District (CBD), any other city or big towns in our country, that reflects how we are as a society. We have neglected our responsibilities.

When I started my contribution, I said that most of the time, we blame women but if samples of blood can be collected and DNA tests conducted, I would not be surprised to see some hon. Members having some siblings who live in the streets. If DNA tests can be conducted even some hon. Members here will be found to have children who live on the streets.

We need to see how we can---

Sen. Kinyua: On a point of order, Madam Temporary Speaker. I do not understand what the Senator is talking about when she says that an on. Members have kids in the streets. Does she mean having kids when talking in the streets right now or the ones that stay in the streets? I am not getting her.

The Temporary Speaker (Sen. Nyamunga): Hon. Senator, can you be clear on the issues you are trying to raise?

Sen (Rev.) Waqo: Yes, Madam Temporary Speaker. Let me be clear. What I mean is that even some of the hon. Members here can have children who are on the streets. You can have a girlfriend somewhere and you refuse to take responsibility and say that the child is not yours. As a result, that poor girl will throw away or abandon the child. That is why I am saying if a DNA test can be conducted, we may be surprised to see the number of executive people in high offices having children living in the streets. I hope I am clear.

We all know the important role played by the church. Many churches have orphanages and some have played a big role to educate children. I think the best thing the Government can do is to-

- (1) Consider street families for this housing project
- (2) Come up with proper planning for their education so that they can be educated and in future they can be able to depend on themselves.
- (3) Conduct a census of the street families and also come up with clear policies, so that we know how we can take care of the street children. I also support the idea of coming up with an audit report, so that we know how funds have been utilized.

Madam Temporary Speaker, our society is very corrupt especially when it comes to disadvantaged people. People take advantage of them and exploit them. Some people have become rich using these funds and a proper audit can always help us.

I support the Motion and it is my prayer that one day we will have our cities minus the street children.

Thank you.

The Senate Majority Leader (Sen. Murkomen): Thank you, Madam Temporary Speaker. First, I congratulate Sen. Kwamboka for the good job she has done to come up with this very important Motion. The Bible says that those who take care of the vulnerable are blessed, particularly, widows and orphans.

Most of the street children that we talk about are orphans. Therefore, this Motion goes to the core of auditing the current status of protection and taking care of street families.

Madam Temporary Speaker, I remember that the Street Families Rehabilitation Trust Fund (SFRTF) was established in 2003 when the Cabinet Secretary (CS), the late Karisa Maitha, came to office. He was then in the Ministry of

Local Government. He started a robust project of dealing with street children. This is what led to the SFRTF.

The question of how to protect street families and children for that matter has been on and off from the core of our national responsibility. If you want to know what is more valued in a nation, you look at the budget to see how much money has been put in place, for example, in the SFRTF and the attention to street families.

It has become normal for people not to care about those who are in the streets. In fact, we have debated in this House twice when children in Eldoret were removed and dumped somewhere in Busia and others were removed from Nakuru and dumped somewhere in Chemususu Forest. It is as though street children and families are part of the garbage in the City. So, to make the City clean and beautiful, they must be cleaned and wiped out of the streets. That attitude must change. We must change from that perspective of seeing human beings as part of the dirt in the City and start to see them as human beings fearfully and wonderfully created by the image of God. They deserve the protection of the State.

That is why I am happy that Sen. Kwamboka has anchored her Motion on Article 43 of the Constitution which codifies what is known in the United Nations (UN) circles as social-economic rights.

In the past, before the 2010 Constitution was established, social-economic rights were part of wish lists of human rights. However, under our Constitution, they are the integral part of the rights that must be achieved as a nation just like first generation of rights. That the right to life to be achieved, there must be a right to housing, clean water, and medical care.

That is why these rights, in Chapter 4 of the Constitution do not distinguish the status. It does not say that they are available for elite or to children of those who have means. It says that it is the responsibility of the State to ensure that its citizens achieve the right to food in adequate quantity and quality, medical care, housing and clean water.

That is why we need leaders like Sen. Kwamboka who come to specific areas like street families. We are trying to provide these rights to everybody else. However, what happens to that person who sleeps at Luthuli Avenue or the person you will find in Grogon, the ones around Ngara or the ones that live around Railway?

The issue of street families is not unique to Kenya alone, it is a global problem. Therefore, we must ask ourselves what the other countries have done to support those who are vulnerable. When we talk about social fund that is administered by the Ministry of Labour Social Security and Services, we are transferring certain amounts of money to take care of the disabled and the elderly. What are we are doing about street families and who exactly are identified as street families?

That is why I am happy that Sen. Kwamboka says that we must conduct a census of street families in all urban areas in the country to determine their numbers and demographics. We cannot reach out to those we do not know where they are. So, the first step is to ensure that we have the numbers of these street families.

Secondly, is to develop a clear policy on street families' rehabilitation and reintegration at county level. We have this national entity called the SFRTF. However, how can we reach out to these people properly if we do not take it to the county level?

This reminds us of Article 174 of the Constitution which says that the function of devolution is basically to provide a framework within which national functions are to be performed at the local level.

Therefore, for us to identify the persons we want to reach out to, let us use the lowest unit. For that purpose, the constitutional lowest unit is the ward. So, we need to ask ourselves whether we can have a ward officer at the county level who deals with only street families and children so that we identify where the families came from, what made them go to the streets, what interventions can we put in place and if we have a way of getting funds.

Is it possible to give them money to do the business they were doing? Some of them found themselves in the street because the house they were living in Kibera, Majengo and Mathare was burnt. So, they decided to live on handouts in town where people pass and where there is lighting to ensure security.

Madam Temporary Speaker, I found it dangerous to see small girls and boys in the streets. This is because they are vulnerable when it comes to sexual molestation, harassment and rape. I saw a video that was very disturbing about a girl who was raped by many street boys somewhere on River Road. These people deserve protection and care. We must get a clear policy on who does it and at what level. That policy should cascade to the local level. If we reach the wards and think that locations and sub locations will be useful, then we can use it further. When we have these statistics, we can have the necessary interventions.

These reports must be tabled to see how funds are allocated and utilized by the Trust Fund. Recently, the Trust Fund appointed a Chairperson; Hon. Linah Kilimo, who is my former Member of Parliament. It is good to have a person with motherly instincts to be in that institution but for them to do their work--- If you want to appoint any person to a street children's board in this country, they will tell you that it does not have money. It does not have a budget; it does not have an opportunity to cut deals or you cannot do business with them. However, these are the areas you can have a great impact in people's lives.

The book of Matthew talks about Jesus speaking to his disciples and a crowd of people. It talks about who will go to Heaven. Jesus answers them by saying: "I was sick you came and saw me; I was hungry, you gave me food; I was in prison you visited me. I did not have clothes, you clothed me." These are the things that change the lives of the most needy and vulnerable directly. Therefore, if we must show that we are a caring Government, let us show by the budget we defray to these institutions.

If we do not allocate adequate resources to do proper intervention, then we are paying lip service to this very important responsibility of taking care of the weak and vulnerable. It is a measure of how a government, a country, and a leader can be measured to be a caring leader. It is how you take care of the weak and the vulnerable.

Madam Temporary Speaker, I support this Motion. I hope that based on this Motion, we will move forward with the relevant Committee on Labour and Social Welfare, working together with the Mover of this Motion, to get in touch with the Trust Fund and all the other stakeholders, do an audit and table a report in this House so that then we can ask ourselves if we need to amend the law to capture the changing times, the changing constitutional order and the role of county governments. We will be able to hold county governments accountable based on what they do with this very important function.

Madam Temporary Speaker, I think going forward, the Committee on Public Accounts and Investments (CPAIC) should move from just auditing of the Auditor-General's reports to receiving budget reports from counties.

Let us, as a Senate, audit every function and how it is funded so that we are able to ask ourselves the following questions: How much money has been set aside for purposes of children's welfare? How much has been set aside for agriculture in the counties? How much money has been put in health? What intervention has been done? This is so that we ask ourselves whether all counties are funding their functions or they are only funding areas that have money, deals and visibility which can bring votes.

We know that street families do not even have IDs. It is very easy in a country in which politics drives what you want to do to and ignores those people because they do not bring votes. It is not about votes. It is a right we have established under this Constitution called a right based approach to development. If it is a right based approach to development, these rights must go to every person regardless of whether they have an ID or whether they vote in that area or not. Even more so, we profess in this nation that we are a religious people. We have just come from the Prayer Breakfast where we professed our faith in God and confessed our sins. We always acknowledge every year that we are corrupt and we get paid for every year.

I saw some people making a lot of noise about the tweet by the ambassador of the United States of America (USA) where he said that we are congregating somewhere to pray for our sins of thievery. It is true. It is not the USA's Ambassador that announced that we are thieves. We are the ones who are always professing that corruption is in this country and we are stealing.

No leader has ever come publicly to say that he is the thief. No individual has owned up to stealing anything. We would have laid hands on that person today. Everybody thinks the other one is a thief expect themselves. So it is laughable that people would complain about what the USA's ambassador said. There is nothing new he said. He just said what we keep saying, only that we like saying it in regards to the other person and the other person is saying it in regards to ourselves. We are all in this choir of: "This is a thief and the other person is a thief."

The Temporary Speaker (Sen. Nyamunga): Senate Majority Leader do you mean that anyone of us can take a stone and throw at the other?

The Senate Majority Leader (Sen. Murkomen): I am glad, Madam Temporary Speaker, that we are moving with you in the spirit. When the Pharisees wanted to stone to death a prostitute before Jesus, he told them to pause a bit and asked who amongst them had never sinned. He wanted to know who amongst them had the moral authority to throw a stone at her and everybody dropped their stone and went away in shame.

Perhaps, we should confess our sins than confess sins of others or point fingers on other people and take responsibility. If we are thieves, we should accept that we are thieves and, like Zacchaeus, return four times of what we have stolen, so that we move forward than pointing fingers on others.

Madam Temporary Speaker, I attended the National Prayer Breakfast and heard about a debate of who can give in church, whose money is clean and which people are holy. That is not a new discourse because it was there during the days of Jesus. That is more than 2,000 years. There is a story of a lady who was a prostitute and went with expensive oil to anoint Jesus on his feet. As she did that, the disciples

who looked like the ones I have seen of late, rebuked that it was total waste. They even wondered why Jesus paid attention to the prostitute. Some thought that the oil ought to have been sold. All of us are sinners and have equal treatment before God. The most important thing is to take responsibility.

When the report on this Motion comes from the Committee or otherwise, through the Senate and the Ministry of Devolution and ASAL Areas in conjunction with the Council of Governors (CoG), we should be courageous, as a Senate, to follow through its recommendations and push for proper funding and ensure that the most vulnerable in the society are given due attention.

Madam Temporary Speaker, I beg to support.

Sen. (Dr.) Zani: Madam Temporary Speaker, from the outset, I support this Motion. I will start by saying that all people across the countries of the world have all sinned and fallen short of the grace of God. However, there are countries that are doing well. Singapore was in the same position we were in 1963. They did not point fingers at who had sinned or who had done what. That should not be a discussion to be trivialised because we are suffering as result of this. Among the people who are suffering are the street children because sometimes funds are allocated for them but the money is used in a way that is not clear and therefore their problems still remain.

Countries like Singapore and even Rwanda are moving fast and they are doing well because they address the problems. When you go to Rwanda, you will not find street children. They have found a way making sure that children are taken care of. We have to wake up and smell the coffee. We need to know where we have gone wrong and how that should be addressed. We need to consider what the former president of the United States of America (USA), Hon. Barrack Obama, told us sometime back. He said that we need to put up strong institutions that should do what they are expected to do. That is what should happen in the second phase of devolution. We should ensure that institutions that are put in place do exactly what they are meant to do. They should also be transparent.

Right now, the world over, the buzz is about open government systems and governance. Open governance means everything is done transparently, thus lessening the chances of kitties not having funds like Sen. Kwamboka has aptly put in this Motion. We do not have the data about the Trust Fund but we need to know how much money has been put in the Fund and what has been spent so far. We have been talking about this. What ails this country is either lack of policy or ever-changing policy. Sometimes it is by good luck that we do not have a policy but things tend to work on their own.

I remember during the Coalition Government of former president, Hon. Kibaki, and the Rt. Hon. Raila Amolo Odinga, you could hardly see street children. At some point, everything was sorted and street children were not to be found in the streets anymore because they were taken to rehabilitation centres. It is only recently that street children started trooping back.

Madam Temporary Speaker, allow me to divert a bit just to explain my own experience. Recently I was driving after leaving the Senate. Just before I got to the General Post Office (GPO) Building, I saw a street child running towards me. I thought he was going somewhere but he fell right in front of the right tire of my car. Luckily, I had seen him and I stopped. Maybe he was running away from something. Those are some of the dangers that street children expose themselves to. The levels of vulnerability, not only for the street children, but also their parents, are high.

Article 43(1) of the Constitution is about economic and social rights. It provides that everyone has a right to education, adequate housing and social security among others. We speak about these things over and over because of the level of frustration when it comes to implementation. We should see some progress. There are countries that have made progress by eradicating street families because the numbers keep reducing. We can make steps by rehabilitating street families.

Madam Temporary Speaker, three days ago, they featured a story a young man who started as a street child and now he is a pilot. They said he is the first street child to be a pilot. He talked about his life in the streets but he was lucky to get funding to pursue his dream and now he is a pilot. Therefore, street children can also be important people.

There was a time there were few street children. We need to ask ourselves what happened. Is it lack of policy framework or is it that the people in the relevant Ministry at that time did well? If there was a policy in place, it is expected to be followed. I do not expect it to change.

I congratulate Sen. Kwamboka for bringing this Motion because this is a Bill in the making. We should address the issue of street children and ensure that county governments provide for budgets. We should ensure that we have County Executive Committee (CEC) members who will be accountable and could be called to explain how money is used. That should provoke competition so that we see which counties do better when it comes to issues of street families because this is not a difficult issue to solve.

There are countries in the developed world, including the United Kingdom (UK) – I am not sure about America – where you will find street families. However, these families have a kitty. They have a provision in terms of social, security or some particular fund that is given to them. There is a center in Canada, for example, where the homeless go to. At the end of the day, they have a place to house them, eat food, wash, dress and cloth. During the day, they are encouraged to go and work. The nexus of a society is in ensuring that every single individual is able to contribute in terms of development. So, we are also losing by having these street children and families not being productive.

Madam Temporary Speaker, what about the churches and other social institutions? What sort of gains have they made in addressing this problem? As we speak about the education sector and thinking about consolidating and bringing in different ideas, like the Competence Based Curriculum (CBC), who are the stakeholders involved? What about the sector where we are talking about social development and areas of equitability? We need to bring these stakeholders together and get to understand what the problems and issues are. Is it an issue of funding? I hear that some people say that some of the families want to be in the street, even when they do not have to be there. Is that the truth or not?

Where is the housing? We know of projects, for example, that I have been put up for families that are on the low income end. However, who end up occupying those houses? As recent as yesterday, I was reading either in *The Daily Nation* or *The Standard*, of the same epitome where these houses are meant to be for a specific category but others move in. So, we have a situation that I suppose is really macro in terms of the presentation of the problems. Therefore, it needs a macro approach to begin to address it.

The stakeholders should be brought together, so that we begin to understand where the problems are. We should start from the success stories that are already there from different countries and try to bring it all together, so that we can identify the problem and how it can be solved once and for all. We can then cascade this back to the counties and have it addressed.

A fund for the rehabilitation of street families was established. It is a question of again doing a fact finding and put this in the Bill as one of the funds under a specific organization that will oversee that fund. Whether it is a board or a council or whatever it is, a particular group should oversee the fund for street families' rehabilitation. They should find out how much is coming in and where it is going. Is the money coming through donors? If it is coming through them, how much is it? How much of it is being used?

These organizations had also some very serious responsibilities to coordinate families, look into their issues, mobilize resources, fundraise, as I have mentioned and ensure that disbursement of the various donations actually happens. The other responsibility includes advising the Government and other relevant agencies on matters relating to arbitration and families.

Senator Kwamboka, we need to engage immediately this organization or group of people who are responsible for this fund. We need to have some sort of baseline. This is because there might be some serious problems there. We need to engage with this organization a little bit more and assess where the constraints are and how they can be activated.

I have talked about the lack of a national policy. That is a strong point to begin to work on legislation. If there is no policy, look at what can work in terms of a policy. Get a good policy from the right drafters and come up with adequate legislation that will take us to the next level.

The number of street families is very difficult to tell. At least, some sorts of possibilities are able to be put into place. A good census, for example, will be able to get us to the right place. So, the idea of conducting a census is very good. It will enable us to have a clear policy, table or have an audit of how the funds have been allocated and used. This is what the prayer for this particular Motion is, and I think it is very possible.

The Ministry of Devolution and ASALs, especially through this particular fund, was meant to support children and youth through charitable and community based organizations, which are vetted and approved for funding under the rescue rehabilitation and reintegration of families programmes. This has already been put in place. Sometimes it is complex when dealing with social behavior and phenomenon.

You have to trace the deliverables. You have to know where people want to get to and where they are. Some people would prefer to remain in the streets during the day to work, but it would be good to encourage them to go home in the evening. That allows flexibility. It is similar to the treatment that is given to criminals who are considered to be of low risk who are allowed to be in prison but also live a life of integration and development. In most cases, people's response will always depend on how they are treated. Why not have projects for the street families? A road can be closed to allow the street families to showcase their skills such as basket weaving or anything else. In that case, they will be giving back to the society. We can even have a cleaning programme where the street families take some level of responsibility.

Sen. Murkomen alluded to the dangers that these families face. He alluded to the cases of the young people. No Kenyan should sleep pretty knowing that somebody else is sleeping in the cold and cannot take care of themselves. If there has been trust fund money and it has not helped these families, we need to address that very seriously. People have to go back to the drawing board and analyze what is going on.

There are many skills among these children, hope and a number of things that they can do. This Motion has been well supported and I think that it is a Bill in the making. That Bill will enhance and put the legislative framework and accountability mechanism which will create provisions for questioning such funds for them to be used appropriately. In some countries, we have education programmes for these children for them to be useful to the society. The young man was just lucky to have got some funding from somewhere which enabled him to mainstream himself but that has not been the case.

Apart from looking at this from a macro or a national perspective, the county perspective becomes very important. Some children in the streets could be there because they are lost and it would be easy to look for their parents and take back them back home for them to be rehabilitated. That will help them move to the next level. I think the problem is that we are missing coordination. Street families are a phenomenon that is happening, but it has been controlled before. Street families do pose a danger to the society in terms of criminality and we have to think about it.

I congratulate Sen. Kwamboka and I would like to encourage her to work on a Bill for us to solve the street families' problem once and for all.

The Temporary Speaker (Sen. Nyamunga): That brings us to the end of the debate on the Motion. I call upon the Mover, Sen. Kwamboka, to reply.

Sen. Kwamboka: Thank you, Madam Temporary Speaker. I beg to reply to this Motion that is addressing the plight of street children in urban centers.

I take this opportunity to thank all the Members who have contributed to this Motion. I want to start with the Senate Majority Leader, Sen. Murkomen, Sen. Seneta, Sen. Chebeni, Sen. Shiyonga, Sen. (Dr.) Zani, Sen. (Rev.) Waqo and Sen. (Prof.) Kamar. The Senators contributed to this Motion with a lot of passion because they feel sorry for the street children and families.

This is a topical issue because it affects all the counties. These street families do not wish to be where they are. Nobody chooses where to be born. The street children face a lot of challenges. The Ministry of Devolution and ASALs was allocated Kshs110 million in the Financial year 2017/2018 and I am sure that funds were allocated for the same purpose in the Financial Year 2018/2019. We shall find out about this because the Ministry has to tell us where that money is and if it was spent, they have to tell us how it was spent. The Ministry has to table an audit report on those funds.

The street families have health challenges such as malnutrition and weak bodies because they lack food. They also lack education because no one caters for them. We talk of free primary education in this country but this group of people do not benefit from that. They also face sexual abuse and harassment. The women are sexually abused by men who walk in the streets. The young girls end up with unwanted pregnancies and some of them die in the process or procuring abortion. These families are also a challenge to the public. In most cases, they steal from the public because they do not have food.

Those families also use drugs with the intention of forgetting their troubles but they end up facing the same problem the next day. I thank Sen. Kasanga for coming with a Bill on mental health. Depression is affecting street families. The Ministry should work with the counties with the intention of coming up with policies that will help solve this problem. They have to sensitize people about the street families and they should integrate those families with the society.

According to the statistics by the Consortium for Street Children (CSC), there are 300,000 children living in the streets across Kenya of which about 60,000 are in Nairobi. That research was conducted during the 2009 census. The numbers must have gone up by now. If you walk in the streets of Nairobi, you will realize that the rights of those children are being violated. Their parents sit and ask the children to collect money from people who are driving. They do that for them to get money to buy food. When they fail to do that, they are beaten and are not given food. That is why I came up with this Motion and I want to tell Sen. (Dr.) Zani that I am working on a Bill regarding this. I know that she is passionate about the street families and will support that Bill.

I beg to reply.

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, this Motion does not affect the counties; therefore, I will now put the question.

(Question put and agreed to)

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

MOTION

COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT

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

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

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

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

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

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

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the 545 projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of Kshs366 billion;

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

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

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

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

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, the Mover of this Motion is not around. The Motion is deferred.

(Motion deferred)

Next Order.

MOTION

ESTABLISHMENT OF NATION-WIDE CENTRES AND
SATELLITE CLINICS FOR SICKLE CELL DISEASE

The Temporary Speaker (Sen. Nyamunga): I now call upon Sen. Shiyonga to move the Motion.

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Sen. Shiyonga: Thank you, Madam Temporary Speaker, for giving me this opportunity to move the following Motion in an amended form.

I beg to Move-

THAT, AWARE THAT Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

NOTING THAT, Parliament enacted the Health Act (2017) whose objects encompass the need to establish a national health system at the national and county levels, as well as to facilitate, in a progressive and equitable manner, the highest attainable standards of health services;

FURTHER NOTING THAT the Health Act (2017) further has the object to protect, respect, promote and fulfil health rights of all persons in Kenya to the progressive realisation of health rights to the highest attainable standards of health including reproductive health care and the right to emergency medical treatment.

ACKNOWLEDGING THAT Sickle Cell Disease, a severe hereditary form of anaemia in which a mutated form of haemoglobin distorts the red blood cells into a crescent shape at low oxygen levels, and is prevalent amongst those of African descent, has been acknowledged by World Health Organization (WHO) as a major public health priority which has had devastating effects on populations in many parts of Kenya;

FURTHER ACKNOWLEDGING the need for comprehensive information and care programmes for Sickle Cell Disease is occasioned by the poor public awareness, unavailability of routine health data and nationally recognised treatment guidelines;

CONCERNED by the lack of national screening programmes for Sickle Cell Disease despite the serious health problems it causes, and its contribution to childhood deaths in Kenya;

NOW, THEREFORE, the Senate urges the national and county governments to establish a nationwide screening at existing medical centres and satellite clinics, and the provision of counselling on the management of sickle cell disease, a lifelong medical condition that has no cure, at the county, sub-county and ward levels.

Madam Temporary Speaker, I take this earliest opportunity to say that sickle cell disease has caused more harm than good in the population and it is unrealised in these modern days. The World Health Organisation (WHO) estimates that around five per cent of the world's population with traits of blood disorders are mainly carrying Sickle Cell Disease. Looking at estimates, about 300 babies with severe blood disorders are born every day and year with sickle cell disorder.

Kenya is among African countries with the highest burden of unrealised sickle cell and other blood disorders. Pronounced in these areas is mainly Malaria which is endemic in the Coast, Nyanza and Western regions, not forgetting that Sickle Cell Disease is one of the conditions where management gaps exist. There is need to realise that the population is suffering. People who have Sickle Cell Disease are suffering without realization in our population.

Madam Temporary Speaker, we do not have data or estimates on Sickle Cell Disease in Kenya that can guide us on how we can look at it and consider it as any other serious disease. Children and populations born with this condition are encountering serious problems in their lives.

I would like to mention a few severe challenges that Sickle Cell Disease and other blood disorders pose and the gaps that exist in Kenya today. One challenge is lack of actionable data on the number of people affected for effective policy-making. Very few know about Sickle Cell Disease. The management and information on this disease is also lacking, especially among the first-time parents whose children have Sickle Cell Disease and other blood disorders.

There is also lack of information on how to manage the disease. The Government has not fully educated all sensitized Kenyans on the signs, causes, treatment and any other complications that come with Sickle Cell disorder.

We also have other challenges such as lack of early screening programmes. There is high prevalence of this disease especially in Coast, Western and other pockets of our country. This warrants neonatal screening and comprehensive care programs.

The implementation of these screening programmes can at least facilitate the affected population and warrant early treatment when the disease is diagnosed early. This would ensure that patients do not suffer permanent kidney damage or stroke. The other gap is misdiagnosis. Lack of adequate information contributes to misdiagnosis, especially where healthcare workers who are working in our facilities do not know how to diagnose the disease. This contributes to late treatment, hence death.

Madam Temporary Speaker, there is little awareness about Sickle Cell and lack of policies to help patients manage the condition. Most parents and families do not know simple interventions such as managing fever or what to do with an elongated spleen. Screening of this condition in families also lack, hence suffering is prolonged and death occurs in children.

Madam Temporary Speaker, we also have a gap when it comes to access to medication. The medication is expensive and not readily available in our facilities. This makes sickle cell patients to resort to cheap painkillers which cost them more money every day. The estimated cost of painkillers per day is Kshs30. In a month, it becomes very expensive, considering that this is a lifelong condition. As a result, the patients lose faith and courage.

There is stigmatization of this condition. Many families with sickle cell cases do not want to come out and explain or tell people about their condition. They tend to hide and keep quiet because of stigmatization that accompanies this disorder. Therefore, it is high time that this condition is looked at in the population and guidelines given to facilitate treatment.

Madam Temporary Speaker, I beg to move and call upon Sen. (Dr.) Zani to second.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. Thank you, Sen. Shiyonga for bringing this important Motion.

This is the first time that the last Senate and the current one combined – if I may put it that way – is talking about this important matter of sickle cell anemia. Most times when people talk about health outcomes and identifying disease, there is a generalization that is done, without putting aside certain specific diseases that show themselves in specific ways and take people through a lot of trauma.

The research for sickle cell clearly indicates that sometimes it is difficult to detect. In fact, it is usually not detected probably, until three years, and it is a hereditary diseases. Upon detection, sometimes a lot of blame game is done because it is hereditary and people begin to look for where the problem might have been. The other problem is that at the end of the day, it is not yet treatable. Proposals are being made now for stem cell transfers that are being put in place for the future.

Madam Temporary Speaker, research is going on to see whether sickle cell anemia can be treated. As at now, we do not have a way forward in terms of its treatment. This then makes it quite complicated. Many people have the benefit of being cured if they have a disease. However, when you cannot get a cure, it causes many problems.

The Mover of this Motion clearly indicated the issue of stigma, and more so, the condition of a person living with sickle cell anaemia. As you age, the disease becomes more complicated. For example, when you watch a child who has sickle cell, the amount of pain is unbearable. The level of medication and treatment is never very clear. This is because the more you try to use many painkillers, the more you move to a point where you might affect crucial organs such as the liver. So, it becomes a balance of what to do. Sometimes a lot of pain is felt especially at the joints. In situations where children becoming adolescents, from around the age of 10 or 12 years, there is a lot of pain across the hips, tailbone and any place where there is a joint. It becomes very difficult to manage.

Since this disease is not spoken about often enough, it has tended to be ignored. There is an association mainly composed of mothers and parents who have children with sickle cell that acts as a support group. They also try to discuss ways and means of ensuring and trying as much as possible over time, to ensure that they get the best treatment. However, most of the time it is just that; a support group trying to analyse and see ways to treat the condition.

We also know that medical care is very expensive. In many cases, you will be called to a fundraising that involves somebody who is suffering from cancer, but rarely does it happen for patients with sickle cell. I suspect that the bigger amount of the cost is mostly borne by the parents because I think they do not want to go through the situation of explaining. Many people do not know much about the disease to be able to take care of it.

Madam Temporary Speaker, this disease is everywhere, but it is common in Luo Nyanza, among the Luhya, Mijikenda, and across other communities. However, the problem is that right from the onset, there is a lot of ignorance. There is not enough statistics that has been put in place to find out what the level of predominance might be. A national survey was conducted in November, 1987 to May, 1990. This data is probably quite outdated. I know the Mover has given other data, but at that time, they found about 3,605 cases of people with Sickle Cell Diseases (SCD). Of this, about 73 per cent were below the age of 15 years. This again speaks to the problem of a disease that actually affects the young. There are many young men and women who want to live a normal life. They want to go to school, enjoy and interact with their friends, neighbours and other children. However, when children who have sickle cell get an attack, it becomes very difficult. At other points, they live in a very comfortable world.

The nexus of this disease is that the red blood cells are usually in a donut shape. Certain times, because of a low oxygen level, the shape of the cells moves to

the shape of a sickle. The sickle refers to the equipment that is used to cut grass. When it happens, it configures the whole system within the body, which then brings about sickle cell disease.

Most of these patients are also afflicted with high levels of pneumonia, which make it difficult for them to move from time to time and place to place. I have friends, relatives and acquaintances who have children with sickle cell disease. All the time, they speak about trying as much as possible to get them to live to the highest number of years that they can. One woman, the oldest patient, lived to 50 years. So, it is possible.

Madam Temporary Speaker, what are we doing wrong? One of the things that we are doing wrong is that we are not very consciously advocating for this disease and talking about it, and trying to find ways and means of coming up with solutions. I saw an experiment on television of a particular case in a country, where they said there is a lot of hope. For the Kenyan scientists, I guess there is also progress which can be made. The easiest is a blood transfusion if you have a sibling. However, in most cases it only works if you have a twin. If you have a twin, then chances of a match are higher. When there is no twin, it creates a big problem.

The problem is when it is associated with anemia and a lot of pain where a person cannot go to schools. Therefore, social outcomes will be affected, for example, occupation, education and social mobility. This creates quite a situation among various people.

Madam Temporary Speaker, it is important that routine statistics are done to ensure that sickle cell anemia is included in routine health statistics. Actual effort should be done to ensure that a level of more statistics is collected so that people can be given the specific support that is critical. Sometimes, the level of counseling that aims at not having stigmatization is important.

Certain countries specifically Nigeria and Ghana have gone in that direction. They have a team of people who talk, discuss, counsel and make it easier for people to understand what the real issues are and how they can be taken care of.

There is a lack of recognition and comprehensive care as a result of not having the statistics and not delving down to ensure that some level of understanding and categorization is done. This is especially where it is done for a long time, it helps a person to face his or her circumstances, live for a longer time and address his or her various key issues.

Madam Temporary Speaker, because it is a lifelong disease, levels of care are important. Some sort of training also needs to be done in terms of explaining what needs to happen, for example, for a child who is undergoing pain in the joints, a smooth massage is helpful and also getting the right medication to ensure that the cell gets back to the normal shape as quickly as possible as it might be required.

It is also important to have a social-psychological support to deal with the conflicts and blame that comes as a result. Sometimes, at a much late age, you find people discussing and wondering what happened or went wrong. That needs to be quickly addressed so that it is possible for these people to move forward.

It is also important to have a scheme of information sharing that can be put together quickly so that people can talk about it. By doing that, it will help to remove the issue of stigmatization to a large extent.

Earlier on today, as I was leaving the National Prayer Breakfast, I met one of the professors from the University of Nairobi. We had a chat and she mentioned

something that is linked to the theme of the Motion that we had earlier on street children. She asked what we are doing about children, especially the ones who have disabilities or specific diseases and how they are taken care of.

Again, you find a serious concession and focus that needs to go into that direction to identify who they are and how they can be helped. We need to have a level of affirmative action or money that can be extended specifically to these people so that their specific health concerns are taken care of over time.

In the long run, many of the people with this disease live for a long time and they are able, at the end of the day, to make a contribution. However, because there is no understanding, the level of comforting and continuously encouraging such a person who has such a disease becomes difficult.

This Motion is, therefore, very key. I congratulate Sen. Shiyonga for bringing it. The whole establishment of nationwide centres and satellite clinics for sickle cell anemia across the county and sub-counties and wards is important.

I know that in the urban areas the level of identification and dealing with sickle cell disease is low. So, you can imagine how much more difficult it is to detect it at the levels of ward or sub-counties.

The test to ascertain whether somebody has sickle cell anemia is not difficult. Therefore, it is quick and possible to identify who has the disease so that it is addressed.

Again this Motion is contextualized within the nexus of Article 43 of the Constitution which provides that-

“Every person has the right-

- (a) to the highest attainable standards of health which includes the right to health care services, including reproduction health care.”

The spotlighting for sickle cell anemia is critical as one of the key areas. I have not seen statistics that tells whether it is increasing or not. This is because basically, a lot of the time, it is a hereditary disease and not contributed to external factors. Therefore, it is difficult for us to tell whether it is on the increase in terms of the numbers over time. However, there seems to be a consistent pattern.

I do not know whether we have that option in this country but other countries have pre-medical tests that give a pre-disposition for specific diseases. For example, if somebody has a hereditary gene, in this specific case for sickle cell disease, when the hereditary gene comes from one parent, it does not pass on. However, in situations where it comes from two parents, then it will be passed on.

Therefore, it is possible to pre-screen and look at the specific issues and places where there is a lot of predominance to find out what could be the precipitating factors that could lead to this so that it is addressed once and for all.

The Health Act as part of a national health system has not delved into this to ensure that people are able to, in a very progressive and equitable manner, address the issues of health. Therefore, this is important.

This Motion urges the national Government and county governments to establish these centers and ensure that through them, the management, counseling and actual addressing of sickle cell anemia becomes a reality at the end of the day. This is because, where that care has been put into place, it is possible for somebody to live, be functional and contribute to nationwide development.

I know that there are certain centres, for example, the Texas Cancer Centre (TCC), in USA. When somebody who has sickle cell anemia goes to that centre, there

are able to control the pain. You can imagine what that means. Already, from some predisposition, for example, if a person has not had a lot of liquid as required or low level of oxygen for whatever reason, may be, as a result of anemia or for participating on a sport or a cold, it precipitates.

The pain starts slowly but it builds up. However, we need to have centres like the TCC, where immediately the pain begins, it is managed through variations of medication and right dosage is given to immediately stop the pain.

There are people who have lived in such countries who have sickle cell disease and you would not know. If somewhere else, somebody can have that level of quality of life, why can we not have that here?

To a large extent, these issues are about stigma. However, in our case, the level is not so much about stigma; it is more about paying attention to a disease that has not paid attention to before. Therefore, this calls to identify the various organisations, for example, the ones that have support systems and groups of people who are living with sickle cell anemia so that they can come together and find ways and means to put this together. This is a good begging point and the Motion fits to be in the Senate because it seeks to ensure that we have nationwide centres and satellite clinics for sickle cell disease at county, sub-county and ward levels.

It is not just about ensuring that we have the centres but we also need to ensure that the dynamics that go with it are in place. First of all, people have to understand the disease. We need to ensure that there is medication and guidance and counseling and also put in place measures of reducing the stigma, so that when people go to those centres, they should feel okay. People should also inform others because sometimes people do not tell others about diseases they suffer from. Other people also misconjecture the disease thus making the situation worse. This has been predominant.

More research should be done in Kenya, so that we get the actual numbers. We should correlate the disease with, for example, geographical location, so that we know how best people should be supported.

I know many children with sickle cell who attend school. They interact with others and lead a normal life but sometimes it is sad. They feel helpless when there is an attack. Sometimes they try to control the pain without knowing how to address the situation. Most hospitals give basic medication to alleviate the pain. However, a more comprehensive methodology should be used so that the issue is addressed once and for all.

We should have comprehensive information and care and conduct public awareness. We should also have routine health data and national recognised treatment guidelines. National recognised treatment guidelines are important because everybody has a different approach. We need to find ways of changing “sickle-shaped” red blood cells back to the normal shape.

Madam Temporary Speaker, I do not know what inspired Sen. Shiyonga but this Motion is important. It touches on thousands of Kenyans who have been waiting for such a moment to come, so that the issue is addressed. We need to ensure that counties, sub-counties and wards have centres that deal with the disease.

This also touches on the issue of funding and having budgets. However, sometimes, it is about affirmative action and putting your voice loud. For example, many people now talk about cancer thus raising awareness. That injects the necessary

energy in terms of addressing specific issues. If that happens, we will achieve something.

I congratulate Sen. Shiyonga because this is a good Motion. As I second, I know that in the future, we will make sure that we achieve the concern of sickle cell patients in this country.

(Question proposed)

Sen. Seneta: Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this important Motion. From the outset, I congratulate my sister, Sen. Shiyonga, for having thought of this important Motion at this particular time. This Motion is timely now that health is a devolved function. We need to think about how to devolve systems and structures so as to tackle diseases that affect citizens of this country.

When I listened to Sen. Shiyonga, what we need to think about is how to have a quality healthcare system in terms of accessibility. We need to find out whether people get access to treatment in our counties. I agree with her that there is need to ensure people get access to treatment but we also need to put measures in place to ensure early detection of the disease. The disease should be detected early enough for a person to get treatment at the right time.

We also have the issue of information. Do people get enough information about this kind of disease in our health centres in our counties? Sickle cell disease is hereditary but some people do not know about that. Our county, national and private health facilities need to have enough information about this disease. We need to have an understanding on how to handle, treat and manage the disease and also ensure guidance and counseling on the same.

The medication for this disease is taken for a long time and that can affect somebody's psychological well-being. Therefore, counseling is needed to help one to adapt to the management system in order for them to take care of themselves in terms of nutrition. A person who does that will be able to continue with their daily activities. This disease requires one to be understood and the person also has to understand himself or herself.

We also have to look at the equipment used to screen this disease even as we talk of the satellite clinics and nationwide screening centers. The question is: If you take a child or an adult who is suffering from this disease or any other disease, will you get the real results when they use the machines in our hospitals, health centers or clinics? We need to equip our facilities with quality machines and personnel. Are the personnel able to handle this kind of disease?

Sen. (Dr.) Zani said that other countries are able to handle these diseases and that made me think of our counties. I thought of a child suffering from sickle cell anemia and wondered if they can get qualified personnel in our health clinics to handle them. Do we have enough resource persons in our health centers who have the knowledge, information and know-how of handling such type of a patient?

I support this Motion, but I hope that Sen. Shiyonga can look at policy gaps for us to look at ways of addressing this particular disease in our counties. We need to have public awareness programmes for other diseases and sickle cell disease for the families and relatives of those who are affected to know that this disease is just like any other disease. We need to see if there is a gap in law regarding public awareness

and access to information on this particular disease. If that is the case, then there is need for us to address that.

Madam Temporary Speaker, the Bills of Rights, Article 26(1) talks of the right to life. It states-

“Every person has the right to life”.

You should live to the fulfilment of your life. We have these young children who die at the age of five years simply because they have a disease which cannot be managed given the situation they are living in.

In the Bill of rights Article 35(1) A says-

Every citizen has the right of access to -

(a) Information held by the State.

Everyone has the right of access to information on a problem or an issue they do not understand. It is upon our medics and the Ministry of Health to have information on all these kinds of diseases that are affecting our people; how they are treated; how they are managed and how frequently they occur.

We should have data showing the number of people suffering from sickle cell disease. We also need to encourage research in our medical colleges. Medics should research on what can be done in terms of health and nutrition. Do we have some kinds of food which if we consume, can improve the length of life for these kinds of people?

Madam Temporary Speaker, after the research, the information should be disseminated to the public such that we are able to handle these diseases in our health centres in our counties and the country at large.

There is also need for a support system just as one of my colleagues said. We need possibly to bring together academia, victims of this disease and researchers to share knowledge on what can be done to improve the systems of treatment and management of the disease.

There is also need for a support system in our health clinics such that the patient is supported to manage the situation.

(The red timer went off)

We need to encourage our health facilities to come up with different departments that are dealing with support systems, screening, treatment, research, medication and so forth. There is need to think about the budget---

The Temporary Speaker (Sen. Nyamunga): Order, Senator. You will have a balance of three minutes the next time the Motion is listed on the Order Paper. I request that it be listed for next Thursday.

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, it is now 6.30 p.m., time to interrupt the business of the House The Senate, therefore, stands adjourned until Tuesday, 4th June, 2019, at 2.30p.m.

The Senate rose at 6.30 p.m.