

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Wednesday, 15<sup>th</sup> May, 2019

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

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

### PRAYER

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM SHADRACK KIMALEL MIXED  
SECONDARY SCHOOL, NAIROBI COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Shadrack Kimalel Mixed Secondary School in Nairobi 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:** Mr. Speaker, Sir, thank you for giving me this opportunity. I join you in welcoming the students from Shadrack Kimalel Mixed Secondary School to this House. I commend the teachers from the school as well as the school administration for coming up with this noble idea of bringing students to this House. Bringing students to this House is good for inspiration, mentoring and ensuring that the students get an opportunity to see what we do in the Senate.

Looking at these students, I can see future Senators, leaders, doctors and so on. This visit is commendable. I encourage many other counties to borrow a leaf from what Nairobi County has done and ensure that many students come to the House for the purpose of mentoring and ensuring that they see what we are doing. That way, we will pass the right baton to the students at the right time.

I thank you.

**Sen. Kwamboka:** Mr. Speaker, Sir, I join you in welcoming the students from Shadrack Kimalel Mixed Secondary School. It is good to have them here. I know that

they are going to learn more about the Senate. They are the leaders of tomorrow. I know that they work hard in school because their school performs very well.

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

## PETITION

### REPORT ON PETITION: THE PLIGHT OF COFFEE, TEA AND MACADAMIA NUT FARMERS IN KENYA

**Sen. Ndwiga:** Mr. Speaker, Sir, the Standing Committee on Agriculture, Livestock and Fisheries received a Petition on the plight of coffee, tea and macadamia nuts farmers in Kenya. We considered the Petition and realized that there is a lot that requires to be done to improve these crops. The Senate is also considering the Tea Bill (Senate Bills No. 36 of 2018) which is addressing some of the issues that were raised.

Mr. Speaker, Sir, the Committee is also engaged with the coffee taskforce which has just released its report. We are engaging with the Ministries concerned on the improvement of coffee.

On the issue of macadamia nuts farming, we are engaging the Ministry of Agriculture, Livestock and Fisheries on new regulations.

I beg to lay this report on the Table of the Senate.

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

## PAPERS LAID

**Sen. Dullo:** Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Wednesday, 15<sup>th</sup> May, 2019

### ANNUAL REPORT OF THE SRC FOR FY 2017/2018

Annual Report of the Salaries and Remuneration Commission for Financial Year 2017/2018.

### ANNUAL REPORT OF THE CAJ FOR FY 2017/2018

Annual Report of the Commission on Administrative Justice for Financial Year 2017/2018.

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

Report of the Auditor-General on the Nairobi City County Assembly Car Loan Fund for the Year ended 30th June 2018.

Report of the Auditor-General on the Kiambu County Assembly Staff Mortgage Scheme Fund for the Year ended 30th June 2018.

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Report of the Auditor-General on the Kwale County Assembly Members and Staff Loan Scheme Fund for the Year ended 30th June 2017.

Report of the Auditor-General on the Financial Statements of Municipal Council of Machakos Water and Sewerage Company Limited for the Year ended 30th June 2017.

Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Facility Improvement Fund for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of the Nairobi City Water and Sewerage Company Limited for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Mathira Water and Sanitation Company Limited for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Tetu Aberdare Water and Sanitation Company Limited for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Othaya Mukurweini Water Services Company Limited for the Year ended 30th June 2018.

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

Report of the Auditor-General on the Financial Statements of Gatundu Water and Sanitation Company Limited for the Year ended 30th June 2018.

Report of the Auditor-General on the Financial Statements of Githunguri Water and Sanitation Company Limited for the Year ended 30th June 2018.

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

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

## STATEMENTS

### APPOINTMENT OF THE VICE CHANCELLOR OF TAITA TAVETA UNIVERSITY

**Sen. Mwaruma:** Mr. Speaker, Sir, I rise pursuant to Standing Order 48(1), to seek a Statement from the Standing Committee on Education on the appointment of the Vice Chancellor of Taita Teveta University, following the departure, in 2017 of Prof. Hamadi Iddi Boga.

In the Statement, the Committee should-

(1) Provide the names of all the persons who applied for the position of Vice Chancellor of the university, indicate those who were shortlisted for the interview as well as those what were finally interviewed for the position;

(2) Table the report of the interview, indicating whether there was public participation therein, and state the candidates whose names were forwarded to the appointing authority for consideration for appointment; and,

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(3) State when the position will be filled.

Mr. Speaker, Sir, this is a straightforward Statement. I beg for your direction.

I thank you.

**The Speaker** (Hon. Lusaka): The new rule is that the Chairperson of the relevant committee takes note automatically. I hope that the Chairperson of the Committee on Education has heard and will take action

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, the Chairperson of the Committee on Education was not listening, but it is okay.

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

#### OIL SPILLAGE AT KIBOKO AREA IN MAKUENI COUNTY

**Sen. Mutula Kilonzo Jnr.:** Mr. Speaker, Sir, I rise, pursuant to Standing Order 48(1), to seek a Statement from the Standing Committee on Energy, on the oil spillage that occurred at Kiboko in Makueni County on 30<sup>th</sup> March 2019. The new pipeline leaked and released diesel fuel into Kiboko River and other water facilities in Makueni County.

In the Statement, the Committee should address the following-

(1) State the reasons why the National Environment Management Authority (NEMA) has not issued a Restoration Order under section 108 and 109 of the Environmental Management and Co-ordination Act.

(2) State the reasons why the said new pipeline was designed, constructed and handed over without any leak detection system to detect oil spillage.

(3) State the amount of oil product that spilled into the environment at Kiboko on the said date and the distance of the said spillage.

(4) Provide a written recovery plan of the said product with timelines thereof.

(5) Give the following details-

(a) Name of the contractor and whether the contract was completed.

(b) Cost of construction of the pipeline.

(c) Whether the contract had a defect liability period.

(5) State the reasons why the Water Resources Management Authority (WARMA) and National Environment Management Authority (NEMA) have not issued a warning to residents of Kiboko, 30 days later about the effects of the oil products in their water.

(6) State the mitigation measures adopted by the management of Kenya Pipeline Company (KPC) and in particular-

(a) provision of water to the residents of Kiboko and its environs; and,

(b) recovery of the said products from the underground water source

(7) State whether the KPC has procured an expert to conduct an Environmental Impact Social Assessment Report and when they intend to share the said Report with National Environmental Management Authority (NEMA), WARMA and the County Government of Makueni.

(8) State whether NEMA has caused the KPC to deposit a bond as appropriate security for good environmental practice due to the frequent spillages as required by Section 28 of the Environmental Management Act.

(9) State when the people of Makueni should expect a detailed water analysis report on the Kiboko Spring, Kiboko River and other nearby water bodies.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I support the Statement requested by Sen. Mutula Kilonzo Jnr. It is very unfortunate that the pipeline which was constructed recently is now leaking and causing damage to the environment.

The first pipeline of the KPC was constructed in 1978. That pipeline did very well and there were no leakages or damages caused to the environment since then. It is very surprising to learn that the pipeline which was constructed just a few years ago is leaking. This shows that there is lack of quality assurance, which is very important in pipeline construction. It appears there was some laxity on the part of the implementers of that project.

As I support the Statement, I would urge the Committee to get to the bottom of this issue and identify the culprits so that they can be brought to book.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Statement. I also wish to thank Sen. Mutula Kilonzo Jnr. for bringing this Statement on behalf of the people of Makueni.

There was someone who was given a job to do and did not do it properly. There is also an engineer or a quality assurer who assessed that pipeline and certified that it was constructed as required. Considering what has happened within a short time, this is what I would refer to as an absolute fraud. If everybody had done their job, the people of Makueni would not be suffering as a result of hazardous substance that is leaking into their rivers.

The leakages will even contaminate underground water and Many people will suffer as a result of that. This shows that there are people who do not care about others. The Committee should follow up on that issue and Sen. Mutula Kilonzo Jnr. should go further and sue the construction company on behalf of his people because what has happened is unacceptable.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I rise to support the Statement requested by the Senator for Makueni. It is with a heavy heart that I listen to these issues every day. This is unacceptable.

Sen. (Eng.) Mahamud said that the first pipeline was constructed in 1978 during the previous regimes. We see these things everywhere including in the water catchment areas. All the projects which were done in the early 1970s to 1990s are still intact. However, of late, everything seems to be falling apart.

Roads that were constructed 18 months ago have all been washed away; pipelines are now leaking effluent into rivers; and bridges are collapsing on the day of their commissioning. This is impunity and grand corruption. For those of us who think that corruption will just affect us financially, it will affect our health and our future. It is high time - and I second Sen. Farhiya's wish - that this matter be treated as a criminal act and the criminals should be brought to book. If these criminals are State officers, they should be brought to account to answer for their actions.

I am looking forward to the implementation of this, especially the water analysis. We have cases whereby there is an outbreak of non-communicable diseases in our country. Every day, we are burying people who have died of cancers that cannot be

explained. Why not, if this is the state of our rivers and environment, which are all polluted?

A few months ago, we got little rain and the amount of garbage that was in the Nairobi River was unacceptable. I look forward to seeing the results of these analysis and also look forward to the day that this impunity shall be stopped. This House has the opportunity to do so now.

I support.

Thank you, Mr. Speaker, Sir.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I want to join my colleagues in condemning what is happening at Kiboko.

It will be remembered that a few years ago, precisely in 2015, there was a similar spillage around Thange River, where people in their thousands were affected by the oil spillage. To date, the clean-up exercise in Thange River is yet to be completed and now Kiboko, which is neighbouring Thange River, is experiencing a similar case.

It will also be remembered that this is a new pipeline that has cost the taxpayer Kshs48 billion. A few months into completion and commissioning, we are hearing of leakages.

Mr. Speaker, Sir, the Committee to which you will direct this Statement, their first port of call should be Kiboko. Before they even summon anyone to appear before them, they should go and listen to the cries of the people of Kiboko and get first-hand experience of what these people are going through. If it is found that there is culpability on the part of any Government institution regarding this case, I would highly recommend that serious legal action be taken. It cannot be that these people in the same county are suffering from an investment by the KPC and all we do is to set up commissions of inquiry into the problem and never get to the bottom of the matter.

I support this Statement and I will be appearing as a friend of that Committee.

Thank you, Mr. Speaker, Sir.

**Sen. Dullo:** Thank you, Mr. Speaker Sir. Pursuant to Standing Order 48 (1), I rise to seek a Statement from the Standing Committee on Education concerning a move by the Ministry of Education to terminate the training of 3,265 students with D+ minimum grade.

As you are aware, the earlier decision to allow students with lower grades to join teacher training colleges was meant to improve the teacher-student ratio, especially---

*(Interruption of Statement by Sen. Dullo)*

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

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

**Sen. Olekina:** Mr. Speaker, Sir, I was just curious whether that Statement by Sen. Mutula Kilonzo Jnr. has already been dispensed with fully.

**The Speaker** (Hon. Lusaka): From where I sit, I did not see any more interest. That is why I moved to the next Statement. My screen did not have---

**Sen. Olekina:** I just thought that as Members of the Committee on Energy, it is important for us to give our input.

**The Speaker** (Hon. Lusaka): The Statement is coming to your Committee; so, you will respond and the Chairperson is here. I thought the Chairperson will give a comprehensive Report because the Statement has been committed to his committee.

Is that okay Chair? The Statement has been committed to your Committee and as such, you will give a comprehensive Report when you respond.

Chairperson, are we communicating? I was saying that since the Statement is coming to your Committee---

**Sen. (Eng.) Maina:** Yes, Mr. Speaker, Sir. Sen. Mutula Kilonzo Jnr. has brought a very important matter to this House. I want to assure this House that the Committee will get into the depth of this matter and ensure that anybody found to be culpable is answerable.

It is not the first time that my Committee is interrogating this matter. We have on many occasions engaged the KPC and the Ministry regarding the leakage of oil in this country. The leakage of oil is not a casual affair; it is a threat to human life.

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

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

**Sen. Wambua:** Mr. Speaker, Sir, with due respect to the Senator for Nyeri, who is also the Chairman of the Committee on Energy, you have committed that Statement to the Committee on Energy. To make progress, would it be in order to require the Chairperson to reserve his comments to the time when we will deal with the Statement, so that we make progress in this House?

**The Speaker** (Hon. Lusaka): Mr. Chairperson, I had said and I still want to reiterate that the Statement has come to your Committee. So, you will give us a comprehensive Report when the time comes to get feedback from your Committee.

**Sen. (Eng.) Maina:** I beg to just conclude this matter and give an assurance to this House. I would like to underline that it is not a matter to be taken casually; it is a serious matter. There is a history behind this matter and the leak detection is a matter that we have interrogated so much in every meeting that we have had with the KPC.

Mr. Speaker, Sir, I would request that we be given about two weeks to respond to this matter.

**The Speaker** (Hon. Lusaka): That is granted.

*(Resumption of Statement by Sen. Dullo)*

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, I am responding to the Statement by the Senator for Isiolo. I think we were there. She was in the process of making her Statement and I had shown interest to contribute to that Statement because it is touching on education.

**The Speaker** (Hon. Lusaka): Sen. Dullo, had you finished your Statement? She had just started, so let her finish, then I will give you an opportunity.

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

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

**Sen. Sakaja:** Mr. Speaker, Sir, just for clarity purposes, in the earlier Statement that includes issues of environmental degradation, I support what Sen. (Eng.) Maina was

saying. It is really urgent. Just today for instance, 25 factories have been closed because of discharging effluent into Nairobi River. However, in two weeks' time, you will find them up and running again after they have gone to see certain people. It is a serious issue, if you look at what is going on in Nairobi, Narok and many other counties.

Mr. Speaker, Sir, if you can really impress upon that Committee to summon NEMA, the KPC and all of these other agencies because we are tired of it. Our children are now getting sick in Nairobi and many other areas because of the degradation from the effluent which is discharged to our rivers.

**The Speaker** (Hon. Lusaka): I have seen the enthusiasm with which the Chairman wanted to address the matter. I am sure he will take it very seriously like he has said because this matter has generated a lot of interest in the whole country.

*(Sen. Seneta spoke off record)*

**The Speaker** (Hon. Lusaka): He does not want to be informed.  
Hon. Senator, you are not on record.

*(Loud consultations)*

Order, Members! We need to proceed.

*(Sen. Seneta spoke off record)*

You are not on record.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for giving me a chance to seek a clarification on this matter. You committed the Statement by Sen. Mutula Kilonzo Jnr. to the Committee on Energy which was rightfully placed. However, there is the issue of the environment that Sen. Sakaja is talking about. The issue of disposal of waste into Nairobi River should not be handled by our Committee because ours is not a committee on environment.

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. I am quite flabbergasted at how the Vice Chairperson of a committee can express how one-track minded they will be on this issue. We can chew gum and walk and talk. When they look at this matter, they can as well address all matters attendant to the effect on the environment. They can multi-task and deal with all the issues because it is possible.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, it is not a matter of being one-track minded because you are supposed to concentrate on what you are charged to concentrate on. Issues in Nairobi are multiple and miscellaneous and they should be handled from another angle.

Mr. Speaker, Sir, we have a particular case which involves the people of Makueni because it affects some community in Kiboko. As you ruled earlier, we rather conclude on that and then Sen. Sakaja could be free to bring his own case separately.

**The Speaker** (Hon. Lusaka): The Chairman of that Committee will have to address the issues that have been raised by Sen. Mutula Kilonzo Jnr. and inform the House about the progress made.

Let us now have Sen. Dullo.

TERMINATION OF TEACHER TRAINING FOR  
STUDENTS WITH D+ MINIMUM GRADE

**Sen. Dullo:** Mr. Speaker, Sir, pursuant to Standing Order No.48(1), I rise to seek a Statement from the Standing Committee on Education concerning a move by the Ministry of Education to terminate the training of 3,265 students with D+ minimum grades.

*(Loud consultations)*

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

**The Speaker** (Hon. Lusaka): Hon. Members, consult in low tones because she is raising a very important Statement for the country.

**Sen. Dullo:** Mr. Speaker, Sir, as you are aware, the earlier decision to allow students with lower grades to join teachers training colleges was meant to improve the teacher-student ratio especially in hardship areas, which has worsened in the recent years. However, the recent move by the Ministry of Education has created confusion among thousands of affected students and parents.

In the Statement, the Committee should-

(1) explain what informed the Ministry of Education to change its earlier decision a year later after students had been enrolled at the colleges;

(2) explain the fate of 3,265 students now that they have been forced out of teachers training colleges; and,

(3) explain what plans the Ministry of Education is making to compensate the students as most of them had already paid fees for the course.

I thank you.

**Sen. (Eng.) Mahamud:** Mr. Speaker, Sir, I rise to support the Statement by Sen. Dullo because that is a serious matter. When the Committee will be looking at it, they should take into account that 3,265 students who were admitted to teacher training colleges as a result of decision of the Ministry of Education through affirmative action were sent home. The reason given was that the students got a mean grade of D+ and therefore they do not qualify. In the same classes, there are students who got C plus, Bs and As. The curriculum is the same and we have not heard of students who fail.

The reason why there was affirmative action was because of lack of teachers due to marginalisation. We are at a loss when an institution of the Government like the Teachers Service Commission (TSC) annuls or tries to compete with the Ministry of Education. Students were sent home through a letter from the Principal Secretary (PS), Ministry of Education. That is unacceptable.

We would like the Senate to help us so that things go back to where they were. People from that region should be encouraged to train as teachers so that we encourage more students to become teachers. As I talk, 3,265 student teachers have been sent home. What will happen to them? What will they feel about this country? What is their fate? It is unfortunate.

We would like the Government of Kenya to be the Government of everybody. The administration of President Kenyatta should state clearly that that region is not part of Kenya because we are tired.

The Committee should take its job seriously so that we deal with this matter once and for all. I ask you to support us. It should not be taken that what we are asking for is imaginary. They need to do something even if it means those students doing bridging courses.

We are talking of ensuring 100 per cent transition. Why conduct examination in Class Eight and have pupils who score 100 marks join secondary schools yet those who score D+ cannot join teachers training colleges? This is a fallacy which we will not accept. We will fight to the end.

I thank you.

**Sen. Wetangula:** Mr. Speaker, Sir, you can feel the anger that is being exhibited by the distinguished Senator for Mandera County.

The Chairperson of the Committee on Education must, in response to Sen. Dullo's Statement, bring very clear answers to this House. Why is the Ministry of Education engaged in incoherent and inconsistent policies about education in this country? Every other day, they come up with something controversial, unacceptable and harmful of the people of this country. You cannot commit yourself to 100 per cent transition regardless of the outcomes of examinations and then discontinue people who have been admitted to colleges on the basis that they have a lower grade.

Secondly, why were those young Kenyans admitted to the colleges in the first place? Did they not know that they had D+ when they were being admitted? In this country, parents sell land and other possession, including cattle, to take children to schools and colleges.

We have a serious shortage of teachers in this country particularly in marginalised areas of northern Kenya, not to mention areas in inaccessible rural places such as parts of Bungoma, Mt. Elgon and so on and so forth.

We want the Ministry of Education to come clean on this matter and tell this country how they will compensate those children, including but not limited to the amount of money paid, the embarrassment they have suffered and what kind of compensation in terms of assistance so that they can train.

As I finish, we have had great men in this country. Prof. Ali Mazrui, the most celebrated scholar this country has ever produced, did not pass Form Four examinations but he went on to be the best scholar this country has ever had. Learning is a continuous process and you cannot judge somebody on the basis of a grade awarded for sitting an exam for six hours in one day.

Mr. Speaker, Sir, we must revisit this very critically. The Chairperson of the Committee of Education is a very hardworking man. He must look into this and talk to the mandarins at Jogoo House as to why they are doing this to Kenyans.

**Sen. Kihika:** Mr. Speaker, Sir, I also rise to support and make a few comments on the Statement that has been brought by the Senator for Isiolo; and also add to that debate a little bit as far as what appears to be a very incompetent Ministry of Education.

In the last one year, we have seen what seems to be a theatre of the absurd. One day, they have this policy and the next day, they completely go back on it. This is one of the things that makes you wonder who is making policy decisions in that Ministry.

The fact of the matter is that they admitted these students to join those teacher training colleges with a grade of D+. The students did not just wake up and go to school. The parents have to look for money to put the children in school. The students are supposed to be in those teacher training colleges for about one year, however, the Ministry has annulled their admission. As the process continues, I request the Committee on Education to carry out a very thorough job on this issue. They cannot wake up in the morning, say one thing and then tomorrow morning come up with a completely new policy.

It seems as though the Ministry of Education is very good at knee-jerk reactions that do not seem to make sense. As my colleagues have said, we have been talking a lot about the 100 per cent transition. So, where do we expect the children with the grade of D+ to go? We seem to have an education system that is just set up on where only the strongest get absorbed. What do we want who get a mean grade of D+ to do?

When we are also talking about the Teacher Training institutions (TTIs) as the way forward, this is one of the other ways where we can have all these students trained as teachers with the D+ to get into careers where we also have an issue in the Northern Eastern area where they do not seem to have enough teachers. Therefore, if they have these students who have enrolled and they are ready to be teachers, and more so, in those area, then I do not understand why we are doing away with this affirmative action.

The Ministry of Education must be held to account. We expect nothing less from the Committee on Education but a very thorough investigation into this. We must know what has caused this kind of decision and what exactly this Ministry is doing or not doing.

*(Interruption of debate on statements)*

## COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM OUR LADY OF  
CONSOLATA MUGOIRI GIRLS SCHOOL

**The Speaker** (Hon. Lusaka): Hon. Members, I have a communication to make.

I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students and teachers from Our Lady of Consolata Mugoiri Girls School in Murang'a County.

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

I thank you.

*(Resumption of debate on statements)*

**Sen. Olekina:** Mr. Speaker, Sir, from the onset, I would like to welcome the students. It is quite interesting that we are talking about these students yet we have a Ministry of Education which seems to be misguided on how to build the future generation. I went to Narok High School which was by then very poor. I graduated with a mean grade of C+ and got admitted to the university. When I was in the university in the United States of America (USA), I managed to improve my grade to 4.0.

Although a house that is built on shaky ground sometimes may not stand but we, the pastoralists, which this policy is targeting, go through hardship even to go through primary school. You might come there bold with a policy but you are completely misguided. This House cannot stand with such policies. We have to defend our people. What will we tell those youths? If we do not defend the youths who were sent home because they had a mean grade of D+, the level of crime; call it *Al Shabaab* or *Mungiki*, will skyrocket. What will we be doing then? It is completely ludicrous. We have to change that. We cannot allow certain Government policies to destroy our economy.

The future generation depends on our support. I hope and trust that the Chairperson of the Committee on Education will take up this matter fully. It is high time that you invited those Cabinet Secretaries to come and tell us what is it that they smoke in the morning before they come up with these policies.

*(Laughter)*

This country is becoming theatrical. Today, a Cabinet Secretary is appointed and then he comes out and says, from today, everybody should go home. Where do they go? They will start knocking on your doors and we will not stop them from doing so. They will walk into your house and take away all the money that you are making. They are making misguided policies.

I hope this House will stand firm and ensure that those students go back to college. Even if they are to refund them their money, the interest should be calculated on a daily basis for all those days they were in those colleges and then maybe, they can fly out of the country and get a future, like I have today.

This is a personal matter and the people who are targeted are pastoralists. We will not allow this to happen.

**Sen. (Prof.) Kamar:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this statement that has been sought by Sen. Dullo. We thank her for alerting us.

I am sad because we invited the Cabinet Secretary when this issue was raised for the first time. I am the Vice Chairperson of the Committee on Education. We asked them

to think before they act. We wanted them to think because we did not want to arrive at this kind of scenario where students become victims of policy-makers who do not make decisions. We asked the Cabinet Secretary to be very sure that this is the way we will go. That is exactly what she said. We were satisfied and we left it at that. Now, there is a change.

This House respects public participation, which the Ministry does not seem to recognize anymore. Public participation is embedded in our Constitution. We said that it was not just because of this training that we wanted public participation to be done. We even talked about it for the sake of the new programme that was coming up. It has been doing ping-pong the way this one is. We raised this because it is very important that one knows what Kenyans are feeling and want. We need to take care of that. Now, the victims we have today are young innocent students who were told that the qualifications for college has changed. It is not their fault. I assure this House that so long as we are in that Committee, we will do what is right and what must be done for them – not only to take care of them, if they will not go back to that college, there must be an alternative programme for them. We will not leave them in the streets after sending them to college for a month or two. It is very unfair.

It is also very important that the Ministry change its approach when dealing with policies. It is true that for the last one year or so, we have seen policies being swayed up and down. It is very important that they embrace stakeholder participation because this will be exactly the same thing that has happened to teachers. We have heard of teachers who were sacked the other day just because they did not go for a function that they were supposed to. They did not go for a training programme. We discussed about the training with the Cabinet Secretary and we asked if the programme would be rolled out. She said it was not yet it was thereafter.

Therefore, we also need to be very clear from this Ministry. We would like to agree with the Members who have spoken that we need to solve it once and for all.

Mr. Speaker, Sir, with those remarks, I join you in welcoming the students who are in the Public Gallery. I congratulate the students from Our Lady of Consolata in Murang'a County. They should work hard and make a mark in their lives. We wish them all the best and welcome them to the Senate.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, this matter started with a Petition from the non-native teachers and it was seized by this House. Those teachers said that they were not safe in those regions. As the Committee on Education, we discussed that Petition and agreed to have an affirmative action that would allow the natives of the North Eastern region who attained a mean grade of D+ to join the teachers training colleges with the intention of having them teach in their region. The then Cabinet Secretary of the Ministry of came to the Committee and purposed to move in this direction. A policy direction was given and actualised.

Does this mean that the policies at the ministry change when a new Cabinet Secretary is appointed? The students who have been in colleges are now being told that their qualifications are not sufficient. As the Committee on Education, we are going to relook into this though the Ministry of Education should not have conflicting policies, statements and directions. One cannot operate like that.

**Sen. Sakaja:** Mr. Speaker, Sir, I fully associate myself with the comments made by my colleagues. When Prof. Magoha, my former Vice Chancellor, got into the Ministry of Education, we had a lot of hope and we still have a lot of hope. He needs to consider this matter. We have policy-makers in this country who look at the theory but fail to look at the reaction of the parents and the young people who go through school. We are not encouraging students to get D+ or Ds, instead, we want this country to guarantee the students a future no matter what they get in the exams. Their high school mark should not be a verdict of how their life will be in future.

It is interesting that the same Ministry, through the Teachers Service Commission (TSC), told us that there is a shortage of 87,381 teachers. The same Ministry told us that we must have 100 per cent transition yet they are the ones who are blocking people from joining the education field. We need to have a clear policy.

The Chairperson of the Committee on Education should look at the quality of education. In Nairobi City County, we have students who are in Class Eight but cannot write their name because they are so many in a class. Instead of learning anything, they just hum at the back of the class when the other students are being taught. We need to look at this issue seriously because we are postponing unemployment of many young people by keeping them through school where the quality cannot be guaranteed. The matter should be looked at holistically.

This issue is not only affecting the arid and semi-arid areas because we have some schools in the slums of Nairobi where no teacher agrees to go to. The 100 per cent transition rate should not be lip service. We should look at the quality, number of teachers and have some changes in the budgetary provisions so as to employ teachers as requested by the TSC.

**The Speaker** (Hon. Lusaka): I see a lot of interest on this matter. Sen. Pareno, you have three minutes.

**Sen. Pareno:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. It is sad that we are talking about students not going to school when we have young students in the gallery. What message are we sending to these students? Are we telling them that they have no hope if they do not get a mean grade of A in the exams?

Discontinuing over 3,000 students is something that calls for urgent attention and serious action against the people who have perpetrated it. I find that act to be discriminatory. Discontinuing those students means that one is targeting areas that do not perform well; the hardship areas, and it also discourages students. Teachers and administrative officers who are posted in those areas hardly stay there because of hardships.

I have a Statement that is being processed, and it is on the sacking and interdiction of almost all the teachers in a sub county. What message are we sending when we interdict teachers and remove students from school? The parents are asked to pay school fees, they toil to pay the fees and after making the payment, they are told that their children will not learn. Are they going to be refunded that money? This is serious and calls for urgent action.

**Sen. Farhiya:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute on this matter. I also wish to welcome the students from Our Lady of Consolata, Murang'a County.

The 100 per cent transition is not for pastoralists. The Government posts teachers to North Eastern, which shares a border with Somalia, hence susceptible to terrorist attacks. When the terrorists attack the area, the Government that is supposed to protect its own people punishes them by taking away all the non-local teachers.

This House should understand that the admission of the 3,200 students in the Teachers Training Colleges (TTC) was supposed to help the North Eastern region get teachers so as to avert the crisis that occurred as a result of the terror attack that happened in May, 2018. Is it the fault of the child from North Eastern that there was a terror attack? It is not their fault because terrorism is a global phenomenon.

Other than teachers, there are the medical staff and people who work in the construction industry and none of them is affected. If North Eastern gets the 3,265 teachers, the crisis will be sorted for some time as those students who scored C+ and above join colleges to train as teachers. At the moment, we are talking of classrooms with no teachers. It will be good for those students to get a teacher who can sit in class and give them the basics; that is what they need. At the moment, they do not have that.

Having students who have been in college for a whole semester being discontinued is poor decision and a waste of Government resources. I also trust that Prof. Magoha will make the right decision because I know that he is an intelligent man. I also know that the decision to discontinue the students was made by the TSC because it is the one that is against this policy.

**The Senate Majority Leader (Sen. Murkomen):** Mr. Speaker, Sir, I join my colleagues and Sen. Dullo in saying that this matter needs to be handled with soberness and urgently. A child who gets a mean grade of D+ in Mandera cannot be compared with a child who gets a B+ in Alliance High School. The D+ of those students, who go to those local schools, with few teachers, can be measured to a C+.

We must recognize that when Article 10 of the Constitution says that there is need for equity in this Republic, it is to treat each person depending on their circumstances and situation. This generalization, that all Form Four certificates are the same, is not true. In fact, I know so because I come from a county, part of which is Arid and Semi-Arid Land (ASAL). Some of the students study in places that are complicated, like Tot and Kerio Valley generally, which is facing dire problems of insecurity---

As we speak, even in my county alone, the number of students who are not in school because of insecurity is high. Young people are being killed because of banditry, cattle rustling and all that. We cannot quantify or measure the qualifications that those people receive, and say it is the same as a C- in another place. Therefore, a drop of one place to D- is genuine and justifiable, particularly when we are trying to say that we need to build local capacity for our children to be taught in school.

Therefore, Mr. Speaker, Sir, I request the Committee to take this matter seriously, and particularly the inconsistency in policy making. We are not saying that would be okay if they stuck with C- at that point in time. However, it is neither good nor right that we have policies that are changed midstream; that our policies, as a country, are as good

as the person who sits in office. Then we miss the point, because this Senate knows the importance of institutional memory and building institutions.

That is why we are saying we respect the mandate of every institution across the country, including the TSC and the Ministry of Education. However, that should not be used to disadvantage those who come from ASAL areas. I hope that the Committee will meet with the Cabinet Secretary and the TSC.

Mr. Speaker, Sir, let us not also hide behind the independence of institutions. Yes, we agree that these institutions are independent; but, at the same time, when the Ministry is determined to get something out of them, it will get it. That is true, whether it is the commissions we thought were independent, including oversight institutions. When the Executive wants to get something through them, they will get it.

Therefore, if the Executive wants to get the support of the TSC to help the people of ASAL areas, nothing is so easy. The CS just needs to work with those institutions, because they are funded by the same Government and work under the same Government and are domiciled in particular ministries of the Government. Let us not hide behind the independence of institutions to continue disenfranchising disadvantaged communities.

Mr. Speaker, Sir, I repeat that the reason many people are worried about the Senate; the reason why some characters are attacking the Senate is because they know that they cannot match the quality that is in this House. It is because they are suffering from inferiority complex. We know their mental capacities, and we have stomached it for a long. They must be told as it is; that their inferiority complex must not be used to undermine institutions. I, therefore, hope that this House will rise to the occasion to continue demonstrating to these characters that this House will always rise to the occasion to perform its responsibility robustly without fear, favour or any intimidation, because we cannot be intimidated.

Thank you, Mr. Speaker, Sir.

*(Applause)*

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I wish Sen. Murkomen could speak like that daily.

Mr. Speaker, Sir, I rise to support the Statement by saying the following things. One, the education sector of this country is on its knees. Although this part, of education, is a national function, the Senate is, once again, going to be called upon to save this nation from very bad policies affecting our children.

Every time we speak about teachers and transition, the country forgets that the Constitution says that the rights of our children are paramount. Just as Sen. Pareno has mentioned, 14 teachers in Makueni have been interdicted for simply asking about the new curriculum. Did we vet Prof. Magoha to become a dictator? Can you imagine, after training 14 teachers, you interdict them because they have asked a question about the curriculum?

It is not the teachers who are going to be taught this new curriculum. It is the children of this Republic, such as those of Mama Mwikali and those who cannot afford private schools; yet you interdict people who the taxpayers have trained. By the time one

teacher dies or is interdicted, we should replace them with three teachers. Which country treats teachers the way we do?

Mr. Speaker, Sir, sometimes even you, my colleagues, treat ourselves better than teachers, yet they are the future of this country. Can we speak more about the children and the teachers of this Republic, because these are the people who are going to guarantee the future we are talking about, yet they are being treated like lepers? We put the TSC under this Constitution for a good reason, but the teacher is the person who should take the short end of the stick every time that happens.

Mr. Speaker, Sir, if this is one instance, I would request a Committee of the whole---

*(Applause)*

That is the only place where we will deal with Prof. Magoha, with his long Curriculum Vitae (CV); we can deal with him! We have the capability, time, will, wisdom and intellect to do so. We want you to invite the CS here so that we can interrogate these issues. We will deal with him because we are doing this on behalf of the children of this Republic. The Ministry of Education cannot and should not be an avenue and a theatre for doing whatever people think is right.

Thank you, Mr. Speaker, Sir.

**Sen. (Eng.) Hargura:** Mr. Speaker, Sir, I thank Sen. Dullo for bringing up this issue. I also identify with the sentiments of my colleagues.

Mr. Speaker, Sir, the CS needs to understand that this particular action of admitting students with a mean grade of D+ to teacher training colleges was meant to address a particular problem. We know very well that the non-local teachers withdrew from Northern Kenya, specifically the former North Eastern Province (NEP) because of incidents of *Al-Shabaab* attacks. The locals had to come up with a way of making sure they fill the gap by urging their own, who have at least even a mean grade of D+, to enroll in these colleges. This was an affirmative action.

Therefore, Mr. Speaker, Sir, what is the CS basing his decision on? Is it that once they had been admitted to the colleges, they were not performing as required? Does he have any evidence that they are underperforming for the one semester or term that they had been there? If it is the TSC issue, the TSC is the one that allowed the non-local teachers to withdraw from Northern Kenya. How is it, therefore addressing it?

You cannot fail to do your job of providing teachers, and when the affected persons come up with ways of doing that, you are then the one who is becoming an obstacle. The TSC should tell us how it is addressing the teachers' issue in Northern Kenya, because this was one of the ways of addressing that issue.

Mr. Speaker, Sir, coming from that area and having gone to school in Northern Kenya, I attest that even in the national schools, one can be number 100 out of 120 in their entry grade. By the time you are in the second year, they can become even amongst the top 10. I have seen such cases. It is, therefore, not a matter of checking a mean grade of D+, as the Senate Majority Leader has said. It should be how those students are performing now that they have been admitted to those teacher training colleges. Is it that

they are not performing, and that is why they are being sent home; or is it because of just the theoretical mean grade of D+?

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to add my voice. I thank Sen. Dullo for coming up with this Statement. The Ministry of Education should be credible and reliable in the policies that they make. They should not come up with a policy today and change it tomorrow.

Mr. Speaker, Sir, it is painful that more than 3000 students are out of school. Therefore, the Ministry should readmit these students back to the colleges and ensure that they get their certificates. We should implement the issue of affirmative action as the Senate. For example, the case of North Eastern came before the Senate Committee. We saw that it was the most viable way to ensure that affirmative action takes place there. It is painful for a class not to have a teacher.

Mr. Speaker, Sir, I was a teacher and I know the role that a teacher plays in a school. A teacher guides and gives the learners direction. They also act like parents. So, you can imagine children without a guide or someone to give them directions. Therefore, there is the need for the Senate to interrogate the Ministry of Education and ensure that the Cabinet Secretary comes here to explain this.

There are instances where many policies come up but when you go to the ground, you find that they are not working for this nation. Therefore, there is need for the CS to come and accept what Members will tell him. He should know that we mean well. We are concerned about the learners of this country and the North Eastern Region.

Mr. Speaker, Sir, there is a lot of information that came from Ministry regarding the Competence Based Curriculum (CBC). However, when you go to the ground, it is not working. It is working on television and conference rooms but not on the ground. There is need for the CS to come for interrogation for this purpose.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I rise to support this Statement by my Senator, Sen. Dullo.

I would like to bring the attention of this House to Article 27 of the Constitution which speaks to the equality and freedom from discrimination.

It states that:-

“Every person is equal before the law and has the right to equal protection and equal benefit of the law”

Therefore, the Ministry of Education should ensure that our children have equal opportunity before the law. Is a mean grade of D+ a basis for the Ministry to deny our children the right to education? It is sad to see that institutions of Government that are supposed to uphold the rule of law and implement the Constitution are using flimsy excuses to exclude our students and children to further their education.

Mr. Speaker, Sir, many of my colleagues have spoken about the policies at the Ministry of Education. What I see at the Ministry of Education are not policies; there are emotional reactions. Reactive emotions do not constitute policies. This is because policies should ideally respond to the needs of the citizens. However, one day, we are told that each child will be given a laptop and the next day, it is no longer working and

we want to construct laboratories. The next day, we say we want 100 per cent transition without thinking through what it portends or what is required to do that.

Mr. Speaker, Sir, the affirmative action to lower the grades of students from ASAL areas to a mean grade of D+ is a legitimate affirmative action which should be upheld.

As you have heard, from the previous speakers, there are people who sit in this House and come from really disadvantaged backgrounds. They score the D+ not because they are stupid but because the environment in which they have learnt in does not allow for anything else. There are schools where D+ is the best. So, what do we do about those schools where D+ is the mean grade? Is it their fault? It is because they do not have access to any of the learning materials, good infrastructure or an environment that would enable them to get B+ and other grades.

We all know the limitations that test scores have. Therefore, to use a test score to deny our children their rights to education is unacceptable. We cannot use a test score to violate our Constitution and deny our children the right to education. The Ministry must take responsibility for this and uphold the right to education for our children.

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir, for giving me the opportunity to contribute to this Statement.

Mr. Speaker, Sir, a mean grade of D+ is a qualification; it is not a failure. Whoever that placed D+ as a qualification did a survey. The education function rests at the national level. However, it has been having a lot of confusion of late. For example, changes in policies, curriculum and qualifications which are confusing yet they deal with the same children that they need to elevate.

Mr. Speaker, Sir, of late, we have seen clips on television where some children are sitting on stones while others do not have roofs for their classrooms. These children continue to be discriminated upon by discontinuing their education. If at all, some of these children get D+, then, the Ministry is misleading the whole country. It is a disadvantage. It is also bad for the Ministry of Education to come up with this policy. The Ministry of Education has become a personal home where when a Minister comes in, he or she does his or her own things and wants to control every sector.

It is time for sectors that align themselves with the education of our children to take a narrow look and sensitize themselves with the important responsibilities that they need to undertake for our children. The Teachers Service Commission (TSC), Kenya National Union of Teachers (KNUT) and the Ministry as a whole do not agree. Where are they taking our children?

Lastly, it is wrong for the Ministry to force or change children's careers or determine their livelihoods with the basic education qualification. I support this Statement.

The Committee of this House should go ahead and invite the Cabinet Secretary. We should have a Committee of the Whole to discuss Prof. Magoha and sectors that align themselves with education of our children. We are fed up with what is happening in the education sector in our country.

**Sen. Seneta:** Thank you, Mr. Speaker, Sir, for giving me a chance to add my voice to this very important Statement.

I would like the House to be aware that we visited Wajir County with Sen. (Prof.) Ongeru, the Chairperson of the Committee and other Senators from Wajir. In Wajir Mixed School which is a day school, we found that there was a shortage of 27 teachers. They have over 70 students in one class and six streams. In Wajir Girl's Secondary School, which is a national school, they have a shortage of 17 teachers. Only one girl in that school got a C+. So, where do we expect to get C+ to take to teachers' colleges from this region if they have this huge shortage? Therefore, I urge this House to take disparities seriously. We should look at the policies that the Ministry is bringing in terms of affirmative action.

Mr. Speaker, Sir, as we speak today, the issues of promotion of teachers to headship whether in primary or secondary schools has been designed by the TSC so that it marginalizes teachers from the marginalized regions more. Therefore, we need to look at these policies that are brought by an individual CS. Whenever there is a change of CS, they change the policies to suit how they want to run these Ministries. Therefore, we need to look at this and be serious in terms of policies that are made on the road shows to affect some of our communities.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir, for this opportunity to also contribute to the Statement by Sen. Dullo. I will begin by saying the MoE is the personification of failure in the education sector in this country. I think the turnover of Cabinet Secretaries in the Ministry of Education (MoE) is the cause of the failure in this sector.

It will be remembered that sometimes towards the end of last year, there was so much confusion regarding the Competency-Based Curriculum (CBC). The PS said that the Ministry was prepared to roll out the programme, but the Cabinet Secretary who appeared before a Committee of the Senate said the Government was ill-equipped and ill-prepared to roll it out. A few months down the line, a new Cabinet Secretary came to office and literacy pushed the CBC down the throats of teachers.

Mr. Speaker, Sir, I listened very keenly to Sen. Halake when she cited Article 27 of the Constitution. Therefore, the case of discrimination of students from north-eastern region is covered under Article 25 of the Constitution. It provides for the special rights that can never be denied to any child in this country on the basis of origin. It is a pity that those children are being subjected to inhuman treatment on the basis of their origin.

I join my colleagues in saying that this matter cannot be sufficiently handled by the Committee on Education. It is a matter that needs the attention of the Committee of the Whole. The Cabinet Secretary should appear before the Senate, so that we deal with this matter and dispense with it, once and for all.

I thank you.

**Sen. (Dr.) Langat:** Mr. Speaker, Sir, although I am sure that our Committee will meet the heads in the MoE as soon as possible, allow me to make a few remarks. We have also complained of the same and we are looking forward for the CS to come and help us to clear some issues currently facing the MoE.

Last week, we were in Uasin Gishu County addressing the matters to do with digital literacy. We were taken to two model schools by the Ministry officials to show us how successful the digital learning programme is.

We went to Lelit Primary School which is a model school. They told us that they had supplied 100 per cent computers. However, when we arrived there, we were shocked to find that there were only 13 computers against 30 pupils. Out of 13 computers, it was only six that were working. So, we are wondering about such policies that are made in the MoE. A lot of taxpayers' money was spent on this programme, but the computers are not working.

We will take the issue concerning teachers seriously because we are informed that the students have been in teachers training colleges for two terms only to be sent home this term after paying school fees. They were also not given anything according to the information that we have. That is a serious matter.

We are not even going to request for two weeks. In one week's time, we shall have invited the CS to come and tell us exactly what is happening in the MoE.

**Sen. Cheruiyot:** Mr. Speaker, Sir, this is a sad issue that we canvassing as representatives of the people. It is unfortunate that with each passing day, there seems to be an emerging trend where CSs sit in well-furnished air-conditioned offices and make policy pronouncements that have completely no bearing or understanding of the challenges that members of the public face.

This rogue policy direction reminds me of the other one where somebody sat in the Cabinet and made a decision that traders who import goods into this country cannot transport them in one container by pulling resources together. This forced them to transport them individually in 40-foot containers. Some of these decisions need to be challenged because they are not only absurd, but tell us how much some CSs are out of touch with the reality in this country.

I have heard many people say how much expectations they have for the CS for Education. In the past few weeks or months that he has been in office, I find him to be somewhat erratic. You wonder what will be at stake for the future of our children, if he continues with the attitude he has adopted of late.

People must understand that God gave people different talents. Academic talent does not make you supreme than any other Kenyan. There are people who are good sportsmen and women. They even employ professors, but you will not hear them bragging. So, trying to make policies or imaging that other people are not better gifted than you because, perhaps, they are challenged academically, is completely inhuman. This House must resist that attempt.

Therefore, I urge Members of the Committee on Education to keenly look into this issue. One week that they have requested is enough. By next week, we should be able to get a response a time like this, so that we give good answers to Kenyans.

**The Speaker** (Hon. Lusaka): Thank you very much. That brings us to the end of Statements under Standing Order No.48. Because of time, we will defer Statements under Standing Order No.51 to tomorrow.

ACTIVITIES OF THE COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND FISHERIES

ACTIVITIES OF THE COMMITTEE ON DEVOLUTION AND  
INTERGOVERNMENTAL RELATIONS

ACTIVITIES OF THE COMMITTEE ON EDUCATION

*(Statements deferred)*

Let us move on to the next Order.

**MOTIONS**

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS  
TO THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL, 2017

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

**The Speaker** (Hon. Lusaka): There is a request to defer Order No.8. So, we will defer it.

*(Motion deferred)*

Next Order.

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

**Sen. Ndwiga:** Mr. Speaker, Sir, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.161(3) of the Senate Standing Orders, I beg to move-

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

This Senate Bill was drafted and published in 2017. The Bill was considered by this House and sent to the National Assembly for concurrence, pursuant to Standing Order No.156 of our Standing Orders.

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

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

Pursuant to Standing Order No.156, the National Assembly passed the Bill with amendments on 27<sup>th</sup> November, 2018. The Senate considered the amendments forwarded by the National Assembly and adopted the National Assembly amendments to Clauses 2 on definition of the terms; “holder” and “warehouse receipts system” and Clauses 11, 17, 21, 23, 24, 27, 31, 32, 39, 41, 43, 44 and 48; and Schedule. While rejecting the amendments to Clauses 2, definition of terms; “owner”, “warehouse operator” and “inspector.”

Madam Temporary Speaker, pursuant to Article 113 of the Constitution, Standing Order No.160 of the Senate Standing Orders and Standing Order No.149 of the National Assembly Standing Orders, the Bill was referred to mediation. The Mediation Committee was tasked with negotiating a version of the Bill that could be passed by both Houses.

The Mediation Committee held its first meeting on 30<sup>th</sup> April, 2019 and adopted its reports on 7<sup>th</sup> May, 2019. I wish to thank the Members of the Mediation Committee from the Senate and the membership from the National Assembly led by their Majority Leader for their dedication and commitment in performing the task of negotiating a version of the Bill that could be passed by both Houses.

Mediation is a give and take process. Therefore, while we convinced them on the provisions that sought to strengthen devolution and protect the interests of county governments, they also convinced us on some of the provisions they had proposed.

As part of the report on the mediated version of the Warehouse Receipts System Bill, that I tabled yesterday, we have annexed an extract highlighting the sections that the Mediation Committee deliberated on. To highlight on some of the provisions, the Senators convinced the Members of the National Assembly that the definitions in Clause 2 on “owner” and “warehouse operator” should be amended in line with the proposals of the Senate.

With regard to Clause 3, the Mediation Committee also settled for nine persons to sit on the Council; one of whom would be nominated by the Council of Governors (CoG). In addition, the Mediation Committee also prescribed the qualifications of the person who should be appointed as Chairperson to this very important council in order to ensure that it has the leadership required to remain effective.

With regard to Clause 16 that speaks to tabling of reports, we convinced the Member of the National Assembly of the Mediation Committee that the law should be explicit; that, the report should be tabled in both Houses. You may remember that was the issue. This House felt very strongly that when in the Bills, we said that report will be taken to Parliament; that normally the Senate does not benefit from such clauses as reports normally are taken to the National Assembly.

This provision seeks to ensure that the Senate is not overlooked in favour of the National Assembly as has been done in the past where the law says that reports should be tabled in Parliament; only for the agencies to table the report in the National Assembly and not the Senate.

As for Clause 17, we convinced the National Assembly that the county governments should do licensing of warehouses. In the spirit of give and take, they convinced us that Clause 23 should establish a warehouse receipts dispute resolution committee in place of the warehouse receipts appeals committee. We agreed that the

dispute resolution committee could receive and make determinations on complaints that might be registered against those who may want to acquire licences.

Given the seriousness of the system the Bill seeks to establish, we convinced our National Assembly counterparts that the penalties must fit the crime, therefore, under Clause 43 of the mediated version of the Bill, issuance of a fraudulent warehouse receipts will attract imprisonment for a jail term not exceeding 10 years, or a fine not exceeding Kshs10 million.

Madam Temporary Speaker, on Thursday, 9<sup>th</sup> May, 2019, at its 2.30 p.m. sitting, the National Assembly, before proceeding on recess, adopted the Mediation Committee Report and agreed to the mediated version of the Bill.

Finally, I urge Members to approve the mediated version so that it may be forwarded to the President for assent.

With those remarks, I beg to move and ask Sen. Ochillo to second.

**Sen. Ochillo-Ayacko:** Thank you, Madam Temporary Speaker, for giving me an opportunity to second this Motion. Negotiations and compromise are the hallmark of democracy. Democracy is about persuasion and convincing people whose ideas might be diametrically opposed to your ideas, but ultimately, it is to achieve consensus.

I take this opportunity to thank the Chairperson of the Mediation Committee, my very good and wonderful friend, Sen. Njeru Ndwiga who also doubles as the Chairperson of the Committee on Agriculture, Livestock and Fisheries for his patience, commitment and articulation during the process of negotiations. The Chairperson kept his cool and he was able to help us to navigate through the process of negotiation without any form of bickering.

I equally thank the Members with whom we participated in the negotiations; my fellow Senators and the team that was led by the Majority Leader of the National Assembly for being forthright, focused and creating an atmosphere where give and take would thrive without grandstanding or name-calling.

The Bill in respect to which we were constituted to negotiate is important. It is very useful when we want to commoditize and commercialize agricultural produce. It is an important Bill when it comes to trading and storing agricultural products. Therefore, the National Assembly and the Senate have looked at this mediated version of the Bill. Somebody, once in a seminar told me that at the National Assembly or at congresses world over, National Assemblies are called the lower Houses. In those lower Houses, Bills or Motions are taken there when they are very hot.

When there is acrimony, there is always a lot of fierce exchange. Therefore, it is necessary to have an upper Chamber or an upper House to moderate and cool the acrimony. It is written in the federal newspaper that the Senate exists for the same reason as to why we have a cup and a saucer. When you serve a hot drink in a cup, it can scald or burn your mouth, but the saucer will cool it.

I am happy that under the guidance of my Chairperson, Sen. Ndwiga, we have been able to moderate some of the adversities that were proposed in the Bill. In our own assessment, the Bill now meets the threshold and the consumers can now use it and will not suffer any constipation.

I want to implore my colleagues in the Senate to adopt this Bill when the time comes for Kenyans who have been waiting for a regulatory and legal framework through which their commodities can be stored and receipts documented to use this Bill. I am sure that the President is waiting for this product.

As Members of the Senate, we should not be seen to be dragging our feet when our input is needed. Agriculture is a devolved function. In this House, we represent the interest of counties. I am sure that we will have rendered the legislative process to this county when agriculture thrives as a business and an activity.

With those very many remarks, I congratulate the Committee and the delegation from the National Assembly. I look forward to the time when the President will assent to this Bill.

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

*(Question proposed)*

**Sen. Mutula Kilonzo Jrn.:** Thank you, Madam Temporary Speaker. I rise to support the Report. I have listened to the expert in this field, Sen. Ndwiga. I agree with the method that they adopted in agreeing on the version of the Bill. It was a give and take.

*(Sen. Murkomen walked into the Chamber)*

I am happy that Sen. Murkomen has arrived. The arguments of the people who are fighting Sen. Murkomen's view on the Health Bill are now coming to light. Mediation in Division of Revenue is as a legal process and it is part of the Constitution. The people who think that we have no role should understand that mediation should come where we disagree. Like the Committee of the Whole does, Sen. Ndwiga and others sat and agreed on the version that should go to the President. That is the sort of country that we want. The Senate should be given an opportunity to give its own comments on matters involving the country even if it is not on devolved functions.

I am happy that this particular Committee struck a compromise. Sen. Ndwiga will be pleased to know that the original version of that Bill never got past the National Assembly. It is one of those Bills that ended up in the dustbin. The Assumption of Office of the County Governor Bill is now becoming an Act of Parliament. That gives me some pride. By virtue of this Report, the Warehouse Receipts System Bill will also become an Act of Parliament. We will soon have two more.

The Members of this Senate, who we proposed to sit on the Physical Planning Bill, should follow the example of Sen. Ndwiga and must sit in the meetings. If they cannot perform those duties, then they should not sit in the Mediation Committee because they will let us down. We all cannot sit in those Committees. They are only three Members and must sit with the chairpersons.

Sen. Mwangi invited me to one of those Mediation Committees meetings on the Physical Planning Bill. However, the Members of the National Assembly were so shocked that we have amended the title of the Bill. They were shocked because they had not read the Constitution. Some of the things that Sen. Murkomen says are correct. These

people do not read. He calls them characters and I call them people. If they read, they do not understand what they are reading. In the mediation of the Division of Revenue Bill, we will take the same position taken by Sen. Ndwiga and his Committee. They must understand the views of the Senate. We do not legislate for the sake of it. We do not make our comments just because we came and we were here.

I have seen Sen. Murkomen's protests on twitter and they are real though the picture is letting us down. He protested that this Senate should be involved in the health function and the Health Bill, however minute. When we have disagreement, the mediation process must follow. When the President disagrees, he should bring a veto under Article 115. We will deal with it, because that is what we are paid to do.

Allow me to support this Report and thank the wisdom of Sen. Ndwiga. Truly, this is a House of wisdom. All the mediation committees that we have ably appointed should follow that example. We should sit in the meetings and negotiate. The National Assembly has taken a position where they appoint leadership in all mediation committees. We have appointed Senators and not leadership because every Senator in this House is equivalent to the task.

*(Applause)*

We can meet Hon. Duale and Hon. Mbadi anywhere. Any Senator can sit in the Mediation Committee. They can bring the big guns. We will also bring the guns because we are equal to the task. I think we are setting the temperature for making sure that the Senate of this country is not treated as if it is a step child of devolution.

**The Senate Minority Leader** (Sen. Orengo): On a point of information, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Proceed, Sen. Murkomen.

**Sen. Mutula Kilonzo Jnr.:** Madam Temporary Speaker, there is information. It is me who is being informed.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senator, you know how to inform people. How come you have not indicated so?

**The Senate Minority Leader** (Sen. Orengo): There could be a problem at my station.

**The Temporary Speaker** (Sen. (Prof. Kamar): Go ahead and inform him.

**The Senate Minority Leader** (Sen. Orengo): Madam Temporary Speaker, I wanted to inform the distinguished Senator for Makueni that it is not the size of the weapon. Sometimes the smaller they are, the more lethal. Let them bring their big guns, but we are going to take the lethal guns.

*(Laughter)*

**The Senate Majority leader** (Sen. Murkomen): Thank you, Madam Temporary Speaker. I appreciate Sen. Ndwiga who is the Chairperson of our Committee on Agriculture, Livestock and Fisheries for the good work they have done as a negotiating Committee in so far as the Warehouse Bill is concerned.

I am also happy that pursuant to the negotiations, there was give and take considering the ideas that came from both Houses. I am happy that most of the amendments that we proposed as a Senate were adopted. This is an appreciation of the fact that two Chambers of Parliament are important for looking at the issues from a different perspective.

I am happy that in the Bill, a lot of the issues that have been incorporated relate to county governments and devolution itself. The manner in which we should protect and ensure that county governments participate.

Sen. Ndwiga is a former Minister, passionate farmer and a person who believes in the sector. He is a renowned cooperative movement crusader who has a lot of expertise and experience. I knew that this was an area that he had all the expertise to provide the leadership that he has provided for this country for so many years.

Madam Temporary Speaker, I want to pick the cue from where Sen. Mutula Kilonzo Jnr. left. It is important for the public and those who are ignorant of the Constitution to understand that this process of law making, particularly from the inception where the Speaker must be involved, is important.

Some people were trying to argue elsewhere using their little education, that the Senate was aware of some health Bill for over five months. There is only one way that the Senate can be aware of an existence of a Bill in so far as prosecution of that Bill in this House is concerned. It is, if the Speaker of this House, at inception, participates in the process of determination as to whether a Bill concerns counties.

Madam Temporary Speaker that is a process that has been ignored despite the fact that the Supreme Court of Kenya said that if the two Speakers do not agree, they should even appoint mediators to agree on how to proceed and determine whether a Bill concerns counties or not.

I want to remind them that it is even still possible for a citizen to go to court where the Speaker of either House, for example, Senate, will say that a certain Bill does not concern counties. If a citizen or Member of this House feels that they can disagree with that decision which must be in writing, it can still be challenged in court. They can challenge it and say that although the Speaker has said that the Bill does not concern counties, it does and that Senate should have considered it.

It is not a process for the sake of it, or something that the Speaker will just wake up and announce to anybody anywhere that it does not concern counties. It is a meticulous process that is sacrosanct and meant to protect the integrity of the law-making process as per our Constitution.

I am glad that we are in mediation with the National Assembly in over five or six Bills. Despite the fact that some of them go announcing out there that Senate is not doing anything, at least, they come and sit with us. I am happy that it is the leadership that is sitting with our Members in mediation, so that they can appreciate and understand the importance of having this process involve both Houses.

Madam Temporary Speaker, Sen. Orenge and I agreed that there is nothing too peculiar about Sen. Murkomen sitting in all mediation processes, yet there are people who have the expertise in various Committees. If it is on agricultural issues, Sen. Ndwiga is there. For energy issues, we have people such as Ochillo-Ayacko and the Chairperson

of the Senate Committee on Energy and so on. Why should I become a prefect of some sort to put myself in every Committee; to go and sit there because I suffer some level of inferiority complex and believe that if it is not me, it cannot be anybody else? We must agree in this House that this is a process that involves every Senator. Everybody must get that experience.

Madam Temporary Speaker, if it is your Committee on Education, Information, Communication and Technology, you and other Members of the Committee should sit there. That expertise must be built in each one of us because we are building leadership and expertise for people to serve in other places of this Republic.

Finally, as a House, let us always remember this fact that more than 50 per cent of Senators did not come back after last term. Do not postpone your legacy. We will not accept a process where someone will tell us that we must compromise the stature, function and purpose of this House because we want to please one or two people and then undermine our legacy as Senators.

We must ensure legacy is not something sitting in a certain room where you go and pick it and say: "Now this is my legacy." Your legacy is the things you do every day. As long as we continue doing everything we do as a House every day, for example, passing of laws, debating on behalf of this House, the Committee, legislative processes and defending devolution, that is how we build our legacy.

I am telling Kenyans that no one will suspend the process of this House to wait for another person to shine so that this House can be revived many years down the line. We do our work meticulously as you did Madam Temporary Speaker, when you chaired the *ad hoc* Committee on Maize. Your Report will forever inform how the maize sector will be reformed in this country.

It is the same way we dealt with the issue of the dams. That Report will inform on matters concerning dams across this country. It will be borrowed by people from other countries to learn what they will do if they have such dam disasters.

Madam Temporary Speaker, the same way we have done what we did with this Committee, I look forward to proper negotiations in the Division of Revenue; that the counties will get their proper share of resources.

The Orange Democratic Movement (ODM) party whose Director of Elections is Sen. Pareno and my friend Sen. Olekina belong, has always been priding itself as the party of reform. The party that fights for money to go to counties. However, look at how the National Assembly Minority Leader behaves. He has become a '*mtu wa mkono*' of somebody else. You can never recognize the party that talks about fighting for resources of counties and cannot see it in National Assembly. You see them in rallies and all other places saying that they want devolution to work better, but where is the signature of that behaviour when they are speaking at the National Assembly?

Madam Temporary Speaker, I know my colleagues at the National Assembly, particularly those coming from pastoralist areas led by the National Assembly Majority Leader have always said that if there will be change of the Constitution, it must add more money to Garissa and other counties.

I am happy that hon. Mbadi and hon. Duale are sitting in the Mediation Committee. I send you, Sen. Mutula Kilonzo Jnr. to go and tell them to the face: "This is

the time to put your words into action by demonstrating in your leadership---” I am glad they are in the Mediation Committee to decide that the money that will go to counties will be Kshs335 billion. Anything that will change will be on the higher side. This is because we want our counties to get these resources.

Madam Temporary Speaker, there has been all this argument about corruption in counties. Therefore, they should not be given money. Where is stealing not happening and corruption allegations being mentioned? It is all over in national and county governments.

I argue and which argument may not be sound in law, that when, for example, Kshs5 billion goes to Elgeyo Marakwet County, if they steal Kshs100 million, it will be noticed. This is because it too much for a person around that area to steal that amount of money. If you give one person at the national level to preside over 47 counties and you give them Kshs60 billion, they will steal Kshs2 billion that will never be recognized until after two to three years. We better disburse more money to counties and then we can now deal with the issue of corruption. We know the CEC comes from this corner. How did he make this money? We know the MCA comes from here. What happened? We will then have better understanding. If you keep the money in some hidden house in Nairobi, it may become difficult for all citizens to pursue that corruption that is at the centre.

Madam Temporary Speaker, if there is an argument that there is corruption, it is better managed than fought at the county level. Therefore, let the resources go to those counties. I look forward to that mediation.

On the question of medical equipment, we, as the Senate, have no problem. In fact, most of us believe that with this medical equipment, we are taking services closer to our people. For example, screening of cancer so that it is determined at an early stage at the local level and proper treatment given to citizens. The question we are asking is of accountability. How much money is this project? How will it be paid? Where will the money come from? When will it end? What is the cost of each item?

It is a question of accountability which the President has preached so well. Why can we not support His Excellency the President by ensuring that we do not perpetuate a process that is shrouded with mischief that later, we will do postmortem on matters of corruption? We are not opposed to the project and we are not saying it should be scaled down. We are saying that it can be enhanced if the money that has been provided for can be used properly to source for proper equipment, be taken to proper places and ensure that these projects operate.

We are living in exciting times where each one of us should be happy to be a Senator. We should make every contribution in this House to ensure that there is a success in matters of running the affairs of the State.

I beg to support.

**Sen. Ole kina:** Thank you, Mr. Temporary Speaker, Sir. I rise to support this Motion on the report of the consideration of the Warehouse Receipts Systems Bill (Senate Bills, No.10 of 2017)

From the onset, I associate myself fully with the sentiments of my colleagues. I thank Sen. Ndwiga and his Mediation Committee for having stood their ground and for ensuring that whatever happens in this country, this House is part and parcel of it.

I am happy with the fact that when you look at the representation, for instance, the Senate did not agree with the Council of Governors (CoGs) appointing one person in the county governments to represent the county governments in the council. I am happy with the amendments made to ensure that there are at least two people.

Madam Temporary Speaker, when we talk about devolution, we want more services and resources to go to the people. I am happy that when we talk about warehousing receipts, it is a process where, in future, just like other countries, for example, Brazil, South America, counties and wards will align their existing resources, build their warehouses, support their economies and end all these issues of food insecurity.

If there is any Bill that will propel this great nation into a true manufacturing sector, is The Warehousing Receipt Systems Bill. I am happy that this House has clearly thought out this Bill by first rejecting it as it came from the National Assembly. Therefore, when it becomes law, within a short time, no single Kenyan will be left unemployed.

Madam Temporary Speaker, the issue of credit will become easy. It will become simple because if a person has his or her commodities and the prices are bad, he or she can store them, get a receipt, go to a financial institution, gets some money. When the price is right, he or she can sell it and progress. The gap between the rich and the poor in this country is so wide. It is only this House that will ensure that we narrow it.

Madam Temporary Speaker, in the first 10 years of the former President Moi's era, this country grew and developed a bigger middle class. The agricultural sector became much more productive. I do not know what happened that things are now going down. However, I appreciate the words of the Senate Majority Leader who said that we, as Senators, should be proud of the work that we are doing here. We should take every minute to ensure that we fight for our counties and for devolution, so that we can support our country.

Madam Temporary Speaker, the issue of mediation is something of give and take. I have looked at the report and seen some of the things that we let go. However, I am quite pleased with the work that Sen. Ndwiga and his Committee did in ensuring that the majority of the amendments passed by this House went through. It showed the difference between those people who pay attention to detail versus the ones who become voting machines.

Madam Temporary Speaker, I assure the Senate Majority Leader in that Mediation Committee that we will sit in, I will ensure that county governments get money. I am happy that I sit in County Public Accounts and Investment Committee (CPAIC). I will also ensure that governors account for that money. It is true that if counties steal a lot of money, we will see. So, unless we follow to see what is happening in the county governments, a lot of money will disappear in the national Government. This is because more corruption is in the national Government.

Madam Temporary Speaker, I assure Kenyans that the basis of discussion in the Mediation Committee on Division of Revenue Bill shall begin from Kshs335 billion that we passed in this House.

Madam Temporary Speaker, the issue of the Managed Equipment Services (MES) it is a total mess. If mediation will start by them telling us that we must bring this in, then they, first of all, must account to what happened to all the billions that were deducted from the county governments yet they did not know. The pace set by Sen. Ndwiga and his Committee; we will take it a notch higher to ensure that this House will forever be respected.

Madam Temporary Speaker, these are interesting times. However, it can only get interesting when we pay attention to detail and continue to do our job diligently and make the people who elected us proud, so that they can give us a second chance.

I support.

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. I rise to support the Motion that has been placed before the House by the Mediation Committee. I first congratulate the Chairperson of the Mediation Committee, Sen. Peter Njeru Ndwiga and the Members who sat in the Committee, Sen. (Rev.) Waqo, Sen. Ochillo-Ayacko, Sen. (Dr.) Langat and Sen. (Dr.) Zani for a job well done.

Madam Temporary Speaker, if our beloved President watches the business transacted in the Senate, then he should know that this is the decent way of doing business. The idea of sneaking Bills that touch on devolution through the National Assembly without the input of the Senate should not be encouraged or condoned by him. If there is anybody who ought to understand this Constitution, it should be the Head of State. Therefore, I urge those who advise the President not to mislead him to assent to Bills that are enacted by The National Assembly that involve devolution, but have not had the benefit of consideration in this Senate.

Madam Temporary Speaker, I take the cue from the Senate Majority Leader, Sen. Murkomen that we have nothing to fear. We have so many institutions in this country that check on excesses of some offices.

I am speaking as a senior counsel who has practiced law in this country. I know that Bills that are unconstitutional can be annulled by the courts of law. Therefore, I tell my President that we will not sit back as the constitutional mandate of this Senate is eroded. If need be, we will move to court and seek to annul each and every Bill that is enacted by the National Assembly and is assented by him without the input and consideration of this House. That will not be a crime. We will be performing our constitutional mandate which is to protect and defend devolution. We are embolden by the fact that the Supreme Court has already given an advisory opinion that there is no limit to the number of Bills that must come to the Senate as long as they touch on devolution.

Madam Temporary Speaker, secondly, I wish that the Senate Majority Leader was here to listen to what I am saying. He has thrown blame on the side of ODM Party. However, we have a body called Intergovernmental Budget and Economic Council (IBEC) which determines the sharing of revenue between the national and county government.

The IBEC which brings together all governors and the national Government is chaired by none other than the Deputy President of this country, Hon. William Ruto. This crisis we have today is because he was not able to provide leadership at the IBEC level. If

he had provided leadership and agreed that counties need more resources, then they could have passed a resolution that counties should get Kshs335 billion.

I want to urge my good friend, Sen. Murkomen, to whisper to the DP about this issue because he will seek votes from our counties in 2022. We need to see him being in the forefront. When H.E. President Uhuru Kenyatta took over in 2013, the budgetary allocation for the National Intelligence Service (NIS) Kenya was a meagre Kshs14 billion. Within a period of four years, the allocation to the NIS has shot up to Kshs36.6 billion. It is all for Recurrent Expenditure and not for any development.

How can we deny our counties an increment of just Kshs20 billion, from Kshs314 billion to Kshs335 billion while we are allocating colossal sums of money to the NIS? All this money is just for them to listen to what we are speaking in our counties. We do not pose any threat to this country. When we go to our counties, we are reminding the country about theft that is taking place at both the national and county government level. We do not pose any security risk. The people that need money are those that reside in the counties. Let us call a spade a spade.

Madam Temporary Speaker, when we retreat to our counties, we must tell the people who reside there that the enemies of the leaders are the people who sit at the National Assembly. We have performed our duties by proposing that the counties should be supported financially by making a provision of Kshs335 billion. However, they want counties to receive Kshs310 billion.

When the old people die because there is no medicine, we will tell them to blame it on their Members of the National Assembly. When we will not be able to do any developments in our counties, we will tell our people to blame the Members of the National Assembly because they are the ones who are denying resources to our counties.

Madam Temporary Speaker, water is a devolved function. When we will be unable to provide it to our people or when our aunties, sisters and cousins will be forced to trek several kilometres to collect it from rivers, we will point fingers at the National Assembly.

There is no justification in a situation where the National Government is controlling Kshs1.7 trillion and yet one is still arguing that counties should not get Kshs335 billion. It is a shame.

Madam Temporary Speaker, I did not get a chance to make a comment on the issue of D+ qualification for primary school teachers. The late Prof. Ali Mazrui was a renowned professor in this country. Prof. Mazrui scored Division Four. However, he moved to the United States of America (USA) to advance his education. He got his first degree, Master's Degree and PhD. He became a renowned professor and writer. Why should we deny our children an opportunity to advance themselves simply because they have scored a D+?

Madam Temporary Speaker, scoring a D+ does not mean that you should never get a second chance. You do not have to get a formal education to be a great person in this world. George Washington, the first President of the USA, never had any formal education. However, he rose to become a respected President in the USA simply because he was given an environment to pursue his dreams.

We cannot have a country where a professor thinks that he is the only one that has a monopoly of good brains. Since he is a professor, he does not want other Kenyans to get an opportunity of advancing themselves academically. This is something that we should not tolerate.

The time is ripe for us to have a constitutional amendment that will do away with this idea of picking CSs outside Parliament because these are people who never engage with our people. They live in the ozone layer. They do not understand the problems that people face in this country. They do not understand that in some marginalized areas, scoring a D+ is a big effort. People walk for more than five kilometres to go to school. How do you expect such people to compete with somebody in Alliance High School in Nairobi?

Madam Temporary Speaker, some of the CSs are what I would describe as incompetents in the Government. We must embrace everybody who is a citizen of this country.

I fully support this Motion by Sen. Ndwiga and urge the men and women who have had the privilege of representing the Senate in the mediation process to stand their ground and negotiate in a hard way. They should ensure that we do not cede our ground, but protect the interests of our counties, the people who have sent us here to represent their interest.

I urge everyone to read the American history on the negotiations that take place between the Senate and the Congress. It is serious business. At times, the choice of venue where the meeting will take place is an issue. Whenever the Senate of the USA feels that the issue is weighty, they will insist that negotiations be done on the side of the Senate. I urge our good friends, the Senators who have been privileged to represent us in these mediation committees, to stand their ground and remember that they represent the counties. The Senators have the approval of people of a particular county to represent them in the Senate.

Madam Temporary Speaker, in Nyamira County, for example, we have four Members of the National Assembly. The tally of their combined votes cannot match the votes that I garnered as a Senator. Therefore, if I am given an opportunity and privilege to represent the Senate, I must speak with the authority of the entire Nyamira County. This is because I represent the people of that county.

I urge my friends who will represent us in the Mediation Committee to do a good job. I have no doubt that they will do a good job and ensure that we defend the interest of our counties by sending enough resources to ensure that there is service delivery to our people at the county level.

Madam Temporary Speaker, I beg to support.

**Sen. Pareno:** Madam Temporary Speaker, thank you for giving me the opportunity to support this Report prepared by the team that was led by Sen. Ndwiga. I want to thank them for tabling it very fast. This is the first of the mediation reports that have been brought back to this House after being sent to the Mediation Committee. They did it in a very short time because I know that they took time during the recess period to work when others were away. We thank them for the commitment and coming out

strongly. This is the way to go between the Senate and the National Assembly. I wish we could just mediate and agree on a lot of these things.

Madam Temporary Speaker, it is sad to think that the National Assembly keeps on talking about the Senate while we here also keep talking about them. If we do not agree on these Bills, the person who will suffer is the citizen down there. Any time that matters have to go for mediation, it holds the services that the people we represent should be receiving.

I thank the Committee for expediting this matter and taking it upon them to see it is settled in the manner that it was anticipated. I wish the Senate Majority Leader was here because I heard him talking about us leaving a legacy. He mentioned the Orange Democratic Movement (ODM) and I being one of the leaders of the party. Legacy does not just come when you want or feel it is the time to leave a legacy. I was wondering when he was talking about us leaving a legacy.

With the Ruaraka land saga, I wondered whether we thought about leaving a legacy at that time. Does it mean that at that time the citizens did not deserve some good service that we should be proud of tomorrow? Are we proud of this House having left some record that shows that people voted against recommendations of a Committee that indicted CSs in this Republic? Is that the legacy that we should have left at that particular time? I think we should be serious. It is either legacy or no legacy. We should not talk about legacy only when it suits us, or when we think it is the time to say we are leaving a legacy. If you have to leave a legacy, you have to do it all through.

As he was contributing, I also thought about the Solai Dam Tragedy Report. Families lost their beloved when water swept them. However, it was hard to get people to append their signatures on our Report. You could clearly see that there was a problem. People even said that the matter was *sub judice* and we ought not to have discussed it. Of course, we were guided by a good ruling by our Speaker, but what legacy did we leave when it came to the Solai Dam Tragedy Report? Did we show that we care about what we leave behind as a Senate? I am sure that there are areas we have shown the negative.

Yesterday we discussed about our elections laws. You can recall the situation we were in in 2017, but what did we say yesterday? Members were on record on whether we want this country to prosper when it comes to electoral malpractices. We keep talking about leaving a legacy when it suits us.

I am not speaking on behalf of Hon. Mbadi in the other House, but I can definitely speak for my party. We stand for devolution. Just because Hon. Mbadi made his submissions on the other side, it does not mean that the ODM does not support devolution. The devolution we have today is because of the fight by the ODM. In fact, I dare say that if it were not for “Baba” or His Excellency Raila Amollo Odinga, we would not be where we are today in terms of devolution.

So, devolution is his and our baby. It is now a national baby because for those who voted “No” during the Referendum, they are now benefiting from it. They are now speaking loudly that we should protect devolution yet they voted against the devolution aspect during the referendum to pass the Constitution, 2010.

Devolution is here to be protected and we stand for devolution. In fact, every other Kenyan has followed suit and they stand for devolution. When you touch on

devolution in this country, you will be touching the heart of each and every individual in this country. It is something that we all fought for. I hope that the National Assembly will see the good in supporting that we allocate Kshs335 billion to the counties.

We cannot have counties with services to offer and keep saying that the health docket is not doing well because it is being run by counties or the other thing is not doing well because it is under counties yet the counties do not have enough funds. We leave many resources at the national level yet we have devolved so much to the counties. As Members of the Mediation Committee will be doing their work, let us fight for the counties. However, we should not stall the progress. If we do so, it means that the same counties will suffer.

I applaud the Committee headed by Sen. Ndwiga for reaching a give-take position. I am not asking that our Members give away the Kshs335 billion, but I am sure that something good will come out of their mediation. Even those Members from the National Assembly should know that success in the counties is in their hands. If they do not reach an agreement, then it means we will be stalling the processes in the counties.

Madam Temporary Speaker, I congratulate the team for a job well done. I thank you.

**Sen. Faki:** Asante, Bi. Spika wa Muda, kwa kunipa fursa hii ya kuchangia Ripoti ya Uwiano ambayo imeletwa hapa na Sen. Ndwiga. Kwanza nampongeza Sen. Ndwiga pamoja na wenzake ambao walikaa katika Kamati ya Uwiano wakakubaliana na kuleta mapendekezo kuhusu The Warehouse Receipt System Bill, 2017. Bunge inafaa kufuata njia hii ili kuondoa mtafaruku kati ya Senate na National Assembly.

Kulikuwa na umuhimu wa kuwepo kwa The Warehouse Receipt System Bill. Tukipitisha Ripoti hii itakuwa imepitia bunge zote mawili. Sisi kama Wabunge tuna kiapo kimoja kwamba tutakuwa waaminifu kwa Jamhuri ya Kenya na Katiba yake. Sioni kwa nini kuwe na mvutano baina ya Mabunge haya mawili. Wenzetu walipokutana kule Mombasa, walitumia fursa hiyo kutukashifu. Walisema kwamba sisi hatufanyi kazi yetu kama Senate.

Katiba imetoa mwongozo kwamba kuwe na bunge mbili; Seneti na Bunge la Taifa. Tunajua kila Bunge lina kazi yake. Katiba pia inasema kuwa iwapo Mswada utapitishwa katika Bunge moja na ukataliwe katika Bunge jingine, tunafaa kuwa na Kamati ya Uwiano ili kuchunguza mahali kuna shida na mapendekezo yao yanafaa kukubaliwa na bunge zote mbili. Kwa hivyo, mwongozo wa Sen. Ndwiga unafaa kufuatwa na kamati zote za Senate.

Bi. Spika wa Muda, tulijadili hapa tarehe 30 mwezi uliopita, tulijadili hapa The Division of Revenue Bill na tukapendekeza marekebisho fulani ambayo yamekataliwa na Bunge la Taifa. Hayo yanafaa kushughulikiwa na kamati ya uwiano ambapo kuna Maseneta ambao watawakilisha Bunge hili ili kujadili Mswada huo.

Maseneta wote hapa wana tajriba ya kutosha kuwawezesha kukaa katika kamati yoyote na kuongoza katika nyadhifa zozote wanazopewa. Kwa hivyo, hatuna shaka kwamba watawasilisha maslahi yetu na maslahi ya kaunti zote katika Jamhuri ya Kenya kikamilifu. Sisi kama Seneti tutakubaliana na uamuzi wao.

Jana Kiongozi wa Wengi katika Seneti alisema kuwa Mswada ulitiwa sahihi na Rais kuwa sheria bila ya sisi kuhusishwa. Ni jambo la kustaajabisha kwamba Kiongozi

wa Wengi katika Seneti alipeleka kilio matangani. Hiyo ni sawa na kupeleka kilio matangani kwa sababu yeye kama Kiongozi wa Wengi katika Seneti anakaa katika the Senate Business Committee (SBC). Kwa hivyo, wao ndio viongozi wa Seneti. Wamechukua hatua gani kuhakikisha kwamba malamiko yetu yanafikia ofisi husika? Wangeandika barua ya malalamiko kwa Mkuu wa Sheria, Spika wa Bunge la Taifa na Ofisi ya Rais kwamba Sheria hiyo ilipitishwa bila ya kujadiliwa na Seneti kama inavyoeleza Katiba.

Kwa hivyo kuja hapa kutulilia haitasaidia chochote kwa sababu tayari sheria imepitishwa na sisi kama Bunge la Seneti inafaa kuwapa mamlaka ya kusonga mbele ama aidha kuandika barua ya malalamiko kwa Mkuu wa Sheria kwa kuruhusu sheria ile kuwekwa sahihi na Rais bila kufuata Katiba.

Kazi yetu kubwa ni kulinda masilahi ya kaunti. Haya ndiyo masilahi ya watu wengi ambao tunawawakilisha katika Bunge hili la Seneti. Ni lazima tulinde masilahi yao. Lazima katika hizi taasisi mbili; Bunge la Seneti na Bunge la Kitaifa, kuwe na heshima katika ofisi ambazo tunaendesha kwa sababu sisi sote tumeapa kiapo kimoja, tunaongozwa na Katiba na tunachukua mwongozo kutokana na Katiba hiyo. Kwa hivyo, ni lazima kuwe na heshima ile tunaita kwa Kiingereza “*mutual respect*.” Heshima hii itafanya kila mtu akitekeleza majukumu yake kulingana na Katiba.

Bi. Spika wa Muda, nakushukuru kwa kunipa fursa hii ya kuchangia. Hii ni mara yangu ya kwanza kuongea katika muhula huu ambao tumeanza jana, ninawatakia Waislamu wote na Maseneta wezangu Waislamu katika Jamhuri ya Kenya Ramadhan Mubarak.

**Sen. Wario:** Asante, Bi Spika wa Muda, kwa kunipa fursa hii ili pia niongeze sauti yangu katika Mswada huu ambao Sen. Ndwiga walilizungumzia na kuweka uwiano unaokubalika kwa watu wote. Hakuna haja ya Bunge la Kitaifa na sisi kama Seneti kuvutana hapa na pale. Waliotuchagua walifanya hivyo ili tuje tungengeneze na kurekebisha pahali ambapo pameharibika. Tukivutana huko na kule, na waliotuchagua wapate shida, itakuwa ni hasara kubwa kwao. Tunapovutana wanaoumia si sisi katika bunge hizi mbili bali ni wale ambao walituchagua.

Ugatuji ni kitu kizuri kabisa ambacho Wakenya wote wanaliunga mkono sana. Wakenya wameukumbatia kwa moyo wote. Wakati huu, kama kuna mtu yeyote ambaye anataka kuharibu ugatuji, basi atakuwa ameguza nyoyo za watu wa Kenya. Ugatuji mahali ulipofikia wakati huu, ni ugatuji safi ambayo ukitoka juu, unakanyaga chini na wale ambao watakuwa na nia ya kuongeza mambo mengine kwa ugatuji, watakuwa wanaweka uzito mkubwa kwa watu wa Kenya.

Uwiano ni kitu kizuri sana. Kamati hii ambayo imekaa na ikasema haina haja ya watu kuvutana na wakaleta uwiano ilifanya kazi nzuri chini ya Sen. Njeru Ndwiga. Ninaunga mkono na ningependa pia kumuunga mkono Seneta wetu wa Kaunti ya Mombasa kwa kuwatakia Waislamu wote Ramadhan njema. Pia mimi ninawatakia Waislamu wote katika Kenya Ramadhan njema.

Ninaunga mkono.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I see no other request. Therefore, I ask the Mover to reply.

**Sen. Ndwiga:** Madam Temporary Speaker, from the onset, I thank my colleagues for the support they have given this Bill, so far. I thank them most sincerely for the comments they made about my Committee. I salute them for the support that they have given us this far. Please, accept my most sincere thanks.

This Bill will be so useful for this country, particularly for the cereal farmers and other farmers who produce nonperishable products. Never again in this country will our people sell their goods and wares to middlemen just because the prices are not right.

Madam Temporary Speaker, you may remember when we were in the *ad hoc* Committee on maize that you headed, when we met the farmers in Eldoret, you heard the cries of our people. Once they harvest, the brokers buy their produce at throw away prices. When the National Cereals and Produce Board (NCPB) is not buying their produce, the same brokers continue to harass them and buy their produce at a song. This Bill means that, now as people's representatives, our major task would be to monitor international commodity prices and we will be able to advise our people on the best time to sell or dispose of their produce.

I could give you many examples. If you travel round the country today, all the coffee farmers are up in arms coffee price in the world this year is at its lowest level. The farmers have no option, but to offload their produce. In fact, I am surprised, I do not even know how they will survive in the other seasons. However, with this Bill in place, it is now possible to warehouse your produce, get your receipts, and get financing so that you can wait for the time when the prices are good.

Majority of coffee farmers delivered their produce to the millers and other places between December last year and March this year. The coffee that was offloaded to the world market has received such terrible prices. However, those of us who are keen and follow commodity prices know that from September this year, coffee prices will shoot up again. That is the truth because we have already offloaded our best quality coffee to the world market. Therefore, we will not enjoy the benefits until next year.

I am thrilled that this Bill will help the Kenyan farmer to reap maximally at the right time. They will also have facilities that will enable them do whatever they want to do with money before reaping from the right prices.

Madam Temporary Speaker, I beg to move and request that pursuant to Standing Order No.63, we defer putting of the question until tomorrow.

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

Senators, I have determined that this Motion touches on counties and we cannot vote today. We will, therefore, vote tomorrow.

*(Putting of the question on the Motion deferred)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, after consultations, I will defer Order Nos. 10, 11, 12, 13, 14, 15, 16, 17 and 18.

**BILL**

*Second Reading*

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

*(Bill deferred)*

**COMMITTEE OF THE WHOLE**

THE COUNTY EARLY CHILDHOOD EDUCATION BILL  
(SENATE BILLS NO.26 OF 2018)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PUBLIC PARTICIPATION BILL  
(SENATE BILLS NO.4 OF 2018)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE)  
BILL(SENATE BILLS NO.22 OF 2018)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

THE TREATY MAKING AND RATIFICATION (AMENDMENT)  
BILL (SENATE BILLS NO.23 OF 2018)

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**COMMITTEE OF THE WHOLE**

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

*(Committee of the Whole deferred)*

**BILLS**

*Second Reading*

THE DETERMINATION OF THE NATURE OF BILLS  
(PROCEDURE) BILL (SENATE BILLS NO.30 OF 2018)

*(Bill deferred)*

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

*Second Reading*

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

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

*(Resumption of debate interrupted on 14.5.2019)*

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, Sen. Pareno was on the Floor when we adjourned yesterday and she still has 19 minutes.

**Sen. Pareno:** Thank you, Madam Temporary Speaker, for giving me this opportunity to continue with the debate that we started yesterday on The Election Laws (Amendment) (No.2) Bill (Senate Bills No.37 of 2018).

Sen. (Dr.) Zani told us that the returning officer in the Kinondo Ward recorded a tie during a by-election. That did show that he was an honest man because other officers would have done the things that we have seen in the previous elections. We should have applauded the returning officer for reflecting the wishes of the people. A by-election was

called to determine the winner and the ODM candidate won the seat with a small margin, which was a clear indication that the people of Kinondo Ward liked the two candidates.

After winning that seat, ODM had more numbers in the county assembly, but the Independent Electoral and Boundaries Commission (IEBC) did not adjust the nomination slots. They said that they do not have a law for that. When IEBC does not want to do something, they always have an excuse, and I am a witness to a lot of malpractices done by them. They once said that they have a way of interfering with the party list, just for them to again say that they do not know how to interfere with it. The excuse they gave was that they do not have a law.

The IEBC interfered with a lot of party lists and that is why we were discussing party lists as late as last week. We have cases where IEBC received letters from people who have no authority and went ahead to declare a sit vacant and replaced one person with another. They even published a *gazette* notice without crosschecking with the party.

I am so cross with Chebukati and the IEBC team. One cannot interfere with party lists. We took a case to court, where one of the IEBC officers removed our candidate and placed his own mother in the nomination list. It has taken the party so long to correct that, and they are yet to explain to us how it happened. Someone has to be held accountable for doing such a wrong thing.

At the moment, I have a case in Kajiado that I do not want to discuss much because it is still pending in court. In that case, the IEBC received a letter from someone with no authority and went ahead to replace a candidate without the party's directive or resolution. The laws that we are amending will help streamline these things. The IEBC will always give the excuse of not having laws when they do not want to do something, but will be the first ones to produce *gazette* notices and go ahead to say that the law does not allow them to change something that is already in the *Kenya Gazette*. I support these amendments, but we have to sweep the IEBC.

We had a caucus the other day where we discussed ways of improving party primaries. We proposed that the Registrar of Political Parties be given more power in order for her to protect the parties and their interests. We felt that the holder of that office is unable to act because a lot of the things they are supposed to do are being done by the IEBC. We all agreed that IEBC cannot resolve disputes when they are part of the mess.

The IEBC cannot be the prosecutor, judge and witnesses. We have to separate some of these things. The IEBC should stop hearing disputes arising from political party lists and nominations. Instead, the disputes should be heard by another body.

I support the proposal by Sen. (Dr.) Zani. However, as we were also discussing the other amendments by Sen. Olekina, I kept saying that what we need are comprehensive amendments and an overhaul of our electoral system and laws. This is to include all that we need to tighten up that we think is loose. That should be the case instead of Sen. (Dr.) Zani bringing this amendment today, and yesterday, Sen. Olekina brought another. Tomorrow, we will be proposing others after doing that caucus on political parties with the Registrar of Political Parties. We just need to sit down and sort out this mess once and for all.

Looking at the laws provided for, we also need to check whether we are taking the right steps towards the year 2022. We also need to ensure that we have the goodwill to do the right thing in this country when it comes to the election processes.

Madam Temporary Speaker, I beg to support.

**The Temporary Speaker** (Sen. (Prof.) Kamar): Hon. Senators, I see no further request. In absence of the Mover, I will defer the response to tomorrow.

*(Bill deferred)*

Hon. Senators, once again, after consultations, I defer Order No.20.

*Second Reading*

THE NATIONAL COHESION AND PEACE BUILDING  
BILL (SENATE BILLS NO.35 OF 2018)

*(Bill deferred)*

Next Order!

Hon. Senators, after further consultations, I defer Order Nos.21, 22, 23, 24, 25, 26 and 27.

*Second Reading*

THE KENYA MEDICAL SUPPLIES AUTHORITY  
(AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)

*(Bill deferred)*

*Second Reading*

THE COUNTY HALL OF FAME BILL  
(SENATE BILLS NO.39 OF 2018)

*(Bill deferred)*

*Second Reading*

THE PERSONS WITH DISABILITIES (AMENDMENT)  
BILL (SENATE BILLS NO.1 OF 2019)

*(Bill deferred)*

## MOTIONS

### 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 support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

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

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

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

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

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

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on

Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

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

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

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

*(Motion deferred)*

REALIZATION OF GENDER EQUITY IN ELECTIVE  
AND APPOINTIVE POSITIONS IN KENYA

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

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

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

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

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

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

NOW THEREFORE THE SENATE RESOLVES

(1) That Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,

(2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

*(Motion deferred)*

REPORT ON THE COUNTY GOVERNMENTS BUDGET  
IMPLEMENTATION REVIEW FOR FY 2017/2018

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for Financial Year 2017/2018, laid on the Table of the Senate on Wednesday, 27<sup>th</sup> March, 2019.

*(Motion deferred)*

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

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

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

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

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of

multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in the 1992 general election;

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

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

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

*(Motion deferred)*

Next Order!

ESTABLISHMENT OF THE INFRASTRUCTURE NEEDS  
OF SELECTED COUNTY GOVERNMENTS

**Sen. Omogeni:** Madam Temporary Speaker, I beg to move the following Motion-

AWARE that the Senate, on 16th July 2015, resolved to establish an *ad hoc* Committee to inquire into the status of County Headquarters and identify the needs of each of the forty-seven counties, which would form the basis for possible assistance to the identified counties;

RECALLING THAT the *ad hoc* Committee on County Headquarters tabled its Report in the Senate on 3<sup>rd</sup> December, 2015, in which it recommended that 11 Counties be supported as follows:

(1) Those in dire need and requiring immediate assistance (‘AA category’): Isiolo, Lamu, Nyandarua, Tana River and Tharaka-Nithi Counties; and,

(2) Those requiring assistance to help them develop their Headquarter infrastructure (‘A category’): Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties.

FURTHER RECALLING THAT with regard to the five counties classified under the ‘AA category,’ the Committee recommended that each be allocated a sum of Kshs.800 million as conditional grants, while the six counties classified under the ‘A category’ be each allocated a sum of Kshs.300 million as conditional grants;

AWARE THAT the Senate, on 1<sup>st</sup> March, 2016, adopted, without amendments, the Report of the *ad hoc* Committee on County Headquarters;

COGNIZANT THAT following the said resolution of the Senate, conditional grants have been advanced to the five counties classified under the 'AA category' during the financial years 2017/2018, 2018/2019 and further allocations have been budgeted for the Financial Year 2019/2020;

CONCERNED THAT to date, no allocations have been made by way of conditional grants to the six counties identified as requiring assistance under 'A Category,' and that these counties continue to experience grave challenges in terms of infrastructure that have hampered their operations;

AWARE THAT the said counties are at various stages of putting up the infrastructure required to make them fully operational, and that some may have already been completed;

ACKNOWLEDGING THAT the Senate is mandated to protect the interests of counties and their governments, which includes ensuring that the county governments are fully operational;

NOW, THEREFORE, the Senate resolves that the Standing Committee on Devolution and Intergovernmental Relations undertakes an assessment of the current status of county government facilities in the following counties, and to report to the Senate within three months:-

(1) Under 'Category AA': Isiolo, Lamu, Nyandarua, Tana River and Tharaka-Nithi Counties; with a view to ascertaining uptake of the funds allocated so far, progress made in construction of County Headquarter facilities, and whether any additional budgetary support is still required; and,

(2) Under 'category A': Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties; with a view to ascertaining the current status of County Headquarter facilities, which would form the basis for possible budgetary assistance to the said Counties.

Madam Temporary Speaker, the issue of county headquarters for our county governments is key to the delivery of services. If I can pick the case of the county I represent, which is Nyamira, we still remain squatters; sharing offices with the County Commissioner. The county government continues to operate from offices that were under the national Government. This does not give a good face of what should be the county headquarters.

Madam Temporary Speaker, I have had the privilege of visiting a few counties. I want to give an example of Bomet County. It has a county headquarters which somebody, even if it is a tourist visiting the county, would identify and know it as the headquarters of the County Government of Bomet. We gave our counties the title "county governments." This is a government. We have two levels of government in this country; the national and county governments. Therefore, the name that has been given to our counties should reflect the image of the headquarters of a government.

Madam Temporary Speaker, it is not right that six years after the inception of devolution, we still have county governments that are being housed by the national Government. It is, therefore, important that the Senate Committee on Devolution and

Intergovernmental Relations visits our counties to ascertain those that are in need, especially those under Category A and C. This would be to see if, in accordance with Article 216 of our Constitution, the Commission on Revenue Allocation (CRA) can extend some financial support to the headquarters.

Madam Temporary Speaker, the key thing in devolution is to ensure that service delivery is made easier and accessible to the people who reside in our counties, whom we serve and represent here. However, it does not make sense for county headquarters and the various key departments to be scattered all over in various buildings in town.

That is the case we have in Nyamira County. It is only our governor, county secretary and the deputy governor who have space within the offices of the County Commissioner. If he wants to consult his County Executive Committee (CEC) Member for Finance, who is in another building, he has to send word for the CEC to be called.

Madam Temporary Speaker, if the governor is at his offices and wants to get answers, it does not make sense. This is because the governor has to wait for somebody to take another 25 minutes to come all the way to the office. Therefore, to enhance service delivery, it makes a lot of logic, sense and efficiency to ensure that counties have their headquarters where key departments are housed in the same building as the governor.

Madam Temporary Speaker, in the case of Nairobi County, if a person travelled to this country from Europe and he or she drives through the County Government of Nairobi, he or she will see by the face of that building that they are driving by the county headquarters of the County Government of Nairobi County. That is not the case in Nyamira County. In fact, it is sad that in Nyamira County, you will not notice where the county government is housed. This is because the face that a person sees is that of the national Government. They are the offices of the County Commissioner.

Madam Temporary Speaker, I was in Kericho County three weeks ago where I saw a fantastic building that has been put up by the County Government of Kericho. When you enter into the building and the office of the governor, you get the impression that you have entered the office of the president of that county government. That is the image that we want to see.

More importantly, the Committee made the resolution that counties under Category A be supported. Therefore, we need to know whether this money was put into good use. What is the status of the headquarters that were to be supported? Has any construction taken place? We should not just give money to our counties and not follow the expenditure. We need to ensure that this money is put into good use.

I would like to hear from the Senators who represent Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi counties and know whether the money that was allocated to them was put into good use. Did our governors commence construction? Is there value for money? Is it something that we can be proud of as the Senate that we supported the construction of headquarters in those named counties? Are we proud that indeed buildings that are commensurate to the funds that were given to those counties were put up?

This Motion, therefore, seeks to enhance accountability and also bring the Senate to speed. We need to know whether the money was not enough and a report tabled before

the Senate, so that we make a determination whether we need to extend further support to our counties.

Madam Temporary Speaker, we also need to be alive to the fact that the people of Kenya designed county headquarters to be areas which were district headquarters by the year 1992. There were some counties that were unfortunate and marginalized. For example, in Nyamira County, for a long time, we operated from Kisii. It was our headquarters for the larger Kisii community. They had better infrastructure. Kisii County does not need to build new headquarters for the governor. This is because, what was the municipal council then is a decent building. I have visited that office and the governor and the deputy governor have decent offices. Their key departments are housed in the same building with the governor. Therefore, in a very proactive manner, we should try to uplift counties that were marginalized.

The economic endowment of counties is not the same. There are some which had good financial support. Most of these municipal councils used to raise money through rates charged on properties. Therefore, you cannot put Tana River County, for example, in the same category with Nairobi County, which was fortunate enough to find itself in the capital city. It has more resources and is spoilt for choice in terms of infrastructure. The offices that house the good Governor of Nairobi County is next to City Hall, which is an 18 floor building. If he wanted to set up all the departments within that building, it is two minutes away from his office. That may not be the same case with other counties.

Two months ago, we made a visit to Kajiado County where they are yet to put up their dream county headquarters. What they have are prefabs, which are temporary structures. Therefore, it is incumbent upon us, in furtherance of Article 96 (1) of the Constitution, because we serve to represent and protect counties and their governments, to support some of the counties that may be marginalized. This will ensure that they come up and be in the same status as other counties.

Madam Temporary Speaker, with those remarks, I wish to request my good friend, Sen. Wario, who represents the good County of Tana River to second my Motion.

**Sen. Wario:** Thank you, Mr. Temporary Speaker, Sir, for giving me this chance. I rise to second this Motion by my good friend, Sen. Omogeni, on the establishment of infrastructure needs of selected county governments.

Madam Temporary Speaker, some of the counties in Kenya are lucky to find themselves where they are today. An example is the counties of Nairobi, Mombasa and Kisumu, which found themselves in the cities of Kenya. It is unfortunate to get some of the counties as they are today. One of the counties that are less privileged is the county that I come from, that is Tana River County.

Madam Temporary Speaker, when you go to Tana River County, you will find offices scattered all over. Some are in rental houses in the former district headquarters and the district hospitals. It is only the governor and his deputy who have decent offices. However, the other offices are scattered all over.

Madam Temporary Speaker, it is good for these offices to be in the county headquarters. It will be easier for people who seek some operations to go into a county headquarter, where they will get different offices in one place, so that they are offered services in a decent manner.

Madam Temporary Speaker, as we speak, Tana River County, the county that I come from has started some infrastructural development outside Hola Town, which is the headquarters.

I travelled to some of the counties and found that there is a big margin compared to where I come from. Therefore, this Motion comes at a time when we need to develop these counties.

Madam Temporary Speaker, I support my good friend for bringing this Motion.

*(Question proposed)*

**Sen. Pareno:** Madam Temporary Speaker, I rise to support this Motion. There must have been a criterion that was used to arrive at these 11 counties that were selected. For the Committee to have indicated that some are in dire need and others need to be assisted, there must have been some good reason.

It is sad that it is now almost four years since that particular need was identified, yet it is being reported that some of them have received assistance while others have not, even when the *Ad Hoc* Committee identified these counties to be in dire need of some infrastructure. I am sure the intention was to give them assistance to develop their headquarters.

I am aware that there were also proposals to give them support to develop residences for governors. That was meant to take services closer to the people and ensure that the services are accessible. You can imagine the situation in Lamu and Nyamira counties, where the governors' offices and the other departments are not in the same place and there is no connectivity. That in itself is a hindrance to the services the people are supposed to get. So, some urgent intervention is required and I thank Sen. Omogeni for bringing this Motion to follow up on a matter, where there was a way forward in 2015 but it was not followed up to that extent.

I remember sometime back, before we went on recess, we had a report from the Auditor-General and another one from the Controller of Budget (CoB) indicating that some counties spent much money for building governors' residences. Some of the counties that "are able", not necessary these ones, spent much money on building governors' residences and the infrastructure that was required. In fact, in that report, it was indicated that a ceiling had been put on how much a governor could use for building county headquarters and construction of residences for county executives.

There was an outcry all over after that report came because too much money had been allocated for construction of residences and county headquarters as compared to infrastructure development. While some counties are suffering because they lack infrastructure, those that are not in dire need are misusing resources they have. I wish they could donate to those that do not have.

There are those that overspent on their residences and county headquarters, when our mothers do not have water and there are no hospitals and schools. It is a pity that on one hand, there are county governments that overspent and wasted money on residences and infrastructure, while on the other hand we have counties that are barely surviving and people do not get the benefits of devolution and services that they were meant to access.

This is a good Motion by Sen. Omogeni that needs support. It will be good for the Committee to go round checking the status. If the situation was dire in 2015, it might not be the same in 2019. We might have some counties where the situation has changed, apart from the ones that Senators themselves have identified like Lamu, where the situation is still the same because the offices are not in the same place and the rest of the department offices, apart from the Office of the Governor and his deputy, are not conducive. Apart from the ones that we have got direct reports from the Senators from those counties, probably, as we go round the other counties, the status that was there in 2015 has changed.

We need to know whether they are worse off or have improved and done some of their headquarters and residences for the governors. Again, if they did, then we need to see value for money. As this Committee goes round, they need to check that we do not get the same problem that was identified by the Auditor General with the counties that are wasting money instead of using it properly – pretending that they are doing residences and headquarters when in real sense it is wastage of money. As they assess the situation, we should see value for money in the constructions that have gone on from 2015 when this report was done, so that we do not also have a problem.

I remember that the Controller of Budget (CoB) provided a ceiling. So, is it there? If the money has been given, it should be within the ceilings that the CoB already identified for particular projects that are being undertaken.

Of importance to note is what came out during the Legislative Summit, especially from the address of the host governor, Prof. Anyang-Nyong'o. He said that the problem that counties have, and which the Senate and the CoG should think about, is the issue of the baggage that was inherited from the former county councils in the form of excess personnel from the former county councils and the national Government that is not required. The wage bill is so high because it was not easy for them to kick people out of their jobs. They inherited so many of them. This one very important aspect came out of the speech by the Governor of Kisumu County in the Legislative Summit.

One of the things that we need to think of is how to reduce on this wage bill. Counties are spending so much on the wage bill because they inherited unnecessary and excess personnel. This is one of the aspects that we need to think of because it is bogging down development in these counties, just as much as these infrastructure developments that have not been undertaken are bogging down developments in these counties.

I support the Motion and it would be good that this be fast-tracked, so that we get a solution. From 2015 to now is a long time for a county to be waiting to be assisted to get a headquarters for its operations.

Thank you.

**Sen. (Dr.) Musuruve:** Madam Temporary Speaker, thank you for giving me this opportunity to support this Motion by Sen. Omogeni. This Motion comes in handy, especially in this era of devolution. It is difficult to bring to life the realization that there are some counties without offices and infrastructure. There is need for us, as the Senate, to support this Motion, so that there is infrastructure in all the 47 counties.

When we have infrastructure where the county officials meet, it becomes very easy to deliver services. It is possible for the various organs to communicate for the

purpose of serving *wananchi*. I commend the Senate for passing allocation of grants to counties in Category A, to receive money for infrastructure. In as much as this is commendable, there is need for the Senate to do the oversight role. We have a duty, as the Senate, to oversight and ensure that the money that was sent to these counties in Category A, that is, Tharaka Nithi, Nyandarua, Lamu, Tana River, was put into good use.

There are instances where money is taken to the counties, but it is not put into proper use. Therefore, we have to ensure that we assess the infrastructure. Assessment is very important. We will see what has worked with the money and what has not. If there are any gaps, it would be possible for us to ascertain, for example, that, yes, money was sent to this county, but then it was able to do one, two or three things, and gauge if there is need for more money.

When we do the oversight role, it will be possible for us to report to this Senate and ensure that we give a good, candid and accountable report concerning the use of money in the counties. There is need for us to also go and see if the money that was given was not enough, then the Senate can look at mechanisms of ensuring that the particular counties that have put the money to good use are added more money to complete the projects.

The issue of bringing services closer to *wananchi* is very important. This cannot be done effectively without county infrastructure. County offices are important. It is important for the constituents to know their governor's and CECs' offices, just in case they need to reach them. For example, the can go to Block A and find the governor; Block B, the deputy governor, the CECs and so on. There is really need for us, as the Senate, to ensure that we interrogate this matter and ensure that we go to the counties and bring a report.

The issue of the counties that do not have infrastructure is legit, as Sen. Omogeni has put across. In all fairness, there is need for money to be set aside for Category A counties that do not have infrastructure. If they get the money, the Senate can take the county official to task and ask them, for example: 'X' amount was sent to your county, what exactly have you done? Have you put up infrastructure? We should ascertain if it is working for the people or not. If we do not do this, we may not be able to hold the county executives accountable in any way. There is need for us to interrogate and ensure that we help devolution to work. My prayer is that this Motion passes and moves to the next level. I also hope that it will see the light of day.

With those remarks, I support this Motion.

**Sen. Seneta:** Thank you, Madam Temporary Speaker, for giving me a chance to add my voice to this very important Motion. From the outset, I congratulate Sen. Omogeni for having thought about the implementation of this Motion and Report of an *Ad hoc* committee that was passed in 2015. I regret that this House passes very important Motions, reports and Bills, but the implementation is not followed up to date.

As I congratulate the Committee that went to identify and inquire into the status of county headquarters, I also blame them because all counties need to have county headquarters. Categorising our counties into those that are in dire need and those that are not in dire need was not a good way of considering the counties. It is discrimination.

Wajir County has a good headquarters with 150 offices that accommodate the county employees. We also have other counties with employees and the CECs working from the district hospitals or the old administration offices. In fact, the county offices are spread all over. The distribution of resources to be used in building county government infrastructure should have been done in a uniform manner for each county to have a place to host its employees.

As I speak, our county employees are being hosted in private premises. In Kajiado County, the county public service board is hosted in different places and the same applies to the CECs. The distribution of resources for building the county infrastructure should have been done uniformly. Each county should have received Kshs30 million or Kshs300 million or whatever amount of money. If that was done, the construction of those offices would have been almost complete by now. That would have reduced the amount of money being used to rent private residential plots and houses.

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

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

It becomes easy for the citizens to be served when the offices are in a centralised place. When in a governor's office or the deputy governor's office, an officer from any other department can be called to assist you if their offices are in the same place. In that case, one can get services at the right time. I think that this recommendation was biased. All county governments should have been given some money.

I want to urge my colleague, Sen. Omogeni, to recommend that the Committee on Devolution and Intergovernmental Relations visits the counties. He should have proposed the creation of an *ad hoc* Committee to assist the Committee on Devolution and Intergovernmental Relations. This is because the Committee on Devolution and Intergovernmental Relations cannot visit all the 47 counties. These Committees should not follow the implementation of the previous report. Instead, they should ascertain the status of the infrastructure of our counties. They should also look at the budget allocations for infrastructure and establish how much they have spent from what they were given.

We need to know the reason why Nyamira County, for example, does not have a county headquarters. How can we have a governor with several CECs without offices? We should be told about the offices that they use to offer services to the citizens and what happened to the little budget that was allocated.

The Committee on Devolution and Intergovernmental Relations will now have a lot of work for we need to know the status of our counties. The Senate is here to protect the interest of counties, but how do we protect the interest of counties that do not have offices and are using the little money that we give them to rent offices. They already have a cut budget and use the little money given to them to pay their staff and rent. How can they get money for development? All counties should have been given money for the headquarters for us to reduce the budget for renting offices.

We need offices and other infrastructures, so as to serve our people well. We need automated systems to collect revenue at the right time and in a transparent manner. Some of our revenue offices are small and located in insecure places. You cannot access the revenue office in Kitengela, Kajiado County, because it is in a noisy and squeezed plot, yet that is where the citizens are expected to pay rates that are used to improve service delivery. We need well-furnished offices with enough equipment to serve our people effectively.

I support this Motion and urge Sen. Omogeni to follow up on its implementation. If possible, he should propose the creation of an *ad hoc* Committee that will have the mandate to visit our counties and come up with a report on the status of the infrastructure of our counties. They should also look at the budget allocation for infrastructure and establish the amount of money that the counties have spent on the same.

**The Temporary Speaker** (Sen. Pareno): Let us have Sen. (Rev.) Waqo.

**Sen. (Rev.) Waqo:** Thank you, Madam Temporary Speaker, for allowing me to add my voice to this very important Motion. I also congratulate Sen. Omogeni for coming up with this very relevant Motion that touches on our counties.

We all represent different counties and know what is happening there; the different challenges faced by our governors and their executive committees. Most of the time, some of these counties are not even able to pay their staff. My honourable colleagues have already mentioned the struggles that some of our counties go through. The Senate is mandated to protect the interests of counties and their governments. That is why I support this Motion and give my views on different areas.

Madam Temporary Speaker, when we talk of the infrastructure that is needed in different counties, we know that most of the counties that have been named under Category A and B have been marginalised in many ways, and most of us come from them. As we grew up, we know the challenges that we went through and some of our children are going through the same. That is why the Government needs to give attention and do proper planning and budgeting, not only to establish the infrastructure that is needed, but also have proper plans of growing that infrastructure.

We know that many of the counties have rented offices. The other challenge they have is that they do not have sources of income. Some of them cannot even generate enough income. They, therefore, spend whatever little they get. Most of the time, as was said, even paying their staff is a challenge.

Madam Temporary Speaker, there is need to have proper plans of growing the counties to the level that we recommend, and Senate has been given that mandate. When people do not have appropriate offices, we know that it affects even the performance of the personnel in office. We have given our counties a gift of devolution, but not prepared the devolution to work effectively. That is why we should recommend that the offices be effective if we want devolution to have some relevance on the ground and transformation taking place.

As I said, devolution is a gift that God has given this country, and we cannot afford to waste that opportunity. I commend the *Ad Hoc* Committee that came up with these recommendations in the year 2015. I know that in Marsabit we have an office, but the challenges are still there. The offices should be provided and maintained for the

counties to grow. If we do not do that, the resources that have been put there will go to total waste.

Earlier this afternoon, under Sen. Dullo's Statement, we spoke about this and debated about some of the counties that have been marginalised, where the students have been denied learning opportunity. I was not able to give my input on that. However, we know very well that most of the people who come from those areas have been marginalised and denied the opportunity for education and many other things. Now that God has put us in leadership, we are here to speak for the rights of the people, so that they can also be given equal opportunity.

I, therefore, stand to support this Motion and suggest that the Senate comes up with an *Ad Hoc* committee. A fresh report can be tabled in this House so that we know the current status of the counties. Even for the counties that already have offices in place, we want to know the status of those offices; whether they are effective and accommodative enough to allow people to work well or they are offices just by name.

Madam Temporary Speaker, I support the idea of coming up with an *Ad Hoc* Committee to ascertain the status of the county offices and also see how we can grow the offices. This is so that in the next 10 to 15 years we can all look behind and say: "Yes, this is a real gift for Kenyans, and they have benefited."

With those few remarks, I support.

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

**Sen. Kinyua:** Thank you, Madam Temporary Speaker. From the outset, I congratulate my brother for this good Motion. I commit to undertake the assessment of the current status of the county governments.

As the Chairperson of the Senate Committee on Devolution and Intergovernmental Relations, we have undertaken to look at the assets and liabilities of our counties. It is true that many of our counties do not have offices at the headquarters. For example, in my county, Laikipia, we have incomplete offices. It is true that some of these counties were given money. We, therefore, have to go into details and check whether they misused the money and if they did, we hold them accountable.

Madam Temporary Speaker, it is important for me to say that as a Committee, we are committed and equal to the task. However, I would not want to refute what my colleagues are saying about an *Ad Hoc* committee. Since the job will be shared, it will be done effectively and efficiently.

It is important for record purposes that it be known that these counties have Senators. Therefore, it will be important when we visit those counties to have the area Senator with us. Even before we go to the counties we can sit here in Nairobi and they can tell us whether or not their counties have offices. That way, we will have reduced time and resources.

For example, we can hear what Sen. Seneta would say about Kajiado County. She even says that they do not have offices for revenue collection. If they do not have offices to collect revenue, your guess is as good as mine; that county will grind to a halt for lacking monies to operate.

Madam Temporary Speaker, I do not want to belabour the point. I support this Motion. We are prepared to hit the ground running.

I thank you.

*(Applause)*

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

**Sen. Omogeni:** Thank you, Madam Temporary Speaker. In reply to the Motion, I start by thanking the Senators who have contributed. I specifically thank the Senators who are in the House. I thank the Chairperson of the Committee on Devolution and Intergovernmental Relations, Sen. Nderitu Kinyua, for his contribution and assurance that his Committee will take up this matter. He also indicated that as a good supporter of devolution, he is willing to engage with Senators who come from these respective counties, including having a meeting with us over a cup of tea in Nairobi.

I also wish to thank Sen. Seneta for the concern she has raised, more particularly, the fact that this Committee should extend its mandate and look at issues that affect other counties. However, with a lot of respect to Sen. Seneta, we may not have the need to visit some of the counties that are ahead of the pack.

We do not need to visit Gov. Sonko. We already know that he has his headquarters and it is there for us to see, with the words written, 'The Office of the County Governor of Nairobi'. The same applies to counties like Mombasa. Our main concern should be counties that have been marginalized and those that are playing catch-up game. That is where our effort should be.

I thank you, Madam Temporary Speaker, for the contributions that you have made. In fact, you hit the nail on the head that this is an urgent intervention. We should all be alive to the fact that we are trying to bring services closer to the people.

Madam Temporary Speaker, those who have concerns on the colossal sums of money being used by counties in developing their county headquarters should be informed that we have a ceiling that county headquarters should not exceed Kshs518 million. To ensure that our county governments are responsive enough, the maximum support that they can get is up to 70 per cent and the other 30 per cent should be given by the recipient county.

Madam Temporary Speaker, without belabouring the point, I thank those who have made their contributions, including Sen. (Dr.) Musurube, Sen. Wario and Sen. (Rev.) Waqo for the good points that they have made.

Madam Temporary Speaker, I conclude by saying that this is a matter that does not affect counties, and so, you may put a voice vote.

**The Temporary Speaker** (Sen. Pareno): Up to this end, the matter does not concern counties. We will, therefore, not require a Division on it.

*(Question put and agreed to)*

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Pareno): Hon. Senators, having concluded the business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday 16<sup>th</sup> May, 2019, at 2.30 p.m.

The Senate rose at 6.30 p.m.